

1 A bill to be entitled
2 An act relating to ethics; amending s. 112.3122, F.S.;
3 increasing the maximum fine for violations of
4 specified lobbying provisions; amending s. 112.321,
5 F.S.; prohibiting a member of the Commission on Ethics
6 from serving more than two full terms, instead of two
7 full terms in succession; making technical changes;
8 deleting obsolete language; amending s. 112.317, F.S.;
9 providing that a complainant is liable for costs plus
10 reasonable attorney fees for filing a complaint with
11 malicious intent against a candidate for public
12 office; amending s. 112.324, F.S.; specifying that a
13 certain number of members of the commission are not
14 required to make a specified determination relating to
15 written referrals submitted to the commission by
16 specified parties; requiring the commission to submit
17 a copy of a certain referral to an alleged violator
18 within a specified timeframe; requiring the commission
19 to undertake a preliminary investigation within a
20 specified timeframe after receipt of technically and
21 legally sufficient complaints or referrals and make a
22 certain determination; authorizing a complainant to
23 submit an amended complaint within a specified
24 timeframe; providing that the probable cause
25 determination concludes the preliminary investigation;

26 requiring the commission to complete a preliminary
27 investigation, including a probable cause
28 determination, within a specified timeframe; requiring
29 the commission to complete an investigatory report
30 within a specified timeframe; authorizing the
31 commission to extend, for a specified period, the
32 allowable timeframe to adequately complete a
33 preliminary investigation if a specified number of
34 members of the commission determine such extension is
35 necessary; requiring the commission to document the
36 reasons for extending such investigation and transmit
37 a copy of such documentation to the alleged violator
38 and complainant within a specified timeframe;
39 requiring the commission to transmit a copy of the
40 completed report to an alleged violator and to the
41 counsel representing the commission within a specified
42 timeframe; requiring such counsel to make a written
43 recommendation for disposition of a complaint or
44 referral within a specified timeframe after receiving
45 the investigatory report; requiring the commission to
46 transmit such written recommendation to the alleged
47 violator within a specified timeframe; providing that
48 the alleged violator has a specified timeframe to
49 respond in writing to the counsel's written
50 recommendation; requiring the commission, upon receipt

51 of the counsel's written recommendation, to schedule a
52 probable cause hearing for the next executive session
53 of the commission for which notice requirements can be
54 met; providing that, under specified conditions, the
55 commission may dismiss complaints or referrals before
56 completion of a preliminary investigation; providing a
57 timeframe within which the commission must transmit a
58 copy of the order finding probable cause to the
59 complainant and the alleged violator after a finding
60 of probable cause; specifying that an alleged violator
61 is entitled to request a formal public hearing before
62 the Division of Administrative Hearings or may select
63 an informal public hearing with the commission;
64 providing that persons are deemed to waive their
65 rights to a formal or an informal public hearing if
66 the request is not received within a specified
67 timeframe; providing the timeframe within which the
68 commission must conduct an informal public hearing;
69 requiring the commission to schedule a case that has
70 been relinquished from the Division of Administrative
71 Hearings for additional action at the next commission
72 meeting for which notice requirements can be met;
73 requiring the commission to complete final action on
74 such case within a specified timeframe; requiring a
75 specified number of commissioners to vote to reject or

76 deviate from a written recommendation made by the
 77 counsel representing the commission; providing that
 78 specified timeframes are tolled until the completion
 79 of a related criminal investigation or prosecution,
 80 excluding appeals, whichever occurs later; providing
 81 that a harmless error standard applies to the
 82 commission regarding specified timeframes; providing
 83 an effective date.

84

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

86

87 Section 1. Paragraph (b) of subsection (4) of section
 88 112.3122, Florida Statutes, is amended to read:

89 112.3122 Enforcement and penalties for constitutional
 90 prohibition against lobbying by a public officer.—

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

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

94 Section 2. Subsection (1) of section 112.321, Florida
 95 Statutes, is amended to read:

96 112.321 Membership, terms; travel expenses; staff.—

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

101 the Governor shall be a former city or county official and may
 102 be a former member of a local planning or zoning board which has
 103 only advisory duties. Two members shall be appointed by the
 104 Speaker of the House of Representatives, and two members shall
 105 be appointed by the President of the Senate. Neither the Speaker
 106 of the House of Representatives nor the President of the Senate
 107 shall appoint more than one member from the same political
 108 party. Of the nine members of the commission, no more than five
 109 members shall be from the same political party at any one time.
 110 A ~~No~~ member may not hold any public employment. An individual
 111 who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215
 112 or pursuant to any local government charter or ordinance may not
 113 serve as a member of the commission, ~~except that this~~
 114 ~~prohibition does not apply to an individual who is a member of~~
 115 ~~the commission on July 1, 2006, until the expiration of his or~~
 116 ~~her current term.~~ A member of the commission may not lobby any
 117 state or local governmental entity as provided in s. 11.045 or
 118 s. 112.3215 or as provided by any local government charter or
 119 ordinance, ~~except that this prohibition does not apply to an~~
 120 ~~individual who is a member of the commission on July 1, 2006,~~
 121 ~~until the expiration of his or her current term.~~ All members
 122 shall serve 2-year terms. A member may not serve more than two
 123 full terms ~~in succession.~~ Any member of the commission may be
 124 removed for cause by majority vote of the Governor, the
 125 President of the Senate, the Speaker of the House of

126 Representatives, and the Chief Justice of the Supreme Court.

127 Section 3. Subsection (7) of section 112.317, Florida
 128 Statutes, is amended to read:

129 112.317 Penalties.—

130 (7) In any case in which the commission determines that a
 131 person has filed a complaint against a public officer, an ~~or~~
 132 employee, or a candidate for public office with a malicious
 133 intent to injure the reputation of such officer, ~~or~~ employee, or
 134 candidate by filing the complaint with knowledge that the
 135 complaint contains one or more false allegations or with
 136 reckless disregard for whether the complaint contains false
 137 allegations of fact material to a violation of this part, the
 138 complainant shall be liable for costs plus reasonable attorney
 139 fees incurred in the defense of the person complained against,
 140 including the costs and reasonable attorney fees incurred in
 141 proving entitlement to and the amount of costs and fees. If the
 142 complainant fails to pay such costs and fees voluntarily within
 143 30 days following such finding by the commission, the commission
 144 shall forward such information to the Department of Legal
 145 Affairs, which shall bring a civil action in a court of
 146 competent jurisdiction to recover the amount of such costs and
 147 fees awarded by the commission.

148 Section 4. Subsections (1) and (3) of section 112.324,
 149 Florida Statutes, are amended to read:

150 112.324 Procedures on complaints of violations and

151 referrals; public records and meeting exemptions.—

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

156 (a) Upon a written complaint executed on a form prescribed
 157 by the commission and signed under oath or affirmation by any
 158 person; or

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

165
 166 Within 5 days after receipt of a complaint or referral by the
 167 commission ~~or a determination by at least six members of the~~
 168 ~~commission that the referral received is deemed sufficient,~~ a
 169 copy must ~~shall~~ be transmitted to the alleged violator.

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

176 days after the commission receives the initial complaint. The
177 probable cause determination is the conclusion of the
178 preliminary investigation. The commission shall complete the
179 preliminary investigation, including the probable cause
180 determination, no later than 1 year after the beginning of the
181 preliminary investigation.

182 (b) An investigatory report must be completed no later
183 than 150 days after the beginning of the preliminary
184 investigation. If, at any one meeting of the commission held
185 during a preliminary investigation, at least six members of the
186 commission determine that additional time is necessary to
187 adequately complete such investigation, the commission may
188 extend the timeframe to complete the preliminary investigation
189 by no more than 60 days. During such meeting, the commission
190 shall document its reasons for extending the investigation and
191 transmit a copy of such documentation to the alleged violator
192 and complainant no later than 5 days after the extension is
193 ordered. The investigatory report must be transmitted to the
194 alleged violator and to the counsel representing the commission
195 no later than 5 days after completion of the report. The counsel
196 representing the commission shall make a written recommendation
197 to the commission for the disposition of the complaint or
198 referral no later than 15 days after he or she receives the
199 completed investigatory report. The commission shall transmit
200 the counsel's written recommendation to the alleged violator no

201 later than 5 days after its completion. The alleged violator has
 202 14 days after the mailing date of the counsel's written
 203 recommendation to respond in writing to the recommendation.

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

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

217 (e) If the commission finds ~~from the preliminary~~
 218 ~~investigation~~ probable cause to believe that this part has been
 219 violated or that any other breach of the public trust has been
 220 committed, it must transmit a copy of the order finding probable
 221 cause to ~~shall so notify~~ the complainant and the alleged
 222 violator in writing no later than 5 days after the date of the
 223 probable cause determination. Such notification and all
 224 documents made or received in the disposition of the complaint
 225 or referral ~~shall then~~ become public records. Upon request

226 submitted to the commission in writing, any person who the
227 commission finds probable cause to believe has violated any
228 provision of this part or has committed any other breach of the
229 public trust is ~~shall be~~ entitled to a public hearing and may
230 elect to have a formal administrative hearing conducted by an
231 administrative law judge in the Division of Administrative
232 Hearings. If the person does not elect to have a formal
233 administrative hearing by an administrative law judge, the
234 person is entitled to an informal public hearing conducted
235 before the commission. Such person is ~~shall be~~ deemed to have
236 waived the right to a formal or an informal public hearing if
237 the request is not received within 14 days after ~~following~~ the
238 mailing date of the probable cause notification required by this
239 paragraph subsection. However, the commission may, on its own
240 motion, require a formal or an informal public hearing.

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

244 (g) If the commission refers a case to the Division of
245 Administrative Hearings for a formal public hearing and
246 subsequently requests that the case be relinquished back to the
247 commission, or if the administrative law judge assigned to the
248 case relinquishes jurisdiction back to the commission before a
249 recommended order is entered, the commission must schedule the
250 case for additional action at the next commission meeting for

251 which notice requirements can be met. At the next subsequent
252 commission meeting, the commission must complete final action on
253 such case.

254 (h) The commission, ~~may conduct such further investigation~~
255 ~~as it deems necessary,~~ and may enter into such stipulations and
256 settlements as it finds to be just and in the best interest of
257 the state. The commission is without jurisdiction to, and no
258 respondent may voluntarily or involuntarily, enter into a
259 stipulation or settlement which imposes any penalty, including,
260 but not limited to, a sanction or admonition or any other
261 penalty contained in s. 112.317. Penalties may ~~shall~~ be imposed
262 only by the appropriate disciplinary authority as designated in
263 this section.

264 (i) At least six members of the commission must vote to
265 reject or deviate from a written recommendation of the counsel
266 representing the commission.

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

272 (k) The failure of the commission to comply with the
273 timeframes provided in this subsection constitutes harmless
274 error in any related disciplinary action unless a court finds
275 that the fairness of the proceedings or the correctness of an

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276 | action may have been impaired by a material error in procedure
277 | or a failure to follow prescribed procedure.

278 | Section 5. This act shall take effect October 1, 2024.