

By Senator Clemens

27-00510B-14

2014606__

1 A bill to be entitled
2 An act relating to governmental ethics; amending s.
3 112.3142, F.S.; requiring elected municipal officials
4 to participate in annual ethics training; amending s.
5 112.3148, F.S.; deleting the requirement that each
6 reporting individual or procurement employee file a
7 quarterly statement disclosing certain gifts with the
8 Commission on Ethics; authorizing a reporting
9 individual or procurement employee to request an
10 advisory opinion regarding application of the section;
11 requiring the opinion to be issued within 10 days
12 after the request is received; providing that a
13 reporting individual or procurement employee may
14 reasonably rely on such opinion; amending s. 112.3149,
15 F.S.; authorizing a reporting individual or
16 procurement employee to request an advisory opinion
17 regarding application of the section; requiring the
18 opinion to be issued within 10 days after the request
19 is received; providing that a reporting individual or
20 procurement employee may reasonably rely on such
21 opinion; amending s. 112.317, F.S.; requiring the
22 commission to impose a civil penalty on a person who
23 has filed a complaint with malicious intent under
24 certain circumstances; amending s. 112.322, F.S.;
25 requiring the commission to dismiss a complaint
26 against a state, county, municipal, or school district
27 officer or employee if certain circumstances are met;
28 amending s. 112.326, F.S.; prohibiting a political
29 subdivision from imposing additional standards of

27-00510B-14

2014606__

30 conduct upon the officers and employees of another
31 political subdivision; amending s. 286.012, F.S.;
32 conforming a provision to changes made by the act;
33 providing for severability; providing effective dates.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. Effective January 1, 2015, section 112.3142,
38 Florida Statutes, is amended to read:

39 112.3142 Ethics training for specified constitutional
40 officers and elected municipal officials.-

41 (1) As used in this section, the term "constitutional
42 officers" includes the Governor, the Lieutenant Governor, the
43 Attorney General, the Chief Financial Officer, the Commissioner
44 of Agriculture, state attorneys, public defenders, sheriffs, tax
45 collectors, property appraisers, supervisors of elections,
46 clerks of the circuit court, county commissioners, district
47 school board members, and superintendents of schools.

48 (2) (a) All constitutional officers and elected municipal
49 officials must complete 4 hours of ethics training each calendar
50 year which ~~annually that~~ addresses, at a minimum, s. 8, Art. II
51 of the State Constitution, the Code of Ethics for Public
52 Officers and Employees, and the public records and public
53 meetings laws of this state. This requirement may be satisfied
54 by completion of a continuing legal education class or other
55 continuing professional education class, seminar, or
56 presentation if the required subjects are covered.

57 (b) The commission shall adopt rules establishing minimum
58 course content for the portion of an ethics training class which

27-00510B-14

2014606__

59 ~~that~~ addresses s. 8, Art. II of the State Constitution and the
60 Code of Ethics for Public Officers and Employees.

61 (3) Each house of the Legislature shall provide for ethics
62 training pursuant to its rules.

63 Section 2. Subsections (8) through (10) of section
64 112.3148, Florida Statutes, are amended to read:

65 112.3148 Reporting and prohibited receipt of gifts by
66 individuals filing full or limited public disclosure of
67 financial interests and by procurement employees.-

68 ~~(8)(a) Each reporting individual or procurement employee
69 shall file a statement with the Commission on Ethics not later
70 than the last day of each calendar quarter, for the previous
71 calendar quarter, containing a list of gifts which he or she
72 believes to be in excess of \$100 in value, if any, accepted by
73 him or her, for which compensation was not provided by the donee
74 to the donor within 90 days of receipt of the gift to reduce the
75 value to \$100 or less, except the following:~~

76 ~~1. Gifts from relatives.~~

77 ~~2. Gifts prohibited by subsection (4) or s. 112.313(4).~~

78 ~~3. Gifts otherwise required to be disclosed by this
79 section.~~

80 ~~(b) The statement shall include:~~

81 ~~1. A description of the gift, the monetary value of the
82 gift, the name and address of the person making the gift, and
83 the dates thereof. If any of these facts, other than the gift
84 description, are unknown or not applicable, the report shall so
85 state.~~

86 ~~2. A copy of any receipt for such gift provided to the
87 reporting individual or procurement employee by the donor.~~

27-00510B-14

2014606__

88 ~~(c) The statement may include an explanation of any~~
89 ~~differences between the reporting individual's or procurement~~
90 ~~employee's statement and the receipt provided by the donor.~~

91 ~~(d) The reporting individual's or procurement employee's~~
92 ~~statement shall be sworn to by such person as being a true,~~
93 ~~accurate, and total listing of all such gifts.~~

94 ~~(e) Statements must be filed not later than 5 p.m. of the~~
95 ~~due date. However, any statement that is postmarked by the~~
96 ~~United States Postal Service by midnight of the due date is~~
97 ~~deemed to have been filed in a timely manner, and a certificate~~
98 ~~of mailing obtained from and dated by the United States Postal~~
99 ~~Service at the time of the mailing, or a receipt from an~~
100 ~~established courier company, which bears a date on or before the~~
101 ~~due date constitutes proof of mailing in a timely manner.~~

102 ~~(f) If a reporting individual or procurement employee has~~
103 ~~not received any gifts described in paragraph (a) during a~~
104 ~~calendar quarter, he or she is not required to file a statement~~
105 ~~under this subsection for that calendar quarter.~~

106 ~~(8)(9)~~ A person, other than a lobbyist regulated under s.
107 11.045, who violates ~~the provisions of~~ subsection (5) commits a
108 noncriminal infraction, punishable by a fine of up to ~~not more~~
109 ~~than~~ \$5,000 and ~~by~~ a prohibition for a period of not more than
110 24 months on lobbying, or employing a lobbyist to lobby, before
111 the agency of the reporting individual or procurement employee
112 to which the gift was given in violation of subsection (5), ~~for~~
113 ~~a period of not more than 24 months.~~ The state attorney, or an
114 agency, if otherwise authorized, may initiate an action to
115 impose or recover a fine authorized under this section or to
116 impose or enforce a limitation on lobbying provided in this

27-00510B-14

2014606__

117 section.

118 (9) (a) ~~(10)~~ A member of the Legislature may request an
119 advisory opinion from the general counsel of the house of which
120 he or she is a member as to the application of this section to a
121 specific situation. The general counsel shall issue the opinion
122 within 10 days after receiving the request. The member of the
123 Legislature may reasonably rely on such opinion.

124 (b) A reporting individual or procurement employee may
125 request an advisory opinion from his or her agency's attorney as
126 to the application of this section to a specific situation. The
127 attorney shall issue the opinion within 10 days after receiving
128 the request. The reporting individual or procurement employee
129 may reasonably rely on such opinion.

130 Section 3. Subsection (8) of section 112.3149, Florida
131 Statutes, is amended to read:

132 112.3149 Solicitation and disclosure of honoraria.—

133 (8) (a) A member of the Legislature may request an advisory
134 opinion from the general counsel of the house of which he or she
135 is a member as to the application of this section to a specific
136 situation. The general counsel shall issue the opinion within 10
137 days after receiving the request. The member of the Legislature
138 may reasonably rely on such opinion.

139 (b) A reporting individual or procurement employee may
140 request an advisory opinion from his or her agency's attorney as
141 to the application of this section to a specific situation. The
142 attorney shall issue the opinion within 10 days after receiving
143 the request. The reporting individual or procurement employee
144 may reasonably rely on such opinion.

145 Section 4. Subsection (7) of section 112.317, Florida

27-00510B-14

2014606__

146 Statutes, is amended to read:

147 112.317 Penalties.—

148 (7) ~~If In any case in which~~ the commission determines that
149 a person has filed a complaint against a public officer or
150 employee with a malicious intent to injure the reputation of
151 such officer or employee, which intent may be shown by the
152 filing of the complaint with knowledge that the complaint
153 contains one or more false allegations or with reckless
154 disregard for whether the complaint contains false allegations
155 of fact material to a violation of this part:

156 (a) The complainant is ~~shall be~~ liable for costs and ~~plus~~
157 reasonable attorney fees incurred in the defense of the person
158 complained against, including the costs and reasonable attorney
159 fees incurred in proving entitlement to and the amount of costs
160 and fees; and

161 (b) If the commission further finds the complainant
162 willfully disclosed, or permitted to be disclosed, the existence
163 or contents of the complaint, or any document, action, or
164 proceeding in connection with a preliminary investigation of the
165 commission, before such complaint, document, action, or
166 proceeding became a public record as provided in this part, the
167 commission shall impose on the complainant a civil penalty of
168 not less than \$1,000 but not more than \$5,000.

169
170 If the complainant fails to pay such penalty, if any, costs, and
171 fees voluntarily within 30 days after ~~following~~ such finding by
172 the commission, the commission shall forward such information to
173 the Department of Legal Affairs, which shall bring a civil
174 action ~~in a court of competent jurisdiction~~ to recover the

27-00510B-14

2014606__

175 amount of such penalty, costs, and fees awarded by the
176 commission.

177 Section 5. Present subsections (4) through (9) of section
178 112.322, Florida Statutes, are redesignated as subsections (5)
179 through (10), respectively, and a new subsection (4) is added to
180 that section, to read:

181 112.322 Duties and powers of commission.—

182 (4) The commission shall dismiss a complaint that a state,
183 county, municipal, or school district officer or employee
184 violated any provision of this part or s. 8, Art. II of the
185 State Constitution relating to a possible conflict of interest
186 if the commission finds that, before the act that forms the
187 basis of the complaint, the officer or employee:

188 (a) Consulted with his or her agency's attorney;

189 (b) Provided a full and complete written disclosure or made
190 an oral disclosure at a duly noticed public meeting of all
191 material facts relevant to the allegation before the commission;

192 (c) Received a written or oral opinion at a duly noticed
193 public meeting from his or her agency's attorney relating to the
194 allegation before the commission; and

195 (d) Reasonably relied upon the opinion of the agency's
196 attorney and acted in accordance with the opinion.

197 Section 6. Section 112.326, Florida Statutes, is amended to
198 read:

199 112.326 Additional requirements by political subdivisions
200 and agencies not prohibited.—Nothing in this part prohibits act
201 shall prohibit the electors or the governing body of a any
202 political subdivision, by charter or ordinance, or agency, by
203 rule, from imposing upon its own officers and employees

27-00510B-14

2014606__

204 additional or more stringent standards of conduct and disclosure
205 requirements than those specified in this part, ~~if provided that~~
206 those standards of conduct and disclosure requirements do not
207 otherwise conflict with ~~the provisions of~~ this part. A political
208 subdivision is prohibited from imposing additional or more
209 stringent standards of conduct and disclosure requirements upon
210 the officers and employees of another political subdivision.

211 Section 7. Section 286.012, Florida Statutes, is amended to
212 read:

213 286.012 Voting requirement at meetings of governmental
214 bodies.—No member of any state, county, or municipal
215 governmental board, commission, or agency who is present at any
216 meeting of any such body at which an official decision, ruling,
217 or other official act is to be taken or adopted may abstain from
218 voting in regard to ~~any~~ such decision, ruling, or act; and a
219 vote shall be recorded or counted for each such member present,
220 unless ~~except when~~, with respect to any such member, there is,
221 or appears to be, a possible conflict of interest under ~~the~~
222 ~~provisions of~~ s. 112.311, s. 112.313, ~~or~~ s. 112.3143, or
223 additional or more stringent standards of conduct, if any,
224 adopted pursuant to s. 112.326. In such cases, such ~~said~~ member
225 shall comply with the disclosure requirements of s. 112.3143 or
226 any disclosure requirements adopted under s. 112.326.

227 Section 8. If any provision of this act or its application
228 to any person or circumstance is held invalid, the invalidity
229 does not affect other provisions or applications of the act
230 which can be given effect without the invalid provision or
231 application, and to this end the provisions of this act are
232 severable.

27-00510B-14

2014606__

233 Section 9. Except as otherwise expressly provided in this
234 act, this act shall take effect July 1, 2014.