

**By** the Committees on Rules; and Governmental Oversight and Accountability; and Senator Gaetz

595-02951-26

202692c2

595-02951-26

202692c2

30 predicated on grounds other than the exercising of  
31 certain protected rights; providing construction;  
32 amending s. 112.324, F.S.; requiring the Commission on  
33 Ethics to deliver copies of complaints and any  
34 amendment thereto to the Public Employees Relations  
35 Commission upon receiving a written request from the  
36 agency; providing that such delivery does not affect  
37 specified exemptions in regard to the complaint and  
38 amendments; requiring that such delivery be within a  
39 reasonable timeframe; requiring that the Commission on  
40 Ethics redact certain information under specified  
41 conditions; requiring the commission to deliver  
42 complaints and any amendment thereto to certain  
43 persons upon receiving a notarized written request;  
44 providing that such delivery does not affect the  
45 specified exemptions of the complaint; requiring that  
46 such delivery happen within a reasonable timeframe;  
47 requiring the commission to redact certain information  
48 under specified conditions; creating s. 112.3243,  
49 F.S.; authorizing certain employees to file a  
50 complaint with the commission within a specified  
51 timeframe; requiring that the commission acknowledge  
52 receipt of such complaint and provide copies of the  
53 complaint and any other information to the agency head  
54 or independent contractor within a specified  
55 timeframe; requiring the commission to conduct  
56 informal fact-finding regarding legally sufficient  
57 complaints and provide, within a specified timeframe,  
58 a certain report to the agency head or independent

595-02951-26

202692c2

59 contractor; providing that the commission is empowered  
60 to take specified actions; requiring the commission to  
61 notify a complainant of the status of the  
62 investigation and actions taken when appropriate;  
63 requiring the commission to make a certain  
64 determination and provide a fact-finding report to  
65 specified entities under specified conditions;  
66 requiring the commission to file such determination  
67 and report with the agency head or independent  
68 contractor under specified conditions; requiring the  
69 commission to provide a certain notice to specified  
70 entities under specified conditions; requiring the  
71 commission to terminate investigations under specified  
72 circumstances; prohibiting disciplinary action against  
73 an employee under specified conditions; authorizing  
74 complainants to file a complaint against the employer  
75 agency with the Public Employees Relations Commission;  
76 providing that such commission has jurisdiction over  
77 such complaints; authorizing the Commission on Ethics  
78 to adopt rules; reenacting s. 112.3136(1), F.S.,  
79 relating to standards of conduct for officers and  
80 employees of entities serving as chief administrative  
81 officer of political subdivisions, to incorporate the  
82 amendment made to s. 112.313, F.S., in a reference  
83 thereto; providing an effective date.

84

85 Be It Enacted by the Legislature of the State of Florida:

86

87 Section 1. Subsection (18) is added to section 112.313,

595-02951-26

202692c2

88 Florida Statutes, to read:

89 112.313 Standards of conduct for public officers, employees  
90 of agencies, and local government attorneys.—

91 (18) RETALIATION FOR PROTECTED ACTIVITY PROHIBITED.—

92 (a) As used in this subsection, the term:

93 1. "Adverse personnel action" means the discharge,  
94 suspension, transfer, or demotion of an employee; the  
95 withholding of bonuses or reduction in salary or benefits of an  
96 employee; or any other adverse action taken against an employee  
97 within the terms and conditions of employment by an agency or  
98 independent contractor of an agency.

99 2. "Exercise of ultimate decisionmaking authority" or  
100 "grant of approval" means having and using the authority to  
101 commence an adverse personnel action.

102 3. "Protected activity" means submitting a written  
103 complaint to the commission executed on the form specified in s.  
104 112.324(1) and signed under oath or affirmation or providing  
105 information to an investigator during an investigation of a  
106 complaint or referral.

107 (b) A public officer, public employee, or local government  
108 attorney commits a breach of the public trust when he or she  
109 initiates an adverse personnel action against an employee of an  
110 agency or independent contractor who has engaged in a protected  
111 activity by an exercise of the public officer's, public  
112 employee's, or local government attorney's ultimate  
113 decisionmaking authority or a grant of his or her approval, or  
114 uses his or her position to cause another to initiate such an  
115 adverse personnel action, if the protected activity is the  
116 primary reason motivating the adverse personnel action. The

595-02951-26

202692c2

117 communication or execution of an adverse personnel action  
118 initiated by another's ultimate decisionmaking authority or  
119 grant of approval does not constitute an exercise of one's  
120 ultimate decisionmaking authority or a grant of one's approval.

121 Section 2. Section 112.3242, Florida Statutes, is created  
122 to read:

123 112.3242 Adverse action against employee for disclosing  
124 information of specified nature to the Commission on Ethics  
125 prohibited; employee remedy and relief.—

126 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
127 to prevent agencies or independent contractors from taking  
128 retaliatory action against an employee who reports to an  
129 appropriate agency any violation of this part or s. 8, Art. II  
130 of the State Constitution on the part of a public employer or an  
131 independent contractor. It is further the intent of the  
132 Legislature to prevent agencies or independent contractors from  
133 taking retaliatory action against any person who discloses  
134 information to an appropriate agency regarding alleged breaches  
135 of the public trust or violations of s. 8, Art. II of the State  
136 Constitution on the part of an agency, a public officer, or an  
137 employee.

138 (2) DEFINITIONS.—As used in this section and s. 112.3243,  
139 unless otherwise specified, the term:

140 (a) “Adverse personnel action” means the discharge,  
141 suspension, transfer, or demotion of any employee or the  
142 withholding of bonuses, the reduction in salary or benefits, or  
143 any other adverse action taken against an employee within the  
144 terms and conditions of employment by an agency or independent  
145 contractor.

595-02951-26

202692c2

146        (b) "Agency" means any state, regional, county, local, or  
147        municipal governmental entity, whether executive, judicial, or  
148        legislative; any official, officer, department, division,  
149        bureau, commission, authority, or political subdivision therein;  
150        or any public school, community college, or state university.

151        (c) "Employee" means a person who performs services for,  
152        and is under the control and direction of, or contracts with, an  
153        agency or independent contractor for wages or other  
154        remuneration.

155        (d) "Independent contractor" means a person, other than an  
156        agency, who is engaged in any business and enters into a  
157        contract, including a provider agreement, with an agency.

158        (3) ACTIONS PROHIBITED.—

159        (a) An agency or independent contractor may not dismiss,  
160        discipline, or take any other adverse personnel action against  
161        an employee for disclosing information protected under this  
162        section.

163        (b) An agency or independent contractor may not take any  
164        adverse personnel action that affects the rights or interests of  
165        a person in retaliation for the person's disclosure of  
166        information protected under this section.

167        (c) This subsection does not apply when an employee or a  
168        person discloses information known by the employee or person to  
169        be false or when the employee or person discloses information  
170        that forms the basis of an award of costs or attorney fees or  
171        both pursuant to s. 112.317(7).

172        (4) NATURE OF INFORMATION DISCLOSED.—The protected  
173        information disclosed under this section must include any  
174        violation or suspected violation of:

595-02951-26

202692c2

175       (a) Any standard of conduct imposed by this part;  
176       (b) Section 8, Art. II of the State Constitution; or  
177       (c) Section 11.062, s. 16.715, part II of chapter 287, s.  
178       350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605.

179       (5) TO WHOM INFORMATION IS DISCLOSED.—The information  
180       disclosed under this section must be disclosed to the  
181       commission.

182       (6) EMPLOYEES AND PERSONS PROTECTED.—This section protects  
183       employees and persons who submit a written complaint to the  
184       commission executed on the form specified in s. 112.324(1) and  
185       signed under oath or affirmation or who provide information to  
186       an investigator during an investigation of a complaint. A remedy  
187       or other protection under this section does not apply to any  
188       employee or person who has committed or intentionally  
189       participated in committing the violation or suspected violation  
190       for which protection under this section is being sought.

191       (7) REMEDIES.—Any employee of an agency who is subjected to  
192       adverse personnel action because he or she engaged in an  
193       activity protected by this section may file a complaint, which  
194       must be made in accordance with s. 112.3243. Upon receipt of  
195       notice from the commission of termination of the investigation,  
196       the complainant may elect to pursue the administrative remedy  
197       available under s. 112.3243 or bring a civil action within 180  
198       days after receipt of the notice.

199       (8) RELIEF.—In any action brought under this section, the  
200       relief must include the following:

201       (a) Reinstatement of the employee to the same position held  
202       before the adverse personnel action was commenced, or to an  
203       equivalent position, or reasonable front pay as an alternative

595-02951-26

202692c2

204 relief.205 (b) Reinstatement of the employee's full fringe benefits  
206 and seniority rights, as appropriate.207 (c) Compensation to the employee, if appropriate, for lost  
208 wages, benefits, or other lost remuneration caused by the  
209 adverse personnel action.210 (d) Payment of reasonable costs, including attorney fees,  
211 to a substantially prevailing employee, or to the prevailing  
212 employer if the employee filed a frivolous action in bad faith.213 (e) Issuance of an injunction, if appropriate, by a court  
214 of competent jurisdiction.215 (f) Temporary reinstatement of the employee to his or her  
216 former position or to an equivalent position, pending the final  
217 outcome on the complaint, if an employee complains of being  
218 discharged in retaliation for a protected disclosure and if a  
219 court of competent jurisdiction or the commission, as applicable  
220 under s. 112.3243, determines that the disclosure was not made  
221 in bad faith or for a wrongful purpose or that the disclosure  
222 occurred after an agency's or independent contractor's  
223 initiation of a personnel action against the employee which  
224 includes documentation of the employee's violation of a  
225 disciplinary standard or performance deficiency. This paragraph  
226 does not apply to an employee of a municipality.227 (9) DEFENSE.—It is an affirmative defense to any action  
228 brought pursuant to this section that the adverse personnel  
229 action was predicated upon grounds other than, and would have  
230 been taken absent, the employee's or person's exercise of rights  
231 protected by this section.232 (10) EXISTING RIGHTS.—This section does not diminish the

595-02951-26

202692c2

233 rights, privileges, or remedies of an employee under any other  
234 law or rule or under any collective bargaining agreement or  
235 employment contract; however, the election of remedies in s.  
236 447.401 also applies to actions under this section.

237 Section 3. Paragraphs (g) and (h) are added to subsection  
238 (2) of section 112.324, Florida Statutes, to read:

239 112.324 Procedures on complaints of violations and  
240 referrals; public records and meeting exemptions.—

241 (2)

242 (g) Notwithstanding the exemptions in paragraphs (a)-(d),  
243 the Commission on Ethics shall deliver a copy of an ethics  
244 complaint, and its timely amendments, to the Public Employees  
245 Relations Commission upon receiving a written request from the  
246 agency. The Commission on Ethics' delivery of the complaint, and  
247 any amendment thereto, does not affect the exemptions in  
248 paragraphs (a)-(d) in any other context. The Commission on  
249 Ethics shall deliver the complaint, and any amendment thereto,  
250 within a reasonable timeframe. If the exemptions in paragraphs  
251 (a)-(d) are applicable at the time of the request, the  
252 commission must redact any designation to the complaint form it  
253 supplied after the form was filed, including, but not limited  
254 to, date stamps, receipt stamps, and complaint serial numbers.

255 (h) Notwithstanding the exemptions in paragraphs (a)-(d),  
256 the commission shall deliver a copy of an ethics complaint, and  
257 its timely amendments, to the person who filed the ethics  
258 complaint and identified himself or herself in the text of the  
259 complaint or its timely amendments as a current or former  
260 employee of the agency associated with the respondent named in  
261 the complaint or of an independent contractor of that agency,

595-02951-26

202692c2

262       upon receiving a notarized, written request from such person.  
263       The commission's delivery of the complaint, and any amendment  
264       thereto, does not affect the exemptions in paragraphs (a)-(d) in  
265       any other context. The commission shall deliver the complaint  
266       within a reasonable timeframe. If the exemptions in paragraphs  
267       (a)-(d) are applicable at the time of the request, the  
268       commission must redact any designation to the complaint form it  
269       supplied after the form was filed, including, but not limited  
270       to, date stamps, receipt stamps, and complaint serial numbers.

271       Section 4. Section 112.3243, Florida Statutes, is created  
272       to read:

273       112.3243 Investigative procedures in response to prohibited  
274       personnel actions against ethics complaints.—

275       (1) COMPLAINT.—

276       (a) If a disclosure under s. 112.3242 results in alleged  
277       retaliation by an employer, the employee of an agency or  
278       independent contractor that is so affected may file a complaint  
279       alleging a prohibited personnel action, which must be made by  
280       filling a written complaint with the commission no later than 60  
281       days after the prohibited personnel action.

282       (b) Within 5 working days after receiving a complaint under  
283       this section, the commission shall acknowledge receipt of the  
284       complaint and provide copies of the complaint and any other  
285       preliminary information available concerning the disclosure of  
286       information under s. 112.3242 to the employer, who shall  
287       acknowledge receipt of such copies to the complainant.

288       (2) FACT-FINDING.—The commission shall:

289       (a) Receive any allegation of a personnel action prohibited  
290       by s. 112.3242, including a proposed or potential action, and

595-02951-26

202692c2

291 conduct informal fact-finding regarding any allegation of a  
292 legally sufficient complaint under this section to the extent  
293 necessary to determine whether there are reasonable grounds to  
294 believe that a prohibited personnel action under s. 112.3242 has  
295 occurred, is occurring, or is to be taken.

296 (b) Within 180 days after receiving the complaint, provide  
297 the agency head or independent contractor and the complainant  
298 with a fact-finding report that may include recommendations to  
299 the parties or a proposed resolution of the complaint. The fact-  
300 finding report is admissible in any subsequent or related  
301 administrative or judicial review.

302 (3) INVESTIGATIVE POWERS AND TERMINATION OF INVESTIGATION.—

303 (a) The commission, in accordance with this section, is  
304 empowered to:

305 1. Receive and investigate complaints from employees  
306 alleging retaliation by agencies or independent contractors.

307 2. Administer oaths, examine witnesses, take statements,  
308 issue subpoenas, order the taking of depositions, order  
309 responses to written interrogatories, and make appropriate  
310 motions to limit discovery, pursuant to investigations under  
311 subparagraph 1.

312 3. Create fact-finding reports and make determinations  
313 regarding investigations under subparagraph 1.

314 (b) The commission shall notify a complainant of the status  
315 of the investigation and any action taken at such times as the  
316 commission deems appropriate.

317 (c) 1. If the commission determines that, in connection with  
318 any investigation, reasonable grounds exist to believe that a  
319 prohibited action has occurred, is occurring, or is to be taken

595-02951-26

202692c2

320 which requires corrective action, the commission must report the  
321 determination together with a fact-finding report to the agency  
322 head or independent contractor and the complainant. The  
323 commission may include in the report recommendations for  
324 corrective action.

325 2. If the commission, in consultation with the individual  
326 subject to the prohibited action, finds that the agency or  
327 independent contractor has implemented a corrective action in  
328 response to the commission's determination and fact-finding  
329 report, the commission must file such finding with the agency  
330 head or independent contractor, together with any written  
331 comments that the individual provides, and terminate the  
332 investigation. The commission shall provide notice of the  
333 termination of its investigation, along with the reason for  
334 termination, to the complainant and the agency head or  
335 independent contractor.

336 3. If the agency or independent contractor, after 35 days,  
337 does not implement a corrective action, the commission must  
338 terminate the investigation. If an investigation is terminated  
339 pursuant to this subparagraph, the commission must provide  
340 notice of the termination of its investigation, along with the  
341 reason for termination, to the complainant and the agency head  
342 or independent contractor, and notify the complainant of the  
343 right to appeal under subsection (4).

344 (d) If the commission determines that there are no  
345 reasonable grounds to believe that a prohibited personnel action  
346 has occurred, is occurring, or is to be taken, the commission  
347 must terminate its investigation and report its determination,  
348 together with a fact-finding report and a notice of termination

595-02951-26

202692c2

349 of investigation, to the agency head or independent contractor  
350 and the complainant.

351 (e) During any investigation under this section,  
352 disciplinary action may not be taken against an employee of an  
353 agency or independent contractor for reporting an alleged  
354 prohibited personnel action that is under investigation, or for  
355 reporting any related activity, or against any employee for  
356 participating in an investigation without notifying the  
357 commission.

358 (4) RIGHT TO APPEAL.—

359 (a) The complainant may, within 21 days after receipt of a  
360 notice of termination of an investigation from the commission,  
361 file a complaint against the employer agency regarding the  
362 alleged prohibited personnel action with the Public Employees  
363 Relations Commission. The Public Employees Relations Commission  
364 has jurisdiction over such complaints under ss. 112.3242 and  
365 447.503(4) and (5).

366 (b) Judicial review of any final order of the commission  
367 must be as provided in s. 120.68.

368 (5) RULEMAKING.—The commission may adopt rules to implement  
369 this section.

370 Section 5. For the purpose of incorporating the amendment  
371 made by this act to section 112.313, Florida Statutes, in a  
372 reference thereto, subsection (1) of section 112.3136, Florida  
373 Statutes, is reenacted to read:

374 112.3136 Standards of conduct for officers and employees of  
375 entities serving as chief administrative officer of political  
376 subdivisions.—The officers, directors, and chief executive  
377 officer of a corporation, partnership, or other business entity

595-02951-26

202692c2

378 that is serving as the chief administrative or executive officer  
379 or employee of a political subdivision, and any business entity  
380 employee who is acting as the chief administrative or executive  
381 officer or employee of the political subdivision, for the  
382 purposes of the following sections, are public officers and  
383 employees who are subject to the following standards of conduct  
384 of this part:

385 (1) Section 112.313, and their "agency" is the political  
386 subdivision that they serve; however, the contract under which  
387 the business entity serves as chief executive or administrative  
388 officer of the political subdivision is not deemed to violate s.  
389 112.313(3) or (7).

390 Section 6. This act shall take effect January 1, 2027.