

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 774

INTRODUCER: Ethics and Elections Committee and Senator Brodeur

SUBJECT: Ethics Requirements for Public Officials

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cleary</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Cleary</u>	<u>Twogood</u>	<u>RC</u>	<u>Pre-meeting</u>

Please See Section IX. For Additional Information

COMMITTEE SUBSTITUTE – Substantial Changes

I. Summary:

CS/SB 774 makes the following changes to ethics requirements for public officials:

- Requires specified local officers to file a Form 6 financial disclosure instead of the Form 1 they are currently required to file.
- Maintains and makes permanent requirements for e-filing of financial disclosures as specified in the current year implementing bill, by
 - Maintaining the requirement that Form 6 filers submit their financial disclosures via the Commission on Ethics electronic filing system beginning January 1, 2023, and requiring Form 1 filers to submit their disclosures electronically beginning January 1, 2024.
 - Allowing filers to submit federal tax returns and other attachments for purposes of showing income.
- Allows the Commission on Ethics to dismiss complaints or investigations for certain minor infractions.
- Increases the maximum civil penalty for violations of the Code of Ethics to \$20,000 from \$10,000.
- Adds commissioners of a community redevelopment agency to the list of officers exempt from having to complete ethics training in the year they begin their term, if the term begins after March 31.
- Clarifies that a candidate may submit a verification or receipt of a previous financial disclosure filing to the qualifying officer in lieu of the full financial disclosure.

The bill takes effect upon becoming law.

II. Present Situation:

Commission on Ethics

The Commission on Ethics (Commission) was created by the Legislature in 1974 “to serve as guardian of the standards of conduct” for state and local public officials and employees.¹ The Florida Constitution and state law designate the Commission as the independent commission provided for in s. 8(g), Art. II of the Florida Constitution.² Constitutional duties of the Commission consist of conducting investigations and making public reports on all breach of trust complaints towards public officers or employees not governed by the judicial qualifications commission.³ In addition to constitutional duties, the Commission, in part:

- Renders advisory opinions to public officials;⁴
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws;⁵
- Administers the Executive Branch Lobbying Registration and Reporting Law;⁶
- Maintains financial disclosure filings of constitutional officers and state officers and employees;⁷ and
- Administers automatic fines for public officers and employees who fail to timely file a required annual financial disclosure.⁸

Code of Ethics for Public Officers and Employees

The Code of Ethics for Public Officers and Employees (Code of Ethics)⁹ establishes ethical standards for public officials and is intended to ensure that public officials conduct themselves independently and impartially, not using their officers for private gain other than compensation provided by law.¹⁰ The Code of Ethics addresses various issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, standards of conduct, and the Commission on Ethics, among others.¹¹

¹ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 1., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 10, 2023); *see also* s. 112.320, F.S.

² Section (8)(j)(3), art. II, Fla. Const.; s. 112.320, F.S.

³ Section (8)(g), art. II., Fla. Const.

⁴ Section 112.322(3)(a), F.S.

⁵ Section 112.322(2)(b), F.S.

⁶ Sections 112.3215, 112.32155, F.S.

⁷ Section 112.3144, F.S.

⁸ Section 112.3144, F.S.; s. 112.3145, F.S.; s. 112.31455, F.S.

⁹ *See* pt. III. Ch. 112, F.S.

¹⁰ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 1., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 10, 2023)

¹¹ *See* pt. III. 112, F.S.

Disclosure of Financial Interests

Full and Public Disclosure (Form 6)

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers to file a full and public disclosure of their financial interests.¹² Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.¹³

Under the Florida Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value for each asset and liability in excess of \$1,000.¹⁴ The disclosure must be accompanied by either a sworn statement that identifies each separate source and amount of income that exceeds \$1,000 or a copy of the reporting individual’s most recent federal income tax return.¹⁵ The Florida Constitution expressly provides that the Legislature can change this definition and requirements.¹⁶

Pursuant to general law, the Commission has created by rule CE Form 6 (Form 6), which required filers use to make the required full and public financial disclosure.¹⁷ Reporting individuals are required to file a Form 6 annually with the Commission by July 1 through the Commission’s electronic filing system.¹⁸

Individuals holding the following positions must presently file a Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including the mayor); compensation claims judges; the Duval County superintendent of schools; Florida Housing Finance Corporation Board Members; Florida Prepaid College Board Members; and members of each expressway authority, transportation authority (except Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to ch. 348 or 343, F.S., or any other general law.¹⁹

The Form 6 requires filers to report their net worth, assets, and liabilities.²⁰ The filer must report the specific identification and value of each asset which exceeds \$1,000 in value and provide the name and address of the creditor for each liability which exceeds \$1,000 in amount and its amount, and must submit a statement of the value of the reporting person’s net worth as of December 31 of the preceding year or a more current date.²¹

¹² Section 8(a), art. II, Fla. Const.; *see* ss. 112.3144(1)(b), 112.3145, F.S.

¹³ *Id.*

¹⁴ Section (8)(j)(1), art. II, Fla. Const.

¹⁵ *See* 112.3144(6)(c) and (7)(a), F.S. (Beginning January 1, 2023, the Commission may not accept federal income tax returns for proof of income.)

¹⁶ Section 8(j)(1), art. II, Fla. Const. (schedule in effect until change by law).

¹⁷ Section 112.3144(8), F.S.; *see* R. 34-8.002, F.A.C.

¹⁸ Section (8)(j)(1), art. II, Fla. Const.; *see* s. 112.3144(2), F.S.

¹⁹ Section (8)(j)(1), art. II, Fla. Const.; *see* s. 112.3144, F.S.; *see* R. 34-8.003, F.A.C.

²⁰ *See* s. (8)(j), art. II, Fla. Const.; s. 112.3144(5),(6), F.S.; R. 34-8.004, F.A.C.

²¹ *Id.*

Beginning January 1, 2022, the Commission was required to establish and have in place an electronic filing system via which filers of financial disclosures would be required to file their disclosure with the Commission through this system.²² The start date requiring all filers of Form 6 financial disclosures to make their disclosures to the Commission solely through this electronic filing system was changed by the Legislature to begin on January 1, 2023.²³ The Commission is required, not later than May 1 of each year, to prepare a current list with the name and contact information for every person required to file a Form 6.²⁴ Each government unit is required to assist the Commission in compiling the list by providing, not later than February 1 of each year, the name and contact information of every person required to file a Form 6, within the respective unit of government as of December 31, of the preceding year.²⁵ Not later than June 1 of each year, the Commission, by email, must provide notice and instructions for the electronic submission of the Form 6 on the Commission's electronic filing system pursuant to s. 112.3144(2), F.S.²⁶ Not later than August 1 of each year, the Commission must determine which persons required to file a Form 6 failed to do so and must send weekly delinquency notices by email as long as a person remains delinquent.²⁷ Form 6 disclosures must be received by the Commission no later than 5 p.m. of the due date.²⁸ Form 6 filers are given a grace period until September of the current year, where no investigative or disciplinary action based on delinquency will be taken if the filer submits the Form 6 by 5 p.m. on September 1 of the current year.²⁹

Candidates for constitutional office must file a Form 6, verified under oath and affirmation, to the qualifying officer at the time of qualifying.³⁰ When a candidate has qualified for office prior to the deadline to file an annual financial disclosure, the disclosure filed with the candidate's qualifying papers is deemed to satisfy the annual disclosure requirement and the qualifying officer is required to submit an electronic copy to the Commission by July 1.³¹ Candidates for office who are not already required to file a Form 6, are required to file their Form 6 with the election office in which they file their qualifying papers at the time they qualify.³² Candidates who are incumbents running for the same office or who currently hold another position currently requiring the annual filing of a Form 6 and who qualifies as a candidate after they have filed a

²² Section 112.31446, F.S.

²³ Section 112.3144(6)(c), F.S. (Section 91, ch. 2022-157, amended subsection (6)(c), among others, in order to implement specific appropriations in the 2022-2023 General Appropriations Act for the development and implementation of the electronic filing system. Section 92, ch. 2022-157, provides that the amendment made to subsection (6)(c), among others, by this act expires July 1, 2023, and the text of those subsections and paragraphs shall revert to that in existence on June 1, 2022. Therefore, effective July 1, 2023, the triggering date requiring filings of financial disclosures be made solely through the electronic filing system, is changed from January 1, 2023, back to January 1, 2022.)

²⁴ Section 112.3144(8)(a), F.S.

²⁵ *Id.*

²⁶ Section 112.3144(8)(b), F.S.

²⁷ Section 112.3144(8)(c), F.S.

²⁸ Section 112.3144(8)(d), F.S.

²⁹ *Id.*

³⁰ Section 99.061(5), F.S.

³¹ Section 99.061(5), F.S.; s. 112.3144(3), F.S.

³² Sections 99.061(5), 99.061(7)(a)5., F.S.

Form 6 with the Commission may file a copy of the Form 6, verification or receipt of the filing of the Form 6 with the Commission, to the qualifying officer.³³

Statement of Financial Interests (Form 1)

In addition to provisions governing the Form 6, current law provides for a less detailed disclosure of financial interests using the Commission's CE Form 1 (Form 1).³⁴ A Form 1 must be filed by a large group of local officers, including all officers holding elected positions in any political subdivision of the state, other than counties, and specified appointed officers.³⁵ Other persons required to file a Form 1 include specified state officers and employees and persons seeking to qualify as candidates for these specified state or local office.³⁶ Currently, mayors; city commissioners; elected members of a city council, town council, village council, or other governing body of a city, town or village; and city, county, town, or village managers are required to file a Form 1.³⁷

Form 1 requires filers to disclose specified information related to sources of income, real property, intangible personal property, liabilities, and interests in specified businesses.³⁸ Although no specific dollar values of incomes, property, or liabilities are required to be reported, the filer must report which assets or liabilities exceed certain dollar thresholds.³⁹ Form 1 filers must disclose: all sources of income in excess of \$2,500, excluding public salary; all sources of income from a business entity that the filer had a material interest in where their gross income was in excess of \$5,000 and in excess of 10% of the businesses gross income; any property, except for their residence or vacation home, in which the person owns more than 5% of the value of the property; any intangible personal property in excess of \$10,000; and any liability in excess of \$10,000.⁴⁰ A Form 1 must be filed annually with the Commission by July 1, 2023.⁴¹

Currently, a local officer⁴² must file a Form 1 within 30 days of appointment or employment and then annually by July 1 of each year with the supervisor of election in the county in which he or she permanently resides.⁴³ Currently, specified state employees⁴⁴ and state officers⁴⁵ must file a Form 1 with the Commission within 30 days of appointment or employment and then annually by July 1 of each year.⁴⁶ Candidates for local elective office who were not previously required to

³³ Section 112.3144(4), F.S.; s. 99.061(7)(a)(5), F.S. (Currently, unlike the Code of Ethics under s. 112.3144(4), F.S. the Elections Code under s. 99.061(7)(a)(5), F.S. only allows the filing of a copy of full and public disclosure at the time of qualifying.)

³⁴ See s. 112.3145, F.S.; R. 34-8.202, F.A.C.

³⁵ See s. 112.3145, F.S.; ss. 99.061(5) and 99.061(7)(a)(5), F.S.; R. 34.8.202, F.A.C.

³⁶ *Id.*; see Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 16-18., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 10, 2023)

³⁷ See s. 112.3145(1), F.S.; R. 34.8.202, F.A.C.

³⁸ Section 112.3145, F.S.

³⁹ See s. 112.3145(3)(a)(b), F.S. (Beginning January 1, 2023, filers may only use the threshold based on dollar value when filing their Form 1.)

⁴⁰ Section 112.3145(3)(b), F.S.

⁴¹ Section 112.3145(2)(b), F.S.

⁴² As defined in s. 112.3145(1)(a), F.S.

⁴³ Section 112.3145(2)(b), F.S.

⁴⁴ As defined in s. 112.3145(1)(b), F.S.

⁴⁵ Not required to file Form 6 as defined in s. 112.3145(1)(c), F.S.

⁴⁶ Section 112.3145(2)(b), F.S.

file an annual financial disclosure are required to file their Form 1 with the qualifying officer at the time of qualifying.⁴⁷

The Commission is required, not later than May 1 of each year, to prepare a current list with the contact information for every state officer, local officer, and specified employee.⁴⁸ Each government unit is required to assist the Commission in compiling the list by providing, not later than February 1 of each year, the name and contact information of every state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.⁴⁹ The Commission, not later than May 15 of each year, must provide each supervisors of elections with a current list of all local officers required to file with such supervisors of elections.⁵⁰ Not later than June 1 of each year, the Commission and supervisors of elections, must distribute a copy of the Form 1 and a notice of all applicable disclosure forms and filing deadlines by e-mail.⁵¹ Not later than August 1 of each year, the Commission and each supervisor of elections must determine which individuals required to file a Form 1 have failed to do so and must send delinquency notices to these individuals by certified mail, return receipt requested.⁵²

Filers are given a grace period until September 1 of the current year, where no investigative or disciplinary action based on delinquency will be taken if the filer submits the disclosure by September 1 of the current year.⁵³ Statements must be received by the Commission by 5 p.m. of the due date, however, any statement that is postmarked by the U.S. Postal Service by midnight of the due date or certificate of mailing or receipt from postal carrier before the due date is deemed timely filed.⁵⁴ Not later than November 15 of each year, the supervisors of election in each county must certify to the commission a list of the names and contact information of individuals who failed to file their Form 1.⁵⁵ However, effective July 1, 2023, all filers of Form 1 (except non incumbent candidates) must file their financial disclosures with the Commission solely through the Commission's electronic filing system.⁵⁶

Requirements for Form 6 and Form 1

All persons required to file a Form 6 and Form 1 must disclose interests in specified businesses granted a privilege to operate in the state of Florida.⁵⁷ All Form 6 and Form 1 filers also must file

⁴⁷ Section 112.3145(2)(d), F.S.

⁴⁸ Section 112.3145(8)(a)1, F.S.

⁴⁹ *Id.*

⁵⁰ Section 112.3145(8)(a)2, F.S.

⁵¹ Section 112.3145(8)(b), F.S.

⁵² Section 112.3145(8)(c), F.S.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Section 112.3145(8)(d), F.S.

⁵⁶ Section 112.3145(2)(e), F.S. (Section 94, ch. 2022-157, amended subsection (2)(e), among others, in order to implement specific appropriations in the 2022-2023 General Appropriations Act for the development and implementation of the electronic filing system. Section 95, ch. 2022-157, provides that the amendment made to subsection (2)(e), among others, by this act expires July 1, 2023, and the text of those subsections and paragraphs shall revert to that in existence on June 1, 2022. Therefore, effective July 1, 2023, the triggering date requiring filings of financial disclosures be made solely through the electronic filing system for Form 1s to the Commission, is changed from January 1, 2024, back to January 1, 2023.)

⁵⁷ Section 112.3145(7), F.S. (i.e. specific entities including banks, insurance companies, cemetery companies, public utilities and others.)

quarterly reports naming clients represented for a fee before agencies at the filer's level of government.⁵⁸ Certain Form 6 and Form 1 filers must certify their completion of any required ethics training on their respective financial disclosure form.⁵⁹ General law also requires an individual subject to filing Form 6 or Form 1 to file a final disclosure statement within 60 days after leaving his or her public position.⁶⁰

Any person required to file a Form 6 or Form 1 whose name is on the Commission's list, and to whom notice has been sent, but who fails to timely file, is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500.⁶¹ However, this limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline has passed.⁶² The Commission is required to promulgate rules for determining the amount of the fine for a late filing,⁶³ an appeal process, procedures for grounds for waiving the fine based on unusual circumstances, and notice requirements.⁶⁴

Candidate Qualifications in Respect to Financial Disclosures

Under the Election Code, at the time of qualifying for office, each candidate for a constitutional office must file a full and public disclosure of financial interests pursuant to s. 8, Art II, of the Florida Constitution, which must be verified under oath or affirmation. A candidate for any other office, including elective office, must file a statement of financial interests.⁶⁵ When a candidate has qualified for office prior to the deadline to file an annual financial disclosure, the disclosure file with the candidate's qualifying papers is deemed to satisfy the annual disclosure requirement.⁶⁶

As of January 1, 2023, under the Code of Ethics, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement who has filed his or her annual disclosure electronically may submit a copy of the disclosure filed with the Commission, or a verification or receipt for the filing, with the officer before whom he or she qualifies.⁶⁷ A candidate not subject to an annual filing requirement does not file with the Commission, but may complete and print the appropriate disclosure form to file with the officer before whom he or she qualifies.⁶⁸ Under the Elections Code, in order for a candidate to be qualified, the filing officer must receive the full and public disclosure (Form 6) or statement of financial interests (Form 1).⁶⁹ This provision is inconsistent with the verification or receipt provisions in the Code of Ethics.⁷⁰

⁵⁸ Section 112.3145(6), F.S.

⁵⁹ See s. 112.3142, F.S.; s. 112.3144(1)(a), F.S.; s. 112.3145(5), F.S.

⁶⁰ Section 112.3144(10), F.S.; s. 112.3145(2)(b), F.S.

⁶¹ Section 112.3145(8)(g), F.S.

⁶² *Id.*

⁶³ See s. 112.3145(8)(g)1-3, F.S. (Form 1); s. 112.3144(8)(f)1-3, F.S. (Form 6); R. 34-8.011(3), F.A.C.; R. 34-8.210(2), F.A.C.

⁶⁴ See R. 34-8.015, F.A.C.; R. 34-8.215, F.A.C.

⁶⁵ Section 99.061, F.S.

⁶⁶ Sections 112.3144(3), 112.3145(2)(a), F.S.

⁶⁷ Ss. 112.3144(4), 112.3145(2)(c), F.S.

⁶⁸ *Id.*

⁶⁹ Section 99.061(7)(a)5., F.S.

⁷⁰ Section 99.061(7)(b), F.S. (If the filing officer receives qualifying papers during the qualifying period prior to the last day of qualifying, which do not include all statutorily required items, the filing officer must make a reasonable effort to notify the

Procedures on Complaints and Violations

Current law authorizes the Commission to investigate alleged violations of the Code of Ethics upon a written complaint executed on a form prescribed by the Commission and signed under oath or affirmation by any person, or upon receipt of a written referral of a possible violation from the Governor, the Department of Law Enforcement, a State Attorney, or a United States Attorney.⁷¹ The Commission may dismiss any such complaint or referral at any stage of disposition if it determines that the violation alleged is a *de minimis* violation attributable to inadvertent or unintentional error. The Commission is not authorized to dismiss complaints alleging *de minimis* violations⁷² involving financial disclosure statements.⁷³ The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public would not be served by proceeding further, in which case, the Commission must issue a public report stating with particularity its reasons for dismissal.⁷⁴

Penalty Provisions

The penalty provisions for violations of the Code of Ethics are located in s. 112.317, F.S. There are no criminal penalties for violation of the Code of s. 8, Art. II, of the Florida Constitution. The penalty provisions cover public officers and public employees, former public officers and employees, candidates, and lobbyists and lobbyists firms. Depending on the individual and the position he or she holds, penalties include impeachment, removal from office or employment, suspension, public censure and reprimand, and a civil penalty not to exceed \$10,000, among other penalties. The Commission is without jurisdiction to impose any penalty, but may make recommendations for an appropriate penalty to the appropriate disciplinary authority charged with imposing penalties as designated under the procedures of s. 112.324(3), F.S.⁷⁵

Ethics Training

All constitutional officers, all elected municipal officers, and each commissioner of a community redevelopment agency (CRA) created under part III. 163, F.S., must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings law of Florida.⁷⁶ This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject is covered by the class.⁷⁷

candidate of any missing or incomplete items and must inform the candidate that all required items must be received by the close of qualifying.)

⁷¹ Section 112.324(1)(b), F.S.

⁷² Section 112.324(11), F.S. (a *de minimis* violation is any violation that is unintentional and not material in nature.)

⁷³ See ss. 112.3144 and 112.3145, F.S.

⁷⁴ Section 112.324(12), F.S. (In order for the Commission to dismiss a complaint under this provision, it must find that the public interest would not be served by proceeding further and must issue a public report explaining its justification for dismissal. In contrast, to dismiss a violation for being *de minimis*, the Commission must find that the violation was unintentional and not material in nature.)

⁷⁵ Section 112.324(3), F.S.; s. 112.322(2)(b), F.S.

⁷⁶ Section 112.3142(2)(a)-(c), F.S.

⁷⁷ *Id.*

A constitutional officer or elected municipal officer assuming a new office or a new term of office after March 31 is not required to complete ethics training for the calendar year in which his or her term of office began.⁷⁸ CRAs are not included in this new office or new term of office exemption language.

Lobbyist Registration and Compensation Reporting

Lobbyist must register to lobby the executive branch or the legislative branch in Florida. Executive branch lobbying is regulated by the Code of Ethics and administered by the Commission.⁷⁹ Legislative branch lobbying is regulated primarily by Joint Rule of the House and Senate and administered by the Office of Legislative Services.⁸⁰ Both registration systems require lobbyists to register annually for each principal represented and to indicate the entities to be lobbied.⁸¹ In addition, lobbying firms must file quarterly compensation reports.⁸² Both the Commission and the Legislature have instituted electronic registration and compensation reporting.⁸³ Executive branch lobbyists, however, must supply a written oath to complete each registration as well as a signed statement of authority from the principal.⁸⁴

State agency employees and employees of legislative and judicial branch entities acting in the normal course of their duties are exempt from executive branch lobbying registration.⁸⁵ However, local government officers and employees must register to lobby the state executive branch.

Compensation reporting is subject to random audits, and findings of non-compliance are reported to the Commission, in the case of executive branch lobbying firms, for investigation.⁸⁶

The executive branch lobbyist registration law provides specific procedures for its enforcement.⁸⁷ The Commission reports probable cause findings to the Governor and Cabinet for appropriate action, which can include a fine up to \$5,000 and prohibition from lobbying for up to two years.⁸⁸ A person accused of violating the lobbyist registration law may also request a hearing within 14 days of the mailing of the probable cause notification.⁸⁹

⁷⁸ Section 112.3142(2)(e), F.S.

⁷⁹ Section 112.3215, F.S.

⁸⁰ Section 11.045, F.S. and Joint rule 1.

⁸¹ Section 112.3215(3), F.S.; Joint Rule 1.2.

⁸² Section 112.3215(5)(a)1., F.S.; Joint Rule 1.4.

⁸³ Section 112.32155, F.S.; Joint Rule 1.1(2)(f)

⁸⁴ Section 112.3215(3), F.S.

⁸⁵ Section 112.3215(1)(h)(2), F.S.

⁸⁶ Section 112.3215(8)(c), F.S.

⁸⁷ Section 112.3215(8)-(9), F.S.

⁸⁸ Section 112.3215(9)-(10), F.S.

⁸⁹ Section 112.3215(9), F.S.

III. Effect of Proposed Changes:⁹⁰

Disclosure of Financial Interests

The bill provides the following in regards to Form 1 and Form 6 filers:

- Requires certain local officers, mayors and elected members of the governing body of a municipality to annually file a Form 6 full and public disclosure of financial interest's statement with the Commission on Ethics through the Commission's electronic filing system.
- Exempts local officers required to file a Form 6 from the present requirement to file a Form 1.
- Requires if an elected local officer, now required to file a Form 6 with the Commission, leaves office before the expiration of his term, each individual appointed to replace such an officer must file a Form 6 within 30 days from the appointment and must file a Form 6 annually for the remainder of that individual's term.
- Adds clarifying language that each Form 6 filer must fill out his or her Form 6 on the Commission on Ethics electronic filing system by the due date annually.
- Maintains the current law, beginning January 1, 2024, that each Form 1 filer must file his or her annual Form 1 with the Commission through the Commission's electronic filing system.
- Because Form 1 filers, beginning January 1, 2024, can only submit a Form 1 with the Commission by filling out the Form 1 financial statement on the Commission's electronic filing system, the bill removes supervisors of elections from being involved in the Form 1 filing process.
- Requires local officers to file their quarterly reports of the names of clients represented for a fee or commission be filed with the Commission through the electronic filing system.
- Allows Form 1 and Form 6 filers to submit federal income tax returns or other attachments to report income.

The bill provides the following in regard to the Commission's electronic filing system:

- Requires the Commission's electronic filing system to have the capability to allow filers to upload attachments, including federal income tax returns.
- Requires the Commission's instructions for its electronic filing system to notify filer's that certain personal account information should not be included in the filing.
- Removes language allowing Form 1 and Form 6 filers to fill out and submit paper versions of the forms to the Commission through mail.
- Requires the Commission to notify Form 1 and Form 6 filers by email of all deadlines for filing, instructions on completing the online Form 1 and Form 6, and instructions on how to upload attachments and documentation to the electronic filing system.
- Requires the Commission to notify a Form 1 or Form 6 filer of delinquent filings weekly, through email, as long as the person remains delinquent.

⁹⁰ The following bill's provisions were legislative recommendations made by the Florida Commission on Ethics in the Commission's most recent annual report to the Legislature: 1) Enhanced financial disclosure for local elected officials; 2) Dismissal of complaints alleging *de minimis* financial disclosures; 3) Increase of maximum civil penalties; 4) Extension of the ethics training filing exemption to commissioners of community redevelopment agencies; and 5) Dismissal of lobbying firm audit matters. See Florida Commission on Ethics, *Annual Report to the Florida Legislature for Calendar Year 2022*, P. 23-24, available at <https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202337> (Last visited March 10, 2023)

- Specifies that the only determining factor the Commission may use in determining the amount of fine for late submission to the Commission of a Form 1 or Form 6 is the date the filer submitted their Form 1 or Form 6 on the Commission's electronic filing system.

Candidate Qualifications in Respect to Financial Disclosures

The bill adds language to the Election Code⁹¹ allowing filers of Form 1 and Form 6 financial disclosure statements to submit a verification or receipt of the filing to the qualifying officer at the time of qualifying, making this section of the Election Code consistent with the Code of Ethics.

Procedures on Complaints and Violations

The bill allows the Commission to dismiss any complaint or referral for *de minimis* violations of financial disclosures.⁹²

Penalty Provisions

The bill increases the maximum civil penalty allowed under s. 112.317(1), F.S., from \$10,000 to \$20,000.

Ethics Training

The bill adds commissioners of community redevelopment agencies (CRAs) to the new office or new term of office exemption language contained in s. 112.3142(2)(e), F.S., that already exists for constitutional officers and elective municipal officers. CRAs assuming a new office or term of office after March 31 are not required to complete ethics training for the calendar year in which their term of office began.

Lobbyist Registration and Compensation Reporting

The bill adds clarifying language of what allegations must be contained in a complaint or report initiating the requirement for the Commission to investigate potential violations and allows the Commission to dismiss any complaint or investigation from a random audit of lobbying reports, at any stage of disposition, if it determines that the public interest is not served by proceeding further. If the Commission dismisses an action, the Commission must issue a public report stating with particularity its reasons for the dismissals.

⁹¹ See s. 99.061(7)(a)5, F.S.

⁹² See s. 112.3144, F.S. (Form 6 financial disclosure statements); s. 112.3145, F.S. (Form 1 financial disclosure statements) (allows Commission to dismiss complaints or referrals relating to unintentional or non-material violations of the submission of Form 1 or Form 6 financial disclosure statements.)

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill imposes additional financial disclosures on certain officers of local government, but the burden on the governments themselves does not appear to reach the threshold required to be affected by s. 18, Art. VII, Fla. Const.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 8(j)(1), Art. II, of the Florida Constitution provides that the Legislature is authorized to change the definition and requirements for full and public financial disclosures.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill imposes additional financial disclosures on certain officers of local government that will create an indeterminate but most likely insignificant impact. These new Form 6 filers will increase the number of Form 6 disclosures filed with the Commission through the Commission's electronic filing system, which is now active. This increase in the number of Form 6 filings may increase the amount of time and resources that Commission staff requires to review, redact, and publish such disclosures and may require some programming changes to the electronic filing system for the specified local officers to now file the Form 6 on the electronic system. However, with all Form 1 filers soon being required to file their Form 1 disclosures solely with the Commission through the electronic filing system, and with the Commission actively preparing for these

increased disclosures and changes to the electronic system, any changes to the process required by adding these specified local officers is most likely negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 99.061, 112.3142, 112.3144, 112.31445, 112.31446, 112.3145, 112.317, 112.3215, and 112.324.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on March 14, 2023:

- Retains from the original bill the requirement that specified local officers file a Form 6 financial disclosure instead of the Form 1 they are currently required to file, with some drafting revisions and the removal of non-elected managers from the requirement.
- Maintains and makes permanent requirements for e-filing of financial disclosures as specified in the current year implementing bill.
- Adds new provisions relating to dismissal of *de minimis* offenses, the maximum civil penalty for violations of the Code of Ethics, ethics training requirements for commissioners of a community redevelopment agency, and authorization for a candidate to submit a verification or receipt of a previous financial disclosure filing to the qualifying officer.

B. Amendments:

None.