

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Senator Baxley, Chair
Senator Braynon, Vice Chair

MEETING DATE: Wednesday, February 13, 2019
TIME: 1:30—3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Baxley, Chair; Senator Braynon, Vice Chair; Senators Diaz, Passidomo, Powell, Rodriguez, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 336 Brandes (Compare H 5)	Local Tax Referenda; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election, etc. EE 02/13/2019 Favorable FT RC	Favorable Yeas 5 Nays 2
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2	Consideration of proposed bill: SPB 7040	Financial Disclosure; Requiring the Commission on Ethics to procure and test an electronic filing system by a certain date; requiring the electronic filing of full and public disclosures of financial interests beginning on a specified date; prohibiting the commission from requesting, accepting, or retaining certain information, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
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3	Consideration of proposed bill: SPB 7042	Public Records/Commission on Ethics; Providing exemptions from public records requirements for certain passwords that are held by the Commission on Ethics and certain information entered into the electronic filing system for financial disclosure forms; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
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Other Related Meeting Documents			
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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 Ethics and Elections

BILL: SB 336

INTRODUCER: Senator Brandes

SUBJECT: Local Tax Referenda

DATE: January 31, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	RC	_____

I. Summary:

SB 336 provides that a referendum to adopt or amend a local option discretionary sales surtax must be held at a general election. The bill has no impact on state or local revenues or expenditures.

II. Present Situation:

Discretionary Sales Surtax

The Florida Constitution preempts all forms of taxation to the state, except for ad valorem taxes on real estate and tangible personal property, unless otherwise provided by general law.¹ Counties have limited authority to levy discretionary sales surtaxes on transactions subject to state sales tax.^{2,3} The Legislature has authorized the following local option discretionary sales surtaxes:

- Charter County and Regional Transportation System Surtax, for operating a transportation system in a charter county, a county which is consolidated with that of one or more municipalities, or a county that is within or under an interlocal agreement with a regional transportation or transit authority.⁴
- Local Government Infrastructure Surtax, for financing local government infrastructure projects.⁵
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.⁶

¹ Art. VII, s. 1(a), Fla. Const.

² Sections 212.054 and 212.055, F.S.

³ Surtaxes only apply to the first \$5,000 of a taxable transaction pursuant to s. 212.054(2)(b)1, F.S.

⁴ Section 212.055(1), F.S.

⁵ Section 212.055(2), F.S.

⁶ Section 212.055(3), F.S.

- Indigent Care and Trauma Center Surtax, for providing medical care for indigent persons (in non-consolidated counties having a population of at least 800,000) and funding trauma centers (in non-consolidated counties having a population less than 800,000).⁷
- County Public Hospital Surtax, for operating, maintaining, and administering a county public general hospital in a county as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).⁸
- School Capital Outlay Surtax, for constructing and renovating schools.⁹
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.¹⁰
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.¹¹
- Pension Liability Surtax for funding pension liability shortfalls.¹²

Local discretionary sales surtaxes are collected by the Department of Revenue (DOR) using the same procedures used for the administration, collection, and enforcement of the general state sales tax.¹³ DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund. A separate account is established for each county imposing a discretionary surtax. The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of the lesser of three percent or administrative costs solely and directly attributable to the surtax. Each county is liable for its prorated share of administrative costs, based on its prorated share of the amount collected statewide.¹⁴

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.¹⁵ The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16. The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance and any additional information DOR requires by rule.¹⁶ If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.¹⁷ Counties and school districts are also required to notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is scheduled to occur on or after October 1.¹⁸ If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.¹⁹

⁷ Section 212.055(4), F.S.

⁸ Section 212.055(5), F.S.

⁹ Section 212.055(6), F.S.

¹⁰ Section 212.055(7), F.S.

¹¹ Section 212.055(8), F.S.

¹² Section 212.055(9), F.S.

¹³ Section 212.054(4)(a), F.S.

¹⁴ Section 212.054(4)(b), F.S.

¹⁵ Section 212.054(5), F.S.

¹⁶ Section 212.054(7)(a), F.S.

¹⁷ *Id.*

¹⁸ Section 212.054(7)(b), F.S. The deadline for this notification is October 1.

¹⁹ *Id.*

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes were projected to realize \$3.38 billion in revenue in local fiscal year 2018-19.²⁰ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rates, they would have been projected to raise \$14.32 billion in revenue in fiscal year 2018-19.²¹

Most local discretionary sales surtaxes may be approved only by referendum, while some may be approved by an extraordinary vote of the county commission.²² For those requiring voter approval, the referendum must be approved by a majority of electors voting.²³ Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.²⁴

Performance Audit

Legislation enacted in 2018 requires the completion of a performance audit prior to any referendum to adopt a local discretionary sales surtax.²⁵ For any referendum held on or after March 23, 2018, an independent certified public accountant (CPA) licensed pursuant to Chapter 473, F.S., must conduct a performance audit of the program associated with the surtax adoption proposed by the county or school district. The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA)²⁶ must procure the CPA and may use carryforward funds to pay for the CPA's services.²⁷

The performance audit must be completed at least 60 days before the referendum is held. The audit report, including any findings, recommendations, or other accompanying documents, must be made available on the county or school district's official website and kept on the website for 2 years from the date posted.²⁸

The term "performance audit" means an examination of the program conducted according to applicable government auditing standards or auditing and evaluation of other appropriate authoritative bodies. At a minimum, the performance audit must address the following issues:

²⁰ Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook* p. 148 (Sep. 2018), available at <http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf> (last visited Jan. 31, 2019).

²¹ *Id.*

²² See generally s. 212.055, F.S.; but see s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4)(a)1., F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission in each county the government is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission [Miami-Dade]).

²³ Section 212.055, F.S.

²⁴ See e.g. s. 212.055(1)(c), F.S. and s. 212.055(5)(b), F.S. (referendum for charter county and regional transportation system and county public hospital [Miami-Dade] surtax to be held at a time "set at the discretion of the governing body"); but see, s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a "regularly scheduled election").

²⁵ Chapter 2018-118, s. 35, LAWS OF FLA.

²⁶ OPPAGA provides data, evaluation research, and objective analyses to assist legislative budget and policy deliberations. OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee. See also ss. 1.01(18) and 11.51, F.S.

²⁷ Section 212.055(10)(a), F.S.

²⁸ Section 212.055(10)(b), F.S.

- The economy, efficiency, or effectiveness of the program;
- The structure or design of the program to accomplish its goals and objectives;
- Alternative methods of providing program services or products;
- Goals, objectives, and performance measures used by the program to monitor and report program accomplishments;
- The accuracy or adequacy of public documents, reports, and requests prepared by the county or school district which relate to the program; and
- Compliance of the program with appropriate policies, rules, and laws.²⁹

Referendum Process

The Florida Election Code provides the general requirements for a referendum.³⁰ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.³¹ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.³² The ballot summary and title must be included in the resolution or ordinance calling for the referendum.³³ For some discretionary sales surtaxes, the form of the ballot question is specified by the statute authorizing the tax.³⁴

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.³⁵ A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F.S., to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. This will limit the timing and frequency of these referenda to even-year November elections.

Section 2 provides that the act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote of the membership, may not enact a general law if the

²⁹ Section 212.055(10)(c), F.S.

³⁰ Section 101.161, F.S.

³¹ Section 101.161(1), F.S.

³² *Id.*

³³ *Id.*

³⁴ See e.g., s. 212.055(4)(a)2, (4)(b)1., F.S. (ballot question for discretionary sales surtax for indigent care and trauma center).

³⁵ Section 97.021(12), F.S.

³⁶ Art. VI, s. 5(a), Fla. Const. (also codified as s. 97.021(16), F.S.).

anticipated effect of doing so would be to reduce the *authority* that counties or municipalities have to raise revenues in the aggregate.

In 1991, Senate President Margolis and House Speaker Wetherell released a memorandum to guide the House and Senate in the review of local government mandates. In the memorandum, the guidelines define the term “authority” to mean the power to levy a tax; the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one; the tax rate which can be levied; and the base against which the tax is levied, e.g., a bill providing a sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

The bill requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. While the bill limits the flexibility that counties and municipalities have for scheduling a referendum, it does not limit the authority they have to raise revenues. Therefore, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None identified.

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:

The bill sponsor may wish to consider extending the November 16 deadline for notifying DOR of the imposition of a pending local option discretionary sales surtax, if possible; county canvassing boards may not be able to formally certify sales tax referenda election results until after the current deadline — depending on and the speed and efficiency of the county’s vote count/recount process and *what calendar day* the General Election falls on in November (first TUE after the first MON; varies from year-to-year).

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

By Senator Brandes

24-00390-19

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A bill to be entitled

An act relating to local tax referenda; amending s. 212.055, F.S.; providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1), paragraph (b) of subsection (5), and paragraph (b) of subsection (8) of section 212.055, Florida Statutes, are amended, present subsection (10) of that section is redesignated as subsection (11), and a new subsection (10) is added to that section, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.—

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum held at a general election as set forth in subsection (10) ~~at a time to be set at the discretion of the governing body.~~

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with subsection (10) ~~law at a time to be set at the discretion of the governing body.~~ The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 shall be placed on the ballot of a general ~~regularly scheduled~~
60 election. The ballot for the referendum must conform to the
61 requirements of s. 101.161.

62 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
63 local government discretionary sales surtax under this section
64 must be held at a general election as defined in s. 97.021.

65 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Dennis Baxley
Committee on Ethics and Elections

Subject: Committee Agenda Request

Date: January 28, 2019

I respectfully request that **Senate Bill #336**, relating to **Local Tax Referenda**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

APPEARANCE RECORD

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

13 Feb 2019
Meeting Date

SB 336
Bill Number (if applicable)

Topic Local Tax Referenda

Amendment Barcode (if applicable)

Name DIEGO A. ECHEVERRI

Job Title DIRECTOR OF COALITIONS

Address 200 W College Ave

Phone 813-767-2084

Tallahassee FL 32301
City State Zip

Email decheverri@afpHQ.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

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)

2/13/2019

Meeting Date

SB 336

Bill Number (if applicable)

Topic Local Tax Referenda

Amendment Barcode (if applicable)

Name MARILYN WILLS

Job Title Member LWV Florida / Tallahassee

Address 2326 KILKENNY DRIVE WEST

Phone 850 893-4104

Street

TALLAHASSEE

FL

32309

City

State

Zip

Email marilyn.wills@msn.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [X] Against (The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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
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 Ethics and Elections

BILL: SPB 7040
INTRODUCER: Ethics and Elections Committee
SUBJECT: Financial Disclosure
DATE: February 15, 2019 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Mitchell</u>	<u>Roberts</u>	_____	EE Submitted as Comm. Bill/Fav

I. Summary:

SPB 7040 requires the Commission on Ethics (Commission) to procure and test an electronic filing system by January 1, 2022. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Upload submitted information to the Commission;
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard Internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete the disclosure or statement and certify that:
 - he or she prepared it in accordance with s. 112.3144, Florida Statutes (F.S.), or s. 112.3145, F.S., and the instructions for completing and filing the disclosure or statement; and
 - the information on the disclosure or statement is true and correct.

The filer must sign the form and submit it.

The bill establishes January 1, 2022 as the date after which all submissions of CE Form 6 must be made to the Commission and accomplished electronically. After January 1, 2023, all submissions of CE Form 1 must be made to the Commission and accomplished electronically. Submission of paper forms will be discontinued. The Commission will provide notice and other communications to filers by email message. All disclosures must be for the calendar year, not the taxable year. Local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar value threshold method of reporting. The percent in excess of income or value method (comparative, or percentage, threshold) will no longer be in use.

II. Present Situation:

Financial Disclosure

Florida ethics laws provide for two tiers of financial disclosure:

- Full and public disclosure of financial interests (CE Form 6); and
- Statement of financial interests (CE Form 1).¹ The financial disclosure filing process is overseen by the Commission on Ethics (Commission) with the assistance of local qualifying officers and supervisors of elections.

Full and Public Disclosure of Financial Interests (CE Form 6)

Currently, all elected constitutional officers, candidates for such offices, and statewide elected officers 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 any other public officers, candidates, and employees as determined by law.² Officers subject to either the constitutional or statutory requirement to file the CE Form 6 include:

- The Governor;
- Lieutenant Governor;
- Cabinet members;
- Legislators;
- County commissioners;
- State attorneys;
- Public defenders;
- Clerks of circuit courts;
- Sheriffs;
- Tax collectors;
- Property appraisers;
- Supervisors of elections;
- Elected superintendents of schools;
- District school board members;
- Jacksonville City Council members (including mayor);
- The Duval County superintendent of schools;
- Florida Housing Finance Corporation board members;
- Florida Prepaid College board members; and
- Each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 343 or 348, F.S., or any other general law.

¹ FLA. CONST., art. II, s. 8(a), s. 112.3144, F.S., and s. 112.3145, F.S.

² For example, statutory law provides that members of expressway, transportation, bridge, or toll authorities are required to comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution. Section 348.0003(4)(c), F.S.

The CE Form 6 requires the filer to disclose his or her net worth, each separate source of income in excess of \$1,000, and each asset and liability in excess of \$1,000.³ To show income, the filer may provide a copy of his or her most recent federal income tax return.⁴ These values are to be calculated as of December 31 of the preceding year.⁵ The CE Form 6 must be sworn⁶ and is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 6 filing requirement must file a CE Form 6 with his or her qualifying papers. If the candidate is an incumbent qualifying to run for the same office or holds another office subject to the CE Form 6 filing requirement, the qualifying officer must forward an electronic copy of the CE Form 6 to the Commission by July 1.⁷

General law also requires an individual subject to the CE Form 6 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.⁸ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office, unless the person takes another public position for which a CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 6.⁹ For calendar year 2018, there were 1,398 individuals required to file CE Form 6.¹⁰

Statement of Financial Interests (CE Form 1)

Persons seeking nomination or election to a state or local elective office, state officers, local officers, and specified state employees are required to file an annual statement of financial interests (CE Form 1).¹¹ CE Form 1 requires less detail than the CE Form 6. Examples of state officers required to file the CE Form 1 include:

- Appointed members of boards, commissions, authorities, or councils that have statewide jurisdiction – excluding advisory bodies;
- Members of the State University System Board of Governors;
- The State University System Chancellor and Vice Chancellor;
- Members of a state university board of trustees;
- The Deputy Chief Judge of Compensation Claims and any compensation claims judge; and
- Members of the judicial nominating commission for any district court of appeal or any judicial circuit.¹²

State officers subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹³

Examples of state employees required to file the CE Form 1 include:

- The public counsel;

³ FLA. CONST., art. II, s. 8(i)1.

⁴ *Id.*

⁵ Fla. Admin. Code R. 34-8.004 (2019)

⁶ FLA. CONST., art. II, s. 8(i)1.

⁷ Section 112.3144(2), F.S.

⁸ Section 112.3144(7), F.S.

⁹ *Id.*

¹⁰ See Florida Commission on Ethics “Annual Report to the Florida Legislature for Calendar Year 2018.” A copy of the report may be obtained from the Florida Commission on Ethics.

¹¹ Section 112.3145(2)(a) and (b), F.S.

¹² Section 112.3145(1)(c), F.S.

¹³ Section 112.3145(2)(c), F.S.

- Assistant state attorneys;
- Assistant public defenders;
- Criminal conflict and civil regional counsels (including assistant counsels);
- Each appointed agency secretary (including an assistant or deputy secretary);
- An executive director of a state department (including an assistant or deputy secretary);
- An agency division director, assistant division director, deputy director, bureau chief, and assistant bureau chief;
- A general counsel of a state agency (including deputy general counsels);
- Administrative law judges and hearing officers; and
- A business manager or purchasing agent with authority to make any purchase over \$20,000 (CATEGORY ONE).¹⁴

State employees subject to the CE Form 1 filing requirement file with the Commission on Ethics.¹⁵

Examples of local officers required to file the CE Form 1 include:

- Elected political subdivision officers;
- Appointed members of political subdivision boards, councils, commissions, authorities, or other bodies of political subdivisions; and
- A community college or junior college district board of trustees.¹⁶

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁷

Examples of local employees required to file the CE Form 1 include, but are not limited to:

- A county or city manager;
- The chief administrative employee of a county, municipality, or other political subdivision;
- A chief county or municipal building code inspector;
- A chief of police;
- A fire chief;
- A municipal clerk;
- A community college president; and
- A purchasing agent with authority to make any purchase over \$20,000 (CATEGORY ONE).¹⁸

Local officers subject to the CE Form 1 filing requirement file with their local supervisor of elections.¹⁹

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

¹⁴ Section 112.3145(1)(b), F.S.

¹⁵ Section 112.3145(2)(c), F.S.

¹⁶ Section 112.3145(1)(a), F.S.

¹⁷ Section 112.3145(2)(c), F.S.

¹⁸ Section 112.3145(1)(a), F.S.

¹⁹ Section 112.3145(2)(c), F.S.

businesses.²⁰ 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 expressly require this designation on the CE Form 1. The CE Form 1 is due July 1. A grace period is provided until September 1 of each year.

A candidate for an office subject to the CE Form 1 filing requirement must file a CE Form 1 with his or her qualifying papers.²¹ If the candidate qualifies prior to the annual CE Form 1 filing deadline, the CE Form 1 that is filed with the candidate’s qualifying papers will satisfy the annual disclosure requirement.²² If the candidate qualifies after the annual CE Form 1 filing deadline, the candidate must file a copy of the CE Form 1 with the qualifying officer.²³ General law also requires an individual subject to the CE Form 1 filing requirement to file a final disclosure statement within 60 days after leaving his or her public position.²⁴ The final disclosure must cover the period between January 1 of the year in which the person leaves and the last day of office or employment, unless the person takes another public position for which a CE Form 1 or CE Form 6 is required within the 60-day period, or if the person is otherwise required to file a CE Form 1 or CE Form 6.²⁵ For calendar year 2018, there were 36,787 individuals required to file CE Form 1.²⁶ Of these, 13,975 were state level CE Form 1 filers, while 22,812 individuals were local level CE Form 1 filers.²⁷

Commission Forms and Depositories of Forms

The Commission has promulgated forms by 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.

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

²⁰ Section 112.3145(3), F.S.

²¹ Section 112.3145(2)(a), F.S.

²² *Id.*

²³ *Id.*

²⁴ Section 112.3145(2)(b), F.S.

²⁵ *Id.*

²⁶ See Florida Commission on Ethics ‘Annual Report to the Florida Legislature for Calendar Year 2018.’ A copy of the report may be obtained from the Florida Commission on Ethics.

²⁷ *Id.*

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. The automatic fine is capped at \$1,500. Neither the Commission nor supervisors of elections are 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 advise the filer to seek a formal opinion from the Commission at its next available meeting. Upon receipt of the guidance, the filer must 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.

Electronic Financial Disclosure

In 2013, the Legislature passed CS/SB 2. The bill created s. 112.31445, F.S., which required the Commission to scan all CE Form 6 filings and make them available in an online searchable database beginning with the 2012 filing year. The bill also required 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 the campaign financing requirements of ch. 106, F.S. At a minimum, the proposal was required to:

- Mandate an 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;
- Permit a CPA to prepare and electronically sign a financial disclosure form to indicate that it was completed in compliance with the applicable financial disclosure law and the instructions on the financial disclosure form;
- 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;
- Provide for a receipt to be obtained verifying that the officer has filed his or her form; and
- Address the feasibility of subjecting those who file the less detailed statement of financial interests to the electronic financial disclosure filing requirement.

Following the statutory guidelines, the Commission on Ethics submitted its report in 2015, including a proposal to legislative leaders for a mandatory electronic filing system.²⁸

²⁸ A copy of the proposal is on file with the Senate Committee on Ethics and Elections.

III. Effect of Proposed Changes:

Electronic Financial Disclosure Filing System

The bill requires the Commission to procure and test a mandatory electronic filing system by January 1, 2022. Filers who file the full and public disclosure of financial interests (CE Form 6), final full and public disclosure of financial interests (CE Form 6F), or any amendments thereto, must file electronically by January 1, 2022. Those who file the statement of financial interests (CE Form 1), final statement of financial interests (CE Form 1F), and any amendments thereto, must file electronically by January 1, 2023.

The electronic filing system must, at a minimum:

- Provide for access through the Internet for the completion and submission of CE Form 6, CE Form 1, and other required forms;
- Facilitate uploading of submitted information to the Commission using software approved by the Commission;
- Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software;
- Issue a verification or receipt that the Commission has received the filing of the financial disclosure form;
- Provide a secure method that prevents unauthorized access to electronic filing system functions or data; and
- Provide a method for an attorney or certified public accountant to complete the disclosure or statement, to certify that he or she prepared the form in accordance with provisions of law and the instructions for completing the disclosure or statement and that, upon his or her reasonable knowledge and belief, the form is true and correct. The filer must sign the form and submit it.

The bill requires the Commission to provide each filer a secure log-in to the electronic filing system. If the Governor declares the electronic filing system to be inoperable, the bill requires the Commission to accept submissions of disclosures of financial interests or statements of financial interests through other methods as specified by order of the Governor.

To assist the electronic financial disclosure filing process, the bill requires each unit of government to assign an electronic mail account to its officers, members, or employees who must file a form with the Commission. The bill requires each filer to provide the electronic mail account address to the Commission on Ethics, so that it can be used to notify filers of filing requirements, deadlines, and any applicable fines for non-compliance with the filing requirement.

The estimated cost to procure and test the mandatory electronic filing system is \$1.9 million. This figure is based on the proposal submitted by the Commission in 2015 and may vary from the cost of implementation of this bill. The figure does not include staff costs for the Commission on Ethics and Office of Legislative Information Technology Services.

Revision to the Disclosure Period

To alleviate confusion among filers and to ensure all disclosures cover the same time period, the bill revises the definition of the term ‘disclosure period’ to specify that it is a calendar year, and no longer includes the option of considering it as a taxable year. This change is effective January 1, 2020.

Revisions to FORM 6 Filing Process

Beginning January 1, 2022, CE Form 6, CE Form 6F, any amendments thereto, and any other form required by s. 112.3144, F.S., must be filed electronically with the Commission. This electronic filing requirement is also applicable to candidates running for an office who are also subject to the CE Form 6 filing requirement. However these individuals will still file with their qualifying officer until the electronic filing system is in use. FORM 6 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

Upon becoming law, the bill eliminates the ability of CE Form 6 filers to submit a copy of their most recent income tax return along with their disclosure. The bill also prohibits the Commission from requesting, and a filer from providing, in any filing or submission, any of the following information:

- A federal income tax return or a copy thereof;
- Social security numbers;
- Bank, mortgage, or brokerage account numbers;
- Debit, charge, or credit card numbers;
- Personal identification numbers;
- Taxpayer identification numbers; or
- Any other personal or account information that is legally protected from disclosure under state of federal law.

If any of the above information is submitted by the filer, the bill provides that it shall not be subject to any confidentiality or public records exemptions found in the general exemptions from inspection or copying of public records.²⁹ The Commission must redact a filer’s social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. The bill requires each unit of government with officers subject to the filing requirement to assist the Commission in these efforts. By January 1, 2022, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the

²⁹ Section 119.071, F.S.

submitted disclosure. Also beginning January 1, 2022, a written declaration, as provided by verification of documents requirements,³⁰ accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Revisions to FORM 1 Filing Process

Beginning January 1, 2023, CE Form 1, CE Form 1F, any amendments thereto, quarterly client disclosures (CE Form 2), and any other form required by s. 112.3145, F.S., must be filed electronically with the Commission. This electronic filing requirement is applicable to candidates running for an office who are also subject to the CE Form 1 filing requirement. However, these individuals will still file with their qualifying officer until the electronic filing system is in use. CE Form 1 filers will be required to electronically sign their disclosure, under penalty of perjury, declaring that the information stated in the disclosure is true.

The bill reduces the number of individuals subject to the CE Form 1 filing requirement by removing compensation claims judges, including the Deputy Chief Judge, who are required to file a CE Form 6. By recommendation of the Commission, the bill also removes assistant bureau chiefs from the CE Form 1 filing requirement. Finally, the bill increases the purchasing power threshold that would subject a state employee who is a business manager or purchasing agent to the CE Form 1 filing requirement. Pursuant to the bill, the threshold is increased to \$35,000 (CATEGORY TWO) from \$20,000 (CATEGORY ONE).

After January 1, 2023, filers will no longer be allowed to report using a comparative threshold based on a percentage value. The bill also prohibits the Commission from requesting, and a filer from providing, in any filing or submission, any of the following information:

- Federal income tax returns;
- Social security numbers;
- Bank, mortgage, or brokerage account numbers;
- Debit, charge, or credit card numbers;
- Personal identification numbers;
- Taxpayer identification numbers; or
- Any other personal or account information that is legally protected from disclosure under state of federal law.

If any of the above information is submitted by the filer, the bill provides that it shall not be subject to any confidentiality or public records exemptions found in the general exemptions from inspection or copying of public records.³¹ The Commission must redact a filer's social security number; bank, mortgage, or brokerage account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. The notice from the filer must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

³⁰ Section 92.525(2), F.S.

³¹ Section 119.071, F.S.

To facilitate the electronic financial disclosure filing process, and to reduce the reliance on mailing forms and notices, the bill requires the Commission to collect filer email addresses. The bill requires each unit of government with officers subject to the filing requirement to assist the Commission in these efforts. By January 1, 2023, the Commission is required to remind filers of the filing deadline and send delinquency notices by email. Upon the request of the filer, the Commission must provide verification to the filer that the Commission has received the submitted disclosure. Also beginning January 1, 2023, a written declaration, as provided by verification of documents requirements,³² accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

Effective Date

Except for Section 2, which becomes effective January 1, 2020, the bill becomes effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill creates an electronic filing system for financial disclosures and requires the Commission to provide filers a secure log-in to the system. Use of the system by filers contemplates draft input of information and data to the forms an unlimited number of times before the submission of a final form. The integrity of the system would fail if passwords used to access the system or information and data in draft, unfinalized form were subject to availability as public records. The bill contemplates that this information should be exempt from public records requirements and these exemptions are the subject of a travelling companion bill, SPB 7042. Once a form is submitted on the electronic filing system, the information and data contained therein are not exempt from public records requirements.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

³² Section 92.525(2), F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Commission will likely be dependent upon an increased appropriation in order to accomplish the procurement, testing, and activation of an electronic filing system. In its 2015 report, the Commission estimated a cost of \$1.9 million to procure and test the mandatory electronic filing system. This figure may vary from the cost of implementation of this bill. The figure does not include staff costs for the Commission on Ethics or the Office of Legislative Information Technology Services.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.31446 of the Florida Statutes.

This bill substantially amends sections 112.312, 112.3144, and 112.3145 of the Florida Statutes.

This bill makes technical amendments to section 112.31455 of the Florida Statutes.

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

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/13/2019	.	
	.	
	.	
	.	

The Committee on Ethics and Elections (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.31446, Florida Statutes, is created
to read:

112.31446 Electronic filing system for financial
disclosure.—

(1) As used in this section, the term:

(a) "Disclosure of financial interests" or "disclosure"



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11 includes a full and public disclosure of financial interests and
12 a final full and public disclosure of financial interests, and
13 any amendments thereto.

14 (b) "Electronic filing system" means an Internet-based
15 system for receiving, reporting, and publishing disclosures of
16 financial interests, statements of financial interests, or any
17 other form that is required under s. 112.3144 or s. 112.3145.

18 (c) "Statement of financial interests" or "statement"
19 includes a statement of financial interests and a final
20 statement of financial interests, and any amendments thereto.

21 (2) By January 1, 2022, the commission shall procure and
22 test an electronic filing system. At a minimum, the electronic
23 filing system must:

24 (a) Provide access through the Internet for the completion
25 and submission of disclosures of financial interests, statements
26 of financial interests, or any other form that is required under
27 s. 112.3144 or s. 112.3145.

28 (b) Upload submitted information to the commission using
29 software that is approved by the commission.

30 (c) Allow for a procedure to make filings available in a
31 searchable format that is accessible by an individual using
32 standard Internet-browsing software.

33 (d) Issue a verification or receipt that the commission has
34 received the submitted disclosure or statement.

35 (e) Provide security that prevents unauthorized access to
36 the electronic filing system's functions or data.

37 (f) Provide a method for an attorney or a certified public
38 accountant licensed in this state to complete the disclosure or
39 statement and certify that he or she prepared the disclosure or



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40 statement in accordance with s. 112.3144 or s. 112.3145 and the
41 instructions for completing the disclosure or statement, and
42 that, upon his or her reasonable knowledge and belief, the
43 information on the disclosure or statement is true and correct.

44 (3) Each unit of government shall provide an e-mail address
45 to any of its officers, members, or employees who must file a
46 disclosure of financial interests or a statement of financial
47 interests, and provide such e-mail addresses to the commission
48 by February 1 of each year. A person required to file a
49 disclosure of financial interests or statement of financial
50 interests must inform the commission immediately of any change
51 in his or her e-mail address.

52 (4) The commission shall provide each person required to
53 file a disclosure of financial interests or statement of
54 financial interests a secure log-in to the electronic filing
55 system. Such person is responsible for protecting his or her
56 secure log-in credentials from disclosure and is responsible for
57 all filings submitted to the commission with such credentials,
58 unless the person has notified the commission that his or her
59 credentials have been compromised.

60 (5) If the Governor declares the electronic filing system
61 to be inoperable, the commission must accept submissions of
62 disclosures of financial interests or statements of financial
63 interests required under s. 112.3144 or s. 112.3145,
64 respectively, through other methods as specified by order of the
65 Governor.

66 Section 2. Effective January 1, 2020, subsection (10) of
67 section 112.312, Florida Statutes, is amended to read:

68 112.312 Definitions.—As used in this part and for purposes



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69 of the provisions of s. 8, Art. II of the State Constitution,
70 unless the context otherwise requires:

71 (10) "Disclosure period" means the calendar taxable year,
72 if disclosure is required for the entire year, or the portion of
73 a calendar year ending with the last day of the period for which
74 disclosure is required for the person or business entity,
75 ~~whether based on a calendar or fiscal year, immediately~~
76 ~~preceding the date on which, or the last day of the period~~
77 ~~during which, the financial disclosure statement required by~~
78 ~~this part is required to be filed.~~

79 Section 3. Section 112.3144, Florida Statutes, is amended
80 to read:

81 112.3144 Full and public disclosure of financial
82 interests.-

83 (1) An officer who is required by s. 8, Art. II of the
84 State Constitution to file a full and public disclosure of his
85 or her financial interests for any calendar or fiscal year, or
86 any other person required by law to file a disclosure under this
87 section, shall file that disclosure with the Florida Commission
88 on Ethics. Additionally, ~~beginning January 1, 2015,~~ an officer
89 who is required to complete annual ethics training pursuant to
90 s. 112.3142 must certify on his or her full and public
91 disclosure of financial interests that he or she has completed
92 the required training.

93 (2) Beginning January 1, 2022, a full and public disclosure
94 of financial interests and a final full and public disclosure of
95 financial interests, and amendments thereto, or any other form
96 required by this section, must be filed electronically through
97 an electronic filing system created and maintained by the



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98 commission as provided in s. 112.31446.

99 (3) A person who is required, pursuant to s. 8, Art. II of
100 the State Constitution, to file a full and public disclosure of
101 financial interests and who has filed a full and public
102 disclosure of financial interests for any calendar or fiscal
103 year shall not be required to file a statement of financial
104 interests pursuant to s. 112.3145(2) and (3) for the same year
105 or for any part thereof notwithstanding any requirement of this
106 part. Until the electronic filing system required by subsection
107 (2) is implemented, if an incumbent in an elective office has
108 filed the full and public disclosure of financial interests to
109 qualify for election to the same office or if a candidate for
110 office holds another office subject to the annual filing
111 requirement, the qualifying officer shall forward an electronic
112 copy of the full and public disclosure of financial interests to
113 the commission no later than July 1. The electronic copy of the
114 full and public disclosure of financial interests satisfies the
115 annual disclosure requirement of this section. A candidate who
116 does not qualify until after the annual full and public
117 disclosure of financial interests has been filed pursuant to
118 this section shall file a copy of his or her disclosure with the
119 officer before whom he or she qualifies.

120 (4)~~(3)~~ For purposes of full and public disclosure under s.
121 8(a), Art. II of the State Constitution, the following items, if
122 not held for investment purposes and if valued at over \$1,000 in
123 the aggregate, may be reported in a lump sum and identified as
124 "household goods and personal effects":

125 (a) Jewelry;

126 (b) Collections of stamps, guns, and numismatic properties;



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127 (c) Art objects;
128 (d) Household equipment and furnishings;
129 (e) Clothing;
130 (f) Other household items; and
131 (g) Vehicles for personal use.
132 (5) (a) (4) (a) With respect to reporting, on forms prescribed
133 under this section, assets valued in excess of \$1,000 which the
134 reporting individual holds jointly with another person, the
135 amount reported shall be based on the reporting individual's
136 legal percentage of ownership in the property. However, assets
137 that are held jointly, with right of survivorship, must be
138 reported at 100 percent of the value of the asset. For purposes
139 of this subsection, a reporting individual is deemed to own a
140 percentage of a partnership which is equal to the reporting
141 individual's interest in the capital or equity of the
142 partnership.
143 (b)1. With respect to reporting, on forms prescribed under
144 this section, liabilities valued in excess of \$1,000 ~~on forms~~
145 ~~prescribed under this section~~ for which the reporting individual
146 is jointly and severally liable, the amount reported shall be
147 based on the reporting individual's percentage of liability
148 rather than the total amount of the liability. However,
149 liability for a debt that is secured by property owned by the
150 reporting individual but that is held jointly, with right of
151 survivorship, must be reported at 100 percent of the total
152 amount owed.
153 2. A separate section of the form shall be created to
154 provide for the reporting of the amounts of joint and several
155 liability of the reporting individual not otherwise reported in



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156 subparagraph 1.

157 (c) With respect to reporting income, on forms prescribed
158 under this section, each separate source and amount of income
159 which exceeds \$1,000 must be identified. For purposes of
160 reporting income, a person required to file a full and public
161 disclosure of financial interests may not provide, and the
162 commission may not accept, a federal income tax return or a copy
163 thereof.

164 (6) The commission may not request, and a public officer,
165 candidate, or any other person may not provide, in any filing or
166 submission, a federal income tax return or a copy thereof; a
167 social security number; a bank, mortgage, or brokerage account
168 number; a debit, charge, or credit card number; a personal
169 identification number; a taxpayer identification number; or any
170 other personal or account information that is legally protected
171 from disclosure under state or federal law. Once the electronic
172 filing system is implemented, if a public officer, candidate, or
173 other person voluntarily provides such information, the
174 information is not subject to any confidentiality or public
175 records exemptions found in s. 119.071. The commission shall
176 redact a filer's social security number; bank, mortgage, or
177 brokerage account number; debit, charge, or credit card number;
178 or any other personal or account information that is legally
179 protected from disclosure under state or federal law upon
180 written notification from the filer of its inadvertent
181 inclusion. Such notice must specify the information
182 inadvertently included and the specific section or sections of
183 the disclosure in which it was included.

184 (7)-(5) Until the electronic filing system required by



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185 subsection (2) is implemented, forms for compliance with the
186 full and public disclosure requirements of s. 8, Art. II of the
187 State Constitution shall be prescribed ~~created~~ by the commission
188 ~~on Ethics~~. The commission shall give notice of disclosure
189 deadlines and delinquencies and distribute forms in the
190 following manner:

191 (a) Not later than May 1 of each year, the commission shall
192 prepare a current list of the names, e-mail addresses, and
193 physical addresses of and the offices held by every person
194 required to file full and public disclosure annually by s. 8,
195 Art. II of the State Constitution, or other state law. ~~In~~
196 ~~compiling the list, the commission shall be assisted by~~ Each
197 unit of government shall assist the commission in compiling the
198 list by ~~in~~ providing to the commission not later than February 1
199 of each year at the request of the commission the name, e-mail
200 address, physical address, and name of the office held by such
201 person ~~each public official~~ within the respective unit of
202 government as of December 31 of the preceding year.

203 (b) Not later than June 1 ~~30 days before July 1~~ of each
204 year, the commission shall distribute ~~mail~~ a copy of the form
205 prescribed for compliance with full and public disclosure and a
206 notice of the filing deadline to each person on the ~~mailing~~
207 list. Beginning January 1, 2022, notice required under this
208 paragraph must be delivered by e-mail or other electronic means.

209 (c) Not later than August 1 ~~30 days after July 1~~ of each
210 year, the commission shall determine which persons on the
211 ~~mailing~~ list have failed to file full and public disclosure and
212 shall send delinquency notices ~~by certified mail~~ to such
213 persons. Each notice must ~~shall~~ state that a grace period is in



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214 effect until September 1 of the current year. Beginning January
215 1, 2022, notice required under this paragraph must be delivered
216 by e-mail or other electronic means and must be redelivered on a
217 weekly basis so long as a person remains delinquent.

218 (d) Disclosures ~~Statements~~ must be received by the
219 commission ~~filed~~ not later than 5 p.m. of the due date. However,
220 any ~~disclosure statement~~ that is postmarked by the United States
221 Postal Service by midnight of the due date is deemed to have
222 been filed in a timely manner, and a certificate of mailing
223 obtained from and dated by the United States Postal Service at
224 the time of the mailing, or a receipt from an established
225 courier company which bears a date on or before the due date,
226 constitutes proof of mailing in a timely manner. Beginning
227 January 1, 2022, upon request of the filer, the commission must
228 provide verification to the filer that the commission has
229 received the submitted disclosure.

230 (e) Beginning January 1, 2022, a written declaration, as
231 provided for under s. 92.525(2), accompanied by an electronic
232 signature satisfies the requirement that the disclosure be
233 sworn.

234 (f) Any person who is required to file full and public
235 disclosure of financial interests and whose name is on the
236 commission's ~~mailing~~ list, and to whom notice has been sent, but
237 who fails to timely file is assessed a fine of \$25 per day for
238 each day late up to a maximum of \$1,500; however this \$1,500
239 limitation on automatic fines does not limit the civil penalty
240 that may be imposed if the statement is filed more than 60 days
241 after the deadline and a complaint is filed, as provided in s.
242 112.324. The commission must provide by rule the grounds for



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243 waiving the fine and the procedures by which each person whose
244 name is on the ~~mailing~~ list and who is determined to have not
245 filed in a timely manner will be notified of assessed fines and
246 may appeal. The rule must provide for and make specific the
247 following:

248 1. The amount of the fine due is based upon the earliest of
249 the following:

250 a. When a statement is actually received by the office.

251 b. When the statement is postmarked.

252 c. When the certificate of mailing is dated.

253 d. When the receipt from an established courier company is
254 dated.

255 2. Upon receipt of the disclosure statement or upon accrual
256 of the maximum penalty, whichever occurs first, the commission
257 shall determine the amount of the fine which is due and shall
258 notify the delinquent person. The notice must include an
259 explanation of the appeal procedure under subparagraph 3. Such
260 fine must be paid within 30 days after the notice of payment due
261 is transmitted, unless appeal is made to the commission pursuant
262 to subparagraph 3. The moneys shall be deposited into the
263 General Revenue Fund.

264 3. Any reporting person may appeal or dispute a fine, based
265 upon unusual circumstances surrounding the failure to file on
266 the designated due date, and may request and is entitled to a
267 hearing before the commission, which may waive the fine in whole
268 or in part for good cause shown. Any such request must be in
269 writing and received by the commission ~~made~~ within 30 days after
270 the notice of payment due is transmitted. In such a case, the
271 reporting person must, within the 30-day period, notify the



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272 person designated to review the timeliness of reports in writing
273 of his or her intention to bring the matter before the
274 commission. For purposes of this subparagraph, the term "unusual
275 circumstances" does not include the failure to monitor an e-mail
276 account or failure to receive notice if the person has not
277 notified the commission of a change in his or her e-mail
278 address.

279 (g) ~~(f)~~ Any person subject to the annual filing of full and
280 public disclosure under s. 8, Art. II of the State Constitution,
281 or other state law, whose name is not on the commission's
282 ~~mailing~~ list of persons required to file full and public
283 disclosure is not subject to the fines or penalties provided in
284 this part for failure to file full and public disclosure in any
285 year in which the omission occurred, but nevertheless is
286 required to file the disclosure statement.

287 (h) ~~(g)~~ The notification requirements and fines of this
288 subsection do not apply to candidates or to the first filing
289 required of any person appointed to elective constitutional
290 office or other position required to file full and public
291 disclosure, unless the person's name is on the commission's
292 notification list and the person received notification from the
293 commission. The appointing official shall notify such newly
294 appointed person of the obligation to file full and public
295 disclosure by July 1. The notification requirements and fines of
296 this subsection do not apply to the final filing provided for in
297 subsection (9) ~~(7)~~.

298 (i) ~~(h)~~ Notwithstanding any provision of chapter 120, any
299 fine imposed under this subsection which is not waived by final
300 order of the commission and which remains unpaid more than 60



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301 days after the notice of payment due or more than 60 days after
302 the commission renders a final order on the appeal must be
303 submitted to the Department of Financial Services as a claim,
304 debt, or other obligation owed to the state, and the department
305 shall assign the collection of such fine to a collection agent
306 as provided in s. 17.20.

307 ~~(8)-(6)~~ If a person holding public office or public
308 employment fails or refuses to file a full and public disclosure
309 of financial interests for any year in which the person received
310 notice from the commission regarding the failure to file and has
311 accrued the maximum automatic fine authorized under this
312 section, regardless of whether the fine imposed was paid or
313 collected, the commission shall initiate an investigation and
314 conduct a public hearing without receipt of a complaint to
315 determine whether the person's failure to file is willful. Such
316 investigation and hearing must be conducted in accordance with
317 s. 112.324. Except as provided in s. 112.324(4), if the
318 commission determines that the person willfully failed to file a
319 full and public disclosure of financial interests, the
320 commission shall enter an order recommending that the officer or
321 employee be removed from his or her public office or public
322 employment. The commission shall forward its recommendations as
323 provided in s. 112.324.

324 ~~(9)-(7)~~ Each person required to file full and public
325 disclosure of financial interests shall file a final disclosure
326 statement within 60 days after leaving his or her public
327 position for the period between January 1 of the year in which
328 the person leaves and the last day of office or employment,
329 unless within the 60-day period the person takes another public



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330 position requiring financial disclosure under s. 8, Art. II of
331 the State Constitution, or is otherwise required to file full
332 and public disclosure for the final disclosure period. The head
333 of the agency of each person required to file full and public
334 disclosure for the final disclosure period shall notify such
335 persons of their obligation to file the final disclosure and may
336 designate a person to be responsible for the notification
337 requirements of this subsection.

338 (10) (a) ~~(8) (a)~~ The commission shall treat an amendment to a
339 ~~amended~~ full and public disclosure of financial interests which
340 is filed before September 1 of the year in which the disclosure
341 is due as part of the original filing, regardless of whether a
342 complaint has been filed. If a complaint alleges only an
343 immaterial, inconsequential, or de minimis error or omission,
344 the commission may not take any action on the complaint other
345 than notifying the filer of the complaint. The filer must be
346 given 30 days to file an amendment to the ~~amended~~ full and
347 public disclosure of financial interests correcting any errors.
348 If the filer does not file an amendment to the ~~amended~~ full and
349 public disclosure of financial interests within 30 days after
350 the commission sends notice of the complaint, the commission may
351 continue with proceedings pursuant to s. 112.324.

352 (b) For purposes of the final full and public disclosure of
353 financial interests, the commission shall treat an amendment to
354 a new final full and public disclosure of financial interests as
355 part of the original filing if filed within 60 days after the
356 original filing, regardless of whether a complaint has been
357 filed. If, more than 60 days after a final full and public
358 disclosure of financial interests is filed, a complaint is filed



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359 alleging a complete omission of any information required to be
360 disclosed by this section, the commission may immediately follow
361 the complaint procedures in s. 112.324. However, if the
362 complaint alleges an immaterial, inconsequential, or de minimis
363 error or omission, the commission may not take any action on the
364 complaint, other than notifying the filer of the complaint. The
365 filer must be given 30 days to file an amendment to the a new
366 final full and public disclosure of financial interests
367 correcting any errors. If the filer does not file an amendment
368 to the a new final full and public disclosure of financial
369 interests within 30 days after the commission sends notice of
370 the complaint, the commission may continue with proceedings
371 pursuant to s. 112.324.

372 (c) For purposes of this section, an error or omission is
373 immaterial, inconsequential, or de minimis if the original
374 filing provided sufficient information for the public to
375 identify potential conflicts of interest. However, failure to
376 certify completion of annual ethics training required under s.
377 112.3142 does not constitute an immaterial, inconsequential, or
378 de minimis error or omission.

379 (11) (a) (9) (a) An individual required to file a disclosure
380 pursuant to this section may have the disclosure prepared by an
381 attorney in good standing with The Florida Bar or by a certified
382 public accountant licensed under chapter 473. After preparing a
383 disclosure form, the attorney or certified public accountant
384 must sign the form indicating that he or she prepared the form
385 in accordance with this section and the instructions for
386 completing and filing the disclosure forms and that, upon his or
387 her reasonable knowledge and belief, the disclosure is true and



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388 correct. If a complaint is filed alleging a failure to disclose
389 information required by this section, the commission shall
390 determine whether the information was disclosed to the attorney
391 or certified public accountant. The failure of the attorney or
392 certified public accountant to accurately transcribe information
393 provided by the individual required to file is not a violation
394 of this section.

395 (b) An elected officer or candidate who chooses to use an
396 attorney or a certified public accountant to prepare his or her
397 disclosure may pay for the services of the attorney or certified
398 public accountant from funds in an office account created
399 pursuant to s. 106.141 or, during a year that the individual
400 qualifies for election to public office, the candidate's
401 campaign depository pursuant to s. 106.021.

402 (12)~~(10)~~ The commission shall adopt rules and forms
403 specifying how a person who is required to file full and public
404 disclosure of financial interests may amend his or her
405 disclosure statement to report information that was not included
406 on the form as originally filed. If the amendment is the subject
407 of a complaint filed under this part, the commission and the
408 proper disciplinary official or body shall consider as a
409 mitigating factor when considering appropriate disciplinary
410 action the fact that the amendment was filed before any
411 complaint or other inquiry or proceeding, while recognizing that
412 the public was deprived of access to information to which it was
413 entitled.

414 (13) The provisions of this section constitute a revision
415 to the schedule included in s. 8(i), Art. II of the State
416 Constitution.



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417 Section 4. Section 112.3145, Florida Statutes, is amended
418 to read:

419 112.3145 Disclosure of financial interests and clients
420 represented before agencies.—

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

423 (a) "Local officer" means:

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

427 2. Any appointed member of any of the following boards,
428 councils, commissions, authorities, or other bodies of any
429 county, municipality, school district, independent special
430 district, or other political subdivision of the state:

431 a. The governing body of the political subdivision, if
432 appointed;

433 b. A community college or junior college district board of
434 trustees;

435 c. A board having the power to enforce local code
436 provisions;

437 d. A planning or zoning board, board of adjustment, board
438 of appeals, community redevelopment agency board, or other board
439 having the power to recommend, create, or modify land planning
440 or zoning within the political subdivision, except for citizen
441 advisory committees, technical coordinating committees, and such
442 other groups who only have the power to make recommendations to
443 planning or zoning boards;

444 e. A pension board or retirement board having the power to
445 invest pension or retirement funds or the power to make a



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446 binding determination of one's entitlement to or amount of a
447 pension or other retirement benefit; or

448 f. Any other appointed member of a local government board
449 who is required to file a statement of financial interests by
450 the appointing authority or the enabling legislation, ordinance,
451 or resolution creating the board.

452 3. Any person holding one or more of the following
453 positions: mayor; county or city manager; chief administrative
454 employee of a county, municipality, or other political
455 subdivision; county or municipal attorney; finance director of a
456 county, municipality, or other political subdivision; chief
457 county or municipal building code inspector; county or municipal
458 water resources coordinator; county or municipal pollution
459 control director; county or municipal environmental control
460 director; county or municipal administrator, with power to grant
461 or deny a land development permit; chief of police; fire chief;
462 municipal clerk; district school superintendent; community
463 college president; district medical examiner; or purchasing
464 agent having the authority to make any purchase exceeding the
465 threshold amount provided for in s. 287.017 for CATEGORY TWO
466 ~~ONE~~, on behalf of any political subdivision of the state or any
467 entity thereof.

468 (b) "Specified state employee" means:

469 1. Public counsel created by chapter 350, an assistant
470 state attorney, an assistant public defender, a criminal
471 conflict and civil regional counsel, an assistant criminal
472 conflict and civil regional counsel, a full-time state employee
473 who serves as counsel or assistant counsel to any state agency,
474 ~~the Deputy Chief Judge of Compensation Claims, a judge of~~



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475 ~~compensation claims,~~ an administrative law judge, or a hearing
476 officer.

477 2. Any person employed in the office of the Governor or in
478 the office of any member of the Cabinet if that person is exempt
479 from the Career Service System, except persons employed in
480 clerical, secretarial, or similar positions.

481 3. The State Surgeon General or each appointed secretary,
482 assistant secretary, deputy secretary, executive director,
483 assistant executive director, or deputy executive director of
484 each state department, commission, board, or council; unless
485 otherwise provided, the division director, assistant division
486 director, deputy director, and bureau chief, ~~and assistant~~
487 ~~bureau chief~~ of any state department or division; or any person
488 having the power normally conferred upon such persons, by
489 whatever title.

490 4. The superintendent or institute director of a state
491 mental health institute established for training and research in
492 the mental health field or the warden or director of any major
493 state institution or facility established for corrections,
494 training, treatment, or rehabilitation.

495 5. Business managers, purchasing agents having the power to
496 make any purchase exceeding the threshold amount provided for in
497 s. 287.017 for CATEGORY TWO ~~ONE~~, finance and accounting
498 directors, personnel officers, or grants coordinators for any
499 state agency.

500 6. Any person, other than a legislative assistant exempted
501 by the presiding officer of the house by which the legislative
502 assistant is employed, who is employed in the legislative branch
503 of government, except persons employed in maintenance, clerical,



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504 secretarial, or similar positions.

505 7. Each employee of the Commission on Ethics.

506 (c) "State officer" means:

507 1. Any elected public officer, excluding those elected to
508 the United States Senate and House of Representatives, not
509 covered elsewhere in this part and any person who is appointed
510 to fill a vacancy for an unexpired term in such an elective
511 office.

512 2. An appointed member of each board, commission,
513 authority, or council having statewide jurisdiction, excluding a
514 member of an advisory body.

515 3. A member of the Board of Governors of the State
516 University System or a state university board of trustees, the
517 Chancellor and Vice Chancellors of the State University System,
518 and the president of a state university.

519 4. A member of the judicial nominating commission for any
520 district court of appeal or any judicial circuit.

521 (2) (a) A person seeking nomination or election to a state
522 or local elective office shall file a statement of financial
523 interests together with, and at the same time he or she files,
524 qualifying papers. Until the electronic filing system is
525 implemented under paragraph (d), when a candidate has qualified
526 for office prior to the deadline to file an annual statement of
527 financial interests, the statement of financial interests that
528 is filed with the candidate's qualifying papers shall be deemed
529 to satisfy the annual disclosure requirement of this section.
530 The qualifying officer must record that the statement of
531 financial interests was timely filed. However, if a candidate
532 does not qualify until after the annual statement of financial



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533 interests has been filed, the candidate may file a copy of his
534 or her statement with the qualifying officer.

535 (b) Each state or local officer and each specified state
536 employee shall file a statement of financial interests no later
537 than July 1 of each year. Each state officer, local officer, and
538 specified state employee shall file a final statement of
539 financial interests within 60 days after leaving his or her
540 public position for the period between January 1 of the year in
541 which the person leaves and the last day of office or
542 employment, unless within the 60-day period the person takes
543 another public position requiring financial disclosure under
544 this section or s. 8, Art. II of the State Constitution or
545 otherwise is required to file full and public disclosure or a
546 statement of financial interests for the final disclosure
547 period. Each state or local officer who is appointed and each
548 specified state employee who is employed shall file a statement
549 of financial interests within 30 days from the date of
550 appointment or, in the case of a specified state employee, from
551 the date on which the employment begins, except that any person
552 whose appointment is subject to confirmation by the Senate shall
553 file prior to confirmation hearings or within 30 days from the
554 date of appointment, whichever comes first.

555 (c) State officers and specified state employees shall file
556 their statements of financial interests with the commission ~~on~~
557 ~~Ethics~~. Local officers shall file their statements of financial
558 interests with the supervisor of elections of the county in
559 which they permanently reside. Local officers who do not
560 permanently reside in any county in the state shall file their
561 statements of financial interests with the supervisor of



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562 elections of the county in which their agency maintains its
563 headquarters. Persons seeking to qualify as candidates for local
564 public office shall file their statements of financial interests
565 with the officer before whom they qualify.

566 (d) Beginning January 1, 2023, a statement of financial
567 interests and a final statement of financial interests, and
568 amendments thereto, or any other form required by this section,
569 must be filed electronically through an electronic filing system
570 created and maintained by the commission as provided in s.
571 112.31446.

572 (3) The statement of financial interests for state
573 officers, specified state employees, local officers, and persons
574 seeking to qualify as candidates for state or local office shall
575 be filed even if the reporting person holds no financial
576 interests requiring disclosure in a particular category, in
577 which case that section of the statement shall be marked "not
578 applicable." Otherwise, the statement of financial interests
579 must ~~shall~~ include the information under paragraph (a) or
580 paragraph (b). The reporting person shall indicate on the
581 statement whether he or she is using the reporting method under
582 paragraph (a) or paragraph (b). However, beginning January 1,
583 2023, only the reporting method specified under paragraph (b)
584 may be used. ~~at the filer's option, either:~~

585 (a) 1. All sources of income in excess of 5 percent of the
586 gross income received during the disclosure period by the person
587 in his or her own name or by any other person for his or her use
588 or benefit, excluding public salary. However, this shall not be
589 construed to require disclosure of a business partner's sources
590 of income. The person reporting shall list such sources in



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591 descending order of value with the largest source first;

592 2. All sources of income to a business entity in excess of
593 10 percent of the gross income of a business entity in which the
594 reporting person held a material interest and from which he or
595 she received an amount which was in excess of 10 percent of his
596 or her gross income during the disclosure period and which
597 exceeds \$1,500. The period for computing the gross income of the
598 business entity is the fiscal year of the business entity which
599 ended on, or immediately prior to, the end of the disclosure
600 period of the person reporting;

601 3. The location or description of real property in this
602 state, except for residences and vacation homes, owned directly
603 or indirectly by the person reporting, when such person owns in
604 excess of 5 percent of the value of such real property, and a
605 general description of any intangible personal property worth in
606 excess of 10 percent of such person's total assets. For the
607 purposes of this paragraph, indirect ownership does not include
608 ownership by a spouse or minor child; and

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

611 (b)1. All sources of gross income in excess of \$2,500
612 received during the disclosure period by the person in his or
613 her own name or by any other person for his or her use or
614 benefit, excluding public salary. However, this shall not be
615 construed to require disclosure of a business partner's sources
616 of income. The person reporting shall list such sources in
617 descending order of value with the largest source first;

618 2. All sources of income to a business entity in excess of
619 10 percent of the gross income of a business entity in which the



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620 reporting person held a material interest and from which he or
621 she received gross income exceeding \$5,000 during the disclosure
622 period. The period for computing the gross income of the
623 business entity is the fiscal year of the business entity which
624 ended on, or immediately prior to, the end of the disclosure
625 period of the person reporting;

626 3. The location or description of real property in this
627 state, except for residence and vacation homes, owned directly
628 or indirectly by the person reporting, when such person owns in
629 excess of 5 percent of the value of such real property, and a
630 general description of any intangible personal property worth in
631 excess of \$10,000. For the purpose of this paragraph, indirect
632 ownership does not include ownership by a spouse or minor child;
633 and

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

635
636 ~~A person filing a statement of financial interests shall~~
637 ~~indicate on the statement whether he or she is using the method~~
638 ~~specified in paragraph (a) or paragraph (b).~~

639 (4) The commission may not request, and a local or state
640 officer or specified state employee may not provide, in any
641 filing or submission, a federal income tax return or a copy
642 thereof; a social security number; a bank, mortgage, or
643 brokerage account number; a debit, charge, or credit card
644 number; a personal identification number; a taxpayer
645 identification number; or any other personal or account
646 information that is legally protected from disclosure under
647 state or federal law. Once the electronic filing system is
648 implemented, if a public officer, candidate, or other person



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649 voluntarily provides such information, the information is not
650 subject to any confidentiality or public records exemptions
651 found in s. 119.071. The commission shall redact a filer's
652 social security number; bank, mortgage, or brokerage account
653 number; debit, charge, or credit card number; or any other
654 personal or account information that is legally protected from
655 disclosure under state or federal law upon written notification
656 from the filer of its inadvertent inclusion. Such notice must
657 specify the information inadvertently included and the specific
658 section or sections of the disclosure in which it was included.

659 (5) ~~Beginning January 1, 2015,~~ An officer who is required
660 to complete annual ethics training pursuant to s. 112.3142 must
661 certify on his or her statement of financial interests that he
662 or she has completed the required training.

663 (6) ~~(5)~~ Each elected constitutional officer, state officer,
664 local officer, and specified state employee shall file a
665 quarterly report of the names of clients represented for a fee
666 or commission, except for appearances in ministerial matters,
667 before agencies at his or her level of government. For the
668 purposes of this part, agencies of government shall be
669 classified as state-level agencies or agencies below state
670 level. Each local officer shall file such report with the
671 supervisor of elections of the county in which the officer is
672 principally employed or is a resident. Each state officer,
673 elected constitutional officer, and specified state employee
674 shall file such report with the commission. The report shall be
675 filed only when a reportable representation is made during the
676 calendar quarter and shall be filed no later than the last day
677 of each calendar quarter, for the previous calendar quarter.



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678 Representation before any agency shall be deemed to include
679 representation by such officer or specified state employee or by
680 any partner or associate of the professional firm of which he or
681 she is a member and of which he or she has actual knowledge. For
682 the purposes of this subsection, the term "representation before
683 any agency" does not include appearances before any court or the
684 Deputy Chief Judge of Compensation Claims or judges of
685 compensation claims or representations on behalf of one's agency
686 in one's official capacity. Such term does not include the
687 preparation and filing of forms and applications merely for the
688 purpose of obtaining or transferring a license based on a quota
689 or a franchise of such agency or a license or operation permit
690 to engage in a profession, business, or occupation, so long as
691 the issuance or granting of such license, permit, or transfer
692 does not require substantial discretion, a variance, a special
693 consideration, or a certificate of public convenience and
694 necessity.

695 (7)~~(6)~~ Each elected constitutional officer and each
696 candidate for such office, any other public officer required
697 pursuant to s. 8, Art. II of the State Constitution to file a
698 full and public disclosure of his or her financial interests,
699 and each state officer, local officer, specified state employee,
700 and candidate for elective public office who is or was during
701 the disclosure period an officer, director, partner, proprietor,
702 or agent, other than a resident agent solely for service of
703 process, of, or owns or owned during the disclosure period a
704 material interest in, any business entity which is granted a
705 privilege to operate in this state shall disclose such facts as
706 a part of the disclosure form filed pursuant to s. 8, Art. II of



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707 the State Constitution or this section, as applicable. The
708 statement shall give the name, address, and principal business
709 activity of the business entity and shall state the position
710 held with such business entity or the fact that a material
711 interest is owned and the nature of that interest.

712 (8)~~(7)~~ Forms for compliance with the disclosure
713 requirements of this section and a current list of persons
714 subject to disclosure shall be created by the commission and
715 provided to each supervisor of elections. The commission and
716 each supervisor of elections shall give notice of disclosure
717 deadlines and delinquencies and distribute forms in the
718 following manner:

719 (a)1. Not later than May 1 of each year, the commission
720 shall prepare a current list of the names, e-mail addresses, and
721 physical addresses of, and the offices or positions held by,
722 every state officer, local officer, and specified employee. ~~In~~
723 ~~compiling the list, the commission shall be assisted by~~ Each
724 unit of government shall assist the commission in compiling the
725 list by ~~in~~ providing to the commission not later than February 1
726 of each year, ~~at the request of the commission,~~ the name, e-
727 mail address, physical address, and name of agency of, and the
728 office or position held by, each state officer, local officer,
729 or specified state employee within the respective unit of
730 government as of December 31 of the preceding year.

731 2. Not later than May 15 of each year, the commission shall
732 provide each supervisor of elections with a current ~~mailing~~ list
733 of all local officers required to file with such supervisor of
734 elections.

735 (b) Not later than June 1 ~~30 days before July 1~~ of each



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736 year, the commission and each supervisor of elections, as
737 appropriate, shall distribute ~~mail~~ a copy of the form prescribed
738 for compliance with subsection (3) and a notice of all
739 applicable disclosure forms and filing deadlines to each person
740 required to file a statement of financial interests. Beginning
741 January 1, 2023, notice required under this paragraph must be
742 delivered by e-mail or other electronic means.

743 (c) Not later than August 1 ~~30 days after July 1~~ of each
744 year, the commission and each supervisor of elections shall
745 determine which persons required to file a statement of
746 financial interests in their respective offices have failed to
747 do so and shall send delinquency notices ~~by certified mail,~~
748 ~~return receipt requested,~~ to these persons. Each notice must
749 ~~shall~~ state that a grace period is in effect until September 1
750 of the current year; that no investigative or disciplinary
751 action based upon the delinquency will be taken by the agency
752 head or commission if the statement is filed by September 1 of
753 the current year; that, if the statement is not filed by
754 September 1 of the current year, a fine of \$25 for each day late
755 will be imposed, up to a maximum penalty of \$1,500; for notices
756 distributed ~~sent~~ by a supervisor of elections, that he or she is
757 required by law to notify the commission of the delinquency; and
758 that, if upon the filing of a sworn complaint the commission
759 finds that the person has failed to timely file the statement
760 within 60 days after September 1 of the current year, such
761 person will also be subject to the penalties provided in s.
762 112.317. Beginning January 1, 2023, notice required under this
763 paragraph must be delivered by e-mail or other electronic means
764 and must be redelivered on a weekly basis so long as a person



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765 remains delinquent.

766 (d) No later than November 15 of each year, the supervisor
767 of elections in each county shall certify to the commission a
768 list of the names and addresses of, and the offices or positions
769 held by, all persons who have failed to timely file the required
770 statements of financial interests. The certification must
771 include the earliest of the dates described in subparagraph
772 (g)1. ~~(f)1.~~ The certification shall be on a form prescribed by
773 the commission and shall indicate whether the supervisor of
774 elections has provided the disclosure forms and notice as
775 required by this subsection to all persons named on the
776 delinquency list.

777 (e) Statements must be received by the commission ~~filed~~ not
778 later than 5 p.m. of the due date. However, any statement that
779 is postmarked by the United States Postal Service by midnight of
780 the due date is deemed to have been filed in a timely manner,
781 and a certificate of mailing obtained from and dated by the
782 United States Postal Service at the time of the mailing, or a
783 receipt from an established courier company which bears a date
784 on or before the due date, constitutes proof of mailing in a
785 timely manner. Beginning January 1, 2023, upon request of the
786 filer, the commission must provide verification to the filer
787 that the commission has received the submitted statement.

788 (f) Beginning January 1, 2023, the statement must be
789 accompanied by a declaration as provided in s. 92.525(2) and an
790 electronic acknowledgement thereof.

791 (g) Any person who is required to file a statement of
792 financial interests and whose name is on the commission's
793 mailing list, and to whom notice has been sent, but who fails to



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794 timely file is assessed a fine of \$25 per day for each day late
795 up to a maximum of \$1,500; however, this \$1,500 limitation on
796 automatic fines does not limit the civil penalty that may be
797 imposed if the statement is filed more than 60 days after the
798 deadline and a complaint is filed, as provided in s. 112.324.
799 The commission must provide by rule the grounds for waiving the
800 fine and procedures by which each person whose name is on the
801 ~~mailing~~ list and who is determined to have not filed in a timely
802 manner will be notified of assessed fines and may appeal. The
803 rule must provide for and make specific the following:
804 1. The amount of the fine due is based upon the earliest of
805 the following:
806 a. When a statement is actually received by the office.
807 b. When the statement is postmarked.
808 c. When the certificate of mailing is dated.
809 d. When the receipt from an established courier company is
810 dated.
811 2. For a specified state employee or a state officer, upon
812 receipt of the disclosure statement by the commission or upon
813 accrual of the maximum penalty, whichever occurs first, and for
814 a local officer upon receipt by the commission of the
815 certification from the local officer's supervisor of elections
816 pursuant to paragraph (d), the commission shall determine the
817 amount of the fine which is due and shall notify the delinquent
818 person. The notice must include an explanation of the appeal
819 procedure under subparagraph 3. The fine must be paid within 30
820 days after the notice of payment due is transmitted, unless
821 appeal is made to the commission pursuant to subparagraph 3. The
822 moneys are to be deposited into the General Revenue Fund.



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823 3. Any reporting person may appeal or dispute a fine, based
824 upon unusual circumstances surrounding the failure to file on
825 the designated due date, and may request and is entitled to a
826 hearing before the commission, which may waive the fine in whole
827 or in part for good cause shown. Any such request must be in
828 writing and received by the commission ~~made~~ within 30 days after
829 the notice of payment due is transmitted. In such a case, the
830 reporting person must, within the 30-day period, notify the
831 person designated to review the timeliness of reports in writing
832 of his or her intention to bring the matter before the
833 commission. For purposes of this subparagraph, the term "unusual
834 circumstances" does not include the failure to monitor an e-mail
835 account or failure to receive notice if the person has not
836 notified the commission of a change in his or her e-mail
837 address.

838 (h) ~~(g)~~ Any state officer, local officer, or specified
839 employee whose name is not on the ~~mailing~~ list of persons
840 required to file an annual statement of financial interests is
841 not subject to the penalties provided in s. 112.317 or the fine
842 provided in this section for failure to timely file a statement
843 of financial interests in any year in which the omission
844 occurred, but nevertheless is required to file the disclosure
845 statement.

846 (i) ~~(h)~~ The notification requirements and fines of this
847 subsection do not apply to candidates or to the first or final
848 filing required of any state officer, specified employee, or
849 local officer as provided in paragraph (2) (b).

850 (j) ~~(i)~~ Notwithstanding any provision of chapter 120, any
851 fine imposed under this subsection which is not waived by final



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852 order of the commission and which remains unpaid more than 60
853 days after the notice of payment due or more than 60 days after
854 the commission renders a final order on the appeal must be
855 submitted to the Department of Financial Services as a claim,
856 debt, or other obligation owed to the state, and the department
857 shall assign the collection of such a fine to a collection agent
858 as provided in s. 17.20.

859 (9) (a) ~~(8) (a)~~ The appointing official or body shall notify
860 each newly appointed local officer, state officer, or specified
861 state employee, not later than the date of appointment, of the
862 officer's or employee's duty to comply with the disclosure
863 requirements of this section. The agency head of each employing
864 agency shall notify each newly employed local officer or
865 specified state employee, not later than the day of employment,
866 of the officer's or employee's duty to comply with the
867 disclosure requirements of this section. The appointing official
868 or body or employing agency head may designate a person to be
869 responsible for the notification requirements of this paragraph.

870 (b) The agency head of the agency of each local officer,
871 state officer, or specified state employee who is required to
872 file a statement of financial interests for the final disclosure
873 period shall notify such persons of their obligation to file the
874 final disclosure and may designate a person to be responsible
875 for the notification requirements of this paragraph.

876 (c) If a person holding public office or public employment
877 fails or refuses to file an annual statement of financial
878 interests for any year in which the person received notice from
879 the commission regarding the failure to file and has accrued the
880 maximum automatic fine authorized under this section, regardless



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881 of whether the fine imposed was paid or collected, the
882 commission shall initiate an investigation and conduct a public
883 hearing without receipt of a complaint to determine whether the
884 person's failure to file is willful. Such investigation and
885 hearing must be conducted in accordance with s. 112.324. Except
886 as provided in s. 112.324(4), if the commission determines that
887 the person willfully failed to file a statement of financial
888 interests, the commission shall enter an order recommending that
889 the officer or employee be removed from his or her public office
890 or public employment. The commission shall forward its
891 recommendation as provided in s. 112.324.

892 (10) ~~(9)~~ A public officer who has filed a disclosure for any
893 calendar or fiscal year shall not be required to file a second
894 disclosure for the same year or any part thereof,
895 notwithstanding any requirement of this act, except that any
896 public officer who qualifies as a candidate for public office
897 shall file a copy of the disclosure with the officer before whom
898 he or she qualifies as a candidate at the time of qualification.

899 (11) (a) ~~(10) (a)~~ The commission shall treat an amendment to
900 an amended annual statement of financial interests which is
901 filed before September 1 of the year in which the statement is
902 due as part of the original filing, regardless of whether a
903 complaint has been filed. If a complaint alleges only an
904 immaterial, inconsequential, or de minimis error or omission,
905 the commission may not take any action on the complaint other
906 than notifying the filer of the complaint. The filer must be
907 given 30 days to file an amendment to the ~~amended~~ statement of
908 financial interests correcting any errors. If the filer does not
909 file an amendment to the ~~amended~~ statement of financial



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910 interests within 30 days after the commission sends notice of
911 the complaint, the commission may continue with proceedings
912 pursuant to s. 112.324.

913 (b) For purposes of the final statement of financial
914 interests, the commission shall treat an amendment to a ~~new~~
915 final statement of financial interests as part of the original
916 filing, if filed within 60 days of the original filing
917 regardless of whether a complaint has been filed. If, more than
918 60 days after a final statement of financial interests is filed,
919 a complaint is filed alleging a complete omission of any
920 information required to be disclosed by this section, the
921 commission may immediately follow the complaint procedures in s.
922 112.324. However, if the complaint alleges an immaterial,
923 inconsequential, or de minimis error or omission, the commission
924 may not take any action on the complaint other than notifying
925 the filer of the complaint. The filer must be given 30 days to
926 file an amendment to the ~~a new~~ final statement of financial
927 interests correcting any errors. If the filer does not file an
928 amendment to the ~~a new~~ final statement of financial interests
929 within 30 days after the commission sends notice of the
930 complaint, the commission may continue with proceedings pursuant
931 to s. 112.324.

932 (c) For purposes of this section, an error or omission is
933 immaterial, inconsequential, or de minimis if the original
934 filing provided sufficient information for the public to
935 identify potential conflicts of interest. However, failure to
936 certify completion of annual ethics training required under s.
937 112.3142 does not constitute an immaterial, inconsequential, or
938 de minimis error or omission.



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939 (12) (a) ~~(11) (a)~~ An individual required to file a statement
940 ~~disclosure~~ pursuant to this section may have the statement
941 ~~disclosure~~ prepared by an attorney in good standing with The
942 Florida Bar or by a certified public accountant licensed under
943 chapter 473. After preparing a statement ~~disclosure~~ form, the
944 attorney or certified public accountant must sign the form
945 indicating that he or she prepared the form in accordance with
946 this section and the instructions for completing and filing the
947 disclosure forms and that, upon his or her reasonable knowledge
948 and belief, the disclosure is true and correct. If a complaint
949 is filed alleging a failure to disclose information required by
950 this section, the commission shall determine whether the
951 information was disclosed to the attorney or certified public
952 accountant. The failure of the attorney or certified public
953 accountant to accurately transcribe information provided by the
954 individual who is required to file the statement ~~disclosure~~ does
955 not constitute a violation of this section.

956 (b) An elected officer or candidate who chooses to use an
957 attorney or a certified public accountant to prepare his or her
958 statement ~~disclosure~~ may pay for the services of the attorney or
959 certified public accountant from funds in an office account
960 created pursuant to s. 106.141 or, during a year that the
961 individual qualifies for election to public office, the
962 candidate's campaign depository pursuant to s. 106.021.

963 (13) ~~(12)~~ The commission shall adopt rules and forms
964 specifying how a state officer, local officer, or specified
965 state employee may amend his or her statement of financial
966 interests to report information that was not included on the
967 form as originally filed. If the amendment is the subject of a



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968 | complaint filed under this part, the commission and the proper
969 | disciplinary official or body shall consider as a mitigating
970 | factor when considering appropriate disciplinary action the fact
971 | that the amendment was filed before any complaint or other
972 | inquiry or proceeding, while recognizing that the public was
973 | deprived of access to information to which it was entitled.

974 | Section 5. Section 112.31455, Florida Statutes, is amended
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(7) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~
980 | to the Department of Financial Services, the commission shall
981 | attempt to determine whether the individual owing such a fine is
982 | a current public officer or current public employee. If so, the
983 | commission may notify the Chief Financial Officer or the
984 | 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.

987 | (a) After receipt and verification of the notice from the
988 | commission, the Chief Financial Officer or the governing body of
989 | the county, municipality, or special district shall begin
990 | withholding the lesser of 10 percent or the maximum amount
991 | allowed under federal law from any salary-related payment. The
992 | withheld payments shall be remitted to the commission until the
993 | fine is satisfied.

994 | (b) The Chief Financial Officer or the governing body of
995 | the county, municipality, or special district may retain an
996 | amount of each withheld payment, as provided in s. 77.0305, to



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997 cover the 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(7)
1000 or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer
1001 a public officer or public employee or if the commission is
1002 unable to determine whether the individual is a current public
1003 officer or public employee, the commission may, 6 months after
1004 the order becomes final, seek garnishment of any wages to
1005 satisfy the amount of the fine, or any unpaid portion thereof,
1006 pursuant to chapter 77. Upon recording the order imposing the
1007 fine with the clerk of the circuit court, the order shall be
1008 deemed a judgment for purposes of garnishment pursuant to
1009 chapter 77.
1010 (3) The commission may refer unpaid fines to the
1011 appropriate collection agency, as directed by the Chief
1012 Financial Officer, to utilize any collection methods provided by
1013 law. Except as expressly limited by this section, any other
1014 collection methods authorized by law are allowed.
1015 (4) Action may be taken to collect any unpaid fine imposed
1016 by ss. 112.3144 and 112.3145 within 20 years after the date the
1017 final order is rendered.
1018 Section 6. Except as otherwise expressly provided in this
1019 act, this act shall take effect upon becoming a law.
1020
1021 ===== T I T L E A M E N D M E N T =====
1022 And the title is amended as follows:
1023 Delete everything before the enacting clause
1024 and insert:
1025 A bill to be entitled



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1026 An act relating to financial disclosure; creating s.
1027 112.31446, F.S.; providing definitions; requiring the
1028 Commission on Ethics to procure and test an electronic
1029 filing system by a certain date; providing minimum
1030 requirements for such system; providing duties for
1031 units of government, the commission, and persons
1032 required to file specified financial disclosure forms;
1033 providing for alternative means of filing in the event
1034 the electronic filing system is inoperable; amending
1035 s. 112.312, F.S.; revising the definition of the term
1036 "disclosure period"; amending s. 112.3144, F.S.;
1037 requiring the electronic filing of full and public
1038 disclosures of financial interests beginning on a
1039 specified date; revising requirements with respect to
1040 reporting income; prohibiting the commission from
1041 requesting, accepting, or retaining certain
1042 information; providing for the redaction of protected
1043 information if certain conditions are met; modifying
1044 requirements regarding preparation of the list of
1045 reporting persons; requiring electronic delivery for
1046 certain notices; requiring the commission to provide
1047 certain verification to a filer upon request;
1048 requiring a declaration be submitted with a
1049 disclosure; specifying that certain actions do not
1050 constitute an unusual circumstance when appealing or
1051 disputing a fine; revising a schedule to the State
1052 Constitution; amending s. 112.3145, F.S.; revising the
1053 definition of the term "specified state employee";
1054 requiring the electronic filing of statements of



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1055 financial interests beginning on a specified date;
1056 modifying the options for reporting thresholds on a
1057 statement of financial interests; prohibiting the
1058 commission from requesting, accepting, or retaining
1059 certain information; providing for the redaction of
1060 protected information if certain conditions are met;
1061 modifying requirements regarding preparation of the
1062 list of reporting persons; requiring electronic
1063 delivery for certain notices; requiring the commission
1064 to provide certain verification to a filer upon
1065 request; requiring a declaration be submitted with a
1066 statement; specifying that certain actions do not
1067 constitute an unusual circumstance when appealing or
1068 disputing a fine; amending s. 112.31455, F.S.;
1069 conforming cross-references to changes made by the
1070 act; providing effective dates.

FOR CONSIDERATION By the Committee on Ethics and Elections

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1 A bill to be entitled
 2 An act relating to financial disclosure; creating s.
 3 112.31446, F.S.; providing definitions; requiring the
 4 Commission on Ethics to procure and test an electronic
 5 filing system by a certain date; providing minimum
 6 requirements for such system; providing duties for
 7 units of government, the commission, and persons
 8 required to file specified financial disclosure forms;
 9 amending s. 112.312, F.S.; revising the definition of
 10 the term "disclosure period"; amending s. 112.3144,
 11 F.S.; requiring the electronic filing of full and
 12 public disclosures of financial interests beginning on
 13 a specified date; revising requirements with respect
 14 to reporting income; prohibiting the commission from
 15 requesting, accepting, or retaining certain
 16 information; modifying requirements regarding
 17 preparation of the list of reporting persons;
 18 requiring e-mail delivery for certain notices;
 19 requiring the commission to provide certain
 20 verification to a filer upon request; requiring a
 21 declaration be submitted with a disclosure; specifying
 22 that certain actions do not constitute an unusual
 23 circumstance when appealing or disputing a fine;
 24 revising a schedule to the State Constitution;
 25 amending s. 112.3145, F.S.; revising the definition of
 26 the term "specified state employee"; requiring the
 27 electronic filing of statements of financial interests
 28 beginning on a specified date; modifying the options
 29 for reporting thresholds on a statement of financial

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30 interests; prohibiting the commission from requesting,
 31 accepting, or retaining certain information; modifying
 32 requirements regarding preparation of the list of
 33 reporting persons; requiring e-mail delivery for
 34 certain notices; requiring the commission to provide
 35 certain verification to a filer upon request;
 36 requiring a declaration be submitted with a statement;
 37 specifying that certain actions do not constitute an
 38 unusual circumstance when appealing or disputing a
 39 fine; amending s. 112.31455, F.S.; conforming cross-
 40 references to changes made by the act; providing
 41 effective dates.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Section 112.31446, Florida Statutes, is created
 46 to read:

47 112.31446 Electronic filing system for financial
 48 disclosure.—

49 (1) As used in this section, the term:

50 (a) "Disclosure of financial interests" or "disclosure"
 51 includes a full and public disclosure of financial interests and
 52 a final full and public disclosure of financial interests, and
 53 any amendments thereto.

54 (b) "Electronic filing system" means an Internet-based
 55 system for receiving, reporting, and publishing disclosures of
 56 financial interests, statements of financial interests, or any
 57 other form that is required under s. 112.3144 or s. 112.3145.

58 (c) "Statement of financial interests" or "statement"

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59 includes a statement of financial interests and a final
60 statement of financial interests, and any amendments thereto.

61 (2) By January 1, 2021, the commission shall procure and
62 test an electronic filing system. At a minimum, the electronic
63 filing system must:

64 (a) Provide access through the Internet for the completion
65 and submission of disclosures of financial interests, statements
66 of financial interests, or any other form that is required under
67 s. 112.3144 or s. 112.3145.

68 (b) Upload submitted information to the commission using
69 software that is approved by the commission.

70 (c) Allow for a procedure to make filings available in a
71 searchable format that is accessible by an individual using
72 standard Internet-browsing software.

73 (d) Issue a verification or receipt that the commission has
74 received the submitted disclosure or statement.

75 (e) Provide security that prevents unauthorized access to
76 the electronic filing system's functions or data.

77 (f) Provide a method for an attorney or a certified public
78 accountant licensed in this state to complete and file the
79 disclosure or statement and certify that he or she prepared the
80 disclosure or statement in accordance with s. 112.3144 or s.
81 112.3145, has reviewed the instructions for completing and
82 filing the disclosure or statement, and that, upon his or her
83 reasonable knowledge and belief, the information on the
84 disclosure or statement is true and correct.

85 (3) Each unit of government shall provide an e-mail address
86 to any of its officers, members, or employees who must file a
87 disclosure of financial interests or a statement of financial

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88 interests, and provide such e-mail addresses to the commission
89 by February 1 of each year. A person required to file a
90 disclosure of financial interests or statement of financial
91 interests must inform the commission immediately of any change
92 in his or her e-mail address.

93 (4) The commission shall provide each person required to
94 file a disclosure of financial interests or statement of
95 financial interests a secure log-in to the electronic filing
96 system. Such person is responsible for protecting his or her
97 secure log-in credentials from disclosure and is responsible for
98 all filings submitted to the commission with such credentials,
99 unless the person has notified the commission that his or her
100 credentials have been compromised.

101 (5) If the electronic filing system becomes inoperable, the
102 commission must accept submissions of disclosures of financial
103 interests, statements of financial interests, or any other form
104 that is required under s. 112.3144 or s. 112.3145 through other
105 methods, including mail or e-mail. Mailed or e-mailed
106 disclosures or statements must be submitted by the filing
107 deadline.

108 Section 2. Effective January 1, 2020, subsection (10) of
109 section 112.312, Florida Statutes, is amended to read:

110 112.312 Definitions.—As used in this part and for purposes
111 of the provisions of s. 8, Art. II of the State Constitution,
112 unless the context otherwise requires:

113 (10) "Disclosure period" means the calendar taxable year ,
114 if disclosure is required for the entire year, or the portion of
115 a calendar year ending with the last day of the period for which
116 disclosure is required for the person or business entity,

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117 ~~whether based on a calendar or fiscal year, immediately~~
 118 ~~preceding the date on which, or the last day of the period~~
 119 ~~during which, the financial disclosure statement required by~~
 120 ~~this part is required to be filed.~~

121 Section 3. Section 112.3144, Florida Statutes, is amended
 122 to read:

123 112.3144 Full and public disclosure of financial
 124 interests.-

125 (1) An officer or a candidate who is required by s. 8, Art.
 126 II of the State Constitution to file a full and public
 127 disclosure of his or her financial interests for any calendar or
 128 fiscal year, or any other person required by law to file a
 129 disclosure under this section, shall file that disclosure with
 130 the Florida Commission on Ethics. Additionally, ~~beginning~~
 131 ~~January 1, 2015~~, an officer who is required to complete annual
 132 ethics training pursuant to s. 112.3142 must certify on his or
 133 her full and public disclosure of financial interests that he or
 134 she has completed the required training.

135 (2) Beginning May 1, 2021, a full and public disclosure of
 136 financial interests and a final full and public disclosure of
 137 financial interests, and amendments thereto, or any other form
 138 required by this section, must be filed electronically through
 139 an electronic filing system created and maintained by the
 140 commission as provided in s. 112.31446.

141 (3) A person who is required, pursuant to s. 8, Art. II of
 142 the State Constitution, to file a full and public disclosure of
 143 financial interests and who has filed a full and public
 144 disclosure of financial interests for any calendar or fiscal
 145 year shall not be required to file a statement of financial

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146 interests pursuant to s. 112.3145(2) and (3) for the same year
 147 or for any part thereof notwithstanding any requirement of this
 148 part. Until the electronic filing system required by subsection
 149 (2) is implemented, ~~If~~ an incumbent in an elective office who
 150 has filed the full and public disclosure of financial interests
 151 to qualify for election to the same office or ~~if~~ a candidate for
 152 office who holds another office subject to the annual filing
 153 requirement, shall have the qualifying officer ~~shall~~ forward an
 154 electronic copy of the full and public disclosure of financial
 155 interests to the commission no later than July 1. The electronic
 156 copy of the full and public disclosure of financial interests
 157 satisfies the annual disclosure requirement of this section. A
 158 candidate who does not qualify until after the annual full and
 159 public disclosure of financial interests has been filed pursuant
 160 to this section shall file a copy of his or her disclosure with
 161 the officer before whom he or she qualifies.

162 (4) ~~(3)~~ For purposes of full and public disclosure under s.
 163 8(a), Art. II of the State Constitution, the following items, if
 164 not held for investment purposes and if valued at over \$1,000 in
 165 the aggregate, may be reported in a lump sum and identified as
 166 "household goods and personal effects":

- 167 (a) Jewelry;
 168 (b) Collections of stamps, guns, and numismatic properties;
 169 (c) Art objects;
 170 (d) Household equipment and furnishings;
 171 (e) Clothing;
 172 (f) Other household items; and
 173 (g) Vehicles for personal use.
 174 (5) ~~(a)-(4)-(a)~~ With respect to reporting, on forms prescribed

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175 under this section, assets valued in excess of \$1,000 which the
 176 reporting individual holds jointly with another person, the
 177 amount reported shall be based on the reporting individual's
 178 legal percentage of ownership in the property. However, assets
 179 that are held jointly, with right of survivorship, must be
 180 reported at 100 percent of the value of the asset. For purposes
 181 of this subsection, a reporting individual is deemed to own a
 182 percentage of a partnership which is equal to the reporting
 183 individual's interest in the capital or equity of the
 184 partnership.

185 (b)1. With respect to reporting, on forms prescribed under
 186 this section, liabilities valued in excess of \$1,000 ~~on forms~~
 187 ~~prescribed under this section~~ for which the reporting individual
 188 is jointly and severally liable, the amount reported shall be
 189 based on the reporting individual's percentage of liability
 190 rather than the total amount of the liability. However,
 191 liability for a debt that is secured by property owned by the
 192 reporting individual but that is held jointly, with right of
 193 survivorship, must be reported at 100 percent of the total
 194 amount owed.

195 2. A separate section of the form shall be created to
 196 provide for the reporting of the amounts of joint and several
 197 liability of the reporting individual not otherwise reported in
 198 subparagraph 1.

199 (c) With respect to reporting income, on forms prescribed
 200 under this section, each separate source and amount of income
 201 which exceeds \$1,000 must be identified. For purposes of
 202 reporting income, a person required to file a full and public
 203 disclosure of financial interests may not provide, and the

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204 commission may not accept, a federal income tax return or a copy
 205 thereof.

206 (6) The commission may not request, and a public officer or
 207 candidate may not provide, in any filing or submission, a
 208 federal income tax return or a copy thereof; a social security
 209 number; a bank, mortgage, or brokerage account number; a debit,
 210 charge, or credit card number; a personal identification number;
 211 or a taxpayer identification number. Once the electronic filing
 212 system is implemented, the commission may not accept or retain
 213 such information even if it is voluntarily provided by a public
 214 officer or candidate.

215 (7)~~(5)~~ Until the electronic filing system required by
 216 subsection (2) is implemented, forms for compliance with the
 217 full and public disclosure requirements of s. 8, Art. II of the
 218 State Constitution shall be prescribed ~~created~~ by the commission
 219 ~~on Ethics~~. The commission shall give notice of disclosure
 220 deadlines and delinquencies and distribute forms in the
 221 following manner:

222 (a) Not later than May 1 of each year, the commission shall
 223 prepare a current list of the names, e-mail addresses, and
 224 physical addresses of and the offices held by every person
 225 required to file full and public disclosure annually by s. 8,
 226 Art. II of the State Constitution, or other state law. ~~In~~
 227 ~~compiling the list, the commission shall be assisted by~~ Each
 228 unit of government shall assist the commission in compiling the
 229 list by ~~in~~ providing to the commission not later than February 1
 230 of each year at the request of the commission the name, e-mail
 231 address, physical address, and name of the office held by such
 232 person each ~~public official~~ within the respective unit of

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233 government as of December 31 of the preceding year.

234 (b) Not later than June 1 ~~30 days before July 1~~ of each
 235 year, the commission shall mail a copy of the form prescribed
 236 for compliance with full and public disclosure and a notice of
 237 the filing deadline to each person on the mailing list. However,
 238 beginning January 1, 2020, notice required under this paragraph
 239 may only be delivered by e-mail.

240 (c) Not later than August 1 ~~30 days after July 1~~ of each
 241 year, the commission shall determine which persons on the
 242 mailing list have failed to file full and public disclosure and
 243 shall send delinquency notices by certified mail to such
 244 persons. Each notice must ~~shall~~ state that a grace period is in
 245 effect until September 1 of the current year. However, beginning
 246 January 1, 2020, notice required under this paragraph may only
 247 be delivered by e-mail and must be redelivered on a weekly basis
 248 so long as a person remains delinquent.

249 (d) Disclosures ~~Statements~~ must be received by the
 250 commission ~~filed~~ not later than 5 p.m. of the due date. However,
 251 any disclosure statement that is postmarked by the United States
 252 Postal Service by midnight of the due date is deemed to have
 253 been filed in a timely manner, and a certificate of mailing
 254 obtained from and dated by the United States Postal Service at
 255 the time of the mailing, or a receipt from an established
 256 courier company which bears a date on or before the due date,
 257 constitutes proof of mailing in a timely manner. Beginning
 258 January 1, 2020, upon request of the filer, the commission must
 259 provide verification to the filer that the commission has
 260 received the submitted disclosure.

261 (e) Beginning May 1, 2021, a written declaration, as

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262 provided for under s. 92.525(2), accompanied by an electronic
 263 signature satisfies the requirement that the disclosure be
 264 sworn.

265 (f) Any person who is required to file full and public
 266 disclosure of financial interests and whose name is on the
 267 commission's mailing list, and to whom notice has been
 268 delivered, but who fails to timely file is assessed a fine of
 269 \$25 per day for each day late up to a maximum of \$1,500; however
 270 this \$1,500 limitation on automatic fines does not limit the
 271 civil penalty that may be imposed if the statement is filed more
 272 than 60 days after the deadline and a complaint is filed, as
 273 provided in s. 112.324. The commission must provide by rule the
 274 grounds for waiving the fine and the procedures by which each
 275 person whose name is on the mailing list and who is determined
 276 to have not filed in a timely manner will be notified of
 277 assessed fines and may appeal. The rule must provide for and
 278 make specific the following:

279 1. The amount of the fine due is based upon the earliest of
 280 the following:

- 281 a. When a statement is actually received by the office.
- 282 b. When the statement is postmarked.
- 283 c. When the certificate of mailing is dated.
- 284 d. When the receipt from an established courier company is
 285 dated.

286 2. Upon receipt of the disclosure statement or upon accrual
 287 of the maximum penalty, whichever occurs first, the commission
 288 shall determine the amount of the fine which is due and shall
 289 notify the delinquent person. The notice must include an
 290 explanation of the appeal procedure under subparagraph 3. Such

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291 fine must be paid within 30 days after the notice of payment due
 292 is transmitted, unless appeal is made to the commission pursuant
 293 to subparagraph 3. The moneys shall be deposited into the
 294 General Revenue Fund.

295 3. Any reporting person may appeal or dispute a fine, based
 296 upon unusual circumstances surrounding the failure to file on
 297 the designated due date, and may request and is entitled to a
 298 hearing before the commission, which may waive the fine in whole
 299 or in part for good cause shown. Any such request must be in
 300 writing and received by the commission ~~made~~ within 30 days after
 301 the notice of payment due is transmitted. In such a case, the
 302 reporting person must, within the 30-day period, notify the
 303 person designated to review the timeliness of reports in writing
 304 of his or her intention to bring the matter before the
 305 commission. For purposes of this subparagraph, the term "unusual
 306 circumstances" does not include the failure to monitor an e-mail
 307 account or failure to receive notice, if the person has not
 308 notified the commission of a change in his or her e-mail
 309 address.

310 (g) ~~(f)~~ Any person subject to the annual filing of full and
 311 public disclosure under s. 8, Art. II of the State Constitution,
 312 or other state law, whose name is not on the commission's
 313 mailing list of persons required to file full and public
 314 disclosure is not subject to the fines or penalties provided in
 315 this part for failure to file full and public disclosure in any
 316 year in which the omission occurred, but nevertheless is
 317 required to file the disclosure statement.

318 (h) ~~(g)~~ The notification requirements and fines of this
 319 subsection do not apply to candidates or to the first filing

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320 required of any person appointed to elective constitutional
 321 office or other position required to file full and public
 322 disclosure, unless the person's name is on the commission's
 323 notification list and the person received notification from the
 324 commission. The appointing official shall notify such newly
 325 appointed person of the obligation to file full and public
 326 disclosure by July 1. The notification requirements and fines of
 327 this subsection do not apply to the final filing provided for in
 328 subsection (9) ~~(7)~~.

329 (i) ~~(h)~~ Notwithstanding any provision of chapter 120, any
 330 fine imposed under this subsection which is not waived by final
 331 order of the commission and which remains unpaid more than 60
 332 days after the notice of payment due or more than 60 days after
 333 the commission renders a final order on the appeal must be
 334 submitted to the Department of Financial Services as a claim,
 335 debt, or other obligation owed to the state, and the department
 336 shall assign the collection of such fine to a collection agent
 337 as provided in s. 17.20.

338 (8) ~~(6)~~ If a person holding public office or public
 339 employment fails or refuses to file a full and public disclosure
 340 of financial interests for any year in which the person received
 341 notice from the commission regarding the failure to file and has
 342 accrued the maximum automatic fine authorized under this
 343 section, regardless of whether the fine imposed was paid or
 344 collected, the commission shall initiate an investigation and
 345 conduct a public hearing without receipt of a complaint to
 346 determine whether the person's failure to file is willful. Such
 347 investigation and hearing must be conducted in accordance with
 348 s. 112.324. Except as provided in s. 112.324(4), if the

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349 commission determines that the person willfully failed to file a
 350 full and public disclosure of financial interests, the
 351 commission shall enter an order recommending that the officer or
 352 employee be removed from his or her public office or public
 353 employment. The commission shall forward its recommendations as
 354 provided in s. 112.324.

355 (9)(7) Each person required to file full and public
 356 disclosure of financial interests shall file a final disclosure
 357 statement within 60 days after leaving his or her public
 358 position for the period between January 1 of the year in which
 359 the person leaves and the last day of office or employment,
 360 unless within the 60-day period the person takes another public
 361 position requiring financial disclosure under s. 8, Art. II of
 362 the State Constitution, or is otherwise required to file full
 363 and public disclosure for the final disclosure period. The head
 364 of the agency of each person required to file full and public
 365 disclosure for the final disclosure period shall notify such
 366 persons of their obligation to file the final disclosure and may
 367 designate a person to be responsible for the notification
 368 requirements of this subsection.

369 (10)(a)(8)(a) The commission shall treat an amendment to a
 370 ~~amended~~ full and public disclosure of financial interests which
 371 is filed before September 1 of the year in which the disclosure
 372 is due as part of the original filing, regardless of whether a
 373 complaint has been filed. If a complaint alleges only an
 374 immaterial, inconsequential, or de minimis error or omission,
 375 the commission may not take any action on the complaint other
 376 than notifying the filer of the complaint. The filer must be
 377 given 30 days to file an amendment to the ~~amended~~ full and

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378 public disclosure of financial interests correcting any errors.
 379 If the filer does not file an amendment to the ~~amended~~ full and
 380 public disclosure of financial interests within 30 days after
 381 the commission sends notice of the complaint, the commission may
 382 continue with proceedings pursuant to s. 112.324.

383 (b) For purposes of the final full and public disclosure of
 384 financial interests, the commission shall treat an amendment to
 385 a new final full and public disclosure of financial interests as
 386 part of the original filing if filed within 60 days after the
 387 original filing, regardless of whether a complaint has been
 388 filed. If, more than 60 days after a final full and public
 389 disclosure of financial interests is filed, a complaint is filed
 390 alleging a complete omission of any information required to be
 391 disclosed by this section, the commission may immediately follow
 392 the complaint procedures in s. 112.324. However, if the
 393 complaint alleges an immaterial, inconsequential, or de minimis
 394 error or omission, the commission may not take any action on the
 395 complaint, other than notifying the filer of the complaint. The
 396 filer must be given 30 days to file an amendment to the a new
 397 final full and public disclosure of financial interests
 398 correcting any errors. If the filer does not file an amendment
 399 to the a new final full and public disclosure of financial
 400 interests within 30 days after the commission sends notice of
 401 the complaint, the commission may continue with proceedings
 402 pursuant to s. 112.324.

403 (c) For purposes of this section, an error or omission is
 404 immaterial, inconsequential, or de minimis if the original
 405 filing provided sufficient information for the public to
 406 identify potential conflicts of interest. However, failure to

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407 certify completion of annual ethics training required under s.
408 112.3142 does not constitute an immaterial, inconsequential, or
409 de minimis error or omission.

410 (11) (a)-(9) (a) An individual required to file a disclosure
411 pursuant to this section may have the disclosure prepared by an
412 attorney in good standing with The Florida Bar or by a certified
413 public accountant licensed under chapter 473. After preparing a
414 disclosure form, the attorney or certified public accountant
415 must sign the form indicating that he or she prepared the form
416 in accordance with this section and the instructions for
417 completing and filing the disclosure forms and that, upon his or
418 her reasonable knowledge and belief, the disclosure is true and
419 correct. If a complaint is filed alleging a failure to disclose
420 information required by this section, the commission shall
421 determine whether the information was disclosed to the attorney
422 or certified public accountant. The failure of the attorney or
423 certified public accountant to accurately transcribe information
424 provided by the individual required to file is not a violation
425 of this section.

426 (b) An elected officer or candidate who chooses to use an
427 attorney or a certified public accountant to prepare his or her
428 disclosure may pay for the services of the attorney or certified
429 public accountant from funds in an office account created
430 pursuant to s. 106.141 or, during a year that the individual
431 qualifies for election to public office, the candidate's
432 campaign depository pursuant to s. 106.021.

433 (12) (10) The commission shall adopt rules and forms
434 specifying how a person who is required to file full and public
435 disclosure of financial interests may amend his or her

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436 disclosure statement to report information that was not included
437 on the form as originally filed. If the amendment is the subject
438 of a complaint filed under this part, the commission and the
439 proper disciplinary official or body shall consider as a
440 mitigating factor when considering appropriate disciplinary
441 action the fact that the amendment was filed before any
442 complaint or other inquiry or proceeding, while recognizing that
443 the public was deprived of access to information to which it was
444 entitled.

445 (13) The provisions of this section constitute a revision
446 to the schedule included in s. 8(i), Art. II of the State
447 Constitution.

448 Section 4. Section 112.3145, Florida Statutes, is amended
449 to read:

450 112.3145 Disclosure of financial interests and clients
451 represented before agencies.—

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

454 (a) "Local officer" means:

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

458 2. Any appointed member of any of the following boards,
459 councils, commissions, authorities, or other bodies of any
460 county, municipality, school district, independent special
461 district, or other political subdivision of the state:

462 a. The governing body of the political subdivision, if
463 appointed;

464 b. A community college or junior college district board of

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465 trustees;

466 c. A board having the power to enforce local code
467 provisions;

468 d. A planning or zoning board, board of adjustment, board
469 of appeals, community redevelopment agency board, or other board
470 having the power to recommend, create, or modify land planning
471 or zoning within the political subdivision, except for citizen
472 advisory committees, technical coordinating committees, and such
473 other groups who only have the power to make recommendations to
474 planning or zoning boards;

475 e. A pension board or retirement board having the power to
476 invest pension or retirement funds or the power to make a
477 binding determination of one's entitlement to or amount of a
478 pension or other retirement benefit; or

479 f. Any other appointed member of a local government board
480 who is required to file a statement of financial interests by
481 the appointing authority or the enabling legislation, ordinance,
482 or resolution creating the board.

483 3. Any person holding one or more of the following
484 positions: mayor; county or city manager; chief administrative
485 employee of a county, municipality, or other political
486 subdivision; county or municipal attorney; finance director of a
487 county, municipality, or other political subdivision; chief
488 county or municipal building code inspector; county or municipal
489 water resources coordinator; county or municipal pollution
490 control director; county or municipal environmental control
491 director; county or municipal administrator, with power to grant
492 or deny a land development permit; chief of police; fire chief;
493 municipal clerk; district school superintendent; community

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494 college president; district medical examiner; or purchasing
495 agent having the authority to make any purchase exceeding the
496 threshold amount provided for in s. 287.017 for CATEGORY ONE, on
497 behalf of any political subdivision of the state or any entity
498 thereof.

499 (b) "Specified state employee" means:

500 1. Public counsel created by chapter 350, an assistant
501 state attorney, an assistant public defender, a criminal
502 conflict and civil regional counsel, an assistant criminal
503 conflict and civil regional counsel, a full-time state employee
504 who serves as counsel or assistant counsel to any state agency,
505 ~~the Deputy Chief Judge of Compensation Claims, a judge of~~
506 ~~compensation claims~~, an administrative law judge, or a hearing
507 officer.

508 2. Any person employed in the office of the Governor or in
509 the office of any member of the Cabinet if that person is exempt
510 from the Career Service System, except persons employed in
511 clerical, secretarial, or similar positions.

512 3. The State Surgeon General or each appointed secretary,
513 assistant secretary, deputy secretary, executive director,
514 assistant executive director, or deputy executive director of
515 each state department, commission, board, or council; unless
516 otherwise provided, the division director, assistant division
517 director, deputy director, and bureau chief, ~~and assistant~~
518 ~~bureau chief~~ of any state department or division; or any person
519 having the power normally conferred upon such persons, by
520 whatever title.

521 4. The superintendent or institute director of a state
522 mental health institute established for training and research in

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523 the mental health field or the warden or director of any major
524 state institution or facility established for corrections,
525 training, treatment, or rehabilitation.

526 5. Business managers, purchasing agents having the power to
527 make any purchase exceeding the threshold amount provided for in
528 s. 287.017 for CATEGORY ~~TWO ONE~~, finance and accounting
529 directors, personnel officers, or grants coordinators for any
530 state agency.

531 6. Any person, other than a legislative assistant exempted
532 by the presiding officer of the house by which the legislative
533 assistant is employed, who is employed in the legislative branch
534 of government, except persons employed in maintenance, clerical,
535 secretarial, or similar positions.

536 7. Each employee of the Commission on Ethics.

537 (c) "State officer" means:

538 1. Any elected public officer, excluding those elected to
539 the United States Senate and House of Representatives, not
540 covered elsewhere in this part and any person who is appointed
541 to fill a vacancy for an unexpired term in such an elective
542 office.

543 2. An appointed member of each board, commission,
544 authority, or council having statewide jurisdiction, excluding a
545 member of an advisory body.

546 3. A member of the Board of Governors of the State
547 University System or a state university board of trustees, the
548 Chancellor and Vice Chancellors of the State University System,
549 and the president of a state university.

550 4. A member of the judicial nominating commission for any
551 district court of appeal or any judicial circuit.

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552 (2) (a) A person seeking nomination or election to a state
553 or local elective office who is not required by the State
554 Constitution to file a full and public disclosure of financial
555 interests shall file a statement of financial interests together
556 with, and at the same time he or she files, qualifying papers.
557 Until the electronic filing system is implemented under
558 paragraph (d), when a candidate has qualified for office prior
559 to the deadline to file an annual statement of financial
560 interests, the statement of financial interests that is filed
561 with the candidate's qualifying papers shall be deemed to
562 satisfy the annual disclosure requirement of this section. The
563 qualifying officer must record that the statement of financial
564 interests was timely filed. However, if a candidate does not
565 qualify until after the annual statement of financial interests
566 has been filed, the candidate may file a copy of his or her
567 statement with the qualifying officer.

568 (b) Each state or local officer who is not required by the
569 State Constitution to file a full and public disclosure of
570 financial interests and each specified state employee shall file
571 a statement of financial interests no later than July 1 of each
572 year. Each state officer, local officer, and specified state
573 employee shall file a final statement of financial interests
574 within 60 days after leaving his or her public position for the
575 period between January 1 of the year in which the person leaves
576 and the last day of office or employment, unless within the 60-
577 day period the person takes another public position requiring
578 financial disclosure under this section or s. 8, Art. II of the
579 State Constitution or otherwise is required to file full and
580 public disclosure or a statement of financial interests for the

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581 final disclosure period. Each state or local officer who is
 582 appointed and each specified state employee who is employed
 583 shall file a statement of financial interests within 30 days
 584 from the date of appointment or, in the case of a specified
 585 state employee, from the date on which the employment begins,
 586 except that any person whose appointment is subject to
 587 confirmation by the Senate shall file prior to confirmation
 588 hearings or within 30 days from the date of appointment,
 589 whichever comes first.

590 (c) State officers and specified state employees shall file
 591 their statements of financial interests with the commission ~~on~~
 592 ~~Ethics~~. Local officers shall file their statements of financial
 593 interests with the supervisor of elections of the county in
 594 which they permanently reside. Local officers who do not
 595 permanently reside in any county in the state shall file their
 596 statements of financial interests with the supervisor of
 597 elections of the county in which their agency maintains its
 598 headquarters. Persons seeking to qualify as candidates for local
 599 public office shall file their statements of financial interests
 600 with the officer before whom they qualify.

601 (d) Beginning May 1, 2022, a statement of financial
 602 interests and a final statement of financial interests, and
 603 amendments thereto, or any other form required by this section,
 604 must be filed electronically through an electronic filing system
 605 created and maintained by the commission as provided in s.
 606 112.31446.

607 (3) The statement of financial interests for state
 608 officers, specified state employees, local officers, and persons
 609 seeking to qualify as candidates for state or local office shall

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610 be filed even if the reporting person holds no financial
 611 interests requiring disclosure in a particular category, in
 612 which case that section of the statement shall be marked "not
 613 applicable." Otherwise, the statement of financial interests
 614 ~~must shall~~ include the information under paragraph (a) or
 615 paragraph (b). The reporting person shall indicate on the
 616 statement whether he or she is using the reporting method under
 617 paragraph (a) or paragraph (b). However, beginning May 1, 2022,
 618 only the reporting method specified under paragraph (b) may be
 619 used. , at the filer's option, either:

620 (a) 1. All sources of income in excess of 5 percent of the
 621 gross income received during the disclosure period by the person
 622 in his or her own name or by any other person for his or her use
 623 or benefit, excluding public salary. However, this shall not be
 624 construed to require disclosure of a business partner's sources
 625 of income. The person reporting shall list such sources in
 626 descending order of value with the largest source first;

627 2. All sources of income to a business entity in excess of
 628 10 percent of the gross income of a business entity in which the
 629 reporting person held a material interest and from which he or
 630 she received an amount which was in excess of 10 percent of his
 631 or her gross income during the disclosure period and which
 632 exceeds \$1,500. The period for computing the gross income of the
 633 business entity is the fiscal year of the business entity which
 634 ended on, or immediately prior to, the end of the disclosure
 635 period of the person reporting;

636 3. The location or description of real property in this
 637 state, except for residences and vacation homes, owned directly
 638 or indirectly by the person reporting, when such person owns in

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639 excess of 5 percent of the value of such real property, and a
 640 general description of any intangible personal property worth in
 641 excess of 10 percent of such person's total assets. For the
 642 purposes of this paragraph, indirect ownership does not include
 643 ownership by a spouse or minor child; and

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

646 (b)1. All sources of gross income in excess of \$2,500
 647 received during the disclosure period by the person in his or
 648 her own name or by any other person for his or her use or
 649 benefit, excluding public salary. However, this shall not be
 650 construed to require disclosure of a business partner's sources
 651 of income. The person reporting shall list such sources in
 652 descending order of value with the largest source first;

653 2. All sources of income to a business entity in excess of
 654 10 percent of the gross income of a business entity in which the
 655 reporting person held a material interest and from which he or
 656 she received gross income exceeding \$5,000 during the disclosure
 657 period. The period for computing the gross income of the
 658 business entity is the fiscal year of the business entity which
 659 ended on, or immediately prior to, the end of the disclosure
 660 period of the person reporting;

661 3. The location or description of real property in this
 662 state, except for residence and vacation homes, owned directly
 663 or indirectly by the person reporting, when such person owns in
 664 excess of 5 percent of the value of such real property, and a
 665 general description of any intangible personal property worth in
 666 excess of \$10,000. For the purpose of this paragraph, indirect
 667 ownership does not include ownership by a spouse or minor child;

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668 and

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

670

671 ~~A person filing a statement of financial interests shall~~
 672 ~~indicate on the statement whether he or she is using the method~~
 673 ~~specified in paragraph (a) or paragraph (b).~~

674 (4) The commission may not request, and a local or state
 675 officer or specified state employee may not provide, in any
 676 filing or submission, a federal income tax return or a copy
 677 thereof; a social security number; a bank, mortgage, or
 678 brokerage account number; a debit, charge, or credit card
 679 number; a personal identification number; or a taxpayer
 680 identification number. Once the electronic filing system
 681 required under paragraph (2) (d) is implemented, the commission
 682 may not accept or retain such information even if it is
 683 voluntarily provided by a public officer or specified state
 684 employee.

685 ~~(5) Beginning January 1, 2015,~~ An officer who is required
 686 to complete annual ethics training pursuant to s. 112.3142 must
 687 certify on his or her statement of financial interests that he
 688 or she has completed the required training.

689 ~~(6)-(5)~~ Each elected constitutional officer, state officer,
 690 local officer, and specified state employee shall file a
 691 quarterly report of the names of clients represented for a fee
 692 or commission, except for appearances in ministerial matters,
 693 before agencies at his or her level of government. For the
 694 purposes of this part, agencies of government shall be
 695 classified as state-level agencies or agencies below state
 696 level. Each local officer shall file such report with the

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697 supervisor of elections of the county in which the officer is
 698 principally employed or is a resident. Each state officer,
 699 elected constitutional officer, and specified state employee
 700 shall file such report with the commission. The report shall be
 701 filed only when a reportable representation is made during the
 702 calendar quarter and shall be filed no later than the last day
 703 of each calendar quarter, for the previous calendar quarter.
 704 Representation before any agency shall be deemed to include
 705 representation by such officer or specified state employee or by
 706 any partner or associate of the professional firm of which he or
 707 she is a member and of which he or she has actual knowledge. For
 708 the purposes of this subsection, the term "representation before
 709 any agency" does not include appearances before any court or the
 710 Deputy Chief Judge of Compensation Claims or judges of
 711 compensation claims or representations on behalf of one's agency
 712 in one's official capacity. Such term does not include the
 713 preparation and filing of forms and applications merely for the
 714 purpose of obtaining or transferring a license based on a quota
 715 or a franchise of such agency or a license or operation permit
 716 to engage in a profession, business, or occupation, so long as
 717 the issuance or granting of such license, permit, or transfer
 718 does not require substantial discretion, a variance, a special
 719 consideration, or a certificate of public convenience and
 720 necessity.

721 (7)(6) Each elected constitutional officer and each
 722 candidate for such office, any other public officer required
 723 pursuant to s. 8, Art. II of the State Constitution to file a
 724 full and public disclosure of his or her financial interests,
 725 and each state officer, local officer, specified state employee,

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726 and candidate for elective public office who is or was during
 727 the disclosure period an officer, director, partner, proprietor,
 728 or agent, other than a resident agent solely for service of
 729 process, of, or owns or owned during the disclosure period a
 730 material interest in, any business entity which is granted a
 731 privilege to operate in this state shall disclose such facts as
 732 a part of the disclosure form filed pursuant to s. 8, Art. II of
 733 the State Constitution or this section, as applicable. The
 734 statement shall give the name, address, and principal business
 735 activity of the business entity and shall state the position
 736 held with such business entity or the fact that a material
 737 interest is owned and the nature of that interest.

738 (8)(7) Forms for compliance with the disclosure
 739 requirements of this section and a current list of persons
 740 subject to disclosure shall be created by the commission and
 741 provided to each supervisor of elections. The commission and
 742 each supervisor of elections shall give notice of disclosure
 743 deadlines and delinquencies and distribute forms in the
 744 following manner:

745 (a)1. Not later than May 1 of each year, the commission
 746 shall prepare a current list of the names, e-mail addresses, and
 747 physical addresses of, and the offices or positions held by,
 748 every state officer, local officer, and specified employee. ~~It~~
 749 ~~compiling the list, the commission shall be assisted by~~ Each
 750 unit of government shall assist the commission in compiling the
 751 list by ~~it~~ providing to the commission not later than February 1
 752 of each year, ~~at the request of the commission,~~ the name, e-
 753 mail address, physical address, and name of agency of, and the
 754 office or position held by, each state officer, local officer,

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755 or specified state employee within the respective unit of
756 government as of December 31 of the preceding year.

757 2. Not later than May 15 of each year, the commission shall
758 provide each supervisor of elections with a current mailing list
759 of all local officers required to file with such supervisor of
760 elections.

761 (b) Not later than June 1 ~~30 days before July 1~~ of each
762 year, the commission and each supervisor of elections, as
763 appropriate, shall mail a copy of the form prescribed for
764 compliance with subsection (3) and a notice of all applicable
765 disclosure forms and filing deadlines to each person required to
766 file a statement of financial interests. However, beginning
767 January 1, 2020, notice required under this paragraph may only
768 be delivered by e-mail.

769 (c) Not later than August 1 ~~30 days after July 1~~ of each
770 year, the commission and each supervisor of elections shall
771 determine which persons required to file a statement of
772 financial interests in their respective offices have failed to
773 do so and shall send delinquency notices by certified mail,
774 return receipt requested, to these persons. Each notice shall
775 state that a grace period is in effect until September 1 of the
776 current year; that no investigative or disciplinary action based
777 upon the delinquency will be taken by the agency head or
778 commission if the statement is filed by September 1 of the
779 current year; that, if the statement is not filed by September 1
780 of the current year, a fine of \$25 for each day late will be
781 imposed, up to a maximum penalty of \$1,500; for notices sent by
782 a supervisor of elections, that he or she is required by law to
783 notify the commission of the delinquency; and that, if upon the

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784 filing of a sworn complaint the commission finds that the person
785 has failed to timely file the statement within 60 days after
786 September 1 of the current year, such person will also be
787 subject to the penalties provided in s. 112.317. However,
788 beginning January 1, 2020, notice required under this paragraph
789 may only be delivered by e-mail and must be redelivered on a
790 weekly basis so long as a person remains delinquent.

791 (d) No later than November 15 of each year, the supervisor
792 of elections in each county shall certify to the commission a
793 list of the names and addresses of, and the offices or positions
794 held by, all persons who have failed to timely file the required
795 statements of financial interests. The certification must
796 include the earliest of the dates described in subparagraph
797 (g)1. ~~(f)1.~~ The certification shall be on a form prescribed by
798 the commission and shall indicate whether the supervisor of
799 elections has provided the disclosure forms and notice as
800 required by this subsection to all persons named on the
801 delinquency list.

802 (e) Statements must be received by the commission ~~filed~~ not
803 later than 5 p.m. of the due date. However, any statement that
804 is postmarked by the United States Postal Service by midnight of
805 the due date is deemed to have been filed in a timely manner,
806 and a certificate of mailing obtained from and dated by the
807 United States Postal Service at the time of the mailing, or a
808 receipt from an established courier company which bears a date
809 on or before the due date, constitutes proof of mailing in a
810 timely manner. Beginning January 1, 2020, upon request of the
811 filer, the commission must provide verification to the filer
812 that the commission has received the submitted statement.

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813 (f) Beginning May 1, 2022, the statement must be
 814 accompanied by a declaration as provided in s. 92.525(2) and an
 815 electronic acknowledgement thereof.

816 (g) Any person who is required to file a statement of
 817 financial interests and whose name is on the commission's
 818 mailing list but who fails to timely file is assessed a fine of
 819 \$25 per day for each day late up to a maximum of \$1,500;
 820 however, this \$1,500 limitation on automatic fines does not
 821 limit the civil penalty that may be imposed if the statement is
 822 filed more than 60 days after the deadline and a complaint is
 823 filed, as provided in s. 112.324. The commission must provide by
 824 rule the grounds for waiving the fine and procedures by which
 825 each person whose name is on the mailing list and who is
 826 determined to have not filed in a timely manner will be notified
 827 of assessed fines and may appeal. The rule must provide for and
 828 make specific the following:

829 1. The amount of the fine due is based upon the earliest of
 830 the following:

- 831 a. When a statement is actually received by the office.
- 832 b. When the statement is postmarked.
- 833 c. When the certificate of mailing is dated.
- 834 d. When the receipt from an established courier company is
 835 dated.

836 2. For a specified state employee or a state officer, upon
 837 receipt of the disclosure statement by the commission or upon
 838 accrual of the maximum penalty, whichever occurs first, and for
 839 a local officer upon receipt by the commission of the
 840 certification from the local officer's supervisor of elections
 841 pursuant to paragraph (d), the commission shall determine the

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842 amount of the fine which is due and shall notify the delinquent
 843 person. The notice must include an explanation of the appeal
 844 procedure under subparagraph 3. The fine must be paid within 30
 845 days after the notice of payment due is transmitted, unless
 846 appeal is made to the commission pursuant to subparagraph 3. The
 847 moneys are to be deposited into the General Revenue Fund.

848 3. Any reporting person may appeal or dispute a fine, based
 849 upon unusual circumstances surrounding the failure to file on
 850 the designated due date, and may request and is entitled to a
 851 hearing before the commission, which may waive the fine in whole
 852 or in part for good cause shown. Any such request must be in
 853 writing and received by the commission ~~made~~ within 30 days after
 854 the notice of payment due is transmitted. In such a case, the
 855 reporting person must, within the 30-day period, notify the
 856 person designated to review the timeliness of reports in writing
 857 of his or her intention to bring the matter before the
 858 commission. For purposes of this subparagraph, the term "unusual
 859 circumstances" does not include the failure to monitor an e-mail
 860 account or failure to receive notice, if the person has not
 861 notified the commission of a change in his or her e-mail
 862 address.

863 ~~(h)(g)~~ Any state officer, local officer, or specified
 864 employee whose name is not on the mailing list of persons
 865 required to file an annual statement of financial interests is
 866 not subject to the penalties provided in s. 112.317 or the fine
 867 provided in this section for failure to timely file a statement
 868 of financial interests in any year in which the omission
 869 occurred, but nevertheless is required to file the disclosure
 870 statement.

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871 ~~(i)(h)~~ The notification requirements and fines of this
 872 subsection do not apply to candidates or to the first or final
 873 filing required of any state officer, specified employee, or
 874 local officer as provided in paragraph (2)(b).

875 ~~(j)(i)~~ Notwithstanding any provision of chapter 120, any
 876 fine imposed under this subsection which is not waived by final
 877 order of the commission and which remains unpaid more than 60
 878 days after the notice of payment due or more than 60 days after
 879 the commission renders a final order on the appeal must be
 880 submitted to the Department of Financial Services as a claim,
 881 debt, or other obligation owed to the state, and the department
 882 shall assign the collection of such a fine to a collection agent
 883 as provided in s. 17.20.

884 ~~(9)(a)(8)(a)~~ The appointing official or body shall notify
 885 each newly appointed local officer, state officer, or specified
 886 state employee, not later than the date of appointment, of the
 887 officer's or employee's duty to comply with the disclosure
 888 requirements of this section. The agency head of each employing
 889 agency shall notify each newly employed local officer or
 890 specified state employee, not later than the day of employment,
 891 of the officer's or employee's duty to comply with the
 892 disclosure requirements of this section. The appointing official
 893 or body or employing agency head may designate a person to be
 894 responsible for the notification requirements of this paragraph.

895 (b) The agency head of the agency of each local officer,
 896 state officer, or specified state employee who is required to
 897 file a statement of financial interests for the final disclosure
 898 period shall notify such persons of their obligation to file the
 899 final disclosure and may designate a person to be responsible

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900 for the notification requirements of this paragraph.

901 (c) If a person holding public office or public employment
 902 fails or refuses to file an annual statement of financial
 903 interests for any year in which the person received notice from
 904 the commission regarding the failure to file and has accrued the
 905 maximum automatic fine authorized under this section, regardless
 906 of whether the fine imposed was paid or collected, the
 907 commission shall initiate an investigation and conduct a public
 908 hearing without receipt of a complaint to determine whether the
 909 person's failure to file is willful. Such investigation and
 910 hearing must be conducted in accordance with s. 112.324. Except
 911 as provided in s. 112.324(4), if the commission determines that
 912 the person willfully failed to file a statement of financial
 913 interests, the commission shall enter an order recommending that
 914 the officer or employee be removed from his or her public office
 915 or public employment. The commission shall forward its
 916 recommendation as provided in s. 112.324.

917 ~~(10)(9)~~ A public officer who has filed a disclosure for any
 918 calendar or fiscal year shall not be required to file a second
 919 disclosure for the same year or any part thereof,
 920 notwithstanding any requirement of this act, except that any
 921 public officer who qualifies as a candidate for public office
 922 shall file a copy of the disclosure with the officer before whom
 923 he or she qualifies as a candidate at the time of qualification.

924 ~~(11)(a)(10)(a)~~ The commission shall treat an amendment to
 925 an amended annual statement of financial interests which is
 926 filed before September 1 of the year in which the statement is
 927 due as part of the original filing, regardless of whether a
 928 complaint has been filed. If a complaint alleges only an

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929 immaterial, inconsequential, or de minimis error or omission,
 930 the commission may not take any action on the complaint other
 931 than notifying the filer of the complaint. The filer must be
 932 given 30 days to file an amendment to the amended statement of
 933 financial interests correcting any errors. If the filer does not
 934 file an amendment to the amended statement of financial
 935 interests within 30 days after the commission sends notice of
 936 the complaint, the commission may continue with proceedings
 937 pursuant to s. 112.324.

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

957 (c) For purposes of this section, an error or omission is

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958 immaterial, inconsequential, or de minimis if the original
 959 filing provided sufficient information for the public to
 960 identify potential conflicts of interest. However, failure to
 961 certify completion of annual ethics training required under s.
 962 112.3142 does not constitute an immaterial, inconsequential, or
 963 de minimis error or omission.

964 ~~(12) (a) (11) (a)~~ An individual required to file a statement
 965 ~~disclosure~~ pursuant to this section may have the statement
 966 ~~disclosure~~ prepared by an attorney in good standing with The
 967 Florida Bar or by a certified public accountant licensed under
 968 chapter 473. After preparing a statement disclosure form, the
 969 attorney or certified public accountant must sign the form
 970 indicating that he or she prepared the form in accordance with
 971 this section and the instructions for completing and filing the
 972 disclosure forms and that, upon his or her reasonable knowledge
 973 and belief, the disclosure is true and correct. If a complaint
 974 is filed alleging a failure to disclose information required by
 975 this section, the commission shall determine whether the
 976 information was disclosed to the attorney or certified public
 977 accountant. The failure of the attorney or certified public
 978 accountant to accurately transcribe information provided by the
 979 individual who is required to file the statement disclosure does
 980 not constitute a violation of this section.

981 (b) An elected officer or candidate who chooses to use an
 982 attorney or a certified public accountant to prepare his or her
 983 statement disclosure may pay for the services of the attorney or
 984 certified public accountant from funds in an office account
 985 created pursuant to s. 106.141 or, during a year that the
 986 individual qualifies for election to public office, the

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987 candidate's campaign depository pursuant to s. 106.021.
 988 ~~(13)-(12)~~ The commission shall adopt rules and forms
 989 specifying how a state officer, local officer, or specified
 990 state employee may amend his or her statement of financial
 991 interests to report information that was not included on the
 992 form as originally filed. If the amendment is the subject of a
 993 complaint filed under this part, the commission and the proper
 994 disciplinary official or body shall consider as a mitigating
 995 factor when considering appropriate disciplinary action the fact
 996 that the amendment was filed before any complaint or other
 997 inquiry or proceeding, while recognizing that the public was
 998 deprived of access to information to which it was entitled.

999 Section 5. Section 112.31455, Florida Statutes, is amended
 1000 to read:

1001 112.31455 Collection methods for unpaid automatic fines for
 1002 failure to timely file disclosure of financial interests.—

1003 (1) Before referring any unpaid fine accrued pursuant to s.
 1004 112.3144(7) or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~
 1005 to the Department of Financial Services, the commission shall
 1006 attempt to determine whether the individual owing such a fine is
 1007 a current public officer or current public employee. If so, the
 1008 commission may notify the Chief Financial Officer or the
 1009 governing body of the appropriate county, municipality, or
 1010 special district of the total amount of any fine owed to the
 1011 commission by such individual.

1012 (a) After receipt and verification of the notice from the
 1013 commission, the Chief Financial Officer or the governing body of
 1014 the county, municipality, or special district shall begin
 1015 withholding the lesser of 10 percent or the maximum amount

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1016 allowed under federal law from any salary-related payment. The
 1017 withheld payments shall be remitted to the commission until the
 1018 fine is satisfied.

1019 (b) The Chief Financial Officer or the governing body of
 1020 the county, municipality, or special district may retain an
 1021 amount of each withheld payment, as provided in s. 77.0305, to
 1022 cover the administrative costs incurred under this section.

1023 (2) If the commission determines that the individual who is
 1024 the subject of an unpaid fine accrued pursuant to s. 112.3144(7)
 1025 or s. 112.3145(8) ~~s. 112.3144(5) or s. 112.3145(7)~~ is no longer
 1026 a public officer or public employee or if the commission is
 1027 unable to determine whether the individual is a current public
 1028 officer or public employee, the commission may, 6 months after
 1029 the order becomes final, seek garnishment of any wages to
 1030 satisfy the amount of the fine, or any unpaid portion thereof,
 1031 pursuant to chapter 77. Upon recording the order imposing the
 1032 fine with the clerk of the circuit court, the order shall be
 1033 deemed a judgment for purposes of garnishment pursuant to
 1034 chapter 77.

1035 (3) The commission may refer unpaid fines to the
 1036 appropriate collection agency, as directed by the Chief
 1037 Financial Officer, to utilize any collection methods provided by
 1038 law. Except as expressly limited by this section, any other
 1039 collection methods authorized by law are allowed.

1040 (4) Action may be taken to collect any unpaid fine imposed
 1041 by ss. 112.3144 and 112.3145 within 20 years after the date the
 1042 final order is rendered.

1043 Section 6. Except as otherwise expressly provided in this
 1044 act, this act shall take effect upon becoming a law.

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Proposal for Electronic Filing of Financial Disclosure



By the
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Commission on Ethics

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Honorable President Gardiner and Speaker Crisafulli,

Enclosed for your consideration is the Florida Commission on Ethics' proposal for a mandatory electronic filing system for financial disclosure, as called for by Section 112.31445, Florida Statutes. This work product represents an asserted effort by the Commission, with the invaluable assistance of the Office of Legislative Information Technology Services, to arrive at a system which would be streamlined, efficient, user-friendly, and informative to the public. Our goals have been to design a system that would help users avoid mistakes, and would provide information to the public as rapidly and in as useful a format as possible.

Moving to e-filing will require a great deal more work, and a number of changes to existing law, but will result in a system that takes Florida to the next level in public access. The Commission hopes you will find this proposal informative.

Sincerely,


Stanley M. Weston, Chair
Florida Commission on Ethics


Virilindia Doss, Executive Director
Florida Commission on Ethics

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Purpose

Section 112.31445, Florida Statutes, requires that the Commission "submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system" for reporting full and public disclosure of financial interests filed pursuant to Article II, Section 8, Florida Constitution, or Section 112.3144, Florida Statutes. Pursuant to sec. 112.31445, the system proposed must provide for a secure, Internet-accessible mechanism through which filers can complete and submit their full and public disclosure of financial interests, it must allow an attorney or Certified Public Accountant (CPA) to sign the disclosure form to indicate that he or she prepared the form in accordance with Section 112.3144, Florida Statutes, and must issue an e-mail receipt to the filer. The statute also requires that the disclosure, once filed, be searchable, requires the Commission to provide for an alternate filing procedure in the event the electronic filing system is inoperable, requires the Commission to address whether additional statutory or rulemaking authority is necessary for implementation of the system, and requires that the Commission determine the feasibility and necessity of including statements of financial interests filed pursuant to Section 112.3145, Florida Statutes in the electronic system.

This report responds to the Legislature's mandate.

Goals

The goals for an online financial disclosure system should be ease of use for the filer, immediate information to the public, and efficiency for the agency. Such a system should also facilitate timely filing and reduce the occurrence of common filer errors.

In arriving at this proposal, the Commission has reviewed the entire financial disclosure scheme, and the proposal envisions not just a system that replicates existing practices, but improves upon them for better transparency, utility, and efficiency.

Executive Summary

This proposal contemplates a system through which, as of January 1, 2019, persons who file Full and Public Disclosure of Financial Interests (Form 6) would do so electronically. No paper forms would exist, and no paper filings would be permitted, after that date. For persons who file Statements of Financial Interests (Form 1), the system would go live January 1, 2020, and all filers would make their disclosures with the Commission on Ethics. Agency disclosure coordinators would be able to update their lists of persons required to file, as well as name, address, and email address changes, in real time. Filers would receive email notices to make their disclosures, with continuous reminders as the filing deadline approaches. Filers would be able to log on, see any of their past electronically-filed disclosures, complete their disclosures and submit them, and obtain a receipt. Full and Public Disclosures of Financial Interests would be posted to the Commission's website immediately, and candidates would be able to access the appropriate form and complete and print it for inclusion with their qualifying papers.

There are a number of obstacles to accomplishing all this: doing so would require significant changes to, and streamlining of, the financial disclosure laws, as well as a substantial investment of time and resources of the Commission and the Office of Legislative Information Technology Services (OLITS). It will be necessary to update the Commission's Financial Disclosure Management System to support e-filing, and OLITS' current estimate is that the cost of this modernization combined with the work necessary for e-filing would amount to 1.9 million

dollars. This figure does not include the staff costs of OLITS or the Commission, which, understanding the complexity of the project, are expected to be substantial.

Current Situation

Florida has a complex system for disclosure of financial interests, involving multiple types of disclosure and varying deadlines for filing, and places to file. There are two tiers of disclosure. The more detailed Full and Public Disclosure of Financial Interests (Form 6) is required of Constitutional officers, such as the Governor and Cabinet, members of the Legislature, and County Commission members. In 2014, 1,405 persons other than judges were required to file Full and Public Disclosure of Financial Interests.¹ Persons required to make Full and Public Disclosure of Financial Interests file with the Commission, unless they are also candidates for a position requiring the same disclosure. In that case, they file the Form 6 with their qualifying papers, and it is forwarded to the Commission by the qualifying officer.² All Form 6 filers must file their annual disclosures on or before July 1 of each year. Although judges are not required by law to file disclosure, they nevertheless file Form 6s with the Commission, which has historically accepted them.³ In 2014, 1,182 active and senior judges were required to file; bringing the total number of Form 6s to be filed with the Commission to 2,587.

The less comprehensive Statement of Financial Interests (Form 1) is required for other officials,⁴ and is also due July 1. Some Form 1 filers—such as state employees—file their disclosure with the Commission. Others—such as city council members and other local officers and employees—file with their Supervisors of Elections. In 2014, 13,572 people were required to file Form 1 disclosure with the Commission, while another 22,022 filed with the Supervisors.⁵

The law also requires Form 1 filers to file a disclosure for the previous year within 30 days of employment or appointment,⁶ requires *all* filers to file a final disclosure within 60 days of leaving office,⁷ and provides for filers to be able to amend a Form 1 or Form 6.⁸ Specific forms have been developed for these purposes.⁹ The law requires that filers be able to have their Certified Public Accountant or attorney complete their forms for them,¹⁰ for a "grace period" extending to September 1 for annual disclosure,¹¹ and for automatic fines to accrue at a rate of \$25 per day—to a maximum of \$1,500, for persons who have not filed by the end of the grace period.¹²

Although it is not the repository for all the disclosures filed, the Commission is charged with administering the financial disclosure program. Critical to this process are the 1,654 financial disclosure "coordinators"—or contact persons—at each state and local agency. These coordinators annually provide the Commission with a list of persons at their agencies required to make disclosure.¹³ The coordinators also must ensure that outgoing officials are removed from the lists, that new officials are added, and that the lists contain correct address information for each filer. Based on the information from the coordinators, the Commission and the Supervisors of Elections fulfill their statutorily-mandated responsibilities:

- **May 1:** Commission must prepare a current list of the names and addresses of, and the offices or positions held by, every state officer, local officer, and specified employee.¹⁴
- **May 15:** Commission must provide Supervisors of Elections a current mailing list of all local officers required to file with such Supervisor.¹⁵
- **June 1:** Commission must mail out Form 6s, and Form 1s to those persons required to file with the Commission,¹⁶ and Supervisors must mail Form 1s to those individuals required to file with them.
- **July 1:** Disclosures are due, either to the Commission (all Form 6 filers and state Form 1 filers) or to the local Supervisor of Elections (all local Form 1 filers).¹⁷

- **July 31:** Commission and Supervisors of Elections send certified-mail notices to filers who have not yet filed, informing them that their disclosures are delinquent.¹⁸
- **September 1:** "Grace period" during which all filers may submit their disclosures without penalty, ends. After September 1, delinquent filers are fined \$25 per day, up to a maximum of \$1,500.¹⁹

The Commission is required to post all Form 6s—except for those filed by judges—on its website.²⁰ Certain information, such as social security and bank account numbers, is confidential by law²¹ and cannot be released. Therefore, Commission staff must review every Form 6 before posting it to the website. In 2014, this required the review of 1,405 forms and their attachments. Because Form 6 filers are permitted by law to attach a copy of their tax returns in lieu of listing their income, thousands of pages of documents must be examined in the redaction process—a tedious, labor-intensive, and time-consuming exercise. Because of the necessity of this review, the documents cannot be posted immediately and the other work of the Commission slows considerably.

The Ethics Commission tracks, stores, and manages filer information through the Financial Disclosure Management System (FDMS). This system is 10 years old and was not designed for the demands that additional responsibilities assigned the Commission have placed on it. In early 2014, the Office of Legislative Information Technology Services (OLITS) recommended that the system undergo a modernization, and in July of that year the Commission requested, and authorized the expenditure of, funds for that purpose. However, the effort has been placed on hold due to lack of funding. If online filing is enacted, the enhancements will have to be made in concert with that effort.

Challenges

As is readily apparent from the foregoing, the disclosure process is multilayered and intricate. An electronic filing system must accommodate a variety of actors and scenarios, including, but not limited to:

- Officials serving in positions with an annual filing requirement;
- Persons qualifying for public office who otherwise have no filing requirement;
- Officials qualifying for public office who have an annual filing requirement which is the same as the requirement for the office they seek;
- Officials qualifying for public office who have an annual filing requirement which is *different from* the requirement for the office they seek;
- Officials seeking to amend a previously filed disclosure;
- Officials seeking to file the disclosure required within 30 days of appointment or employment;
- Officials seeking to file the disclosure required within 60 days of leaving public service;
- Officials who have left public service, but have not filed all the disclosures required while they were in public service; and,
- Officials who have left public service and no longer have a filing requirement, but need to amend a disclosure that they filed while in public service.

Other significant challenges to developing an e-filing system are:

Maintaining confidentiality of information to which filers have a right to confidentiality, and preventing filers from supplying confidential information not required to be disclosed.

Prevention of duplicative filings for the same disclosure period.

Allowing candidates who already hold office or otherwise have a filing requirement to submit their disclosures, while preventing those candidates with no filing requirement from doing so.

Allowing the form to be sent back and forth between the filer and his or her CPA or attorney any number of times.

Coordinator error: Failure by the coordinator to provide accurate, up-to-date information will result in the system's inability to recognize the filer. Failure to provide a current and accurate e-mail address will result in an inability to contact the filer.

Filer error: The law is confusing to many people, and filers often file the wrong form, do not understand that the disclosure period covers the prior year, misstate or do not remember what positions they hold, do not know what their financial interests are, include unsolicited confidential information, or fail to read or do not understand the form instructions. The system will need to aid the filer in submitting the correct form, and help him or her avoid errors or omissions.

Implementation of an online system will be a dramatic shift for the Commission, for coordinators, and for filers. Initiation of a new, technology-reliant means of doing business carries with it the potential for large-scale problems in implementation. The initial launch of the Affordable Healthcare Act sign-up process is a good example, but Florida has also seen its share of problems with such changes: the Department of Economic Opportunity's online unemployment claims system was initially plagued with problems,²² a change by Citizens Insurance in its policy numbers resulted in failure of premium payments to be credited to insureds,²³ and issues with online testing that the Commissioner of the Department of Education called "absolutely unacceptable," lead math tests to be scrapped.²⁴ Moving from the current system to e-filing will be a major undertaking. Given the volume of users, the intricacy of the disclosure laws, and the dramatic nature of the change, it is imperative that adequate time be allowed to build—and most important, to test, and test repeatedly—the system.

System Overview

Accessing the System and the Forms

Initial Access

Information about filers is currently managed through the Commission's Financial Disclosure Manage System (FDMS). As noted, this system is 10 years old, and has experienced many modifications as the Commission's responsibilities have grown—at this point, it is in need of a serious modernization, and such modernization will be critical if it is to accommodate the addition of an electronic filing system. OLITS estimates that modernizing FDMS and building and testing an e-filing system will take 18-24 months. Assuming legislation is enacted in the 2016 session, the system will be ready for coordinators by the summer of 2018, and for Form 6 filers on January 1, 2019. This rollout timeframe will allow coordinators to provide filers' email

addresses and update other information through fall of 2018 so that on January 1, 2019, filers will be able to e-file their 2018 Full and Public Disclosure of Financial Interests. A January 1 start date for filers is necessary to avoid a period in which paper and electronic filings overlap, and will allow those who need to file disclosure early in the year to do so.

As system recognition of the filer is vital, the system must have accurate and up-to-date information about the filer. Thus, when new officers or employees join an agency, it will be imperative that the agency coordinator obtain the necessary information to be entered into the system, including the filer's email address and whether he or she has filed disclosure before.

Whether the individual has filed disclosure in the past will be important, because it will impact the filer's username, and the username will be the mechanism by which the system recognizes the filer. All filers currently are assigned a Personal Identification (PID) number. If the person has filed disclosure in the past, the username will be the previously-assigned PID number. Thus, the official's current and previous filing information will be linked and the potential for filing the wrong form—or multiple, duplicative, forms—will be reduced. If the person has never made disclosure, a new PID will be generated, and it will serve as the official's username.

The filer will use this username and password to access the e-filing system. When the individual logs for the first time, he or she will be prompted to change the password and complete security questions required for username/password recovery. A law change will be necessary to exclude the passwords from the ambit of the public records laws. The system will direct the filer to the forms which the Commission's records indicate are appropriate, and will provide corresponding instructions and information concerning any outstanding fines. The following speak with more specificity to handling of the most common filer scenarios.

Persons with an existing filing requirement

This section will apply to those who already have a filing requirement when the online system debuts. In most cases this will mean persons with a requirement to file annual disclosure, but it could also mean those who need to file the disclosure required within 30 days of appointment or employment, or the final disclosure required within 60 days of leaving a position.

The role of the agency coordinators in this process cannot be overstated. It is now, and will continue to be, the coordinators' responsibility to update the information related to filers in their agencies—the system's ability to recognize the filer and its ability to direct him or her to the appropriate forms depends on the accuracy of this information. The FDMS modernization will allow coordinators to do this in real time. Through a proposed law change, they will be required to certify, by February 1 of each year, the accuracy of the information they have provided for the disclosure period—January 1 through December 31 of the preceding year, so that the Commission can have a date certain when preparing its own list of all filers.

In May, after the Commission has completed its list, the system will send an email to every filer, reminding the filer of his or her filing requirement and deadline. The system will continue to send reminders until the filing requirement is met.

When the filer logs in, the system will direct him or her to the applicable financial disclosure form, based on the information contained in the system. If, for example, the individual is a Form 6 filer, he or she will be allowed to submit and print the Form 6 for that year, a Form 6F (Final Full and Public Disclosure of Financial Interests) if he or she has left office, and a Form 6X to correct or amend any previously-filed Form 6 or 6F. Filers will only be able to submit *one* disclosure for any given disclosure period, but will be able to submit an unlimited number Form 6Xs to amend an earlier form.

Persons leaving office

Persons who have left public service may still need to access the system—either to file disclosure for the preceding year,²⁵ to file for a year they missed, to file a final disclosure, or to file an amendment to a prior year's disclosure. Such an individual will already have a username and password, and can use them to make these disclosures electronically.

Once the user has fulfilled his or her filing requirements, *and* the agency coordinator has removed the user's name from the list of persons required to file annual disclosure, the only form the filer will be able to electronically submit will be the 6X—used for correcting a prior year's form. Filer information will be retained for at least 10 years, longer if the official has an unpaid fine.²⁶ Until that time, an official who has a username and password will have the ability to sign onto the e-filing system and use it to electronically submit any form applicable to him or her.

Candidates

Candidates pose a special challenge in an e-filing system, because some candidates—for example, incumbents—already have a filing requirement, while others do not; some candidates may have a filing requirement which differs from the filing requirement of the office they seek (for example, a county commissioner who leaves office to run for a city council seat), and some may have left public service without completing all the forms they were required to file. All candidates must be able to provide the disclosure applicable to the office they seek to their qualifying officer, while candidates who have no requirement to file disclosure other than the disclosure they file with their qualifying papers should not be permitted to submit a disclosure to the Commission.

Candidates with no filing requirement

Article II, Section 8 requires candidates for elective constitutional offices to file Full and Public Disclosure of Financial Interests with their qualifying officers,²⁷ but candidacy for public office does not itself require filing disclosure with the Commission on Ethics. This section speaks to those candidates who have no filing requirement other than that of furnishing disclosure with their qualifying papers. These candidates must be able to access, complete, and print a disclosure form, but should not be allowed to submit the disclosure to the Commission.

Because the system may have no information on a user who has no filing requirement, a series of questions or instructions will be necessary so the system can ascertain what the user wants to do and direct him or her to the appropriate form. For such users, the system will generate a username readily distinguishable from the PIDs used for persons with an existing filing requirement, and the candidate will be able to complete and print the disclosure in the manner previously described. The user will only be able to print the disclosure, and will not have the option of submitting it to the Commission. The system will store the information—as well as the candidate's username and password—for one year, so that the candidate can access the form and work on it during that time. If the candidate is elected, he or she will then be treated as a new public officer: the agency coordinator will add the newly-elected officer to the list of persons required to file, and he or she will receive a PID/username and password, as previously outlined.

Candidates who have no current filing requirement, but who have one or more unmet previous filing requirements

Some candidates may have left public service without having filed all the disclosures required of them. These individuals will still have a PID/username and password, and will be

able to access the system to submit any missing forms and to complete and print any form needed for qualifying.

Candidates who have a current filing requirement

Many candidates, such as incumbents running for re-election, will have a current filing requirement. Under existing law, the qualifying officers forward to the Commission the disclosure form of any candidate who also has an annual filing requirement, and the Commission then redacts the disclosure and posts the redacted filing online.²⁸ With e-filing, there will be no need for the qualifying officers to forward disclosures to the Commission. Candidates with a current filing requirement will electronically submit their disclosures to the Commission and print a copy to file with their qualifying papers.

Candidates with a filing requirement different from that of the office they seek

Some candidates might have a current filing requirement that is *different* from the disclosure they must file with their qualifying papers. For example, if a county commissioner who must annually file Form 6 runs for city council, he or she must file a Form 1 at qualifying. These individuals will be able to complete and submit the disclosure required by their current position, while also being able to complete—and print only—the disclosure required for qualifying.

Completing the Disclosure

When users log on, they will be able to see the information the Commission's records reflect as to their name, address, position title, email address, filing requirement, and fines. They can update certain of their information (name, address, position title, email address), but will be directed to contact their coordinator if other information is incorrect—for example, if they are no

longer an officer or employee of that organization. They will have access to the appropriate disclosure forms and instructions, and the ability to view their previous forms.

Filers will complete the form section-by-section and can save their work and come back to it or return to previous sections, and the filer's work will be saved if he or she mistakenly closes out of system altogether. The system will be programmed to automatically time a filer out after a certain period of inactivity.

Filers will have access to the instructions at all times, and will be alerted to the instructions when they move to a new section. Filers will also be alerted when they have left a section blank, and will be unable to submit forms with blank sections.

After completing the final section, the filer will be able to save and print the form. Forms printed at this point will be marked "Draft." Filers can also submit the form and print the final copy. Various alerts will show when the filer hits "submit," such as that once the form is submitted it can only be amended by a 6X, and that he or she should not include confidential information, such as social security and bank account numbers. The filer will also be able to notify the Commission if he or she has an exemption from Chapter 119 for particular information. The filer can then confirm that he or she wants to submit the form.

Once the filer submits his or her disclosure, the system will send a message to the filer's email address, describing the type of form submitted, and date and time of submission. The filer will be precluded from submitting that form again for the same year. Any attempt to do so will be met with an alert that the form has already been submitted, and with instructions for amending a previously-submitted form.²⁹

Special Issues

Attorney/CPA Completion

The law gives filers the option of allowing an attorney or certified public accountant ("preparer") to complete their financial disclosure forms. If an attorney or CPA prepares a form, he or she must sign the form, certifying that to his or her reasonable knowledge and belief, it is correct. This signature is in addition to the filer's signature, which is required on all disclosures.

These provisions require that the system allow for the form to be sent back and forth between the filer and the preparer and also allow for signatures from both parties, with the form ultimately being submitted by the filer. The filer will be able to send the form to the preparer at any stage in its completion. When the filer selects that option, the system will request the email address of the attorney or CPA, and will send an email notifying the preparer of the availability of the form and providing a username and temporary password to allow the preparer to access the form. The username and password will be unique to each form, meaning that if the preparer is called upon by multiple filers to complete their respective forms, a separate username and password will exist for each. The filer will receive a notification that the form has been sent to the preparer.

The preparer will complete the form, electronically sign it, and return it to the filer. The preparer can print a copy of the form, which will be marked "draft." Once the preparer returns the form to the filer the preparer will be automatically logged out of the system, and the username and password given to the attorney or CPA to complete the form will become inoperative.

Once the attorney or accountant returns the form to the filer, the filer will not be able to make changes. If the filer is satisfied, he or she can sign the disclosure and submit it. If the filer

is not satisfied, he or she can re-submit the form to the preparer. If the filer selects this option, the process starts again, with a new username/password for the preparer. This cyclical practice is necessary to assure that neither the filer nor the preparer add or change information on the disclosure without the other's knowledge.

If at any time the filer decides to discontinue the services of the attorney or CPA, he or she can deselect the option. All previously-entered information will be removed from the form and it will be returned to the filer's control. The preparer's password will be rendered inoperative.

Inclusion of Confidential Information

The primary obstacle to the Commission's immediately posting financial disclosure forms is the necessity of redacting confidential information. Social security, bank account, and credit card numbers are confidential under Florida law³⁰ and cannot be released by the Commission. Despite the fact that none of this information is required to be reported, and that filers are warned in the form instructions not to include such information, filers not only routinely fail to redact social security numbers from the tax returns they are permitted to attach in lieu of listing income, they often affirmatively *write in* account numbers on the forms themselves.

The form and all attachments thereto constitute the disclosure, and the Commission must preserve the original disclosure as a public record and cannot delete any information in the original document.³¹ Therefore, the Commission cannot redact a form and then consider that document to be the original public record. Redactions in a pdf (Portable Document File) are permanent and cannot be "lifted," but redactions in a tiff (Tagged Image Format File) *can* later be "lifted" by a Commission staff member with "Administrator" software privileges. Currently, staff must scan the paper document as a tiff, then redact any confidential or chapter 119-exempt

information. A second staff member checks to ensure the redaction is complete, and the file is converted into a pdf that can be posted to the website. The original tiff and the redacted pdf copy are preserved. The Form 6 disclosures forwarded from the qualifying officers are received as pdf. For these, the Commission must convert the pdf to a tiff, and go through the same redaction and re-conversion process in order to post the disclosure on the website. This time and labor-intensive process not only results in the Commission maintaining two copies of every redacted document, but delays public access to the disclosures.

Virtually this same process will be necessary with online filing. The pdf is the most common tool for scanned documents, and when filers submit a tax return in pdf form, the Commission will have to convert the pdf to a tiff to perform the redactions, then convert the redacted copy back to a pdf for posting.

To achieve the goal of posting the form to the website at the moment the filer submits it, two law changes will need to be made: elimination of the option to file a tax return in lieu of listing income, and elimination of confidentiality for persons who voluntarily enter social security and account numbers onto the form itself.

With respect to the tax return, Article II, Section 8, Florida Constitution, provides that "until changed by law" persons filing full and public disclosure of financial interests have the option of either identifying each separate source and amount of income over \$1,000 or attaching their federal income tax return. In addition to foreclosing the ability to immediately make the disclosures available to the public because of the need to redact, attaching documents to an online "form" creates a number of practical problems:

- The filer will need the knowledge, skill, and equipment to scan and upload the tax return. Not all officials share the same level of technological sophistication, and problems with the submission, format, and visual quality and readability of the scanned document can be anticipated.

- Allowing filers to scan and upload tax returns will mean they will have the ability to scan and upload documents *other than* tax returns. Filers may then feel at liberty to complete all the entries on the form with a "see attached," and upload any documents they like, whether they disclose the desired information or not. The public is then left to sift through this information to try and identify assets, income, liabilities, etc.
- Searches on documents submitted by filers will be unreliable. The quality of the scan and the format of the document (for example, handwritten as opposed to typewritten) may mean the document cannot be searched at all.

Eliminating the option of filing a tax return could alleviate these concerns as well as the redaction bottleneck, and because it appears the Constitution allows the definition of "full and public disclosure of financial interests" to be "changed by law," the Legislature has the apparent ability to do so. Such an approach would also present the information to the public in a more straightforward way, and would be more informative than a tax return with respect to some types of income—for example rent or secondary sources of income—the sources of which must be revealed if completing the form, but are not necessarily revealed in a tax return.

While eliminating the tax return option would reduce the delay in posting disclosure forms to the website, it would not remove it altogether. Forms would still have to be reviewed to make sure a filer has not included his or her social security, bank account, or credit card numbers on the disclosure form itself. To enable the immediate posting of a form to the website as soon as it is entered, the law will need to be changed to reflect that when such information is voluntarily entered by a filer it loses its confidentiality.

It should be noted that there is certain information—typically the filer's home address—that may be required by law to be disclosed and may also be subject to some confidentiality. For example, Form 6 filers must identify assets worth more than \$1,000, which will usually include the filer's home. If the filer is a former law enforcement officer or other statutorily listed person, he or she is entitled to have the confidentiality of a home address maintained upon written

request.³² These are relatively uncommon circumstances, and flagging such disclosures for review is not anticipated to cause serious delay in posting to the website. In addition, OLITS is still exploring creation of a mechanism whereby a filer can be queried as to whether an entry is a home address and whether he or she is subject to an exemption from ch. 119, and if the answer is in the affirmative, block that information from public view.

Requirement of a Sworn Document

The Constitution requires that the Full and Public Disclosure of Financial Interests be "sworn," and while electronic notarization is technologically and legally possible,³³ for many filers it will not be feasible, and it would add an additional layer of complexity to an already complicated e-filing system. To enable e-filing, the law would need to be changed to define "sworn," in this context, as a statement that "Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true" followed by the filer's electronic signature. The law should be clear that this "self-verification" applies only in the context of financial disclosure, because "sworn" statements and statements "under oath" are required in various other contexts,³⁴ in which there may be policy reasons to continue to require the solemnity of a physical swearing before a notary or other officer authorized to administer oaths.

Search function

Section 112.31445(3)(b) requires the Commission on Ethics address the establishment of "a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software." Forms will be searchable by name, organization, and county, and the goal is to allow the public to also be able to search for terms within the online form. This search may not return 100% of the information the searcher is interested in: one filer might disclose "Bank of America stock," while another reports "shares, Bank Am.," and a third,

"BOA stock." A search for "America" would only turn up the first. Because of the breadth of assets that might be held by filers, drop-down lists would not be feasible, but OLITS is continuing to investigate mechanisms for improving search scope and reliability.

As discussed earlier, searches of tax returns or other documents attached to disclosures, even if possible, would be very unreliable. Although programs exist which can search pdf files, so much is dependent upon the quality of the original document and the manner in which it is submitted that no representation could be made as to the ability to search such documents.

System Failure

Section 112.31445(3)(f) requires the Commission on Ethics to "address whether additional statutory or rulemaking authority is necessary for implementation of the system, and must include, at a minimum, the following elements: alternate filing procedures to be used in the event that the commission's electronic filing system is inoperable . . ."

Once the move to an online filing system is made, there will be no ability to revert to a paper system on a short-term basis. The number of preparatory steps—form creation, review by the Joint Administrative Procedures Committee, and mailing of forms—precludes that. A statutory change giving authority to the Commission Chair to extend the filing deadline by up to 90 days in the event of system failure would provide ample time for correction of any malfunction and allow filers to file electronically with minimal disruption.

Form 1 Filers

Once the system is built and has been tested and used by Form 6 filers, there is no reason not to eventually add the 35,594 persons who file Form 1. Although only 13,572 of those individuals currently file their forms with the Commission—the balance filing with the Supervisors of Elections—it serves no purpose to have persons filing in different places. For that

reason, as of January 1, 2020, all forms would be filed with the Commission, and the Supervisors of Elections would no longer have any responsibilities with respect to disclosure.

Law and Rule Changes

Significant changes to current law are needed to make e-filing a reality. The law will have to make the system mandatory and establish mechanisms, such as a requirement that officials provide e-mail addresses, to implement it. In addition, simplification and streamlining of the system is advisable to reduce confusion and error on the part of the filer. An appendix with suggested changes in the law, as well as the reasons for the changes, is attached. The Commission's administrative rules will have to be significantly rewritten to accommodate the changes as well; however, at this point, it is impossible to anticipate what changes would be required.

Conclusion

Electronic filing can assist the filer and make it more difficult for him or her to overlook something that should be reported, and it can aid the public in finding information. If the Commission no longer has to review every document for confidential information before the form is posted to the website, e-filing can also reduce the time lag in posting disclosures from a matter of days to immediate. However, e-filing will not "automate" disclosure. Filers will still have to locate and compile their own financial information, determine the nature of their interests in assets and liabilities, perform their own calculations, and read the instructions for themselves. Further, as the system will be geared to filers' e-mail addresses, failure of a filer to provide notice when an email address changes will completely undermine system functionality. Electronic filing will require a significant commitment of financial and human resources. This proposal addresses what would be required in order to make such a system work, in the event policy-makers determine such a commitment of resources is justified by the return.

¹ 2014 Annual Report of the Florida Commission on Ethics.

² Pursuant to Section 112.3144(2), Florida Statutes, when an individual who has a requirement to make financial disclosure qualifies for re-election or election to another office, he or she need only file the disclosure with the qualifying officer. The qualifying officer must then forward a copy of the disclosure to the Commission.

³ Although not required to do so by law, judges are required by Canon 6 of the Code of Judicial Conduct to file Full and Public Disclosure of Financial Interests. The law is inconsistent with respect to Judges of Compensation Claims: Section 112.3145(1)(b)1, Florida Statutes, requires only that they file a Statement of Financial Interests, while Section 440.442, Florida Statutes, requires that they comport with the Code of Judicial Conduct. In practice, the Judges of Compensation Claims file Full and Public Disclosure of Financial Interests.

⁴ These include, but are not limited to: Public counsel created by chapter 350; assistant state attorneys and public defenders; criminal conflict and civil regional counsel and assistant criminal conflict and civil regional counsel; full-time state employees who serve as counsel or assistant counsel to any state agency; administrative law judges and hearing officers; any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions; the State Surgeon General; each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council, unless otherwise provided; the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division, or any person having the power normally conferred upon such persons, by whatever title; superintendents or institute directors of state mental health institutes established for training and research in the mental health field, or wardens or directors of any major state institution or facility established for corrections, training, treatment, or rehabilitation; business managers; purchasing agents having the power to make any purchase exceeding the threshold amount provided for in section. 287.017 for CATEGORY ONE; finance and accounting directors; personnel officers or grants coordinators for any state agency; any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch of government, except persons employed in maintenance, clerical, secretarial, or similar positions; each employee of the Commission on Ethics; appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of advisory bodies; members of the Board of Governors of the State University System or a state university board of trustees; the Chancellor and Vice Chancellors of the State University System, and the president of a state university; and members of the judicial nominating commission for any district court of appeal or any judicial circuit. At the local level: every person elected to office in any political subdivision of the state, and every person appointed to fill a vacancy for an unexpired term in such an elective office; appointed members of the governing bodies of political subdivisions; members of community college or junior college district boards of trustees; members of boards having the power to enforce local code provisions; members of planning or zoning boards, boards of adjustment, boards of appeals, community redevelopment agency boards, or other boards having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards; members of pension or retirement boards having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; mayors; county or city managers or chief administrative employees of a county, municipality, or other political subdivision; county or municipal attorneys; finance directors of a county, municipality, or other political subdivision; chief county or municipal building code inspectors; county or municipal water resources coordinators; county or municipal pollution control directors; county or municipal environmental control directors; county or municipal administrators with power to grant or deny land development permits; chiefs of police; fire chiefs; municipal clerks; district school superintendents; community college presidents; district medical examiners; purchasing agents having the authority to make any purchase exceeding the threshold amount provided for in section 287.017 for CATEGORY ONE, on behalf of any political subdivision of the state or any entity thereof; and any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

⁵ 2014 Annual Report of the Commission on Ethics.

⁶ Section 112.3145(2)(b), Florida Statutes.

⁷ Sections 112.3144(7) and 112.3145(2)(b), Florida Statutes.

⁸ Sections 112.3144(8) and (10), and 112.3145(10) and (12), Florida Statutes.

⁹ Form 6F and Form 1F must be filed within 60 days of the filer's leaving public office or employment, unless the filer accepts another position within that 60-day window requiring them to file the same form as in their previous position, or if a former Form 1 filer is required to submit a Form 6 in his new position. Form 6X and Form 1X are used to amend previously filed Form 6s or Form 1s; a filer may submit as many as is necessary to make alterations to a Form 6 or Form 1.

¹⁰ Sections 112.3144(9) and 112.4135(11), Florida Statutes.

¹¹ Sections 112.3144(5)(c) and 112.3145(7)(c), Florida Statutes.

¹² Sections 112.3144(5)(e) and 112.3145(7)(c), Florida Statutes.

¹³ Sections 112.3144(5)(a) and 112.3145(7)(a)1, Florida Statutes.

¹⁴ Sections 112.3144(5)(a) and 112.3145(7)(a)1, Florida Statutes.

¹⁵ Section 112.3145(7)(a)2, Florida Statutes.

¹⁶ Sections 112.3144(5)(b) and 112.3145(7)(b), Florida Statutes.

¹⁷ Article II, Section 8, Florida Constitution; Section 112.3145(2)(b), Florida Statutes.

¹⁸ Sections 112.3144(5)(c) and 112.3145(7)(c), Florida Statutes.

¹⁹ Sections 112.3144(5)(e) and 112.3145(7)(c), Florida Statutes.

²⁰ Section 112.3144(2), Florida Statutes.

²¹ Section 119.071(5)(a)5 and 119.071(5)(b), Florida Statutes.

²² Florida Can't Explain Botched Launch of Unemployment Benefits Website
<http://www.tampabay.com/news/business/floridas-unemployment-benefits-website-was-not-ready-for-launch-and-state/2164594>

²³ Payment Snafus Plague Switch in Nearly 600,000 Citizens Policy Numbers
<http://www.mypalmbeachpost.com/news/business/payment-snafus-plague-switch-in-nearly-600000-citi/nmKHW/#4058d2c3.3592531.735738>

²⁴ Online Testing System Fails Again; Angry State Official Calls Glitches "Unacceptable"
<http://www.tampabay.com/news/education/testing/school-testing-suspended-across-florida-as-computer-problems-resurface/2226226>

²⁵ For example, a county commissioner leaving office on March 10, 2016 will have to file a Form 6 covering the calendar year 2015, and will have to file a Form 6F for the period January 1, 2016 through March 10, 2016.

²⁶ The statute of limitations for recovery of fines is 20 years. Section 112.3145(4), Florida Statutes.

²⁷ At the state level, the Department of State serves as the qualifying officer. At the local level, the Supervisors of Elections and municipal clerks serve as qualifying officers.

²⁸ Section 112.3144(2), Florida Statutes.

²⁹ The same alert will occur if a filer attempts to file multiple 6F forms.

³⁰ Section 119.071(5), Florida Statutes.

³¹ AGO 05-37.

³² Section 119.071(4)(d)3, Florida Statutes.

³³ Section 117.021, Florida Statutes—Electronic notarization.

³⁴ For example, complaints of breach of the public trust must be filed under oath. Section 112.324, Florida Statutes.

APPENDIX

- A Section 112.3145, Florida Statutes
- B Draft changes to Section 112.312, Florida Statutes
- C Draft changes to Section 112.3144, Florida Statutes
- D Draft changes to Section 112.3145, Florida Statutes
- E Draft changes to Section 112.326, Florida Statutes
- F Draft changes to Section 119.071, Florida Statutes
- G Enabling legislation for ch. 119 exemption in Section 112.3144
- H Enabling legislation for ch. 119 exemption in Section 112.3145

112.31445 Electronic filing system; full and public disclosure of financial interests.—

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

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

(3) By December 1, 2015, the commission shall submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system. The proposal must, at a minimum:

(a) Provide for access through the Internet.

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

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

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

(e) Provide a method for an attorney or certified public accountant licensed in this state to sign the disclosure form to indicate that he or she prepared the form in accordance with s. 112.3144 and the instructions for completing and filing the disclosure form and that, upon his or her reasonable knowledge and belief, the form is true and correct.

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

History.—s. 8, ch. 2013-36.

112.312 Definitions.

(10) "Disclosure period" means the ~~taxable~~ calendar year ~~for the person or business entity, whether based on a calendar or fiscal year,~~ immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed. In the case of a final disclosure, the "disclosure period" is January 1 of the person's last year in office or employment until his or her last day of employment.¹

(19) "Person or business entities provided a grant or privilege to operate" ~~includes~~ means state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.²

¹ This change will alleviate confusion and ensure that all disclosures cover the same time period.

² The existing language suggests that there could be other businesses, which are not listed in the statute, but which filers would have to report. This change would provide certainty to filers.

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics. Additionally, ~~beginning January 1, 2015,~~ an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) Beginning January 1, 2019, full and public disclosure of financial interests, as well as amendments thereto and final full and public disclosure of financial interests must be filed electronically through a system created and maintained by the Commission on Ethics. Each unit of government shall make an electronic mail account available upon request of any of its officers or members for this purpose.¹ All persons required to file full and public disclosure of financial interests must provide an electronic mail address for this purpose, and shall inform the Commission immediately of any change in their electronic mail address.² Persons given a secure sign-on to the electronic filing system are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.³

~~(23) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section.⁴ A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.~~

~~(34) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as "household goods and personal effects":~~

- ~~(a) Jewelry;~~
- ~~(b) Collections of stamps, guns, and numismatic properties;~~
- ~~(c) Art objects;~~

- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles, including air and watercraft,⁵ for personal use.

(45)(a) With respect to reporting, on forms prescribed under this section, assets valued in excess of \$1,000 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting liabilities valued in excess of \$1,000 on forms prescribed under this section for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

~~2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.~~⁶

(c) With respect to reporting income, on forms prescribed by this section, each separate source and amount of income which exceeds \$1,000 must be identified.⁷

(6) The commission shall not request, and no public officer or employee shall provide, in his or her statement of financial interests, any social security number, bank, mortgage, or brokerage account number, debit, charge, or credit card number, Personal Identification Number, or taxpayer identification number. In the event a public officer or employee voluntarily provides such information, it shall not be subject to any confidentiality or public records exemption found in s. 119.071(a)5 or 119.071(b).⁸

~~(57) The electronic F~~forms for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be created by the Commission on Ethics. Effective January 1, 2019, ~~the~~ commission shall give notice of disclosure deadlines and delinquencies ~~and distribute forms~~ in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names, ~~and~~ addresses, and electronic mail addresses of, and the offices held by, every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. In compiling the list, the commission shall be assisted by each unit of government in providing to the commission,

not later than February 1, at the request of the commission the name, address, ~~electronic mail address,~~ and name of the office held by each public official within the respective unit of government as of December 31 of the preceding year.⁹

(b) Not later than 30 days before July 1 of each year, the commission shall send notice of the requirement to file ~~mail a copy of the form prescribed for compliance with~~ full and public disclosure and a notice of the filing deadline via electronic mail to each person on the mailing list.

(c) Not later than 30 days after July 1 of each year, the commission shall determine which persons on the mailing list have failed to file full and public disclosure and shall send delinquency notices by ~~certified~~ electronic mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year.¹⁰

(d) Statements must be ~~filed~~ received by the Commission not later than 5 p.m. of the due date. The Commission shall provide a receipt via electronic mail verifying to the individual who submitted the full and public disclosure of financial interests form that the form has been filed. For purposes of this section, a written declaration pursuant to sec. 92.525(2) and accompanied by an electronic signature shall satisfy the requirement that the full and public disclosure of financial interests be sworn.¹¹ ~~However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.~~¹²

(e) All passwords held by the Commission pursuant to this section are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. Information entered in the electronic system for purposes of making financial disclosure is exempt from s. 119.07 (1) and s. 24(a), Art. I of the State Constitution.

2. Information entered in the electronic filing system is no longer exempt once the disclosure is submitted, or in the case of a candidate, filed with a qualifying officer, whichever occurs first.¹³

(~~e~~f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the mailing list

and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. ~~The rule must provide for and make specific the following:~~

~~1. The amount of the fine due is based upon the earliest of the following:~~

~~a. When a statement is actually received by the office.~~

~~b. When the statement is postmarked.~~

~~c. When the certificate of mailing is dated.~~

~~d. When the receipt from an established courier company is dated.¹⁴~~

2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be ~~made in writing and received by the Commission~~¹⁵ within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. Failure to monitor an electronic mail account shall not constitute an unusual circumstance, and failure of notice shall not be considered an unusual circumstance if the person has not notified the Commission of a change in his or her electronic mail address.¹⁶

(fg) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's mailing list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(gh) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (79).

(Hi) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(68) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324 (4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendation as provided in s. 112.324.¹⁷

(79) Each person required to file full and public disclosure of financial interests shall electronically file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(810)(a) The commission shall treat an amendment to a full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the full and public disclosure of financial interests within 30 days

after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat an ~~new~~ amendment to a final full and public disclosure of financial interests as part of the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file an ~~new~~ amendment to the final full and public disclosure of financial interests correcting any errors. If the filer does not file an ~~new~~ amendment to the final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.¹⁸

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(911)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

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

(4012) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

Effective date: 01/01/19

¹ Not all public officers and employees have access to a computer. If they do not, their agencies should provide an email account for them.

² An e-filing system will only be as good as the accuracy of the filer's information. A current email address is critical to the operation of the system.

³ Necessary so that the filer is accountable for the information submitted.

⁴ No longer necessary. Forms will go directly to the Commission, with the official printing a copy to file with his or her qualifying papers.

⁵ This is not required for e-filing, but would be a useful clarification.

⁶ This change is not required for e-filing, but would delete an extremely confusing provision.

⁷ This eliminates the option of filing a tax return. Attaching materials such as tax returns to the e-filed document reduces the reliability of searches, increases potential for filer error, and slows down availability of the filing to the public.

⁸ Filers will be able to enter free text in most of the form fields. This means, for example, that even though the form doesn't ask for a bank account number, it would be *possible* to type one in. This change makes it the filer's responsibility if that information is revealed when the form is posted on the website.

⁹ This gives the agency coordinators a date certain by which to have their lists to the Commission. Although coordinators will be able to update their lists in real time, there must be date certain after which the Commission can rely on the information provided in compiling its own list.

¹⁰ If the system is to be electronic, it does not make sense to go back to paper for the delinquency notice. In addition, despite the implication of its name, certified mail is not always reliable or swift. The filer will receive repeated e-mail reminders to make his or her disclosure.

¹¹ Article II, Section 8, Florida Constitution requires that the full and public disclosure of financial interests be "sworn." While electronic notarizations exist, they are not feasible in a practical sense. This change would allow self-verification of the disclosure, and is imperative for an e-filing system.

¹² Five o'clock is preferable to midnight because it allows filers who have questions or problems in submission to get assistance during regular working hours.

¹³ Keeping the filer's password and the draft information exempt is necessary to prevent fraud and identity theft. The language is based on sec. 106.0706.

¹⁴ No longer necessary.

¹⁵ Clarifies the form and due date for the request for an appeal.

¹⁶ Filers who change email addresses without notifying the Commission should not later be heard to claim that they did not get notice.

¹⁷ This is not required for e-filing, but clarifies the course to be taken by the Commission after a finding of willfulness.

¹⁸ E-filing is contemplated to allow filers to file only *one* disclosure per each disclosure period, to eliminate multiple filings covering the same time period, which are confusing and duplicative. However, filers will be able to file an unlimited number of amendments to that disclosure.

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

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

(a) "Local officer" means:

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

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

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

b. A community college or junior college district board of trustees;

c. A board having the power to enforce local code provisions;

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

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

~~f. Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.¹~~

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

(b) "Specified state employee" means:

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1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a criminal conflict and civil regional counsel, an assistant criminal conflict and civil regional counsel, a full-time state employee who serves as counsel or assistant counsel to any state agency, ~~the Deputy Chief Judge of Compensation Claims, a judge of compensation claims,~~² an administrative law judge, or a hearing officer.

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

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

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

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ~~ONE~~ TWO,⁴ finance and accounting directors, personnel officers, or grants coordinators for any state agency.

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

7. Each employee of the Commission on Ethics.

(c) "State officer" means:

1. Any elected public officer, excluding those elected to the United States Senate and House of Representatives, not covered elsewhere in this part and any person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. An appointed member of each board, commission, authority, or council having statewide jurisdiction, excluding a member of an advisory body.

3. A member of the Board of Governors of the State University System or a state university board of trustees, the Chancellor and Vice Chancellors of the State University System, and the president of a state university.

4. A member of the judicial nominating commission for any district court of appeal or any judicial circuit.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers. ~~When a candidate has qualified for office prior to the deadline to file an annual statement of financial interests, the statement of financial interests that is filed with the candidate's qualifying papers shall be deemed to satisfy the annual disclosure requirement of this section. The qualifying officer must record that the statement of financial interests was timely filed. However, if a A candidate does not qualify until after the annual statement of financial interests has been filed, the candidate may shall file a copy of his or her statement with the qualifying officer.~~⁵

(b) ~~E~~each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) Beginning January 1, 2020, all statements of financial interests, final statements of financial interest, and amendments thereto shall be filed electronically ~~State officers and specified state employees shall file their statements of financial interests with the Commission on Ethics. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.~~⁶ Each unit of government shall make an electronic mail account available upon request of any of its officers or members for this purpose.⁷ All persons required to file disclosure of financial interests shall inform the Commission immediately of any change in their electronic mail address.⁸ Persons given a secure

sign-on to the electronic filing system are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.⁹

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure in a particular category, in which case that section of the statement shall be marked "not applicable."¹⁰ Otherwise, the statement of financial interests shall include, ~~at the filer's option, either:~~

~~(a)1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;~~

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

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

~~4. Every individual liability that equals more than the reporting person's net worth; or¹¹~~

~~(b)1. All sources of gross income in excess of \$2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;¹²~~

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the

gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

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

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

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

~~(4) The commission shall not request, and no public officer or employee shall provide, in his or her statement of financial interests, any social security number, bank, mortgage, or brokerage account number, debit, charge, or credit card number, Personal Identification Number, or taxpayer identification number. In the event a public officer or employee voluntarily provides such information, it shall not be subject to any confidentiality or public records exemptions found in 119.071(a)5 or 119.071(b).¹³~~

~~(4) Beginning January 1, 2015, a~~An officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

(5) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity.

Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(6) Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

~~(7) Forms for compliance with the disclosure requirements of Effective January 1, 2020, the disclosure of financial interests required by this section, as well as amendments thereto and final disclosures of financial interests shall be made by electronic filing with the Commission on Ethics, and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:~~

~~(a)1. Not later than May 1 of each year, the commission shall prepare a current list of the names, and addresses, and electronic mail addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. In compiling the list, the commission shall be assisted by each unit of government in providing to the commission, not later than February 1, at the request of the commission, the name, address, electronic mail address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.~~

~~2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current mailing list of all local officers required to file with such supervisor of elections.~~

~~(b) Not later than 30 days before July 1 of each year, the commission and each supervisor of elections, as appropriate, shall send notice of the requirement to file mail a copy of the form~~

prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines via electronic mail to each person required to file a statement of financial interests.

(c) Not later than 30 days after July 1 of each year, the commission ~~and each supervisor of elections~~ shall determine which persons required to file a statement of financial interests ~~in their respective offices~~ have failed to do so and shall send delinquency notices by ~~certified~~ electronic mail, return receipt requested, to these persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; ~~for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency;~~ and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

~~(d) No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (f)1. The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.~~

~~(ed) Statements must be filed received by the Commission not later than 5 p.m. of the due date. The Commission shall provide a receipt via electronic mail verifying to the individual who submitted the full and public disclosure of financial interests form that the form has been filed.¹⁴ However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.~~

~~(e) All passwords held by the Commission pursuant to this section are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~1. Information entered in the electronic system for purposes of making financial disclosure is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

2. Information entered in the electronic filing system is no longer exempt once the disclosure is submitted, or in the case of a candidate, filed with a qualifying officer, whichever occurs first.¹⁵

(fg) Any person who is required to file a statement of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. ~~The rule must provide for and make specific the following:~~

~~1. The amount of the fine due is based upon the earliest of the following:~~

~~a. When a statement is actually received by the office.~~

~~b. When the statement is postmarked.~~

~~c. When the certificate of mailing is dated.~~

~~d. When the receipt from an established courier company is dated.~~

~~2. For a specified state employee or a state officer, u~~Upon receipt of the disclosure statement by the commission or upon accrual of the maximum penalty, whichever occurs first, ~~and for a local officer upon receipt by the commission of the certification from the local officer's supervisor of elections pursuant to paragraph (d),~~ the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys are to be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made in writing and received by the Commission¹⁶ within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. Failure to monitor an electronic mail account shall not constitute an unusual circumstance, and failure of notice shall not be considered an unusual circumstance if the person has not notified the Commission of a change in his or her electronic mail address.¹⁷

(gh) Any state officer, local officer, or specified employee whose name is not on the mailing list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(hi) The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(ij) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

(8)(a) The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that

the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendation as provided in s. 112.324.¹⁸

(9) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(10)(a) The commission shall treat an ~~amendment to an~~ amendment to an annual statement of financial interests which is filed before September 1 of the year in which the statement is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an ~~amendment to the~~ amendment to the statement of financial interests correcting any errors. If the filer does not file an ~~amendment to the~~ amendment to the statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat ~~a new an~~ an amendment to a final statement of financial interests as part of the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an ~~new~~ an amendment to the final statement of financial interests correcting any errors. If the filer does not file an ~~new~~ an amendment to the final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.¹⁹

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(11)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this

section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual who is required to file the disclosure does not constitute a violation of this section.

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

(12) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

Effective date: January 1, 2019

¹ A law change in sec. 112.326 is recommended such that local government entities requiring disclosures for various boards will create and retain those disclosures locally.

² Pursuant to sec. 440.442, judges of compensation claims must comport with the Code of Judicial Conduct, which requires filing Full and Public Disclosure of Financial Interests, rather than the Statement of Financial Interests.

³ Assistant bureau chiefs have little authority, and there is virtually no demand for their disclosure forms from the public. Eliminating them from the list of persons required to file would streamline the system.

⁴ Pursuant to Section 287.017, Category One is purchasing authority of \$20,000, Category Two is \$35,000. Raising the purchasing category would streamline the system.

⁵ Current language is no longer necessary, as candidates will electronically submit their disclosures and print a copy for their qualifying officers.

⁶ This will remove responsibility from Supervisors of Elections and centralize the locus of filing with the Commission.

⁷ Not all public officers and employees have access to a computer. If they do not, their agencies should provide an email account for them.

⁸ An e-filing system will only be as good as the accuracy of the filer's information. A current email address is critical to the operation of the system.

⁹ Necessary so that the filer is accountable for the information submitted.

¹⁰ If a filer leaves a section blank, it's unclear whether he or she had nothing to report, or just overlooked that section. E-filing will be set up to force individuals to address each filing requirement.

¹¹ The option of "percentage" vs. "dollar value" is confusing to filers and the public, is error-prone, and usually results in less-informative disclosures. Eliminating this option will streamline the process and facilitate e-filing.

¹² If the filer includes all the information, there is no need to demand that they provide it in a particular order.

¹³ Filers will be able to enter free text in most of the form fields. This means, for example, that even though the form doesn't ask for a bank account number, it would be *possible* to type one in. This change makes it the filer's responsibility if that information is entered and then revealed when the form is posted on the website.

¹⁴ Five o'clock is preferable to midnight to allow filers who have questions or problems in submission to get assistance during regular working hours.

¹⁵ Keeping the filer's password and the draft information exempt is necessary to prevent fraud and identity theft. The language is based on sec. 106.0706.

¹⁶ Clarifies the form and due date for the request for an appeal.

¹⁷ Filers who change email addresses without notifying the Commission should not later be heard to claim that they did not receive notice.

¹⁸ This is not necessary for e-filing, but clarifies the course to be taken by the Commission after a finding of willfulness.

¹⁹ E-filing is contemplated to allow filers to file only *one* disclosure per each disclosure period. However, the filer would be able to file an unlimited number of amendments to that disclosure. This is to eliminate multiple filings covering the same time period, which are confusing and duplicative.

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

(1) The appointing authority of a local government board or the enabling legislation, ordinance, or resolution creating the board may require that members of that board make disclosure of their financial interests. Forms for such disclosure shall be created and retained by the appointing authority or the local government entity enacting the enabling legislation, ordinance, or resolution.ⁱ

ⁱ When local government entities create boards, they can require the members thereof to file disclosure, no matter what the responsibilities of the board are. With this change, state law would govern who files disclosure with the Commission; while local entities could still mandate disclosure from members of the boards they create, they would be responsible for maintaining that disclosure.

119.071 General exemptions from inspection or copying of public records.—

(5) OTHER PERSONAL INFORMATION.—

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. An agency shall identify in writing the specific federal or state law governing the collection, use, or release of social security numbers for each purpose for which the agency collects the social security number, including any authorized exceptions that apply to such collection, use, or release. Each agency shall ensure that the collection, use, or release of social security numbers complies with the specific applicable federal or state law.

c. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2. The written statement also shall state whether collection of the individual's social security number is authorized or mandatory under federal or state law.

4. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless voluntarily entered in a financial disclosure filed pursuant to Article II, Sec. 8, or sec. 112.3144 or 112.3145. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption. This exemption does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemption for social security numbers existing prior to May 13, 2002, or created thereafter.

6. Social security numbers held by an agency may be disclosed if any of the following apply:

a. The disclosure of the social security number is expressly required by federal or state law or a court order.

b. The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.

c. The individual expressly consents in writing to the disclosure of his or her social security number.

d. The disclosure of the social security number is made to comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or Presidential Executive Order 13224.

e. The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., provided that the authorized commercial entity complies with the requirements of this paragraph.

f. The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or his or her dependents.

g. The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, deferred compensation plan, or defined contribution plan.

h. The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.

7.a. For purposes of this subsection, the term:

(l) "Commercial activity" means the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the accuracy of personal information received by a commercial entity in the normal course of its business, including identification or prevention of fraud or matching, verifying, or retrieving information. It does not include the display or bulk sale of social security

numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity, including the identification of any specific federal or state law that permits such use.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding \$500 per violation.

9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless voluntarily entered in a financial disclosure filed pursuant to Article II, Sec. 8, or sec. 112.3144 or 112.3145. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

THE FLORIDA SENATE
APPEARANCE RECORD

Tab #2

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

2/13/19
Meeting Date

7040
Bill Number (if applicable)

590054
Amendment Barcode (if applicable)

Topic Electronic Disclosure filing

Name Verlinda Ross

Job Title Executive Director

Address 325 John Knox Rd
Street

Phone (850) 488-7864

Tallah FL 32317
City State Zip

Email ross.verlinda@leg.state.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FIA Commission on Ethics

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 Ethics and Elections

BILL: SPB 7042

INTRODUCER: Ethics and Elections Committee

SUBJECT: Public Records/Commission on Ethics

DATE: February 15, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Mitchell</u>	<u>Roberts</u>	_____	EE Submitted as Comm. Bill/Fav

I. Summary:

SPB 7042 creates a public records exemption for passwords held by the Commission on Ethics (Commission) for the purpose of allowing access to the electronic filing system for financial disclosures created in SPB 7040, this bill's companion. A public records exemption is also created in the bill for information entered in the electronic filing system for purposes of financial disclosure, but such information is no longer exempt once a disclosure of financial interests or statement of financial interests is submitted to the Commission, or in the case of a candidate, filed with a qualifying officer.

The bill provides that the exemption is subject to the Open Government Sunset Review Act (OGSRA), and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution. The bill's effective date is contingent upon, and concurrent with, passage of SPB 7040 or similar legislation. SPB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST., art. I, s. 24(a).

of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

In addition to the Florida Constitution, Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, Florida Statutes (F.S.), constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also, see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c)

¹⁰ *Id.*

¹¹ *Id.*

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSRA) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁵ The OGSRA provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶

The OGSRA provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁷ An exemption serves an identifiable purpose if it meets one of the following purposes and the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁸
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁹ or
- It protects trade or business secrets.²⁰

The OGSRA also requires specified questions to be considered during the review process.²¹ In examining an exemption, the OGSRA asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSRA does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(b)1., F.S.

¹⁹ Section 119.15(6)(b)2., F.S.

²⁰ Section 119.15(6)(b)3., F.S.

²¹ Section 119.15(6)(a), F.S. The specified questions are:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?
3. What is the identifiable public purpose or goal of the exemption?
4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
5. Is the record or meeting protected by another exemption?
6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²² If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²³

SPB 7040 (2019)

SPB 7040 requires the Commission to procure and test an electronic filing system by a date certain. The system must:

- Provide access through the internet for the completion and submission of disclosures of financial interests (CE Form 6) and statements of financial interests (CE Form 1);
- Upload submitted information to the Commission;
- Allow for a procedure to make filings available in a format that is accessible by an individual using standard Internet-browsing software;
- Issue a verification or receipt that the Commission has received the submitted disclosure or statement;
- Provide security that prevents unauthorized access to the electronic filing system's functions or data; and
- Provide a method for an attorney or a certified public accountant to complete and file the disclosure or statement and certify that he or she prepared it in accordance with:
 - s. 112.3144, F.S. or s. 112.3145; and
 - the instructions for completing and filing the disclosure or statement; and that
- The information on the disclosure or statement is true and correct.

The bill establishes dates certain after which all submissions of CE Form 6 and, later, all submissions of CE Form 1 must be made to the Commission and accomplished electronically. Submission of paper forms will be discontinued. The Commission will provide notice and other communications to filers by email message. All disclosures must be for the calendar year, not the taxable year. Candidates will continue to submit required disclosures to his or her qualifying officer, but local officers will no longer submit financial statements to supervisors of elections. Beginning with required electronic submission of CE Form 1, filers must use the dollar threshold method of reporting. The percent in excess of income or value method will no longer be in use.

III. Effect of Proposed Changes:

This bill creates a public records exemption for passwords held by the Commission for the purpose of allowing access to the electronic filing system for financial disclosures created in SPB 7040, this bill's companion. A public records exemption is also created in the bill for information entered in the electronic filing system for purposes of financial disclosure, but such information is no longer exempt once a disclosure of financial interests or statement of financial interests is submitted to the Commission, or in the case of a candidate, filed with a qualifying officer.

²² FLA. CONST. art. I, s. 24(c).

²³ Section 119.15(7), F.S.

The bill provides that the exemption is subject to the OGSRA, and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution. It states that the public's need for access to information included in disclosures or statements of financial interests filed by reporting individuals should be balanced with the filer's interest in safeguarding personally sensitive information and that the unintentional publication of such information may subject the filer to identity theft, financial harm, or other adverse impacts. Without the public records exemption, the effective and efficient administration of the electronic filing system would be hindered.

The bill's effective date is contingent upon, and concurrent with, passage of SPB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. SPB 7040, if enacted, will take effect upon becoming a law.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public records or public meetings exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. The bill creates a new public records exemption and includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings in the statement of public necessity, the public records exemption in this bill appears to be no broader than necessary to accomplish its stated purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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. Statutes Affected:

This bill substantially amends section 112.31446 of the Florida Statutes, created in SPB 7040 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Ethics and Elections

582-02090-19

20197042pb

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 112.31446, F.S.; providing exemptions from public
 4 records requirements for certain passwords that are
 5 held by the Commission on Ethics and certain
 6 information entered into the electronic filing system
 7 for financial disclosure forms; specifying conditions
 8 under which such information is no longer exempt;
 9 providing for future legislative review and repeal of
 10 the exemption; providing a statement of public
 11 necessity; providing a contingent effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (6) is added to section 112.31446,
 16 Florida Statutes, as created by SB ____, 2019 Regular Session, to
 17 read:
 18 112.31446 Electronic filing system for financial
 19 disclosure.—
 20 (6) (a) All passwords held by the commission for the purpose
 21 of allowing access to the electronic filing system are exempt
 22 from s. 119.071(1) and s. 24(a), Art. I of the State
 23 Constitution.
 24 (b) Information entered in the electronic filing system for
 25 purposes of financial disclosure is exempt from s. 119.071(1)
 26 and s. 24(a), Art. I of the State Constitution. Information
 27 entered in the electronic filing system is no longer exempt once
 28 the disclosure of financial interests or statement of financial
 29 interests is submitted to the commission, or in the case of a

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30 candidate, filed with a qualifying officer, whichever occurs
 31 first.
 32 (c) This subsection is subject to the Open Government
 33 Sunset Review Act in accordance with s. 119.15 and shall stand
 34 repealed on October 2, 2024, unless reviewed and saved from
 35 repeal through reenactment by the Legislature.
 36 Section 2. The Legislature finds that it is a public
 37 necessity that all passwords held by the Commission on Ethics
 38 for the purpose of allowing access to the electronic filing
 39 system for financial disclosures, and information entered into
 40 the system, be exempt from public records requirements. The
 41 Legislature finds that that the public's need for access to
 42 information included in the full and public disclosures of
 43 financial interests or statements of financial interests filed
 44 by reporting individuals be balanced with the filer's interest
 45 in safeguarding personally sensitive information. The
 46 Legislature further finds that the unintentional publication of
 47 such information may subject the filer to identity theft,
 48 financial harm, or other adverse impacts. Without the public
 49 records exemption, the effective and efficient administration of
 50 the electronic filing system that otherwise is designed to
 51 increase the ease of filing for reporting individuals and to
 52 improve the public's access to financial disclosure information
 53 would be hindered. For these reasons, the Legislature finds that
 54 it is a public necessity to exempt such information from public
 55 records requirements.
 56 Section 3. This act shall take effect on the same date that
 57 SB ____ or similar legislation takes effect, if such legislation
 58 is adopted in the same legislative session or an extension

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59 | thereof and becomes a law.

CourtSmart Tag Report

Room: KN 412 Case No.:
Caption: Senate Committee on Ethics and Elections

Type:
Judge:

Started: 2/13/2019 1:31:41 PM
Ends: 2/13/2019 1:47:37 PM Length: 00:15:57

1:31:40 PM Meeting called to order
1:31:47 PM Roll call - Quorum present
1:32:09 PM Comments from Chair
1:32:32 PM Tab 1 - SB 336 - Local Tax Referendum by Senator Brandes
1:32:41 PM Chair
1:32:49 PM Questions? None
1:32:53 PM Appearance forms?
1:33:01 PM Diego A. Echeverri, Director of Coalitions, Americans for Prosperity, waives in support
1:33:14 PM Marilyn Wills, Member, League of Women Voters of Florida, waives in opposition
1:33:27 PM Debate? Senator Rodriguez
1:33:52 PM Senator Brandes to close on bill
1:34:03 PM Roll call on SB 336 - Favorable
1:34:30 PM Tab 2 - Consideration of SPB 7040 - Financial Disclosure by Committee on Ethics and Elections
1:35:04 PM Dawn Roberts, Staff Director, to explain the bill and the Strike All AM 590054
1:41:31 PM Chair
1:41:34 PM Questions on amendment? None.
1:41:48 PM Strike All AM 590054
1:42:04 PM Questions? None.
1:42:11 PM Appearance forms? None.
1:42:24 PM Speaking for AM 590054, Virlindia Doss, Executive Director, FL Commission on Ethics
1:43:24 PM Questions? None.
1:43:39 PM Debate: None
1:43:52 PM AM 590054 - Adopted without objection
1:44:03 PM Back on the bill as amended
1:44:08 PM Questions? None. Debate? None.
1:44:11 PM Appearance forms? None
1:44:20 PM Roll Call on SPB 7040 as amended - Favorable and submitted as a committee bill
1:44:42 PM
1:44:58 PM Tab 3- Consideration of SPB 7042 - Public Records/Commission on Ethics by Comm. on Ethics and
Elections
1:45:12 PM Dawn Roberts, Staff Director to explain the bill
1:46:06 PM Questions? None.
1:46:11 PM Appearance forms? None.
1:46:13 PM Debate? None.
1:46:17 PM Roll Call - SPB 7042 - Favorable and submitted as a committee bill
1:46:49 PM Motion by Senator Stargel to be shown as voting affirmative on SB 336
1:47:12 PM Motion adopted for Sen. Stargel to vote yes on SB 336
1:47:21 PM Any other business before the committee?
1:47:33 PM Senator Diaz moves to adjourn. Without objection, show motion adopted. We are adjourned.