

By Senator Diaz de la Portilla

36-01228-11

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1                   A bill to be entitled  
2           An act relating to public corruption; amending s.  
3           112.312, F.S.; redefining the term "gift" to exclude  
4           contributions or expenditures reported under federal  
5           election law; amending s. 112.3145, F.S.; redefining  
6           the term "local officer" for the purposes of  
7           disclosing financial interests to include members of a  
8           community redevelopment agency board and any finance  
9           director of a county, municipality, or other political  
10          subdivision; repealing s. 838.014(4), F.S., relating  
11          to the term "corruptly" or "with corrupt intent" to  
12          conform provisions to changes made by the act;  
13          amending s. 838.015, F.S.; redefining the term  
14          "bribery" as it relates to the requisite mental state  
15          for the offense of bribery; amending ss. 838.016 and  
16          838.022, F.S.; revising provisions relating to the  
17          requisite mental state for the offenses of unlawful  
18          compensation and reward for official behavior and  
19          official misconduct, to conform to changes made by the  
20          act; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Paragraph (b) of subsection (12) of section  
25           112.312, Florida Statutes, is amended to read:

26           112.312 Definitions.—As used in this part and for purposes  
27           of the provisions of s. 8, Art. II of the State Constitution,  
28           unless the context otherwise requires:

29           (12)

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30 (b) "Gift" does not include:

31 1. Salary, benefits, services, fees, commissions, gifts, or  
32 expenses associated primarily with the donee's employment,  
33 business, or service as an officer or director of a corporation  
34 or organization.

35 2. Contributions or expenditures reported pursuant to  
36 chapter 106 or federal election law, campaign-related personal  
37 services provided without compensation by individuals  
38 volunteering their time, or any other contribution or  
39 expenditure by a political party.

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

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

45 5. An honorary membership in a service or fraternal  
46 organization presented merely as a courtesy by such  
47 organization.

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

50 7. Transportation provided to a public officer or employee  
51 by an agency in relation to officially approved governmental  
52 business.

53 8. Gifts provided directly or indirectly by a state,  
54 regional, or national organization which promotes the exchange  
55 of ideas between, or the professional development of,  
56 governmental officials or employees, and whose membership is  
57 primarily composed of elected or appointed public officials or  
58 staff, to members of that organization or officials or staff of

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59 a governmental agency that is a member of that organization.

60 Section 2. Paragraph (a) of subsection (1) of section  
61 112.3145, Florida Statutes, is amended to read:

62 112.3145 Disclosure of financial interests and clients  
63 represented before agencies.—

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

66 (a) "Local officer" means:

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

70 2. Any appointed member of any of the following boards,  
71 councils, commissions, authorities, or other bodies of any  
72 county, municipality, school district, independent special  
73 district, or other political subdivision of the state:

74 a. The governing body of the political subdivision, if  
75 appointed;

76 b. An expressway authority or transportation authority  
77 established by general law;

78 c. A community college or junior college district board of  
79 trustees;

80 d. A board having the power to enforce local code  
81 provisions;

82 e. A planning or zoning board, board of adjustment, board  
83 of appeals, community redevelopment agency board, or other board  
84 having the power to recommend, create, or modify land planning  
85 or zoning within the political subdivision, except for citizen  
86 advisory committees, technical coordinating committees, and such  
87 other groups who only have the power to make recommendations to

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88 planning or zoning boards;

89 f. A pension board or retirement board having the power to  
90 invest pension or retirement funds or the power to make a  
91 binding determination of one's entitlement to or amount of a  
92 pension or other retirement benefit; or

93 g. Any other appointed member of a local government board  
94 who is required to file a statement of financial interests by  
95 the appointing authority or the enabling legislation, ordinance,  
96 or resolution creating the board.

97 3. Any person holding one or more of the following  
98 positions: mayor; county or city manager; chief administrative  
99 employee of a county, municipality, or other political  
100 subdivision; county or municipal attorney; finance director of a  
101 county, municipality, or other political subdivision; chief  
102 county or municipal building code inspector; county or municipal  
103 water resources coordinator; county or municipal pollution  
104 control director; county or municipal environmental control  
105 director; county or municipal administrator, with power to grant  
106 or deny a land development permit; chief of police; fire chief;  
107 municipal clerk; district school superintendent; community  
108 college president; district medical examiner; or purchasing  
109 agent having the authority to make any purchase exceeding the  
110 threshold amount provided for in s. 287.017 for CATEGORY ONE, on  
111 behalf of any political subdivision of the state or any entity  
112 thereof.

113 Section 3. Subsection (4) of section 838.014, Florida  
114 Statutes, is repealed.

115 Section 4. Subsection (1) of section 838.015, Florida  
116 Statutes, is amended to read:

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117 838.015 Bribery.—

118 (1) "Bribery" means knowingly ~~corruptly~~ to give, offer, or  
119 promise to any public servant, or, if a public servant,  
120 knowingly ~~corruptly~~ to request, solicit, accept, or agree to  
121 accept for himself or herself or another, any pecuniary or other  
122 benefit not authorized by law with an intent or purpose to  
123 influence the performance of any act or omission which the  
124 person believes to be, or the public servant represents as  
125 being, within the official discretion of a public servant, in  
126 violation of a public duty, or in performance of a public duty.

127 Section 5. Subsections (1) and (2) of section 838.016,  
128 Florida Statutes, are amended to read:

129 838.016 Unlawful compensation or reward for official  
130 behavior.—

131 (1) It is unlawful for any person knowingly ~~corruptly~~ to  
132 give, offer, or promise to any public servant, or, if a public  
133 servant, knowingly ~~corruptly~~ to request, solicit, accept, or  
134 agree to accept, any pecuniary or other benefit not authorized  
135 by law, for the past, present, or future performance,  
136 nonperformance, or violation of any act or omission which the  
137 person believes to have been, or the public servant represents  
138 as having been, either within the official discretion of the  
139 public servant, in violation of a public duty, or in performance  
140 of a public duty. Nothing herein shall be construed to preclude  
141 a public servant from accepting rewards for services performed  
142 in apprehending any criminal.

143 (2) It is unlawful for any person knowingly ~~corruptly~~ to  
144 give, offer, or promise to any public servant, or, if a public  
145 servant, knowingly ~~corruptly~~ to request, solicit, accept, or

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146 agree to accept, any pecuniary or other benefit not authorized  
147 by law for the past, present, or future exertion of any  
148 influence upon or with any other public servant regarding any  
149 act or omission which the person believes to have been, or which  
150 is represented to him or her as having been, either within the  
151 official discretion of the other public servant, in violation of  
152 a public duty, or in performance of a public duty.

153 Section 6. Subsection (1) of section 838.022, Florida  
154 Statutes, is amended to read:

155 838.022 Official misconduct.—

156 (1) It is unlawful for a public servant, to knowingly ~~with~~  
157 ~~corrupt intent to~~ obtain a benefit for any person or to cause  
158 harm to another, to:

159 (a) Falsify, or cause another person to falsify, any  
160 official record or official document;

161 (b) Conceal, cover up, destroy, mutilate, or alter any  
162 official record or official document or cause another person to  
163 perform such an act; or

164 (c) Obstruct, delay, or prevent the communication of  
165 information relating to the commission of a felony that directly  
166 involves or affects the public agency or public entity served by  
167 the public servant.

168 Section 7. This act shall take effect July 1, 2011.