

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Wednesday, February 6, 2013

TIME: 10:30 a.m.—12:30 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Simpson, Chair; Senator Thompson, Vice Chair; Senators Bradley, Hukill, Latvala, Smith, Soto, Stargel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 92 Criminal Justice / Negrón (Similar H 119)	Searches and Seizures; Citing this act as the "Freedom from Unwarranted Surveillance Act"; prohibiting a law enforcement agency from using a drone to gather evidence or other information; authorizing an aggrieved party to initiate a civil action in order to prevent or remedy a violation of the act; prohibiting a law enforcement agency from using in any court of law in this state evidence obtained or collected in violation of the act, etc. CJ 01/15/2013 Fav/CS CA 02/06/2013 Favorable JU ACJ AP	Favorable Yeas 9 Nays 0
2	SB 264 Hays (Similar H 47)	Smoke Detectors; Requiring a battery-operated smoke detector installed on or after a specified date to contain a built-in battery capable of powering it for at least 10 years, etc. CA 02/06/2013 Fav/CS CM GO	Fav/CS Yeas 8 Nays 1
3	SB 2 Ethics and Elections (Compare H 233, H 285, H 379, S 272, Link S 4)	Ethics; Prohibiting public officers from accepting additional employment with the state or any of its political subdivisions; authorizing the Commission on Ethics or the Department of Financial Services to collect an unpaid fine within a specified period of the initial report of the automatic fine; prohibiting a reporting individual or procurement employee from soliciting or knowingly accepting a gift from a vendor; authorizing specified parties to submit written referrals of a possible violation of the Code of Ethics for Public Officers and Employees or other possible breaches of the public trust to the Commission on Ethics, etc. CA 02/06/2013 Fav/2 Amendments RC	Fav/2 Amendments (159386, 937534) Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 92

INTRODUCER: Criminal Justice Committee and Senator Negron and others

SUBJECT: Searches and Seizures

DATE: February 6, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	Anderson	Yeatman	CA	Favorable
3.			JU	
4.			ACJ	
5.			AP	
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 92 creates the “Freedom from Unwarranted Surveillance Act.”

The Committee Substitute (CS) prohibits law enforcement agencies, as defined by the CS, from using drones to gather evidence or other information.

The CS makes exceptions from the prohibition for certain risks of terrorist attack, for when a law enforcement agency obtains a search warrant, and under limited circumstances where an agency must act on reasonable suspicion without a warrant.

The term “drone” is defined by the CS.

Evidence gathered in violation of the CS is inadmissible in a criminal prosecution in any court of law in this state. Provisions are made in the CS for civil actions by an aggrieved party against a law enforcement agency that violates the prohibitions in the CS.

The CS becomes effective July 1, 2013.

This CS creates a new section of the Florida Statutes.

II. Present Situation:

Drones Historically Utilized by Military in Warfare, Hostile Situations

Drones, also called Unmanned Aerial Vehicles and Unmanned Aerial Systems, will be referred to as “drone” in this bill analysis.

Although drones were utilized as far back as the war in Vietnam, the term “drone” has recently become part of the vernacular since the use of drones by the U.S. military has become more common knowledge among the civilian population.¹ Because drones are unmanned aircraft, they are especially useful in search and destroy missions where military personnel would otherwise be placed in harm’s way.

Drones are also highly capable of gathering military intelligence because drones can be quite stealthy and they can carry sophisticated surveillance equipment. For example, the U.S. Army recently acquired a 1.8 gigapixel camera to use on its drones which can track objects on the ground from 65 miles away while the drone is flying at an altitude of 20,000 feet.²

Drones can be equipped with infrared cameras,³ license plate readers⁴ and “ladar” (laser radar).⁵ It has been reported that in 2011 the U.S. Army contracted with two corporations to develop facial recognition and behavioral recognition technologies for drone use.⁶

Drones range in size from wingspans of six inches to 246 feet and can weigh from approximately four ounces to over 25,600 pounds.⁷ They may be controlled manually or through an autopilot which uses a data link to connect the drone’s pilot to the drone.⁸

¹ *Unmanned Aerial Vehicles Support Border Security*, Customs and Border Protection Today, July 2004, www.cbp.gov/xp/CustomsToday/2004/Aug/other/aerial_vehicles.xml.

² *Drones in Domestic Surveillance Operations*, Congressional Research Service, September 6, 2012, www.fas.org/sgp/crs/natsec/R42701.pdf.

³ These cameras are capable of “seeing” based upon the relative levels of heat in its viewing area. For example, see <http://www.draganfly.com/uav-helicopter/draganflyer-x6/features/flir-camera.php>.

⁴ *Drones in Domestic Surveillance Operations*, Congressional Research Service, September 6, 2012, www.fas.org/sgp/crs/natsec/R42701.pdf; *Unmanned Aerial Vehicles Support Border Security*, Customs and Border Protection Today, July 2004, www.cbp.gov/xp/CustomsToday/2004/Aug/other/aerial_vehicles.xml.

⁵ “Ladar” is reported to produce three-dimensional images and has the capability to “see” through trees and foliage. *Drones in Domestic Surveillance Operations*, Congressional Research Service, September 6, 2012, www.fas.org/sgp/crs/natsec/R42701.pdf; U.S. Army, UAS Center for Excellence, *Eyes of the Army, US Army Roadmap for Unmanned Aircraft Systems 2010-2035* (2010).

⁶ Clay Dillow, Popular Science, September 28, 2011, popsci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind.

⁷ 14 CFR Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, February 6, 2007.

⁸ *Id.*

Non-Military Drone Flight in the United States

There is usefulness for drones not just militarily but domestically as well. As far back as 2007, the Federal Aviation Administration (FAA) was aware of approximately 50 companies, universities, and government organizations developing and producing some 155 drone designs in the United States alone.⁹

Drones have been used in a multitude of tasks by U.S. government agencies, and in other countries. The first non-military use of drones by a government agency came in 2004 when the U.S. Customs and Border Patrol began to utilize them.¹⁰ In February 2010, the U.S. Customs and Border Patrol began operating a center in Cocoa Beach flying eight drones along Florida's shorelines and the Gulf Coast.¹¹

Other documented non-military tasks have included earthquake damage assessment at Japan's Fukushima power plant, volcano activity assessment of Mount St. Helens in Washington for the U.S. Geological Survey, and surveying wild fires in Texas.¹²

At the University of Florida, over the last 12 years, the Unmanned Aerial Systems Research Group has been developing an 11 pound drone with a 9 foot wingspan that is called "Nova 2.1." According to researchers, it can be used to safely and accurately gather data that will be helpful to wildlife biologists and many others.¹³

Clearly, the drone industry is becoming motivated to move into more civilian markets.¹⁴ Reportedly Florida is competing to secure a position as a leading development, testing, and manufacturing site for drones.¹⁵

Integrating Drones into the Nation's Airspace System

In February 2012 Congress passed the FAA Modernization and Reform Act of 2012 (Act), which requires the FAA to safely open the nation's airspace to drones by September 2015.¹⁶ Under the timetable set forth by Congress, the FAA has authorized government public safety

⁹ 14 CFR Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, Unmanned Aircraft Operations in the National Airspace System, February 6, 2007.

¹⁰ *Unmanned Aerial Vehicles Support Border Security*, Customs and Border Protection Today, July 2004, www.cbp.gov/xp/CustomsToday/2004/Aug/other/aerial_vehicles.xml.

¹¹ *Space Florida Probing Drone's Future Potential*, Howard Altman, Tampa Bay Online, August 5, 2012, www2.tbo.com/news/breaking-news/2012/aug/05/space-florida-probing-drones-future-potential-ar-453511/.

¹² *Drones for Hire*, Air & Space Smithsonian, James Chiles, January 2013, www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html.

¹³ *Florida Hopes to Fill Its Skies with Unmanned Aircraft*, Florida Today, James Dean, June 23, 2012, <http://usatoday30.usatoday.com/news/nation/story/2012-06-23/increased-drone-use-privacy-concerns/55783066/1>; *UF Team's Work Pays Off With Unmanned-flight System that Captures Valuable Data*, Phys Org, October 20, 2010, <http://phys.org/news/2010-10-uf-team-unmanned-flight-captures-valuable.html>.

¹⁴ *Drones for Hire*, Air & Space Smithsonian, James Chiles, January 2013, www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html.

¹⁵ *Florida Vies to be America's Drone Capital*, RT, June 29, 2010, <http://rt.com/usa/news/florida-drone-space-unmanned-091/print/>.

¹⁶ Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012; *Drones in Domestic Surveillance Operations*, Congressional Research Service, September 6, 2012, www.fas.org/sgp/crs/natsec/R42701.pdf.

agencies to operate drones under certain restrictions and made the process for approving authorization requests more efficient.¹⁷

However, the FAA appears to be proceeding with caution in its implementation of the 2012 Federal Act. The FAA has delayed selecting the six test sites for drones mandated by Congress. Further, although it seems to be outside the congressional mandate and beyond the scope of the FAA's airspace-safety responsibilities, the FAA has notified Congress that "privacy issues" have become a concern as drones are integrated into the airspace.¹⁸

The 2012 Act directed the FAA to "allow a government public safety agency to operate unmanned aircraft weighing 4.4 pounds or less" under certain restrictions. The Act specified that these drones must be flown within the line of sight of the operator, less than 400 feet above the ground, during daylight conditions, inside Class G (uncontrolled) airspace and more than five miles from any airport or other location with aviation activities.¹⁹

Prior to the passage of the Act in 2012, the FAA and the Department of Justice had been working on an agreement to streamline the Certificate of Authorization (COA) process for law enforcement agencies. Initially, law enforcement organizations will receive a COA for training and performance evaluation. When the organization has shown proficiency in flying its drone, it will receive an operational COA. The agreement between the FAA and the Department of Justice expands the allowable drone weight up to 25 pounds.²⁰

Drone Use by Law Enforcement Agencies in Florida

The FAA issued COAs to Florida law enforcement agencies as early as 2009. Those early COAs for training and trial purposes were issued to the Miami-Dade Police Department and the Polk County Sheriff's Office.²¹

Reportedly, officials in Polk County, Florida, decided after a year of drone trials that the cost of meeting FAA regulations, in particular, the cost of pilot training, was too high and halted use of its fixed-wing model drone in 2010.²²

¹⁷ *FAA Makes Progress with UAS Integration*, Federal Aviation Administration, May 14, 2012, www.faa.gov/news/updates/?newsId=68004; Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012.

¹⁸ A *Bloomberg* report quotes the FAA Acting Chief as having written to members of the Congressional Unmanned Systems Caucus: "However, increasing the use of UAS in our airspace also raises privacy issues, and these issues will need to be addressed as unmanned aircraft are safely integrated." *FAA Going Slow on Drones as Privacy Concerns Studied*, Alan Levine, *Bloomberg*, November 26, 2012, <http://go.bloomberg.com/political-capital/2012-11-26/faa-going-slow->

¹⁹ Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012; FAA Fact Sheet, Unmanned Aircraft Systems, December 14, 2012, http://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=14153.

²⁰ FAA Fact Sheet, Unmanned Aircraft Systems, December 14, 2012, http://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=14153.

²¹ The University of Florida was also the recipient of a COA from the FAA. The UF drone is reported previously in this Bill Analysis. <https://www.eff.org/file/34697>. Staff with the Florida Sheriff's Association reports that the Orange County Sheriff's Offices also have a drone program. Additional information on the Orange County program has not been provided.

²² *Space Florida Probing Drone's Future Potential*, Howard Altman, *Tampa Bay Online*, August 5, 2012, www2.tbo.com/news/breaking-news/2012/aug/05/space-florida-probing-drones-future-potential-ar-453511/.

The Miami-Dade Police Department received its COA for drone operational status in July 2011. It was renewed in December 2012 for a two-year period. The Miami-Dade Police Department has two Honeywell Corporation T-Hawk Model drones. One of the T-Hawks is on lease for one dollar (\$1) while the other was procured through a Department of Justice grant program. As of January 8, 2013, the T-Hawk drones had not flown an actual operation. The Aviation Unit was deployed to the scene of an armed and barricaded subject in December 2012 but the Unit saw no flight time.²³

Several Chiefs of Police in Florida have indicated that drones would benefit their agencies by reducing the risk to officers and citizens in high risk situations involving hostages, active shooters or armed, barricaded suspects.²⁴ Also, one police chief reported that drones could aid police agencies in their ability to patrol and search for persons in areas like bodies of water or a wooded area.²⁵

According to one police chief, drone technology provides an opportunity to conduct patrols that are normally conducted by traditional aviation at a fraction of the cost.²⁶ Another police chief mentioned that a drone would be useful in serving high-risk search warrants, natural disasters, and other emergencies.²⁷ Drones could diminish public safety risks that might otherwise occur during a high-speed car-chase because a drone could more safely follow a fleeing vehicle, according to one police chief.²⁸

Another police chief reported that the rapid deployment and aerial platform capabilities provided by drone technology, much like the current aviation units, significantly increase the search and rescue capabilities that are essential for police assistance where time is of the essence. He cited some examples such as situations involving missing swimmers, overturned boats, missing children, missing elderly people, and hazardous material response.²⁹

Federal and Other State Legislation

Senator Rand Paul filed a bill in Congress in 2012 that was essentially identical to Senate Bill 92. Neither the Senate bill nor its House companion bill made it out of committee.³⁰ Senator Paul is reportedly refiled the bill for consideration by the 113th Congress.

Similar legislation is expected to be filed in California, Illinois, New Jersey, Oregon, Missouri, Michigan, Indiana and Virginia.³¹

²³ Miami-Dade Police Department Fact Sheet, Special Patrol Bureau/Aviation Unit, Micro Air Vehicle "MAV" Program, provided to Senate Committee Staff, January 8, 2013.

²⁴ Memo provided to Senate Committee Staff on December 12, 2012, by the Florida Police Chiefs Association.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Preserving Freedom from Unwarranted Surveillance Act of 2012*, S.3287, H.R. 5925.

³¹ *New ND Lawmaker 1 of Many Drafting Drone Measures*, AP story by Dave Kolpack, January 4, 2013. The North Dakota bill appears to have been filed in response to a local case where the Border Patrol offered the use of its drone to verify that three armed men were no longer armed or on the premises where law enforcement was investigating an alleged cattle rustling situation. See *State v. Brosshart*, 32-2011-CR-00049, Northeast Central Judicial District, North Dakota.

III. Effect of Proposed Changes:

The short title for the CS is the “Freedom from Unwarranted Surveillance Act.” It generally prohibits law enforcement agencies from using drones to gather evidence or other information. Evidence obtained or collected by a law enforcement agency using a drone, unless it is permitted under one of the CS’s exceptions, is not admissible in a criminal prosecution in any court of law in this state.

A law enforcement agency is defined as a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.

In addition to the inadmissibility of evidence, a provision in the CS specifically allows for an aggrieved party to initiate a civil action to prevent or remedy a violation of the prohibitions in the CS. This language appears to provide for injunctive relief as well as actions for damages against the law enforcement agency in violation of the prohibitions in the CS.

The CS provides exceptions to the prohibition of drone use by a law enforcement agency in an information or evidence-gathering capacity. Under the exceptions a law enforcement agency may use a drone:

- To counter a high risk of a terrorist attack by an individual or organization if the U.S. Secretary of Homeland Security determines that there is credible intelligence indicating that such a risk exists.
- If the law enforcement agency first obtains a search warrant authorizing the use of a drone.
- If the law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or the destruction of evidence.

The CS becomes effective on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Fourth Amendment to the United States Constitution guarantees the people in this country security in their houses, persons, papers and possessions from unreasonable searches and seizures by government actors.³²

Article I, Section 12 of the Constitution of Florida contains the same guarantees as the Fourth Amendment, however the Florida provision specifically extends the protection to private communications. The Florida constitutional provision also states that it “shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution.”³³

The U.S. Supreme Court has not heard a case that implicates the Fourth Amendment as related to a search by a drone. Therefore we cannot state with complete certainty how the court might rule should it directly address the reasonableness of a drone search.

We find some guidance, however, from the court in its rulings in cases involving aerial searches by law enforcement officers in more conventional aircraft. For example, in *Florida v. Riley* and *California v. Ciraolo* which were cases involving surveillance from altitudes of 400 and 1,000 feet in close proximity to homes, the court found that no search had occurred. The court has indicated that measuring the “objective reasonableness” of the reasonable expectation of privacy in a particular location should and will take into account how common (or unusual) the method of surveillance.³⁴ Therefore it may be argued that a drone flying or hovering at an uncommon altitude, utilizing uncommon surveillance equipment could implicate the Fourth Amendment.

Legal issues related to the CS would most likely arise in the argument of a Motion to Dismiss or a Motion to Suppress Evidence filed by a defendant who has been charged with a criminal offense based upon evidence obtained as a result of police use of a drone to gather evidence or other information.

³² The text of the Fourth Amendment provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

³³ Article I, section 12, of the Florida Constitution provides:

Section 12. Searches and seizures.—

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution.

³⁴ *California v. Ciraolo*, 476 U.S. 207 (1986); *Florida v. Riley*, 488 U.S. 445 (1989).

The defendant's arguments would be that: 1) law enforcement violated the plain language of the drone law, therefore the evidence gathered is not admissible under that law; and 2) even if the police did not violate the drone law per se, they violated the defendant's Fourth Amendment protection against unreasonable search and the evidence is inadmissible under the exclusionary rule.³⁵

It is possible that the question of the reasonableness of a police search by use of a drone under Fourth Amendment precedence may not be reached at all. It seems more likely that the protection provided in the CS³⁶ will be viewed by the courts as a statutorily-created citizen protection that does not even implicate the Fourth Amendment. It should also be noted that generally states are free to place even more rigorous restraints upon state governmental intrusion than federal law requires.³⁷ Therefore it could be the case that the CS sets a whole new precedent in Florida law with regard to this narrow area involving the use of drones.

It is likely that the courts could focus on the fact that the CS *does not subject citizens* to a drone search let alone an unreasonable one, but rather the CS *prohibits or limits* certain law enforcement conduct, and that it is within the Legislature's power to protect citizens from police conduct just as it is within its power to subject citizens to police action. If the court finds that law enforcement violated the drone law, the court should rule the evidence derived as a result of that violation inadmissible.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS does not apply to the use of drones for any purposes other than state and local law enforcement use to gather evidence or other information. It does not restrict the use of drones for commercial, private, or research and information gathering in any way and therefore should have no impact on the scientific, commercial, or educational sectors.

Law enforcement agencies are not permitted to use information or evidence that is gathered through the prohibited use of a drone in a criminal prosecution. Therefore citizens should not be subject to criminal prosecution in cases that are based upon information or evidence gathered beyond the scope of the CS's exceptions, unless the case can be prosecuted on some independent basis.

³⁵ Under the exclusionary rule, evidence secured in violation of the Fourth Amendment is subject to exclusion (*i.e.*, suppression) in both federal and state criminal proceedings. *Mapp v. Ohio*, 367 U.S. 643, 81 S. Ct. 1684, 6 L. Ed. 2d 1081 (1961).

³⁶ The bill provides that evidence obtained is not admissible in a criminal prosecution in any court of law in Florida if that evidence is obtained in violation of the bill's prohibited drone use by law enforcement, unless the drone use falls within one of the bill's exceptions.

³⁷ *Traylor v. State*, 596 So.2d 957 (Fla. 1992).

C. Government Sector Impact:

State and local law enforcement are prohibited by the CS from using drones to gather evidence or information unless the use of the drone falls under one of the CS's exceptions to the prohibition. The evidence obtained or collected in violation of the prohibition, and outside the exceptions in the CS is inadmissible as evidence in a criminal prosecution; therefore, some criminal cases built around such evidence may be weakened or unprovable.

Law enforcement agencies may be subject to civil remedies, such as monetary damages or possibly an injunction preventing further drone activity, if sought by an aggrieved party under the provisions of the CS.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Criminal Justice on January 15, 2013:

- The CS includes local government code enforcement within the definition of law enforcement agency.
- The CS adopts additional exceptions to the drone-use prohibition in the bill. One of the additional exceptions allows law enforcement to use a drone if it is first authorized by a judge in a search warrant. The other exception to the prohibition occurs when a law enforcement agency possesses reasonable suspicion that under particular circumstances, swift action is necessary in order to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or the destruction of evidence.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators Negron,
Brandes, and Evers

591-00646-13

201392c1

1 A bill to be entitled
2 An act relating to searches and seizures; creating the
3 "Freedom from Unwarranted Surveillance Act"; defining
4 the terms "drone" and "law enforcement agency";
5 prohibiting a law enforcement agency from using a
6 drone to gather evidence or other information;
7 providing exceptions; authorizing an aggrieved party
8 to initiate a civil action in order to prevent or
9 remedy a violation of the act; prohibiting a law
10 enforcement agency from using in any court of law in
11 this state evidence obtained or collected in violation
12 of the act; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Searches and seizure using a drone.—

17 (1) SHORT TITLE.—This act may be cited as the "Freedom from
18 Unwarranted Surveillance Act."

19 (2) DEFINITIONS.—As used in this act, the term:

20 (a) "Drone" means a powered, aerial vehicle that:

21 1. Does not carry a human operator;

22 2. Uses aerodynamic forces to provide vehicle lift;

23 3. Can fly autonomously or be piloted remotely;

24 4. Can be expendable or recoverable; and

25 5. Can carry a lethal or nonlethal payload.

26 (b) "Law enforcement agency" means a lawfully established
27 state or local public agency that is responsible for the
28 prevention and detection of crime, local government code
29 enforcement, and the enforcement of penal, traffic, regulatory,

591-00646-13

201392c1

30 game, or controlled substance laws.

31 (3) PROHIBITED USE OF DRONES.—A law enforcement agency may
32 not use a drone to gather evidence or other information.

33 (4) EXCEPTIONS.—This act does not prohibit the use of a
34 drone:

35 (a) To counter a high risk of a terrorist attack by a
36 specific individual or organization if the United States
37 Secretary of Homeland Security determines that credible
38 intelligence indicates that there is such a risk.

39 (b) If the law enforcement agency first obtains a search
40 warrant signed by a judge authorizing the use of a drone.

41 (c) If the law enforcement agency possesses reasonable
42 suspicion that, under particular circumstances, swift action is
43 needed to prevent imminent danger to life or serious damage to
44 property, or to forestall the imminent escape of a suspect or
45 the destruction of evidence.

46 (5) REMEDIES FOR VIOLATION.—An aggrieved party may initiate
47 a civil action against a law enforcement agency to obtain all
48 appropriate relief in order to prevent or remedy a violation of
49 this act.

50 (6) PROHIBITION ON USE OF EVIDENCE.—Evidence obtained or
51 collected in violation of this act is not admissible as evidence
52 in a criminal prosecution in any court of law in this state.

53 Section 2. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JOE NEGRON

32nd District

COMMITTEES:
Appropriations, *Chair*
Banking and Insurance
Rules

SELECT COMMITTEE:
Select Committee on Patient Protection
and Affordable Care Act, *Chair*

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

January 23, 2013

The Honorable Wilton Simpson, Chair
Committee on Community Affairs
315 Knott Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 92

Dear Chairman Simpson:

I would like to respectfully request Senate Bill 92 relating to regulation of drones be placed on the agenda for the next scheduled committee meeting.

The Criminal Justice Committee unanimously approved this bill earlier this month.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron".

Joe Negron
State Senator
District 32

JN/hd

c: Tom Yeatman, Staff Director

REPLY TO:

- 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-13
Meeting Date

Topic RELATING TO SEARCH & SEIZURES

Bill Number SB 92
(if applicable)

Name MIKE FEWLESS

Amendment Barcode _____
(if applicable)

Job Title CAPTAIN

Address 2500 W. COLONIAL DRIVE
Street

Phone 407-254-7026

ORLANDO FL 32801
City State Zip

E-mail Mike.Fewless@ocfl.net

Speaking: For Against Information

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/6/13

Meeting Date

Topic DONES

Bill Number 92
(if applicable)

Name TIM Stanfield

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St, Suite 201

Phone 850 577 0358

Street

Tall

City

FL

State

32301

Zip

E-mail tstanfield@cltlaw.com

Speaking: For Against Information

Representing Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13

Meeting Date

Topic Searches & Seizures

Bill Number SB 92
(if applicable)

Name Ron Bilbao

Amendment Barcode _____
(if applicable)

Job Title Senior Legislative Associate

Address 4500 Biscayne Blvd, # 340

Phone 919-923-7288

MIAMI FL 33137

City

State

Zip

E-mail rbilbao@acluf1.org

Speaking: For Against Information

Representing ACLU of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13
Meeting Date

Topic Search & Seizure

Bill Number SB 92
(if applicable)

Name Keri Silver

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1565
Street

Phone (850) 524-2394

Tallahassee FL 32302
City State Zip

E-mail Keri@raybornconsultants.com

Speaking: For Against Information

Representing Florida Sheriffs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13
Meeting Date

Topic Civil use of UAV's

Bill Number SB92
(if applicable)

Name Chris Snow

Amendment Barcode _____
(if applicable)

Job Title Senior Director of Government Relations

Address 1580 Waldo Palmer Lane
Street

Phone 321 474 9754

Tallahassee FL
City State Zip

E-mail CSNOW@spaceflorida.gov

Speaking: For Against Information

Representing Space Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 264

INTRODUCER: Community Affairs Committee and Senator Hays

SUBJECT: Firesafety Devices

DATE: February 6, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			CM	
3.			GO	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS requires any battery-operated smoke alarm, newly installed or replaced after January 1, 2014, to be powered by a nonreplaceable, nonremovable battery capable of powering the smoke alarm for at least 10 years. This requirement does not apply to an electrically operated smoke alarm, a fire alarm system with a smoke detector, a fire alarm device that connects to a panel, or any similar device that uses a low-power radio frequency wireless communication signal.

The bill amends section 633.025, Florida Statutes.

II. Present Situation:

Fire Safety and Building Provisions in Florida

The Division of State Fire Marshall, housed within the Department of Financial Services, is responsible for protecting Floridians from fire hazards pursuant to ch. 633, F.S. Under s. 633.025, F.S., the State Fire Marshall, in conjunction with each municipality, county and special district with fire safety responsibilities, adopts the most current edition of the National Fire Protection Association (NFPA) 101, Life Safety Code. The NFPA 101 serves as a base code

for the triennial development of the Florida Fire Prevention Code and Life Safety Code (Fire Safety Code). Local governments enforce the Fire Safety Code as a minimum standard although they may adopt more stringent fire safety standards within their own jurisdictions subject to requirements provided in s. 633.025(4), F.S.

The Fire Safety Code operates in conjunction with the Florida Building Code (Building Code) adopted pursuant to ch. 553, F.S. The Building Code governs the design and construction of buildings and structures in the state and is developed and modified by the Florida Building Commission (Commission).¹ The Commission maintains and updates the Building Code and its component codes for plumbing, electrical, mechanical, energy conservation, accessibility, structural, and fire systems in buildings. The Building Code, like the Fire Safety Code, is adopted every three years and utilizes international codes as a foundation for Florida's base code. Enforcement of the Building Code is also similar to the Fire Safety Code: local governments bear this responsibility and may adopt more stringent code requirements within their own jurisdictions subject to provisions.²

Conflicts between the Fire Safety Code and the Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Commission in favor of requirements offering the greatest degree of life safety.³ If the State Fire Marshal and Commission are unable to agree on a resolution to a conflict, the issue goes to a mediator.

Smoke Alarm Provisions in Florida Fire Safety and Building Code

The NFPA 101 Life Safety Code, adopted by the State Fire Marshal as part of Florida's minimum fire safety code, contains fire alarm requirements for both new and existing buildings.⁴ For hotels, motels, and dormitories, smoke alarms are required in every guest room and living area, and every sleeping room within a guest suite. In new construction, alarms must receive their primary power from the building electrical service and also be provided with a battery backup. Existing alarms powered solely by the building electric service may remain in existing construction.

For apartments, a smoke alarm is required in every sleeping room, in the hallway or area leading to the sleeping rooms and on all levels, including basements. Alarms may be eliminated from the sleeping rooms if the building is protected by residential or quick response sprinklers.

In one- and two-family dwellings, alarms must be installed in the hallway or area leading to the sleeping rooms and on all levels, including basements. In new construction, alarms must be installed within each sleeping room. In new construction, alarms must be interconnected and provided with both AC and battery backup power. Alarms powered solely by the building

¹ Pursuant to s. 553.74, F.S., the Commission is a 25-member technical body appointed by the Governor subject to confirmation by the Senate. The Department of Business and Professional Regulation (DBPR) provides the Commission with administrative, technical, and legal support.

² See ss. 553.73(1)-(4) and 553.80, F.S.

³ See ss. 553.72(5) and 553.73(1)(d), F.S.

⁴ See Maryland Smoke Alarm Technology Task Force, *Exploring Changing Technologies to Improve Residential Smoke Alarm Performance* (August 2012) available at <http://www.mdsp.org/LinkClick.aspx?fileticket=-XeJdcj2rdw%3D&tabid=580&mid=1538>. The remainder of this section of the bill analysis paraphrases the Maryland Task Force's summary of NFPA 101 requirements.

electrical service, and in certain instances by a battery, are permitted to remain in existing buildings.

The types of rooms and areas requiring smoke alarms for new construction pursuant to the Building Code are similar to those cited in the Fire Safety Code.⁵ When alterations, repairs or additions requiring a permit occur, the structures or dwellings must be equipped with smoke alarms located as required for new construction. All alarms are to be hard-wired with battery back-up.

Neither the Fire Safety, nor the Building Code specifies the type of battery allowable in any smoke alarm that features a battery.

Smoke Alarm Provisions in Florida Statute

While the bulk of guidance on smoke alarms is provided through the relevant Codes, some smoke alarm provisions are provided in law. Florida Statutes require a smoke detector in guest rooms of specified public lodging establishments and time-share units.⁶ The smoke detector is either connected to a central alarm system which alarms locally or is an approved listed single-station device.⁷ In addition, unless otherwise agreed to in writing, landlords must install electrical or battery-operated smoke detection devices in single-family homes or duplexes.⁸ A hard-wired or battery-powered combination carbon monoxide and smoke alarm may be used to satisfy some of the carbon monoxide alarm requirements of s. 553.885, F.S.

Types of Smoke Detection

Smoke Alarms vs. Smoke Detectors

“Smoke alarms” are generally recognized as not being the same as “smoke detectors.”⁹ Smoke alarms are self-contained, single or multi-station units which detect the presence of smoke and sound an alarm. Smoke detectors are components of a fire alarm system with a panel. The detection unit itself does not necessarily sound the alarm. Instead, the signal is transmitted to the control unit which then sounds an alarm throughout the premises.

Ionization vs. Photoelectric Smoke Alarms

⁵ See Section R314 [2010 Florida Building Code: Residential (First Printing)] and Section 907 [2010 Florida Building Code: Building (First Printing)].

⁶ See ss. 509.215(1), 553.895(1), 721.24, F.S. Parameters related to establishment or building height, corridor access, means of egress and date of construction further specify which guest rooms require smoke detectors.

⁷ Section 509.215(1)(b), F.S., requires that the smoke detector meet the requirements of NFPA-74 “Standards for the Installation of Sprinkler Systems.” Section 902.1 of the 2010 Florida Building Code defines a single-station smoke alarm as an assembly incorporating the detector, the control equipment and the alarm-sounding device in one unit, operated from a power either supply in the unit or obtained at the point of installation.

⁸ Section 83.51, F.S.

⁹ Marty Aherns, *Smoke Alarms in U.S. Home Fires*, National Fire Protection Association, Fire Analysis and Research Division (September 2011) available at http://www.myfloridacfo.com/sfm/pdf/NFPA_SmokeAlarmsInHomeFires_2011-09.pdf.

The two most commonly recognized smoke detection technologies are ionization smoke detection and photoelectric smoke detection.¹⁰ Ionization smoke alarms are generally more responsive to flaming fires and photoelectric smoke alarms are generally more responsive to fires that begin with a long period of smoldering.

According to the Florida Department of Financial Services (DFS), best evidence has always indicated that either type of smoke alarm will provide sufficient escape time for most people for most fires of either smoldering or flaming type.¹¹ In addition to individual ionization and photoelectric alarms, combination alarms that include both technologies in a single device are available.

Battery-Operated Smoke Alarms in the Marketplace

Manufacturers currently provide smoke alarms with a variety of power sources including hard-wired with battery backup, battery-operated utilizing 9-volt batteries, and those featuring a 10-year sealed lithium battery.

Smoke Alarm Operability

A September 2011 report by the NFPA's Fire Analysis and Research Division found that almost two-thirds of recent home fire deaths resulted from fires in which no smoke alarm was present or at least one alarm was present but did not operate.¹² The report indicated that more than one-third (38 percent) of home fire deaths resulted from fires in properties with no smoke alarms at all and one-quarter (24 percent) were caused by fires in which smoke alarms were present but failed to operate. Half of the smoke alarms that failed to operate had missing or disconnected batteries.

Additional research into smoke alarm operability by the National Association of Fire Marshals Science Advisory Committee found that failure rates for smoke alarms increased with the age of the alarm.¹³ This study determined that at 10 years old, approximately 30 percent of smoke alarms were inoperable.¹⁴

Smoke Alarm Maintenance

A number of fire safety organizations provide information related to the proper installation and maintenance of smoke alarms including the International Association of Fire Chiefs' long running *Change your Clock, Change your Battery* campaign. An example of the advice highlighted in these kinds of informational efforts can be found at the United States Fire Administrations (USFA) website on smoke alarms.¹⁵

¹⁰ Florida Department of Financial Services, *Consumer Alert: What You Should Know About Smoke Alarms* (Feb. 6, 2009) available at <http://www.myfloridacfo.com/pressoffice/ViewConsumerAlert.asp?ID=3103>.

¹¹ *Ibid.*

¹² Marty Aherns, *Smoke Alarms in U.S. Home Fires*, National Fire Protection Association, Fire Analysis and Research Division (September 2011) available at http://www.myfloridacfo.com/sfm/pdf/NFPA_SmokeAlarmsInHomeFires_2011-09.pdf.

¹³ National Association of State Fire Marshals Science Advisory Committee, *Recommendation on Updates to the NASFM Smoke Alarm Guidance Document Regarding the Use of 10-Year Long-Life Batteries* (April 2012) available at https://www.firemarshals.org/pdf/SAC_White_paper_on_10-year_battery_FINAL_April_2012.pdf.

¹⁴ The same study stated that NFPA 72, the National Fire Alarm and Signaling Code, first required replacement of smoke alarms after 10 years in 1999.

¹⁵ U.S. Fire Administration, *Learn About Smoke Alarms*, available at <http://www.usfa.fema.gov/campaigns/smokealarms/alarms/index.shtml> (last visited Jan. 31, 2013).

The USFA's general guidelines on alarm maintenance provide the following advice:

- Smoke alarm powered by a 9-volt battery
 - Test the alarm monthly.
 - Replace the batteries at least once per year.
 - The entire smoke alarm unit should be replaced every 8-10 years.
- Smoke alarm powered by a 10-year lithium or "long life" battery
 - Test the alarm monthly.
 - Since you cannot and should not replace the lithium battery, the entire smoke alarm unit should be replaced according to manufacturer's instructions.
- Smoke alarm that is hardwired into the home's electrical system
 - Test the alarm monthly.
 - The backup battery should be replaced at least once per year.
 - The entire smoke alarm unit should be replaced every 8-10 years.

National Association of State Fire Marshals (NASFM) Science Advisory Committee Recommendation Regarding the Use of 10-Year Long-Life Batteries

In April of 2012, the Science Advisory Committee (SAC) of the NASFM recommended advising that battery-operated smoke alarms be powered by 10-year batteries.¹⁶ A summary of the recommendation included the following further guidance.

The SAC recommends that the smoke alarm contain the 10-year battery in a tamper resistant, sealed unit to prevent consumers from disabling the alarm or replacing the 10-year battery with a regular 9-volt battery or AA batteries, and so that both the unit and its battery would be replaced at the same time.

To provide guidance to consumers who may find the cost of the 10-year smoke alarms too high to purchase for installation everywhere that fire safety professionals recommend, the SAC suggests that the highest priority should be at least one long-life battery smoke alarm per floor, including the basement. Second priority should be outside every separate sleeping area.

Recent Smoke Alarm Legislation in other States

North Carolina¹⁷

Requires a landlord who installs or replaces a smoke alarm to use a 10-year lithium battery smoke alarm, unless the dwelling is equipped with a hardwired smoke alarm with battery backup

¹⁶ National Association of State Fire Marshals Science Advisory Committee, *Recommendation on Updates to the NASFM Smoke Alarm Guidance Document Regarding the Use of 10-Year Long-Life Batteries* (April 2012) available at https://www.firemarshals.org/pdf/SAC_White_paper_on_10-year_battery_FINAL_April_2012.pdf.

¹⁷ See Research Division North Carolina General Assembly September 2012: Summaries of Substantive Ratified Legislation, *Rental Property/Lithium Battery Smoke Alarms*, available at <http://www.ncleg.net/documentsites/legislativepublications/Research%20Division/Summaries%20of%20Substantive%20Ratified%20Legislation/Summaries%20of%20Substantive%20Ratified%20Legislation%20for%202012.pdf>.

or a smoke alarm that is combined with a carbon monoxide alarm. Tenants are not required to replace the batteries on 10-year lithium battery smoke alarms.

Louisiana¹⁸

All existing one or two-family dwellings at the time of sale or lease shall contain at a minimum, an operable ten-year, sealed lithium battery smoke detector. Failure to comply with the provisions of the above shall not cause a delay or a stoppage in the transfer of property. In addition, the real estate agent shall not be held liable for the seller's failure to comply with the law.

Oregon¹⁹

Requires all ionization smoke alarms sold in the state --- which are solely battery-operated --- to be packaged with a 10-year battery. In addition, when selling a home, all smoke alarms must meet the following requirements: all ionization smoke alarms must have a hush feature and if solely battery powered must also have a ten-year battery. Any purchaser or transferee of a dwelling unit who is aggrieved by a violation of the above may bring an individual action in an appropriate court to recover actual damages or \$50, whichever is greater.

III. Effect of Proposed Changes:

Section 1 amends s. 633.025, F.S., to require any battery-operated smoke alarm, newly installed or replaced after January 1, 2014, to be powered by a nonreplaceable, nonremovable battery capable of powering the smoke alarm for at least 10 years. This requirement does not apply to an electrically operated smoke alarm, a fire alarm system with a smoke detector, a fire alarm device that connects to a panel, or any similar device that uses a low-power radio frequency wireless communication signal. Conforming cross references are also made.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁸ See Louisiana State Legislature: 2009 Regular Session, *HB 372 by Representative Nickie Monica/Act 163*, available at <http://www.legis.la.gov/legis/BillInfo.aspx?i=212514> (last visited Feb. 1, 2013).

¹⁹ See Chapter 479-Protection of Buildings From Fire; Electrical Safety Law: ORS 479.250 to 479.300 available at <http://www.leg.state.or.us/ors/479.html> (last visited Feb. 1, 2013).

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

None.

B. Private Sector Impact:

According to the Department of Financial Services, the number of private facilities or buildings that use battery-operated smoke detectors or alarms in Florida is unknown.²⁰ For those private facilities and buildings that do use these devices, it is not known how many of them currently utilize a built-in battery capable of powering the alarm for at least 10 years. People and entities installing or replacing alarms specified in the bill would incur associated costs for such installation.

The 2012 NASFM Recommendation Report states that an ionization smoke alarm with a 9-volt battery on average retails for \$10-12. Sealed 10-year lithium battery-operated smoke alarms can be purchased for less than \$20. Not having to purchase replacement batteries for a 10-year smoke alarm would allow private consumers to recoup the initial higher installation costs of these devices and, according to an industry representative estimate in the report, could actually save consumers money on replacement batteries that otherwise would have been purchased over the 10 years.

Manufacturers' sales of their 10-year sealed battery-operated smoke alarms would likely increase in Florida by an indeterminate amount while their battery-operated alarms powered by 9-volt sources would likely decrease by an indeterminate amount. Sales of 9-volt batteries typically used in smoke alarms would also likely decrease by an indeterminate amount.

C. Government Sector Impact:

According to the Department of Financial Services, the number of government facilities or buildings that use battery-operated smoke detectors or alarms is unknown.²¹ For those facilities that do use these devices, it is unknown how many of them currently utilize a built-in battery capable of powering the alarm for at least 10 years. Governmental entities installing or replacing alarms specified in the bill would incur associated costs for such installation.

The 2012 NASFM Recommendation Report states that an ionization smoke alarm with a 9-volt battery on average retails for \$10-12. Sealed 10-year lithium battery-operated smoke alarms can be purchased for less than \$20. Not having to purchase replacement batteries for a 10-year smoke alarm would allow governmental entities to recoup the initial higher installation costs of these devices.

²⁰ Florida Department of Financial Services, *Senate Bill 264 Analysis* (January 17, 2013) (on file with the Senate Committee on Community Affairs).

²¹ *Ibid.*

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 6, 2013:

- Confirms that the legislation addresses smoke alarms rather than smoke detectors.
- Clarifies that replacements of smoke alarms are required by the provisions.
- Provides conforming cross references.

- B. **Amendments:**

None.



894358

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2013	.	
	.	
	.	
	.	

The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (9), (10), and (11) of section
633.025, Florida Statutes, are amended to read:

633.025 Minimum firesafety standards.-

(9) Effective January 1, 2014, any battery-operated smoke
alarm that is newly installed or replaces an existing smoke
alarm must be powered by a nonreplaceable, nonremovable battery
capable of powering the smoke alarm for at least 10 years. This
subsection does not apply to an electrically operated smoke



13 alarm, a fire alarm system with a smoke detector, a fire alarm
14 device that connects to a panel, or any similar device that uses
15 a low-power radio frequency wireless communication signal.

16 (10)~~(9)~~ The provisions of the Life Safety Code do ~~shall~~ not
17 apply to newly constructed one-family and two-family dwellings.
18 However, fire sprinkler protection may be permitted by local
19 government in lieu of other fire protection-related development
20 requirements for such structures. While local governments may
21 adopt fire sprinkler requirements for one- and two-family
22 dwellings under this subsection, it is the intent of the
23 Legislature that the economic consequences of the fire sprinkler
24 mandate on home owners be studied before the enactment of such a
25 requirement. After the effective date of this act, any local
26 government that desires to adopt a fire sprinkler requirement on
27 one- or two-family dwellings must prepare an economic cost and
28 benefit report that analyzes the application of fire sprinklers
29 to one- or two-family dwellings or any proposed residential
30 subdivision. The report must consider the tradeoffs and specific
31 cost savings and benefits of fire sprinklers for future owners
32 of property. The report must include an assessment of the cost
33 savings from any reduced or eliminated impact fees if
34 applicable, the reduction in special fire district tax,
35 insurance fees, and other taxes or fees imposed, and the waiver
36 of certain infrastructure requirements including the reduction
37 of roadway widths, the reduction of water line sizes, increased
38 fire hydrant spacing, increased dead-end roadway length and a
39 reduction in cul-de-sac sizes relative to the costs from fire
40 sprinkling. A failure to prepare an economic report shall result
41 in the invalidation of the fire sprinkler requirement to any



894358

42 one- or two-family dwelling or any proposed subdivision. In
43 addition, a local jurisdiction or utility may not charge any
44 additional fee, above what is charged to a non-fire sprinklered
45 dwelling, on the basis that a one- or two-family dwelling unit
46 is protected by a fire sprinkler system.

47 (11) ~~(10)~~ Before imposing a fire sprinkler requirement on
48 any one- or two-family dwelling, a local government must provide
49 the owner of any one- or two-family dwelling a letter
50 documenting specific infrastructure or other tax or fee
51 allowances and waivers that are listed in but not limited to
52 those described in subsection (10) ~~(9)~~ for the dwelling. The
53 documentation must show that the cost savings reasonably
54 approximate the cost of the purchase and installation of a fire
55 protection system.

56 (12) ~~(11)~~ Notwithstanding ~~the provisions of~~ subsection (10)
57 ~~(9)~~, a property owner is ~~shall not be~~ required to install fire
58 sprinklers in any residential property based upon the use of
59 such property as a rental property or any change in or
60 reclassification of the property's primary use to a rental
61 property.

62 Section 2. This act shall take effect July 1, 2013.

63
64

65 ===== T I T L E A M E N D M E N T =====

66 And the title is amended as follows:

67 Delete everything before the enacting clause
68 and insert:

69 A bill to be entitled

70 An act relating to firesafety devices; amending s. 633.025,



894358

71 F.S.; requiring certain battery-operated smoke alarms to meet
72 specified standards; providing for applicability; conforming
73 cross-references; providing an effective date.
74

By Senator Hays

11-00217-13

2013264

1 A bill to be entitled

2 An act relating to smoke detectors; amending s.
3 633.025, F.S.; requiring a battery-operated smoke
4 detector installed on or after a specified date to
5 contain a built-in battery capable of powering it for
6 at least 10 years; providing exemptions; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Present subsections (9), (10), and (11) of
12 section 633.025, Florida Statutes, are renumbered as subsections
13 (10), (11), and (12), respectively, and a new subsection (9) is
14 added to that section, to read:

15 633.025 Minimum firesafety standards.-

16 (9) Any battery-operated smoke detector installed on or
17 after January 1, 2014, must contain a built-in battery capable
18 of powering the smoke detector for at least 10 years. However,
19 an electrically operated smoke detector, a fire alarm system
20 containing a smoke detector, a fire alarm device connecting to a
21 panel, or a device using a low-power radio frequency wireless
22 communication signal is exempt from the battery requirements of
23 this section.

24 Section 2. This act shall take effect July 1, 2013.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Community Affairs

CC: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

Subject: Committee Agenda Request

Date: January 17, 2013

I respectfully request that **Senate Bill #264**, relating to Smoke Detectors, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Alan Hays".

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-13

Meeting Date

Topic 10 yr. Smoke Alarms Bill Number SB 264
(if applicable)

Name Van B. Poole Amendment Barcode _____
(if applicable)

Job Title Managing Principal, Dutko Poole McKinley

Address 106 E. College Ave. Suite 1100 Phone 850 681-1980
Street

Tallahassee, FL 32301
City State Zip

E-mail van.Poole@dutkograyling.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/13
Meeting Date

Topic SMOKE DETECTORS

Bill Number SB 264
(if applicable)

Name BILL ERWALL

Amendment Barcode _____
(if applicable)

Job Title DIVISION CHIEF TALLAHASSEE FIRE

Address 327 N. ADAMS ST.

Phone 850 891-6644

TALL. FL 32301

E-mail BILL.ERWALL@TALGOV.COM

City State Zip

Speaking: For Against Information

Representing FFMIA Florida Fire Marshals Inspection Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 2

INTRODUCER: Ethics and Elections Committee and Senator Latvala and others

SUBJECT: Ethics

DATE: February 6, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts		ee SPB 7006 as introduced
2.	Anderson	Yeatman	CA	Fav/2 amendments
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Senate Bill 2 is a comprehensive ethics reform bill which allows filers to use a certified public accountant (CPA) to prepare financial disclosure filings. The bill provides a “safe harbor” when errors are made by a CPA who was provided the necessary information to prepare the financial disclosure filing. Senate Bill 2 allows the Commission on Ethics (Commission) to collect unpaid financial disclosure fines by garnishment of wages and by authorizing the Commission to obtain a lien on the filer’s real property. The bill creates a procedure for curing erroneous financial disclosure fines prior to September 1. A procedure is created to permit a filer to cure a filing that is the subject of a complaint, for a period of thirty days after the complaint has been filed if the alleged violation is de minimis in nature. The bill requires a qualifying officer to forward the financial disclosure form of any candidate who qualifies for election prior to filing his or her financial disclosure to the Commission. If the candidate qualifies after he or she files annual financial disclosure, the candidate is permitted to file a copy of his or her financial disclosure form with the qualifying officer. All filers who file financial disclosure must designate whether the filer is using the dollar value threshold or the comparative (percentage) threshold to determine whether an interest is required to be disclosed. Finally, the bill creates a grace period to file a new final financial disclosure form to correct any errors on the original filing; and, it provides a thirty day period in which to cure de minimis violations when a complaint is filed

concerning a final financial disclosure filing. The bill extends the statute of limitations to collect an unpaid financial disclosure fine from four years to twenty years.

The bill incorporates a recommendation of the Nineteenth Statewide Grand Jury by allowing all public officers to place their assets in a blind trust. The blind trust must meet certain minimum requirements concerning the contents of the trust agreement and who can serve as trustee. If a public officer places assets in a blind trust, those assets would not give rise to certain conflicts of interest and voting conflicts. The public officer would be required to make certain disclosures concerning the blind trust on his or her annual financial disclosure. The bill also limits the communications between the public officer and the trustee. Finally, the public officer is required to file a notice of the blind trust with the Commission.

The bill defines the term “special private gain or loss” as used in the voting conflicts law. The bill prohibits a *state* public officer from voting on matters that would inure to his or her special private gain or loss. The bill also clarifies that a member of the Legislature may use a disclosure form created pursuant to the rules of his or her respective house to satisfy the voting conflict disclosure requirement.

Senate Bill 2 clarifies that only those who have the authority to purchase more than \$10,000 in a year are “procurement employees.” The bill also prohibits reporting individuals from soliciting a gift or honoraria, from accepting any honoraria, or from accepting a gift in excess of \$100 from a “vendor.” The bill defines the term “vendor.” For any gift from a vendor that is valued between \$25 and \$100, the vendor is required to report any gifts to reporting individuals or procurement employees on a quarterly basis.

Senate Bill 2 prohibits a reporting individual or procurement employee from soliciting or accepting a gift from a committee of continuous existence or a political committee.

In order to reduce the abuse of the ethics complaint process during elections the bill provides that a complaint may not be filed against a candidate for thirty days preceding an election unless the complaint is based on personal information or information other than hearsay. Additionally, any complaint filed against a candidate must be based upon personal information or information other than hearsay. The bill permits the Commission on Ethics to initiate investigations based upon a referral from the Governor, the Florida Department of Law Enforcement, a law enforcement agency, or a state attorney. Once a referral is received from the Governor, Florida Department of Law Enforcement, state attorney, or U.S. Attorney, a vote of 6 members of the Commission is required to initiate an investigation. After that determination, the procedure for handling the referral is the same as the current complaint process.

The bill requires “constitutional officers” to complete a minimum of 4 hours of training for ethics, open meetings, and public records laws. For purposes of this section, the term “constitutional officers” means the Governor, Lt. Governor, Attorney General, Chief Financial Officer, Agriculture Commissioner, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of circuit court, county commissioners, school board members, and school superintendents.

The bill expands the lobbying prohibition applicable to former members of the Legislature by prohibiting former members from lobbying any agency for a period of two years after leaving the Legislature. It also prohibits a former member from accepting any position as a partner, principal, or employee of a firm or entity for the purpose of drafting, strategizing, consulting, advising or in any way working on matters that will come before the Legislature, or to provide networking or relationship building services with sitting members of the Legislature. If an opinion is not sought prior to such employment or association, it is presumed that the employment or association is prohibited.

The bill prohibits dual public employment by elected public officers and candidates for elected public office under certain circumstances and restricts certain promotions or advancements. Specifically, the bill would prohibit an elected public officer or candidate for elected public office, for the period of that candidacy, from obtaining new public employment after qualifying for elected public office. Members who had public employment prior to qualifying as a candidate would be allowed to keep their employment. However, the member or candidate may not accept promotions, raises, or any other additional compensation which is inconsistent with other similarly situated employees when the member knows, or should know that the additional compensation is being given because of his/her office or candidacy.

Finally, the bill amends the “Executive Branch Expenditure Ban” to parallel the provisions of the “Legislative Branch Expenditure Ban.” Specifically, the bill provides that the Commission can investigate complaints alleging that a lobbyist or principal provided a prohibited expenditure to an executive branch agency official, member, or employee. The bill also provides that there be a civil penalty of up to \$5,000 if a lobbyist, or anyone who is required to be registered as a lobbyist, fails to disclose any required information. That penalty is in addition to any other penalty already authorized in that statute.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: ss. 112.312, 112.3125, 112.313, 112.3142, 112.31425, 112.3143, 112.3144, 112.31445, 112.3145, 112.31455, 112.3147, 112.3148, 112.31485, 112.3149, and 112.324.

II. Present Situation:

Financial Disclosure

Currently, all elected constitutional officers and candidates for such offices are required by Art. II, s. 8 of the State Constitution, to file a full and public disclosure of their financial interests (CE Form 6) annually. The annual full and public disclosure is also required of all statewide elected officers and any other officers, candidates, and employees as determined by law. Additionally, other local officers, state employees, and local employees are required to file an annual statement of financial interests (CE Form 1).¹ The Commission has promulgated forms by

¹ Members of an expressway authority or transportation authority are listed as required filers in s.112.3145 (1)(a)2.b., F.S. However, in Chapter 09-85, L.O.F., the Legislature required members of those authorities to file a full and public disclosure of their financial interests pursuant to s. 112.3144, F.S. Currently, the following officer or employees are not required to file financial disclosure: Community Redevelopment Agency members; finance directors of counties, municipalities, or other political subdivisions; Criminal Conflict and Civil Regional Counsel; or, Assistant Criminal Conflict and Civil Regional Counsel.

which a filer may amend his or her full public disclosure of financial interests (CE Form 6X) or statement of financial interests (CE Form 1X). The Commission has also promulgated disclosure forms required of a public officer or employee upon leaving office or public employment. Those forms are the final full and public disclosure of financial interests (CE Form 6F) and the final statement of financial interests (CE Form 1F). There is no specific form by which to amend a final full and public disclosure of financial interests or a final statement of financial interests. Currently, the financial disclosure requirements are contained in s. 112.3144, F.S., and s. 112.3145, F.S.

Those who are required to file a statement of financial interests pursuant to s. 112.3145, F.S., are required to disclose primary sources of income (other than from his or her public position), secondary sources of income (in certain circumstances), real property (other than a residence or vacation home in Florida), intangible personal property, liabilities, and interests in specified businesses. The law permits a filer to report the required interests based upon one of two thresholds. First, the filer may calculate whether an interest is required to be reported based upon whether that interest exceeds a specified percentage of his or her net worth. This is referred to as the “comparative (percentage) threshold.” Alternatively, the filer may determine whether an interest is reported if the interest exceeds a specified dollar value. This is referred to as the “dollar value threshold.” Because the law permits a filer to choose which threshold he or she is going to use, the CE Form 1 promulgated by the Commission requires a filer to identify the threshold used by checking a box. The statute does not currently expressly require this designation on the CE Form 1.

The Commission serves as the depository for financial disclosure filings of state officers or employees. Those who serve at a local level file their financial disclosure with the local supervisor of elections. The Commission and supervisors of elections are statutorily required to assist each other in identifying those subject to the financial disclosure requirement, providing notice to those individuals, and tracking receipt of financial disclosures. In the event that an individual fails to timely file his or her financial disclosure, the Commission imposes an automatic fine of \$25 per day for failure to timely file financial disclosure. The automatic fine is capped at \$1,500. Neither the Commission nor the supervisor of elections is required to examine the financial disclosure filings.

If a filer is uncertain about whether he or she is required to disclose information, the filer may contact the Commission for guidance. Usually, the Commission’s staff can answer simple questions by telephone or letter. In some circumstances, staff may not be able to provide such informal guidance. The Commission’s staff will usually provide the filer the “safe harbor” advice to disclose the information or will advise the filer to seek a formal opinion from the Commission at its next available meeting. Upon receipt of the guidance, the onus is on the filer to include the information on their original form or, if necessary, file an amendment form. A member of the public can file a complaint with the Commission alleging that the person failed to disclose information which they were legally obligated to disclose. That complaint follows the same procedure as any complaint alleging a violation of one of the standards of conduct in the Code of Ethics. In the event that the Commission finds the filer in violation, he or she is subject to the penalties in s. 112.317, F.S.

Gifts and Honoraria

Gifts to public officers and employees are regulated pursuant to s. 112.3148, F.S. “Gift” is defined in s. 112.312(9), F.S., and encompasses nearly anything of value. Under s. 112.3148, F.S., a reporting individual or procurement employee (“RIPE”) is prohibited from soliciting any gift from a political committee, committee of continuous existence, a lobbyist, or an employer, principal, partner or a firm of a lobbyist. A “reporting individual” is anyone who is required to file financial disclosure, including candidates. A “procurement employee” is an employee of an officer, department, board, commission, or council of the executive or judicial branch of state government who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds \$1,000 in any year.

Additionally, a RIPE is prohibited from knowingly accepting a gift from a political committee, committee of continuous existence, a lobbyist, or an employer, principal, partner or a firm of a lobbyist if the gift is valued over \$100. If a political committee, committee of continuous existence, a lobbyist, or an employer, principal, partner or a firm of a lobbyist gives a gift valued between \$25 and \$100 to a RIPE, the donor of the gift is required to report the gift on a quarterly basis using a CE Form 30.

Honoraria are regulated by s. 112.3149, F.S. An “honorarium” is a payment of money or anything of value, directly or indirectly, to a RIPE, or to any person on his behalf, as consideration for a speech, address, oration, or other oral presentation by the RIPE, regardless of whether presented in person, recorded, or broadcast over the media. An “honorarium” also includes a writing by the RIPE, other than a book, which has been or is intended to be published. “Honorarium” does not include payment for services related to employment held outside the RIPE’s public position; ordinary payment or salary received for services related to the person’s public position; campaign contributions regulated by Ch. 106, F.S.; or payment of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event. Actual and reasonable related expenses also include event or meeting registration fees to the RIPE and his or her spouse.

A RIPE is prohibited from soliciting any honorarium related to his or her public duties. A RIPE is also prohibited from knowingly accepting an honorarium from a political committee, committee of continuous existence, a lobbyist, or an employer, principal, partner or a firm of a lobbyist. A political committee, committee of continuous existence, a lobbyist, or an employer, principal, partner or a firm of a lobbyist is prohibited from giving an honorarium to a RIPE. The statute requires annual disclosure of any honorarium-related expenses received on a CE Form 10.

Gifts from Certain Political Committees

Committees of continuous existence and political committees are statutory entities authorized in s. 106.04, F.S., and s. 106.03, F.S., respectively, to engage in certain political activities. Currently, s. 112.3148, F.S., prohibits a reporting individual or procurement employee from soliciting a “gift” from a committee of continuous existence or a political committee. “Gift” is defined in s. 112.312(9), F.S., and encompasses nearly anything of value. However, there are

some items in that definition which are specifically excluded from the definition of “gift,” the most significant of which is a campaign contribution or expenditure regulated by Chapter 106 and/or federal law.² Current law also prohibits a reporting individual or procurement employee from accepting anything over \$100 in value. If a reporting individual or procurement employee accepts a “gift” valued less than \$100, but greater than \$25, the committee of continuous existence or political committee must disclose the gift by filing a CE Form 30 with the Florida Commission on Ethics.

Blind Trusts

Currently, there is no provision of the Florida Statutes addressing the use of blind trusts by public officers.

State Public Officer Voting Conflicts

Under s. 112.3143(2), F.S., *no state public officer is prohibited from voting in an official capacity on any matter*. However, any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting.

Complaints Against Candidates

Under s. 112.324(2)(c), F.S., a complaint may not be filed against a candidate in any special, primary, or general election on election day or within the five days preceding the election. Additionally, that Section prohibits disclosure of the intent to file an ethics complaint against a candidate on an election day or within the five days preceding the primary, special, or general election.

Initiation of Investigations

Pursuant to s. 112.324(1), F.S., the Commission may only initiate an investigation upon receipt of a sworn complaint. When the Commission receives a complaint, the Executive Director reviews the complaint for “legal sufficiency.” If the Executive Director determines that the complaint *is not legally sufficient*, the complaint is brought before the Commission in executive session. In executive session, the Commission may: find the complaint sufficient and order an investigation; find the complaint insufficient, dismiss it, and notify the complainant that no investigation will be made; or the Commission may take such other action that it deems appropriate. If the complaint is dismissed as legally insufficient, a summary of the reasons for dismissing the complaint together with the complaint itself and all related documents become public record.

² Section 112.313(12)(b)2, F.S.

If the Executive Director determines that the complaint is sufficient to invoke the jurisdiction of the Commission, the Executive Director orders the complaint to be investigated. After the Executive Director orders the complaint to be investigated, it is assigned to a neutral investigator for investigation consistent with the Commission's rules. After the investigation is completed the Commission reviews the complaint to determine whether probable cause exists to find a violation of the Code of Ethics. If the Commission determines that probable cause does not exist, the complaint is dismissed and all records become open to the public. If the Commission determines that probable cause exists, the complaint, files, and any further proceedings become public record. The subject of any complaint may waive confidentiality of the complaint against him or her at any time during the proceedings. If confidentiality is waived, all records are open to the public and any proceedings will be conducted in the public session of the Commission.

If probable cause is found against a public officer or employee, the officer or employee has the right to a public hearing. Pursuant to s. 112.324(3), F.S., public hearings can be conducted by the full Commission, a single Commission member, or by the Division of Administrative Hearings. The Commission does not have the authority to impose punishments if a violation is found. Instead, s. 112.324 F.S., specifies who has the authority to impose punishment.

Ethics Training

Currently, the Code of Ethics does not require any public officer or employee to complete training that addresses the Sunshine Amendment (Article II, s. 8, Florida Constitution) or the Code of Ethics for Public Officers and Employees (Part III, Chapter 112, Florida Statutes).

Legislative Revolving Door Policies

Article II, Section 8(e), of the Florida Constitution prohibits members of the Legislature from personally representing another person or entity for compensation before their former body for a period of two years following vacation of office. Additionally, that section prohibits members of the Legislature from personally representing another person or entity for compensation during term of office before any state agency other than judicial tribunals. These prohibitions are also codified in s. 112.313(9), F.S.

Dual Public Employment

Currently, there is no prohibition on members of the Legislature being employed by the state or any of its political subdivisions.

“Executive Branch Expenditure Ban”

The “Executive Branch Expenditure Ban” is located in s. 112.3215, F.S. The executive ban is the sister provision to the “Legislative Branch Expenditure Ban” in s. 11.045, F.S. The “Executive Branch Expenditure Ban” requires individuals to register with the Commission on ethics prior to

engaging in lobbying the executive branch. Each lobbying firm is required to make certain disclosures and is required to maintain records corroborating those disclosures.³

Under “Executive Branch Expenditure Ban,” an official, member, or employee of the executive branch is prohibited from soliciting or accepting, directly or indirectly, an expenditure from a lobbyist or principal.⁴ For purposes of this prohibition, the term “expenditure” means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term “expenditure” does not include contributions or expenditures reported pursuant to chapter 106, F.S., or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or an affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

III. Effect of Proposed Changes:

Financial Disclosure

Public Accessibility (Section 8)

The bill creates s. 112.31445, F.S., which requires the Commission to scan all CE Form 6 filers and make them available in an online searchable database beginning with the 2012 filing year. The bill requires the Commission, by December 1, 2015, to prepare a proposal for submission to the President of the Senate and the Speaker of the House for the creation of an online financial disclosure filings system. The system would be similar to the system used by candidates, political committees, and others pursuant to Chapter 106 of the Florida Statutes. At a minimum, the proposal must:

- Mandate online filing system for CE Form 6 filers;
- Provide a secure method that prevents unauthorized access to electronic filing system functions;
- Permit the filer, or his or her CPA, to file via the internet portal;
- Require that the filings in the database be accessible to the public;
- Describe any necessary statutory or rule authority changes;
- Provide for an alternative filing method in case the filing system is inoperable; and
- Provide for a receipt to be obtained verifying that the officer has filed his or her form.

Collection Tools (Sections 7 and 9)

The bill gives the Commission greater ability to collect financial disclosure fines. Specifically, the bill amends ss. 112.3144 and 112.3145, F.S., to increase the statute of limitations for the Commission to collect unpaid financial disclosure fines from four years to twenty years. The bill creates s. 112.31455, F.S., which gives the Commission new tools to collect unpaid financial disclosure fines. That Section requires the Commission to determine whether the person who

³ Section 112.3215(5), F.S.

⁴ Section 112.3215(6)(a), F.S.

owes the fine is a public officer, public employee, or is currently receiving public contract payments. If the Commission determines that the person is still receiving such public payments, then it must notify the Chief Financial Officer or governing body or board of the amount owed. Six months after receipt of the notice, the CFO or governing body/board must withhold up to 10 percent of any payment made from public money to satisfy outstanding fines. Additionally, the CFO or governing body/board may withhold up to 2 percent of each payment to compensate for administrative costs. If the Commission determines that the person is no longer a public officer, public employee, or receiving contractual payments from public funds, the bill gives the Commission the authority to seek a lien on real property, pursuant to Chapter 55, F.S., and/or garnishment of any wages, pursuant to Chapter 77, F.S., within the state six months after the order becomes final.

De Minimis Exception Procedures (Sections 7 and 9)

The bill creates a new procedure for addressing de minimis errors or omissions in ss. 112.3144 and 112.3145, F.S., concerning complaints alleging violations of the financial disclosure requirement. Specifically, the bill creates an absolute “cure” by specifying that any amended disclosure form that is filed prior to September 1 is to be treated as the original filing, regardless of whether a complaint was filed during that period. If a complaint pertaining to the current year, or the preceding 5 years alleges a failure to properly and accurately disclose any required information, the Commission may immediately follow its normal complaint procedures in s. 112.324, F.S. However, for a complaint filed after August 25, alleging an immaterial, inconsequential, or de minimis error or omission, the Commission must notify the filer that he or she has 30 days to file an amended financial disclosure form. If no amendment is filed within that timeframe, the Commission may continue with the complaint.

In the event that there is an error or omission made on the final financial disclosure filing, the filer has a grace period of 60 days from the date of the original filing to correct any errors, regardless of whether a complaint was filed. If a complaint is filed after sixty days alleging a complete omission of any information required to be disclosed, the Commission may immediately proceed with the complaint as provided for in s. 112.324, F.S. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the Commission must notify the filer that he or she has 30 days to file a new final financial disclosure form. If no amendment is filed within that timeframe, the Commission may continue with the complaint as provided in s. 112.324, F.S.

For purposes of these changes, the term “de minimis” is defined as an error or omission that is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest.

Preparation of Forms by a CPA/Safe Harbor (Sections 7 and 9)

Senate Bill 2 amends ss. 112.3144 and 112.3145, F.S., to permit all filers to use a CPA to prepare their financial disclosure forms for filing. The bill requires the CPA to attest that he or she prepared the form in accordance with applicable industry standards, if any, and that the form is true and correct to the best of his or her knowledge. If a complaint is filed alleging a failure to disclose anything required to be disclosed, the Commission must determine whether the CPA

was aware of the interest. If he or she was aware of the interest, but failed to disclose the interest, the officer cannot be held in violation for failure to disclose the item. The bill also amends ss. 112.3144 and 112.3145, F.S., to permit a candidate or elected officeholder to pay for the costs of the CPA from a campaign account created pursuant to s. 106.11, F.S., during the year that the individual qualifies for election to public office, or from his or her office account created pursuant to s. 106.141, F.S.

Candidate Qualifying Financial Disclosures (Sections 7 and 9)

The bill amends ss. 112.3144 and 112.3145, F.S., to require a qualifying officer to send an electronic copy of a candidate's financial disclosure form within three (3) days of receipt. The electronic copy sent to the Commission will satisfy that year's annual financial disclosure requirement. That provision only applies if the candidate qualifies before the deadline to file the annual financial disclosure filing. However, if the candidate qualifies after the candidate's financial disclosure form has been filed with the Commission or Supervisor of Elections, the candidate is required to file a copy of the disclosure form with his or her qualifying officer.

CE Form 1 Filing Requirements (Section 9)

The bill removes an outdated requirement in s. 112.3145, F.S., that members of an expressway authority or transportation authority file a CE Form 1. Those board members are required to file a CE Form 6 disclosure.⁵

The bill requires the following to file a statement of financial interests (CE Form 1) pursuant to s. 112.3145, F.S.:

- Community Redevelopment Agency board members;
- Finance directors of counties, municipalities, or other political subdivisions;
- Criminal Conflict and Civil Regional Counsel; and
- Assistant Criminal Conflict and Civil Regional Counsel.

Finally, the bill requires anyone filing a CE Form 1 to indicate whether the filer used the dollar value threshold or the comparative (percentage) threshold to determine whether the filer is required to disclose his or her interests.

Gifts and Honoraria (Sections 12 and 14)

The bill amends the definition of "procurement employee" in ss. 112.3148 and 112.3149, F.S., to clarify that only those employees who have authority to make more than \$10,000 in purchases during the year are procurement employees.

The bill also incorporates a recommendation of the Commission and the Nineteenth Statewide Grand Jury that reporting individuals or procurement employees be prohibited from soliciting any gift or honoraria, accepting any gift in excess of \$100, or accepting any honoraria from a

⁵ Ch. 2009-85, *Laws of Florida*.

“vendor.” A “vendor” is any business entity that is doing business directly with an agency, such as renting, leasing, or selling any realty, goods or services.

Gifts from Certain Political Committees (Section 13)

The bill creates s. 112.31485, F.S., prohibiting a reporting individual or procurement employee, or a member of his or her immediate family, from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee or a committee of continuous existence. The bill also prohibits a political committee or a committee of continuous existence from giving, directly or indirectly, any gift to a reporting individual or procurement employee, or his or her immediate family.

For purposes of this section, the bill defines “gift” as any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to Chapter 106, F.S. “Immediate family” means parent, spouse, child, or sibling. Finally, in addition to the penalties available in s. 112.317, F.S., the bill requires a penalty equal to three times the amount of the gift payable to the State’s General Revenue Fund. The reporting individual, procurement employee, immediate family member, or an agent or person acting on behalf of a committee of continuous existence or a political committee is personally liable for the treble penalty. The bill deletes references in the “Gifts Law” in s. 112.3148, F.S., to conform.

Blind Trusts (Section 5)

Senate Bill 2 creates s. 112.31425, F.S., permitting public officers to create a blind trust and place their assets into the trust. When a public officer places assets into a blind trust, the public officer gives the trustee the authority to dispose of the assets and the public officer must not attempt to influence or exert control over decisions regarding the management of the trust. However, the public officer may make requests for distributions, communicate with the trustee concerning his or her financial needs, and provide instructions to sell certain assets originally placed in the trust if the public officer is subsequently prohibited by law from holding the assets. The public officer would also be entitled to enough information from the trustee to prepare their personal income tax statements. The public officer would be required to disclose the blind trust as an asset on his or her financial disclosure form. The public officer would also be required to disclose as primary income any income exceeding the thresholds for reporting.

The bill prohibits certain relatives and other individuals from serving as a trustee. The bill also specifies that the trust agreement must contain a statement of purpose namely, to remove control and knowledge of the investments so that conflicts between the grantor’s responsibilities as a public officer and his or her private interests will be eliminated. The trust agreement must give the trustee complete control over the assets including the power to dispose of and acquire property. The agreement must specify that communications concerning the trust holdings or sources of income are prohibited. The agreement must also specify that the trust tax return is to be prepared by the trustee and information relating to the trust is not to be disclosed to the public officer.

The public officer must notify the Commission that the trust was created within 5 business days. The notice to the Commission must set forth the date the agreement was executed; the name and address of the trustee; and acknowledgement that he or she has agreed to serve as the trustee. Assets placed in a blind trust would not give rise to certain conflicts of interests. Specifically, assets in the trust would not create a violation of the prohibition on doing business with one's own agency in s. 112.313(3), F.S.; would not give rise to a conflicting employment or contractual relationship which would be prohibited in s. 112.313(7), F.S.; and the assets in the blind trust would not give rise to a voting conflict of interests under s. 112.3143, F.S.

State Public Officer Voting Conflicts (Section 6)

The bill defines the terms "principal" and "special private gain or loss" in s. 112.3143, F.S. For purposes of the bill, the term "principal" includes the parent organization or subsidiary of any person or entity by which the public officer is retained. The term "special private gain or loss" means an economic benefit or harm that would inure to the voting official or the voting official's relative, business associate, or principal in a unique way or disproportionate to other members of the group.

The bill prohibits a state public officer from voting on a measure that he or she *knows* will inure to his or her special private gain or loss. Under the bill, state public officers must disclose any interest when the officer *knows* a vote inures to his or her special private gain or loss. The bill maintains the current disclosure requirement concerning the interests of a relative; business associate; or principal by which the officer is retained. Further, state public officers *will be required to make every reasonable effort* to disclose any interest that is required to be disclosed prior to the vote but no later than 15 days after the vote occurs.

The bill clarifies in ss. 112.3143 and 112.3147, F.S., that members of the Legislature may satisfy the disclosure requirement using a form created pursuant to the rules of their respective house if the form contains all information required to be disclosed by s. 112.3143, F.S.

Complaints Against Candidates (Section 17)

Currently, s. 112.324, F.S., provides that a complaint against a candidate, or the intent to file a complaint against a candidate, may not be disclosed for a period of five days before a special, primary, or general election. The bill extends the period of time to thirty days before a special, primary, or general election, unless the complaint is based upon personal information or information other than hearsay.

Complaints and Investigative Proceedings (Section 17)

The bill amends s. 112.324, F.S., to authorize the Commission to initiate investigations based upon a referral received from the Governor, the Florida Department of Law Enforcement, a state attorney, or a U.S. Attorney. In order to investigate such a referral, a vote of six members of the Commission is required. The bill requires that records and proceedings associated with a referral remain confidential until: the Commission determines that it will not investigate the referral; the

Commission determines whether probable cause exists to believe that a violation occurred; or, the subject of the complaint waives confidentiality.⁶

The bill requires the Commission to dismiss any complaint, other than a complaint relating to financial disclosure filings, or referral at any stage of the proceedings if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the Commission shall consider whether the interests of the public were protected despite the violation. For purposes of this section, a “de minimis” violation is any violation that is unintentional and not material in nature.

Ethics Training (Section 4)

The bill creates s. 112.3142, F.S., requiring all constitutional officers to receive a minimum of four hours of training that addresses the Sunshine Amendment (Article II, Section 8, Florida Constitution), the Code of Ethics for Public Officers and Employees (Part III, Chapter 112, Florida Statutes), public records laws (Chapter 119, F.S.), and open meetings laws. The requirement can be satisfied by attending, or via recording of, a continuing legal education class, other continuing professional education class, seminar, or other presentation so long as the requirements herein are satisfied. The bill provides that an ethics training requirement for members of the Legislature is to be adopted by the rules of each respective house.

For purposes of the bill, “constitutional officers” means: the Governor, Lt. Governor, Attorney General, Chief Financial Officer, Agriculture Commissioner, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit courts, county commissioners, school board members, and school superintendents.

Legislative Revolving Door Policies (Section 3)

The bill amends s. 112.313(9), F.S., to prohibit a former member of the Legislature from lobbying *any* agency for a period of two years after vacation of office. Additionally, the former member is prohibited from becoming a partner, principal, or employee of a firm whose primary purpose is lobbying in a position the purpose of which is drafting, strategizing, consulting, advising or in any way working on matters that will come before the Legislature, or will provide networking or relationship building services with sitting members of the Legislature. This prohibition applies for a period of 2 years after vacation of office. The bill specifies that employment, partnership, or association with a principal, firm, or entity whose primary purpose is legislative lobbying is presumptively prohibited, unless either side requests an opinion of the Commission. If the former member affiliates with partnership, or association with a principal, firm, or entity whose primary purpose is legislative lobbying, that entity must file an annual statement attesting that the former member did not engage in any of the prohibited activities.

⁶ In order to exempt a referral from public records and open meetings laws, a second bill containing the public records and open meetings exemptions will be required pursuant to Article I, Section 24, Florida Constitution. That bill, SB 4, must pass by a 2/3 vote of each house.

The statement must be filed with either the Secretary of the Senate or the Clerk of the House of Representatives. If the former member served in both houses, then a form must be filed with both houses.

Dual Public Employment (Section 2)

The bill creates s. 112.3125, F.S., which prohibits an elected public officer or, for the period of his or her candidacy, any person who has qualified as a candidate for elected public office from accepting employment with the state or any of its political subdivisions. An exception is provided for persons who had public employment prior to qualifying for office. However, the candidate or member may not accept promotion, advancement, additional compensation, or other thing of value that he or she knows, or with the exercise of reasonable care should know, was given as a result of the officer's election or position as an officer, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or things of value provided to other similarly-situated employees.

These provisions do not apply to a qualified person seeking a position as an educator whose primary duties are instructional, as opposed to managerial or administrative, in nature.

"Executive Branch Expenditure Ban" Changes (Section 16)

The bill amends s. 112.3215, F.S., so that its provisions parallel the provisions in the "Legislative Branch Expenditure Ban" in s. 11.045, F.S. Specifically, the bill authorizes the Commission to investigate whether a lobbyist has made a prohibited expenditure. The bill also specifies that lobbyists, or anyone required to be registered as a lobbyist, who knowingly fails to disclose any information required to be reported is subject to a penalty up to \$5,000. That new penalty is in addition to any penalty already authorized pursuant to s. 112.3215(10), F.S., which may be imposed by the Governor and Cabinet.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill creates a new exemption for public records and open meetings related to referrals to the Commission on Ethics from the Governor, the Florida Department of Law Enforcement, a state attorney, or a U.S. Attorney. These exemptions are the subject of a travelling companion bill, SB 4.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

Barcode 937534 by Community Affairs on February 6, 2013:

Clarified the educator exemption for dual public employment includes online educators.

Barcode 159386 by Community Affairs on February 6, 2013:

Authorized additional public officer employment as long as there is no quid pro quo involved.



159386

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2013	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bradley) recommended the following:

Senate Amendment

Delete line 272
and insert:
employment with the state or any of its political subdivisions
which the public officer knows, or, with the exercise of
reasonable care, should know, is primarily established and
compensated by the employer for the purpose of gaining influence
or other advantage based on the public officer's elective office
or candidacy.



937534

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2013	.	
	.	
	.	
	.	

The Committee on Community Affairs (Hukill) recommended the following:

Senate Amendment

Delete line 285
and insert:
seeking a position as an educator, including a position as
an online educator, whose primary duties are



247078

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/06/2013	.	
	.	
	.	
	.	

The Committee on Community Affairs (Soto) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 398 and 399
insert:

(18) POSTEMPLOYMENT RESTRICTIONS; DEPARTMENT OF LEGAL AFFAIRS EMPLOYEES.—An employee of the Department of Legal Affairs who has investigatory or prosecutorial functions may not perform work for any person or entity that is the subject of a civil or criminal investigation or judicial proceeding by the Department of Legal Affairs for a period of 2 years after ending his or her employment with the department.



247078

13 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

14 And the directory clause is amended as follows:

15 Delete lines 288 - 289

16 and insert:

17 Section 3. Paragraph (a) of subsection (9) of section
18 112.313, Florida Statutes, is amended, and subsection (18) is
19 added to that section, to read:

20

21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete line 19

24 and insert:

25 requirements for a sworn statement; prohibiting
26 certain employees of the Department of Legal Affairs
27 from accepting employment from specified parties for a
28 period of 2 years after ending employment; creating s.

By the Committee on Ethics and Elections

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1 A bill to be entitled
2 An act relating to ethics; amending s. 112.312, F.S.;
3 revising the definition of "gift" to exclude specified
4 expenditures of a political committee or committee of
5 continuous existence; creating s. 112.3125, F.S.;
6 defining the term "public officer"; prohibiting public
7 officers from accepting additional employment with the
8 state or any of its political subdivisions; providing
9 exceptions; amending s. 112.313, F.S.; providing that
10 a member of the Legislature may not personally
11 represent another person or entity for compensation
12 before any state agency for a period of 2 years
13 following vacation of office; providing exceptions;
14 providing that no member of the Legislature may
15 associate as a partner, principal, or employee of a
16 firm whose primary purpose is lobbying the Legislature
17 within the first 2 years after vacation of office
18 under specified conditions; establishing filing
19 requirements for a sworn statement; creating s.
20 112.3142, F.S.; defining the term "constitutional
21 officers"; requiring constitutional officers to
22 complete annual ethics training; specifying
23 requirements for ethics training; requiring each house
24 of the Legislature to provide for ethics training
25 pursuant to its rules; creating s. 112.31425, F.S.;
26 providing legislative findings; providing that holding
27 an economic interest in a qualified blind trust is not
28 a prohibited conflict of interest; providing that a
29 public officer may not attempt to influence, exercise

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30 control of, or obtain information regarding the
31 holdings of the qualified blind trust; prohibiting
32 communication regarding the qualified blind trust
33 between a public officer or a person having a
34 beneficial interest in the trust and the trustee;
35 providing exceptions; requiring a public officer to
36 report the qualified blind trust and its value on his
37 or her financial disclosure form under specified
38 circumstances; establishing requirements for creation
39 of a qualified blind trust; requiring a public officer
40 who holds a qualified blind trust to file a notice
41 with the Commission on Ethics; requiring a covered
42 public official to file an amendment to his or her
43 most recent financial disclosure statement under
44 specified conditions; amending s. 112.3143, F.S.;
45 providing definitions for "principal" and "special
46 gain or loss"; requiring state public officers to
47 abstain from voting on any matter that the officer
48 knows would inure to his or her special private gain
49 or loss; requiring that a memorandum filed after a
50 vote be filed no later than 15 days after the vote;
51 providing that a member of the Legislature satisfies
52 the disclosure requirement by filing a form created
53 pursuant to the rules of his or her respective house;
54 amending s. 112.3144, F.S.; requiring the qualifying
55 officer to electronically transmit a full and public
56 disclosure of financial interests of a qualified
57 candidate to the commission; authorizing the
58 commission or the Department of Financial Services to

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59 collect an unpaid fine within a specified period of
60 the initial report of the automatic fine; providing
61 timeframes for the filing of certain complaints;
62 authorizing filing individuals to file an amended
63 statement during a specified timeframe under specified
64 conditions; authorizing the commission to immediately
65 follow complaint procedures under specified
66 conditions; prohibiting the commission from taking
67 action on complaints alleging immaterial,
68 inconsequential, or de minimis errors or omissions;
69 providing what constitutes an immaterial,
70 inconsequential, or de minimis error or omission;
71 authorizing an individual required to file a
72 disclosure to have the statement prepared by a
73 certified public accountant; requiring a certified
74 public accountant to attest to the veracity of the
75 disclosure; requiring the commission to determine if a
76 certified public accountant failed to disclose
77 information provided by the filing individual on the
78 filed statement; providing that the filing individual
79 is not in violation of the section if a certified
80 public accountant was in custody of such information
81 but failed to disclose it on the statement;
82 authorizing an elected officer or candidate to use
83 funds in an office account or campaign depository to
84 pay a certified public accountant for preparing a
85 disclosure; creating s. 112.31445, F.S.; providing a
86 definition for "electronic filing system"; requiring
87 all disclosures of financial interests filed with the

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88 commission to be scanned and made publicly available
89 on a searchable Internet database beginning with the
90 2012 filing year; requiring the commission to submit a
91 proposal to the President of the Senate and the
92 Speaker of the House of Representatives for a
93 mandatory electronic filing system by a specified
94 date; establishing minimum requirements for the
95 commission's proposal; amending s. 112.3145, F.S.;
96 revising the definitions of "local officer" and
97 "specified state employee"; requiring the qualifying
98 officer to electronically transmit a statement of
99 financial interests of a qualified candidate to the
100 commission; requiring a person filing a statement of
101 financial interest to indicate the method of reporting
102 income; authorizing the commission or the Department
103 of Financial Services to collect an unpaid fine within
104 a specified period of the initial report of the
105 automatic fine; providing timeframes for the filing of
106 certain complaints; authorizing filing individuals to
107 file an amended statement during a specified timeframe
108 under specified conditions; authorizing the commission
109 to immediately follow complaint procedures under
110 specified conditions; prohibiting the commission from
111 taking action on complaints alleging immaterial,
112 inconsequential, or de minimis errors or omissions;
113 providing what constitutes an immaterial,
114 inconsequential, or de minimis error or omission;
115 authorizing an individual required to file a
116 disclosure to have the statement prepared by a

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117 certified public accountant; requiring a certified
118 public accountant to attest to the veracity of the
119 disclosure; requiring the commission to determine if a
120 certified public accountant failed to disclose
121 information provided by the filing individual on the
122 filed statement; providing that the filing individual
123 is not in violation of the section if a certified
124 public accountant was in custody of such information
125 but failed to disclose it on the statement;
126 authorizing an elected officer or candidate to use
127 funds in an office account or campaign depository to
128 pay a certified public accountant for preparing a
129 disclosure; creating s. 112.31455, F.S.; requiring the
130 commission to determine whether an individual owing
131 certain fines is a current public officer or public
132 employee or is currently receiving public contract
133 payments; requiring the commission to notify the Chief
134 Financial Officer or the governing body of a county,
135 municipality, or special district of the total amount
136 of any fine owed to the commission by such
137 individuals; requiring that the Chief Financial
138 Officer or the governing body of a county,
139 municipality, or special district begin withholding 10
140 percent of any payment from public moneys that would
141 otherwise be paid to the current public officer,
142 public employee, or individual currently receiving
143 public contract payments; requiring that the withheld
144 payments be remitted to the commission until the fine
145 is satisfied; authorizing the Chief Financial Officer

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146 or the governing body to retain a percentage of
147 payment for administrative costs; authorizing
148 collection methods for the commission or the
149 Department of Financial Services for individuals who
150 are no longer public officers or public employees or
151 who are no longer receiving public contract payments;
152 amending s. 112.3147, F.S.; providing an exception to
153 the requirement that all forms be prescribed by the
154 commission; amending s. 112.3148, F.S.; revising the
155 definition of "procurement employee"; creating a
156 definition for "vendor"; prohibiting a reporting
157 individual or procurement employee from soliciting or
158 knowingly accepting a gift from a vendor; deleting
159 references to political committees and committees of
160 continuous existence; creating s. 112.31485, F.S.;
161 providing definitions for "gift" and "immediate
162 family"; prohibiting a reporting individual or
163 procurement employee or a member of his or her
164 immediate family from soliciting or knowingly
165 accepting any gift from a political committee or
166 committee of continuous existence; prohibiting a
167 political committee or committee of continuous
168 existence from giving any gift to a reporting
169 individual or procurement employee or a member of his
170 or her immediate family; providing penalties for a
171 violation; requiring that individuals who violate this
172 section be held personally liable; amending s.
173 112.3149, F.S.; revising the definition of
174 "procurement employee"; creating a definition for

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175 "vendor"; prohibiting a reporting individual or
176 procurement employee from knowingly accepting an
177 honorarium from a vendor; prohibiting a vendor from
178 giving an honorarium to a reporting individual or
179 procurement employee; reenacting s. 112.317(1)-(5),
180 F.S., relating to civil penalties, to incorporate the
181 amendments made to s. 112.3143, F.S., and the creation
182 of s. 112.31485, F.S., in a reference thereto;
183 amending s. 112.3215, F.S.; authorizing the commission
184 to investigate sworn complaints alleging a prohibited
185 expenditure; authorizing the commission to investigate
186 a lobbyist or principal upon a sworn complaint or
187 random audit; providing a civil penalty; amending s.
188 112.324, F.S.; authorizing specified parties to submit
189 written referrals of a possible violation of the Code
190 of Ethics for Public Officers and Employees or other
191 possible breaches of the public trust to the
192 Commission on Ethics; establishing procedures for the
193 receipt of written referrals by the commission;
194 extending the period in which the disclosure of the
195 intent to file or the filing of a complaint against a
196 candidate is prohibited; providing exceptions;
197 requiring the commission to dismiss a complaint of a
198 de minimis violation; providing exceptions; defining a
199 de minimis violation; reenacting s. 120.665, F.S.,
200 relating to disqualification of agency personnel, to
201 incorporate the amendments to s. 112.3143, F.S., in a
202 reference thereto; reenacting s. 286.012, F.S.,
203 relating to voting requirements at meetings of

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204 governmental bodies, to incorporate the amendments
205 made to s. 112.3143, F.S., in a reference thereto;
206 reenacting s. 287.175, F.S., relating to penalties, to
207 incorporate the amendments made to s. 112.324, F.S.,
208 in a reference thereto; reenacting s. 288.901(1)(c),
209 F.S., relating to Enterprise Florida, Inc., to
210 incorporate the amendments made to s. 112.3143, F.S.,
211 in a reference thereto; amending s. 445.007, F.S., and
212 reenacting subsection (1) of that section, relating to
213 regional workforce boards, to incorporate the
214 amendments made to s. 112.3143, F.S., in a reference
215 thereto; correcting cross-references; reenacting s.
216 627.311(5)(m), F.S., relating to joint underwriters
217 and joint reinsurers, to incorporate the amendments
218 made to s. 112.3143, F.S., in a reference thereto;
219 reenacting s. 627.351(6)(d), F.S., relating to
220 Citizens Property Insurance Corporation, to
221 incorporate the amendments made to s. 112.3143, F.S.;
222 providing an effective date.

223

224 Be It Enacted by the Legislature of the State of Florida:

225

226 Section 1. Paragraph (b) of subsection (12) of section
227 112.312, Florida Statutes, is amended to read:

228 112.312 Definitions.—As used in this part and for purposes
229 of the provisions of s. 8, Art. II of the State Constitution,
230 unless the context otherwise requires:

231 (12)

232 (b) "Gift" does not include:

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233 1. Salary, benefits, services, fees, commissions, gifts, or
234 expenses associated primarily with the donee's employment,
235 business, or service as an officer or director of a corporation
236 or organization.

237 2. Except as provided in s. 112.31485, contributions or
238 expenditures reported pursuant to chapter 106, contributions or
239 expenditures reported pursuant to federal election law,
240 campaign-related personal services provided without compensation
241 by individuals volunteering their time, or any other
242 contribution or expenditure by a political party or affiliated
243 party committee.

244 3. An honorarium or an expense related to an honorarium
245 event paid to a person or the person's spouse.

246 4. An award, plaque, certificate, or similar personalized
247 item given in recognition of the donee's public, civic,
248 charitable, or professional service.

249 5. An honorary membership in a service or fraternal
250 organization presented merely as a courtesy by such
251 organization.

252 6. The use of a public facility or public property, made
253 available by a governmental agency, for a public purpose.

254 7. Transportation provided to a public officer or employee
255 by an agency in relation to officially approved governmental
256 business.

257 8. Gifts provided directly or indirectly by a state,
258 regional, or national organization which promotes the exchange
259 of ideas between, or the professional development of,
260 governmental officials or employees, and whose membership is
261 primarily composed of elected or appointed public officials or

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262 staff, to members of that organization or officials or staff of
263 a governmental agency that is a member of that organization.

264 Section 2. Section 112.3125, Florida Statutes, is created
265 to read:

266 112.3125 Dual public employment.-

267 (1) As used in this section, the term "public officer"
268 includes any person who is elected to state or local office or,
269 for the period of his or her candidacy, any person who has
270 qualified as a candidate for state or local office.

271 (2) A public officer may not accept additional public
272 employment with the state or any of its political subdivisions.

273 (3) A person who was employed by the state or any of its
274 political subdivisions before qualifying as a public officer for
275 his or her current term of office, or the next available term of
276 office, may continue his or her employment except as otherwise
277 provided by law. However, he or she may not accept promotion,
278 advancement, additional compensation, or anything of value that
279 he or she knows, or with the exercise of reasonable care should
280 know, is provided or given as a result of his or her election or
281 position, or that is otherwise inconsistent with the promotion,
282 advancement, additional compensation, or anything of value
283 provided or given an employee who is similarly situated.

284 (4) This section does not apply to a qualified person
285 seeking a position as an educator whose primary duties are
286 instructional, as opposed to managerial or administrative, in
287 nature.

288 Section 3. Paragraph (a) of subsection (9) of section
289 112.313, Florida Statutes, is amended to read:

290 112.313 Standards of conduct for public officers, employees

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291 of agencies, and local government attorneys.—

292 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
293 LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

294 (a)1. It is the intent of the Legislature to implement by
295 statute the provisions of s. 8(e), Art. II of the State
296 Constitution relating to legislators, statewide elected
297 officers, appointed state officers, and designated public
298 employees.

299 2. As used in this paragraph:

300 a. "Employee" means:

301 (I) Any person employed in the executive or legislative
302 branch of government holding a position in the Senior Management
303 Service as defined in s. 110.402 or any person holding a
304 position in the Selected Exempt Service as defined in s. 110.602
305 or any person having authority over policy or procurement
306 employed by the Department of the Lottery.

307 (II) The Auditor General, the director of the Office of
308 Program Policy Analysis and Government Accountability, the
309 Sergeant at Arms and Secretary of the Senate, and the Sergeant
310 at Arms and Clerk of the House of Representatives.

311 (III) The executive director and deputy executive director
312 of the Commission on Ethics.

313 (IV) An executive director, staff director, or deputy staff
314 director of each joint committee, standing committee, or select
315 committee of the Legislature; an executive director, staff
316 director, executive assistant, analyst, or attorney of the
317 Office of the President of the Senate, the Office of the Speaker
318 of the House of Representatives, the Senate Majority Party
319 Office, Senate Minority Party Office, House Majority Party

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320 Office, or House Minority Party Office; or any person, hired on
321 a contractual basis, having the power normally conferred upon
322 such persons, by whatever title.

323 (V) The Chancellor and Vice Chancellors of the State
324 University System; the general counsel to the Board of Governors
325 of the State University System; and the president, provost, vice
326 presidents, and deans of each state university.

327 (VI) Any person, including an other-personal-services
328 employee, having the power normally conferred upon the positions
329 referenced in this sub-subparagraph.

330 b. "Appointed state officer" means any member of an
331 appointive board, commission, committee, council, or authority
332 of the executive or legislative branch of state government whose
333 powers, jurisdiction, and authority are not solely advisory and
334 include the final determination or adjudication of any personal
335 or property rights, duties, or obligations, other than those
336 relative to its internal operations.

337 c. "State agency" means an entity of the legislative,
338 executive, or judicial branch of state government over which the
339 Legislature exercises plenary budgetary and statutory control.

340 3. No member of the Legislature, appointed state officer,
341 or statewide elected officer shall personally represent another
342 person or entity for compensation before the government body or
343 agency of which the individual was an officer or member for a
344 period of 2 years following vacation of office. No member of the
345 Legislature shall personally represent another person or entity
346 for compensation during his or her term of office, or for a
347 period of 2 years following vacation of office, before any state
348 agency other than judicial tribunals or in settlement

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349 negotiations after the filing of a lawsuit. No member shall
350 associate as a partner, principal, or employee of a firm whose
351 primary purpose is lobbying the Legislature for a period of 2
352 years following vacation of office for the purpose of drafting,
353 strategizing, consulting, advising or in any way working on
354 matters that will come before the Legislature, or provide
355 networking or relationship building services with sitting
356 members of the Legislature. For purposes of this prohibition,
357 employment, partnership, or association with a principal, firm,
358 or entity whose primary purpose is legislative lobbying is
359 presumptively prohibited unless the principal, firm, entity, or
360 former member first seeks an opinion from the commission. The
361 employer, association or partnership, principal, firm, or entity
362 affiliating with a former member of the Legislature must file
363 annually a sworn statement with the Secretary of the Senate or
364 the Clerk of the House of Representatives affirming that the
365 former member did not engage in any of the prohibited
366 activities. If the former member who is employed as a lobbyist
367 served in both houses of the Legislature, the employer,
368 association or partnership, principal, firm, or entity
369 affiliating with the former member must file the sworn statement
370 with the Secretary of the Senate and the Clerk of the House of
371 Representatives.

372 4. An agency employee, including an agency employee who was
373 employed on July 1, 2001, in a Career Service System position
374 that was transferred to the Selected Exempt Service System under
375 chapter 2001-43, Laws of Florida, may not personally represent
376 another person or entity for compensation before the agency with
377 which he or she was employed for a period of 2 years following

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378 vacation of position, unless employed by another agency of state
379 government.

380 5. Any person violating this paragraph shall be subject to
381 the penalties provided in s. 112.317 and a civil penalty of an
382 amount equal to the compensation which the person receives for
383 the prohibited conduct.

384 6. This paragraph is not applicable to:

385 a. A person employed by the Legislature or other agency
386 prior to July 1, 1989;

387 b. A person who was employed by the Legislature or other
388 agency on July 1, 1989, whether or not the person was a defined
389 employee on July 1, 1989;

390 c. A person who was a defined employee of the State
391 University System or the Public Service Commission who held such
392 employment on December 31, 1994;

393 d. A person who has reached normal retirement age as
394 defined in s. 121.021(29), and who has retired under the
395 provisions of chapter 121 by July 1, 1991; or

396 e. Any appointed state officer whose term of office began
397 before January 1, 1995, unless reappointed to that office on or
398 after January 1, 1995.

399 Section 4. Section 112.3142, Florida Statutes, is created
400 to read:

401 112.3142 Ethics training for specified constitutional
402 officers.-

403 (1) As used in this section, the term "constitutional
404 officers" includes the Governor, the Lieutenant Governor, the
405 Attorney General, the Chief Financial Officer, the Commissioner
406 of Agriculture, state attorneys, public defenders, sheriffs, tax

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407 collectors, property appraisers, supervisors of elections,
408 clerks of the circuit court, county commissioners, district
409 school board members, and superintendents of schools.

410 (2) All constitutional officers must complete an annual 4-
411 hour ethics training that addresses, at a minimum, s. 8, Art. II
412 of the State Constitution, the Code of Ethics for Public
413 Officers and Employees, and the public records and public
414 meetings laws of this state. This requirement may be satisfied
415 by completion of a continuing legal education class or other
416 continuing professional education class, seminar, or
417 presentation if the required subjects are covered.

418 (3) Each house of the Legislature shall provide for ethics
419 training pursuant to its rules.

420 Section 5. Section 112.31425, Florida Statutes, is created
421 to read:

422 112.31425 Qualified blind trusts.—

423 (1) The Legislature finds that if a public officer creates
424 a trust and does not control the interests held by the trust,
425 his or her official actions will not be influenced or appear to
426 be influenced by private considerations.

427 (2) If a public officer holds a beneficial interest in a
428 qualified blind trust as described in this section, he or she
429 does not have a conflict of interest prohibited under s.
430 112.313(3) or (7) or a voting conflict of interest under s.
431 112.3143 with regard to matters pertaining to that interest.

432 (3) The public officer may not attempt to influence or
433 exercise any control over decisions regarding the management of
434 assets in a qualified blind trust. The public officer or any
435 person having a beneficial interest in the qualified blind trust

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436 may not make any effort to obtain information with respect to
437 the holdings of the trust, including obtaining a copy of any
438 trust tax return filed or any information relating thereto,
439 except as otherwise provided in this section.

440 (4) Except for communications that consist solely of
441 requests for distributions of cash or other unspecified assets
442 of the trust, the public officer or the person who has a
443 beneficial interest may not have any direct or indirect
444 communication with the trustee with respect to the trust, unless
445 such communication is in writing and relates only to:

446 (a) A request for a distribution from the trust which does
447 not specify whether the distribution is to be made in cash or in
448 kind;

449 (b) The general financial interests and needs of the public
450 officer or the person who has a beneficial interest, including,
451 but not limited to, an interest in maximizing income or long-
452 term capital gain;

453 (c) A notification of the trustee of a law or regulation
454 subsequently applicable to the public officer which prohibits
455 the officer from holding an asset and directs that the asset not
456 be held by the trust; or

457 (d) A direction to the trustee to sell all of an asset
458 initially placed in the trust by the public officer which, in
459 the determination of the public officer, creates a conflict of
460 interest or the appearance thereof due to the subsequent
461 assumption of duties by the public officer.

462 (5) The public officer shall report the beneficial interest
463 in the qualified blind trust and its value as an asset on his or
464 her financial disclosure form, if the value is required to be

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465 disclosed. The public officer shall report the blind trust as a
466 primary source of income on his or her financial disclosure
467 forms and its amount, if the amount of income is required to be
468 disclosed. The public officer is not required to report as a
469 secondary source of income any source of income to the blind
470 trust.

471 (6) In order to constitute a qualified blind trust, the
472 trust established by the public officer must meet the following
473 requirements:

474 (a) The person appointed as the trustee may not be:

475 1. The public officer's spouse, child, parent, grandparent,
476 grandchild, brother, sister, parent-in-law, brother-in-law,
477 sister-in-law, aunt, uncle, or first cousin, or the spouse of
478 any such person;

479 2. A person who is an elected or appointed public officer
480 or a public employee; or

481 3. A person who has been appointed to serve in an agency by
482 the public officer or by a public officer or public employee
483 supervised by the public officer.

484 (b) The trust agreement that establishes the trust must:

485 1. Contain a statement that its purpose is to remove from
486 the grantor control and knowledge of investment of trust assets
487 so that conflicts between the grantor's responsibilities as a
488 public officer and his or her private interests are eliminated.

489 2. Give the trustee complete discretion to manage the
490 trust, including, but not limited to, the power to dispose of
491 and acquire trust assets without consulting or notifying the
492 covered public officer or the person having a beneficial
493 interest in the trust.

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494 3. Prohibit communication between the trustee and the
495 public officer, or the person who has a beneficial interest in
496 the trust, concerning the holdings or sources of income of the
497 trust, except amounts of cash value or net income or loss, if
498 such report does not identify any asset or holding, or except as
499 provided in this section.

500 4. Provide that the trust tax return is prepared by the
501 trustee or his or her designee and that any information relating
502 thereto is not disclosed to the public officer or to the person
503 who has a beneficial interest, except as provided in this
504 section.

505 5. Permit the trustee to notify the public officer of the
506 date of disposition and value at disposition of any original
507 investment or interest in real property to the extent required
508 by federal tax law so that the information can be reported on
509 the public officer's applicable tax returns.

510 6. Prohibit the trustee from disclosing to the public
511 officer or the person who has a beneficial interest any
512 information concerning replacement assets to the trust, except
513 for the minimum tax information that lists only the totals of
514 taxable items from the trust and does not describe the source of
515 individual items of income.

516 (c) Within 5 business days after the agreement is executed,
517 the public officer shall file a notice with the commission
518 setting forth:

- 519 1. The date that the agreement is executed;
520 2. The name and address of the trustee; and
521 3. The acknowledgement by the trustee that he or she has
522 agreed to serve as trustee.

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523 (7) If the trust is revoked while the covered public
524 official is a public officer, or if the covered public official
525 learns of any replacement assets that have been added to the
526 trust, the covered public official shall file an amendment to
527 his or her most recent financial disclosure statement. The
528 amendment shall be filed no later than 60 days after the date of
529 revocation or the addition of the replacement assets. The
530 covered public official shall disclose the previously unreported
531 pro rata share of the trust's interests in investments or income
532 deriving from any such investments. For purposes of this
533 section, any replacement asset that becomes known to the covered
534 public official shall thereafter be treated as though it were an
535 original asset of the trust.

536 Section 6. Subsections (1) and (2) of section 112.3143,
537 Florida Statutes, are amended to read:

538 112.3143 Voting conflicts.—

539 (1) As used in this section:

540 (a) "Principal" includes the parent organization or
541 subsidiary of any person or entity by which the public officer
542 is retained.

543 (b) ~~(a)~~ "Public officer" includes any person elected or
544 appointed to hold office in any agency, including any person
545 serving on an advisory body.

546 (c) ~~(b)~~ "Relative" means any father, mother, son, daughter,
547 husband, wife, brother, sister, father-in-law, mother-in-law,
548 son-in-law, or daughter-in-law.

549 (d) "Special private gain or loss" means an economic
550 benefit or harm that would inure to the voting official or the
551 voting official's relative, business associate, or principal in

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552 a unique way or disproportionate to other members of the group.

553 (2) (a) A ~~No~~ state public officer may not vote on any matter
554 that the officer knows would inure to his or her special private
555 gain or loss ~~is prohibited from voting in an official capacity~~
556 on any matter. However, Any state public officer who abstains
557 from voting in an official capacity upon any measure that which
558 the officer knows would inure to the officer's special private
559 gain or loss or who votes in an official capacity on a measure
560 that; ~~which~~ he or she knows would inure to the special private
561 gain or loss of any principal by whom the officer is retained or
562 to the parent organization or subsidiary of a corporate
563 principal by which the officer is retained other than an agency
564 as defined in s. 112.312(2); or which the officer knows would
565 inure to the special private gain or loss of a relative or
566 business associate of the public officer, shall make every
567 reasonable effort to, ~~within 15 days after the vote occurs,~~
568 disclose the nature of his or her interest as a public record in
569 a memorandum filed with the person responsible for recording the
570 minutes of the meeting, who shall incorporate the memorandum in
571 the minutes. If it is not possible for the state public officer
572 to file a memorandum before the vote, the memorandum must be
573 filed with the person responsible for recording the minutes of
574 the meeting no later than 15 days after the vote.

575 (b) A member of the Legislature may satisfy the disclosure
576 requirements of this section by filing a disclosure form created
577 pursuant to the rules of the member's respective house if the
578 member discloses the information required by this subsection.

579 Section 7. Subsection (2) and paragraph (h) of subsection
580 (5) of section 112.3144, Florida Statutes, are amended, present

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581 subsection (7) is renumbered as subsection (9), and new
582 subsections (7) and (8) are added to that section, to read:

583 112.3144 Full and public disclosure of financial
584 interests.—

585 (2) A person who is required, pursuant to s. 8, Art. II of
586 the State Constitution, to file a full and public disclosure of
587 financial interests and who has filed a full and public
588 disclosure of financial interests for any calendar or fiscal
589 year shall not be required to file a statement of financial
590 interests pursuant to s. 112.3145(2) and (3) for the same year
591 or for any part thereof notwithstanding any requirement of this
592 part. When a candidate has qualified for office, the qualifying
593 officer shall, within 3 days of receipt of the full and public
594 disclosure of financial interests, forward an electronic copy of
595 the full and public disclosure to the commission. The electronic
596 copy of the full and public disclosure of financial interests
597 satisfies the annual disclosure requirement of this section. A
598 candidate who does not qualify until after the annual full and
599 public disclosure has been filed pursuant to this section~~7~~

600 ~~except that a candidate for office shall file a copy of his or~~
601 ~~her disclosure with the officer before whom he or she qualifies.~~

602 (5) Forms for compliance with the full and public
603 disclosure requirements of s. 8, Art. II of the State
604 Constitution shall be created by the Commission on Ethics. The
605 commission shall give notice of disclosure deadlines and
606 delinquencies and distribute forms in the following manner:

607 (h) Notwithstanding any provision of chapter 120, any fine
608 imposed under this subsection which is not waived by final order
609 of the commission and which remains unpaid more than 60 days

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610 after the notice of payment due or more than 60 days after the
611 commission renders a final order on the appeal must be submitted
612 to the Department of Financial Services as a claim, debt, or
613 other obligation owed to the state, and the department shall
614 assign the collection of such fine to a collection agent as
615 provided in s. 17.20. The commission or the Department of
616 Financial Services may take action to collect any unpaid fine
617 imposed by this subsection within 20 years after the automatic
618 fine is initially reported to the Department of Financial
619 Services.

620 (7) (a) The commission shall treat an amended full and
621 public disclosure of financial interests that is filed prior to
622 September 1 of the current year as the original filing,
623 regardless of whether a complaint has been filed. If a complaint
624 pertaining to the current year alleges a failure to properly and
625 accurately disclose any information required by this section or
626 if a complaint filed pertaining to a previous reporting period
627 within the preceding 5 years alleges a failure to properly and
628 accurately disclose any information required to be disclosed by
629 this section, the commission may immediately follow complaint
630 procedures in s. 112.324. However, if a complaint filed after
631 August 25 alleges an immaterial, inconsequential, or de minimis
632 error or omission, the commission may not take any action on the
633 complaint, other than notifying the filer of the complaint. The
634 filer must be given 30 days to file an amended full and public
635 disclosure of financial interests correcting any errors. If the
636 filer does not file an amended full and public disclosure of
637 financial interests within 30 days after the commission sends
638 notice of the complaint, the commission may continue with

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639 proceedings pursuant to s. 112.324.

640 (b) For purposes of the final full and public disclosure of
641 financial interests, the commission shall treat a new final full
642 and public disclosure of financial interests as the original
643 filing if filed within 60 days after the original filing,
644 regardless of whether a complaint has been filed. If, more than
645 60 days after a final full and public disclosure of financial
646 interests is filed, a complaint is filed alleging a complete
647 omission of any information required to be disclosed by this
648 section, the commission may immediately follow the complaint
649 procedures in s. 112.324. However, if the complaint alleges an
650 immaterial, inconsequential, or de minimis error or omission,
651 the commission may not take any action on the complaint, other
652 than notifying the filer of the complaint. The filer must be
653 given 30 days to file a new final full and public disclosure of
654 financial interests correcting any errors. If the filer does not
655 file a new final full and public disclosure of financial
656 interests within 30 days after the commission sends notice of
657 the complaint, the commission may continue with proceedings
658 pursuant to s. 112.324.

659 (c) For purposes of this section, an error or omission is
660 immaterial, inconsequential, or de minimis if the original
661 filing provided sufficient information for the public to
662 identify potential conflicts of interest.

663 (8) (a) An individual required to file a disclosure pursuant
664 to this section may have the disclosure prepared by a certified
665 public accountant licensed in this state. The certified public
666 accountant must attest on the form that he or she prepared the
667 disclosure in accordance with applicable industry standards, if

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668 any, and that, upon his or her reasonable knowledge and belief,
669 the disclosure is true and correct. If a complaint is filed
670 alleging a failure to disclose information required by this
671 section, the commission shall determine whether the information
672 was disclosed to the certified public accountant. The failure of
673 the certified public accountant to accurately transcribe
674 information provided by the individual required to file is not a
675 violation of this section.

676 (b) An elected officer or candidate who chooses to use a
677 certified public accountant to prepare his or her disclosure may
678 pay for the services of the certified public accountant from
679 funds in an office account created pursuant to s. 106.141 or,
680 during a year that the individual qualifies for election to
681 public office, the candidate's campaign depository pursuant to
682 s. 106.021.

683 Section 8. Section 112.31445, Florida Statutes, is created
684 to read:

685 112.31445 Electronic filing system; full and public
686 disclosure of financial interests.-

687 (1) As used in this section, the term "electronic filing
688 system" means an Internet system for recording and reporting
689 full and public disclosure of financial interests or any other
690 form that is required pursuant to s. 112.3144.

691 (2) Beginning with the 2012 filing year, all full and
692 public disclosures of financial interests filed with the
693 commission pursuant to s. 8, Art. II of the State Constitution
694 or s. 112.3144 must be scanned and made publicly available by
695 the commission through a searchable Internet database.

696 (3) By December 1, 2015, the commission shall submit a

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697 proposal to the President of the Senate and the Speaker of the
698 House of Representatives for a mandatory electronic filing
699 system. The proposal must, at a minimum:

700 (a) Provide for access through the Internet.

701 (b) Establish a procedure to make filings available in a
702 searchable format that is accessible by an individual using
703 standard web-browsing software.

704 (c) Provide for direct completion of the full and public
705 disclosure of financial interests forms as well as upload of
706 such information using software approved by the commission.

707 (d) Provide a secure method that prevents unauthorized
708 access to electronic filing system functions.

709 (e) Provide a method for a certified public accountant
710 licensed in this state to attest that he or she prepared the
711 disclosure in accordance with applicable industry standards, if
712 any, and that, upon his or her reasonable knowledge and belief,
713 the form is true and correct.

714 (f) Address whether additional statutory or rulemaking
715 authority is necessary for implementation of the system, and
716 must include, at a minimum, the following elements: alternate
717 filing procedures to be used in the event that the commission's
718 electronic filing system is inoperable, issuance of an
719 electronic receipt via electronic mail indicating and verifying
720 to the individual who submitted the full and public disclosure
721 of financial interests form that the form has been filed, and a
722 determination of the feasibility and necessity of including
723 statements of financial interests filed pursuant to s. 112.3145
724 in the proposed system.

725 Section 9. Paragraphs (a) and (b) of subsection (1),

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726 paragraph (a) of subsection (2), subsection (3), and paragraph
727 (i) of subsection (6) of section 112.3145, Florida Statutes, are
728 amended, present subsection (9) of that section is renumbered as
729 subsection (11), and new subsections (9) and (10) are added to
730 that section, to read:

731 112.3145 Disclosure of financial interests and clients
732 represented before agencies.—

733 (1) For purposes of this section, unless the context
734 otherwise requires, the term:

735 (a) "Local officer" means:

736 1. Every person who is elected to office in any political
737 subdivision of the state, and every person who is appointed to
738 fill a vacancy for an unexpired term in such an elective office.

739 2. Any appointed member of any of the following boards,
740 councils, commissions, authorities, or other bodies of any
741 county, municipality, school district, independent special
742 district, or other political subdivision of the state:

743 a. The governing body of the political subdivision, if
744 appointed;

745 ~~b. An expressway authority or transportation authority~~
746 ~~established by general law;~~

747 ~~b.e.~~ A community college or junior college district board
748 of trustees;

749 ~~c.d.~~ A board having the power to enforce local code
750 provisions;

751 ~~d.e.~~ A planning or zoning board, board of adjustment, board
752 of appeals, community redevelopment agency board, or other board
753 having the power to recommend, create, or modify land planning
754 or zoning within the political subdivision, except for citizen

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755 advisory committees, technical coordinating committees, and such
756 other groups who only have the power to make recommendations to
757 planning or zoning boards;

758 ~~e.f.~~ A pension board or retirement board having the power
759 to invest pension or retirement funds or the power to make a
760 binding determination of one's entitlement to or amount of a
761 pension or other retirement benefit; or

762 ~~f.g.~~ Any other appointed member of a local government board
763 who is required to file a statement of financial interests by
764 the appointing authority or the enabling legislation, ordinance,
765 or resolution creating the board.

766 3. Any person holding one or more of the following
767 positions: mayor; county or city manager; chief administrative
768 employee of a county, municipality, or other political
769 subdivision; county or municipal attorney; finance director of a
770 county, municipality, or other political subdivision; chief
771 county or municipal building code inspector; county or municipal
772 water resources coordinator; county or municipal pollution
773 control director; county or municipal environmental control
774 director; county or municipal administrator, with power to grant
775 or deny a land development permit; chief of police; fire chief;
776 municipal clerk; district school superintendent; community
777 college president; district medical examiner; or purchasing
778 agent having the authority to make any purchase exceeding the
779 threshold amount provided for in s. 287.017 for CATEGORY ONE, on
780 behalf of any political subdivision of the state or any entity
781 thereof.

782 (b) "Specified state employee" means:

783 1. Public counsel created by chapter 350, an assistant

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784 state attorney, an assistant public defender, a criminal
785 conflict and civil regional counsel, an assistant criminal
786 conflict and civil regional counsel, a full-time state employee
787 who serves as counsel or assistant counsel to any state agency,
788 the Deputy Chief Judge of Compensation Claims, a judge of
789 compensation claims, an administrative law judge, or a hearing
790 officer.

791 2. Any person employed in the office of the Governor or in
792 the office of any member of the Cabinet if that person is exempt
793 from the Career Service System, except persons employed in
794 clerical, secretarial, or similar positions.

795 3. The State Surgeon General or each appointed secretary,
796 assistant secretary, deputy secretary, executive director,
797 assistant executive director, or deputy executive director of
798 each state department, commission, board, or council; unless
799 otherwise provided, the division director, assistant division
800 director, deputy director, bureau chief, and assistant bureau
801 chief of any state department or division; or any person having
802 the power normally conferred upon such persons, by whatever
803 title.

804 4. The superintendent or institute director of a state
805 mental health institute established for training and research in
806 the mental health field or the warden or director of any major
807 state institution or facility established for corrections,
808 training, treatment, or rehabilitation.

809 5. Business managers, purchasing agents having the power to
810 make any purchase exceeding the threshold amount provided for in
811 s. 287.017 for CATEGORY ONE, finance and accounting directors,
812 personnel officers, or grants coordinators for any state agency.

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813 6. Any person, other than a legislative assistant exempted
814 by the presiding officer of the house by which the legislative
815 assistant is employed, who is employed in the legislative branch
816 of government, except persons employed in maintenance, clerical,
817 secretarial, or similar positions.

818 7. Each employee of the Commission on Ethics.

819 (2) (a) A person seeking nomination or election to a state
820 or local elective office shall file a statement of financial
821 interests together with, and at the same time he or she files,
822 qualifying papers. When a candidate has qualified for office,
823 the qualifying officer shall, within 3 days of receipt of the
824 statement of financial interests, forward an electronic copy of
825 the statement of financial interests to the commission. The
826 electronic copy of the statement of financial interests
827 satisfies the annual disclosure requirement of this section. A
828 candidate who does not qualify until after the annual statement
829 of financial interests has been filed pursuant to this section
830 shall file a copy of his or her statement with the officer
831 before whom he or she qualifies.

832 (3) The statement of financial interests for state
833 officers, specified state employees, local officers, and persons
834 seeking to qualify as candidates for state or local office shall
835 be filed even if the reporting person holds no financial
836 interests requiring disclosure, in which case the statement
837 shall be marked "not applicable." Otherwise, the statement of
838 financial interests shall include, at the filer's option,
839 either:

840 (a)1. All sources of income in excess of 5 percent of the
841 gross income received during the disclosure period by the person

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842 in his or her own name or by any other person for his or her use
843 or benefit, excluding public salary. However, this shall not be
844 construed to require disclosure of a business partner's sources
845 of income. The person reporting shall list such sources in
846 descending order of value with the largest source first;

847 2. All sources of income to a business entity in excess of
848 10 percent of the gross income of a business entity in which the
849 reporting person held a material interest and from which he or
850 she received an amount which was in excess of 10 percent of his
851 or her gross income during the disclosure period and which
852 exceeds \$1,500. The period for computing the gross income of the
853 business entity is the fiscal year of the business entity which
854 ended on, or immediately prior to, the end of the disclosure
855 period of the person reporting;

856 3. The location or description of real property in this
857 state, except for residences and vacation homes, owned directly
858 or indirectly by the person reporting, when such person owns in
859 excess of 5 percent of the value of such real property, and a
860 general description of any intangible personal property worth in
861 excess of 10 percent of such person's total assets. For the
862 purposes of this paragraph, indirect ownership does not include
863 ownership by a spouse or minor child; and

864 4. Every individual liability that equals more than the
865 reporting person's net worth; or

866 (b)1. All sources of gross income in excess of \$2,500
867 received during the disclosure period by the person in his or
868 her own name or by any other person for his or her use or
869 benefit, excluding public salary. However, this shall not be
870 construed to require disclosure of a business partner's sources

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871 of income. The person reporting shall list such sources in
872 descending order of value with the largest source first;

873 2. All sources of income to a business entity in excess of
874 10 percent of the gross income of a business entity in which the
875 reporting person held a material interest and from which he or
876 she received gross income exceeding \$5,000 during the disclosure
877 period. The period for computing the gross income of the
878 business entity is the fiscal year of the business entity which
879 ended on, or immediately prior to, the end of the disclosure
880 period of the person reporting;

881 3. The location or description of real property in this
882 state, except for residence and vacation homes, owned directly
883 or indirectly by the person reporting, when such person owns in
884 excess of 5 percent of the value of such real property, and a
885 general description of any intangible personal property worth in
886 excess of \$10,000. For the purpose of this paragraph, indirect
887 ownership does not include ownership by a spouse or minor child;
888 and

889 4. Every liability in excess of \$10,000.

890

891 A person filing a statement of financial interests shall
892 indicate on the statement whether he or she is using the method
893 specified in paragraph (a) or paragraph (b) of this subsection.

894 (6) Forms for compliance with the disclosure requirements
895 of this section and a current list of persons subject to
896 disclosure shall be created by the commission and provided to
897 each supervisor of elections. The commission and each supervisor
898 of elections shall give notice of disclosure deadlines and
899 delinquencies and distribute forms in the following manner:

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900 (i) Notwithstanding any provision of chapter 120, any fine
901 imposed under this subsection which is not waived by final order
902 of the commission and which remains unpaid more than 60 days
903 after the notice of payment due or more than 60 days after the
904 commission renders a final order on the appeal must be submitted
905 to the Department of Financial Services as a claim, debt, or
906 other obligation owed to the state, and the department shall
907 assign the collection of such a fine to a collection agent as
908 provided in s. 17.20. The commission or the Department of
909 Financial Services may take action to collect any unpaid fine
910 imposed by this subsection within 20 years after the automatic
911 fine is initially reported to the Department of Financial
912 Services.

913 (9) (a) The commission shall treat an amended statement of
914 financial interests that is filed prior to September 1 of the
915 current year as the original filing, regardless of whether a
916 complaint has been filed. If a complaint pertaining to the
917 current year alleges a failure to properly and accurately
918 disclose any information required by this section or if a
919 complaint filed pertaining to a previous reporting period within
920 the preceding 5 years alleges a failure to properly and
921 accurately disclose of any information required to be disclosed
922 by this section, the commission may immediately follow complaint
923 procedures in s. 112.324. However, if a complaint filed after
924 August 25 alleges an immaterial, inconsequential, or de minimis
925 error or omission, the commission may not take any action on the
926 complaint, other than notifying the filer of the complaint. The
927 filer must be given 30 days to file an amended statement of
928 financial interests correcting any errors. If the filer does not

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929 file an amended statement of financial interests within 30 days
930 after the commission sends notice of the complaint, the
931 commission may continue with proceedings pursuant to s. 112.324.

932 (b) For purposes of the final statement of financial
933 interests, the commission shall treat a new final statement of
934 financial interests, as the original filing, if filed within 60
935 days of the original filing regardless of whether a complaint
936 has been filed. If, more than 60 days after a final statement of
937 financial interests is filed, a complaint is filed alleging a
938 complete omission of any information required to be disclosed by
939 this section, the commission may immediately follow the
940 complaint procedures in s. 112.324. However, if the complaint
941 alleges an immaterial, inconsequential, or de minimis error or
942 omission, the commission may not take any action on the
943 complaint other than notifying the filer of the complaint. The
944 filer must be given 30 days to file a new final statement of
945 financial interests correcting any errors. If the filer does not
946 file a new final statement of financial interests within 30 days
947 after the commission sends notice of the complaint, the
948 commission may continue with proceedings pursuant to s. 112.324.

949 (c) For purposes of this section, an error or omission is
950 immaterial, inconsequential, or de minimis if the original
951 filing provided sufficient information for the public to
952 identify potential conflicts of interest.

953 (10) (a) An individual required to file a disclosure
954 pursuant to this section may have the disclosure prepared by a
955 certified public accountant licensed in this state. The
956 certified public accountant must attest on the form that he or
957 she prepared the disclosure in accordance with applicable

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958 industry standards, if any, and that, upon his or her reasonable
959 knowledge and belief, the disclosure is true and correct. If a
960 complaint is filed alleging a failure to disclose information
961 required by this section, the commission shall determine whether
962 the information was disclosed to the certified public
963 accountant. If the certified public accountant had the
964 information, but failed to accurately transcribe it onto the
965 form in the manner required, the filing individual in not in
966 violation of this section.

967 (b) An elected officer or candidate who chooses to use a
968 certified public accountant to prepare his or her disclosure may
969 pay for the services of the certified public accountant from
970 funds in an office account created pursuant to s. 106.141 or,
971 during a year that the individual qualifies for election to
972 public office, the candidate's campaign depository pursuant to
973 s. 106.021.

974 Section 10. Section 112.31455, Florida Statutes, is created
975 to read:

976 112.31455 Collection methods for unpaid automatic fines for
977 failure to timely file disclosure of financial interests.-

978 (1) Before referring any unpaid fine accrued pursuant to s.
979 112.3144(5) or s. 112.3145(6) to the Department of Financial
980 Services, the commission shall determine whether the individual
981 owing such a fine is a current public officer or current public
982 employee or is currently receiving public contract payments. If
983 so, the commission shall notify the Chief Financial Officer or
984 the governing body of the appropriate county, municipality, or
985 special district of the total amount of any fine owed to the
986 commission by such individual.

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987 (a) Six months after receipt of notice from the commission,
988 the Chief Financial Officer or the governing body of the county,
989 municipality, or special district shall begin withholding 10
990 percent of any payment made from public moneys or any lesser
991 amount that will satisfy the outstanding fine, less applicable
992 state and federal taxes. The withheld payments shall be remitted
993 to the commission until the fine is satisfied.

994 (b) The Chief Financial Officer or the governing body of
995 the county, municipality, or special district may retain up to 2
996 percent of each payment made in order to cover the
997 administrative costs incurred under this section.

998 (2) If the commission determines that the individual who is
999 the subject of an unpaid fine accrued pursuant to s. 112.3144(5)
1000 or s. 112.3145(6) is no longer a public officer or public
1001 employee or is no longer receiving public contract payments, the
1002 commission or the Department of Financial Services, 6 months
1003 after the order becomes final, may:

1004 (a) Record the final order as a judgment lien against any
1005 real property within the state pursuant to chapter 55; or

1006 (b) Seek garnishment of any wages pursuant to chapter 77.

1007 (3) Collection methods authorized pursuant to this section
1008 do not exclude any other collection methods statutorily
1009 authorized.

1010 Section 11. Section 112.3147, Florida Statutes, is amended
1011 to read:

1012 112.3147 Forms.—Except as otherwise provided, all
1013 information required to be furnished by ss. 112.313, 112.3143,
1014 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II
1015 of the State Constitution shall be on forms prescribed by the

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1016 Commission on Ethics.

1017 Section 12. Paragraph (e) of subsection (2) of section
1018 112.3148, Florida Statutes, is amended and paragraph (f) is
1019 added to that subsection, and subsections (3) through (5) of
1020 that section are amended, to read:

1021 112.3148 Reporting and prohibited receipt of gifts by
1022 individuals filing full or limited public disclosure of
1023 financial interests and by procurement employees.—

1024 (2) As used in this section:

1025 (e) "Procurement employee" means any employee of an
1026 officer, department, board, commission, ~~or~~ council, or agency of
1027 the executive branch or judicial branch of state government who
1028 has participated in the preceding 12 months ~~participates~~ through
1029 decision, approval, disapproval, recommendation, preparation of
1030 any part of a purchase request, influencing the content of any
1031 specification or procurement standard, rendering of advice,
1032 investigation, or auditing or in any other advisory capacity in
1033 the procurement of contractual services or commodities as
1034 defined in s. 287.012, if the cost of such services or
1035 commodities exceeds or is expected to exceed \$10,000 ~~\$1,000~~ in
1036 any year.

1037 (f) "Vendor" means a business entity doing business
1038 directly with an agency, such as renting, leasing, or selling
1039 any realty, goods, or services.

1040 (3) A reporting individual or procurement employee is
1041 prohibited from soliciting any gift from a vendor doing business
1042 with the reporting individual's or procurement employee's agency
1043 or from a political committee or committee of continuous
1044 existence, as defined in s. 106.011, or from a lobbyist who

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1045 lobbies the reporting individual's or procurement employee's
1046 agency, or the partner, firm, employer, or principal of such
1047 lobbyist, where such gift is for the personal benefit of the
1048 reporting individual or procurement employee, another reporting
1049 individual or procurement employee, or any member of the
1050 immediate family of a reporting individual or procurement
1051 employee.

1052 (4) A reporting individual or procurement employee or any
1053 other person on his or her behalf is prohibited from knowingly
1054 accepting, directly or indirectly, a gift from a vendor doing
1055 business with the reporting individual's or procurement
1056 employee's agency or from a political committee or committee of
1057 continuous existence, as defined in s. 106.011, or from a
1058 lobbyist who lobbies the reporting individual's or procurement
1059 employee's agency, or directly or indirectly on behalf of the
1060 partner, firm, employer, or principal of a lobbyist, if he or
1061 she knows or reasonably believes that the gift has a value in
1062 excess of \$100; however, such a gift may be accepted by such
1063 person on behalf of a governmental entity or a charitable
1064 organization. If the gift is accepted on behalf of a
1065 governmental entity or charitable organization, the person
1066 receiving the gift shall not maintain custody of the gift for
1067 any period of time beyond that reasonably necessary to arrange
1068 for the transfer of custody and ownership of the gift.

1069 (5) (a) A vendor doing business with the reporting
1070 individual's or procurement employee's agency ~~A political~~
1071 ~~committee or a committee of continuous existence, as defined in~~
1072 ~~s. 106.011~~; a lobbyist who lobbies a reporting individual's or
1073 procurement employee's agency; the partner, firm, employer, or

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1074 principal of a lobbyist; or another on behalf of the lobbyist or
1075 partner, firm, principal, or employer of the lobbyist is
1076 prohibited from giving, either directly or indirectly, a gift
1077 that has a value in excess of \$100 to the reporting individual
1078 or procurement employee or any other person on his or her
1079 behalf; however, such person may give a gift having a value in
1080 excess of \$100 to a reporting individual or procurement employee
1081 if the gift is intended to be transferred to a governmental
1082 entity or a charitable organization.

1083 (b) However, a person who is regulated by this subsection,
1084 who is not regulated by subsection (6), and who makes, or
1085 directs another to make, an individual gift having a value in
1086 excess of \$25, but not in excess of \$100, other than a gift that
1087 the donor knows will be accepted on behalf of a governmental
1088 entity or charitable organization, must file a report on the
1089 last day of each calendar quarter for the previous calendar
1090 quarter in which a reportable gift is made. The report shall be
1091 filed with the Commission on Ethics, except with respect to
1092 gifts to reporting individuals of the legislative branch, in
1093 which case the report shall be filed with the Office of
1094 Legislative Services. The report must contain a description of
1095 each gift, the monetary value thereof, the name and address of
1096 the person making such gift, the name and address of the
1097 recipient of the gift, and the date such gift is given. In
1098 addition, if a gift is made which requires the filing of a
1099 report under this subsection, the donor must notify the intended
1100 recipient at the time the gift is made that the donor, or
1101 another on his or her behalf, will report the gift under this
1102 subsection. Under this paragraph, a gift need not be reported by

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1103 more than one person or entity.

1104 Section 13. Section 112.31485, Florida Statutes, is created
1105 to read:

1106 112.31485 Prohibition on gifts involving political
1107 committees and committees of continuous existence.-

1108 (1) (a) For purposes of this section, the term "gift" means
1109 any purchase, payment, distribution, loan, advance, transfer of
1110 funds, or disbursement of money or anything of value that is not
1111 primarily related to contributions, expenditures, or other
1112 political activities authorized pursuant to chapter 106.

1113 (b) For purposes of this section, the term "immediate
1114 family" means any parent, spouse, child, or sibling.

1115 (2) (a) A reporting individual or procurement employee or a
1116 member of his or her immediate family is prohibited from
1117 soliciting or knowingly accepting, directly or indirectly, any
1118 gift from a political committee or committee of continuous
1119 existence.

1120 (b) A political committee or committee of continuous
1121 existence is prohibited from giving, directly or indirectly, any
1122 gift to a reporting individual or procurement employee or a
1123 member of his or her immediate family.

1124 (3) Any person who violates this section is subject to a
1125 civil penalty equal to three times the amount of the gift. Such
1126 penalty is in addition to the penalties provided in s. 112.317
1127 and shall be paid to the General Revenue Fund of the state. A
1128 reporting individual or procurement employee or a member of his
1129 or her immediate family who violates this section is personally
1130 liable for payment of the treble penalty. Any agent or person
1131 acting on behalf of a political committee or committee of

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1132 continuous existence who gives a prohibited gift is personally
1133 liable for payment of the treble penalty.

1134 Section 14. Paragraph (e) of subsection (1) of section
1135 112.3149, Florida Statutes, is amended, and paragraph (f) is
1136 added to that subsection, and subsections (3) and (4) of that
1137 section are amended, to read:

1138 112.3149 Solicitation and disclosure of honoraria.—

1139 (1) As used in this section:

1140 (e) "Procurement employee" means any employee of an
1141 officer, department, board, commission, ~~or~~ council, or agency of
1142 the executive branch or judicial branch of state government who
1143 has participated in the preceding 12 months ~~participates~~ through
1144 decision, approval, disapproval, recommendation, preparation of
1145 any part of a purchase request, influencing the content of any
1146 specification or procurement standard, rendering of advice,
1147 investigation, or auditing or in any other advisory capacity in
1148 the procurement of contractual services or commodities as
1149 defined in s. 287.012, if the cost of such services or
1150 commodities exceeds \$10,000 ~~\$1,000~~ in any fiscal year.

1151 (f) "Vendor" means a business entity doing business
1152 directly with an agency, such as renting, leasing, or selling
1153 any realty, goods, or services.

1154 (3) A reporting individual or procurement employee is
1155 prohibited from knowingly accepting an honorarium from a
1156 political committee or committee of continuous existence, as
1157 defined in s. 106.011, from a vendor doing business with the
1158 reporting individual's or procurement employee's agency, from a
1159 lobbyist who lobbies the reporting individual's or procurement
1160 employee's agency, or from the employer, principal, partner, or

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1161 firm of such a lobbyist.

1162 (4) A political committee or committee of continuous
1163 existence, as defined in s. 106.011, a vendor doing business
1164 with the reporting individual's or procurement employee's
1165 agency, a lobbyist who lobbies a reporting individual's or
1166 procurement employee's agency, or the employer, principal,
1167 partner, or firm of such a lobbyist is prohibited from giving an
1168 honorarium to a reporting individual or procurement employee.

1169 Section 15. For the purpose of incorporating the amendment
1170 made by this act to section 112.3143, Florida Statutes, and
1171 newly created section 112.31485, Florida Statutes, in a
1172 reference thereto, subsections (1) through (5) of section
1173 112.317, Florida Statutes, are reenacted to read:

1174 112.317 Penalties.—

1175 (1) Violation of any provision of this part, including, but
1176 not limited to, any failure to file any disclosures required by
1177 this part or violation of any standard of conduct imposed by
1178 this part, or violation of any provision of s. 8, Art. II of the
1179 State Constitution, in addition to any criminal penalty or other
1180 civil penalty involved, shall, under applicable constitutional
1181 and statutory procedures, constitute grounds for, and may be
1182 punished by, one or more of the following:

1183 (a) In the case of a public officer:

1184 1. Impeachment.

1185 2. Removal from office.

1186 3. Suspension from office.

1187 4. Public censure and reprimand.

1188 5. Forfeiture of no more than one-third salary per month
1189 for no more than 12 months.

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1190 6. A civil penalty not to exceed \$10,000.

1191 7. Restitution of any pecuniary benefits received because
1192 of the violation committed. The commission may recommend that
1193 the restitution penalty be paid to the agency of which the
1194 public officer was a member or to the General Revenue Fund.

1195 (b) In the case of an employee or a person designated as a
1196 public officer by this part who otherwise would be deemed to be
1197 an employee:

1198 1. Dismissal from employment.

1199 2. Suspension from employment for not more than 90 days
1200 without pay.

1201 3. Demotion.

1202 4. Reduction in salary level.

1203 5. Forfeiture of no more than one-third salary per month
1204 for no more than 12 months.

1205 6. A civil penalty not to exceed \$10,000.

1206 7. Restitution of any pecuniary benefits received because
1207 of the violation committed. The commission may recommend that
1208 the restitution penalty be paid to the agency by which the
1209 public employee was employed, or of which the officer was deemed
1210 to be an employee, or to the General Revenue Fund.

1211 8. Public censure and reprimand.

1212 (c) In the case of a candidate who violates the provisions
1213 of this part or s. 8(a) and (i), Art. II of the State
1214 Constitution:

1215 1. Disqualification from being on the ballot.

1216 2. Public censure.

1217 3. Reprimand.

1218 4. A civil penalty not to exceed \$10,000.

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1219 (d) In the case of a former public officer or employee who
1220 has violated a provision applicable to former officers or
1221 employees or whose violation occurred before the officer's or
1222 employee's leaving public office or employment:

- 1223 1. Public censure and reprimand.
- 1224 2. A civil penalty not to exceed \$10,000.
- 1225 3. Restitution of any pecuniary benefits received because
1226 of the violation committed. The commission may recommend that
1227 the restitution penalty be paid to the agency of the public
1228 officer or employee or to the General Revenue Fund.

1229 (e) In the case of a person who is subject to the standards
1230 of this part, other than a lobbyist or lobbying firm under s.
1231 112.3215 for a violation of s. 112.3215, but who is not a public
1232 officer or employee:

- 1233 1. Public censure and reprimand.
- 1234 2. A civil penalty not to exceed \$10,000.
- 1235 3. Restitution of any pecuniary benefits received because
1236 of the violation committed. The commission may recommend that
1237 the restitution penalty be paid to the agency of the person or
1238 to the General Revenue Fund.

1239 (2) In any case in which the commission finds a violation
1240 of this part or of s. 8, Art. II of the State Constitution and
1241 the proper disciplinary official or body under s. 112.324
1242 imposes a civil penalty or restitution penalty, the Attorney
1243 General shall bring a civil action to recover such penalty. No
1244 defense may be raised in the civil action to enforce the civil
1245 penalty or order of restitution that could have been raised by
1246 judicial review of the administrative findings and
1247 recommendations of the commission by certiorari to the district

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1248 court of appeal. The Attorney General shall collect any costs,
1249 attorney's fees, expert witness fees, or other costs of
1250 collection incurred in bringing the action.

1251 (3) The penalties prescribed in this part shall not be
1252 construed to limit or to conflict with:

1253 (a) The power of either house of the Legislature to
1254 discipline its own members or impeach a public officer.

1255 (b) The power of agencies to discipline officers or
1256 employees.

1257 (4) Any violation of this part or of s. 8, Art. II of the
1258 State Constitution by a public officer shall constitute
1259 malfeasance, misfeasance, or neglect of duty in office within
1260 the meaning of s. 7, Art. IV of the State Constitution.

1261 (5) By order of the Governor, upon recommendation of the
1262 commission, any elected municipal officer who violates any
1263 provision of this part or of s. 8, Art. II of the State
1264 Constitution may be suspended from office and the office filled
1265 by appointment for the period of suspension. The suspended
1266 officer may at any time before removal be reinstated by the
1267 Governor. The Senate may, in proceedings prescribed by law,
1268 remove from office, or reinstate, the suspended official, and
1269 for such purpose the Senate may be convened in special session
1270 by its President or by a majority of its membership.

1271 Section 16. Paragraphs (a) and (c) of subsection (8) of
1272 section 112.3215, Florida Statutes, are amended, present
1273 subsections (11) through (14) are renumbered as (12) through
1274 (15), respectively, and a new subsection (11) is added to that
1275 section to read:

1276 112.3215 Lobbying before the executive branch or the

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1277 Constitution Revision Commission; registration and reporting;
1278 investigation by commission.-

1279 (8) (a) The commission shall investigate every sworn
1280 complaint that is filed with it alleging that a person covered
1281 by this section has failed to register, has failed to submit a
1282 compensation report, has made a prohibited expenditure, or has
1283 knowingly submitted false information in any report or
1284 registration required in this section.

1285 (c) The commission shall investigate any lobbying firm,
1286 lobbyist, principal, agency, officer, or employee upon receipt
1287 of information from a sworn complaint or from a random audit of
1288 lobbying reports indicating a possible violation other than a
1289 late-filed report.

1290 (11) Any person who is required to be registered or to
1291 provide information under this section or under rules adopted
1292 pursuant to this section and who knowingly fails to disclose any
1293 material fact that is required by this section or by rules
1294 adopted pursuant to this section, or who knowingly provides
1295 false information on any report required by this section or by
1296 rules adopted pursuant to this section, commits a noncriminal
1297 infraction, punishable by a fine not to exceed \$5,000. Such
1298 penalty is in addition to any other penalty assessed by the
1299 Governor and Cabinet pursuant to subsection (10).

1300 Section 17. Section 112.324, Florida Statutes, is amended
1301 to read:

1302 112.324 Procedures on complaints of violations and
1303 referrals; public records and meeting exemptions.-

1304 (1) ~~Upon a written complaint executed on a form prescribed~~
1305 ~~by the commission and signed under oath or affirmation by any~~

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1306 ~~person,~~ The commission shall investigate an any alleged
1307 violation of this part or ~~any~~ other alleged breach of the public
1308 trust within the jurisdiction of the commission as provided in
1309 s. 8(f), Art. II of the State Constitution: in accordance with
1310 ~~procedures set forth herein.~~

1311 (a) Upon a written complaint executed on a form prescribed
1312 by the commission and signed under oath of affirmation by any
1313 person; or

1314 (b) Upon receipt of a written referral of a possible
1315 violation of this part or other possible breach of the public
1316 trust from the Governor, the Department of Law Enforcement, a
1317 state attorney, or a United States Attorney which at least six
1318 members of the commission determine is sufficient to indicate a
1319 violation of this part or any other breach of the public trust.

1320
1321 Within 5 days after receipt of a complaint by the commission or
1322 a determination by at least six members of the commission that
1323 the referral received is deemed sufficient, a copy shall be
1324 transmitted to the alleged violator.

1325 (2) (a) The complaint and records relating to the complaint
1326 or to any preliminary investigation held by the commission or
1327 its agents, by a Commission on Ethics and Public Trust
1328 established by any county defined in s. 125.011(1) or by any
1329 municipality defined in s. 165.031, or by any county or
1330 municipality that has established a local investigatory process
1331 to enforce more stringent standards of conduct and disclosure
1332 requirements as provided in s. 112.326 are confidential and
1333 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
1334 of the State Constitution.

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1335 (b) Any proceeding conducted by the commission, a
1336 Commission on Ethics and Public Trust, or a county or
1337 municipality that has established such local investigatory
1338 process, pursuant to a complaint or preliminary investigation,
1339 is exempt from the provisions of s. 286.011, s. 24(b), Art. I of
1340 the State Constitution, and s. 120.525.

1341 (c) The exemptions in paragraphs (a) and (b) apply until
1342 the complaint is dismissed as legally insufficient, until the
1343 alleged violator requests in writing that such records and
1344 proceedings be made public, or until the commission, a
1345 Commission on Ethics and Public Trust, or a county or
1346 municipality that has established such local investigatory
1347 process determines, based on such investigation, whether
1348 probable cause exists to believe that a violation has occurred.
1349 ~~In no event shall~~ A complaint or referral under this part
1350 against a candidate in any general, special, or primary election
1351 may not be filed nor may ~~or~~ any intention of filing such a
1352 complaint or referral be disclosed on the day of any such
1353 election or within the 30 ~~5~~ days immediately preceding the date
1354 of the election, unless the complaint or referral is based upon
1355 personal information or information other than hearsay.

1356 (d) This subsection is subject to the Open Government
1357 Sunset Review Act in accordance with s. 119.15 and shall stand
1358 repealed on October 2, 2015, unless reviewed and saved from
1359 repeal through reenactment by the Legislature.

1360 (3) A preliminary investigation shall be undertaken by the
1361 commission of each legally sufficient complaint or referral over
1362 which the commission has jurisdiction to determine whether there
1363 is probable cause to believe that a violation has occurred. If,

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1364 upon completion of the preliminary investigation, the commission
1365 finds no probable cause to believe that this part has been
1366 violated or that any other breach of the public trust has been
1367 committed, the commission shall dismiss the complaint or
1368 referral with the issuance of a public report to the complainant
1369 and the alleged violator, stating with particularity its reasons
1370 for dismissal ~~of the complaint~~. At that time, the complaint or
1371 referral and all materials relating to the complaint or referral
1372 shall become a matter of public record. If the commission finds
1373 from the preliminary investigation probable cause to believe
1374 that this part has been violated or that any other breach of the
1375 public trust has been committed, it shall so notify the
1376 complainant and the alleged violator in writing. Such
1377 notification and all documents made or received in the
1378 disposition of the complaint or referral shall then become
1379 public records. Upon request submitted to the commission in
1380 writing, any person who the commission finds probable cause to
1381 believe has violated any provision of this part or has committed
1382 any other breach of the public trust shall be entitled to a
1383 public hearing. Such person shall be deemed to have waived the
1384 right to a public hearing if the request is not received within
1385 14 days following the mailing of the probable cause notification
1386 required by this subsection. However, the commission may on its
1387 own motion, require a public hearing, may conduct such further
1388 investigation as it deems necessary, and may enter into such
1389 stipulations and settlements as it finds to be just and in the
1390 best interest of the state. The commission is without
1391 jurisdiction to, and no respondent may voluntarily or
1392 involuntarily, enter into a stipulation or settlement which

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1393 imposes any penalty, including, but not limited to, a sanction
1394 or admonition or any other penalty contained in s. 112.317.
1395 Penalties shall be imposed only by the appropriate disciplinary
1396 authority as designated in this section.

1397 (4) If, in cases pertaining to members of the Legislature,
1398 upon completion of a full and final investigation by the
1399 commission, the commission finds that there has been a violation
1400 of this part or of any provision of s. 8, Art. II of the State
1401 Constitution, the commission shall forward a copy of the
1402 complaint or referral and its findings by certified mail to the
1403 President of the Senate or the Speaker of the House of
1404 Representatives, whichever is applicable, who shall refer the
1405 complaint or referral to the appropriate committee for
1406 investigation and action which shall be governed by the rules of
1407 its respective house. It ~~is shall be~~ the duty of the committee
1408 to report its final action upon the matter ~~complaint~~ to the
1409 commission within 90 days of the date of transmittal to the
1410 respective house. Upon request of the committee, the commission
1411 shall submit a recommendation as to what penalty, if any, should
1412 be imposed. In the case of a member of the Legislature, the
1413 house in which the member serves has ~~shall have~~ the power to
1414 invoke the penalty provisions of this part.

1415 (5) If, in cases ~~pertaining to complaints~~ against
1416 impeachable officers, upon completion of a full and final
1417 investigation by the commission, the commission finds that there
1418 has been a violation of this part or of any provision of s. 8,
1419 Art. II of the State Constitution, and the commission finds that
1420 the violation may constitute grounds for impeachment, the
1421 commission shall forward a copy of the complaint or referral and

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1422 its findings by certified mail to the Speaker of the House of
1423 Representatives, who shall refer the complaint or referral to
1424 the appropriate committee for investigation and action which
1425 shall be governed by the rules of the House of Representatives.
1426 It is ~~shall be~~ the duty of the committee to report its final
1427 action upon the matter ~~complaint~~ to the commission within 90
1428 days of the date of transmittal.

1429 (6) If the commission finds that there has been a violation
1430 of this part or of any provision of s. 8, Art. II of the State
1431 Constitution by an impeachable officer other than the Governor,
1432 and the commission recommends public censure and reprimand,
1433 forfeiture of a portion of the officer's salary, a civil
1434 penalty, or restitution, the commission shall report its
1435 findings and recommendation of disciplinary action to the
1436 Governor, who has ~~shall have~~ the power to invoke the penalty
1437 provisions of this part.

1438 (7) If the commission finds that there has been a violation
1439 of this part or of any provision of s. 8, Art. II of the State
1440 Constitution by the Governor, and the commission recommends
1441 public censure and reprimand, forfeiture of a portion of the
1442 Governor's salary, a civil penalty, or restitution, the
1443 commission shall report its findings and recommendation of
1444 disciplinary action to the Attorney General, who shall have the
1445 power to invoke the penalty provisions of this part.

1446 (8) If, in cases ~~pertaining to complaints~~ other than
1447 complaints or referrals against impeachable officers or members
1448 of the Legislature, upon completion of a full and final
1449 investigation by the commission, the commission finds that there
1450 has been a violation of this part or of s. 8, Art. II of the

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1451 State Constitution, it is ~~shall be~~ the duty of the commission to
1452 report its findings and recommend appropriate action to the
1453 proper disciplinary official or body as follows, and such
1454 official or body has ~~shall have~~ the power to invoke the penalty
1455 provisions of this part, including the power to order the
1456 appropriate elections official to remove a candidate from the
1457 ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art.
1458 II of the State Constitution:

1459 (a) The President of the Senate and the Speaker of the
1460 House of Representatives, jointly, in any case concerning the
1461 Public Counsel, members of the Public Service Commission,
1462 members of the Public Service Commission Nominating Council, the
1463 Auditor General, or the director of the Office of Program Policy
1464 Analysis and Government Accountability.

1465 (b) The Supreme Court, in any case concerning an employee
1466 of the judicial branch.

1467 (c) The President of the Senate, in any case concerning an
1468 employee of the Senate; the Speaker of the House of
1469 Representatives, in any case concerning an employee of the House
1470 of Representatives; or the President and the Speaker, jointly,
1471 in any case concerning an employee of a committee of the
1472 Legislature whose members are appointed solely by the President
1473 and the Speaker or in any case concerning an employee of the
1474 Public Counsel, Public Service Commission, Auditor General, or
1475 Office of Program Policy Analysis and Government Accountability.

1476 (d) Except as otherwise provided by this part, the
1477 Governor, in the case of any other public officer, public
1478 employee, former public officer or public employee, candidate or
1479 former candidate, or person who is not a public officer or

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1480 employee, other than lobbyists and lobbying firms under s.
1481 112.3215 for violations of s. 112.3215.

1482 (e) The President of the Senate or the Speaker of the House
1483 of Representatives, whichever is applicable, in any case
1484 concerning a former member of the Legislature who has violated a
1485 provision applicable to former members or whose violation
1486 occurred while a member of the Legislature.

1487 (9) In addition to reporting its findings to the proper
1488 disciplinary body or official, the commission shall report these
1489 findings to the state attorney or any other appropriate official
1490 or agency having authority to initiate prosecution when
1491 violation of criminal law is indicated.

1492 (10) Notwithstanding the foregoing procedures of this
1493 section, a sworn complaint against any member or employee of the
1494 Commission on Ethics for violation of this part or of s. 8, Art.
1495 II of the State Constitution shall be filed with the President
1496 of the Senate and the Speaker of the House of Representatives.
1497 Each presiding officer shall, after determining that there are
1498 sufficient grounds for review, appoint three members of their
1499 respective bodies to a special joint committee who shall
1500 investigate the complaint. The members shall elect a chair from
1501 among their number. If the special joint committee finds
1502 insufficient evidence to establish probable cause to believe a
1503 violation of this part or of s. 8, Art. II of the State
1504 Constitution has occurred, it shall dismiss the complaint. If,
1505 upon completion of its preliminary investigation, the committee
1506 finds sufficient evidence to establish probable cause to believe
1507 a violation has occurred, the chair thereof shall transmit such
1508 findings to the Governor who shall convene a meeting of the

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1509 Governor, the President of the Senate, the Speaker of the House
1510 of Representatives, and the Chief Justice of the Supreme Court
1511 to take such final action on the complaint as they shall deem
1512 appropriate, consistent with the penalty provisions of this
1513 part. Upon request of a majority of the Governor, the President
1514 of the Senate, the Speaker of the House of Representatives, and
1515 the Chief Justice of the Supreme Court, the special joint
1516 committee shall submit a recommendation as to what penalty, if
1517 any, should be imposed.

1518 (11) (a) Notwithstanding the provisions of subsections (1)-
1519 (8), the commission shall dismiss any complaint or referral at
1520 any stage of disposition should it determine that the violation
1521 that is alleged or has occurred is a de minimis violation
1522 attributable to inadvertent or unintentional error. In
1523 determining whether a violation was de minimis, the commission
1524 shall consider whether the interests of the public were
1525 protected despite the violation. This subsection does not apply
1526 to complaints pursuant to ss. 112.3144 and 112.3145.

1527 (b) For the purposes of this subsection, a de minimis
1528 violation is any violation that is unintentional and not
1529 material in nature.

1530 (12)~~(11)~~ Notwithstanding the provisions of subsections (1)-
1531 (8), the commission may, at its discretion, dismiss any
1532 complaint or referral at any stage of disposition should it
1533 determine that the public interest would not be served by
1534 proceeding further, in which case the commission shall issue a
1535 public report stating with particularity its reasons for the
1536 dismissal.

1537 Section 18. For the purpose of incorporating the amendment

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1538 made by this act to section 112.3143, Florida Statutes, in a
1539 reference thereto, subsection (1) of section 120.665, Florida
1540 Statutes, is reenacted to read:

1541 120.665 Disqualification of agency personnel.—

1542 (1) Notwithstanding the provisions of s. 112.3143, any
1543 individual serving alone or with others as an agency head may be
1544 disqualified from serving in an agency proceeding for bias,
1545 prejudice, or interest when any party to the agency proceeding
1546 shows just cause by a suggestion filed within a reasonable
1547 period of time prior to the agency proceeding. If the
1548 disqualified individual was appointed, the appointing power may
1549 appoint a substitute to serve in the matter from which the
1550 individual is disqualified. If the individual is an elected
1551 official, the Governor may appoint a substitute to serve in the
1552 matter from which the individual is disqualified. However, if a
1553 quorum remains after the individual is disqualified, it shall
1554 not be necessary to appoint a substitute.

1555 Section 19. For the purpose of incorporating the amendment
1556 made by this act to section 112.3143, Florida Statutes, in a
1557 reference thereto, section 286.012, Florida Statutes, is
1558 reenacted to read:

1559 286.012 Voting requirement at meetings of governmental
1560 bodies.—No member of any state, county, or municipal
1561 governmental board, commission, or agency who is present at any
1562 meeting of any such body at which an official decision, ruling,
1563 or other official act is to be taken or adopted may abstain from
1564 voting in regard to any such decision, ruling, or act; and a
1565 vote shall be recorded or counted for each such member present,
1566 except when, with respect to any such member, there is, or

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1567 appears to be, a possible conflict of interest under the
1568 provisions of s. 112.311, s. 112.313, or s. 112.3143. In such
1569 cases, said member shall comply with the disclosure requirements
1570 of s. 112.3143.

1571 Section 20. For the purpose of incorporating the amendment
1572 made by this act to section 112.324, Florida Statutes, in a
1573 reference thereto, section 287.175, Florida Statutes, is
1574 reenacted to read:

1575 287.175 Penalties.—A violation of this part or a rule
1576 adopted hereunder, pursuant to applicable constitutional and
1577 statutory procedures, constitutes misuse of public position as
1578 defined in s. 112.313(6), and is punishable as provided in s.
1579 112.317. The Chief Financial Officer shall report incidents of
1580 suspected misuse to the Commission on Ethics, and the commission
1581 shall investigate possible violations of this part or rules
1582 adopted hereunder when reported by the Chief Financial Officer,
1583 notwithstanding the provisions of s. 112.324. Any violation of
1584 this part or a rule adopted hereunder shall be presumed to have
1585 been committed with wrongful intent, but such presumption is
1586 rebuttable. Nothing in this section is intended to deny rights
1587 provided to career service employees by s. 110.227.

1588 Section 21. For the purpose of incorporating the amendment
1589 made by this act to section 112.3143, Florida Statutes, in a
1590 reference thereto, paragraph (c) of subsection (1) of section
1591 288.901, Florida Statutes, is reenacted to read:

1592 288.901 Enterprise Florida, Inc.—

1593 (1) CREATION.—

1594 (c) The Legislature determines that it is in the public
1595 interest for the members of Enterprise Florida, Inc., board of

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1596 directors to be subject to the requirements of ss. 112.3135,
1597 112.3143, and 112.313, excluding s. 112.313(2), notwithstanding
1598 the fact that the board members are not public officers or
1599 employees. For purposes of those sections, the board members
1600 shall be considered to be public officers or employees. The
1601 exemption set forth in s. 112.313(12) for advisory boards
1602 applies to the members of Enterprise Florida, Inc., board of
1603 directors. Further, each member of the board of directors who is
1604 not otherwise required to file financial disclosures pursuant to
1605 s. 8, Art. II of the State Constitution or s. 112.3144, shall
1606 file disclosure of financial interests pursuant to s. 112.3145.

1607 Section 22. Subsection (1) of section 445.007, Florida
1608 Statutes, is reenacted for the purpose of incorporating the
1609 amendment made by this act to section 112.3143, Florida
1610 Statutes, in a reference thereto, and subsection (11) of that
1611 section is amended, to read:

1612 445.007 Regional workforce boards.—

1613 (1) One regional workforce board shall be appointed in each
1614 designated service delivery area and shall serve as the local
1615 workforce investment board pursuant to Pub. L. No. 105-220. The
1616 membership of the board shall be consistent with Pub. L. No.
1617 105-220, Title I, s. 117(b) but may not exceed the minimum
1618 membership required in Pub. L. No. 105-220, Title I, s.
1619 117(b) (2) (A) and in this subsection. Upon approval by the
1620 Governor, the chief elected official may appoint additional
1621 members above the limit set by this subsection. If a public
1622 education or training provider is represented on the board, a
1623 representative of a private nonprofit provider and a
1624 representative of a private for-profit provider must also be

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1625 appointed to the board. The board shall include one nonvoting
1626 representative from a military installation if a military
1627 installation is located within the region and the appropriate
1628 military command or organization authorizes such representation.
1629 It is the intent of the Legislature that membership of a
1630 regional workforce board include persons who are current or
1631 former recipients of welfare transition assistance as defined in
1632 s. 445.002(2) or workforce services as provided in s. 445.009(1)
1633 or that such persons be included as ex officio members of the
1634 board or of committees organized by the board. The importance of
1635 minority and gender representation shall be considered when
1636 making appointments to the board. The board, its committees,
1637 subcommittees, and subdivisions, and other units of the
1638 workforce system, including units that may consist in whole or
1639 in part of local governmental units, may use any method of
1640 telecommunications to conduct meetings, including establishing a
1641 quorum through telecommunications, provided that the public is
1642 given proper notice of the telecommunications meeting and
1643 reasonable access to observe and, when appropriate, participate.
1644 Regional workforce boards are subject to chapters 119 and 286
1645 and s. 24, Art. I of the State Constitution. If the regional
1646 workforce board enters into a contract with an organization or
1647 individual represented on the board of directors, the contract
1648 must be approved by a two-thirds vote of the board, a quorum
1649 having been established, and the board member who could benefit
1650 financially from the transaction must abstain from voting on the
1651 contract. A board member must disclose any such conflict in a
1652 manner that is consistent with the procedures outlined in s.
1653 112.3143. Each member of a regional workforce board who is not

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1654 otherwise required to file a full and public disclosure of
1655 financial interests pursuant to s. 8, Art. II of the State
1656 Constitution or s. 112.3144 shall file a statement of financial
1657 interests pursuant to s. 112.3145. The executive director or
1658 designated person responsible for the operational and
1659 administrative functions of the regional workforce board who is
1660 not otherwise required to file a full and public disclosure of
1661 financial interests pursuant to s. 8, Art. II of the State
1662 Constitution or s. 112.3144 shall file a statement of financial
1663 interests pursuant to s. 112.3145.

1664 (11) To increase transparency and accountability, a
1665 regional workforce board must comply with the requirements of
1666 this section before contracting with a member of the board or a
1667 relative, as defined in s. 112.3143(1)(c) ~~112.3143(1)(b)~~, of a
1668 board member or of an employee of the board. Such contracts may
1669 not be executed before or without the approval of Workforce
1670 Florida, Inc. Such contracts, as well as documentation
1671 demonstrating adherence to this section as specified by
1672 Workforce Florida, Inc., must be submitted to the Department of
1673 Economic Opportunity for review and recommendation according to
1674 criteria to be determined by Workforce Florida, Inc. Such a
1675 contract must be approved by a two-thirds vote of the board, a
1676 quorum having been established; all conflicts of interest must
1677 be disclosed before the vote; and any member who may benefit
1678 from the contract, or whose relative may benefit from the
1679 contract, must abstain from the vote. A contract under \$25,000
1680 between a regional workforce board and a member of that board or
1681 between a relative, as defined in s. 112.3143(1)(c)
1682 ~~112.3143(1)(b)~~, of a board member or of an employee of the board

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1683 is not required to have the prior approval of Workforce Florida,
1684 Inc., but must be approved by a two-thirds vote of the board, a
1685 quorum having been established, and must be reported to the
1686 Department of Economic Opportunity and Workforce Florida, Inc.,
1687 within 30 days after approval. If a contract cannot be approved
1688 by Workforce Florida, Inc., a review of the decision to
1689 disapprove the contract may be requested by the regional
1690 workforce board or other parties to the disapproved contract.

1691 Section 23. For the purpose of incorporating the amendment
1692 made by this act to section 112.3143, Florida Statutes, in a
1693 reference thereto, paragraph (m) of subsection (5) of section
1694 627.311, Florida Statutes, is reenacted to read:

1695 627.311 Joint underwriters and joint reinsurers; public
1696 records and public meetings exemptions.—

1697 (5)

1698 (m) Senior managers and officers, as defined in the plan of
1699 operation, and members of the board of governors are subject to
1700 the provisions of ss. 112.313, 112.3135, 112.3143, 112.3145,
1701 112.316, and 112.317. Senior managers, officers, and board
1702 members are also required to file such disclosures with the
1703 Commission on Ethics and the Office of Insurance Regulation. The
1704 executive director of the plan or his or her designee shall
1705 notify each newly appointed and existing appointed member of the
1706 board of governors, senior manager, and officer of his or her
1707 duty to comply with the reporting requirements of s. 112.3145.
1708 At least quarterly, the executive director of the plan or his or
1709 her designee shall submit to the Commission on Ethics a list of
1710 names of the senior managers, officers, and members of the board
1711 of governors who are subject to the public disclosure

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1712 requirements under s. 112.3145. Notwithstanding s. 112.313, an
1713 employee, officer, owner, or director of an insurance agency,
1714 insurance company, or other insurance entity may be a member of
1715 the board of governors unless such employee, officer, owner, or
1716 director of an insurance agency, insurance company, other
1717 insurance entity, or an affiliate provides policy issuance,
1718 policy administration, underwriting, claims handling, or payroll
1719 audit services. Notwithstanding s. 112.3143, such board member
1720 may not participate in or vote on a matter if the insurance
1721 agency, insurance company, or other insurance entity would
1722 obtain a special or unique benefit that would not apply to other
1723 similarly situated insurance entities.

1724 Section 24. For the purpose of incorporating the amendment
1725 made to this act to section 112.3143, Florida Statutes, in a
1726 reference thereto, paragraph (d) of subsection (6) of section
1727 627.351, Florida Statutes, is reenacted to read:

1728 627.351 Insurance risk apportionment plans.—

1729 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1730 (d)1. All prospective employees for senior management
1731 positions, as defined by the plan of operation, are subject to
1732 background checks as a prerequisite for employment. The office
1733 shall conduct the background checks pursuant to ss. 624.34,
1734 624.404(3), and 628.261.

1735 2. On or before July 1 of each year, employees of the
1736 corporation must sign and submit a statement attesting that they
1737 do not have a conflict of interest, as defined in part III of
1738 chapter 112. As a condition of employment, all prospective
1739 employees must sign and submit to the corporation a conflict-of-
1740 interest statement.

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1741 3. Senior managers and members of the board of governors
1742 are subject to part III of chapter 112, including, but not
1743 limited to, the code of ethics and public disclosure and
1744 reporting of financial interests, pursuant to s. 112.3145.
1745 Notwithstanding s. 112.3143(2), a board member may not vote on
1746 any measure that would inure to his or her special private gain
1747 or loss; that he or she knows would inure to the special private
1748 gain or loss of any principal by whom he or she is retained or
1749 to the parent organization or subsidiary of a corporate
1750 principal by which he or she is retained, other than an agency
1751 as defined in s. 112.312; or that he or she knows would inure to
1752 the special private gain or loss of a relative or business
1753 associate of the public officer. Before the vote is taken, such
1754 member shall publicly state to the assembly the nature of his or
1755 her interest in the matter from which he or she is abstaining
1756 from voting and, within 15 days after the vote occurs, disclose
1757 the nature of his or her interest as a public record in a
1758 memorandum filed with the person responsible for recording the
1759 minutes of the meeting, who shall incorporate the memorandum in
1760 the minutes. Senior managers and board members are also required
1761 to file such disclosures with the Commission on Ethics and the
1762 Office of Insurance Regulation. The executive director of the
1763 corporation or his or her designee shall notify each existing
1764 and newly appointed member of the board of governors and senior
1765 managers of their duty to comply with the reporting requirements
1766 of part III of chapter 112. At least quarterly, the executive
1767 director or his or her designee shall submit to the Commission
1768 on Ethics a list of names of the senior managers and members of
1769 the board of governors who are subject to the public disclosure

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1770 requirements under s. 112.3145.

1771 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
1772 provision of law, an employee or board member may not knowingly
1773 accept, directly or indirectly, any gift or expenditure from a
1774 person or entity, or an employee or representative of such
1775 person or entity, which has a contractual relationship with the
1776 corporation or who is under consideration for a contract. An
1777 employee or board member who fails to comply with subparagraph
1778 3. or this subparagraph is subject to penalties provided under
1779 ss. 112.317 and 112.3173.

1780 5. Any senior manager of the corporation who is employed on
1781 or after January 1, 2007, regardless of the date of hire, who
1782 subsequently retires or terminates employment is prohibited from
1783 representing another person or entity before the corporation for
1784 2 years after retirement or termination of employment from the
1785 corporation.

1786 6. Any senior manager of the corporation who is employed on
1787 or after January 1, 2007, regardless of the date of hire, who
1788 subsequently retires or terminates employment is prohibited from
1789 having any employment or contractual relationship for 2 years
1790 with an insurer that has entered into a take-out bonus agreement
1791 with the corporation.

1792 Section 25. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SBZ
Meeting Date

Topic Section 2 of SBZ Bill Number SBZ
Name Chris Doolin Amendment Barcode _____
Job Title Consultant (if applicable)

Address 1118 B THOMASVILLE RD Phone 850-224-3180
Street
Tallahassee FLA 32303 E-mail cdoolin@netally.com
City State Zip

Speaking: For Against Information

Representing Small Counties Coalition / Small School Districts

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Community Affairs Committee Judge:

Started: 2/6/2013 10:31:32 AM

Ends: 2/6/2013 11:51:22 AM

Length: 01:19:51

10:31:39 AM Secretary Calls Roll
10:32:26 AM Tab 2 SB 264
10:32:52 AM Senator Hayes presents bill
10:33:03 AM Amendment 894358
10:33:53 AM Senator Stargel
10:34:06 AM Senator Hayes responds
10:34:38 AM Vote on amendment
10:34:54 AM Senator Thompson question
10:35:11 AM Senator Hayes responds
10:35:21 AM Senator Stargel question
10:35:36 AM Senator Hayes responds
10:36:12 AM Senator Stargel
10:36:22 AM Senator Hayes responds
10:36:36 AM Senator Stargel questions
10:37:10 AM Senator Hayes responds
10:37:29 AM Senator Thompson question
10:37:49 AM Senator Hayes responds
10:38:13 AM Senator Thompson
10:38:55 AM Senator Stargel
10:39:54 AM Senator Latvala moves
10:39:59 AM Motion adopted
10:40:04 AM Secretary calls roll
10:40:23 AM Bill passes
10:40:30 AM Tab 1 SB 92
10:40:35 AM Senator Negrón introduces bill
10:45:25 AM Senator Thompson
10:45:49 AM Senator Negrón
10:46:17 AM Senator Thompson questions
10:46:27 AM Senator Negrón responds
10:47:23 AM Senator Latvala questions
10:47:47 AM Senator Negrón responds
10:48:27 AM Senator Latvala
10:48:57 AM Florida Sheriff Association Keri Silver
10:50:43 AM Senator Latvala
10:51:13 AM Senator Soto
10:51:35 AM Senator Thrasher
10:51:49 AM Mike Fewless Orange County Sheriff's Office
10:51:56 AM Senator Thrasher
10:52:03 AM Mike Fewless Orange County Sheriff's Office
10:53:15 AM Senator Latvala questions
10:53:20 AM Mike Fewless Orange County Sheriff's Office
10:54:00 AM Senator Stargel
10:54:13 AM Mike Fewless Orange County Sheriff's Office
10:55:20 AM Florida Police Chief Association Tim Stanfield
10:56:06 AM ACLU of Florida Ron Bilbao Searches and Seizures
10:58:29 AM Senator Bradley question to Mike Fewless Orange County Sheriff's Office
10:59:31 AM Mike Fewless Orange County Sheriff's Office
11:00:28 AM Senator Bradley
11:01:12 AM Senator Thompson
11:01:39 AM Mike Fewless Orange County Sheriff's Office
11:02:36 AM Senator Bradley
11:02:58 AM Keri Silver Florida Sheriff's Association

11:03:57 AM Senator Bradley
11:04:36 AM Space Florida Chris Snow Civil use of UAV's
11:05:57 AM Chairman Simpson
11:07:06 AM Senator Thrasher debate
11:09:20 AM Senator Soto
11:10:40 AM Senator Latvala
11:14:34 AM Senator Thompson
11:15:54 AM Senator Smith
11:17:07 AM Senator Negron Closes
11:23:21 AM Secretary calls roll
11:23:38 AM Bill passes
11:23:42 AM Tab 3 SB 2
11:23:51 AM Senator Latvala SB 2
11:31:33 AM Amendment 937534 Senator Hukill
11:32:19 AM Amendment adopted
11:32:30 AM Amendment 247078 Senator Soto
11:33:21 AM Senator Latvala
11:34:29 AM Amendment withdrawn
11:34:47 AM Amendment 159386 Late filed Sentor Bradley
11:36:29 AM Senator Latvala
11:38:39 AM Small County Coalition Chris Doolin
11:41:13 AM Amendment adopted
11:41:20 AM Bill amended
11:41:33 AM Senator Hukill debate
11:45:13 AM Senator Thrasher
11:45:49 AM Senator Hukill
11:46:25 AM Senator Latvala
11:47:06 AM Senator Smith
11:48:32 AM Senator Latvala
11:49:34 AM Senator Thrasher
11:50:57 AM Senator Latvala waives close
11:51:03 AM Secretary takes roll
11:51:14 AM Bill passes