

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 139](#)

**TITLE:** Adverse Personnel Actions and Ethics

Complaints

**SPONSOR(S):** Maney

**COMPANION BILL:** [CS/SB 92](#) (Gaetz)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Government Operations](#)

18 Y, 0 N

[Rules & Ethics](#)

[State Affairs](#)

## SUMMARY

### Effect of the Bill:

The bill protects employees or persons who file a written complaint or participate in an investigation with the Commission on Ethics by prohibiting an agency or independent contractor from taking adverse personnel action—firing, demotion, suspension, transfer, salary reduction, and other similar actions—against an employee for disclosing an ethics violation (or suspected ethics violation) to the Commission on Ethics.

The protections are inapplicable when the employee or person discloses information known to be false or discloses false information with malicious intent to injure the reputation of an officer, employee, or candidate. The bill specifies remedies and relief for persons or employees who are subjected to adverse personnel action after filing an ethics complaint or participating in an ethics investigation. Relief may include measures such as job reinstatement, compensation for lost wages, and payment of attorney fees. The bill also narrows a current public record exemption relating to ethics investigations by providing additional entities or persons that may obtain a copy of the filed ethics complaint and its amendments.

### Fiscal or Economic Impact:

None.

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## ANALYSIS

### EFFECT OF THE BILL:

#### Protections Against Retaliation

The bill prohibits an agency<sup>1</sup> or independent contractor from taking adverse personnel action—firing, demotion, suspension, transfer, salary reduction, and other similar actions—against an employee for disclosing an ethics violation (or suspected ethics violation) to the [Commission on Ethics](#) (commission). The prohibition does not apply, however, if the employee knowingly:

- Discloses false information; or
- Files a false complaint with a malicious intent to injure the reputation of an officer, employee, or candidate or with a reckless disregard for whether the complaint contains false allegations of material fact, or both. (Section [1](#))

An employee is protected once he or she has submitted a written complaint to the commission, which is executed on a form prescribed by the commission and signed under oath or affirmation, or after he or she has provided

<sup>1</sup> The bill defines “agency” to mean any state, regional, county, local, or municipal governmental entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

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information to an investigator during an investigation of a complaint or referral. The information disclosed must include any violation or suspected violation of the following [ethics laws](#):

- Any standard of conduct imposed by the [Code of Ethics for Public Officers and Employees](#).
- The Sunshine Amendment ([Art. II, s. 8 of the Fla. Const.](#)).
- Agency use of public funds to retain lobbyists.
- Standards of conduct for the Florida Gaming Control Commission.
- Use of state motor vehicles and aircrafts.
- Standards of conduct for the Public Service Commission and the Public Service Commission Nominating Council. (Section [1](#))

## Procedures for Filing for Protection Against Retaliation

### State Agencies

An employee of, or applicant for employment with, any state agency<sup>2</sup> may file a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations (FCHR) within 60 days of the prohibited action. FCHR then investigates the complaint and creates a fact-finding report.<sup>3</sup> After the fact-finding report is completed, FCHR then terminates the investigation if it finds that the adverse personnel action did not occur or it attempts to conciliate the complaint between the parties.<sup>4</sup> If FCHR is unable to remedy the problem through conciliation, it terminates investigation and notifies the complainant and the agency head.<sup>5</sup> Upon receipt of notice from the FCHR of termination of the investigation, the complainant may elect to pursue the administrative remedy or bring a civil action within 180 days after receipt of the notice.

### Local Government

Any local public employee may file a complaint with the appropriate local governmental authority<sup>6</sup> if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings to conduct hearings. This filing must be completed within 60 days after the prohibited action. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after the entry of a final decision by the local governmental authority, the local public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited, bring a civil action in a court of competent jurisdiction.

### Other Entities

Any other person protected by the bill, after exhausting all available contractual or administrative remedies, may bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited. (Section [1](#))

## Relief from Adverse Personnel Actions

The bill provides that the relief for an employee or applicant for employment subjected to adverse personnel action must include:

- Reinstatement of the employee to the same position held before the adverse personnel action was commenced, or to an equivalent position, or reasonable front pay as an alternative relief.
- Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

<sup>2</sup> "State agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. [S. 216.011\(1\)\(ww\), F.S.](#)

<sup>3</sup> [S. 112.31895\(2\), F.S.](#)

<sup>4</sup> [S. 112.31895\(3\)\(d\), F.S.](#)

<sup>5</sup> *Id.*

<sup>6</sup> The bill provides that the term "Local governmental authority" includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision thereof.

- Compensation to the employee, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse personnel action.
- Payment of reasonable costs, including attorney fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.
- Issuance of an injunction, if appropriate, by a court of competent jurisdiction.
- Temporary reinstatement of the employee to his or her former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the FCHR determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee that includes documentation of the employee's violation of a disciplinary standard or performance deficiency. This does not apply to an employee of a municipality. (Section [1](#))

The bill provides an affirmative defense to employers to justify the adverse action by showing the action was predicated upon other grounds and would have been taken absent the employee's or person's exercise of rights protected. The bill does not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract. However, the election of remedies in Florida law relating to public employer and bargaining agent grievance procedures also applies to actions provided in this bill. (Section [1](#))

The bill provides that a remedy or other protection does not apply to any employee or person who has committed or intentionally participated in committing the ethics violation or suspected ethics violation. (Section [1](#))

### **Release of Complaint by Commission on Ethics**

The bill narrows a public record exemption relating to ethics investigations by providing that the following entities or persons may obtain a copy of the filed ethics complaint, and its timely amendments:

- An agency conducting an investigation of an ethics violation claim, upon receiving a written request from the agency.
- A person who filed the ethics complaint and the person who identified himself or herself in the text of the complaint or its timely amendments as a current or former employee of the agency associated with the respondent named in the complaint or of an independent contractor of that agency, upon receiving a notarized, written request from such person. (Section [2](#))

The bill provides that commission's delivery of the complaint and any amendments does not affect the current **ethics investigation exemptions** in any other context. The commission is required to deliver the complaint and any amendments within a reasonable timeframe. Before releasing the complaint, the commission must redact any designations made to the complaint form, including date stamps, receipt stamps, and complaint serial numbers. (Section [2](#))

### **Effective Date**

The bill provides an effective date of July 1, 2026. (Section [3](#))

### **RULEMAKING:**

The bill authorizes the Commission on Ethics to prescribe the content of the written complaint form that employees or persons may use to disclose ethics violations.

***Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.***

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Commission on Ethics

The Florida Constitution requires the creation of an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.<sup>7</sup> Accordingly, in 1974, the Florida Legislature created the Commission on Ethics (commission) to serve as guardian of the standards of conduct for the officers<sup>8</sup> and employees<sup>9</sup> of the state, and of a county, city, or other political subdivision of the state.<sup>10</sup>

The commission is required to receive and investigate sworn complaints regarding any violation of the code of ethics and any other breach of the public trust, including an investigation of all facts and parties materially related to the complaint at issue.<sup>11</sup> Upon completion of any investigation, the commission must make a finding and public report determining whether a provision of the code of ethics was violated or there has been any other breach of the public trust committed by the subject public official or employee. If the commission finds that a violation or breach has occurred, it must recommend appropriate action to the agency or official having power to impose a penalty.<sup>12</sup>

#### Ethics Laws

The following are Florida's ethics laws:<sup>13</sup>

- [Code of Ethics for Public Officers and Employees](#)
- The Sunshine Amendment ([Art. II, s. 8, Fla. Const.](#))
- Standards of Conduct for the Public Service Commission and the Public Service Commission Nominating Council ([Ss. 350.031 - 350.05, F.S.](#) and [S. 350.0605, F.S.](#))
- Use of state motor vehicles and aircraft ([Part II of chapter 287, F.S.](#))
- Restriction on agencies' use of public funds to retain lobbyists ([S. 11.062, F.S.](#))
- Standards of Conduct for the Florida Gaming Control Commission ([S. 16.715, F.S.](#))

#### Penalties for Violations of the Code of Ethics

A public officer or employee who the commission finds has violated any standard of conduct<sup>14</sup> or any breach of public trust may be punished, among other things, by imposition of a civil penalty not to exceed \$20,000 and restitution of any pecuniary benefit received because of the violation committed.<sup>15</sup> Additionally, a candidate may also be required to pay a civil penalty not to exceed \$20,000 for a similar violation or breach.<sup>16</sup>

<sup>7</sup>[Art. II, s. 8, Fla. Const.](#)

<sup>8</sup>[S. 112.313\(1\), F.S.](#), provides that the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

<sup>9</sup>[S. 112.061\(2\)\(h\), F.S.](#), defines the term "public employee" to mean an individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to an agency head.

<sup>10</sup>[S. 112.320, F.S.](#)

<sup>11</sup>[S. 112.322\(1\), F.S.](#)

<sup>12</sup>Ss. [112.322\(2\)\(b\)](#) and [112.324, F.S.](#)

<sup>13</sup>Florida Commission on Ethics, [Ethics Laws](#) (last visited Nov. 13, 2025).

<sup>14</sup>S. [112.313, F.S.](#), provides standards of conduct for public officers, employees of agencies, and local government attorneys, including standards relating to: solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position; conflicting employment or contractual relationships; and disclosure of certain information.

<sup>15</sup>S. [112.317\(1\)\(a\) and \(b\), F.S.](#)

<sup>16</sup>S. [112.317\(1\)\(c\), F.S.](#)

In any case in which a civil penalty or restitution has been imposed, the Attorney General must bring a civil action to recover such penalty or restitution. The Attorney General must also collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.<sup>17</sup>

### Ethics Investigation Exemptions

Current law makes the following confidential and exempt<sup>18</sup> from public record requirements:<sup>19</sup>

- The complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county<sup>20</sup> or by any municipality,<sup>21</sup> or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements.<sup>22</sup>
- Written referrals and records relating to referrals held by the commission or its agents, the Governor, the Department of Law Enforcement, or a state attorney.<sup>23</sup>
- Records relating to any preliminary investigation of referrals held by the commission or its agents.<sup>24</sup>

Current law makes the following exempt<sup>25</sup> from public meeting requirements:

- Any portion of a proceeding conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established a local investigatory process, pursuant to a complaint or preliminary investigation.<sup>26</sup>
- Any portion of a proceeding of the commission in which a determination regarding a referral is discussed or acted upon.<sup>27</sup>

The above exemptions apply until:

- The complaint is dismissed as legally insufficient;
- The alleged violator requests in writing that such records and proceedings be made public;
- The commission determines that it will not investigate a referral; or
- The commission or other listed entity determines whether probable cause exists to believe that a violation has occurred.<sup>28</sup>

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<sup>17</sup> S. [112.317\(2\), F.S.](#)

<sup>18</sup> If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See Op. Att'y Gen. Fla. 04- 09 (2004).*

<sup>19</sup> [S. 119.011\(8\), F.S.](#), provides that a public record exemption means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of [s. 119.07\(1\), F.S.](#), [s. 286.011, F.S.](#), or [s. 24, Art. I](#) of the Florida Constitution.

<sup>20</sup> [S. 125.011\(1\), F.S.](#), provides that “county” means any county operating under a home rule charter, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” includes the “board of county commissioners” of such county.

<sup>21</sup> [S. 165.031\(3\), F.S.](#), defines the term “municipality” as a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

<sup>22</sup> [S. 112.324\(2\)\(a\), F.S.](#)

<sup>23</sup> [S. 112.324\(2\)\(b\), F.S.](#)

<sup>24</sup> *Id.*

<sup>25</sup> There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991).

<sup>26</sup> [S. 112.324\(2\)\(c\), F.S.](#)

<sup>27</sup> [S. 112.324\(2\)\(d\), F.S.](#)

<sup>28</sup> [S. 112.324\(2\)\(e\), F.S.](#)

## Whistle-blower's Act

### Public-Sector Whistle-blower's Act

In 1986, the Legislature enacted the "Whistle-blower's Act"<sup>29</sup> to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging:<sup>30</sup>

- Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor that creates and presents a substantial and specific danger to the public's health, safety, or welfare.<sup>31</sup>
- Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.<sup>32</sup>

While the Whistle-blower's Act is contained within the Code of Ethics, the commission has no jurisdiction or authority to proceed against persons who violate the act.

### Investigative Procedures in Response to Prohibited Personnel Actions

#### *Filing of the Complaint*

Within 60 days of a prohibited personnel action,<sup>33</sup> an employee or former employee of, or applicant for employment with, a state agency may file a written complaint alleging retaliation after filing a whistle-blower complaint with the:

- Office of the Chief Inspector General in the Executive Office of the Governor.
- FCHR.<sup>34</sup>

After receiving the complaint, the office receiving the complaint must acknowledge receipt of the complaint within 5 working days.<sup>35</sup>

#### *Fact Finding and Investigative Authority*

FCHR is authorized to:

- Conduct informal fact finding and is required to provide the agency head and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint within 180 days after receiving the complaint.<sup>36</sup>
- Investigate the complaints with its enumerated powers, including the power to administer oaths, examine witnesses, take statements, issue subpoenas, and make appropriate motions to limit discovery.<sup>37</sup>
- Coordinate with the Chief Inspector General in the Executive Office of the Governor to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation.<sup>38</sup>

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<sup>29</sup> [S. 112.3187\(1\), F.S.](#), provides that Ss. 112.3187 – [112.31895, F.S.](#) is cited as the "Whistle-blower's Act."

<sup>30</sup> Florida Commission on Ethics, [Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees](#) (last visited Nov. 13, 2025).

<sup>31</sup> [S. 112.3187\(5\)\(a\), F.S.](#)

<sup>32</sup> [S. 112.3187\(5\)\(b\), F.S.](#)

<sup>33</sup> [S. 112.3187\(4\), F.S.](#) prohibits an agency or independent contractor from taking specified adverse personnel actions or retaliation against an employee who files a whistle-blower complaint.

<sup>34</sup> [S. 112.31895\(1\)\(a\), F.S.](#)

<sup>35</sup> [S. 112.31895\(1\)\(b\), F.S.](#)

<sup>36</sup> [S. 112.31895\(2\), F.S.](#)

<sup>37</sup> [S. 112.31895\(3\), F.S.](#)

<sup>38</sup> *Id.*

### *Corrective Action Recommendations*

If the FCHR determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the FCHR must report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Chief Financial Officer. The FCHR may include in the report recommendations for corrective action to be taken.<sup>39</sup>

### *Terminating the Investigation*

The FCHR must terminate the investigation, if:

- The FCHR is unable to conciliate a complaint within 35 days after providing the agency head and complainant with the fact-finding report.
- The agency does not implement the recommended action after 35 days.
- The FCHR finds that the agency has implemented the corrective action.
- If the FCHR finds that a prohibited personnel action has not occurred.<sup>40</sup>

Upon termination of any investigation, the FCHR must notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation.<sup>41</sup>

### *Appeal*

The complainant may file an appeal with the Public Employees Relations Commission within 21 days after receipt of a notice of termination of the investigation from the FCHR.<sup>42</sup>

### Examples of Ethics Violations That Are Not Protected by Whistle-blower's Act

In most instances, an ethics complaint will not constitute a protected disclosure because it is not a covered subject matter. Examples of conduct prohibited by the Code of Ethics, but not a proper subject for a protected disclosure under the Whistle-blower's Act include:

- The acceptance of certain gifts from vendors or lobbyists, under [S. 112.3148\(4\), F.S.](#)
- The acceptance of public employment by an elected officer in violation of the prohibition against dual public employment.
- The acceptance of unauthorized compensation by a public officer's spouse or minor child, as is prohibited.
- A violation of any post-officeholding or post-employment restriction.<sup>43</sup>

## **BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Government Operations Subcommittee</a>	18 Y, 0 N	2/11/2026	Toliver	Walker
<a href="#">Rules &amp; Ethics Committee</a>				
<a href="#">State Affairs Committee</a>				

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> [S. 112.31895\(4\), F.S.](#)

<sup>43</sup> Commission on Ethics, Agency Analysis of 2025 Senate Bill 495, p. 2 (Mar. 25, 2025) (on file with the Government Operations Subcommittee)