

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ETHICS AND ELECTIONS**  
**Senator Baxley, Chair**  
**Senator Taddeo, Vice Chair**

**MEETING DATE:** Tuesday, February 2, 2021

**TIME:** 12:30—3:00 p.m.

**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Baxley, Chair; Senator Taddeo, Vice Chair; Senators Berman, Bracy, Bradley, Broxson, Gainer, Garcia, and Polsky

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	Welcome and Opening Remarks		Discussed
2	Introduction of Committee Members and Staff		Discussed
3	Brief Overview of Committee's Jurisdiction		Presented
4	Presentation by the Department of State: 2020 Election		Temporarily Postponed
5	Presentation by the Florida Supervisors of Elections: 2020 Election and Legislative Priorities		Temporarily Postponed
6	Presentation by the Florida Commission on Ethics: Legislative Priorities		Presented
7	Other Related Meeting Documents		

### **Dawn Roberts**

Dawn is our Senior Staff Director. She is a graduate of Converse College and the FSU College of Law. Dawn began her public service with the Florida Legislature in the House in 1997. After six years of service with the Legislature, Dawn was asked to serve as General Counsel for the Department of State. At the Department, she went on to serve as Director of the Division of Elections; Assistant Secretary of State/Chief of Staff; and Interim Secretary of State. Dawn returned to the Florida Senate in January of 2011.

### **Sarah Naf Biehl**

Sarah Naf Biehl is an Senior Attorney who has worked within each of Florida's state government branches. Most recently, she served as the Chief of Legislative Affairs for the Office of the State Courts Administrator, where she represented the interests of the state courts system before the Legislature and acted as the liaison between the courts and the legislative and executive branches.

Before joining the courts system in 2014, Sarah worked for committees in the House and Senate and as an administrative law attorney for the Department of Business and Professional Regulation. Sarah earned her undergraduate and law degrees from the Florida State University.

### **Carlos Rey**

Carlos is our Senior Attorney. He has a bachelor's degree in chemistry from Florida International University, and a Master's degree in Applied Economics and a law degree from the Florida State University. Prior to working on the Ethics and Elections Committee, Carlos was an Assistant General Counsel at the Florida Department of State.

### **Lygia Tisdale**

Lygia is the Executive Appointments Analyst. Prior to coming to work for the Legislature in 1989, Lygia was the Bonifay City Clerk. She has been with the Ethics and Elections Committee since 1997 and works in the Executive Business side of the Committee which relates to executive appointments requiring Senate confirmation.

### **Dan Brinson**

A graduate from the Florida State University, Dan is a Legislative Analyst who also works in the Executive Business side of the Committee. He began his career with the Senate in 2003, starting as an OPS worker with the Sergeant's Office, and made his way over to the Committee in 2010.

### **Porsche Knight**

Porsche has recently joined our Committee as a Legislative Analyst. She transferred from the Florida House after working four years in the Speaker's Office and two years in the Office of House Administration. She has a Bachelor's degree from Florida State University and is currently pursuing her Master's degree in Public Administration.

### **Erika Bowen**

Erika is our Senior Administrative Assistant, she manages the administrative operations of the Committee. She has a Bachelor's degree in Public Administration from Barry University and a

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Master's degree in Management from Keiser University. Prior to joining the Ethics and Elections Committee, Erika was the Assistant to the Honorable Gwen Marshall, Leon County Clerk of the Circuit Court and Comptroller.

# SENATE COMMITTEE ON ETHICS & ELECTIONS

## *JURISDICTION OVERVIEW*

- This committee has jurisdictional oversight of the Division of Elections within the Department of State; the Florida Elections Commission; and the Florida Commission on Ethics.
- The Secretary of State serves as chief election officer and is charged with the responsibility of obtaining and maintaining uniformity in the interpretation and implementation of election laws.
- The Secretary and the Division work closely with the 67 county Supervisors of Elections – 66 of whom are elected constitutional officers. Miami-Dade's Supervisor is appointed.
- Florida's election system is bifurcated with the responsibility of planning and administering elections borne at the local level.
- In addition to working with the Secretary of State and the Division of Elections, this committee works closely with Florida's Supervisors of Elections. The collective goal of our Supervisors of Elections is to support fair, honest and accurate elections in the State of Florida.
- As former candidates for public office, you are no doubt familiar with the Florida Election Code which is comprised of Chapters 97 through 106 of the Florida Statutes.
- The Florida Elections Commission is the administrative agency charged with enforcing Chapters 104 and 106 of Florida's Election Code. The jurisdiction and responsibilities of the Florida Elections Commission can be found in Chapter 106. The mission of the Commission is to ensure transparency in Florida's elections and in their capacity as quasi-judicial officers, the Commissioners adjudicate cases.
- The Code of Ethics for Public Officers and Employees is set forth in Part III, Chapter 112, Florida Statutes.

- Not only has the State of Florida been a leader among the states with respect to our election laws and procedures, Florida has led the nation in establishing the highest ethical standards for public officials and employees. The State Constitution recognizes that a public office is a public trust and that the people have the right to protect the public trust against abuse.
- The Florida Commission on Ethics serves as the guardian of the standards of conduct for officers and employees of Florida and its political subdivisions.
- Last, but certainly not least, this Committee is responsible for handling matters pertaining to what we refer to as “Executive Business.” Simply put, Executive Business involves the executive appointments confirmation process and monitoring suspensions.
- That concludes the jurisdictional overview and now with your indulgence Mr. Chairman I will give a brief overview of the appointment and confirmation process, as it is one of the most important things this committee is tasked with overseeing.

### ***EXECUTIVE APPOINTMENTS AND CONFIRMATIONS***

- The Florida Constitution gives the Senate authority to review and confirm appointments to certain offices as provided by law. The confirmation process is one of the important constitutional checks and balances between the executive and legislative branches of government.
- Chapter 114 of the Florida Statutes outlines the procedure to be followed when a vacancy in office is filled by appointment and Senate confirmation is required. Senate Rule 12 also addresses the procedure for Senate confirmations.
- Committee staff is responsible for preparing information about each appointee to assist the Senate in making informed decisions regarding confirmations.

- The Governor, or any other individual who is authorized to make such an appointment, forwards a letter of appointment to the Secretary of State. The confirmation process begins when the Senate actually receives the appointment letter, certificate of appointment and a completed biographical questionnaire from the Department of State.
- The President of the Senate refers the appointment to this committee and may dually refer an appointee to another substantive committee(s).
- Senators are notified by e-mail when a new set of appointments is received. The e-mail includes a link which identifies the cumulative list of appointments received.
- At this point, the Ethics and Elections staff begin an inquiry into each appointee's background by checking to make sure that the appointee:
  - fulfills the statutory requirements for office
  - does not violate the dual office holding provision of the constitution (Art. II sec. 5) and
  - does not have any conflicts of interest or outstanding ethical, criminal, or license violations
- A few of the agencies we contact are:
  - The Commission on Ethics
  - The Department of Highway Safety and Motor Vehicle
  - The Department of Law Enforcement
  - The Florida Bar
  - Various state agencies that issue professional licenses
- If the person is a reappointment, the respective board is contacted for the appointee's attendance record.
- When appointees come before the committee for consideration, the committee material includes a check sheet which is basically a staff summary of the background inquiry.
- Usually appointees are considered and voted en bloc. Most appointees do not personally appear before the committee. However, appointees may be requested to appear for questioning under oath and for the committee to receive public testimony concerning the appointment.

- Upon completion of its inquiry, the committee transmits letters of report which are advisory only to the President with one of three possible recommendations:
  - That the Senate confirm the appointment.
  - That the Senate refuse to confirm the appointment.
  - That the Senate take no action or fail to consider the appointment—*If the Senate concurs, the term of appointment ends on the last day of the Senate's session and the appointee may be reappointed; however, if this happens to the same appointee for two regular sessions, it is deemed a refusal and the appointee may not be reappointed to that office for one year*
- Senators that gives you a general roadmap of the Senate's confirmation process.

**From:** Anderson, Chris <[ANDERSON.CHRIS@leg.state.fl.us](mailto:ANDERSON.CHRIS@leg.state.fl.us)>

**Sent:** Thursday, January 21, 2021 1:11 PM

**To:** Baxley, Dennis <[Baxley.Dennis@flsenate.gov](mailto:Baxley.Dennis@flsenate.gov)>; McClain, Matthew <[McClain.Matthew@flsenate.gov](mailto:McClain.Matthew@flsenate.gov)>; Nehring, Sharon <[Nehring.Sharon@flsenate.gov](mailto:Nehring.Sharon@flsenate.gov)>; Dennis, Debbie <[Dennis.Debbie@flsenate.gov](mailto:Dennis.Debbie@flsenate.gov)>

**Cc:** Roberts, Dawn <[ROBERTS.DAWN@flsenate.gov](mailto:ROBERTS.DAWN@flsenate.gov)>

**Subject:** Commission on Ethics' legislative recommendations

Dear Chair Baxley:

Attached is a listing of legislative recommendations the Commission on Ethics has approved in recent of its meetings. Being aware of the January 29 deadline for a Senator to request bill drafting, I am providing this listing to you. We of staff of the Commission stand ready to assist you with specific language for bills as to the recommendations.

Respectfully,

Chris Anderson

C. Christopher Anderson, III

Executive Director and General Counsel

Florida Commission on Ethics

(850) 488-7864



### Conflicts of Interest

The law prohibits an official from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

### Voting Conflicts Law

Under current law, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

### Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population of the municipality.

### Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

### Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, *unlimited in amount*, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

### Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

### Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The

Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters.

#### Increase of Civil Fine Penalties

Currently, the law provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

#### Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

# CourtSmart Tag Report

**Room:** EL 110

**Case No.:**

**Type:**

**Caption:** Senate Committee on Ethics and Election

**Judge:**

**Started:** 2/2/2021 12:30:44 PM

**Ends:** 2/2/2021 1:30:14 PM

**Length:** 00:59:31

12:30:53 PM Opening Remarks by Chair Baxley  
12:31:10 PM Roll Call - quorum present  
12:32:03 PM Chair Baxley -Introduction of members and staff:  
12:33:45 PM Introduces staff:  
12:34:41 PM Dawn Roberts, Staff Director  
12:34:59 PM Sara Naf Biehl, Senior Attorney  
12:35:45 PM Carlos Rey, Senior Attorney  
12:36:13 PM Dan Brinson, Legislative Analyst  
12:37:13 PM Porsche Knight, Legislative Analyst  
12:37:20 PM Erika Bowen, Senior Committee Administrative Assistant  
12:38:10 PM Chair Baxley continues  
12:38:33 PM Introduces committee members:  
12:38:44 PM Senator Randall Bracy  
12:39:18 PM Senator Tina Polsky  
12:39:51 PM Senator Lori Berman  
12:40:10 PM Senator Annette Taddeo  
12:41:12 PM Senator Doug Broxson  
12:42:00 PM Senator Ileana Garcia  
12:42:37 PM Senator Jennifer Bradley  
12:44:12 PM Chair Baxley introduces Dawn Roberts, Staff Director  
12:45:35 PM Review of Jurisdiction by Dawn Roberts  
12:46:04 PM Division of Elections  
12:46:09 PM Florida Election Commission  
12:48:27 PM Florida Commission on Ethics  
12:48:51 PM Overview of appointment process by Dawn Roberts  
12:52:09 PM Chair Baxley with comments  
12:52:33 PM Chair Baxley with followup and introduction  
12:54:26 PM Presentation by the Florida Commission on Ethics  
12:55:26 PM Chris Anderson  
1:02:27 PM Chris Anderson, Executive Director, Florida Commission on Ethics  
1:10:10 PM Chair Baxley with question  
1:10:22 PM Current members  
1:10:59 PM Chris Anderson to respond  
1:13:38 PM Chair Baxley with question  
1:14:05 PM Senator Taddeo with question  
1:15:04 PM Mr. Anderson to answer  
1:19:35 PM Senator Garcia with question  
1:19:53 PM Mr. Anderson to answer  
1:22:17 PM Senator Garcia with followup question  
1:22:27 PM Mr. Anderson to respond  
1:24:50 PM Chair Baxley introduces Senator Powell  
1:25:27 PM Chair Baxley  
1:26:02 PM David Serdan, self  
1:29:42 PM Chair Baxley with closing remarks