

By Senator Clemens

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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       112.3148, F.S.; deleting the requirement that each  
6       reporting individual or procurement employee file a  
7       quarterly statement disclosing certain gifts with the  
8       Commission on Ethics; authorizing a reporting  
9       individual or procurement employee to request an  
10      advisory opinion regarding application of the section;  
11      requiring the opinion to be issued within 10 days  
12      after the request is received; providing that a  
13      reporting individual or procurement employee may  
14      reasonably rely on such opinion; amending s. 112.3149,  
15      F.S.; authorizing a reporting individual or  
16      procurement employee to request an advisory opinion  
17      regarding application of the section; requiring the  
18      opinion to be issued within 10 days after the request  
19      is received; providing that a reporting individual or  
20      procurement employee may reasonably rely on such  
21      opinion; amending s. 112.317, F.S.; requiring the  
22      commission to impose a civil penalty on a person who  
23      has filed a complaint with malicious intent under  
24      certain circumstances; amending s. 112.322, F.S.;  
25      requiring the commission to dismiss a complaint  
26      against a state, county, municipal, or school district  
27      officer or employee if certain circumstances are met;  
28      amending s. 112.326, F.S.; prohibiting a political  
29      subdivision from imposing additional standards of

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conduct upon the officers and employees of another 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.

(b) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which

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59 ~~that~~ addresses s. 8, Art. II of the State Constitution and the  
60 Code of Ethics for Public Officers and Employees.

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

63 Section 2. Subsections (8) through (10) of section  
64 112.3148, Florida Statutes, are amended to read:

65 112.3148 Reporting and prohibited receipt of gifts by  
66 individuals filing full or limited public disclosure of  
67 financial interests and by procurement employees.—

68 ~~(8)(a) Each reporting individual or procurement employee~~  
69 ~~shall file a statement with the Commission on Ethics not later~~  
70 ~~than the last day of each calendar quarter, for the previous~~  
71 ~~calendar quarter, containing a list of gifts which he or she~~  
72 ~~believes to be in excess of \$100 in value, if any, accepted by~~  
73 ~~him or her, for which compensation was not provided by the donee~~  
74 ~~to the donor within 90 days of receipt of the gift to reduce the~~  
75 ~~value to \$100 or less, except the following:~~

76 1. ~~Gifts from relatives.~~

77 2. ~~Gifts prohibited by subsection (4) or s. 112.313(4).~~

78 3. ~~Gifts otherwise required to be disclosed by this~~  
79 ~~section.~~

80 ~~(b) The statement shall include:~~

81 1. ~~A description of the gift, the monetary value of the~~  
82 ~~gift, the name and address of the person making the gift, and~~  
83 ~~the dates thereof. If any of these facts, other than the gift~~  
84 ~~description, are unknown or not applicable, the report shall so~~  
85 ~~state.~~

86 2. ~~A copy of any receipt for such gift provided to the~~  
87 ~~reporting individual or procurement employee by the donor.~~

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~~(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.~~

~~(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.~~

~~(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company, which bears a date on or before the due date constitutes proof of mailing in a timely manner.~~

~~(f) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.~~

~~(8)-(9)~~ A person, other than a lobbyist regulated under s. 11.045, who violates ~~the provisions of~~ subsection (5) commits a noncriminal infraction, punishable by a fine of up to not more than \$5,000 and by a prohibition for a period of not more than 24 months on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), ~~for a period of not more than 24 months~~. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this

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117 section.

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

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

130 Section 3. Subsection (8) of section 112.3149, Florida  
131 Statutes, is amended to read:

132 112.3149 Solicitation and disclosure of honoraria.—

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

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

145 Section 4. Subsection (7) of section 112.317, Florida

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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, which intent may be shown by the filing of 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 this part:

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

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

If the complainant fails to pay such penalty, if any, costs, and fees voluntarily within 30 days after ~~following~~ such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action ~~in a court of competent jurisdiction~~ to recover the

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175 amount of such penalty, costs, and fees awarded by the  
176 ~~commission.~~

177 Section 5. Present subsections (4) through (9) of section  
178 112.322, Florida Statutes, are redesignated as subsections (5)  
179 through (10), respectively, and a new subsection (4) is added to  
180 that section, to read:

181 112.322 Duties and powers of commission.--

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

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

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

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

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

197 Section 6. Section 112.326, Florida Statutes, is amended to  
198 read:

199 112.326 Additional requirements by political subdivisions  
200 and agencies not prohibited.--Nothing in this part prohibits act  
201 ~~shall prohibit~~ the electors or the governing body of a any  
202 political subdivision, by charter or ordinance, or agency, by  
203 rule, from imposing upon its own officers and employees

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204 additional or more stringent standards of conduct and disclosure  
205 requirements than those specified in this part, ~~if provided that~~  
206 those standards of conduct and disclosure requirements do not  
207 otherwise conflict with ~~the provisions of~~ this part. A political  
208 subdivision is prohibited from imposing additional or more  
209 stringent standards of conduct and disclosure requirements upon  
210 the officers and employees of another political subdivision.

211 Section 7. Section 286.012, Florida Statutes, is amended to  
212 read:

213 286.012 Voting requirement at meetings of governmental  
214 bodies.—No member of any state, county, or municipal  
215 governmental board, commission, or agency who is present at any  
216 meeting of any such body at which an official decision, ruling,  
217 or other official act is to be taken or adopted may abstain from  
218 voting in regard to ~~any~~ such decision, ruling, or act; and a  
219 vote shall be recorded or counted for each such member present,  
220 unless ~~except when~~, with respect to any such member, there is,  
221 or appears to be, a possible conflict of interest under ~~the~~  
222 ~~provisions of~~ s. 112.311, s. 112.313, ~~or~~ s. 112.3143, or  
223 additional or more stringent standards of conduct, if any,  
224 adopted pursuant to s. 112.326. In such cases, such ~~said~~ member  
225 shall comply with the disclosure requirements of s. 112.3143 or  
226 any disclosure requirements adopted under s. 112.326.

227 Section 8. If any provision of this act or its application  
228 to any person or circumstance is held invalid, the invalidity  
229 does not affect other provisions or applications of the act  
230 which can be given effect without the invalid provision or  
231 application, and to this end the provisions of this act are  
232 severable.



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233       Section 9. Except as otherwise expressly provided in this  
234 act, this act shall take effect July 1, 2014.