

1 A bill to be entitled
 2 An act relating to disclosure of financial interests;
 3 amending s. 112.3145, F.S.; providing a definition of
 4 the term "charter school employee"; providing
 5 financial disclosure requirements for charter school
 6 employees; conforming provisions to changes made by
 7 the act; 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;
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;
 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
 66 owner, president, chairperson of the governing board of
 67 directors, superintendent, or governing board member employed by
 68 a charter 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
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
97 to make any purchase exceeding the threshold amount provided for
98 in s. 287.017 for CATEGORY ONE, finance and accounting
99 directors, personnel officers, or grants coordinators for any
100 state agency.

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

106 7. Each employee of the Commission on Ethics.

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

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

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

116 3. A member of the Board of Governors of the State
 117 University System or a state university board of trustees, the
 118 Chancellor and Vice Chancellors of the State University System,
 119 and the president of a state university.

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

122 (2)

123 (b) Each state or local officer, charter school employee,
 124 and ~~each~~ specified state employee shall file a statement of
 125 financial interests no later than July 1 of each year. Each

126 | state officer, local officer, charter school employee, and
127 | specified state employee shall file a final statement of
128 | financial interests within 60 days after leaving his or her
129 | public position for the period between January 1 of the year in
130 | which the person leaves and the last day of office or
131 | employment, unless within the 60-day period the person takes
132 | another public position requiring financial disclosure under
133 | this section or s. 8, Art. II of the State Constitution or
134 | otherwise is required to file full and public disclosure or a
135 | statement of financial interests for the final disclosure
136 | period. Each state or local officer who is appointed and each
137 | charter school employee and specified state employee who is
138 | employed shall file a statement of financial interests within 30
139 | days from the date of appointment or, in the case of a charter
140 | school employee or specified state employee, from the date on
141 | which the employment begins, except that any person whose
142 | appointment is subject to confirmation by the Senate shall file
143 | prior to confirmation hearings or within 30 days from the date
144 | of appointment, whichever comes first.

145 | (c) State officers, charter school employees, and
146 | specified state employees shall file their statements of
147 | financial interests with the Commission on Ethics. Local
148 | officers shall file their statements of financial interests with
149 | the supervisor of elections of the county in which they
150 | permanently reside. Local officers who do not permanently reside

151 in any county in the state shall file their statements of
152 financial interests with the supervisor of elections of the
153 county in which their agency maintains its headquarters. Persons
154 seeking to qualify as candidates for local public office shall
155 file their statements of financial interests with the officer
156 before whom they qualify.

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

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

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

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

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

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

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

198 2. All sources of income to a business entity in excess of
199 10 percent of the gross income of a business entity in which the
200 reporting person held a material interest and from which he or

201 she received gross income exceeding \$5,000 during the disclosure
202 period. The period for computing the gross income of the
203 business entity is the fiscal year of the business entity which
204 ended on, or immediately prior to, the end of the disclosure
205 period of the person reporting;

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

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

215

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

219 (5) Each elected constitutional officer, state officer,
220 local officer, charter school employee, and specified state
221 employee shall file a quarterly report of the names of clients
222 represented for a fee or commission, except for appearances in
223 ministerial matters, before agencies at his or her level of
224 government. For the purposes of this part, agencies of
225 government shall be classified as state-level agencies or

226 agencies below state level. Each local officer shall file such
227 report with the supervisor of elections of the county in which
228 the officer is principally employed or is a resident. Each state
229 officer, elected constitutional officer, charter school
230 employee, and specified state employee shall file such report
231 with the commission. The report shall be filed only when a
232 reportable representation is made during the calendar quarter
233 and shall be filed no later than the last day of each calendar
234 quarter, for the previous calendar quarter. Representation
235 before any agency shall be deemed to include representation by
236 such officer, charter school employee, or specified state
237 employee or by any partner or associate of the professional firm
238 of which he or she is a member and of which he or she has actual
239 knowledge. For the purposes of this subsection, the term
240 "representation before any agency" does not include appearances
241 before any court or the Deputy Chief Judge of Compensation
242 Claims or judges of compensation claims or representations on
243 behalf of one's agency in one's official capacity. Such term
244 does not include the preparation and filing of forms and
245 applications merely for the purpose of obtaining or transferring
246 a license based on a quota or a franchise of such agency or a
247 license or operation permit to engage in a profession, business,
248 or occupation, so long as the issuance or granting of such
249 license, permit, or transfer does not require substantial
250 discretion, a variance, a special consideration, or a

251 certificate of public convenience and necessity.

252 (6) Each elected constitutional officer and each candidate
253 for such office, any other public officer required pursuant to
254 s. 8, Art. II of the State Constitution to file a full and
255 public disclosure of his or her financial interests, and each
256 state officer, local officer, charter school employee, specified
257 state employee, and candidate for elective public office who is
258 or was during the disclosure period an officer, director,
259 partner, proprietor, or agent, other than a resident agent
260 solely for service of process, of, or owns or owned during the
261 disclosure period a material interest in, any business entity
262 which is granted a privilege to operate in this state shall
263 disclose such facts as a part of the disclosure form filed
264 pursuant to s. 8, Art. II of the State Constitution or this
265 section, as applicable. The statement shall give the name,
266 address, and principal business activity of the business entity
267 and shall state the position held with such business entity or
268 the fact that a material interest is owned and the nature of
269 that interest.

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

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

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

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

301 of assessed fines and may appeal. The rule must provide for and
302 make specific the following:

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

305 a. When a statement is actually received by the office.

306 b. When the statement is postmarked.

307 c. When the certificate of mailing is dated.

308 d. When the receipt from an established courier company is
309 dated.

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

323 3. Any reporting person may appeal or dispute a fine,
324 based upon unusual circumstances surrounding the failure to file
325 on the designated due date, and may request and is entitled to a

326 hearing before the commission, which may waive the fine in whole
327 or in part for good cause shown. Any such request must be made
328 within 30 days after the notice of payment due is transmitted.
329 In such a case, the reporting person must, within the 30-day
330 period, notify the person designated to review the timeliness of
331 reports in writing of his or her intention to bring the matter
332 before the commission.

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

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

346 (8) (a) The appointing official or body shall notify each
347 newly appointed local officer, state officer, charter school
348 employee, or specified state employee, not later than the date
349 of appointment, of the officer's or employee's duty to comply
350 with the disclosure requirements of this section. The agency

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

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

370 Section 2. This act shall take effect July 1, 2018.