

1 A bill to be entitled
 2 An act relating to implementation of the
 3 constitutional prohibition against lobbying by a
 4 former justice or judge; creating s. 112.3123, F.S.;
 5 providing definitions for the purpose of implementing
 6 the constitutional prohibition against lobbying by a
 7 former justice or judge; creating s. 112.3124, F.S.;
 8 providing applicability; providing for administration;
 9 requiring the Commission on Ethics to report certain
 10 findings and recommendations to the Governor;
 11 providing penalties for a violation of the
 12 constitutional prohibition against lobbying by a
 13 former justice or judge; authorizing collection of
 14 such penalties by specified entities; providing an
 15 effective date.

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

18
 19 Section 1. Section 112.3123, Florida Statutes, is created
 20 to read:

21 112.3123 Definitions.—As used in this section and for
 22 purposes of implementing s. 13(b), Art. V of the State
 23 Constitution, the term:

24 (1) "Administrative action" means any process or decision
 25 regulated by chapter 120 or, for agencies of the executive

26 branch of state government not subject to chapter 120, any
27 action or a decision on a license, permit, waiver of regulation,
28 or any other administrative procedure or procedure governed by
29 existing law, rule, or regulation, except on an issue of
30 procurement.

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

35 (3) "Governmental entity" means an officer or agency of
36 the executive or legislative branches of state government.

37 (4) "Issue of appropriation" means a legislative decision
38 to expend or approve an expenditure of public funds, including
39 decisions that are delegated to an administrator.

40 (5) "Issue of policy" means a change in a law or a
41 decision, plan, or course of action designed to influence or
42 determine the subsequent decisions or actions of a governmental
43 entity, to sell or otherwise divest public property, or to
44 regulate conduct. The term does not include a decision or
45 determination of any rights, duties, or obligations made on a
46 case-by-case basis.

47 (6) "Issue of procurement" means a proposal to purchase or
48 acquire property, an interest in property, or services by a
49 governmental entity.

50 (7) "Legislative action" means introduction, sponsorship,

51 testimony, debate, voting, or any other official action on a
52 measure, resolution, amendment, nomination, appointment, report,
53 or other matter.

54 (8) (a) "Lobby" means to influence or attempt to influence
55 an action or decision through oral, written, or electronic
56 communication and, with respect to:

57 1. The executive branch of state government, is limited to
58 influencing decisions, other than administrative action, that
59 are vested in or delegated to an agency or officer thereof.

60 2. The legislative branch of state government, is limited
61 to influencing a procurement decision or any legislative action
62 or nonaction by either the Senate or the House of
63 Representatives, or any committee or office thereof.

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

65 1. Providing or seeking to provide confidential
66 information to be used for law enforcement purposes.

67 2. Appearing as a witness to provide information at the
68 written request of the chair of a legislative body or committee,
69 including a legislative delegation meeting.

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

73 (9) (a) "Lobby for compensation" means being employed or
74 contracting for compensation for the purpose of lobbying, and
75 includes being principally employed for governmental affairs to

76 lobby on behalf of a person or public entity.

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

79 1. A public officer carrying out the duties of his or her
 80 public office.

81 2. A public or private employee, including an officer of a
 82 private business, nonprofit entity, or any public entity acting
 83 in the normal course of his or her duties, unless he or she is
 84 principally employed for governmental affairs.

85 3. Advice or services to a governmental entity pursuant to
 86 a contractual obligation with the governmental entity.

87 4. Representation of a person on a legal claim cognizable
 88 in a court of law, in an administrative proceeding, or in front
 89 of an adjudicatory body, including representation during
 90 prelitigation offers, demands, and negotiations, but excluding
 91 representation on a claim bill pending in the Legislature.

92 5. Representation of a person in any proceeding on a
 93 complaint or other allegation that could lead to discipline or
 94 other adverse action against the person.

95 6. Representation of a person with respect to a subpoena
 96 or other legal process.

97 (10) "Principally employed for governmental affairs" means
 98 that the principal or most significant responsibilities of the
 99 employee is to oversee the employer's various relationships with
 100 governmental entities or representing the employer in its

101 contacts with governmental entities.

102 Section 2. Section 112.3124, Florida Statutes, is created
103 to read:

104 112.3124 Enforcement and penalties for constitutional
105 prohibition against lobbying by a former justice or judge.-

106 (1) Section 13(b), Art. V of the State Constitution
107 applies to justices or judges who vacate their judicial position
108 on or after December 31, 2022.

109 (2) For purposes of administrative enforcement, a
110 violation of s. 13(b) Art. V of the State Constitution is deemed
111 a violation of this part.

112 (3) If the commission finds that there has been a
113 violation of s. 13(b), Art. V of the State Constitution, the
114 commission must report its findings and recommendations for
115 appropriate action to the Governor who has the power to invoke
116 any of the penalties under subsection (4).

117 (4) A violation of s. 13(b), Art. V of the State
118 Constitution may be punished by one or more of the following:

119 (a) Public censure and reprimand.

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

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

124 (5) The Attorney General and Chief Financial Officer are
125 independently authorized to collect any penalty imposed under

HB 7003

2022

126 | this section.

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