

1 A bill to be entitled
2 An act relating to local government ethics reform;
3 amending s. 99.061, F.S.; requiring certain candidates
4 for the governing body of a municipality to file a
5 full and public financial disclosure upon qualifying;
6 amending s. 112.313, F.S.; providing that contractual
7 relationships held by business entities are deemed
8 held by public officers or employees in certain
9 situations; amending s. 112.3142, F.S.; requiring
10 certain ethics training for governing board members of
11 special districts and water management districts;
12 authorizing certain continuing education to satisfy
13 the ethics training requirement; deleting a
14 requirement that the Commission on Ethics adopt
15 certain rules relating to ethics training class course
16 content; providing course content requirements;
17 encouraging training providers to seek accreditation;
18 amending s. 112.3143, F.S.; prohibiting governing
19 board members of special districts or school districts
20 from voting in an official capacity on specified
21 matters; prohibiting county, municipal, or other local
22 public officers or governing board members of special
23 districts or school districts from participating in
24 specified matters; amending s. 112.3144, F.S.;
25 requiring certain governing board members of

26 municipalities to file a full and public disclosure of
27 financial interests; providing disclosure
28 requirements; amending s. 112.3145, F.S.; providing
29 disclosure requirements; providing applicability;
30 amending s. 112.31455, F.S.; applying provisions
31 relating to collecting unpaid fines for failing to
32 file such disclosures to school districts; providing
33 for the future repeal of s. 112.3261, F.S., relating
34 to registration and reporting for lobbying water
35 management districts; creating s. 112.32612, F.S.;
36 providing definitions; requiring lobbyists to register
37 with the commission before lobbying governmental
38 entities; providing registration requirements;
39 providing responsibilities of the commission;
40 providing civil penalties; authorizing the suspension
41 of certain lobbyists; providing responsibilities of
42 the governmental entity; authorizing the commission to
43 adopt rules; requiring the commission to render
44 advisory opinions under certain conditions; declaring
45 that the act fulfills an important state interest;
46 providing effective dates.

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

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50 Section 1. Subsection (5) of section 99.061, Florida

51 Statutes, is amended to read:

52 99.061 Method of qualifying for nomination or election to
53 federal, state, county, municipal, or district office.—

54 (5) At the time of qualifying for office, each candidate
55 for the governing body of a municipality that had \$5 million or
56 more in total revenue as determined by the annual financial
57 report submitted to the Department of Financial Services in
58 accordance with s. 218.32 for the fiscal year ending prior to
59 the year the disclosure covers or a constitutional office shall
60 file a full and public disclosure of financial interests
61 pursuant to s. 8, Art. II of the State Constitution, which must
62 be verified under oath or affirmation pursuant to s.
63 92.525(1) (a), and a candidate for any other office, ~~including~~
64 ~~local elective office,~~ shall file a statement of financial
65 interests pursuant to s. 112.3145.

66 Section 2. Subsection (7) of section 112.313, Florida
67 Statutes, is amended to read:

68 112.313 Standards of conduct for public officers,
69 employees of agencies, and local government attorneys.—

70 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

71 (a) A ~~No~~ public officer or employee of an agency may not
72 ~~shall~~ have or hold any employment or contractual relationship
73 with any business entity or any agency that ~~which~~ is subject to
74 the regulation of, or is doing business with, an agency of which
75 he or she is an officer or employee, excluding those

76 organizations and their officers who, when acting in their
77 official capacity, enter into or negotiate a collective
78 bargaining contract with the state or any municipality, county,
79 or other political subdivision of the state; and ~~nor shall~~ an
80 officer or employee of an agency may not have or hold any
81 employment or contractual relationship that will create a
82 continuing or frequently recurring conflict between his or her
83 private interests and the performance of his or her public
84 duties or that would impede the full and faithful discharge of
85 his or her public duties. For purposes of this subsection, if a
86 public officer or employee of an agency holds a material
87 interest in a business entity other than a publicly traded
88 entity, or is an officer, a director, or a member who manages
89 such an entity, any contractual relationship held by the
90 business entity is deemed to be held by the public officer or
91 employee of the agency.

92 1. When the agency referred to is a ~~that certain kind of~~
93 special tax district created by general or special law and is
94 limited specifically to constructing, maintaining, managing, and
95 financing improvements in the land area over which the agency
96 has jurisdiction, or when the agency has been organized pursuant
97 to chapter 298, ~~then~~ employment with, or entering into a
98 contractual relationship with, such a business entity by a
99 public officer or employee of such an agency is ~~shall~~ not ~~be~~
100 prohibited by this subsection or ~~be~~ deemed a conflict per se.

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101 However, conduct by such officer or employee that is prohibited
102 by, or otherwise frustrates the intent of, this section must
103 ~~shall~~ be deemed a conflict of interest in violation of the
104 standards of conduct set forth by this section.

105 2. When the agency referred to is a legislative body and
106 the regulatory power over the business entity resides in another
107 agency, or when the regulatory power that ~~which~~ the legislative
108 body exercises over the business entity or agency is strictly
109 through the enactment of laws or ordinances, ~~then~~ employment or
110 a contractual relationship with such a business entity by a
111 public officer or employee of a legislative body is ~~shall~~ not ~~be~~
112 prohibited by this subsection or ~~be~~ deemed a conflict.

113 (b) This subsection does ~~shall~~ not prohibit a public
114 officer or employee from practicing in a particular profession
115 or occupation when such practice by persons holding such public
116 office or employment is required or permitted by law or
117 ordinance.

118 Section 3. Subsection (2) of section 112.3142, Florida
119 Statutes, is amended to read:

120 112.3142 Ethics training for specified constitutional
121 officers, ~~and~~ elected municipal officers, and members of a
122 governing board of a special district or water management
123 district.—

124 (2) (a) All constitutional officers must complete 4 hours
125 of ethics training each calendar year which addresses, at a

126 minimum, s. 8, Art. II of the State Constitution, the Code of
127 Ethics for Public Officers and Employees, and the public records
128 and public meetings laws of this state. ~~This requirement may be~~
129 ~~satisfied by completion of a continuing legal education class or~~
130 ~~other continuing professional education class, seminar, or~~
131 ~~presentation if the required subjects are covered.~~

132 (b) ~~Beginning January 1, 2015,~~ All elected municipal
133 officers must complete 4 hours of ethics training each calendar
134 year which addresses, at a minimum, s. 8, Art. II of the State
135 Constitution, the Code of Ethics for Public Officers and
136 Employees, and the public records and public meetings laws of
137 this state. ~~This requirement may be satisfied by completion of a~~
138 ~~continuing legal education class or other continuing~~
139 ~~professional education class, seminar, or presentation if the~~
140 ~~required subjects are covered.~~

141 (c) Beginning January 1, 2018, all members of the
142 governing board of a special district or water management
143 district must complete 4 hours of ethics training each calendar
144 year which addresses, at a minimum, s. 8, Art. II of the State
145 Constitution, the Code of Ethics for Public Officers and
146 Employees, and the public records and public meetings laws of
147 this state.

148 (d) The requirements specified in paragraphs (a), (b), and
149 (c) may be satisfied by completion of a continuing legal
150 education class or other continuing professional education

151 class, seminar, or presentation if the required subjects are
152 covered.

153 (e) The commission shall adopt rules establishing minimum
154 Course content for the portion of an ethics training class which
155 addresses s. 8, Art. II of the State Constitution and the Code
156 of Ethics for Public Officers and Employees must include one or
157 more of the following:

- 158 1. Doing business with one's own agency;
- 159 2. Conflicting employment or contractual relationships;
- 160 3. Misuse of position;
- 161 4. Disclosure or use of certain information;
- 162 5. Gifts and honoraria, including solicitation and
163 acceptance of gifts, and unauthorized compensation;
- 164 6. Post-officeholding restrictions;
- 165 7. Restrictions on the employment of relatives;
- 166 8. Voting conflicts if the officer is a member of a
167 collegial body and votes in his or her official capacity;
- 168 9. Financial disclosure requirements, including the
169 automatic fine and appeal process;
- 170 10. Commission procedures on ethics complaints and
171 referrals; and
- 172 11. The importance of and process for obtaining advisory
173 opinions rendered by the commission.

174 (f) Training providers are encouraged to seek
175 accreditation from any applicable licensing body for courses

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176 | offered pursuant to this subsection.

177 | (g)~~(d)~~ The Legislature intends that a constitutional
178 | officer, ~~or~~ elected municipal officer, or member of the
179 | governing board of a special district or water management
180 | district who is required to complete ethics training pursuant to
181 | this section receive the required training as close as possible
182 | to the date that he or she assumes office. A constitutional
183 | officer, ~~or~~ elected municipal officer, or member of the
184 | governing board of a special district or water management
185 | district assuming a new office or new term of office on or
186 | before March 31 must complete the annual training on or before
187 | December 31 of the year in which the term of office began. A
188 | constitutional officer, ~~or~~ elected municipal officer, or member
189 | of the governing board of a special district or water management
190 | district assuming a new office or new term of office after March
191 | 31 is not required to complete ethics training for the calendar
192 | year in which the term of office began.

193 | Section 4. Subsections (3) and (4) of section 112.3143,
194 | Florida Statutes, are amended to read:

195 | 112.3143 Voting conflicts.—

196 | (3) (a) A ~~No~~ county, municipal, or other local public
197 | officer or governing board member of a special district or
198 | school district may not ~~shall~~ vote in an official capacity upon
199 | any measure which would inure to his or her special private gain
200 | or loss; which he or she knows would inure to the special

201 private gain or loss of any principal by whom he or she is
202 retained or to the parent organization or subsidiary of a
203 corporate principal by which he or she is retained, other than
204 an agency as defined in s. 112.312(2); or which he or she knows
205 would inure to the special private gain or loss of a relative or
206 business associate of the public officer or board member. Such
207 public officer or board member shall, prior to the vote being
208 taken, publicly state to the assembly the nature of the
209 officer's or member's interest in the matter from which he or
210 she is abstaining from voting and, within 15 days after the vote
211 occurs, disclose the nature of his or her interest as a public
212 record in a memorandum filed with the person responsible for
213 recording the minutes of the meeting, who shall incorporate the
214 memorandum in the minutes.

215 (b) However, a commissioner of a community redevelopment
216 agency created or designated pursuant to s. 163.356 or s.
217 163.357, or an officer of an independent special tax district
218 elected on a one-acre, one-vote basis, is not prohibited from
219 voting, when voting in said capacity.

220 (4) A county, municipal, other local public officer,
221 governing board member of a special district or school district,
222 or ~~Ne~~ appointed public officer, may not ~~shall~~ participate in any
223 matter which would inure to the officer's or member's special
224 private gain or loss; which the officer or member knows would
225 inure to the special private gain or loss of any principal by

226 | whom he or she is retained or to the parent organization or
227 | subsidiary of a corporate principal by which he or she is
228 | retained; or which he or she knows would inure to the special
229 | private gain or loss of a relative or business associate of the
230 | public officer or board member, without first disclosing the
231 | nature of his or her interest in the matter.

232 | (a) Such disclosure, indicating the nature of the
233 | conflict, shall be made in a written memorandum filed with the
234 | person responsible for recording the minutes of the meeting,
235 | prior to the meeting in which consideration of the matter will
236 | take place, and shall be incorporated into the minutes. Any such
237 | memorandum shall become a public record upon filing, shall
238 | immediately be provided to the other members of the agency, and
239 | shall be read publicly at the next meeting held subsequent to
240 | the filing of this written memorandum.

241 | (b) In the event that disclosure has not been made prior
242 | to the meeting or that any conflict is unknown prior to the
243 | meeting, the disclosure shall be made orally at the meeting when
244 | it becomes known that a conflict exists. A written memorandum
245 | disclosing the nature of the conflict shall then be filed within
246 | 15 days after the oral disclosure with the person responsible
247 | for recording the minutes of the meeting and shall be
248 | incorporated into the minutes of the meeting at which the oral
249 | disclosure was made. Any such memorandum shall become a public
250 | record upon filing, shall immediately be provided to the other

251 members of the agency, and shall be read publicly at the next
 252 meeting held subsequent to the filing of this written
 253 memorandum.

254 (c) For purposes of this subsection, the term
 255 "participate" means any attempt to influence the decision by
 256 oral or written communication, whether made by the officer or
 257 member or at the officer's or member's direction.

258 Section 5. Subsections (1) and (2) and paragraph (c) of
 259 subsection (8) of section 112.3144, Florida Statutes, are
 260 amended to read:

261 112.3144 Full and public disclosure of financial
 262 interests.—

263 (1) In addition to officers specified in s. 8, Art. II of
 264 the State Constitution or any other state law, a member of the
 265 governing board of a municipality that had \$5 million or more in
 266 total revenue as determined by the annual financial report
 267 submitted to the Department of Financial Services in accordance
 268 with s. 218.32 for the fiscal year ending prior to the year the
 269 disclosure covers is required to file a full and public
 270 disclosure of financial interests. An officer or a member who is
 271 required by s. 8, Art. II of the State Constitution to file a
 272 full and public disclosure of his or her financial interests for
 273 any calendar or fiscal year shall file that disclosure with the
 274 Florida Commission on Ethics. Additionally, beginning January 1,
 275 2015, An officer or a member who is required to complete annual

276 ethics training pursuant to s. 112.3142 must certify on his or
277 her full and public disclosure of financial interests that he or
278 she has completed the required training. Additionally, beginning
279 January 1, 2018, an officer or a member who is required to
280 complete annual ethics training pursuant to s. 112.3142 must
281 provide the name of the training provider on his or her full and
282 public disclosure of financial interests.

283 (2) An officer or a member ~~person~~ who is required,
284 ~~pursuant to s. 8, Art. II of the State Constitution,~~ to file a
285 full and public disclosure of financial interests and who has
286 filed a full and public disclosure of financial interests for
287 any calendar or fiscal year is ~~shall~~ not ~~be~~ required to file a
288 statement of financial interests pursuant to s. 112.3145(2) and
289 (3) for the same year or for any part thereof notwithstanding
290 any requirement of this part. If an incumbent in an elective
291 office has filed the full and public disclosure of financial
292 interests to qualify for election to the same office or if a
293 candidate for office holds another office subject to the annual
294 filing requirement, the qualifying officer shall forward an
295 electronic copy of the full and public disclosure of financial
296 interests to the commission no later than July 1. The electronic
297 copy of the full and public disclosure of financial interests
298 satisfies the annual disclosure requirement of this section. A
299 candidate who does not qualify until after the annual full and
300 public disclosure of financial interests has been filed pursuant

301 to this section shall file a copy of his or her disclosure with
 302 the officer before whom he or she qualifies.

303 (8)

304 (c) For purposes of this section, an error or omission is
 305 immaterial, inconsequential, or de minimis if the original
 306 filing provided sufficient information for the public to
 307 identify potential conflicts of interest. However, failure to
 308 certify completion of annual ethics training required under s.
 309 112.3142 or provide the name of the training provider does not
 310 constitute an immaterial, inconsequential, or de minimis error
 311 or omission.

312 Section 6. Subsection (4) and paragraph (c) of subsection
 313 (10) of section 112.3145, Florida Statutes, are amended to read:

314 112.3145 Disclosure of financial interests and clients
 315 represented before agencies.—

316 (4) Beginning January 1, 2015, an officer who is required
 317 to complete annual ethics training pursuant to s. 112.3142 must
 318 certify on his or her statement of financial interests that he
 319 or she has completed the required training. Additionally,
 320 beginning January 1, 2018, an officer or a member who is
 321 required to complete annual ethics training pursuant to s.
 322 112.3142 must provide the name of the training provider on his
 323 or her statement of financial interests.

324 (10)

325 (c) For purposes of this section, an error or omission is

326 immaterial, inconsequential, or de minimis if the original
327 filing provided sufficient information for the public to
328 identify potential conflicts of interest. However, failure to
329 certify completion of annual ethics training required under s.
330 112.3142 or provide the name of the training provider does not
331 constitute an immaterial, inconsequential, or de minimis error
332 or omission.

333 Section 7. The amendments made to ss. 112.3144 and
334 112.3145, Florida Statutes, by this act apply to disclosures
335 filed for the 2017 calendar year and all subsequent calendar
336 years.

337 Section 8. Subsection (1) of section 112.31455, Florida
338 Statutes, is amended to read:

339 112.31455 Collection methods for unpaid automatic fines
340 for failure to timely file disclosure of financial interests.—

341 (1) Before referring any unpaid fine accrued pursuant to
342 s. 112.3144(5) or s. 112.3145(7) to the Department of Financial
343 Services, the commission shall attempt to determine whether the
344 individual owing such a fine is a current public officer or
345 current public employee. If so, the commission may notify the
346 Chief Financial Officer or the governing body of the appropriate
347 county, municipality, school district, or special district of
348 the total amount of any fine owed to the commission by such
349 individual.

350 (a) After receipt and verification of the notice from the

351 commission, the Chief Financial Officer or the governing body of
352 the county, municipality, school district, or special district
353 shall begin withholding the lesser of 10 percent or the maximum
354 amount allowed under federal law from any salary-related
355 payment. The withheld payments shall be remitted to the
356 commission until the fine is satisfied.

357 (b) The Chief Financial Officer or the governing body of
358 the county, municipality, school district, or special district
359 may retain an amount of each withheld payment, as provided in s.
360 77.0305, to cover the administrative costs incurred under this
361 section.

362 Section 9. Effective October 1, 2018, section 112.3261,
363 Florida Statutes, is repealed.

364 Section 10. Section 112.32612, Florida Statutes, is
365 created to read:

366 112.32612 Lobbying before governmental entities.—

367 (1) As used in this section, the term:

368 (a) "Governmental entity" or "entity" means a water
369 management district created in s. 373.069 and operating under
370 the authority of chapter 373, a hospital district, a children's
371 services district, an expressway authority as the term
372 "authority" is defined in s. 348.0002, a port authority as
373 defined in s. 315.02, a county, a municipality, a school
374 district, or a special district.

375 (b) "Lobbies," "Lobby," or "Lobbying" means seeking, on

376 behalf of another person, to influence a governmental entity
377 with respect to a decision of the entity in an area of policy or
378 procurement or an attempt to obtain the goodwill of an official
379 or employee of a governmental entity. The term does not include
380 making application for or seeking approval of an application for
381 a license, permit, or waiver of a regulation so long as the
382 issuance or granting of such application does not require
383 legislative discretion.

384 (c) "Lobbyist" means a person who is employed and receives
385 payment, or who contracts for economic consideration, for the
386 purpose of lobbying, or a person who is principally employed for
387 governmental affairs by another person or governmental entity to
388 lobby on behalf of such person or governmental entity. The term
389 does not include a person who:

390 1. Represents a client in a judicial proceeding or in a
391 formal administrative proceeding before a governmental entity.

392 2. Is an employee of an agency or of a legislative or
393 judicial branch entity acting in the normal course of his or her
394 duties.

395 3. Is a confidential informant who is providing, or wishes
396 to provide, confidential information to be used for law
397 enforcement purposes.

398 4. Lobbies to procure a contract which is less than
399 \$20,000 or a contract pursuant s. 287.056.

400 (d) "Principal" has the same meaning as in s. 112.3215.

401 (2) Beginning October 1, 2018, a person may not lobby a
402 governmental entity until such person has electronically
403 registered as a lobbyist with the commission in the local
404 government lobbyist registration system. Such initial
405 registration shall be due upon being retained to lobby and may
406 be renewed thereafter on a calendar-year basis. After initial
407 registration, the lobbyist shall provide a statement signed by
408 the principal or the principal's representative stating that he
409 or she is authorized to represent the principal and designating
410 the principal's main type of business pursuant to a
411 classification system approved by the commission. Any changes to
412 the information required by this subsection must be disclosed
413 within 15 days by the lobbyist updating his or her registration.
414 A person required to register as a lobbyist under this
415 subsection must register through the electronic system and
416 disclose in his or her registration:

417 (a) Name, email address, and business address.
418 (b) Name and business address of each principal.
419 (c) Name of each governmental entity lobbied or intended
420 to be lobbied on behalf of the principal.
421 (d) Any direct or indirect business association,
422 partnership, or financial relationship with an official or
423 employee of a governmental entity lobbied or intended to be
424 lobbied on behalf of the principal.

425 (3) The annual lobbyist registration fee shall be

426 established by the commission by rule and may not exceed \$40 for
427 each principal represented.

428 (4) The commission shall publish a lobbyist directory of
429 all lobbyist registrations on its website.

430 (5) A lobbyist shall promptly provide a written statement
431 to the commission canceling the designation of a principal in
432 his or her registration upon termination of such representation.
433 The commission may cancel a lobbyist's designation of a
434 principal upon the principal's notification that the lobbyist is
435 no longer authorized to represent the principal.

436 (6) A governmental entity must ascertain whether a
437 lobbyist has registered pursuant to this section. A governmental
438 entity may not knowingly authorize an unregistered lobbyist to
439 lobby the entity.

440 (7) (a) Upon a first complaint to the commission alleging a
441 violation of subsection (2) against a lobbyist, or upon any
442 complaint against a lobbyist received before January 1, 2020,
443 the commission shall, within 30 days after receipt of the
444 complaint, issue a warning letter to the lobbyist directing him
445 or her to consult the obligations of lobbyists under this
446 section and then dismiss the complaint.

447 (b) On or after January 1, 2020, notwithstanding the civil
448 penalties in s. 112.317, a lobbyist found by the commission to
449 have violated subsection (2) is subject to:

450 1. For a first violation, a civil penalty not to exceed

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451 \$500.

452 2. For a second or subsequent violation committed within
453 12 months after the commission determines that a first violation
454 has been committed, a civil penalty of at least \$200 but not
455 more than \$1000 or a 1-year suspension from lobbying any
456 governmental entity associated with the violation. A
457 governmental entity may impose additional civil penalties not to
458 exceed \$500 per violation, and, notwithstanding paragraph (c),
459 may suspend the lobbyist from lobbying on its behalf for up to 2
460 years.

461 (c) The civil penalties and suspensions provided in this
462 subsection shall be applied on a per principal basis with
463 suspensions affecting only those principals for whom
464 unregistered lobbying occurred.

465 (8) By January 1, 2018, a governmental entity's governing
466 body, or the entity's designee, shall notify the commission of
467 any ordinance or rule that imposes additional or more stringent
468 obligations with respect to lobbyist registration, reporting, or
469 other conduct, and shall forward to the commission a copy of any
470 associated form that has been established to facilitate
471 compliance with such ordinance or rule. Beginning January 1,
472 2019, a governmental entity shall conform its registration
473 system, if any, to accommodate regular digital distribution of
474 registration data from the commission so that initial
475 registration of a lobbyist pursuant to subsection (2) is

476 accomplished without having to supply the lobbyist and principal
477 information to more than one registration system. The commission
478 shall cooperate to the extent reasonably practicable to assure
479 such coordination of information.

480 (9) The commission may adopt rules to establish procedures
481 to govern the local government lobbyist registration system,
482 including the adoption of forms, exchange of information with
483 local governmental entities, and establishment of an annual
484 lobbyist registration fee.

485 (10) A person, when in doubt about the applicability and
486 interpretation of this section, may submit in writing to the
487 commission the facts of the situation with a request for an
488 advisory opinion to establish a standard of duty. An advisory
489 opinion shall be rendered by the commission and, until amended
490 or revoked, is binding on the conduct of the person who sought
491 the opinion, unless material facts were omitted or misstated in
492 the request.

493 Section 11. As provided in s. 112.322(3), Florida
494 Statutes, the Commission on Ethics shall render advisory
495 opinions to any public officer, candidate for public office, or
496 public employee regarding the application of part III of chapter
497 112, Florida Statutes, including sections 1 through 9 of this
498 act.

499 Section 12. The Legislature finds that a proper and
500 legitimate state purpose is served when mechanisms are

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501 established to secure and sustain the public's trust in public
502 officers. Therefore, the Legislature determines and declares
503 that this act fulfills an important state interest.

504 Section 13. Except as otherwise expressly provided in this
505 act, this act shall take effect July 1, 2017.