

By Senator Clemens

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1                   A bill to be entitled  
2           An act relating to ethics; amending s. 112.3143, F.S.;  
3           deleting the definition of the term "special private  
4           gain or loss"; prohibiting a public officer from  
5           voting on a matter that would inure to any gain or  
6           loss, rather than a special private gain or loss, of  
7           the officer, or a principal, relative, or business  
8           associate of the officer; providing an exception to  
9           the abstention requirement under certain  
10          circumstances; prohibiting an appointed public officer  
11          from participating in any matter that would inure to  
12          any gain or loss, rather than a special private gain  
13          or loss, of the officer, or a principal, relative, or  
14          business associate of the officer, without certain  
15          disclosure; amending ss. 155.40, 310.151, 553.77, and  
16          627.351, F.S.; revising terminology to conform to the  
17          deletion of the term "special private gain or loss";  
18          providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Subsection (1), paragraph (a) of subsection (2),  
23           paragraph (a) of subsection (3), and subsection (4) of section  
24           112.3143, Florida Statutes, are amended to read:

25           112.3143 Voting conflicts.—

26           (1) As used in this section:

27           (a) "Principal by whom retained" means an individual or  
28           entity, other than an agency as defined in s. 112.312(2), that  
29           for compensation, salary, pay, consideration, or similar thing  
30           of value, has permitted or directed another to act for the  
31           individual or entity, and includes, but is not limited to, one's  
32           client, employer, or the parent, subsidiary, or sibling

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33 organization of one's client or employer.

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

37 (c) "Relative" means any father, mother, son, daughter,  
38 husband, wife, brother, sister, father-in-law, mother-in-law,  
39 son-in-law, or daughter-in-law.

40 ~~(d) "Special private gain or loss" means an economic~~  
41 ~~benefit or harm that would inure to the officer, his or her~~  
42 ~~relative, business associate, or principal, unless the measure~~  
43 ~~affects a class that includes the officer, his or her relative,~~  
44 ~~business associate, or principal, in which case, at least the~~  
45 ~~following factors must be considered when determining whether a~~  
46 ~~special private gain or loss exists:~~

47 1. ~~The size of the class affected by the vote.~~

48 2. ~~The nature of the interests involved.~~

49 3. ~~The degree to which the interests of all members of the~~  
50 ~~class are affected by the vote.~~

51 4. ~~The degree to which the officer, his or her relative,~~  
52 ~~business associate, or principal receives a greater benefit or~~  
53 ~~harm when compared to other members of the class.~~

54  
55 ~~The degree to which there is uncertainty at the time of the vote~~  
56 ~~as to whether there would be any economic benefit or harm to the~~  
57 ~~public officer, his or her relative, business associate, or~~  
58 ~~principal and, if so, the nature or degree of the economic~~  
59 ~~benefit or harm must also be considered.~~

60 (2) (a) A state public officer may not vote on any matter  
61 that the officer knows would inure to his or her ~~special private~~

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62 gain or loss. However, a state public officer is not prohibited  
63 from voting on a matter if the matter would result in an  
64 economic benefit or harm to the public generally or to a broad  
65 segment of the public. Any state public officer who abstains  
66 from voting in an official capacity upon any measure that the  
67 officer knows would inure to any ~~the officer's special private~~  
68 gain or loss of the officer, or who votes in an official  
69 capacity on a measure that he or she knows would inure to any  
70 ~~the special private~~ gain or loss of any principal by whom the  
71 officer is retained or to the parent organization or subsidiary  
72 of a corporate principal by which the officer is retained other  
73 than an agency as defined in s. 112.312(2); or which the officer  
74 knows would inure to any ~~the special private~~ gain or loss of a  
75 relative or business associate of the public officer, shall make  
76 every reasonable effort to disclose the nature of his or her  
77 interest as a public record in a memorandum filed with the  
78 person responsible for recording the minutes of the meeting, who  
79 shall incorporate the memorandum in the minutes. If it is not  
80 possible for the state public officer to file a memorandum  
81 before the vote, the memorandum must be filed with the person  
82 responsible for recording the minutes of the meeting no later  
83 than 15 days after the vote.

84 (3) (a) A ~~No~~ county, municipal, or other local public  
85 officer may not ~~shall~~ vote in an official capacity upon any  
86 measure which would inure to his or her ~~special private~~ gain or  
87 loss; which he or she knows would inure to any ~~the special~~  
88 ~~private~~ gain or loss of any principal by whom he or she is  
89 retained or to the parent organization or subsidiary of a  
90 corporate principal by which he or she is retained, other than

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91 an agency as defined in s. 112.312(2); or which he or she knows  
92 would inure to any ~~the special private~~ gain or loss of a  
93 relative or business associate of the public officer. Such  
94 public officer shall, before ~~prior to~~ the vote is ~~being~~ taken,  
95 publicly state to the assembly the nature of the officer's  
96 interest in the matter from which he or she is abstaining from  
97 voting and, within 15 days after the vote occurs, disclose the  
98 nature of his or her interest as a public record in a memorandum  
99 filed with the person responsible for recording the minutes of  
100 the meeting, who shall incorporate the memorandum in the  
101 minutes. However, a county, municipal, or other local public  
102 officer is not prohibited from voting on a measure if the matter  
103 would result in an economic benefit or harm to the public  
104 generally or to a broad segment of the public.

105 (4) An ~~No~~ appointed public officer may not ~~shall~~  
106 participate in any matter which would inure to any ~~the officer's~~  
107 ~~special private~~ gain or loss of the officer; which the officer  
108 knows would inure to any ~~the special private~~ gain or loss of any  
109 principal by whom he or she is retained or to the parent  
110 organization or subsidiary of a corporate principal by which he  
111 or she is retained; or which he or she knows would inure to any  
112 ~~the special private~~ gain or loss of a relative or business  
113 associate of the public officer, without first disclosing the  
114 nature of his or her interest in the matter.

115 (a) Such disclosure, indicating the nature of the conflict,  
116 shall be made in a written memorandum filed with the person  
117 responsible for recording the minutes of the meeting, before  
118 ~~prior to~~ the meeting in which consideration of the matter will  
119 take place, and shall be incorporated into the minutes. Any such

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120 memorandum shall become a public record upon filing, shall  
121 immediately be provided to the other members of the agency, and  
122 shall be read publicly at the next meeting held subsequent to  
123 the filing of this written memorandum.

124 (b) In the event that disclosure has not been made before  
125 ~~prior to~~ the meeting or that any conflict is unknown before  
126 ~~prior to~~ the meeting, the disclosure shall be made orally at the  
127 meeting when it becomes known that a conflict exists. A written  
128 memorandum disclosing the nature of the conflict shall then be  
129 filed within 15 days after the oral disclosure with the person  
130 responsible for recording the minutes of the meeting and shall  
131 be incorporated into the minutes of the meeting at which the  
132 oral disclosure was made. Any such memorandum shall become a  
133 public record upon filing, shall immediately be provided to the  
134 other members of the agency, and shall be read publicly at the  
135 next meeting held subsequent to the filing of this written  
136 memorandum.

137 (c) For purposes of this subsection, the term "participate"  
138 means any attempt to influence the decision by oral or written  
139 communication, whether made by the officer or at the officer's  
140 direction.

141 Section 2. Paragraph (a) of subsection (7) and paragraph  
142 (e) of subsection (11) of section 155.40, Florida Statutes, are  
143 amended to read:

144 155.40 Sale or lease of county, district, or municipal  
145 hospital; effect of sale.—

146 (7) A determination by the governing board to accept a  
147 proposal for sale or lease shall be made after consideration of  
148 all proposals received and negotiations with a qualified

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149 purchaser or lessee. The governing board's determination must  
150 include, in writing, detailed findings of all reasons for  
151 accepting the proposal.

152 (a) The governing board's acceptance of a proposal for sale  
153 or lease must include a description of how the sale or lease  
154 satisfies each of the following requirements:

155 1. The sale or lease represents fair market value, as  
156 determined by a certified public accounting firm or other  
157 qualified firm pursuant to subsection (5). If leased at less  
158 than fair market value, the governing board shall provide a  
159 detailed explanation of how the best interests of the affected  
160 community are served by the acceptance of less than fair market  
161 value for the lease of the hospital.

162 2. Acceptance of the proposal will result in a reduction or  
163 elimination of ad valorem or other taxes for taxpayers in the  
164 district, if applicable.

165 3. The proposal includes an enforceable commitment that  
166 programs and services and quality health care will continue to  
167 be provided to all residents of the affected community,  
168 particularly to the indigent, the uninsured, and the  
169 underinsured.

170 4. Disclosure has been made of all conflicts of interest,  
171 including, but not limited to, whether the sale or lease of the  
172 hospital or health care system would result in any ~~a special~~  
173 ~~private~~ gain or loss to members of the governing board or key  
174 management employees or members of the medical staff of the  
175 county, district, or municipal hospital, or if governing board  
176 members will be serving on the board of any successor private  
177 corporation. Conflicts of interest, if any, with respect to

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178 experts retained by the governing board shall also be disclosed.

179 5. Disclosure has been made by the seller or lessor of all  
180 contracts with physicians or other entities providing health  
181 care services through a contract with the seller or lessor,  
182 including all agreements or contracts that would be void or  
183 voidable upon the consummation of the sale or lease.

184 6. The proposal is in compliance with subsections (8) and  
185 (9).

186 (11) Within 30 days after receiving the petition, the  
187 Secretary of Health Care Administration or his or her designee  
188 shall issue a final order approving or denying the proposed  
189 transaction based solely upon consideration of whether the  
190 procedures contained within this section have been followed by  
191 the governing board of the county, district, or municipal  
192 hospital or health care system. The order shall require the  
193 governing board to accept or reject the proposal for the sale or  
194 lease of the county, district, or municipal hospital or health  
195 care system based upon a determination that:

196 (e) Any conflict of interest was disclosed, including, but  
197 not limited to, how the proposed transaction could result in any  
198 ~~a special private~~ gain or loss to members of the governing board  
199 or key management employees of the county, district, or  
200 municipal hospital, or if governing board members will be  
201 serving on the board of any successor private corporation.  
202 Conflicts of interest, if any, with respect to experts retained  
203 by the governing board shall also be disclosed.

204 Section 3. Paragraph (c) of subsection (1) of section  
205 310.151, Florida Statutes, is amended to read:

206 310.151 Rates of pilotage; Pilotage Rate Review Committee.—

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207 (1)

208 (c) Committee members shall comply with the disclosure  
209 requirements of s. 112.3143(4) if participating in any matter  
210 that would result in any ~~special-private~~ gain or loss as  
211 described in that subsection.

212 Section 4. Subsection (6) of section 553.77, Florida  
213 Statutes, is amended to read:

214 553.77 Specific powers of the commission.—

215 (6) A member of the Florida Building Commission may abstain  
216 from voting in any matter before the commission which would  
217 inure to any ~~the commissioner's special-private~~ gain or loss of  
218 the commissioner, which the commissioner knows would inure to  
219 any ~~the special-private~~ gain or loss of any principal by whom he  
220 or she is retained or to the parent organization or subsidiary  
221 of a corporate principal by which he or she is retained, or  
222 which he or she knows would inure to any ~~the special-private~~  
223 gain or loss of a relative or business associate of the  
224 commissioner. A commissioner shall abstain from voting under the  
225 foregoing circumstances if the matter is before the commission  
226 under ss. 120.569, 120.60, and 120.80. The commissioner shall,  
227 before the vote is taken, publicly state to the assembly the  
228 nature of the commissioner's interest in the matter from which  
229 he or she is abstaining from voting and, within 15 days after  
230 the vote occurs, disclose the nature of his or her other  
231 interest as a public record in a memorandum filed with the  
232 person responsible for recording the minutes of the meeting, who  
233 shall incorporate the memorandum in the minutes.

234 Section 5. Paragraph (d) of subsection (6) of section  
235 627.351, Florida Statutes, is amended to read:



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236 627.351 Insurance risk apportionment plans.—

237 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

238 (d)1. All prospective employees for senior management  
239 positions, as defined by the plan of operation, are subject to  
240 background checks as a prerequisite for employment. The office  
241 shall conduct the background checks pursuant to ss. 624.34,  
242 624.404(3), and 628.261.

243 2. On or before July 1 of each year, employees of the  
244 corporation must sign and submit a statement attesting that they  
245 do not have a conflict of interest, as defined in part III of  
246 chapter 112. As a condition of employment, all prospective  
247 employees must sign and submit to the corporation a conflict-of-  
248 interest statement.

249 3. The executive director, senior managers, and members of  
250 the board of governors are subject to part III of chapter 112,  
251 including, but not limited to, the code of ethics and public  
252 disclosure and reporting of financial interests, pursuant to s.  
253 112.3145. For purposes of applying part III of chapter 112 to  
254 activities of the executive director, senior managers, and  
255 members of the board of governors, those persons shall be  
256 considered public officers or employees and the corporation  
257 shall be considered their agency. Notwithstanding s.

258 112.3143(2), a board member may not vote on any measure that  
259 would inure to any ~~his or her special private~~ gain or loss of  
260 the board member; that he or she knows would inure to any ~~the~~  
261 ~~special private~~ gain or loss of any principal by whom he or she  
262 is retained or to the parent organization or subsidiary of a  
263 corporate principal by which he or she is retained, other than  
264 an agency as defined in s. 112.312; or that he or she knows

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265 would inure to any ~~the special private~~ gain or loss of a  
266 relative or business associate of the public officer. Before the  
267 vote is taken, such member shall publicly state to the assembly  
268 the nature of his or her interest in the matter from which he or  
269 she is abstaining from voting and, within 15 days after the vote  
270 occurs, disclose the nature of his or her interest as a public  
271 record in a memorandum filed with the person responsible for  
272 recording the minutes of the meeting, who shall incorporate the  
273 memorandum in the minutes. Senior managers and board members are  
274 also required to file such disclosures with the Commission on  
275 Ethics and the Office of Insurance Regulation. The executive  
276 director of the corporation or his or her designee shall notify  
277 each existing and newly appointed member of the board of  
278 governors and senior managers of their duty to comply with the  
279 reporting requirements of part III of chapter 112. At least  
280 quarterly, the executive director or his or her designee shall  
281 submit to the Commission on Ethics a list of names of the senior  
282 managers and members of the board of governors who are subject  
283 to the public disclosure requirements under s. 112.3145.

284 4. Notwithstanding s. 112.3148, s. 112.3149, or any other  
285 provision of law, an employee or board member may not knowingly  
286 accept, directly or indirectly, any gift or expenditure from a  
287 person or entity, or an employee or representative of such  
288 person or entity, which has a contractual relationship with the  
289 corporation or who is under consideration for a contract. An  
290 employee or board member who fails to comply with subparagraph  
291 3. or this subparagraph is subject to penalties provided under  
292 ss. 112.317 and 112.3173.

293 5. Any senior manager of the corporation who is employed on

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294 or after January 1, 2007, regardless of the date of hire, who  
295 subsequently retires or terminates employment is prohibited from  
296 representing another person or entity before the corporation for  
297 2 years after retirement or termination of employment from the  
298 corporation.

299         6. The executive director, members of the board of  
300 governors, and senior managers of the corporation are prohibited  
301 from having any employment or contractual relationship for 2  
302 years after retirement from or termination of service to the  
303 corporation with an insurer that has entered into a take-out  
304 bonus agreement with the corporation.

305         Section 6. This act shall take effect July 1, 2017.