

By the Committees on Rules; and Ethics and Elections

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1                   A bill to be entitled  
2           An act relating to ethics; amending s. 112.3122, F.S.;  
3           increasing the maximum fine for violations of  
4           specified lobbying provisions; amending s. 112.321,  
5           F.S.; prohibiting a member of the Commission on Ethics  
6           from serving more than two full terms, instead of two  
7           full terms in succession; making technical changes;  
8           deleting obsolete language; amending s. 112.317, F.S.;  
9           providing that a complainant is liable for costs plus  
10          reasonable attorney fees for filing a complaint with  
11          malicious intent against a candidate for public  
12          office; amending s. 112.324, F.S.; specifying that a  
13          certain number of members of the commission are not  
14          required to make a specified determination related to  
15          written referrals submitted to the commission by  
16          specified parties; requiring the commission to submit  
17          a copy of a certain referral to an alleged violator  
18          within a specified timeframe; requiring the commission  
19          to undertake a preliminary investigation within a  
20          specified timeframe after receipt of technically and  
21          legally sufficient complaints or referrals and make a  
22          certain determination; authorizing a complainant to  
23          submit an amended complaint within a specified  
24          timeframe; providing that the probable cause  
25          determination concludes the preliminary investigation;  
26          requiring the commission to complete a preliminary  
27          investigation, including a probable cause  
28          determination, within a specified timeframe; requiring  
29          the commission to complete an investigatory report

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30 within a specified timeframe; authorizing the  
31 commission to extend, for a specified period, the  
32 allowable timeframe to adequately complete a  
33 preliminary investigation if a specified number of  
34 members of the commission determine such extension is  
35 necessary; requiring the commission to document the  
36 reasons for extending such investigation and transmit  
37 a copy of such documentation to the alleged violator  
38 and complainant within a specified timeframe;  
39 requiring the commission to transmit a copy of the  
40 completed report to an alleged violator and to the  
41 counsel representing the commission within a specified  
42 timeframe; requiring such counsel to make a written  
43 recommendation for disposition of a complaint or  
44 referral within a specified timeframe after receiving  
45 the investigatory report; requiring the commission to  
46 transmit such recommendation to the alleged violator  
47 within a specified timeframe; providing that the  
48 alleged violator has a specified timeframe to respond  
49 in writing to the counsel's recommendation; requiring  
50 the commission, upon receipt of the counsel's  
51 recommendation, to schedule a probable cause hearing  
52 for the next executive session of the commission for  
53 which notice requirements can be met; providing that,  
54 under specified conditions, the commission may dismiss  
55 complaints or referrals before completion of a  
56 preliminary investigation; providing a timeframe  
57 within which the commission must transmit a copy of  
58 the order finding probable cause to the complainant

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59 and the alleged violator after a finding of probable  
60 cause; specifying that an alleged violator is entitled  
61 to request a formal hearing before the Division of  
62 Administrative Hearings or may select an informal  
63 hearing with the commission; providing that persons  
64 are deemed to waive their rights to a formal or an  
65 informal hearing if the request is not received within  
66 a specified timeframe; providing the timeframe within  
67 which the commission must conduct an informal hearing;  
68 requiring the commission to schedule a case that has  
69 been relinquished from the Division of Administrative  
70 Hearings for additional action at the next commission  
71 meeting for which notice requirements can be met;  
72 requiring the commission to complete final action on  
73 such case within a specified timeframe; requiring a  
74 specified number of commissioners to vote to reject or  
75 deviate from a recommendation made by the counsel  
76 representing the commission; providing that specified  
77 timeframes are tolled until the completion of a  
78 related criminal investigation or prosecution,  
79 excluding appeals, whichever occurs later; providing  
80 that a harmless error standard applies to the  
81 commission regarding specified timeframes; providing  
82 an effective date.

83  
84 Be It Enacted by the Legislature of the State of Florida:

85  
86 Section 1. Paragraph (b) of subsection (4) of section  
87 112.3122, Florida Statutes, is amended to read:

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88 112.3122 Enforcement and penalties for constitutional  
89 prohibition against lobbying by a public officer.—

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

92 (b) A civil penalty not to exceed \$20,000 ~~\$10,000~~.

93 Section 2. Subsection (1) of section 112.321, Florida  
94 Statutes, is amended to read:

95 112.321 Membership, terms; travel expenses; staff.—

96 (1) The commission shall be composed of nine members. Five  
97 of these members shall be appointed by the Governor, no more  
98 than three of whom shall be from the same political party,  
99 subject to confirmation by the Senate. One member appointed by  
100 the Governor shall be a former city or county official and may  
101 be a former member of a local planning or zoning board which has  
102 only advisory duties. Two members shall be appointed by the  
103 Speaker of the House of Representatives, and two members shall  
104 be appointed by the President of the Senate. Neither the Speaker  
105 of the House of Representatives nor the President of the Senate  
106 shall appoint more than one member from the same political  
107 party. Of the nine members of the Commission, no more than five  
108 members shall be from the same political party at any one time.  
109 A ~~No~~ member may not hold any public employment. An individual  
110 who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215  
111 or pursuant to any local government charter or ordinance may not  
112 serve as a member of the commission, ~~except that this~~  
113 ~~prohibition does not apply to an individual who is a member of~~  
114 ~~the commission on July 1, 2006, until the expiration of his or~~  
115 ~~her current term~~. A member of the commission may not lobby any  
116 state or local governmental entity as provided in s. 11.045 or

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117 s. 112.3215 or as provided by any local government charter or  
118 ordinance, ~~except that this prohibition does not apply to an~~  
119 ~~individual who is a member of the commission on July 1, 2006,~~  
120 ~~until the expiration of his or her current term.~~ All members  
121 shall serve 2-year terms. A member may not serve more than two  
122 full terms ~~in succession~~. Any member of the commission may be  
123 removed for cause by majority vote of the Governor, the  
124 President of the Senate, the Speaker of the House of  
125 Representatives, and the Chief Justice of the Supreme Court.

126 Section 3. Subsection (7) of section 112.317, Florida  
127 Statutes, is amended to read:

128 112.317 Penalties.—

129 (7) In any case in which the commission determines that a  
130 person has filed a complaint against a public officer or  
131 employee or a candidate for public office with a malicious  
132 intent to injure the reputation of such officer or employee or  
133 candidate by filing the complaint with knowledge that the  
134 complaint contains one or more false allegations or with  
135 reckless disregard for whether the complaint contains false  
136 allegations of fact material to a violation of this part, the  
137 complainant shall be liable for costs plus reasonable attorney  
138 fees incurred in the defense of the person complained against,  
139 including the costs and reasonable attorney fees incurred in  
140 proving entitlement to and the amount of costs and fees. If the  
141 complainant fails to pay such costs and fees voluntarily within  
142 30 days following such finding by the commission, the commission  
143 shall forward such information to the Department of Legal  
144 Affairs, which shall bring a civil action in a court of  
145 competent jurisdiction to recover the amount of such costs and

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146 fees awarded by the commission.

147 Section 4. Subsections (1) and (3) of section 112.324,  
148 Florida Statutes, are amended to read:

149 112.324 Procedures on complaints of violations and  
150 referrals; public records and meeting exemptions.—

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

155 (a) Upon a written complaint executed on a form prescribed  
156 by the commission and signed under oath or affirmation by any  
157 person; or

158 (b) Upon receipt of a written referral of a possible  
159 violation of this part or other possible breach of the public  
160 trust from the Governor, the Department of Law Enforcement, a  
161 state attorney, or a United States Attorney ~~which at least six~~  
162 ~~members of the commission determine is sufficient to indicate a~~  
163 ~~violation of this part or any other breach of the public trust.~~

164  
165 Within 5 days after receipt of a complaint or referral by the  
166 commission ~~or a determination by at least six members of the~~  
167 ~~commission that the referral received is deemed sufficient,~~ a  
168 copy must ~~shall~~ be transmitted to the alleged violator.

169 (3) (a) A preliminary investigation must ~~shall~~ be undertaken  
170 by the commission within 30 days after its receipt of each  
171 technically and legally sufficient complaint or referral over  
172 which the commission has jurisdiction to determine whether there  
173 is probable cause to believe that a violation has occurred. A  
174 complainant may submit an amended complaint up to 60 days after

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175 the commission receives the initial complaint. The probable  
176 cause determination is the conclusion of the preliminary  
177 investigation. The commission shall complete the preliminary  
178 investigation, including the probable cause determination, no  
179 later than 1 year after the beginning of the preliminary  
180 investigation.

181 (b) An investigatory report must be completed no later than  
182 150 days after the beginning of the preliminary investigation.  
183 If, at any one meeting of the commission held during a given  
184 preliminary investigation, at least six members of the  
185 commission determine that additional time is necessary to  
186 adequately complete such investigation, the commission may  
187 extend the timeframe to complete the preliminary investigation  
188 by no more than 60 days. During such meeting, the commission  
189 shall document its reasons for extending the investigation and  
190 transmit a copy of such documentation to the alleged violator  
191 and complainant no later than 5 days after the extension is  
192 ordered. The investigatory report must be transmitted to the  
193 alleged violator and to the counsel representing the commission  
194 no later than 5 days after completion of the report. The counsel  
195 representing the commission shall make a written recommendation  
196 to the commission for the disposition of the complaint or  
197 referral no later than 15 days after he or she receives the  
198 completed investigatory report. The commission shall transmit  
199 the counsel's written recommendation to the alleged violator no  
200 later than 5 days after its completion. The alleged violator has  
201 14 days after the mailing date of the counsel's recommendation  
202 to respond in writing to the recommendation.

203 (c) Upon receipt of the counsel's recommendation, the

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204 commission shall schedule a probable cause hearing for the next  
205 executive session of the commission for which notice  
206 requirements can be met.

207 (d) If, ~~upon completion of the preliminary investigation,~~  
208 the commission finds no probable cause to believe that this part  
209 has been violated, or that no any other breach of the public  
210 trust has been committed, the commission must ~~shall~~ dismiss the  
211 complaint or referral with the issuance of a public report to  
212 the complainant and the alleged violator, stating with  
213 particularity its reasons for dismissal. At that time, the  
214 complaint or referral and all materials relating to the  
215 complaint or referral ~~shall~~ become a matter of public record.

216 (e) If the commission finds ~~from the preliminary~~  
217 ~~investigation~~ probable cause to believe that this part has been  
218 violated or that any other breach of the public trust has been  
219 committed, it must transmit a copy of the order finding probable  
220 cause to ~~shall so notify~~ the complainant and the alleged  
221 violator in writing no later than 5 days after the date of the  
222 probable cause determination. Such notification and all  
223 documents made or received in the disposition of the complaint  
224 or referral ~~shall then~~ become public records. Upon request  
225 submitted to the commission in writing, any person who the  
226 commission finds probable cause to believe has violated any  
227 provision of this part or has committed any other breach of the  
228 public trust is ~~shall be~~ entitled to a public hearing and may  
229 elect to have a formal administrative hearing conducted by an  
230 administrative law judge in the Division of Administrative  
231 Hearings. If the person does not elect to have a formal  
232 administrative hearing by an administrative law judge, the



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233 person is entitled to an informal hearing conducted before the  
234 commission. Such person is ~~shall be~~ deemed to have waived the  
235 right to a formal or an informal public hearing if the request  
236 is not received within 14 days following the mailing date of the  
237 probable cause notification required by this paragraph  
238 ~~subsection.~~ However, the commission may, on its own motion,  
239 require a public hearing.

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

243 (g) If the commission refers a case to the Division of  
244 Administrative Hearings for a formal hearing and subsequently  
245 requests that the case be relinquished back to the commission,  
246 or if the administrative law judge assigned to the case  
247 relinquishes jurisdiction back to the commission before a  
248 recommended order is entered, the commission must schedule the  
249 case for additional action at the next commission meeting for  
250 which notice requirements can be met. At the next subsequent  
251 commission meeting, the commission must complete final action on  
252 such case.

253 (h) The commission, ~~may conduct such further investigation~~  
254 ~~as it deems necessary,~~ and may enter into such stipulations and  
255 settlements as it finds to be just and in the best interest of  
256 the state. The commission is without jurisdiction to, and no  
257 respondent may voluntarily or involuntarily, enter into a  
258 stipulation or settlement which imposes any penalty, including,  
259 but not limited to, a sanction or admonition or any other  
260 penalty contained in s. 112.317. Penalties may ~~shall~~ be imposed  
261 only by the appropriate disciplinary authority as designated in

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262 this section.

263 (i) At least six members of the commission must vote to  
264 reject or deviate from a recommendation of the counsel  
265 representing the commission.

266 (j) If a criminal complaint related to an investigation  
267 pursuant to this section is filed, the timeframes in this  
268 subsection are tolled until completion of the criminal  
269 investigation or prosecution, excluding any appeals from such  
270 prosecution, whichever occurs later.

271 (k) The failure of the commission to comply with the time  
272 limits provided in this subsection constitutes harmless error in  
273 any related disciplinary action unless a court finds that the  
274 fairness of the proceedings or the correctness of an action may  
275 have been impaired by a material error in procedure or a failure  
276 to follow prescribed procedure.

277 Section 5. This act shall take effect October 1, 2024.