

THE FLORIDA SENATE
2013 SUMMARY OF LEGISLATION PASSED
Committee on Ethics and Elections

CS/SB 2 — Ethics

by Rules Committee; Ethics and Elections Committee; and Senators Latvala, Gardiner, Thrasher, Legg, Lee, Benacquisto, Flores, Diaz de la Portilla, Gaetz, Abruzzo, Altman, Bean, Bradley, Brandes, Braynon, Bullard, Clemens, Dean, Detert, Evers, Galvano, Garcia, Gibson, Grimsley, Hays, Hukill, Joyner, Margolis, Montford, Negron, Richter, Ring, Sachs, Simmons, Simpson, Smith, Sobel, Soto, Stargel, and Thompson

The bill (Chapter 2013-36, L.O.F.) is an omnibus ethics reform package containing numerous significant changes to the Code of Ethics for Public Officers and Employees that include:

- **Dual Public Employment:** prohibiting public officers from accepting employment with the state or a political subdivision that is being offered for the purpose of gaining influence or other advantage based upon the person's holding office or candidacy; and providing criteria that must be met for the employment to be lawfully accepted.
- **Revolving Door:** prohibiting a former legislator from lobbying an executive branch agency, agency official, or employee for a period of two years after leaving office.
- **Ethics Training:** requiring all constitutional officers to complete 4 hours of ethics training each year; specifying requirements for ethics training; requiring the commission to adopt rules to establish minimum course content; and requiring each house of the Legislature to provide for ethics training pursuant to its rules.
- **Blind Trusts:** allowing public officers to create a blind trust in order to avoid conflicts of interests arising from the ownership of those assets; specifying that assets placed in a qualified blind trust cannot give rise to a conflict of interest under s. 112.313(3), F.S., s. 112.313(7), F.S., and s. 112.3143, F.S.; specifying that assets placed in the trust must be free of any restrictions concerning sale or trade and may not be improbable or impossible to transfer without the officer's knowledge; prohibiting certain conduct and communications to assure that the trust is truly "blind;" specifying who may serve as a trustee; prohibits certain individuals from managing the blind trust; and requiring the officer to file a notice of the trust or a copy of the trust agreement with the Commission on Ethics.
- **Voting Conflicts:** providing a definition for the terms "principal by whom retained" and "special private gain or loss;" prohibiting a state public officer from voting on any matter that would inure to his or her special private gain or loss; requiring disclosure of any interest prior to the vote unless it is not possible to do so; providing that, if it is not possible for an officer to disclose an interest prior to the vote, he or she must disclose the interest no later than 15 days after the vote; allowing members of the Legislature to satisfy the disclosure requirements using forms promulgated by their respective house; clarifying that an attorney who serves as a member of the Legislature is not required to disclose information that would violate confidentiality or privilege provided, however, that the member makes a general disclosure apprising the public of the general nature of the conflict; and clarifying that members of the Board of Directors of Enterprise Florida are subject to the voting conflict provisions relating to state public officers in s. 112.3143(2), F.S.

- **Financial Disclosure:** requiring the qualifying officer to electronically transmit financial disclosure forms of a candidate for elected office to the commission; requires the commission to refrain from taking action on complaints alleging immaterial, inconsequential, or de minimis errors or omissions for certain period of time to allow an officer time to cure such an error or omission; providing what constitutes an immaterial, inconsequential, or de minimis error or omission; authorizing an individual required to file a disclosure to have the statement prepared by an attorney or a certified public accountant; requiring an attorney or certified public accountant to sign the completed disclosure form to indicate compliance with applicable requirements and that the disclosure is true and correct based on reasonable knowledge and belief; providing that the failure of the attorney or certified public accountant to accurately transcribe information provided by the filing individual does not constitute a violation; authorizing an elected officer or candidate to use funds in an office account or campaign depository to pay an attorney or certified public accountant for preparing a disclosure; requiring all full and public disclosures of financial interests (CE Form 6) filed with the commission to be scanned and made publicly available on a searchable Internet database beginning with the 2012 filing year; requiring the commission to submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system by December 1, 2015; revising the definitions in s. 112.3145, F.S. of the terms "local officer" and "specified state employee;" requiring a person filing a statement of financial interest to indicate the method of reporting income; amending the collections techniques available for collecting an unpaid fine for failing to timely file financial disclosure; requiring the commission to attempt to determine whether an individual owing certain fines is a current public officer or public employee; authorizing the commission to notify the Chief Financial Officer or the governing body of a county, municipality, or special district of the total amount of any fine owed to the commission by such individuals; requiring that the Chief Financial Officer or the governing body of a county, municipality, or special district begin withholding portions of any salary payment that would otherwise be paid to the current public officer or public employee until the fine is satisfied; authorizing the Chief Financial Officer or the governing body to retain a portion of payment for administrative costs; authorizing garnishment of wages to collect unpaid fines for failure to timely file financial disclosure owed by individuals who are no longer public officers or public employees; authorizing the commission to contract with a collection agency; authorizing a collection agency to utilize collection methods authorized by law; and extending the statute of limitations to allow up to twenty years to collect such an unpaid fine.
- **Gifts and Honoraria:** provides that a person is not a "procurement employee" if he or she does not exceed, or is expected not to exceed, \$10,000 in purchasing during a year; providing a definition of vendor; prohibiting solicitation of gifts and honoraria from vendors; removing references to committees of continuous existence and political committees from existing gifts and honoraria laws; creating a new prohibition on soliciting or accepting certain "gifts" from a political committee, regardless of the value of the "gift;" defining "gifts" for purposes of the new prohibition; and providing penalty.

- **Executive Branch Lobbying:** authorizing the commission to investigate sworn complaints alleging a prohibited expenditure; authorizing the commission to investigate a lobbyist or principal upon a sworn complaint or random audit; authorizing the Governor and Cabinet to assess a fine on a lobbyist or principal under specified conditions; and providing a civil penalty for failure to disclose certain required information.
- **Complaint Procedures:** authorizing the Commission on Ethics, upon a vote of six members, to investigate a referral alleging a breach of the public trust, or violation of the Code of Ethics that is received from the Governor, the Florida Department of Law Enforcement, a state attorney, or a U.S. Attorney; providing that a complaint may not be filed against a candidate for public office within the 30 day period before the election unless the complaint is based upon personal information or information other than hearsay; authorizing the commission to dismiss a complaint alleging a de minimis violation; providing exceptions; and defining "de minimis violation."

These provisions became law upon approval by the Governor on May 1, 2013.

Vote: Senate 37-0; House 117-0