

By Senator Thurston

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1 A bill to be entitled
2 An act relating to disclosure of financial interests;
3 amending s. 112.3145, F.S.; defining the term "charter
4 school employee"; providing financial disclosure
5 requirements for charter school employees; conforming
6 provisions to changes made by the act; providing
7 applicability; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Subsection (1), paragraphs (b) and (c) of
12 subsection (2), subsections (3), (5), and (6), paragraphs (a),
13 (f), (g), and (h) of subsection (7), paragraph (a) of subsection
14 (8), and subsection (12) of section 112.3145, Florida Statutes,
15 are amended to read:

16 112.3145 Disclosure of financial interests and clients
17 represented before agencies.—

18 (1) For purposes of this section, unless the context
19 otherwise requires, the term:

20 (a) "Local officer" means:

21 1. Every person who is elected to office in any political
22 subdivision of the state, and every person who is appointed to
23 fill a vacancy for an unexpired term in such an elective office.

24 2. Any appointed member of any of the following boards,
25 councils, commissions, authorities, or other bodies of any
26 county, municipality, school district, independent special
27 district, or other political subdivision of the state:

28 a. The governing body of the political subdivision, if
29 appointed;

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30 b. A community college or junior college district board of
31 trustees;

32 c. A board having the power to enforce local code
33 provisions;

34 d. A planning or zoning board, board of adjustment, board
35 of appeals, community redevelopment agency board, or other board
36 having the power to recommend, create, or modify land planning
37 or zoning within the political subdivision, except for citizen
38 advisory committees, technical coordinating committees, and such
39 other groups who only have the power to make recommendations to
40 planning or zoning boards;

41 e. A pension board or retirement board having the power to
42 invest pension or retirement funds or the power to make a
43 binding determination of one's entitlement to or amount of a
44 pension or other retirement benefit; or

45 f. Any other appointed member of a local government board
46 who is required to file a statement of financial interests by
47 the appointing authority or the enabling legislation, ordinance,
48 or resolution creating the board.

49 3. Any person holding one or more of the following
50 positions: mayor; county or city manager; chief administrative
51 employee of a county, municipality, or other political
52 subdivision; county or municipal attorney; finance director of a
53 county, municipality, or other political subdivision; chief
54 county or municipal building code inspector; county or municipal
55 water resources coordinator; county or municipal pollution
56 control director; county or municipal environmental control
57 director; county or municipal administrator, with power to grant
58 or deny a land development permit; chief of police; fire chief;

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59 municipal clerk; district school superintendent; community
60 college president; district medical examiner; or purchasing
61 agent having the authority to make any purchase exceeding the
62 threshold amount provided for in s. 287.017 for CATEGORY ONE, on
63 behalf of any political subdivision of the state or any entity
64 thereof.

65 (b) "Charter school employee" means a charter school owner,
66 president, chairperson of the governing board of directors,
67 superintendent, or governing board member employed by a charter
68 school system that operates in two or fewer districts.

69 (c) ~~(b)~~ "Specified state employee" means:

70 1. Public counsel created by chapter 350, an assistant
71 state attorney, an assistant public defender, a criminal
72 conflict and civil regional counsel, an assistant criminal
73 conflict and civil regional counsel, a full-time state employee
74 who serves as counsel or assistant counsel to any state agency,
75 the Deputy Chief Judge of Compensation Claims, a judge of
76 compensation claims, an administrative law judge, or a hearing
77 officer.

78 2. Any person employed in the office of the Governor or in
79 the office of any member of the Cabinet if that person is exempt
80 from the Career Service System, except persons employed in
81 clerical, secretarial, or similar positions.

82 3. The State Surgeon General or each appointed secretary,
83 assistant secretary, deputy secretary, executive director,
84 assistant executive director, or deputy executive director of
85 each state department, commission, board, or council; unless
86 otherwise provided, the division director, assistant division
87 director, deputy director, bureau chief, and assistant bureau

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88 chief of any state department or division; or any person having
89 the power normally conferred upon such persons, by whatever
90 title.

91 4. The superintendent or institute director of a state
92 mental health institute established for training and research in
93 the mental health field or the warden or director of any major
94 state institution or facility established for corrections,
95 training, treatment, or rehabilitation.

96 5. Business managers, purchasing agents having the power to
97 make any purchase exceeding the threshold amount provided for in
98 s. 287.017 for CATEGORY ONE, finance and accounting directors,
99 personnel officers, or grants coordinators for any state agency.

100 6. Any person, other than a legislative assistant exempted
101 by the presiding officer of the house by which the legislative
102 assistant is employed, who is employed in the legislative branch
103 of government, except persons employed in maintenance, clerical,
104 secretarial, or similar positions.

105 7. Each employee of the Commission on Ethics.

106 (d)~~(e)~~ "State officer" means:

107 1. Any elected public officer, excluding those elected to
108 the United States Senate and House of Representatives, not
109 covered elsewhere in this part and any person who is appointed
110 to fill a vacancy for an unexpired term in such an elective
111 office.

112 2. An appointed member of each board, commission,
113 authority, or council having statewide jurisdiction, excluding a
114 member of an advisory body.

115 3. A member of the Board of Governors of the State
116 University System or a state university board of trustees, the

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117 Chancellor and Vice Chancellors of the State University System,
118 and the president of a state university.

119 4. A member of the judicial nominating commission for any
120 district court of appeal or any judicial circuit.

121 (2)

122 (b) Each state or local officer, charter school employee,
123 and ~~each~~ specified state employee shall file a statement of
124 financial interests no later than July 1 of each year. Each
125 state officer, local officer, charter school employee, and
126 specified state employee shall file a final statement of
127 financial interests within 60 days after leaving his or her
128 public position for the period between January 1 of the year in
129 which the person leaves and the last day of office or
130 employment, unless within the 60-day period the person takes
131 another public position requiring financial disclosure under
132 this section or s. 8, Art. II of the State Constitution or
133 otherwise is required to file full and public disclosure or a
134 statement of financial interests for the final disclosure
135 period. Each state or local officer who is appointed and each
136 charter school employee and specified state employee who is
137 employed shall file a statement of financial interests within 30
138 days from the date of appointment or, in the case of a charter
139 school employee or specified state employee, from the date on
140 which the employment begins, except that any person whose
141 appointment is subject to confirmation by the Senate shall file
142 prior to confirmation hearings or within 30 days from the date
143 of appointment, whichever comes first.

144 (c) State officers, charter school employees, and specified
145 state employees shall file their statements of financial

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146 interests with the Commission on Ethics. Local officers shall
147 file their statements of financial interests with the supervisor
148 of elections of the county in which they permanently reside.
149 Local officers who do not permanently reside in any county in
150 the state shall file their statements of financial interests
151 with the supervisor of elections of the county in which their
152 agency maintains its headquarters. Persons seeking to qualify as
153 candidates for local public office shall file their statements
154 of financial interests with the officer before whom they
155 qualify.

156 (3) The statement of financial interests for state
157 officers, charter school employees, specified state employees,
158 local officers, and persons seeking to qualify as candidates for
159 state or local office shall be filed even if the reporting
160 person holds no financial interests requiring disclosure, in
161 which case the statement shall be marked "not applicable."
162 Otherwise, the statement of financial interests shall include,
163 at the filer's option, either:

164 (a)1. All sources of income in excess of 5 percent of the
165 gross income received during the disclosure period by the person
166 in his or her own name or by any other person for his or her use
167 or benefit, excluding public salary. However, this shall not be
168 construed to require disclosure of a business partner's sources
169 of income. The person reporting shall list such sources in
170 descending order of value with the largest source first;

171 2. All sources of income to a business entity in excess of
172 10 percent of the gross income of a business entity in which the
173 reporting person held a material interest and from which he or
174 she received an amount which was in excess of 10 percent of his

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175 or her gross income during the disclosure period and which
176 exceeds \$1,500. The period for computing the gross income of the
177 business entity is the fiscal year of the business entity which
178 ended on, or immediately prior to, the end of the disclosure
179 period of the person reporting;

180 3. The location or description of real property in this
181 state, except for residences and vacation homes, owned directly
182 or indirectly by the person reporting, when such person owns in
183 excess of 5 percent of the value of such real property, and a
184 general description of any intangible personal property worth in
185 excess of 10 percent of such person's total assets. For the
186 purposes of this paragraph, indirect ownership does not include
187 ownership by a spouse or minor child; and

188 4. Every individual liability that equals more than the
189 reporting person's net worth; or

190 (b)1. All sources of gross income in excess of \$2,500
191 received during the disclosure period by the person in his or
192 her own name or by any other person for his or her use or
193 benefit, excluding public salary. However, this shall not be
194 construed to require disclosure of a business partner's sources
195 of income. The person reporting shall list such sources in
196 descending order of value with the largest source first;

197 2. All sources of income to a business entity in excess of
198 10 percent of the gross income of a business entity in which the
199 reporting person held a material interest and from which he or
200 she received gross income exceeding \$5,000 during the disclosure
201 period. The period for computing the gross income of the
202 business entity is the fiscal year of the business entity which
203 ended on, or immediately prior to, the end of the disclosure

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204 period of the person reporting;

205 3. The location or description of real property in this
206 state, except for residence and vacation homes, owned directly
207 or indirectly by the person reporting, when such person owns in
208 excess of 5 percent of the value of such real property, and a
209 general description of any intangible personal property worth in
210 excess of \$10,000. For the purpose of this paragraph, indirect
211 ownership does not include ownership by a spouse or minor child;
212 and

213 4. Every liability in excess of \$10,000.

214
215 A person filing a statement of financial interests shall
216 indicate on the statement whether he or she is using the method
217 specified in paragraph (a) or paragraph (b).

218 (5) Each elected constitutional officer, state officer,
219 local officer, charter school employee, and specified state
220 employee shall file a quarterly report of the names of clients
221 represented for a fee or commission, except for appearances in
222 ministerial matters, before agencies at his or her level of
223 government. For the purposes of this part, agencies of
224 government shall be classified as state-level agencies or
225 agencies below state level. Each local officer shall file such
226 report with the supervisor of elections of the county in which
227 the officer is principally employed or is a resident. Each state
228 officer, elected constitutional officer, charter school
229 employee, and specified state employee shall file such report
230 with the commission. The report shall be filed only when a
231 reportable representation is made during the calendar quarter
232 and shall be filed no later than the last day of each calendar

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233 quarter, for the previous calendar quarter. Representation
234 before any agency shall be deemed to include representation by
235 such officer, charter school employee, or specified state
236 employee or by any partner or associate of the professional firm
237 of which he or she is a member and of which he or she has actual
238 knowledge. For the purposes of this subsection, the term
239 "representation before any agency" does not include appearances
240 before any court or the Deputy Chief Judge of Compensation
241 Claims or judges of compensation claims or representations on
242 behalf of one's agency in one's official capacity. Such term
243 does not include the preparation and filing of forms and
244 applications merely for the purpose of obtaining or transferring
245 a license based on a quota or a franchise of such agency or a
246 license or operation permit to engage in a profession, business,
247 or occupation, so long as the issuance or granting of such
248 license, permit, or transfer does not require substantial
249 discretion, a variance, a special consideration, or a
250 certificate of public convenience and necessity.

251 (6) Each elected constitutional officer and each candidate
252 for such office, any other public officer required pursuant to
253 s. 8, Art. II of the State Constitution to file a full and
254 public disclosure of his or her financial interests, and each
255 state officer, local officer, charter school employee, specified
256 state employee, and candidate for elective public office who is
257 or was during the disclosure period an officer, director,
258 partner, proprietor, or agent, other than a resident agent
259 solely for service of process, of, or owns or owned during the
260 disclosure period a material interest in, any business entity
261 which is granted a privilege to operate in this state shall

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262 disclose such facts as a part of the disclosure form filed
263 pursuant to s. 8, Art. II of the State Constitution or this
264 section, as applicable. The statement shall give the name,
265 address, and principal business activity of the business entity
266 and shall state the position held with such business entity or
267 the fact that a material interest is owned and the nature of
268 that interest.

269 (7) Forms for compliance with the disclosure requirements
270 of this section and a current list of persons subject to
271 disclosure shall be created by the commission and provided to
272 each supervisor of elections. The commission and each supervisor
273 of elections shall give notice of disclosure deadlines and
274 delinquencies and distribute forms in the following manner:

275 (a)1. Not later than May 1 of each year, the commission
276 shall prepare a current list of the names and addresses of, and
277 the offices or positions held by, every state officer, local
278 officer, charter school employee, and specified state employee.
279 In compiling the list, the commission shall be assisted by each
280 unit of government in providing, at the request of the
281 commission, the name, address, and name of agency of, and the
282 office or position held by, each state officer, local officer,
283 charter school employee, or specified state employee within the
284 respective unit of government.

285 2. Not later than May 15 of each year, the commission shall
286 provide each supervisor of elections with a current mailing list
287 of all local officers required to file with such supervisor of
288 elections.

289 (f) Any person who is required to file a statement of
290 financial interests and whose name is on the commission's

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291 mailing list but who fails to timely file is assessed a fine of
292 \$25 per day for each day late up to a maximum of \$1,500;
293 however, this \$1,500 limitation on automatic fines does not
294 limit the civil penalty that may be imposed if the statement is
295 filed more than 60 days after the deadline and a complaint is
296 filed, as provided in s. 112.324. The commission must provide by
297 rule the grounds for waiving the fine and procedures by which
298 each person whose name is on the mailing list and who is
299 determined to have not filed in a timely manner will be notified
300 of assessed fines and may appeal. The rule must provide for and
301 make specific the following:

302 1. The amount of the fine due is based upon the earliest of
303 the following:

- 304 a. When a statement is actually received by the office.
305 b. When the statement is postmarked.
306 c. When the certificate of mailing is dated.
307 d. When the receipt from an established courier company is
308 dated.

309 2. For a charter school employee, a specified state
310 employee, or a state officer, upon receipt of the disclosure
311 statement by the commission or upon accrual of the maximum
312 penalty, whichever occurs first, and for a local officer upon
313 receipt by the commission of the certification from the local
314 officer's supervisor of elections pursuant to paragraph (d), the
315 commission shall determine the amount of the fine which is due
316 and shall notify the delinquent person. The notice must include
317 an explanation of the appeal procedure under subparagraph 3. The
318 fine must be paid within 30 days after the notice of payment due
319 is transmitted, unless appeal is made to the commission pursuant

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320 to subparagraph 3. The moneys are to be deposited into the
321 General Revenue Fund.

322 3. Any reporting person may appeal or dispute a fine, based
323 upon unusual circumstances surrounding the failure to file on
324 the designated due date, and may request and is entitled to a
325 hearing before the commission, which may waive the fine in whole
326 or in part for good cause shown. Any such request must be made
327 within 30 days after the notice of payment due is transmitted.
328 In such a case, the reporting person must, within the 30-day
329 period, notify the person designated to review the timeliness of
330 reports in writing of his or her intention to bring the matter
331 before the commission.

332 (g) Any state officer, local officer, charter school
333 employee, or specified state employee whose name is not on the
334 mailing list of persons required to file an annual statement of
335 financial interests is not subject to the penalties provided in
336 s. 112.317 or the fine provided in this section for failure to
337 timely file a statement of financial interests in any year in
338 which the omission occurred, but nevertheless is required to
339 file the disclosure statement.

340 (h) The notification requirements and fines of this
341 subsection do not apply to candidates or to the first or final
342 filing required of any state officer, charter school employee,
343 specified state employee, or local officer as provided in
344 paragraph (2) (b).

345 (8) (a) The appointing official or body shall notify each
346 newly appointed local officer, state officer, charter school
347 employee, or specified state employee, not later than the date
348 of appointment, of the officer's or employee's duty to comply

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349 with the disclosure requirements of this section. The agency
350 head of each employing agency shall notify each newly employed
351 local officer, charter school employee, or specified state
352 employee, not later than the day of employment, of the officer's
353 or employee's duty to comply with the disclosure requirements of
354 this section. The appointing official or body or employing
355 agency head may designate a person to be responsible for the
356 notification requirements of this paragraph.

357 (12) The commission shall adopt rules and forms specifying
358 how a state officer, local officer, charter school employee, or
359 specified state employee may amend his or her statement of
360 financial interests to report information that was not included
361 on the form as originally filed. If the amendment is the subject
362 of a complaint filed under this part, the commission and the
363 proper disciplinary official or body shall consider as a
364 mitigating factor when considering appropriate disciplinary
365 action the fact that the amendment was filed before any
366 complaint or other inquiry or proceeding, while recognizing that
367 the public was deprived of access to information to which it was
368 entitled.

369 Section 2. The amendments made by this act apply to
370 disclosures of financial interests filed for the 2018 calendar
371 year and all subsequent calendar years.

372 Section 3. This act shall take effect January 1, 2019.