

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 92

INTRODUCER: Senator Gaetz

SUBJECT: Employee Protections

DATE: December 8, 2025

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. White	McVaney	GO	<b>Pre-meeting</b>
2. _____	_____	EE	_____
3. _____	_____	RC	_____

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**I. Summary:**

SB 92 allows an employee of an agency, local government body, or independent contractor; an applicant for state employment; and other persons to file a complaint with an appropriate agency if he or she suffers a retaliatory action for disclosing information regarding potential ethical violations by public employees or officers. The employee must have disclosed information regarding one of the following alleged ethical violations to the Commission on Ethics:

- The Code of Ethics for Public Officers and Employees (part III, ch. 112, F.S.);
- Article II, section 8 of the State Constitution;
- Certain standards of conduct for the Public Service Commission and the Public Service Commission Nominating Council;
- Certain standards of conduct for the Florida Gaming Control Commission;
- Restrictions on use of public funds to retain lobbyists; and
- Requirements for the use of, and procurement for, state means of transportation.

If the employee or applicant for state employment is then discharged, disciplined, or subjected to other adverse personnel action, or denied employment as a result of his or her disclosure to the Commission on Ethics, the employee or applicant may file a complaint for such retaliatory actions with an appropriate agency. An appropriate agency is either a local government authority or the Commission on Human Relations. If the appropriate agency does not move forward with an investigation into the alleged retaliatory action, a complainant may pursue an administrative remedy or file a civil action. The bill additionally lists the relief available.

The bill provides that, upon a written request, the Commission on Ethics shall provide a copy of the complaint for ethical violations, and any timely amendments thereto, to an agency conducting an investigation into retaliatory actions prohibited by this bill, the person who filed the ethics complaint, or a current or former employee of the alleged violator who is identified in the text of the complaint or amendment thereto. The Commission on Ethics, prior to releasing the

complaint, must redact any designations regarding an ongoing ethics investigation, the records of which are protected from public records disclosures.

The Commission on Human Relations estimates it will need \$550,310 to support the increase workload, most of it recurring.<sup>1</sup> The Division of Administrative Hearings stated the bill would have no fiscal impact.<sup>2</sup> On a substantially similar bill from last session,<sup>3</sup> the Commission on Ethics indicated the bill's cost to the commission would be indeterminate, although it could handle increases in complaints within existing resources.<sup>4</sup>

The bill takes effect July 1, 2026.

## II. Present Situation:

### **The Commission on Ethics & the Public Trust**

As required under article II, section 8 of the State Constitution (the Sunshine Amendment) the Commission on Ethics serves as an independent investigatory body into “all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.”<sup>5</sup> The Commission on Ethics additionally investigates complaints and referrals for any further violations of ethical standards for public employees.<sup>6</sup> Under the Florida Commission on Ethics Rule 34.50015 (Jurisdiction of the Commission), breach of public trust encompasses violations of:

- The “Sunshine Amendment” and other constitutional provisions governing public officials’ conduct;
- The Code of Ethics for Public Officers and Employees (Code of Ethics);
- Restrictions on agencies’ use of public funds to retain lobbyists;
- Standards of conduct for the Public Service Commission and its nominating council;
- Standards for the procurement relating to and use of state motor vehicles and aircraft;
- Standards of conduct for the Florida Gaming Control Commission; and
- Gift and honoraria laws.<sup>7</sup>

### ***The State Constitution Sunshine Amendment***

The Sunshine Amendment addresses potential conflicts between the public duties of state employees and officers and their private interests, especially private monetary interests. Under the Sunshine Amendment, elected constitutional officers, candidates for such offices, and other designated persons must file full and public disclosure of their financial interests and campaign finances. Public officers during, and for a certain period following their tenure, are prohibited

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<sup>1</sup> Florida Commission on Human Relations, *Senate Bill 92 Agency Analysis* (Nov. 14, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>2</sup> Division of Administrative Hearings, *Senate Bill 92 Agency Analysis* (Nov. 25, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>3</sup> See SB 352 (2025 Reg. Session)

<sup>4</sup> Commission on Ethics, *Senate Bill 352 Agency Analysis* (Mar. 25, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>5</sup> FLA. CONST. art. II, s. 8(g).

<sup>6</sup> *Id.*; s. 112.320, F.S.

<sup>7</sup> Florida Commission on Ethics, *Ethics Laws*, <https://ethics.state.fl.us/Research/EthicsLaws.aspx> (last visited Oct. 28, 2025).

from personally representing another individual before government bodies or being paid to lobby on another's behalf. Public officers and employees are additionally prohibited from using their office or position for disproportional personal benefit.

***The Code of Ethics (Part III, Chapter 112, F.S.)***

The Code of Ethics establishes statutory ethical standards for public officials and employees and applies to officers and employees of the state or a political subdivision.<sup>8</sup> The Code of Ethics serves as both a guide for the official conduct of public servants as well as a basis for discipline of those who violate its provisions.<sup>9</sup> Various activities by public officers and employees are limited or prohibited by the Code of Ethics, including:

- Soliciting or accepting gifts;
- Doing business with any entity in which the officer or employee or his or her spouse or child has a position or interest;
- Accepting any unauthorized compensation, payment, or thing of value;
- Corruptly using his or her official position to secure a special privilege, benefit, or exemption for him- or herself or others;
- Having or holding any employment or contractual relationship that conflicts with his or her public position;
- Using information gained by reason of his or her official position for personal gain;
- Representing another person or entity before the government body or agency of which the individual served for a specified period following vacation of office;
- Holding dual-offices simultaneously;
- Serving on a professional and occupational licensing board while serving as a member of a state examining or licensing board for the profession or occupation; and
- Lobbying by certain officers before a specified time.<sup>10</sup>

The Code of Ethics also requires lobbyists who regularly engage in lobbying to disclose their identity, expenditures, and activities, even if their lobbying is done by solicitation of others to engage in such efforts.<sup>11</sup>

***Restrictions on Agencies' Use of Public Funds to Retain Lobbyist***

Section 11.062, F.S., prohibits executive, judicial, and quasi-judicial departments and agencies from using state funds to pay for lobbying. While a department of the executive branch, a state university, a community college, or a water management district may not use public funds to retain a lobbyist to represent it before the legislative or executive branch, their full-time employees may register and serve as a lobbyist for their employer.

The Commission on Ethics investigates potential violations of s. 11.062, F.S.<sup>12</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> Section 112.311(5), F.S.

<sup>10</sup> Sections 112.311(2) and (3), and 112.313, F.S.; *see also* 9 FLA. JUR. 2D CIVIL SERVANTS s. 168 *Standards of conduct for public officers and employees* (2024).

<sup>11</sup> Section 112.311(3), F.S.

<sup>12</sup> Florida Commission on Ethics Rule 34.50015.

***Standards of Conduct for the Public Service Commission and the Public Service Commission Nominating Council***

Florida Statutes provide for standards of conduct for commissioners and employees of the Public Service Commission as well as those serving on its Nominating Council.<sup>13</sup> These standards prohibit members of the council and commission, as well as their spouses, from engaging in any potential direct or indirect financial benefit from entities regulated by the commission. In addition, commissioners and employees of the Public Service Commission may not represent regulated entities in actions before the commission for a set amount of time after leaving the commission. Commissioners are additionally prohibited from entertaining certain ex parte communications concerning the merits, threat, or offer of reward in any currently pending proceeding.

The Commission on Ethics has the authority to accept and investigate alleged violations of these standards of conduct by the members or employees of the Public Service Commission or its Nominating Council.

***Standards of Conduct for the Florida Gaming Control Commission***

Section 16.715, F.S., sets forth standards of conduct for commissioners and employees of the Florida Gaming Control Commission (FGC). Commissioners and employees must behave professionally, avoid impropriety, and act in a manner that promotes public confidence in the impartiality and integrity of the commission.

Commissioners and employees may not accept anything from any business or entity affiliated with or that is before the commission or regulated by the commission. Nor may FGC commissioners or employees accept special financial benefits or free food at conferences that are not available to all conference participants. A commissioner may not serve as a representative, officer, or employee of a political party or any executive committee or governing body of a political party. Nor may a commissioner receive remuneration for activities on behalf of a candidate or otherwise participate in the solicitation of votes for a candidate. Commissioners are additionally prohibited from entertaining certain ex parte communications concerning the merits, threat, or offer of reward in any currently pending proceeding. A former commissioner or employee cannot represent an entity or person regulated by the commission for two years after their service with the FGC ends.

The Commission on Ethics has the authority to accept and investigate alleged violations of s. 16.715, F.S.

***Use of State Motor Vehicles and Aircraft***

Part III, ch. 287, F.S., governs the use and procurement of means of transportation for officers and employees of the executive and judicial branches of state government. Such state officers and employees may only purchase or continue to pay for the lease of state motor vehicles with funds appropriated by the Legislature for that purpose. Additional requirements provide for oversight by the Department of Management Services, limitations on the types and use of the vehicles, and repairs and service of the vehicles. Any violation of the standards for acquiring,

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<sup>13</sup> See ss. 350.031, 350.04, 350.041, 350.042, and 350.0605, F.S.

funding, and using vehicles constitutes a misuse of public position and breach of public trust. The Chief Financial Officer reports suspected violations to the Commission on Ethics who has the authority to investigate possible violations of public trust.<sup>14</sup>

### ***Gift and Honoraria Laws***

Various statutes address public officers or employees accepting expenditure, gifts, or other honoraria and require the public disclosure of any financial benefit or gifts received. The Commission on Ethics investigates any violations of these laws.

### **Investigations by the Commission on Ethics**

The Commission on Ethics investigates written, sworn complaints of alleged breaches of public trust. Within 30 days of receiving a complaint or referral, the Commission on Ethics must conduct a preliminary investigation into the legal sufficiency of the complaint or referral and determine whether there is probable cause that a violation has occurred. If the Commission does not find probable cause, it dismisses the matter. If the Commission finds probable cause, it must send the alleged violator and complainant an order finding probable cause. The Commission must complete the investigation, including the probable cause determination, within one year of receiving the complaint.<sup>15</sup>

Prior to a probable cause determination, the complaint and records relating to the preliminary investigation are confidential and exempt from public records disclosure requirements unless the complaint is dismissed as legally insufficient or the alleged violator requests in writing that the records be made public. During the same time, related proceedings are exempt from open meetings requirements.<sup>16</sup>

### **The Florida Commission on Human Relations (CHR)**

The Florida Commission on Human Relations (CHR) is housed within the Department of Management Services but is not subject to any control or supervision by or direction from the department.<sup>17</sup> The CHR is comprised of 12 individuals who are appointed by the Governor and confirmed by the Senate. The members must broadly represent various racial, religious, ethnic, social, economic, political, and professional groups in Florida.<sup>18</sup>

The Legislature created the CHR to administer the predecessor to the Florida Civil Rights Act of 1992 and the Florida Fair Housing Act.<sup>19</sup> The CHR's jurisdiction was later expanded to take over the responsibilities for administering the public Whistle-Blower's Act.

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<sup>14</sup> Section 287.175, F.S.

<sup>15</sup> Sections 112.311-112.3261, F.S.

<sup>16</sup> *Id.*; see Florida Office of the Attorney General, *Government-In-The-Sunshine Manual: 2025 Edition*, pp. 26, 99.

<sup>17</sup> Section 760.04, F.S.

<sup>18</sup> Section 760.03, F.S.

<sup>19</sup> Chapter 760, F.S., Part II. *Cf* ch. 83-221, ss. 1 and 9, Laws of Fla. (creating the Fair Housing Act and assigning the duty of administration to the commission) and ch. 69-287 s. 1 (creating the original civil rights laws in Florida and assigning the commission to administer such laws).

The CHR now investigates complaints for certain claims of discrimination and violations of the Whistle-blower Act for public employees (WBA).

### **Florida Whistle-Blower's Acts**

Florida has two whistleblower laws with different requirements: a private-sector law and a public-sector law. It is generally unlawful to fire or demote an employee for reporting illegal activity by the employer or refusing to participate in illegal activity. The CHR's jurisdiction is limited to the public-sector Whistle-blower's Act (WBA). The private-sector law affords remedy for private employees in civil court.

#### ***The Public-Sector Whistle-Blower's Act (WBA)***

The CHR investigates complaints for certain claims of discrimination and violations of the Whistle-blower's Act for public employees (WBA). The WBA protects *public* employees who disclose inappropriate government conduct "of a specified nature," to an appropriate entity. The protected disclosures include:

- 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 which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or
- 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>20</sup>

An appropriate entity with which to file the protected disclosure, in this instance, refers to an agency or federal government entity that has the authority to investigate, police, manage or otherwise remedy the violation or act. An "agency" means any state, regional, county, local, or municipal government 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.

Under the WBA, an agency or independent contractor may not take any adverse action affecting the rights or interests of an employee who disclosed information pursuant to the WBA's process.<sup>21</sup> The protections provided by the WBA do not extend to reports made for misconduct not specifically listed in the act, such as reports of violations of public trust and other standards of conduct for public employees that do not create and present a substantial and specific danger to the public's health, safety, or welfare.

The CHR, when investigating alleged violations of the WBA, may:

- Petition for stays and for corrective action, such as temporary reinstatement;
- Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures;
- Forward to appropriate entities, including the Florida Department of Law Enforcement, potential violations of any law, rule, or regulation;

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<sup>20</sup> For purposes of the Public WBA, an "independent contractor" is a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency. Section 112.3184(4)(e), F.S.

<sup>21</sup> Section 112.3187(4), F.S.

- Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery; and
- Conduct investigations even in the absence of a complaint.<sup>22</sup>

Employees must report prohibited retaliatory actions to the CHR or appropriate local governmental authority and cannot file an action in court until the CHR or local governmental makes an official finding.

The CHR's Employment Investigation Unit currently has 541 open investigations shared among fourteen Investigators, with an average case inventory of about 40 open investigations. The agency also has more than 400 cases awaiting to be assigned to an investigator.<sup>23</sup>

### ***Florida Private Sector Whistle-blower's Act***

Ch. 448, F.S., provides general labor provisions for employers and employees in Florida. More specifically, ss. 448.101-448.105, F.S., the Private Sector Whistleblower's Act, prohibit retaliatory attacks on employees in private workplaces who disclose illegal workplace practices and the remedies and rights that flow from that prohibition.

Under Florida's Private Sector Whistleblower's Act, employees are protected from retaliatory actions for disclosing or threatening to disclose an activity, policy, or practice of the employer that is in violation of a law, rule, or regulation adopted by any federal, state, or local governing body. An employer, for Florida's Private Sector Whistleblower's Act, is limited to a *private* individual, partnership, institution, corporation, or association that employs ten or more persons.<sup>24</sup>

It is unclear if this protection extends to employees who, in good faith, report a lawful activity, policy, or practice they believe is unlawful.<sup>25</sup> To be covered by Florida's Private-Sector Whistleblower's Act, an employee must:

- Refuse to participate in unlawful activity, policy, or practice;
- Cooperate with an investigating governmental agency; or
- Disclose the unlawful activity, policy, or practice, to an appropriate governmental agency in writing and under oath. In this instance, the employee must first, in writing, bring the unlawful activity, policy, or practice to the private employer's attention and provide the employer a reasonable opportunity to correct the activity, policy, or practice.

An employee subjected to retaliatory actions in violation of Florida's Private Sector Whistleblower's Act may file a civil action in court; the employee need not engage in

<sup>22</sup> Section 112.31895(3)(a), F.S.

<sup>23</sup> Florida Commission on Human Relations, *Senate Bill 92 Agency Analysis* (Nov. 14, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>24</sup> Section 448.101(3), F.S.

<sup>25</sup> The First and Second District Court of Appeals' opinions conflict with the Fourth District's. *See Gessner v. Southern Co.*, 396 So. 3d 908, 910 (Fla. 1st DCA 2024) (holding that the conduct must actually be unlawful); *Kearns v. Farmer Acquisition Co.*, 157 So. 3d 458, 465 (Fla. 2d DCA 2015) (same); *contra Aery v. Wallace Lincoln-Mercury, LLC*, 118 So. 3d 904, 916 (Fla. 4th DCA 2013) (holding a good faith belief that the activity was illegal, whether or not actually illegal, invokes the protections of the private-sector whistle-blower's act).

administrative procedures like those in the WBA. The CHR does not have jurisdiction over violations of Florida's Private Sector Whistleblower's Act

### ***Overlap***

Employees of independent contractors are not precluded from filing an action under both the public-sector Whistle-blower's Act (WBA) and Florida's Private-Sector Whistleblower's Act. The fact that an employer might be independent contractor of the state is incidental and does not exclude employer's actions from private-sector whistleblower act. The WBA does not claim to be an exclusive remedy for employees of independent contractors of state agencies. Both the WBA and Florida's Private-Sector Whistleblower's Act specifically state that their provisions did not diminish rights, privileges, or remedies of employees under any other law or rule.<sup>26</sup>

Moreover, there may be instances in which the WBA provides protections to employees of independent contractors that are not available under Florida's Private-Sector Whistleblower's Act. As mentioned above, Florida's Private-Sector Whistleblower's Act protects an employee's disclosures of unlawful conduct by his or her *private* employer. The WBA's protections extend to disclosures by an employee or agent of an agency or independent contractor. The alleged wrong-doer does not, under the WBA, need to be the employee's actual employer.

### **Public Records**

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>27</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>28</sup> When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>29</sup> Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>30</sup> Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.<sup>31</sup>

## **III. Effect of Proposed Changes:**

The bill provides protections against retaliation to government employees, applicants for employment with state agencies, and employees of private employers doing business with state or local government, for their disclosures of alleged violations of certain standards of conduct and ethical obligations of public employees and officers. These protections cover retaliation taken as a result of specific disclosures to the Commission on Ethics. This bill provides a basis

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<sup>26</sup> *Dahl v. Eckerd Family Youth Alternatives, Inc.*, 843 So. 2d 956 (Fla. 2d DCA 2003).

<sup>27</sup> FLA. CONST. art. I, s. 24(a).

<sup>28</sup> *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

<sup>29</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

<sup>30</sup> *Id.*

<sup>31</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).



for any employee or individual who faces retaliatory actions for such disclosures to file a complaint with the Commission on Human Relations. These protections and procedures closely follow similar protections against retaliation provided in the Whistle-blower's Act for public employees (WBA), but this bill extends the protections to additional ethical complaints not covered by the WBA.

These protections against retaliatory acts are only provided for information disclosed to the Commission on Ethics. Thus, if the information is disclosed through other channels, even if such channel is elsewhere permitted in law, these protections do not apply.

### **Definitions**

An "agency," under the bill, is any state, regional, county, local, or municipal governmental entity, whether executive, legislative, or judicial; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university. Unless otherwise noted, agency refers to local and state level public entities.

Independent contractors are private persons doing business with an agency.

Adverse personnel action includes the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment.

These definitions closely mirror the WBA.

### **Protections Against Retaliation**

Specifically, the bill prohibits agencies and independent contractors from taking adverse employment actions against an employee, or any adverse actions that affect the rights or interests of a person, in retaliation for the disclosure of any violation or suspected violation of:

- The Code of Ethics for Public Officers and Employees;
- The Sunshine Amendment and other constitutional provisions relating to public officials' conduct;
- Restrictions on agencies' use of public funds to retain non-employee lobbyists;
- Standards of conduct for the Public Service Commission and the Public Service Commission Nominating Council;
- Standards of conduct for the Florida Gaming Control Commission;
- Requirements for the use, purchase, and lease of state motor vehicles and aircraft; and
- Gift and honoraria laws.

The protections only apply to complaints filed with, or assistance provided to, the Commission on Ethics. The complaint must be provided in writing on a form prescribed by the Commission and signed under oath or affirmation.

The bill's protections do not apply where an individual makes false disclosures in bad faith or participates in the underlying violation.

### **Procedures for Filing for Protection Against Retaliation**

The bill allows employees of, and applicants for employment with, state agencies<sup>32</sup> who are subject to adverse personnel actions in violation of this bill to file a complaint with the Florida Commission on Human Relations. The complaint must be made in accordance with the requirements of s. 112.31895, F.S., which governs investigatory procedures of the Commission on Human Relations for adverse personnel actions prohibited by the WBA. If the Commission on Human Relations terminates its investigation, complainants have 180 days to pursue an administrative remedy with the Division of Administrative Hearings or bring a civil action in court.

Similarly, the bill allows local public employees to file a complaint with an appropriate local government authority within 60 days of the prohibited adverse personnel action so long as the local governmental authority has an appropriate administrative procedure in place. 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. A local government authority has an appropriate administrative procedure if it either contracts with the Division of Administrative Hearings to conduct hearings on the matter or establishes by ordinance a procedure for handling such complaints that provides an impartial panel. Within 180 days of a decision by the local governmental authority, the local public employee may bring a civil action in court. If the local governmental authority has not established appropriate administrative procedure, by ordinance or contract, the local public employee instead has 180 days after the prohibited action to bring a civil action in court.

Any other person protected by the bill, such as employees of private employers doing business with state or local government, after exhausting all available contractual or administrative remedies, may bring a civil action in court within 180 days of the prohibited retaliatory action.

### **Relief From Retaliatory Actions**

The relief for an employee or applicant who successfully brings a complaint for a violation of this bill must include:

- Reinstatement of the employee to the same position held before the adverse action was commenced or to an equivalent position or reasonable front pay as alternative relief;
- Reinstatement of the employee’s full fringe benefits and seniority rights as appropriate;
- Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action;
- Payment of reasonable costs, including attorney’s fees; and
- Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

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<sup>32</sup> In this instance, the bill refers to the definition of state agency in s. 216.011, F.S.: “any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, “state agency” or “agency” includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission.”

An employee, except for a municipal employee, may also be temporarily reinstated to his or her former position or equivalent position pending the final outcome on the complaint, so long as the court or Commission on Human Relations determines that the disclosure was not made in bad faith and the agency initiated the personnel action after the disclosure to the Commission on Ethics. Such personnel action, to qualify, cannot include documentation of the employee's violation of a disciplinary standard or performance deficiency.

A prevailing employer may receive attorney's fees if the employee filed a frivolous action in bad faith.

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

**Section 2** of the bill requires the Commission on Ethics to release a complaint for violations of ethical standards, and timely amendments thereto, to:

- An agency conducting an investigation of a claim asserted under the bill. The agency must submit a written request to the commission;
- The person who filed the complaint upon receiving a notarized, written request; and
- A person who identifies himself or herself as a current or former employee or independent contractor of the agency or individual that allegedly violated the ethical standard. In this instance, the commission must receive a notarized, written request.

Typically, such complaint would be exempt from disclosures under s. 112.324(2)(a)-(d), F.S., however this bill allows the Commission on Ethics to release the information notwithstanding and without affecting the public records exemption. Prior to releasing the complaint, however, the Commission on Ethics must redact any designations regarding an ongoing ethics investigation, where the records of that investigation are exempt from public records disclosures. These designations include, but are not limited to, date stamps, receipt stamps, and complaint serial numbers.

### **Miscellaneous**

The bill provides legislative intent to protect employees who report violations of the Code of Ethics for Public Officers and Employees, found in ss. 112.311 to 112.3261, F.S., or article II, section 8 of the State Constitution, from retaliatory actions, and to additionally protect any person who discloses information to an appropriate agency regarding alleged breaches of public trust or violations of article II, section 8(f) of the State Constitution on the part of an agency, public officer, or employee. This intent mirrors the legislative intent provided for in the Whistle-blower Act but is tailored to the protection of disclosures of ethical violations.

The bill provides an affirmative defense to employers to justify the adverse action by showing the action was predicated on other grounds and would have been taken absent the employee or person's exercise of rights under the section.

The bill explicitly states that it does not diminish the rights, privileged, or remedies of an employee under other law or rule or under any collective bargaining agreement or employment contract.

Finally, Section 1 clarifies that the language of the bill does not diminish the rights, privileges, or other remedies of an employee under any other law, collective bargaining agreement, or employment contract. The election of remedies in s. 447.401, F.S., however, does apply to actions under this section. Section 447.401, F.S., addresses labor organizations and bargaining agents for public employees.

**Section 3** provides the act takes effect on July 1, 2026.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the authority of municipalities or counties to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None identified.

##### **C. Trust Funds Restrictions:**

None identified.

##### **D. State Tax or Fee Increases:**

None identified.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None identified.

##### **B. Private Sector Impact:**

The private sector will likely incur additional costs if private contractors are subjected to the Code of Ethics and other standards of conduct for public officers and employees.

### C. Government Sector Impact:

The Commission on Human Relations asserts it will need additional resources to implement its responsibilities, including six new full-time equivalent positions and an annual appropriation in excess of \$500,000 from the General Revenue Fund.<sup>33</sup>

The Division of Administrative Hearings stated the bill would have “no fiscal impact on the Division.”<sup>34</sup> For a substantially similar bill,<sup>35</sup> the Commission on Ethics indicated it could absorb any additional workload within its existing resources.<sup>36</sup>

## VI. Technical Deficiencies:

### Application to the Legislative Branch and its Employees.

The bill creates different paragraphs prescribing specific, differing procedures to obtain relief (remedies) for any:

- “Employee of and applicant for employment with any state agency;”
- “Local public employee protected by this [bill];” and
- “Other person protected by this [bill].”

Lines 125-135 specifies that an employee or applicant for employment with a state agency must file a complaint with the Commission on Human Relations (CHR); in this instance, at line 126, “state agency” is defined according to s. 216.011, F.S. The bill’s definition of agency is broader than the definition in s. 216.011, F.S. For instance, and in relevant part, the bill’s definition of “agency” includes legislative governmental entities; the s. 216.011, F.S., definition does not. The Legislature may wish to instead provide “any state public employee or applicant for employment with a state agency who is protected by this section” to file a complaint with the CHR. This language mirrors the bill’s language for the following paragraph, under the same subsection, discussing “local public employees protected by this section.”<sup>37</sup> Without this amendment, employees of legislative state agencies may be considered “other person[s] protected by this section”<sup>38</sup> who are not permitted to file a complaint with the CHR but, alternatively, may directly file a civil action in court after exhausting administrative and contractual remedies.

### Disclosures Protected

At lines 92-98 and 104-106, the bill includes language similar to language in the public-sector Whistle-blower’s Act (WBA), protecting from retaliatory actions individuals who disclose information “pursuant to this section.” Unlike the WBA, however, this bill protects an individual from retaliation for disclosure of the information of an ethical violation pursuant to another section of law. The complaint regarding the retaliatory action (not the underlying ethical violation) is the only complaint made under or pursuant to this section (bill). The bill, at lines 94,

<sup>33</sup> Florida Commission on Human Relations, *Senate Bill 92 Agency Analysis* (Nov. 14, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>34</sup> Division of Administrative Hearings, *Senate Bill 92 Agency Analysis* (Nov. 25, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>35</sup> See SB 352 (2025 Reg. Session).

<sup>36</sup> Commission on Ethics, *Senate Bill 352 Agency Analysis* (Mar. 25, 2025) (on file with the Senate Committee on Governmental Oversight and Accountability).

<sup>37</sup> Lines 140-141.

<sup>38</sup> Lines 160-163.

98, and 105, should be updated to ensure the complaint regarding the original violation is covered by instead providing that the protection from retaliation extends to “disclosure of information protected under this section.”

#### Reports to the Chief Financial Officer

This bill protects from retaliatory action reports and disclosures regarding misuse of public position and breach of public trust within the use and procurement of the means of transportation for officers and employees of the state executive and judicial branches (made pursuant to s. part II of ch. 287, F.S.). The Chief Financial Officer (CFO) reports incidents of actual or suspected violations of these procurement provisions to the Commission on Ethics.<sup>39</sup> Presumably, the CFO is made aware of such violations by reports from a public employee or individual who suspects a violation. The bill does not extend protections to persons who report suspected violations of the relevant state motor vehicle laws to the CFO. In order to give effect to the protection provided in section 1 of the bill (lines 104-113), the Legislature may wish to extend protections to employees and persons who properly file a complaint with an agency or the CFO, rather than just the Commission on Ethics, on lines 114-123 of the bill.

#### Forms Used

At lines 115-117, the bill limits protections, in relevant part, to complainants disclosing the original violation “on a form prescribed by the” Commission on Ethics. The commission, pursuant to s. 112.324(1)(a), F.S., already has a complaint form to report violations of the public trust.<sup>40</sup> If the Legislature intends to refer to the form in s. 112.324(1)(a), F.S., it should clearly provide at lines 114-116 that the bill protects employees and persons who submit a written complaint for the original ethic violation “on the form specified in s. 112.324(1)(a), F.S.”

#### Consistent Use of “Adverse Personnel Action”

The bill addresses remedies available to aggrieved individuals, specifying at lines 125-127 that any aggrieved state employee “who is discharged, disciplined, or subject to other adverse personnel action” may seek the remedies provided in this bill. For clarity, the Legislature may wish to use the defined term and remove the specific reference to discharge and discipline. The Legislature may consider “[a]ny employee of or applicant for employment with any state agency as defined in s. 216.011 who is subjected to any adverse personnel action.”

#### Clarity in Time Limitations for Certain Remedies

At lines 160-163, the bill provides that “other persons protected” who exhaust “all available contractual or administrative remedies,” only have 180 days after the prohibited personnel action to bring an action in court. The Legislature may wish to clarify that it means exhaustion of contractual *and* administrative remedies. Additionally, it may take more than 180 days after the prohibited personnel action to exhaust the administrative and contractual remedies (for example, the Commission on Human Relations has up to 180 days to issue a fact-finding report), meaning the protected person would not be able to file a civil action. The Legislature may wish to provide that the protected person has 180 days after the final decision in the administrative and contractual remedies to file a civil action in court.

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<sup>39</sup> Section 287.175, F.S.

<sup>40</sup> See Rule 34-7.010(1)(b), F.A.C.

## **VII. Related Issues:**

### **Local Ethics Commissions**

Section 112.324, F.S., addresses investigations by a local commission on ethics and public trust established by any county or municipality. At least two counties—Palm Beach<sup>41</sup> and Miami-Dade<sup>42</sup>—have established their own ethics commissions, empowered to accept and investigate complaints. Moreover, any political subdivision of the state may impose on their employees and officers “additional or more stringent standards of conduct and disclosure requirements,” than those established by state law. These political subdivisions may establish separate investigatory procedures for alleged violations of the additional and more stringent ethical standards.<sup>43</sup> These commissions also investigate alleged violations of the Code of Ethics and other ethical standards established by Florida law.

Currently, the bill does not address adverse personnel actions taken in retaliation for complaints made to or in cooperation with local ethics commissions. While the bill does discuss reports to local governmental authorities, these are reports of adverse personnel actions taken in violation of this bill and not reports made for the original violation that forms the basis for the retaliatory action. The bill also does not address any reports of violations of the additional or more stringent standards local governments may impose on their officers and employees.

The Legislature may wish to extend the antiretaliation protections in this bill to complaints to and cooperations with local commissions on ethics and public trust in response to alleged violations of ethical standards already addressed by this bill. The Legislature could additionally extend the protections in this bill to encompass complaints to and cooperation with these local commissions regarding alleged violations of any additional or more stringent ethical standards imposed by the local government.

### **Compared to Investigations Under the Public-Sector Whistle-blower’s Act**

While the antiretaliation protections provided under this bill mirror a portion of the public-sector Whistle-blower’s Act (WBA), this bill does not include certain procedures, protections, and processes in the WBA. This may be an oversight.

The Commission on Human Relations (CHR) is a creature of ch. 760, F.S., which addresses unlawful discrimination, and administers the Florida Civil Rights Act of 1992 and the Florida Fair Housing Act. The WBA is the primary instance in which the CHR’s duties extend beyond ch. 760, F.S. Nothing in this bill, nor elsewhere in law, set forth investigatory procedures for the CHR for a complaint alleging retaliatory actions prohibited by this bill. In contrast, the WBA provides specific investigatory procedures for the CHR—primarily in s. 112.31895, F.S.<sup>44</sup> Currently, at lines 125-130, the bill provides that complaints to the CHR for retaliatory actions

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<sup>41</sup> See Palm Beach County Commission on Ethics, <https://www.palmbeachcountyethics.com/> (last visited Nov. 19, 2025).

<sup>42</sup> See Miami-Dade County Commission on Ethics and Public Trust, <https://ethics.miamidade.gov/ethics/home.page> (last visited Nov. 19, 2025).

<sup>43</sup> Section 112.326, F.S.; see s. 112.324(2)(a), F.S.

<sup>44</sup> This bill only mirrors s. 112.3187, F.S.

prohibited by this bill “must be made in accordance with s. 112.31895[, F.S.].” Those procedures, however, are explicitly limited to investigations under the WBA.

Section 112.31895, F.S., of the WBA prescribes certain procedures in response to receiving a complaint, how and when the CHR creates and provides a fact-finding report, and the rights to appeal. These procedures also include instances in which the CHR must report findings to the Florida Department of Law Enforcement, more detailed directions on when and how to provide relief and allows the CHR to petition for attorney’s fees from a guilty state agency. These are not in the bill.

Given the limited nature of the CHR’s function outside of ch. 760, F.S., and the explicitly limiting language in the WBA, the Legislature may consider amending this bill and s. 112.31895, F.S., to clearly provide that the CHR should treat violations of this bill as violations of the WBA and use those investigatory procedures.

### **Individuals and Actions Not Protected Under This Bill**

There are various means and channels available to report or disclose ethical violations. The bill, however, only protects complaints and disclosures to the Commission on Ethics. Thus, if the complainant submits a complaint through other permissible channels these protections do not apply.

For instance, the WBA protects disclosures made to a broad array of relevant entities. The WBA, unlike this bill, also protects from retaliatory actions:

- Reports made to superiors;
- Complaints and disclosures made to, and cooperations with, governmental entities other than the Commission on Ethics that are charged with investigating or having oversight authority over the alleged ethical violation;
- Complaints made via hotline or not in writing; and
- Refusals to participate in a prohibited retaliatory action.

Also excluded from this bill’s protection are:

- Disclosures to the Chief Financial Officer regarding violations of the relevant ethical standards for means of transportation for state officers and employees; and
- Reports about an employee or commissioner of the Commission on Ethics, because those complaints are not filed with the Commission on Ethics.<sup>45</sup>

The Legislature may wish to extend protections to reports and disclosures “to an agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act,” or appropriate supervisor. This would mirror the language in the WBA.

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<sup>45</sup> See s. 112.324(10), F.S.



**Application to “Independent Contractors”**

The legislative intent section, specifically lines 59-64, provides that the bill intends to “prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency any violation of this part or s. 8(f), Art. II of the State Constitution on the part of a public employer or an independent contractor.” The quoted language appears to hold independent contractors to the standards of conduct for public officers and employees under article II, section 8(f) of the State Constitution. This may pose additional cost on the private businesses working with state agencies, which in turn may discourage private businesses from working with state agencies. The Legislature may wish to amend the legislative intent section to clearly delineate whom it intends to impose these ethical standards.

**VIII. Statutes Affected:**

This bill creates section 112.3242 of the Florida Statutes and substantially amends section 112.324 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.