



423602

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2018	.	
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The Committee on Ethics and Elections (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 108 - 320

and insert:

Section 2. Present paragraphs (a) through (g) of subsection (2) of section 11.045, Florida Statutes, are redesignated as paragraphs (b) through (h), respectively, and a new paragraph (a) is added to that subsection, to read:

11.045 Lobbying before the Legislature; registration and reporting; exemptions; penalties.-



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11 (2) Each house of the Legislature shall provide by rule, or
12 may provide by a joint rule adopted by both houses, for the
13 registration of lobbyists who lobby the Legislature. The rule
14 may provide for the payment of a registration fee. The rule may
15 provide for exemptions from registration or registration fees.
16 The rule shall provide that:

17 (a) Each lobbyist shall certify, upon registration, that he
18 or she has read the Code of Ethics for Public Officers and
19 Employees in part III of chapter 112, and that he or she has
20 read the rules governing conduct of members of the Legislature
21 and legislative lobbyists.

22 Section 3. Section 112.3126, Florida Statutes, is created
23 to read:

24 112.3126 Prohibition on sexual harassment.-

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

26 (a) "Lobbyist" means a person who:

27 1. Is required to register to lobby before the legislative
28 branch pursuant to s. 11.045;

29 2. Is required to register to lobby before the executive
30 branch or the Constitution Revision Commission pursuant to s.
31 112.3215; or

32 3. For compensation, seeks to influence a political
33 subdivision with respect to a decision of the political
34 subdivision, or an agency thereof, with respect to policy or
35 procurement, or attempts to obtain the goodwill of an official
36 or employee of a political subdivision.

37 (b) "Sexually harass" includes an unwelcome sexual advance;
38 a request for a sexual favor; or any other conduct of a sexual
39 nature by a public officer, a candidate who has qualified for



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40 public office, an employee of an agency, or a lobbyist which is
41 directed toward any individual when:

42 1. Submission to such conduct is made either explicitly or
43 implicitly a term or condition of the individual's employment;

44 2. Submission to or rejection of such conduct by an
45 individual is used as the basis for how the public officer,
46 candidate, agency employee, or lobbyist makes decisions relating
47 to his or her position which affect such individual; or

48 3. Such conduct has the purpose or effect of creating an
49 intimidating, a hostile, or an offensive working environment.

50 (2) A public officer, a candidate who has qualified to run
51 for public office, an agency employee, or a lobbyist may not
52 sexually harass any individual, regardless of whether an
53 employment relationship exists.

54 (3) A public officer, a candidate who has qualified to run
55 for public office, an agency employee, or a lobbyist may not
56 take any retaliatory action against an individual for filing a
57 complaint alleging a violation of this section or a violation of
58 s. 112.313(2) or (6) involving sexual favors or sexual conduct.

59 An individual may not intentionally or recklessly disclose
60 information that may be used to identify an individual who
61 alleged any such violation without obtaining the individual's
62 consent.

63 (4) Upon learning of an alleged violation of subsection (2)
64 or an alleged violation of s. 112.313(2) or (6) involving sexual
65 favors or sexual conduct, an individual who gains personal
66 knowledge of the alleged violation shall report it to the
67 commission or to a designated individual in the appropriate
68 agency in accordance with applicable rules and administrative



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69 policies within 10 business days.

70 (5) An individual may not knowingly or recklessly file a
71 materially false complaint alleging a violation of this section
72 or a violation of s. 112.313(2) or (6) involving sexual favors
73 or sexual conduct.

74 (6) An alleged victim of a violation of subsection (2) or
75 (3) is entitled to have a victim advocate and an attorney
76 present in commission hearings that are held in response to a
77 complaint or referral.

78 Section 4. Subsections (2) and (6) of section 112.313,
79 Florida Statutes, are amended to read:

80 112.313 Standards of conduct for public officers, employees
81 of agencies, and local government attorneys.—

82 (2) SOLICITATION OR ACCEPTANCE OF GIFTS.—

83 (a) As used in this subsection, the term "favor" includes
84 sexual favors and sexual conduct.

85 (b) A ~~Ne~~ public officer, an employee of an agency, a local
86 government attorney, or a candidate for nomination or election
87 may not ~~shall~~ solicit or accept anything of value to the
88 recipient, including a gift, loan, reward, promise of future
89 employment, favor, or service, based upon any understanding that
90 the vote, official action, or judgment of the public officer,
91 employee, local government attorney, or candidate would be
92 influenced thereby.

93 (c) In an effort to influence a public officer's or
94 employee's official actions or judgment, or to obtain his or her
95 goodwill, an individual may not:

96 1. Offer or provide sexual favors to a public officer or
97 employee;



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98 2. Offer to engage or engage in sexual conduct with a
99 public officer or employee; or

100 3. Direct another individual to perform an activity
101 prohibited under subparagraph 1. or subparagraph 2.

102 (6) MISUSE OF PUBLIC POSITION.—No public officer, employee
103 of an agency, or local government attorney shall corruptly use
104 or attempt to use his or her official position or any property
105 or resource which may be within his or her trust, or perform his
106 or her official duties, to secure a special privilege, benefit,
107 or exemption for himself, herself, or others. This section shall
108 not be construed to conflict with s. 104.31. For purposes of
109 this subsection, the term "benefit" includes sexual favors and
110 sexual conduct.

111 Section 5. Subsection (1) and paragraph (c) of subsection
112 (8) of section 112.3144, Florida Statutes, are amended to read:

113 112.3144 Full and public disclosure of financial
114 interests.—

115 (1) An officer who is required by s. 8, Art. II of the
116 State Constitution to file a full and public disclosure of his
117 or her financial interests for any calendar or fiscal year shall
118 file that disclosure with the Florida Commission on Ethics.
119 ~~Additionally, beginning January 1, 2015,~~ An officer who is
120 required to complete annual ethics training pursuant to s.
121 112.3142 must certify on his or her full and public disclosure
122 of financial interests that he or she has completed the required
123 ethics training. Additionally, beginning January 1, 2019, any
124 person who is required to file a full and public disclosure of
125 financial interests must certify on his or her disclosure that
126 he or she has reviewed all applicable laws and policies



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127 regarding sexual harassment.

128 (8)

129 (c) For purposes of this section, an error or omission is
130 immaterial, inconsequential, or de minimis if the original
131 filing provided sufficient information for the public to
132 identify potential conflicts of interest. However, failure to
133 certify review of applicable sexual harassment laws and policies
134 or completion of annual ethics training required under s.
135 112.3142 does not constitute an immaterial, inconsequential, or
136 de minimis error or omission.

137 Section 6. Subsection (4) and paragraph (c) of subsection
138 (10) of section 112.3145, Florida Statutes, are amended to read:

139 112.3145 Disclosure of financial interests and clients
140 represented before agencies.—

141 (4) ~~Beginning January 1, 2015,~~ An officer who is required
142 to complete annual ethics training pursuant to s. 112.3142 must
143 certify on his or her statement of financial interests that he
144 or she has completed the required training. Additionally,
145 beginning January 1, 2019, any person who is required to file a
146 statement of financial interests must certify on his or her
147 statement that he or she has reviewed all applicable law and
148 policies regarding sexual harassment.

149 (10)

150 (c) For purposes of this section, an error or omission is
151 immaterial, inconsequential, or de minimis if the original
152 filing provided sufficient information for the public to
153 identify potential conflicts of interest. However, failure to
154 certify review of sexual harassment law and policies or
155 completion of annual ethics training required under s. 112.3142



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156 does not constitute an immaterial, inconsequential, or de
157 minimis error or omission.

158 Section 7. Section 112.317, Florida Statutes, is reenacted
159 and amended to read:

160 112.317 Penalties.—

161 (1) Any violation of this part, including, but not limited
162 to, failure to file disclosures required by this part or
163 violation of any standard of conduct imposed by this part, or
164 any violation of s. 8, Art. II of the State Constitution, in
165 addition to any criminal penalty or other civil penalty
166 involved, under applicable constitutional and statutory
167 procedures, constitutes grounds for, and may be punished by, one
168 or more of the following:

169 (a) In the case of a public officer:

170 1. Impeachment.

171 2. Removal from office.

172 3. Suspension from office.

173 4. Public censure and reprimand.

174 5. Forfeiture of no more than one-third of his or her
175 salary per month for no more than 12 months.

176 6. A civil penalty not to exceed \$10,000, except as
177 provided in paragraph (f).

178 7. Restitution of any pecuniary benefits received because
179 of the violation committed. The commission may recommend that
180 the restitution penalty be paid to the agency of which the
181 public officer was a member or to the General Revenue Fund.

182 (b) In the case of an employee or a person designated as a
183 public officer by this part who otherwise would be deemed to be
184 an employee:



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- 185 1. Dismissal from employment.
- 186 2. Suspension from employment for not more than 90 days
187 without pay.
- 188 3. Demotion.
- 189 4. Reduction in his or her salary level.
- 190 5. Forfeiture of no more than one-third salary per month
191 for no more than 12 months.
- 192 6. A civil penalty not to exceed \$10,000, except as
193 provided in paragraph (f).
- 194 7. Restitution of any pecuniary benefits received because
195 of the violation committed. The commission may recommend that
196 the restitution penalty be paid to the agency by which the
197 public employee was employed, or of which the officer was deemed
198 to be an employee, or to the General Revenue Fund.
- 199 8. Public censure and reprimand.
- 200 (c) In the case of a candidate who violates this part or s.
201 8(a) and (i), Art. II of the State Constitution:
- 202 1. Disqualification from being on the ballot.
- 203 2. Public censure.
- 204 3. Reprimand.
- 205 4. A civil penalty not to exceed \$10,000, except as
206 provided in paragraph (f).
- 207 (d) In the case of a former public officer or employee who
208 has violated a provision applicable to former officers or
209 employees or whose violation occurred before the officer's or
210 employee's leaving public office or employment:
- 211 1. Public censure and reprimand.
- 212 2. A civil penalty not to exceed \$10,000, except as
213 provided in paragraph (f).



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214 3. Restitution of any pecuniary benefits received because
215 of the violation committed. The commission may recommend that
216 the restitution penalty be paid to the agency of the public
217 officer or employee or to the General Revenue Fund.

218 (e) In the case of a person who is subject to the standards
219 of this part, other than a lobbyist or lobbying firm under s.
220 112.3215 for a violation of s. 112.3215, but who is not a public
221 officer or employee:

222 1. Public censure and reprimand.

223 2. A civil penalty not to exceed \$10,000, except as
224 provided in paragraph (f).

225 3. Restitution of any pecuniary benefits received because
226 of the violation committed. The commission may recommend that
227 the restitution penalty be paid to the agency of the person or
228 to the General Revenue Fund.

229 (f) In addition to any other penalties authorized by this
230 subsection, in any case in which the commission finds that a
231 violation of s. 112.3126(2); s. 112.3126(3); or s. 112.313(2) or
232 (6) based on sexual favors or sexual conduct, has occurred:

233 1. A civil penalty of at least \$5,000 per violation up to a
234 maximum penalty of \$20,000 per violation.

235 2. The violator is liable for any costs associated with the
236 services of a victim advocate and for reasonable attorney fees
237 before the commission which are incurred by the victim of the
238 prohibited conduct.

239
240 Any civil penalty imposed pursuant to this paragraph must be
241 paid to the Crimes Compensation Trust Fund within the Department
242 of Legal Affairs.



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243 (g) In the case of an individual who is a lobbyist as that
244 term is defined in s. 112.3126 and who violates s. 112.3126(2);
245 s. 112.3126(3); or s. 112.313(2) or (6) based on sexual favors
246 or sexual conduct, in addition to any penalties imposed under
247 paragraph (e) or (f), the violator may be prohibited from
248 lobbying for a specified period, including permanent revocation
249 of lobbying privileges.

250 (2) In any case in which the commission finds a violation
251 of this part or of s. 8, Art. II of the State Constitution and
252 the proper disciplinary official or body under s. 112.324
253 imposes a civil penalty or restitution penalty, the Attorney
254 General shall bring a civil action to recover such penalty. No
255 defense may be raised in the civil action to enforce the civil
256 penalty or order of restitution that could have been raised by
257 judicial review of the administrative findings and
258 recommendations of the commission by certiorari to the district
259 court of appeal. The Attorney General shall collect any costs,
260 attorney fees, expert witness fees, or other costs of collection
261 incurred in bringing the action.

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

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

266 (b) The power of agencies to discipline officers or
267 employees.

268 (4) Any violation of this part or of s. 8, Art. II of the
269 State Constitution by a public officer constitutes malfeasance,
270 misfeasance, or neglect of duty in office within the meaning of
271 s. 7, Art. IV of the State Constitution.



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272 (5) By order of the Governor, upon recommendation of the
273 commission, any elected municipal officer who violates this part
274 or s. 8, Art. II of the State Constitution may be suspended from
275 office and the office filled by appointment for the period of
276 suspension. The suspended officer may at any time before removal
277 be reinstated by the Governor. The Senate may, in proceedings
278 prescribed by law, remove from office, or reinstate, the
279 suspended official, and for such purpose the Senate may be
280 convened in special session by its President or by a majority of
281 its membership.

282 (6) In any case in which the commission finds probable
283 cause to believe that a complainant has committed perjury in
284 regard to any document filed with, or any testimony given
285 before, the commission, it shall refer such evidence to the
286 appropriate law enforcement agency for prosecution and taxation
287 of costs.

288 (7) In any case in which the commission determines that a
289 person has filed a complaint against a public officer or
290 employee with a malicious intent to injure the reputation of
291 such officer or employee by filing the complaint with knowledge
292 that the complaint contains one or more false allegations or
293 with reckless disregard for whether the complaint contains false
294 allegations of fact material to a violation of this part, the
295 complainant shall be liable for costs plus reasonable attorney
296 fees incurred in the defense of the person complained against,
297 including the costs and reasonable attorney fees incurred in
298 proving entitlement to and the amount of costs and fees. If the
299 complainant fails to pay such costs and fees voluntarily within
300 30 days following such finding by the commission, the commission



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301 shall forward such information to the Department of Legal
302 Affairs, which shall bring a civil action in a court of
303 competent jurisdiction to recover the amount of such costs and
304 fees awarded by the commission.

305 Section 8. Present paragraphs (a) through (e) of subsection
306 (3) of section 112.3215, Florida Statutes, are redesignated as
307 paragraphs (b) through (f), respectively, and a new paragraph
308 (a) is added to that subsection, to read:

309 112.3215 Lobbying before the executive branch or the
310 Constitution Revision Commission; registration and reporting;
311 investigation by commission.-

312 (3) A person may not lobby an agency until such person has
313 registered as a lobbyist with the commission. Such registration
314 shall be due upon initially being retained to lobby and is
315 renewable on a calendar year basis thereafter. Upon registration
316 the person shall provide a statement signed by the principal or
317 principal's representative that the registrant is authorized to
318 represent the principal. The principal shall also identify and
319 designate its main business on the statement authorizing that
320 lobbyist pursuant to a classification system approved by the
321 commission. The registration shall require each lobbyist to
322 disclose, under oath, the following information:

323 (a) Each lobbyist shall certify that he or she has read the
324 Code of Ethics for Public Officers and Employees contained in
325 this part, and that he or she has read any rules governing the
326 conduct of agency officials and lobbyists who lobby before an
327 agency.

328 Section 9. Present subsections (9) through (12) of section
329 112.324, Florida Statutes, are renumbered as subsections (10)



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330 through (13), respectively, paragraphs (f) and (g) of subsection
331 (2) of that section are redesignated as paragraphs (g) and (h),
332 respectively, and a new paragraph (f) is added to that
333 subsection, subsections (1) and (8) of that section are amended,
334 and a new subsection (9) is added to that section, to read:

335 112.324 Procedures on complaints of violations and
336 referrals; public records and meeting exemptions.—

337 (1) The commission shall investigate an alleged violation
338 of this part or other alleged breach of the public trust within
339 the jurisdiction of the commission as provided in s. 8(f), Art.
340 II of the State Constitution:

341 (a) Upon a written complaint executed on a form prescribed
342 by the commission and signed under oath or affirmation by any
343 person; ~~or~~

344 (b) Upon a written complaint executed on a form prescribed
345 by the commission, if a violation of s. 112.313(2) or (6)
346 involving sexual favors or sexual conduct or s. 112.3126 is
347 alleged; or

348 (c) Upon receipt of a written referral of a possible
349 violation of this part or other possible breach of the public
350 trust from the Governor, the Department of Law Enforcement, a
351 state attorney, any person designated by an agency to accept
352 complaints of sexual harassment or sexual misconduct, or a
353 United States Attorney which at least six members of the
354 commission determine is sufficient to indicate a violation of
355 this part or any other breach of the public trust.

356
357 Within 5 days after receipt of a complaint by the commission or
358 a determination by at least six members of the commission that



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359 the referral received is deemed sufficient, a copy shall be
360 transmitted to the alleged violator.

361 (2)

362 (f) The personal identifying information of an alleged
363 victim of a violation of s. 112.313(2) or (6) involving sexual
364 favours or sexual conduct or s. 112.3126 contained in a complaint
365 or referral, and all materials relating to the complaint or
366 referral, remain confidential and exempt from s. 119.07(1) and
367 s. 24(a), Art. I of the State Constitution as provided under s.
368 119.071(2) (n).

369 (8) If, in cases other than complaints or referrals against
370 impeachable officers or members of the Legislature, upon
371 completion of a full and final investigation by the commission,
372 the commission finds that there has been a violation of this
373 part or of s. 8, Art. II of the State Constitution, it is the
374 duty of the commission to report its findings and recommend
375 appropriate action to the proper disciplinary official or body
376 as follows, and such official or body has the power to invoke
377 the penalty provisions of this part, including the power to
378 order the appropriate elections official to remove a candidate
379 from the ballot for a violation of s. 112.3145 or s. 8(a) and
380 (i), Art. II of the State Constitution:

381 (a) The President of the Senate and the Speaker of the
382 House of Representatives, jointly, in any case concerning the
383 Public Counsel, members of the Public Service Commission,
384 members of the Public Service Commission Nominating Council, the
385 Auditor General, or the director of the Office of Program Policy
386 Analysis and Government Accountability.

387 (b) The Supreme Court, in any case concerning an employee



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388 of the judicial branch.

389 (c) The President of the Senate, in any case concerning an
390 employee of the Senate; the Speaker of the House of
391 Representatives, in any case concerning an employee of the House
392 of Representatives; the President or the Speaker, in any case
393 concerning a person who is required to register as a lobbyist
394 under s. 11.045 for violations of s. 112.313(2) or (6) which
395 involve sexual favors or sexual conduct or s. 112.3126; or the
396 President and the Speaker, jointly, in any case concerning an
397 employee of a committee of the Legislature whose members are
398 appointed solely by the President and the Speaker or in any case
399 concerning an employee of the Public Counsel, Public Service
400 Commission, Auditor General, or Office of Program Policy
401 Analysis and Government Accountability.

402 (d) The Governor and the Cabinet, in any case concerning a
403 person who is required to register as a lobbyist under s.
404 112.3215 for violations of s. 112.313(2) or (6) which involve
405 sexual favors or sexual conduct or s. 112.3126. Additionally, a
406 political subdivision may suspend or revoke the lobbying
407 privileges of any person authorized to lobby that political
408 subdivision if he or she has been found to have violated s.
409 112.313(2) or (6) involving sexual favors or sexual conduct or
410 s. 112.3126.

411 (e) Except as otherwise provided by this part, the
412 Governor, in the case of any other public officer, public
413 employee, former public officer or public employee, candidate or
414 former candidate, or person who is not a public officer or
415 employee, other than lobbyists and lobbying firms under s.
416 112.3215 for violations of s. 112.3215.



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417 (f)~~(e)~~ The President of the Senate or the Speaker of the
418 House of Representatives, whichever is applicable, in any case
419 concerning a former member of the Legislature who has violated a
420 provision applicable to former members or whose violation
421 occurred while a member of the Legislature.

422 (9) The proper disciplinary body or official, as designated
423 by this section, shall impose any penalty for a violation of s.
424 112.313(2) or (6) which involve sexual favors or sexual conduct,
425 s. 112.3126(2), or s. 112.3126(3), within 90 days after the date
426 of transmittal of the commission's findings.

427
428 ===== T I T L E A M E N D M E N T =====

429 And the title is amended as follows:

430 Delete lines 13 - 28

431 and insert:

432 amending s. 11.045, F.S.; revising requirements for
433 rules governing the registration of lobbyists who
434 lobby the Legislature; creating s. 112.3126, F.S.;

435 providing definitions; prohibiting public officers,
436 qualified candidates, agency employees, and lobbyists
437 from sexually harassing any person; prohibiting public
438 officers, qualified candidates, agency employees, and
439 lobbyists from taking any retaliatory action against
440 an individual for filing a complaint alleging certain
441 violations; prohibiting the intentional or reckless
442 disclosure of identifying information of the
443 complainant under specified circumstances; requiring
444 an individual who gains personal knowledge of an
445 alleged violation to report it to the Commission on



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446 Ethics or the appropriate agency within a specified
447 timeframe; prohibiting an individual from knowingly or
448 recklessly filing a materially false complaint;
449 authorizing an alleged victim to have a victim
450 advocate and attorney present in any commission
451 hearings held in response to a complaint or referral;
452 amending s. 112.313, F.S.; defining the term "favor";
453 prohibiting an individual from offering or providing
454 sexual favors, or offering or engaging in sexual
455 conduct, in an effort to influence a public officer or
456 employee or obtain his or her goodwill; defining the
457 term "benefit"; amending ss. 112.3144 and 112.3145,
458 F.S.; requiring certification of review of sexual
459 harassment laws and policies on full and public
460 disclosure of financial interests or statement of
461 financial interests beginning on a specified date;
462 specifying that failure to certify such review does
463 not constitute an immaterial, inconsequential, or de
464 minimis error or omission; reenacting and amending s.
465 112.317, F.S., relating to penalties for violations of
466 the Code of Ethics for Public Officers and Employees;
467 specifying penalties for certain violations of the
468 act; requiring certain penalties to be paid into the
469 Crimes Compensation Trust Fund; amending s. 112.3215,
470 F.S.; revising requirements for registration of
471 lobbyists who register to lobby before the executive
472 branch or the Constitution Revision Commission;
473 amending s. 112.324, F.S.; waiving the requirement
474 that complaints alleging certain violations of the act



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475 be signed under oath or affirmation; authorizing a
476 designated agency official to refer complaints
477 alleging sexual harassment or sexual misconduct to the
478 Commission on Ethics; specifying that the personal
479 identifying information of an alleged victim of sexual
480 harassment contained in a complaint or referral and in
481 related materials remains confidential and exempt from
482 public records requirements; requiring the commission
483 to report its findings and recommendations to the
484 proper disciplinary official or body upon finding a
485 violation of the act; requiring the proper
486 disciplinary official or body to impose penalties
487 within a specified timeframe; providing an effective