

1 A bill to be entitled
 2 An act relating to public officers; amending s.
 3 112.317, F.S.; providing criminal penalties for the
 4 failure of a public officer to pay certain fines or
 5 penalties within 2 years after the imposition of the
 6 fine or penalty or within 2 years after leaving the
 7 public office held when the fine or penalty was
 8 imposed; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 112.317, Florida Statutes, is amended
 13 to read:

14 112.317 Penalties.—

15 (1) Violation of any provision of this part, including,
 16 but not limited to, any failure to file any disclosures required
 17 by this part or violation of any standard of conduct imposed by
 18 this part, or violation of any provision of s. 8, Art. II of the
 19 State Constitution, in addition to any criminal penalty or other
 20 civil penalty involved, shall, under applicable constitutional
 21 and statutory procedures, constitute grounds for, and may be
 22 punished by, one or more of the following:

- 23 (a) In the case of a public officer:
- 24 1. Impeachment.
 - 25 2. Removal from office.
 - 26 3. Suspension from office.
 - 27 4. Public censure and reprimand.
 - 28 5. Forfeiture of no more than one-third salary per month

29 | for no more than 12 months.

30 | 6. A civil penalty not to exceed \$10,000.

31 | 7. Restitution of any pecuniary benefits received because
 32 | of the violation committed. The commission may recommend that
 33 | the restitution penalty be paid to the agency of which the
 34 | public officer was a member or to the General Revenue Fund.

35 | (b) In the case of an employee or a person designated as a
 36 | public officer by this part who otherwise would be deemed to be
 37 | an employee:

38 | 1. Dismissal from employment.

39 | 2. Suspension from employment for not more than 90 days
 40 | without pay.

41 | 3. Demotion.

42 | 4. Reduction in salary level.

43 | 5. Forfeiture of no more than one-third salary per month
 44 | for no more than 12 months.

45 | 6. A civil penalty not to exceed \$10,000.

46 | 7. Restitution of any pecuniary benefits received because
 47 | of the violation committed. The commission may recommend that
 48 | the restitution penalty be paid to the agency by which the
 49 | public employee was employed, or of which the officer was deemed
 50 | to be an employee, or to the General Revenue Fund.

51 | 8. Public censure and reprimand.

52 | (c) In the case of a candidate who violates the provisions
 53 | of this part or s. 8(a) and (i), Art. II of the State
 54 | Constitution:

55 | 1. Disqualification from being on the ballot.

56 | 2. Public censure.

HB 1361

2012

57 3. Reprimand.

58 4. A civil penalty not to exceed \$10,000.

59 (d) In the case of a former public officer or employee who
60 has violated a provision applicable to former officers or
61 employees or whose violation occurred before the officer's or
62 employee's leaving public office or employment:

63 1. Public censure and reprimand.

64 2. A civil penalty not to exceed \$10,000.

65 3. Restitution of any pecuniary benefits received because
66 of the violation committed. The commission may recommend that
67 the restitution penalty be paid to the agency of the public
68 officer or employee or to the General Revenue Fund.

69 (e) In the case of a person who is subject to the
70 standards of this part, other than a lobbyist or lobbying firm
71 under s. 112.3215 for a violation of s. 112.3215, but who is not
72 a public officer or employee:

73 1. Public censure and reprimand.

74 2. A civil penalty not to exceed \$10,000.

75 3. Restitution of any pecuniary benefits received because
76 of the violation committed. The commission may recommend that
77 the restitution penalty be paid to the agency of the person or
78 to the General Revenue Fund.

79 (2) In any case in which the commission finds a violation
80 of this part or of s. 8, Art. II of the State Constitution and
81 the proper disciplinary official or body under s. 112.324
82 imposes a civil penalty or restitution penalty, the Attorney
83 General shall bring a civil action to recover such penalty. No
84 defense may be raised in the civil action to enforce the civil

HB 1361

2012

85 penalty or order of restitution that could have been raised by
86 judicial review of the administrative findings and
87 recommendations of the commission by certiorari to the district
88 court of appeal. The Attorney General shall collect any costs,
89 attorney ~~attorney's~~ fees, expert witness fees, or other costs of
90 collection incurred in bringing the action.

91 (3) The penalties prescribed in this part shall not be
92 construed to limit or to conflict with:

93 (a) The power of either house of the Legislature to
94 discipline its own members or impeach a public officer.

95 (b) The power of agencies to discipline officers or
96 employees.

97 (4) Any violation of this part or of s. 8, Art. II of the
98 State Constitution by a public officer shall constitute
99 malfeasance, misfeasance, or neglect of duty in office within
100 the meaning of s. 7, Art. IV of the State Constitution.

101 (5) By order of the Governor, upon recommendation of the
102 commission, any elected municipal officer who violates any
103 provision of this part or of s. 8, Art. II of the State
104 Constitution may be suspended from office and the office filled
105 by appointment for the period of suspension. The suspended
106 officer may at any time before removal be reinstated by the
107 Governor. The Senate may, in proceedings prescribed by law,
108 remove from office, or reinstate, the suspended official, and
109 for such purpose the Senate may be convened in special session
110 by its President or by a majority of its membership.

111 (6) In any case in which the commission finds probable
112 cause to believe that a complainant has committed perjury in

HB 1361

2012

113 regard to any document filed with, or any testimony given
114 before, the commission, it shall refer such evidence to the
115 appropriate law enforcement agency for prosecution and taxation
116 of costs.

117 (7) In any case in which the commission determines that a
118 person has filed a complaint against a public officer or
119 employee with a malicious intent to injure the reputation of
120 such officer or employee by filing the complaint with knowledge
121 that the complaint contains one or more false allegations or
122 with reckless disregard for whether the complaint contains false
123 allegations of fact material to a violation of this part, the
124 complainant shall be liable for costs plus reasonable attorney
125 ~~attorney's~~ fees incurred in the defense of the person complained
126 against, including the costs and reasonable attorney ~~attorney's~~
127 fees incurred in proving entitlement to and the amount of costs
128 and fees. If the complainant fails to pay such costs and fees
129 voluntarily within 30 days following such finding by the
130 commission, the commission shall forward such information to the
131 Department of Legal Affairs, which shall bring a civil action in
132 a court of competent jurisdiction to recover the amount of such
133 costs and fees awarded by the commission.

134 (8) A public officer who fails to pay any fine or penalty
135 imposed pursuant to this section within 2 years after the
136 imposition of the fine or penalty or within 2 years after
137 leaving the public office held when the fine or penalty was
138 imposed commits a felony of the third degree, punishable as
139 provided in s. 775.082 or s. 775.083.

140 Section 2. This act shall take effect July 1, 2012.