

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Brackett offered the following:

**Amendment (with title amendment)**

Remove lines 264-431 and insert:

Section 6. Effective October 1, 2024, subsections (1) and (3) of section 112.324, Florida Statutes, are amended to read:

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:

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13 (a) Upon a written complaint executed on a form prescribed  
14 by the commission which is based upon personal knowledge or  
15 information other than hearsay and signed under oath or  
16 affirmation by any person; or

17 (b) Upon receipt of a written referral of a possible  
18 violation of this part or other possible breach of the public  
19 trust from the Governor, the Department of Law Enforcement, a  
20 state attorney, or a United States Attorney ~~which at least six~~  
21 ~~members of the commission determine is sufficient to indicate a~~  
22 ~~violation of this part or any other breach of the public trust.~~

23  
24 Within 5 days after receipt of a complaint or referral by the  
25 commission ~~or a determination by at least six members of the~~  
26 ~~commission that the referral received is deemed sufficient,~~ a  
27 copy must ~~shall~~ be transmitted to the alleged violator.

28 (3)(a) A preliminary investigation must ~~shall~~ be  
29 undertaken by the commission within 30 days after its receipt of  
30 each technically and legally sufficient complaint or referral  
31 over which the commission has jurisdiction to determine whether  
32 there is probable cause to believe that a violation has  
33 occurred. A complainant may submit an amended complaint up to 60  
34 days after the commission receives the initial complaint. The  
35 probable cause determination is the conclusion of the  
36 preliminary investigation. The commission shall complete the  
37 preliminary investigation, including the probable cause

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38 determination, no later than 1 year after the beginning of the  
39 preliminary investigation.

40 (b) An investigatory report must be completed no later  
41 than 150 days after the beginning of the preliminary  
42 investigation. If, at any one meeting of the commission held  
43 during a given preliminary investigation, at least six members  
44 of the commission determine that additional time is necessary to  
45 adequately complete such investigation, the commission may  
46 extend the timeframe to complete the preliminary investigation  
47 by no more than 60 days. During such meeting, the commission  
48 shall document its reasons for extending the investigation and  
49 transmit a copy of such documentation to the alleged violator  
50 and complainant no later than 5 days after the extension is  
51 ordered. The investigatory report must be transmitted to the  
52 alleged violator and to the counsel representing the commission  
53 no later than 5 days after completion of the report. The counsel  
54 representing the commission shall make a written recommendation  
55 to the commission for the disposition of the complaint or  
56 referral no later than 15 days after he or she receives the  
57 completed investigatory report. The commission shall transmit  
58 the counsel's written recommendation to the alleged violator no  
59 later than 5 days after its completion. The alleged violator has  
60 14 days after the mailing date of the counsel's recommendation  
61 to respond in writing to the recommendation.

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62        (c) Upon receipt of the counsel's recommendation, the  
63 commission shall schedule a probable cause hearing for the next  
64 executive session of the commission for which notice  
65 requirements can be met.

66        (d) If, ~~upon completion of the preliminary investigation,~~  
67 the commission finds no probable cause to believe that this part  
68 has been violated, or that no any other breach of the public  
69 trust has been committed, the commission must ~~shall~~ dismiss the  
70 complaint or referral with the issuance of a public report to  
71 the complainant and the alleged violator, stating with  
72 particularity its reasons for dismissal. At that time, the  
73 complaint or referral and all materials relating to the  
74 complaint or referral ~~shall~~ become a matter of public record.

75        (e) If the commission finds from the preliminary  
76 ~~investigation~~ probable cause to believe that this part has been  
77 violated or that any other breach of the public trust has been  
78 committed, it must transmit a copy of the order finding probable  
79 cause to ~~shall so notify~~ the complainant and the alleged  
80 violator in writing no later than 5 days after the date of the  
81 probable cause determination. Such notification and all  
82 documents made or received in the disposition of the complaint  
83 or referral ~~shall then~~ become public records. Upon request  
84 submitted to the commission in writing, any person who the  
85 commission finds probable cause to believe has violated any  
86 provision of this part or has committed any other breach of the

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87 public trust ~~is shall be~~ entitled to a public hearing and may  
88 elect to have a formal administrative hearing conducted by an  
89 administrative law judge in the Division of Administrative  
90 Hearings. If the person does not elect to have a formal  
91 administrative hearing by an administrative law judge, the  
92 person is entitled to an informal hearing conducted before the  
93 commission. Such person is shall be deemed to have waived the  
94 right to a formal or an informal public hearing if the request  
95 is not received within 14 days following the mailing date of the  
96 probable cause notification required by this paragraph  
97 ~~subsection~~. However, the commission may, on its own motion,  
98 require a public hearing.

99 (f) If the commission conducts an informal hearing, it  
100 must be held no later than 75 days after the date of the  
101 probable cause determination.

102 (g) If the commission refers a case to the Division of  
103 Administrative Hearings for a formal hearing and subsequently  
104 requests that the case be relinquished back to the commission,  
105 or if the administrative law judge assigned to the case  
106 relinquishes jurisdiction back to the commission before a  
107 recommended order is entered, the commission must schedule the  
108 case for additional action at the next commission meeting for  
109 which notice requirements can be met. At the next subsequent  
110 commission meeting, the commission must complete final action on  
111 such case.

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112        (h) The commission, may conduct such further investigation  
113 as it deems necessary, and may enter into such stipulations and  
114 settlements as it finds to be just and in the best interest of  
115 the state. At least two-thirds of the members of the commission  
116 present at a meeting must vote to reject or deviate from a  
117 stipulation or settlement that is recommended by the counsel  
118 representing the commission. The commission is without  
119 jurisdiction to, and no respondent may voluntarily or  
120 involuntarily, enter into a stipulation or settlement which  
121 imposes any penalty, including, but not limited to, a sanction  
122 or admonition or any other penalty contained in s. 112.317.  
123 Penalties may shall be imposed only by the appropriate  
124 disciplinary authority as designated in this section.

125        (i) If a criminal complaint related to an investigation  
126 pursuant to this section is filed, the timeframes in this  
127 subsection are tolled until completion of the criminal  
128 investigation or prosecution, excluding any appeals from such  
129 prosecution, whichever occurs later.

130        (j) The failure of the commission to comply with the time  
131 limits provided in this subsection constitutes harmless error in  
132 any related disciplinary action unless a court finds that the  
133 fairness of the proceedings or the correctness of an action may  
134 have been impaired by a material error in procedure or a failure  
135 to follow prescribed procedure.

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136        (k) The timeframes prescribed by this subsection apply to  
137 complaints or referrals submitted to the commission on or after  
138 October 1, 2024.

139        Section 7. Effective October 1, 2024, section 112.326,  
140 Florida Statutes, is amended to read:

141        112.326 Additional requirements by political subdivisions  
142 and agencies not prohibited; certain procedures preempted.—

143        (1) Except as provided in subsection (2), ~~Nothing in this~~  
144 part does not act shall prohibit the governing body of any  
145 political subdivision, by ordinance, or agency, by rule, from  
146 imposing upon its own officers and employees additional or more  
147 stringent standards of conduct and disclosure requirements than  
148 those specified in this part, provided that those standards of  
149 conduct and disclosure requirements do not otherwise conflict  
150 with the provisions of this part.

151        (2) If a political subdivision or an agency adopts by  
152 ordinance or rule additional or more stringent standards of  
153 conduct and disclosure requirements pursuant to subsection (1),  
154 any noncriminal complaint procedure must:

155        (a) Require a complaint to be written and signed under  
156 oath or affirmation by the person making the complaint.

157        (b) Require a complaint to be based upon personal  
158 knowledge or information other than hearsay.

159        (c) Prohibit the initiation of a complaint or  
160 investigation by the governing body of the political

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161 subdivision, agency, or any entity created to enforce the  
162 standards.

163 (d) Include a provision establishing a process for the  
164 recovery of costs and attorney fees for public officers, public  
165 employees, or candidates for public office against a person  
166 found by the governing body of the political subdivision,  
167 agency, or entity created to enforce the standards to have filed  
168 the complaint with a malicious intent to injure the reputation  
169 of such officer, employee, or candidate by filing the complaint  
170 with knowledge that the complaint contains one or more false  
171 allegations or with reckless disregard for whether the complaint  
172 contains false allegations of fact material to a violation.

173 (3) Any existing or future ordinance or rule adopted by a  
174 political subdivision or an agency which is in conflict with  
175 subsection (2) is void.

176 Section 8. Except as otherwise expressly provided in this  
177 act, this act shall take effect upon becoming a law.

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**T I T L E A M E N D M E N T**

180 Remove lines 92-105 and insert:  
181 stipulation or settlement recommended by the counsel  
182 representing the commission; providing that specified  
183 timeframes are tolled until the completion of a  
184 related criminal investigation or prosecution,  
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186 | excluding appeals, whichever occurs later; providing  
187 | that a harmless error standard applies to the  
188 | commission regarding specified timeframes; providing  
189 | applicability; amending s. 112.326, F.S.; providing  
190 | requirements for noncriminal complaint procedures if a  
191 | political subdivision or an agency adopts more  
192 | stringent standards of conduct and disclosure  
193 | requirements; providing that existing and future  
194 | ordinances and rules that are in conflict with  
195 | specified provisions are void; providing effective  
196 | dates.

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