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LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/AD/RM	.	Floor: CA
03/06/2024 06:26 PM	.	03/07/2024 03:57 PM
	.	

Senator Burgess moved the following:

1 **Senate Amendment to House Amendment (126105) (with title**
2 **amendment)**

3
4 Delete lines 5 - 139

5 and insert:

6 Section 6. Subsection (1) of section 112.324, Florida
7 Statutes, is amended to read:

8 112.324 Procedures on complaints of violations and
9 referrals; public records and meeting exemptions.—

10 (1) The commission shall investigate an alleged violation
11 of this part or other alleged breach of the public trust within



12 the jurisdiction of the commission as provided in s. 8(f), Art.
13 II of the State Constitution:

14 (a) Upon a written complaint executed on a form prescribed
15 by the commission which is based upon personal knowledge or
16 information other than hearsay and signed under oath or
17 affirmation by any person; or

18 (b) Upon receipt of a written referral of a possible
19 violation of this part or other possible breach of the public
20 trust from the Governor, the Department of Law Enforcement, a
21 state attorney, or a United States Attorney which at least six
22 members of the commission determine is sufficient to indicate a
23 violation of this part or any other breach of the public trust.

24
25 Within 5 days after receipt of a complaint by the commission ~~or~~
26 a determination by at least six members of the commission that
27 the referral received is deemed sufficient, a copy shall be
28 transmitted to the alleged violator.

29 Section 7. Effective October 1, 2024, subsections (1) and
30 (3) of section 112.324, Florida Statutes, as amended by this
31 act, are amended to read:

32 112.324 Procedures on complaints of violations and
33 referrals; public records and meeting exemptions.—

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

38 (a) Upon a written complaint executed on a form prescribed
39 by the commission which is based upon personal knowledge or
40 information other than hearsay and signed under oath or



41 affirmation by any person; or

42 (b) Upon receipt of a written referral of a possible
43 violation of this part or other possible breach of the public
44 trust from the Governor, the Department of Law Enforcement, a
45 state attorney, or a United States Attorney ~~which at least six~~
46 ~~members of the commission determine is sufficient to indicate a~~
47 ~~violation of this part or any other breach of the public trust.~~

48
49 Within 5 days after receipt of a complaint or referral by the
50 commission ~~or a determination by at least six members of the~~
51 ~~commission that the referral received is deemed sufficient~~, a
52 copy must shall be transmitted to the alleged violator.

53 (3) (a) A preliminary investigation must shall be undertaken
54 by the commission within 30 days after its receipt of each
55 technically and legally sufficient complaint or referral over
56 which the commission has jurisdiction to determine whether there
57 is probable cause to believe that a violation has occurred. A
58 complainant may submit an amended complaint up to 60 days after
59 the commission receives the initial complaint. The probable
60 cause determination is the conclusion of the preliminary
61 investigation. The commission shall complete the preliminary
62 investigation, including the probable cause determination, no
63 later than 1 year after the beginning of the preliminary
64 investigation.

65 (b) An investigatory report must be completed no later than
66 150 days after the beginning of the preliminary investigation.
67 If, at any one meeting of the commission held during a given
68 preliminary investigation, the commission determines that
69 additional time is necessary to adequately complete such



70 investigation, the commission may extend the timeframe to
71 complete the preliminary investigation by no more than 60 days.
72 During such meeting, the commission shall document its reasons
73 for extending the investigation and transmit a copy of such
74 documentation to the alleged violator and complainant no later
75 than 5 days after the extension is ordered. The investigatory
76 report must be transmitted to the alleged violator and to the
77 counsel representing the commission no later than 5 days after
78 completion of the report. As used in this section, the term
79 "counsel" means an assistant attorney general, or in the event
80 of a conflict of interest, an attorney not otherwise employed by
81 the commission. The counsel representing the commission shall
82 make a written recommendation to the commission for the
83 disposition of the complaint or referral no later than 15 days
84 after he or she receives the completed investigatory report. The
85 commission shall transmit the counsel's written recommendation
86 to the alleged violator no later than 5 days after its
87 completion. The alleged violator has 14 days after the mailing
88 date of the counsel's recommendation to respond in writing to
89 the recommendation.

90 (c) Upon receipt of the counsel's recommendation, the
91 commission shall schedule a probable cause hearing for the next
92 executive session of the commission for which notice
93 requirements can be met.

94 (d) If, upon completion of the preliminary investigation,
95 the commission finds no probable cause to believe that this part
96 has been violated, or that no any other breach of the public
97 trust has been committed, the commission must ~~shall~~ dismiss the
98 complaint or referral with the issuance of a public report to



99 the complainant and the alleged violator, stating with
100 particularity its reasons for dismissal. At that time, the
101 complaint or referral and all materials relating to the
102 complaint or referral ~~shall~~ become a matter of public record.

103 (e) If the commission finds ~~from the preliminary~~
104 ~~investigation~~ probable cause to believe that this part has been
105 violated or that any other breach of the public trust has been
106 committed, it must transmit a copy of the order finding probable
107 cause to ~~shall so notify~~ the complainant and the alleged
108 violator in writing no later than 5 days after the date of the
109 probable cause determination. Such notification and all
110 documents made or received in the disposition of the complaint
111 or referral ~~shall then~~ become public records. Upon request
112 submitted to the commission in writing, any person who the
113 commission finds probable cause to believe has violated any
114 provision of this part or has committed any other breach of the
115 public trust is ~~shall be~~ entitled to a public hearing and may
116 elect to have a formal administrative hearing conducted by an
117 administrative law judge in the Division of Administrative
118 Hearings. If the person does not elect to have a formal
119 administrative hearing by an administrative law judge, the
120 person is entitled to an informal hearing conducted before the
121 commission. Such person is ~~shall be~~ deemed to have waived the
122 right to a formal or an informal public hearing if the request
123 is not received within 14 days following the mailing date of the
124 probable cause notification required by this paragraph
125 ~~subsection.~~ However, the commission may, on its own motion,
126 require a public hearing.

127 (f) If the commission conducts an informal hearing, it must



128 be held no later than 75 days after the date of the probable
129 cause determination.

130 (g) If the commission refers a case to the Division of
131 Administrative Hearings for a formal hearing and subsequently
132 requests that the case be relinquished back to the commission,
133 or if the administrative law judge assigned to the case
134 relinquishes jurisdiction back to the commission before a
135 recommended order is entered, the commission must schedule the
136 case for additional action at the next commission meeting for
137 which notice requirements can be met. At the next subsequent
138 commission meeting, the commission must complete final action on
139 such case.

140 (h) The commission, ~~may conduct such further investigation~~
141 as it deems necessary, and may enter into such stipulations and
142 settlements as it finds to be just and in the best interest of
143 the state. At least two-thirds of the members of the commission
144 present at a meeting must vote to reject or deviate from a
145 stipulation or settlement that is recommended by the counsel
146 representing the commission. The commission is without
147 jurisdiction to, and no respondent may voluntarily or
148 involuntarily, enter into a stipulation or settlement which
149 imposes any penalty, including, but not limited to, a sanction
150 or admonition or any other penalty contained in s. 112.317.
151 Penalties ~~may shall~~ be imposed only by the appropriate
152 disciplinary authority as designated in this section.

153 (i) If a criminal complaint related to an investigation
154 pursuant to this section is filed, the timeframes in this
155 subsection are tolled until completion of the criminal
156 investigation or prosecution, excluding any appeals from such



157 prosecution, whichever occurs later.

158 (j) The failure of the commission to comply with the time
159 limits provided in this subsection constitutes harmless error in
160 any related disciplinary action unless a court finds that the
161 fairness of the proceedings or the correctness of an action may
162 have been impaired by a material error in procedure or a failure
163 to follow prescribed procedure.

164 (k) The timeframes prescribed by this subsection apply to
165 complaints or referrals submitted to the commission on or after
166 October 1, 2024.

167 Section 8. Section 112.326,

168

169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete line 181

172 and insert:

173 Delete lines 49-105 and insert:

174 preliminary investigation if the commission determines
175 such extension is necessary; requiring the commission
176 to document the reasons for extending such
177 investigation and transmit a copy of such
178 documentation to the alleged violator and complainant
179 within a specified timeframe; requiring the commission
180 to transmit a copy of the completed report to an
181 alleged violator and to the counsel representing the
182 commission within a specified timeframe; defining the
183 term "counsel"; requiring such counsel to make a
184 written recommendation for disposition of a complaint
185 or referral within a specified timeframe after



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186 receiving the investigatory report; requiring the
187 commission to transmit such recommendation to the
188 alleged violator within a specified timeframe;
189 providing that the alleged violator has a specified
190 timeframe to respond in writing to the counsel's
191 recommendation; requiring the commission, upon receipt
192 of the counsel's recommendation, to schedule a
193 probable cause hearing for the next executive session
194 of the commission for which notice requirements can be
195 met; providing that, under specified conditions, the
196 commission may dismiss complaints or referrals before
197 completion of a preliminary investigation; providing a
198 timeframe within which the commission must transmit a
199 copy of the order finding probable cause to the
200 complainant and the alleged violator after a finding
201 of probable cause; specifying that an alleged violator
202 is entitled to request a formal hearing before the
203 Division of Administrative Hearings or may select an
204 informal hearing with the commission; providing that
205 persons are deemed to waive their rights to a formal
206 or an informal hearing if the request is not received
207 within a specified timeframe; providing the timeframe
208 within which the commission must conduct an informal
209 hearing; requiring the commission to schedule a case
210 that has been relinquished from the Division of
211 Administrative Hearings for additional action at the
212 next commission meeting for which notice requirements
213 can be met; requiring the commission to complete final
214 action on such case within a specified timeframe;



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215 requiring a specified percentage of commission members
216 present at a meeting to vote to reject or deviate from
217 a