

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.
5 112.3143, F.S.; authorizing state public officers to
6 disclose nature of voting conflict using either a
7 certificate of recusal or memorandum of disclosure;
8 authorizing local public officers to disclose
9 abstention from voting using a certificate of recusal;
10 requiring appointed public officers to disclose nature
11 of conflict using written memorandum of disclosure;
12 amending ss. 112.3148 and 112.3149, F.S.; providing
13 for issuance of advisory opinions upon request of a
14 reporting individual or procurement employee regarding
15 the solicitation and disclosure of honoraria and the
16 reporting and prohibited receipt of gifts,
17 respectively; amending s. 112.317, F.S.; requiring the
18 Commission on Ethics to impose a civil penalty on a
19 person who has filed a complaint with malicious intent
20 under certain circumstances; amending s. 112.322,
21 F.S.; requiring the commission to dismiss a complaint
22 against a state, county, municipal, or school district
23 officer or employee if certain circumstances are met;
24 amending s. 112.326, F.S.; prohibiting a political
25 subdivision from imposing additional standards of
26 conduct upon the officers and employees of another

27 political subdivision; amending s. 286.012, F.S.;

28 conforming a provision to changes made by the act;

29 providing for severability; providing effective dates.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Effective January 1, 2015, section 112.3142,

34 Florida Statutes, is amended to read:

35 112.3142 Ethics training for specified constitutional

36 officers and elected municipal officials.-

37 (1) As used in this section, the term "constitutional

38 officers" includes the Governor, the Lieutenant Governor, the

39 Attorney General, the Chief Financial Officer, the Commissioner

40 of Agriculture, state attorneys, public defenders, sheriffs, tax

41 collectors, property appraisers, supervisors of elections,

42 clerks of the circuit court, county commissioners, district

43 school board members, and superintendents of schools.

44 (2) (a) All constitutional officers and elected municipal

45 officials must complete 4 hours of ethics training each calendar

46 year, which ~~annually that~~ addresses, at a minimum, s. 8, Art. II

47 of the State Constitution, the Code of Ethics for Public

48 Officers and Employees, and the public records and public

49 meetings laws of this state. This requirement may be satisfied

50 by completion of a continuing legal education class or other

51 continuing professional education class, seminar, or

52 presentation if the required subjects are covered.

53 (b) The commission shall adopt rules establishing minimum
 54 course content for the portion of an ethics training class which
 55 ~~that~~ addresses s. 8, Art. II of the State Constitution and the
 56 Code of Ethics for Public Officers and Employees.

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

59 Section 2. Section 112.3143, Florida Statutes, is amended
 60 to read:

61 112.3143 Voting conflicts.—

62 (1) As used in this section:

63 (a) "Principal by whom retained" means an individual or
 64 entity, other than an agency as defined in s. 112.312(2), that
 65 for compensation, salary, pay, consideration, or similar thing
 66 of value, has permitted or directed another to act for the
 67 individual or entity, and includes, but is not limited to, one's
 68 client, employer, or the parent, subsidiary, or sibling
 69 organization of one's client or employer.

70 (b) "Public officer" includes any person elected or
 71 appointed to hold office in any agency, including any person
 72 serving on an advisory body.

73 (c) "Relative" means any father, mother, son, daughter,
 74 husband, wife, brother, sister, father-in-law, mother-in-law,
 75 son-in-law, or daughter-in-law.

76 (d) "Special private gain or loss" means an economic
 77 benefit or harm that would inure to the officer, his or her
 78 relative, business associate, or principal, unless the measure

79 affects a class that includes the officer, his or her relative,
80 business associate, or principal, in which case, at least the
81 following factors must be considered when determining whether a
82 special private gain or loss exists:

- 83 1. The size of the class affected by the vote.
- 84 2. The nature of the interests involved.
- 85 3. The degree to which the interests of all members of the
86 class are affected by the vote.
- 87 4. The degree to which the officer, his or her relative,
88 business associate, or principal receives a greater benefit or
89 harm when compared to other members of the class.

90

91 The degree to which there is uncertainty at the time of the vote
92 as to whether there would be any economic benefit or harm to the
93 public officer, his or her relative, business associate, or
94 principal and, if so, the nature or degree of the economic
95 benefit or harm must also be considered.

96 (2) (a) A state public officer may not vote on any matter
97 that the officer knows would inure to his or her special private
98 gain or loss. Any state public officer who abstains from voting
99 in an official capacity upon any measure that the officer knows
100 would inure to the officer's special private gain or loss, or
101 who votes in an official capacity on a measure that he or she
102 knows would inure to the special private gain or loss of any
103 principal by whom the officer is retained or to the parent
104 organization or subsidiary of a corporate principal by which the

105 officer is retained other than an agency as defined in s.
106 112.312(2); or which the officer knows would inure to the
107 special private gain or loss of a relative or business associate
108 of the public officer, shall make every reasonable effort to
109 disclose the nature of his or her interest as a public record in
110 either a certificate of recusal or a memorandum of disclosure
111 filed with the person responsible for recording the minutes of
112 the meeting, who shall incorporate the certificate or memorandum
113 in the minutes. If it is not possible for the state public
114 officer to file a certificate or memorandum before the vote, the
115 certificate or memorandum must be filed with the person
116 responsible for recording the minutes of the meeting no later
117 than 15 days after the vote.

118 (b) A member of the Legislature may satisfy the recusal or
119 disclosure requirements of this section by filing a recusal or
120 disclosure form created pursuant to the rules of the member's
121 respective house if the member discloses the information
122 required by this subsection.

123 (3) (a) No county, municipal, or other local public officer
124 shall vote in an official capacity upon any measure which would
125 inure to his or her special private gain or loss; which he or
126 she knows would inure to the special private gain or loss of any
127 principal by whom he or she is retained or to the parent
128 organization or subsidiary of a corporate principal by which he
129 or she is retained, other than an agency as defined in s.
130 112.312(2); or which he or she knows would inure to the special

131 private gain or loss of a relative or business associate of the
132 public officer. Such public officer shall, prior to the vote
133 being taken, publicly state to the assembly the nature of the
134 officer's interest in the matter from which he or she is
135 abstaining from voting and, within 15 days after the vote
136 occurs, disclose the nature of his or her interest as a public
137 record in a certificate of recusal ~~memorandum~~ filed with the
138 person responsible for recording the minutes of the meeting, who
139 shall incorporate the certificate ~~memorandum~~ in the minutes.

140 (b) However, a commissioner of a community redevelopment
141 agency created or designated pursuant to s. 163.356 or s.
142 163.357, or an officer of an independent special tax district
143 elected on a one-acre, one-vote basis, is not prohibited from
144 voting, when voting in said capacity.

145 (4) No appointed public officer shall participate in any
146 matter which would inure to the officer's special private gain
147 or loss; which the officer knows would inure to the special
148 private gain or loss of any principal by whom he or she is
149 retained or to the parent organization or subsidiary of a
150 corporate principal by which he or she is retained; or which he
151 or she knows would inure to the special private gain or loss of
152 a relative or business associate of the public officer, without
153 first disclosing the nature of his or her interest in the
154 matter.

155 (a) Such disclosure, indicating the nature of the
156 conflict, shall be made in a written memorandum of disclosure

157 | filed with the person responsible for recording the minutes of
158 | the meeting, prior to the meeting in which consideration of the
159 | matter will take place, and shall be incorporated into the
160 | minutes. Any such memorandum shall become a public record upon
161 | filing, shall immediately be provided to the other members of
162 | the agency, and shall be read publicly at the next meeting held
163 | subsequent to the filing of this written memorandum.

164 | (b) In the event that disclosure has not been made prior
165 | to the meeting or that any conflict is unknown prior to the
166 | meeting, the disclosure shall be made orally at the meeting when
167 | it becomes known that a conflict exists. A written memorandum of
168 | disclosure revealing ~~disclosing~~ the nature of the conflict shall
169 | then be filed within 15 days after the oral disclosure with the
170 | person responsible for recording the minutes of the meeting and
171 | shall be incorporated into the minutes of the meeting at which
172 | the oral disclosure was made. Any such memorandum shall become a
173 | public record upon filing, shall immediately be provided to the
174 | other members of the agency, and shall be read publicly at the
175 | next meeting held subsequent to the filing of this written
176 | memorandum.

177 | (c) For purposes of this subsection, the term
178 | "participate" means any attempt to influence the decision by
179 | oral or written communication, whether made by the officer or at
180 | the officer's direction.

181 | (5) If disclosure of specific information would violate
182 | confidentiality or privilege pursuant to law or rules governing

183 attorneys, a public officer, who is also an attorney, may comply
184 with the recusal or disclosure requirements of this section by
185 disclosing the nature of the interest in such a way as to
186 provide the public with notice of the conflict.

187 (6) Whenever a public officer or former public officer is
188 being considered for appointment or reappointment to public
189 office, the appointing body shall consider the number and nature
190 of the certificates of recusal or memoranda of disclosure
191 ~~conflict~~ previously filed under this section by said officer.

192 Section 3. Subsection (10) of section 112.3148, Florida
193 Statutes, is amended to read:

194 112.3148 Reporting and prohibited receipt of gifts by
195 individuals filing full or limited public disclosure of
196 financial interests and by procurement employees.—

197 (10) (a) A member of the Legislature may request an
198 advisory opinion from the general counsel of the house of which
199 he or she is a member as to the application of this section to a
200 specific situation. The general counsel shall issue the opinion
201 within 10 days after receiving the request. The member of the
202 Legislature may reasonably rely on such opinion.

203 (b) A reporting individual or procurement employee may
204 request an advisory opinion from his or her agency's attorney as
205 to the application of this section to a specific situation. The
206 attorney shall issue the opinion within 10 days after receiving
207 the request. The reporting individual or procurement employee
208 may reasonably rely on such opinion.

209 Section 4. Subsection (8) of section 112.3149, Florida
 210 Statutes, is amended to read:

211 112.3149 Solicitation and disclosure of honoraria.—

212 (8) (a) A member of the Legislature may request an advisory
 213 opinion from the general counsel of the house of which he or she
 214 is a member as to the application of this section to a specific
 215 situation. The general counsel shall issue the opinion within 10
 216 days after receiving the request. The member of the Legislature
 217 may reasonably rely on such opinion.

218 (b) A reporting individual or procurement employee may
 219 request an advisory opinion from his or her agency's attorney as
 220 to the application of this section to a specific situation. The
 221 attorney shall issue the opinion within 10 days after receiving
 222 the request. The reporting individual or procurement employee
 223 may reasonably rely on such opinion.

224 Section 5. Subsection (7) of section 112.317, Florida
 225 Statutes, is amended to read:

226 112.317 Penalties.—

227 (7) If ~~In any case in which~~ the commission determines that
 228 a person has filed a complaint against a public officer or
 229 employee with a malicious intent to injure the reputation of
 230 such officer or employee, the malicious intent shall be deemed
 231 proven and established, per se, by the filing of a ~~the~~ complaint
 232 with knowledge that the complaint contains one or more false
 233 allegations or with reckless disregard for whether the complaint
 234 contains false allegations of fact material to a violation of

235 | this part:^r

236 | (a) The complainant ~~is shall be~~ liable for costs ~~and plus~~
237 | reasonable attorney fees incurred in the defense of the person
238 | complained against, including the costs and reasonable attorney
239 | fees incurred in proving entitlement to and the amount of costs
240 | and fees.

241 | (b) If the commission further finds the complainant
242 | willfully disclosed, or permitted to be disclosed, the existence
243 | or contents of the complaint, or any document, action, or
244 | proceeding in connection with a preliminary investigation of the
245 | commission, before such complaint, document, action, or
246 | proceeding became a public record as provided in this part, the
247 | commission shall impose on the complainant a civil penalty of at
248 | least \$1,000 but not more than \$5,000.

249 |
250 | If the complainant fails to pay such penalty, if any, costs, and
251 | reasonable attorney fees voluntarily within 30 days after
252 | ~~following~~ such finding by the commission, the commission shall
253 | forward such information to the Department of Legal Affairs,
254 | which shall bring a civil action ~~in a court of competent~~
255 | ~~jurisdiction~~ to recover the amount of such penalty, costs, and
256 | reasonable attorney fees awarded by the commission.

257 | Section 6. Subsections (4) through (9) of section 112.322,
258 | Florida Statutes, are renumbered as subsections (5) through
259 | (10), respectively, and a new subsection (4) is added to that
260 | section, to read:

261 112.322 Duties and powers of commission.—

262 (4) The commission shall dismiss a complaint that a state,
 263 county, municipal, or school district officer or employee
 264 violated any provision of this part or s. 8, Art. II of the
 265 State Constitution relating to a possible conflict of interest
 266 if the commission finds that, before the act that forms the
 267 basis of the complaint, the officer or employee:

268 (a) Consulted with his or her agency's attorney.

269 (b) Provided a full and complete written disclosure or
 270 made an oral disclosure at a duly noticed public meeting of all
 271 material facts relevant to the allegation before the commission.

272 (c) Received a written or oral opinion at a duly noticed
 273 public meeting from his or her agency's attorney relating to the
 274 allegation before the commission.

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

277 Section 7. Section 112.326, Florida Statutes, is amended
 278 to read:

279 112.326 Additional requirements by political subdivisions
 280 and agencies not prohibited.—Nothing in this part prohibits ~~act~~
 281 ~~shall prohibit~~ the electors or the governing body of a ~~any~~
 282 political subdivision, by charter or ordinance, or agency, by
 283 rule, from imposing upon its own officers and employees
 284 additional or more stringent standards of conduct and disclosure
 285 requirements than those specified in this part, if provided that
 286 those standards of conduct and disclosure requirements do not

287 otherwise conflict with ~~the provisions of~~ this part. A political
288 subdivision is prohibited from imposing additional or more
289 stringent standards of conduct and disclosure requirements upon
290 the officers and employees of another political subdivision.

291 Section 8. Section 286.012, Florida Statutes, is amended
292 to read:

293 286.012 Voting requirement at meetings of governmental
294 bodies.— No member of any state, county, or municipal
295 governmental board, commission, or agency who is present at any
296 meeting of any such body at which an official decision, ruling,
297 or other official act is to be taken or adopted may abstain from
298 voting in regard to ~~any~~ such decision, ruling, or act; and a
299 vote shall be recorded or counted for each such member present,
300 unless ~~except when~~, with respect to any such member, there is,
301 or appears to be, a possible conflict of interest under ~~the~~
302 ~~provisions of~~ s. 112.311, s. 112.313, ~~or~~ s. 112.3143, or
303 additional or more stringent standards of conduct, if any,
304 adopted pursuant to s. 112.326. In such cases, such ~~said~~ member
305 shall comply with the disclosure requirements of s. 112.3143 or
306 any disclosure requirements adopted under s. 112.326.

307 Section 9. If any provision of this act or its application
308 to any person or circumstance is held invalid, the invalidity
309 does not affect other provisions or applications of the act,
310 which can be given effect without the invalid provision or
311 application, and to this end the provisions of this act are
312 severable.

HB 655

2014

313 Section 10. Except as otherwise expressly provided in this
314 act, this act shall take effect July 1, 2014.