

1 A bill to be entitled
2 An act relating to governmental ethics; amending s.
3 112.3142, F.S.; requiring elected municipal officials
4 to participate in annual ethics training; amending s.
5 112.3143, F.S.; authorizing state public officers to
6 disclose nature of voting conflict using either a
7 certificate of recusal or memorandum of disclosure;
8 authorizing local public officers to disclose
9 abstention from voting using a certificate of recusal;
10 requiring appointed public officers to disclose nature
11 of conflict using written memorandum of disclosure;
12 amending ss. 112.3148 and 112.3149, F.S.; providing
13 for issuance of advisory opinions upon request of a
14 reporting individual or procurement employee regarding
15 the solicitation and disclosure of honoraria and the
16 reporting and prohibited receipt of gifts,
17 respectively; amending s. 112.317, F.S.; requiring the
18 Commission on Ethics to impose a civil penalty on a
19 person who has filed a complaint with malicious intent
20 under certain circumstances; amending s. 112.322,
21 F.S.; requiring the commission to dismiss a complaint
22 against a state, county, municipal, or school district
23 officer or employee if certain circumstances are met;
24 amending s. 112.326, F.S.; prohibiting a political
25 subdivision from imposing additional standards of
26 conduct upon the officers and employees of another

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political subdivision; amending s. 286.012, F.S.;
conforming a provision to changes made by the act;
providing for severability; providing effective dates.

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

Section 1. Effective January 1, 2015, section 112.3142, Florida Statutes, is amended to read:

112.3142 Ethics training for specified constitutional officers and elected municipal officials.—

(1) As used in this section, the term "constitutional officers" includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers and elected municipal officials must complete 4 hours of ethics training each calendar year, which ~~annually that~~ addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

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53 (b) The commission shall adopt rules establishing minimum
54 course content for the portion of an ethics training class which
55 ~~that~~ addresses s. 8, Art. II of the State Constitution and the
56 Code of Ethics for Public Officers and Employees.

57 (3) Each house of the Legislature shall provide for ethics
58 training pursuant to its rules.

59 Section 2. Section 112.3143, Florida Statutes, is amended
60 to read:

61 112.3143 Voting conflicts.—

62 (1) As used in this section:

63 (a) "Principal by whom retained" means an individual or
64 entity, other than an agency as defined in s. 112.312(2), that
65 for compensation, salary, pay, consideration, or similar thing
66 of value, has permitted or directed another to act for the
67 individual or entity, and includes, but is not limited to, one's
68 client, employer, or the parent, subsidiary, or sibling
69 organization of one's client or employer.

70 (b) "Public officer" includes any person elected or
71 appointed to hold office in any agency, including any person
72 serving on an advisory body.

73 (c) "Relative" means any father, mother, son, daughter,
74 husband, wife, brother, sister, father-in-law, mother-in-law,
75 son-in-law, or daughter-in-law.

76 (d) "Special private gain or loss" means an economic
77 benefit or harm that would inure to the officer, his or her
78 relative, business associate, or principal, unless the measure

79 affects a class that includes the officer, his or her relative,
80 business associate, or principal, in which case, at least the
81 following factors must be considered when determining whether a
82 special private gain or loss exists:

- 83 1. The size of the class affected by the vote.
- 84 2. The nature of the interests involved.
- 85 3. The degree to which the interests of all members of the
86 class are affected by the vote.
- 87 4. The degree to which the officer, his or her relative,
88 business associate, or principal receives a greater benefit or
89 harm when compared to other members of the class.

90
91 The degree to which there is uncertainty at the time of the vote
92 as to whether there would be any economic benefit or harm to the
93 public officer, his or her relative, business associate, or
94 principal and, if so, the nature or degree of the economic
95 benefit or harm must also be considered.

96 (2)(a) A state public officer may not vote on any matter
97 that the officer knows would inure to his or her special private
98 gain or loss. Any state public officer who abstains from voting
99 in an official capacity upon any measure that the officer knows
100 would inure to the officer's special private gain or loss, or
101 who votes in an official capacity on a measure that he or she
102 knows would inure to the special private gain or loss of any
103 principal by whom the officer is retained or to the parent
104 organization or subsidiary of a corporate principal by which the

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officer is retained other than an agency as defined in s. 112.312(2); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in either a certificate of recusal or a memorandum of disclosure filed with the person responsible for recording the minutes of the meeting, who shall incorporate the certificate or memorandum in the minutes. If it is not possible for the state public officer to file a certificate or memorandum before the vote, the certificate or memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

(b) A member of the Legislature may satisfy the recusal or disclosure requirements of this section by filing a recusal or disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection.

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special

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private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a certificate of recusal ~~memorandum~~ filed with the person responsible for recording the minutes of the meeting, who shall incorporate the certificate ~~memorandum~~ in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum of disclosure

157 filed with the person responsible for recording the minutes of
158 the meeting, prior to the meeting in which consideration of the
159 matter will take place, and shall be incorporated into the
160 minutes. Any such memorandum shall become a public record upon
161 filing, shall immediately be provided to the other members of
162 the agency, and shall be read publicly at the next meeting held
163 subsequent to the filing of this written memorandum.

164 (b) In the event that disclosure has not been made prior
165 to the meeting or that any conflict is unknown prior to the
166 meeting, the disclosure shall be made orally at the meeting when
167 it becomes known that a conflict exists. A written memorandum of
168 disclosure revealing ~~disclosing~~ the nature of the conflict shall
169 then be filed within 15 days after the oral disclosure with the
170 person responsible for recording the minutes of the meeting and
171 shall be incorporated into the minutes of the meeting at which
172 the oral disclosure was made. Any such memorandum shall become a
173 public record upon filing, shall immediately be provided to the
174 other members of the agency, and shall be read publicly at the
175 next meeting held subsequent to the filing of this written
176 memorandum.

177 (c) For purposes of this subsection, the term
178 "participate" means any attempt to influence the decision by
179 oral or written communication, whether made by the officer or at
180 the officer's direction.

181 (5) If disclosure of specific information would violate
182 confidentiality or privilege pursuant to law or rules governing

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attorneys, a public officer, who is also an attorney, may comply with the recusal or disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

(6) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the certificates of recusal or memoranda of disclosure ~~conflict~~ previously filed under this section by said officer.

Section 3. Subsection (10) of section 112.3148, Florida Statutes, is amended to read:

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(10) (a) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

(b) A reporting individual or procurement employee may request an advisory opinion from his or her agency's attorney as to the application of this section to a specific situation. The attorney shall issue the opinion within 10 days after receiving the request. The reporting individual or procurement employee may reasonably rely on such opinion.

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Section 4. Subsection (8) of section 112.3149, Florida Statutes, is amended to read:

112.3149 Solicitation and disclosure of honoraria.—

(8)(a) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

(b) A reporting individual or procurement employee may request an advisory opinion from his or her agency's attorney as to the application of this section to a specific situation. The attorney shall issue the opinion within 10 days after receiving the request. The reporting individual or procurement employee may reasonably rely on such opinion.

Section 5. Subsection (7) of section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

(7) ~~If in any case in which~~ the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee, the malicious intent shall be deemed proven and established, per se, by the filing of a the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of

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235 this part:⁷

236 (a) The complainant is ~~shall be~~ liable for costs and ~~plus~~
237 reasonable attorney fees incurred in the defense of the person
238 complained against, including the costs and reasonable attorney
239 fees incurred in proving entitlement to and the amount of costs
240 and fees.

241 (b) If the commission further finds the complainant
242 willfully disclosed, or permitted to be disclosed, the existence
243 or contents of the complaint, or any document, action, or
244 proceeding in connection with a preliminary investigation of the
245 commission, before such complaint, document, action, or
246 proceeding became a public record as provided in this part, the
247 commission shall impose on the complainant a civil penalty of at
248 least \$1,000 but not more than \$5,000.

249
250 If the complainant fails to pay such penalty, if any, costs, and
251 reasonable attorney fees voluntarily within 30 days after
252 ~~following~~ such finding by the commission, the commission shall
253 forward such information to the Department of Legal Affairs,
254 which shall bring a civil action ~~in a court of competent~~
255 ~~jurisdiction~~ to recover the amount of such penalty, costs, and
256 reasonable attorney fees awarded by the commission.

257 Section 6. Subsections (4) through (9) of section 112.322,
258 Florida Statutes, are renumbered as subsections (5) through
259 (10), respectively, and a new subsection (4) is added to that
260 section, to read:

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112.322 Duties and powers of commission.—

(4) The commission shall dismiss a complaint that a state, county, municipal, or school district officer or employee violated any provision of this part or s. 8, Art. II of the State Constitution relating to a possible conflict of interest if the commission finds that, before the act that forms the basis of the complaint, the officer or employee:

(a) Consulted with his or her agency's attorney.

(b) Provided a full and complete written disclosure or made an oral disclosure at a duly noticed public meeting of all material facts relevant to the allegation before the commission.

(c) Received a written or oral opinion at a duly noticed public meeting from his or her agency's attorney relating to the allegation before the commission.

(d) Reasonably relied upon the opinion of the agency's attorney and acted in accordance with the opinion.

Section 7. Section 112.326, Florida Statutes, is amended to read:

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this part prohibits ~~act~~ ~~shall prohibit~~ the electors or the governing body of a ~~any~~ political subdivision, by charter or ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, ~~if provided that~~ those standards of conduct and disclosure requirements do not

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otherwise conflict with ~~the provisions of~~ this part. A political subdivision is prohibited from imposing additional or more stringent standards of conduct and disclosure requirements upon the officers and employees of another political subdivision.

Section 8. Section 286.012, Florida Statutes, is amended to read:

286.012 Voting requirement at meetings of governmental bodies.— No member of any state, county, or municipal governmental board, commission, or agency who is present at any meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to ~~any~~ such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless ~~except when~~, with respect to any such member, there is, or appears to be, a possible conflict of interest under ~~the provisions of~~ s. 112.311, s. 112.313, ~~or~~ s. 112.3143, or additional or more stringent standards of conduct, if any, adopted pursuant to s. 112.326. In such cases, such ~~said~~ member shall comply with the disclosure requirements of s. 112.3143 or any disclosure requirements adopted under s. 112.326.

Section 9. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act, which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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313 Section 10. Except as otherwise expressly provided in this
314 act, this act shall take effect July 1, 2014.