

1 A bill to be entitled
 2 An act relating to implementation of the
 3 constitutional prohibition against lobbying by a
 4 public officer; creating s. 112.3121, F.S.; providing
 5 definitions for the purpose of implementing the
 6 constitutional prohibition against lobbying by a
 7 public officer; creating s. 112.3122, F.S.; providing
 8 applicability; providing for administration; requiring
 9 the Commission on Ethics to report certain findings
 10 and recommendations to the Governor; providing
 11 penalties for a violation of the constitutional
 12 prohibition against lobbying by a public officer;
 13 authorizing collection of such penalties by specified
 14 entities; providing an effective date.

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

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 18 Section 1. Section 112.3121, Florida Statutes, is created
 19 to read:

20 112.3121 Definitions.—As used in this section and for
 21 purposes of implementing s. 8(f), Art. II of the State
 22 Constitution, the term:

23 (1) "Administrative action" means any process or decision
 24 regulated by chapter 120 or, for a state government body or
 25 agency or a political subdivision not subject to chapter 120,

26 any action or a decision on a license, permit, waiver of
 27 regulation, development order or permit, or development
 28 agreement; any quasi-judicial proceeding on local government
 29 land use matters regulated by s. 286.0115(2); any decision
 30 subject to judicial review by petition for writ of certiorari or
 31 as otherwise prescribed by general law; or any other
 32 administrative procedure or procedure governed by existing law,
 33 ordinance, rule, or regulation, except on an issue of
 34 procurement.

35 (2) "Compensation" means a payment, distribution, loan,
 36 advance, reimbursement, deposit, salary, fee, retainer, or
 37 anything of value provided or owed to a recipient, directly or
 38 indirectly, from any source for lobbying activity.

39 (3) "Executive director" means the chief administrative
 40 employee or officer of a department headed by a board or by the
 41 Governor and Cabinet.

42 (4) "Federal government" means the United States Congress,
 43 any federal executive branch department, office, agency, or
 44 instrumentality, corporate or otherwise, or any federal
 45 independent agency, including any unit thereof.

46 (5) "Governmental entity" means a state government body or
 47 agency, the Legislature, a political subdivision, or the federal
 48 government.

49 (6) "Issue of appropriation" means a legislative decision
 50 to expend or approve an expenditure of public funds, including

51 decisions that are delegated to an administrator.

52 (7) "Issue of policy" means a change in a law or ordinance
53 or a decision, plan, or course of action designed to influence
54 or determine the subsequent decisions or actions of a
55 governmental entity, to sell or otherwise divest public
56 property, or to regulate conduct. The term does not include a
57 decision or determination of any rights, duties, or obligations
58 made on a case-by-case basis.

59 (8) "Issue of procurement" means a proposal to purchase or
60 acquire property, an interest in property, or services by a
61 governmental entity.

62 (9) "Legislative action" means introduction, sponsorship,
63 testimony, debate, voting, or any other official action on a
64 measure, resolution, amendment, nomination, appointment, report,
65 or other matter.

66 (10) (a) "Lobby" means to influence or attempt to influence
67 an action or decision through oral, written, or electronic
68 communication and, with respect to:

69 1. A state governmental body or agency, is limited to
70 influencing decisions, other than administrative action, that
71 are vested in or delegated to the state governmental body or
72 agency, or an officer thereof;

73 2. The Legislature or other body that is vested with
74 legislative power or the power to propose revisions to the State
75 Constitution, is limited to influencing a procurement decision

76 or any legislative action or nonaction by either the Senate or
 77 the House of Representatives, or any committee or office
 78 thereof, or by such other body or a committee or office thereof;

79 3. A political subdivision, is limited to influencing
 80 legislative actions or other discretionary decisions, but does
 81 not include administrative actions; or

82 4. The federal government, is limited to influencing a
 83 decision of the legislative or executive branch of the United
 84 States government for which registration as a lobbyist is
 85 required.

86 (b) The term "lobby" does not mean any of the following:

87 1. Providing or seeking to provide confidential
 88 information to be used for law enforcement purposes.

89 2. Appearing as a witness to provide information at the
 90 written request of the chair of a legislative body or committee,
 91 including a legislative delegation meeting.

92 3. Appearing or offering written testimony under oath as
 93 an expert witness in any proceeding for any purpose related to
 94 the proceeding and communications related to such testimony.

95 (11) (a) "Lobby for compensation" means being employed or
 96 contracting for compensation, for the purpose of lobbying, and
 97 includes being principally employed for governmental affairs to
 98 lobby on behalf of a person or governmental entity.

99 (b) The term "lobby for compensation" does not include any
 100 of the following:

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101 1. A public officer carrying out the duties of his or her
102 public office.

103 2. A public or private employee, including an officer of a
104 private business, nonprofit entity, or governmental entity,
105 acting in the normal course of his or her duties, unless he or
106 she is principally employed for governmental affairs.

107 3. Advice or services to a governmental entity pursuant to
108 a contractual obligation with the governmental entity.

109 4. Representation of a person on a legal claim cognizable
110 in a court of law, in an administrative proceeding, or in front
111 of an adjudicatory body, including representation during
112 prelitigation offers, demands, and negotiations, but excluding
113 representation on a claim bill pending in the Legislature.

114 5. Representation of a person in any proceeding on a
115 complaint or other allegation that could lead to discipline or
116 other adverse action against the person.

117 6. Representation of a person with respect to a subpoena
118 or other legal process.

119 (12) "Other agency head" means the chief administrative
120 employee or officer of a department that is not headed by an
121 executive director or secretary.

122 (13) "Political subdivision" means a county, municipality,
123 school district, special district with ad valorem taxing
124 authority, or any agency or unit thereof.

125 (14) "Principally employed for governmental affairs" means

126 that the principal or most significant responsibilities of the
 127 employee is to oversee the employer's various relationships with
 128 governmental entities or representing the employer in its
 129 contacts with governmental entities.

130 (15) "Secretary" means the head of a department who is
 131 appointed by the Governor.

132 (16) "State government body or agency" means any
 133 department, agency, commission, council, board, or
 134 instrumentality created by the State Constitution or established
 135 by general law and any official or officer thereof. The term
 136 includes, but is not limited to, a state attorney, a public
 137 defender, a criminal conflict and civil regional counsel, and a
 138 capital collateral regional counsel.

139 Section 2. Section 112.3122, Florida Statutes, is created
 140 to read:

141 112.3122 Enforcement and penalties for constitutional
 142 prohibition against lobbying by a public officer.—

143 (1) Section 8(f), Art. II of the State Constitution
 144 applies to persons serving as public officers on or after
 145 December 31, 2022.

146 (2) For purposes of administrative enforcement, a
 147 violation of s. 8(f), Art. II of the State Constitution is
 148 deemed a violation of this part.

149 (3) If the commission finds that there has been a
 150 violation of s. 8(f)(3), Art. II of the State Constitution, the

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151 commission must report its findings and recommendations for
152 appropriate action to the Governor who has the power to invoke
153 any of the penalties under subsection (4).

154 (4) A violation of s. 8(f), Art. II of the State
155 Constitution may be punished by one or more of the following:

156 (a) Public censure and reprimand.

157 (b) A civil penalty not to exceed \$10,000.

158 (c) Forfeiture of any pecuniary benefits received for
159 conduct that violates this section. The amount of the pecuniary
160 benefits must be paid to the General Revenue Fund.

161 (5) The Attorney General and Chief Financial Officer are
162 independently authorized to collect any penalty imposed under
163 this section.

164 Section 3. This act shall take effect December 31, 2022.