

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to ethics; amending s. 112.3143, F.S.;
3 prohibiting a state public officer from voting in an
4 official capacity on any measure that he or she knows
5 would inure to the special private gain or loss of
6 certain principals, parent organizations or
7 subsidiaries of a corporate principal, relatives, or
8 business associates of the officer; revising
9 disclosure requirements applicable to state public
10 officers in the event of a voting conflict;
11 prohibiting any public officer from participating in
12 any matter that would inure to the officer's special
13 private gain or loss or that he or she knows would
14 inure to the special private gain or loss of certain
15 principals, parent organizations or subsidiaries of a
16 corporate principal, relatives, or business associates
17 of the officer; prescribing disclosure requirements;
18 amending s. 112.317, F.S.; authorizing a person who
19 has filed a complaint against a public officer or
20 employee to recover costs and reasonable attorney fees
21 if he or she prevails against a respondent's fee
22 petition; requiring the Commission on Ethics to
23 forward information regarding a respondent's failure
24 to voluntarily pay such costs and fees within a
25 certain timeframe to the Department of Legal Affairs;
26 requiring the department to bring a civil action to
27 recover such costs and fees owed to a complainant;
28 amending ss. 288.1226, 310.151, 627.351, 1002.33,
29 1002.333, and 1002.83, F.S.; conforming provisions and

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30 cross-references to changes made by the act;
31 reenacting ss. 28.35(1)(b), 112.3251, 288.901(1)(c),
32 288.92(2)(b), and 288.9604(3)(a), F.S., relating to
33 standards of conduct for public officers, to
34 incorporate the amendment made to s. 112.3143, F.S.,
35 in references thereto; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Present subsections (3) through (6) of section
40 112.3143, Florida Statutes, are renumbered as subsections (2)
41 through (5), respectively, and present subsections (2), (3), and
42 (4) of that section are amended, to read:

43 112.3143 Voting conflicts.—

44 ~~(2)(a) A state public officer may not vote on any matter~~
45 ~~that the officer knows would inure to his or her special private~~
46 ~~gain or loss. Any state public officer who abstains from voting~~
47 ~~in an official capacity upon any measure that the officer knows~~
48 ~~would inure to the officer's special private gain or loss, or~~
49 ~~who votes in an official capacity on a measure that he or she~~
50 ~~knows would inure to the special private gain or loss of any~~
51 ~~principal by whom the officer is retained or to the parent~~
52 ~~organization or subsidiary of a corporate principal by which the~~
53 ~~officer is retained other than an agency as defined in s.~~
54 ~~112.312(2); or which the officer knows would inure to the~~
55 ~~special private gain or loss of a relative or business associate~~
56 ~~of the public officer, shall make every reasonable effort to~~
57 ~~disclose the nature of his or her interest as a public record in~~
58 ~~a memorandum filed with the person responsible for recording the~~

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59 ~~minutes of the meeting, who shall incorporate the memorandum in~~
60 ~~the minutes. If it is not possible for the state public officer~~
61 ~~to file a memorandum before the vote, the memorandum must be~~
62 ~~filed with the person responsible for recording the minutes of~~
63 ~~the meeting no later than 15 days after the vote.~~

64 ~~(b) A member of the Legislature may satisfy the disclosure~~
65 ~~requirements of this section by filing a disclosure form created~~
66 ~~pursuant to the rules of the member's respective house if the~~
67 ~~member discloses the information required by this subsection.~~

68 ~~(2) (a) (3) (a) A state, No county, municipal, or other local~~
69 ~~public officer may not ~~shall~~ vote in an official capacity upon~~
70 ~~any measure that ~~which~~ would inure to his or her special private~~
71 ~~gain or loss; that ~~which~~ he or she knows would inure to the~~
72 ~~special private gain or loss of any principal by whom he or she~~
73 ~~is retained or to the parent organization or subsidiary of a~~
74 ~~corporate principal by which he or she is retained, other than~~
75 ~~an agency as defined in s. 112.312(2); or that ~~which~~ he or she~~
76 ~~knows would inure to the special private gain or loss of a~~
77 ~~relative or business associate of the public officer. Such~~
78 ~~public officer shall, before ~~prior to~~ the vote being taken,~~
79 ~~publicly state to the assembly the nature of the officer's~~
80 ~~interest in the matter from which he or she is abstaining from~~
81 ~~voting and, within 15 days after the vote occurs, disclose the~~
82 ~~nature of his or her interest as a public record in a memorandum~~
83 ~~filed with the person responsible for recording the minutes of~~
84 ~~the meeting, who shall incorporate the memorandum in the~~
85 ~~minutes.~~

86 ~~(b) However, a commissioner of a community redevelopment~~
87 ~~agency created or designated pursuant to s. 163.356 or s.~~

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88 163.357, or an officer of an independent special tax district
89 elected on a one-acre, one-vote basis, is not prohibited from
90 voting, when voting in said capacity.

91 (3)-(4) A state, county, municipal, or other ~~No appointed~~
92 public officer may not shall participate in any matter that
93 ~~which~~ would inure to the officer's special private gain or loss;
94 that ~~which~~ the officer knows would inure to the special private
95 gain or loss of any principal by whom he or she is retained or
96 to the parent organization or subsidiary of a corporate
97 principal by which he or she is retained; or that ~~which~~ he or
98 she knows would inure to the special private gain or loss of a
99 relative or business associate of the public officer, without
100 first disclosing the nature of his or her interest in the
101 matter.

102 (a) Such disclosure, indicating the nature of the conflict,
103 shall be made in a written memorandum filed with the person
104 responsible for recording the minutes of the meeting, before
105 ~~prior to~~ the meeting in which consideration of the matter will
106 take place, and shall be incorporated into the minutes. Any such
107 memorandum shall become a public record upon filing, shall
108 immediately be provided to the other members of the agency, and
109 shall be read publicly at the next meeting held subsequent to
110 the filing of this written memorandum.

111 (b) In the event that disclosure has not been made before
112 ~~prior to~~ the meeting or that any conflict is unknown before
113 ~~prior to~~ the meeting, the disclosure shall be made orally at the
114 meeting when it becomes known that a conflict exists. A written
115 memorandum disclosing the nature of the conflict shall then be
116 filed within 15 days after the oral disclosure with the person

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117 responsible for recording the minutes of the meeting and shall
118 be incorporated into the minutes of the meeting at which the
119 oral disclosure was made. Any such memorandum shall become a
120 public record upon filing, shall immediately be provided to the
121 other members of the agency, and shall be read publicly at the
122 next meeting held subsequent to the filing of this written
123 memorandum.

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

128 Section 2. Subsection (7) of section 112.317, Florida
129 Statutes, is amended to read:

130 112.317 Penalties.—

131 (7) In any case in which the commission determines that a
132 person has filed a complaint against a public officer or
133 employee with a malicious intent to injure the reputation of
134 such officer or employee by filing the complaint with knowledge
135 that the complaint contains one or more false allegations or
136 with reckless disregard for whether the complaint contains false
137 allegations of fact material to a violation of this part, the
138 complainant is ~~shall be~~ liable for costs plus reasonable
139 attorney fees incurred in the defense of the respondent in the
140 original proceeding ~~person complained against~~, including the
141 costs and reasonable attorney fees incurred in proving
142 entitlement to and the amount of costs and fees. If the
143 complainant prevails against a respondent's action to recover
144 costs and fees, the respondent is liable to the complainant for
145 costs plus reasonable attorney fees incurred by the complainant

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146 in the filing of the complaint and in defending against the
147 respondent's action. If the complainant or the respondent fails
148 to pay such costs and fees voluntarily within 30 days following
149 such finding by the commission, the commission shall forward
150 such information to the Department of Legal Affairs, which shall
151 bring a civil action in a court of competent jurisdiction to
152 recover the amount of such costs and fees awarded by the
153 commission.

154 Section 3. Paragraph (c) of subsection (2) of section
155 288.1226, Florida Statutes, is amended to read:

156 288.1226 Florida Tourism Industry Marketing Corporation;
157 use of property; board of directors; duties; audit.—

158 (2) ESTABLISHMENT.—The Florida Tourism Industry Marketing
159 Corporation is a direct-support organization of Enterprise
160 Florida, Inc.

161 (c)1. The corporation is not an agency for the purposes of
162 chapters 120, 216, and 287; ss. 255.21, 255.25, and 255.254,
163 relating to leasing of buildings; ss. 283.33 and 283.35,
164 relating to bids for printing; s. 215.31; and parts I, II, and
165 IV-VIII of chapter 112. However, the corporation shall comply
166 with the per diem and travel expense provisions of s. 112.061.

167 2. It is not a violation of s. 112.3143(2) or (3) ~~(4)~~ for
168 the officers or members of the board of directors of the
169 corporation to:

170 a. Vote on the 4-year marketing plan required under s.
171 288.923 or vote on any individual component of or amendment to
172 the plan.

173 b. Participate in the establishment or calculation of
174 payments related to the private match requirements of subsection

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175 (6). The officer or member must file an annual disclosure
176 describing the nature of his or her interests or the interests
177 of his or her principals, including corporate parents and
178 subsidiaries of his or her principal, in the private match
179 requirements. This annual disclosure requirement satisfies the
180 disclosure requirement of s. 112.3143(3) ~~s. 112.3143(4)~~. This
181 disclosure must be placed on the corporation's website or
182 included in the minutes of each meeting of the corporation's
183 board of directors at which the private match requirements are
184 discussed or voted upon.

185 Section 4. Paragraph (c) of subsection (1) of section
186 310.151, Florida Statutes, is amended to read:

187 310.151 Rates of pilotage; Pilotage Rate Review Committee.-

188 (1)

189 (c) Committee members shall comply with the disclosure
190 requirements of s. 112.3143(3) ~~s. 112.3143(4)~~ if participating
191 in any matter that would result in special private gain or loss
192 as described in that subsection.

193 Section 5. Paragraph (d) of subsection (6) of section
194 627.351, Florida Statutes, is amended to read:

195 627.351 Insurance risk apportionment plans.-

196 (6) CITIZENS PROPERTY INSURANCE CORPORATION.-

197 (d)1. All prospective employees for senior management
198 positions, as defined by the plan of operation, are subject to
199 background checks as a prerequisite for employment. The office
200 shall conduct the background checks pursuant to ss. 624.34,
201 624.404(3), and 628.261.

202 2. On or before July 1 of each year, employees of the
203 corporation must sign and submit a statement attesting that they

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204 do not have a conflict of interest, as defined in part III of
205 chapter 112. As a condition of employment, all prospective
206 employees must sign and submit to the corporation a conflict-of-
207 interest statement.

208 3. The executive director, senior managers, and members of
209 the board of governors are subject to part III of chapter 112,
210 including, but not limited to, the code of ethics and public
211 disclosure and reporting of financial interests, pursuant to s.
212 112.3145. For purposes of applying part III of chapter 112 to
213 activities of the executive director, senior managers, and
214 members of the board of governors, those persons shall be
215 considered public officers or employees and the corporation
216 shall be considered their agency. ~~Notwithstanding s.~~
217 ~~112.3143(2)~~, A board member may not vote on any measure that
218 would inure to his or her special private gain or loss; that he
219 or she knows would inure to the special private gain or loss of
220 any principal by whom he or she is retained or to the parent
221 organization or subsidiary of a corporate principal by which he
222 or she is retained, other than an agency as defined in s.
223 112.312; or that he or she knows would inure to the special
224 private gain or loss of a relative or business associate of the
225 public officer. Before the vote is taken, such member shall
226 publicly state to the assembly the nature of his or her interest
227 in the matter from which he or she is abstaining from voting
228 and, within 15 days after the vote occurs, disclose the nature
229 of his or her interest as a public record in a memorandum filed
230 with the person responsible for recording the minutes of the
231 meeting, who shall incorporate the memorandum in the minutes.
232 Senior managers and board members are also required to file such

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233 disclosures with the Commission on Ethics and the Office of
234 Insurance Regulation. The executive director of the corporation
235 or his or her designee shall notify each existing and newly
236 appointed member of the board of governors and senior managers
237 of their duty to comply with the reporting requirements of part
238 III of chapter 112. At least quarterly, the executive director
239 or his or her designee shall submit to the Commission on Ethics
240 a list of names of the senior managers and members of the board
241 of governors who are subject to the public disclosure
242 requirements under s. 112.3145.

243 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
244 provision of law, an employee or board member may not knowingly
245 accept, directly or indirectly, any gift or expenditure from a
246 person or entity, or an employee or representative of such
247 person or entity, which has a contractual relationship with the
248 corporation or who is under consideration for a contract. An
249 employee or board member who fails to comply with subparagraph
250 3. or this subparagraph is subject to penalties provided under
251 ss. 112.317 and 112.3173.

252 5. Any senior manager of the corporation who is employed on
253 or after January 1, 2007, regardless of the date of hire, who
254 subsequently retires or terminates employment is prohibited from
255 representing another person or entity before the corporation for
256 2 years after retirement or termination of employment from the
257 corporation.

258 6. The executive director, members of the board of
259 governors, and senior managers of the corporation are prohibited
260 from having any employment or contractual relationship for 2
261 years after retirement from or termination of service to the

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262 corporation with an insurer that has entered into a take-out
263 bonus agreement with the corporation.

264 Section 6. Paragraph (a) of subsection (26) of section
265 1002.33, Florida Statutes, is amended to read:

266 1002.33 Charter schools.—

267 (26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

268 (a) A member of a governing board of a charter school,
269 including a charter school operated by a private entity, is
270 subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(2)
271 ~~112.3143(3)~~.

272 Section 7. Paragraph (f) of subsection (6) of section
273 1002.333, Florida Statutes, is amended to read:

274 1002.333 Persistently low-performing schools.—

275 (6) STATUTORY AUTHORITY.—

276 (f) Schools of hope operated by a hope operator shall be
277 exempt from chapters 1000-1013 and all school board policies.
278 However, a hope operator shall be in compliance with the laws in
279 chapters 1000-1013 relating to:

280 1. The student assessment program and school grading
281 system.

282 2. Student progression and graduation.

283 3. The provision of services to students with disabilities.

284 4. Civil rights, including s. 1000.05, relating to
285 discrimination.

286 5. Student health, safety, and welfare.

287 6. Public meetings and records, public inspection, and
288 criminal and civil penalties pursuant to s. 286.011. The
289 governing board of a school of hope must hold at least two
290 public meetings per school year in the school district in which

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291 the school of hope is located. Any other meetings of the
292 governing board may be held in accordance with s. 120.54(5)(b)2.

293 7. Public records pursuant to chapter 119.

294 8. The code of ethics for public officers and employees
295 pursuant to ss. 112.313(2), (3), (7), and (12) and 112.3143(2)
296 ~~112.3143(3)~~.

297 Section 8. Subsection (8) of section 1002.83, Florida
298 Statutes, is amended to read:

299 1002.83 Early learning coalitions.—

300 (8) Each member of an early learning coalition is subject
301 to ss. 112.313, 112.3135, and 112.3143. For purposes of s.
302 112.3143(2)(a) ~~s. 112.3143(3)(a)~~, each voting member is a local
303 public officer who must abstain from voting when a voting
304 conflict exists.

305 Section 9. For the purpose of incorporating the amendment
306 made by this act to section 112.3143, Florida Statutes, in a
307 reference thereto, paragraph (b) of subsection (1) of section
308 28.35, Florida Statutes, is reenacted to read:

309 28.35 Florida Clerks of Court Operations Corporation.—

310 (1)

311 (b)1. The executive council shall be composed of eight
312 clerks of the court elected by the clerks of the courts for a
313 term of 2 years, with two clerks from counties with a population
314 of fewer than 100,000, two clerks from counties with a
315 population of at least 100,000 but fewer than 500,000, two
316 clerks from counties with a population of at least 500,000 but
317 fewer than 1 million, and two clerks from counties with a
318 population of 1 million or more. The executive council shall
319 also include, as ex officio members, a designee of the President

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320 of the Senate and a designee of the Speaker of the House of
321 Representatives. The Chief Justice of the Supreme Court shall
322 designate one additional member to represent the state courts
323 system.

324 2. Members of the executive council of the corporation are
325 subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135;
326 and 112.3143(2). For purposes of applying ss. 112.313(1)-(8),
327 (10), (12), and (15); 112.3135; and 112.3143(2) to activities of
328 executive council members, members shall be considered public
329 officers and the corporation shall be considered the members'
330 agency.

331 Section 10. For the purpose of incorporating the amendment
332 made by this act to section 112.3143, Florida Statutes, in a
333 reference thereto, section 112.3251, Florida Statutes, is
334 reenacted to read:

335 112.3251 Citizen support and direct-support organizations;
336 standards of conduct.—A citizen support or direct-support
337 organization created or authorized pursuant to law must adopt
338 its own ethics code. The ethics code must contain the standards
339 of conduct and disclosures required under ss. 112.313 and
340 112.3143(2), respectively. However, an ethics code adopted
341 pursuant to this section is not required to contain the
342 standards of conduct specified in s. 112.313(3) or (7). The
343 citizen support or direct-support organization may adopt
344 additional or more stringent standards of conduct and disclosure
345 requirements if those standards of conduct and disclosure
346 requirements do not otherwise conflict with this part. The
347 ethics code must be conspicuously posted on the citizen support
348 or direct-support organization's website.

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349 Section 11. For the purpose of incorporating the amendment
350 made by this act to section 112.3143, Florida Statutes, in a
351 reference thereto, paragraph (c) of subsection (1) of section
352 288.901, Florida Statutes, is reenacted to read:

353 288.901 Enterprise Florida, Inc.—

354 (1) CREATION.—

355 (c) The president, senior managers, and members of the
356 board of directors of Enterprise Florida, Inc., are subject to
357 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
358 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10),
359 (12), and (15); 112.3135; and 112.3143(2) to activities of the
360 president, senior managers, and members of the board of
361 directors, those persons shall be considered public officers or
362 employees and the corporation shall be considered their agency.
363 The exemption set forth in s. 112.313(12) for advisory boards
364 applies to the members of Enterprise Florida, Inc., board of
365 directors. Further, each member of the board of directors who is
366 not otherwise required to file financial disclosures pursuant to
367 s. 8, Art. II of the State Constitution or s. 112.3144, shall
368 file disclosure of financial interests pursuant to s. 112.3145.

369 Section 12. For the purpose of incorporating the amendment
370 made by this act to section 112.3143, Florida Statutes, in a
371 reference thereto, paragraph (b) of subsection (2) of section
372 288.92, Florida Statutes, is reenacted to read:

373 288.92 Divisions of Enterprise Florida, Inc.—

374 (2)

375 (b)1. The following officers and board members are subject
376 to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
377 112.3143(2):

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378 a. Officers and members of the board of directors of the
379 divisions of Enterprise Florida, Inc.

380 b. Officers and members of the board of directors of
381 subsidiaries of Enterprise Florida, Inc.

382 c. Officers and members of the board of directors of
383 corporations created to carry out the missions of Enterprise
384 Florida, Inc.

385 d. Officers and members of the board of directors of
386 corporations with which a division is required by law to
387 contract to carry out its missions.

388 2. For purposes of applying ss. 112.313(1)-(8), (10), (12),
389 and (15); 112.3135; and 112.3143(2) to activities of the
390 officers and members of the board of directors specified in
391 subparagraph 1., those persons shall be considered public
392 officers or employees and the corporation shall be considered
393 their agency.

394 Section 13. For the purpose of incorporating the amendment
395 made by this act to section 112.3143, Florida Statutes, in a
396 reference thereto, paragraph (a) of subsection (3) of section
397 288.9604, Florida Statutes, is reenacted to read:

398 288.9604 Creation of the authority.—

399 (3) (a) 1. A director may not receive compensation for his or
400 her services, but is entitled to necessary expenses, including
401 travel expenses, incurred in the discharge of his or her duties.
402 Each director shall hold office until his or her successor has
403 been appointed.

404 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
405 and (15); 112.3135; and 112.3143(2). For purposes of applying
406 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and

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407 112.3143(2) to activities of directors, directors shall be
408 considered public officers and the corporation shall be
409 considered their agency.

410 Section 14. This act shall take effect July 1, 2019.