

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 1, 1998

Revised: _____

Subject: Public Officers and Employees

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Bradshaw</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Favorable</u>
2.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

Senate Bill 72 allows the Commission on Ethics to dismiss certain complaints alleging reporting violations. If the Commission determines that the error was technical or minor in nature, the Commission may notify the respondent and request an amended report. If the respondent timely files the amended report and has not previously violated the reporting requirements or been asked to file an amended report, the Commission must dismiss the complaint without further proceeding.

This bill substantially amends section 112.324 of the Florida Statutes.

II. Present Situation:

Article II, section 8 of the Constitution and ss. 112.3144 and 112.3145, F.S., require public officers, candidates for public office and specified public employees to file financial disclosure. Full and public disclosure as required by the State Constitution and s. 112.3144, F.S., requires a detailed disclosure of assets, liabilities and sources of income over \$1,000 and their values, as well as net worth. Officials may choose to file their most recent income tax return in lieu of listing sources of income, but still must disclose their assets, liabilities and net worth. Section 112.3145, F.S., provides the requirements for limited financial disclosure. Generally, this includes reporting the person's sources and types of financial interests, such as the name of employers and addresses of real property holdings. No dollar amounts are required to be listed on the limited disclosure form. Both full and limited disclosure require the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

The Commission on Ethics is responsible for investigating sworn complaints of alleged violations of the Code of Ethics. Section 112.324, F.S., provides procedures to be followed by the Commission. Once the determination has been made that a complaint is legally sufficient, a preliminary investigation is undertaken to determine probable cause. If there is probable cause to believe a violation has occurred, the respondent may request and is entitled to a public hearing. Even if the respondent does not request a hearing, the Commission may on its own motion require a public hearing.

The Commission is authorized to enter into stipulations and settlements as it finds to be “just and in the best interest of the State.” [s. 112.324(2), F.S.] In addition, s. 112.324(10), F.S., allows the Commission to dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further. In these instances, the Commission must issue a public report stating with particularity its reasons for dismissal.

The Commission does not have the authority to impose a penalty for any violation of the Code of Ethics. Section 112.324, F.S., provides that penalties may be imposed only by the appropriate disciplinary official. The disciplinary official is not bound by the Commission’s recommendation.

III. Effect of Proposed Changes:

Senate Bill 72 allows the Commission on Ethics to dismiss a complaint under the following circumstances:

- The complaint alleges failure to properly report under s. 8, Art. II, State Constitution, or s. 112.3145, F.S.; and
- The investigation of the complaint reveals and the Commission finds that the error was technical or minor in nature; and
- An amended report correcting the error is filed within 10 days after the respondent receives notification from the Commission; and
- The Commission has not determined that the respondent has previously violated s. 8, Art. II, State Constitution, or s. 112.3145, F.S.; and
- The respondent has not previously filed or been asked to file an amended report under this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.