

CHAPTER 2024-253

Committee Substitute for Senate Bill No. 7014

An act relating to ethics; amending s. 112.3122, F.S.; increasing the maximum fine for violations of specified lobbying provisions; amending s. 112.3144, F.S.; authorizing attorneys who file full and public disclosures of their financial interests to indicate that a client meets disclosure criteria without providing further information relating to such client; authorizing such attorneys to designate such clients as “Legal Client” on such disclosures; amending s. 112.3145, F.S.; deleting obsolete language; authorizing attorneys who file statements of financial interests to indicate that a client meets disclosure criteria without providing further information relating to such client; authorizing such attorneys to designate such clients as “Legal Client” on such statements; amending s. 112.321, F.S.; prohibiting a member of the Commission on Ethics from serving more than two full terms, instead of two full terms in succession; making technical changes; deleting obsolete language; amending s. 112.317, F.S.; providing that a complainant is liable for costs plus reasonable attorney fees for filing a complaint with malicious intent against a candidate for public office; amending s. 112.324, F.S.; requiring that allegations in written complaints submitted to the commission be based upon personal knowledge or information other than hearsay; specifying that a certain number of members of the commission are not required to make a specified determination related to written referrals submitted to the commission by specified parties; requiring the commission to submit a copy of a certain referral to an alleged violator within a specified timeframe; requiring the commission to undertake a preliminary investigation within a specified timeframe after receipt of technically and legally sufficient complaints or referrals and make a certain determination; authorizing a complainant to submit an amended complaint within a specified timeframe; providing that the probable cause determination concludes the preliminary investigation; requiring the commission to complete a preliminary investigation, including a probable cause determination, within a specified timeframe; requiring the commission to complete an investigatory report within a specified timeframe; authorizing the commission to extend, for a specified period, the allowable timeframe to adequately complete a preliminary investigation if the commission determines such extension is necessary; requiring the commission to document the reasons for extending such investigation and transmit a copy of such documentation to the alleged violator and complainant within a specified timeframe; requiring the commission to transmit a copy of the completed report to an alleged violator and to the counsel representing the commission within a specified timeframe; defining the term “counsel”; requiring such counsel to make a written recommendation for disposition of a complaint or referral within a specified timeframe after receiving the investigatory report; requiring the commission to transmit such recommendation to the alleged violator within a specified timeframe; providing that the alleged violator

has a specified timeframe to respond in writing to the counsel's recommendation; requiring the commission, upon receipt of the counsel's recommendation, to schedule a probable cause hearing for the next executive session of the commission for which notice requirements can be met; providing that, under specified conditions, the commission may dismiss complaints or referrals before completion of a preliminary investigation; providing a timeframe within which the commission must transmit a copy of the order finding probable cause to the complainant and the alleged violator after a finding of probable cause; specifying that an alleged violator is entitled to request a formal hearing before the Division of Administrative Hearings or may select an informal hearing with the commission; providing that persons are deemed to waive their rights to a formal or an informal hearing if the request is not received within a specified timeframe; providing the timeframe within which the commission must conduct an informal hearing; requiring the commission to schedule a case that has been relinquished from the Division of Administrative Hearings for additional action at the next commission meeting for which notice requirements can be met; requiring the commission to complete final action on such case within a specified timeframe; requiring a specified percentage of commission members present at a meeting to vote to reject or deviate from a stipulation or settlement recommended by the counsel representing the commission; providing that specified timeframes are tolled until the completion of a related criminal investigation or prosecution, excluding appeals, whichever occurs later; providing that a harmless error standard applies to the commission regarding specified timeframes; providing applicability; amending s. 112.326, F.S.; providing requirements for noncriminal complaint procedures if a political subdivision or an agency adopts more stringent standards of conduct and disclosure requirements; providing that existing and future ordinances and rules that are in conflict with specified provisions are void; providing effective dates.

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

Section 1. Paragraph (b) of subsection (4) of section 112.3122, Florida Statutes, is amended to read:

112.3122 Enforcement and penalties for constitutional prohibition against lobbying by a public officer.—

(4) A violation of s. 8(f), Art. II of the State Constitution may be punished by one or more of the following:

(b) A civil penalty not to exceed \$20,000 ~~\$10,000~~.

Section 2. Paragraph (c) of subsection (6) of section 112.3144, Florida Statutes, is amended to read:

112.3144 Full and public disclosure of financial interests.—

(6)

(c)1. Each separate source and amount of income which exceeds \$1,000 must be identified. For the purpose of a filer reporting income, the commission shall accept federal income tax returns. If a filer submits a federal income tax return for the purpose of reporting income, he or she must also include all attachments and schedules associated with such federal income tax return.

2. If disclosure of identifying information regarding a source of income or secondary sources of income will violate confidentiality or privilege pursuant to law or rules governing attorneys, a filer who is also an attorney may indicate that he or she has a legal client who meets the disclosure criteria without providing further information about the client. The filer in such circumstance may write “Legal Client” in the disclosure fields without providing further information.

Section 3. Subsection (3) of section 112.3145, Florida Statutes, is amended to read:

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

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure in a particular category, in which case that section of the statement shall be marked “not applicable.” Otherwise, the statement of financial interests must include the information under paragraph (a) ~~or paragraph (b).~~ The reporting person must indicate on the statement whether he or she is using the reporting method under paragraph (a) ~~or paragraph (b).~~ ~~Beginning January 1, 2023, only the reporting method specified under paragraph (b) may be used.~~

~~(a)1.—All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner’s sources of income. The person reporting shall list such sources in descending order of value with the largest source first;~~

~~2.—All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his or her gross income during the disclosure period and which exceeds \$1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;~~

~~3.—The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of 10 percent of such person’s total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and~~

~~4.—Every individual liability that equals more than the reporting person’s net worth; or~~

~~(b)1. All sources of gross income in excess of \$2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner’s sources of income. The person reporting shall list such sources in descending order of value with the largest source first;~~

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding \$5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of \$10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of \$10,000.

(b) If disclosure of identifying information regarding a source of income or secondary sources of income will violate confidentiality or privilege pursuant to law or rules governing attorneys, a filer who is also an attorney may indicate that he or she has a legal client who meets the disclosure criteria without providing further information about the client. The filer in such circumstance may write “Legal Client” in the disclosure fields without providing further information.

Section 4. Subsection (1) of section 112.321, Florida Statutes, is amended to read:

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate.

One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the same political party at any one time. ~~A No member may not~~ hold any public employment. An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, ~~except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term.~~ A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, ~~except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term.~~ All members shall serve 2-year terms. A member may not serve more than two full terms ~~in succession.~~ Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

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

112.317 Penalties.—

(7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee or a candidate for public office with a malicious intent to injure the reputation of such officer or employee or candidate by filing 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, the complainant shall be liable for costs 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. If the complainant fails to pay such costs and fees voluntarily within 30 days 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 amount of such costs and fees awarded by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

(3)(a) A preliminary investigation must ~~shall~~ be undertaken by the commission within 30 days after its receipt of each technically and legally sufficient complaint or referral over which the commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. A complainant may submit an amended complaint up to 60 days after the commission receives the initial complaint. The probable cause determination is the conclusion of the preliminary investigation. The

commission shall complete the preliminary investigation, including the probable cause determination, no later than 1 year after the beginning of the preliminary investigation.

(b) An investigatory report must be completed no later than 150 days after the beginning of the preliminary investigation. If, at any one meeting of the commission held during a given preliminary investigation, the commission determines that additional time is necessary to adequately complete such investigation, the commission may extend the timeframe to complete the preliminary investigation by no more than 60 days. During such meeting, the commission shall document its reasons for extending the investigation and transmit a copy of such documentation to the alleged violator and complainant no later than 5 days after the extension is ordered. The investigatory report must be transmitted to the alleged violator and to the counsel representing the commission no later than 5 days after completion of the report. As used in this section, the term "counsel" means an assistant attorney general, or in the event of a conflict of interest, an attorney not otherwise employed by the commission. The counsel representing the commission shall make a written recommendation to the commission for the disposition of the complaint or referral no later than 15 days after he or she receives the completed investigatory report. The commission shall transmit the counsel's written recommendation to the alleged violator no later than 5 days after its completion. The alleged violator has 14 days after the mailing date of the counsel's recommendation to respond in writing to the recommendation.

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

(d) If, ~~upon completion of the preliminary investigation,~~ the commission finds no probable cause to believe that this part has been violated, or that no any other breach of the public trust has been committed, the commission ~~must~~ shall dismiss the complaint or referral with the issuance of a public report to the complainant and the alleged violator, stating with particularity its reasons for dismissal. At that time, the complaint or referral and all materials relating to the complaint or referral shall become a matter of public record.

(e) If the commission finds ~~from the preliminary investigation~~ probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it ~~must transmit a copy of the order finding probable cause to~~ shall so notify the complainant and the alleged violator in writing ~~no later than 5 days after the date of the probable cause determination.~~ Such notification and all documents made or received in the disposition of the complaint or referral shall ~~then~~ become public records. Upon request submitted to the commission in writing, any person who the commission finds probable cause to believe has violated any provision of this part or has committed any other breach of the public trust ~~is~~ shall be entitled to a public hearing and may elect to have a formal administrative hearing

conducted by an administrative law judge in the Division of Administrative Hearings. If the person does not elect to have a formal administrative hearing by an administrative law judge, the person is entitled to an informal hearing conducted before the commission. Such person is shall be deemed to have waived the right to a formal or an informal public hearing if the request is not received within 14 days following the mailing date of the probable cause notification required by this paragraph subsection. However, the commission may, on its own motion, require a public hearing.

(f) If the commission conducts an informal hearing, it must be held no later than 75 days after the date of the probable cause determination.

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

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

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

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

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

Section 8. Section 112.326, Florida Statutes, is amended to read:

112.326 Additional requirements by political subdivisions and agencies not prohibited; certain procedures preempted.—

(1) ~~Except as provided in subsection (2), Nothing in this part does not act~~ shall prohibit the governing body of any political subdivision, by 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, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

(2) If a political subdivision or an agency adopts by ordinance or rule additional or more stringent standards of conduct and disclosure requirements pursuant to subsection (1), any noncriminal complaint procedure must:

(a) Require a complaint to be written and signed under oath or affirmation by the person making the complaint.

(b) Require a complaint to be based upon personal knowledge or information other than hearsay.

(c) Prohibit the initiation of a complaint or investigation by the governing body of the political subdivision, agency, or any entity created to enforce the standards.

(d) Include a provision establishing a process for the recovery of costs and attorney fees for public officers, public employees, or candidates for public office against a person found by the governing body of the political subdivision, agency, or entity created to enforce the standards to have filed the complaint with a malicious intent to injure the reputation of such officer, employee, or candidate by filing 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.

(3) Any existing or future ordinance or rule adopted by a political subdivision or an agency which is in conflict with subsection (2) is void.

Section 9. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 21, 2024.

Filed in Office Secretary of State June 21, 2024.