Florida Senate - 2006

By Senator Fasano

11-511B-06

1	A bill to be entitled
2	An act relating to the code of ethics for
3	public officers and employees; amending s.
4	112.312, F.S.; redefining the term "agency" and
5	defining the term "quasi-public entity";
б	amending s. 112.313, F.S.; applying provisions
7	of the code of ethics which prohibit
8	conflicting employment or contractual
9	relationships and limit permissible
10	representations following termination of office
11	or employment to owners, officers, and
12	employees of consultants and contractors for
13	certain entities created pursuant to law for a
14	public purpose; providing penalties; providing
15	an effective date.
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17	Be It Enacted by the Legislature of the State of Florida:
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19	Section 1. Subsection (2) of section 112.312, Florida
20	Statutes, is amended, present subsections (21) through (24) of
21	that section are renumbered as subsections (22) through (25),
22	respectively, and a new subsection (21) is added to that
23	section to read:
24	112.312 DefinitionsAs used in this part and for
25	purposes of the provisions of s. 8, Art. II of the State
26	Constitution, unless the context otherwise requires:
27	(2) "Agency" means any state, regional, county, local,
28	or municipal government entity of this state, whether
29	executive, judicial, or legislative; any department, division,
30	bureau, commission, authority, or political subdivision of
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1 this state therein; any quasi-public entity; or any public 2 school, community college, or state university. 3 (21) "Quasi-public entity" means an entity that is not 4 the state, a political subdivision of the state, a 5 municipality, or a department, division, bureau, commission, 6 or authority subordinate to the state, a political subdivision 7 of the state, or a municipality and that has been created by a 8 government entity pursuant to law to accomplish a public 9 purpose. 10 Section 2. Subsections (7) and (9) of section 112.313, Florida Statutes, are amended to read: 11 12 112.313 Standards of conduct for public officers, 13 employees of agencies, and local government attorneys .--(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL 14 RELATIONSHIP. --15 (a) No public officer or employee of an agency shall 16 17 have or hold any employment or contractual relationship with 18 any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which 19 he or she is an officer or employee, excluding those 20 21 organizations and their officers who, when acting in their 22 official capacity, enter into or negotiate a collective 23 bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall 2.4 an officer or employee of an agency have or hold any 25 employment or contractual relationship that will create a 26 27 continuing or frequently recurring conflict between his or her 2.8 private interests and the performance of his or her public duties or that would impede the full and faithful discharge of 29 30 his or her public duties. 31

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1 1. When the agency referred to is that certain kind of 2 special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, 3 and financing improvements in the land area over which the 4 agency has jurisdiction, or when the agency has been organized 5 6 pursuant to chapter 298, then employment with, or entering 7 into a contractual relationship with, such business entity by 8 a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. 9 However, conduct by such officer or employee that is 10 prohibited by, or otherwise frustrates the intent of, this 11 12 section shall be deemed a conflict of interest in violation of 13 the standards of conduct set forth by this section. 2. When the agency referred to is a legislative body 14 and the regulatory power over the business entity resides in 15 another agency, or when the regulatory power which the 16 17 legislative body exercises over the business entity or agency 18 is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business 19 entity by a public officer or employee of a legislative body 20 21 shall not be prohibited by this subsection or be deemed a 2.2 conflict. 23 (b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession 2.4 or occupation when such practice by persons holding such 25 public office or employment is required or permitted by law or 26 27 ordinance. 28 (c) An owner or officer of an entity that acts as a consultant or contractor for a quasi-public entity, and any 29 employee of such consultant or contractor the duties of whose 30 position are managerial, policymaking, or professional in 31

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1 nature, is subject to this subsection in the same manner as a 2 public officer or employee of an agency unless specifically exempted by statute. 3 4 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS, AND LEGISLATIVE EMPLOYEES, AND OTHER 5 6 PERSONS. --7 (a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State 8 Constitution relating to legislators, statewide elected 9 10 officers, appointed state officers, and designated public 11 employees. 12 2. As used in this paragraph: 13 a. "Employee" means: (I) Any person employed in the executive or 14 legislative branch of government holding a position in the 15 Senior Management Service as defined in s. 110.402 or any 16 17 person holding a position in the Selected Exempt Service as 18 defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the 19 Lottery. 20 21 (II) The Auditor General, the director of the Office 22 of Program Policy Analysis and Government Accountability, the 23 Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives. 2.4 (III) The executive director of the Legislative 25 Committee on Intergovernmental Relations and the executive 26 27 director and deputy executive director of the Commission on 28 Ethics. (IV) An executive director, staff director, or deputy 29 30 staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, 31

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staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority

Speaker of the House of Representatives, the Senate Majority 3 Party Office, Senate Minority Party Office, House Majority 4 Party Office, or House Minority Party Office; or any person, 5 6 hired on a contractual basis, having the power normally 7 conferred upon such persons, by whatever title. (V) The Chancellor and Vice Chancellors of the State 8 University System; the general counsel to the Board of 9 Regents; and the president, vice presidents, and deans of each 10 state university. 11 12 (VI) Any person having the power normally conferred 13 upon the positions referenced in this sub-subparagraph. (VII) Any employee of a quasi-public entity, the 14 duties of whose position are managerial, policymaking, or 15 professional in nature. 16 17 b. "Appointed state officer" means any member of an 18 appointive board, commission, committee, council, or authority of the executive or legislative branch of state government 19 whose powers, jurisdiction, and authority are not solely 20 21 advisory and include the final determination or adjudication 22 of any personal or property rights, duties, or obligations, 23 other than those relative to its internal operations. c. "State agency" means an entity of the legislative, 2.4 executive, or judicial branch of state government over which 25 the Legislature exercises plenary budgetary and statutory 26 27 control. 2.8 3. No member of the Legislature, appointed state 29 officer, or statewide elected officer shall personally represent another person or entity for compensation before the 30 government body or agency of which the individual was an 31

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officer or member for a period of 2 years following vacation 1 2 of office. No member of the Legislature shall personally represent another person or entity for compensation during his 3 or her term of office before any state agency other than 4 judicial tribunals or in settlement negotiations after the 5 6 filing of a lawsuit. 7 4. No agency employee shall personally represent 8 another person or entity for compensation before the agency with which he or she was employed for a period of 2 years 9 10 following vacation of position, unless employed by another agency of state government. 11 12 5. Any person violating this paragraph shall be 13 subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the 14 person receives for the prohibited conduct. 15 6. This paragraph is not applicable to: 16 17 a. A person employed by the Legislature or other 18 agency prior to July 1, 1989; b. A person who was employed by the Legislature or 19 other agency on July 1, 1989, whether or not the person was a 20 21 defined employee on July 1, 1989; 22 c. A person who was a defined employee of the State 23 University System or the Public Service Commission who held such employment on December 31, 1994; 2.4 d. A person who has reached normal retirement age as 25 defined in s. 121.021(29), and who has retired under the 26 27 provisions of chapter 121 by July 1, 1991; or 28 e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that 29 30 office on or after January 1, 1995. 31

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1	(b) In addition to the provisions of this part which
2	are applicable to legislators and legislative employees by
3	virtue of their being public officers or employees, the
4	conduct of members of the Legislature and legislative
5	employees shall be governed by the ethical standards provided
б	in the respective rules of the Senate or House of
7	Representatives which are not in conflict herewith.
8	(c) An owner or officer of an entity that acts as a
9	consultant or contractor for a quasi-public entity, and any
10	employee of such consultant or contractor the duties of whose
11	position are managerial, policymaking, or professional in
12	nature, is subject to this subsection in the same manner as a
13	member of the Legislature or an agency employee unless
14	specifically exempted by statute.
15	Section 3. This act shall take effect July 1, 2006.
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18	SENATE SUMMARY
19	Redefines the term "agency," for purposes of the Code of Ethics for Public Officers and Employees, to include
20	quasi-public entities, also defined. Provides that owners, officers, and employees of contractors and
21	consultants for quasi-public entities are subject to ethical provisions relating to conflicting employment and
 22 contractual relationships and to postemployment restrictions in the same manner as public officers 23 employees. Redefines the term "employee" for purpos 	contractual relationships and to postemployment
	employees. Redefines the term "employee" for purposes of postemployment restrictions to include employees of
24	quasi-public entities performing managerial, policymaking, or professional functions.
25	porreymaking, or professional functions.
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CODING: Words stricken are deletions; words <u>underlined</u> are additions.

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