



Committee on Ethics & Elections

**Thursday, March 20, 2008
9:00-10:00 AM
12 HOB**

Meeting Packet

**Marco Rubio
Speaker**

**Pat Patterson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Ethics & Elections

Start Date and Time: Thursday, March 20, 2008 09:00 am
End Date and Time: Thursday, March 20, 2008 10:00 am
Location: 12 HOB
Duration: 1.00 hrs

Consideration of the following bill(s):

HB 903 Registration of Paid Petition Circulators by Dorworth
HB 1113 Code of Ethics for Public Officers and Employees by Patterson

NOTICE FINALIZED on 03/18/2008 16:08 by MURPHY.NANCY

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 903 Registration of Paid Petition Circulators

SPONSOR(S): Dorworth and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 2340

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Ethics & Elections</u>	_____	West <i>MW</i>	Mitchell <i>Bm</i>
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 903 addresses the process by which citizens may propose amendments to the state constitution, particularly the procedures involving signature-gathering by paid petition gatherers. The bill provides that paid petition gatherers satisfy certain requirements and that they register with the Department of State (Department).

The bill is effective August 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government

The bill imposes significant regulation and registration of paid petition circulators.

Ensure Lower taxes

Under the bill, a fee will be charged to petition gatherers. The fee is yet to be developed and is intended to cover the costs of registration and regulation by the Department.

B. EFFECT OF PROPOSED CHANGES:

Two pieces of legislation were enacted in 2007 that affect citizen initiatives. CS/SB 1920¹ permits an owner or lessee of private property to exclude persons who undertake activities supporting or opposing ballot initiatives. CS/HB 537² created a revocation process whereby a person signing a citizen initiative petition can revoke one's signature within 150 days of initially signing a petition. A number of additional reforms of the citizen initiative process were contained in HB 7009. The bill passed all Council and Committee references, but was laid on the table May 1, 2007.

Some of the changes proposed in the HB 903 reflect suggestions by the Ballot Initiative Strategy Center (BISC), a non-profit organization based in Washington, D.C. According to the BISC web site, the organization was "launched five years ago to reinvigorate the initiative process among state and national progressive organizations by providing education, training, and research so that a wide range of ideologically progressive groups can use the process more effectively to fight for social, environmental, and economic justice." Two notable BISC recommendations are:

- **Circulators should be required to register with the Secretary of State, and the list of registrants should be accessible as public information.**

Because of the nature of the paid signature gathering industry, the field will likely always be fraught with mercenary or traveling petitioners. By requiring all signature gatherers to register with the Secretary of State, initiative watch dogs will be able to do multi-state research on petitioners. BISC recommends that, in addition to the information required in this bill, the Department should require disclosure of any arrests or convictions for sexual assaults or identity theft. These crimes are particularly sensitive to an unsuspecting public. It would be a service to voters to know that they are not providing that personal information to dangerous criminals or identity thieves.

- **Prevent people who have been convicted of certain crimes from circulating- convictions such as identity theft, sex offenses, other fraud.**

Even California prohibits felons who are currently on parole from circulating. In Florida, all felons, including those guilty of sex offenses, identity theft, and fraud convictions are permitted to collect. At the least, those offenses certainly are germane to whether a person should be permitted to gather voters' personal

¹ Chapter 2007-231, Laws of Fla.

² Chapter 2007-30, Laws of Fla.

information. It is only possible to prevent these people from circulating if there is some form of registration in the state, so that officials are aware of who is petitioning. BISC recommends that states should establish a system of registering each petitioner with the Secretary of State, and collecting the information necessary to run criminal background checks.

Definitions

HB 903 creates s. 100.372, F.S., to provide for the following definitions:

"Petition circulator" means any person who, in the context of a direct face-to-face interaction, presents to another person for his or her possible signature a petition form or petition-revocation form regarding ballot placement for an initiative.

"Paid petition circulator" means a petition circulator who receives any compensation as a direct or indirect consequence of the activities described in the paragraph above, other than for the reimbursement of legitimate out-of-pocket expenses incurred by the petition circulator in the ordinary course of these activities, as specified by Department rule.

"Registrant" means a person who is registered with the Department as a paid petition circulator.

Prohibited Acts

HB 903 does the following:

- Prohibits a paid petition circulator from collecting petitions in Florida without first registering with the Department.
- Prohibits anyone from paying a petition circulator who is not registered with the Department.
- Prohibits registrants from circulating petition forms until the forms have been registered with the Department.

The bill's provisions would presumably be enforced by county supervisors of elections (supervisors) who would have to determine if a petition circulator had registered with the Department and satisfied all the requirements. It appears that some type of database would have to be developed by the Department to register and track paid petition circulators. This information would then have to be made available to supervisors.

Registration Requirements for Paid Petition Gatherers

A person cannot be registered with the Department as a paid petition gatherer unless the person satisfies three requirements:

- A citizen of the United States for purposes of s. 97.041(1)(a)2., F.S.;
- A legal resident of this state for purposes of s. 97.041(1)(a)3., F.S.; and
- Not a convicted felon ineligible to register to vote or vote pursuant to s. 97.041(2)(b), F.S.

The bill provides that if a person no longer satisfies one or more of the above requirements, the registration is immediately rendered invalid by operation of law, the person is required to immediately notify the Department, and the person is required to immediately cease all petition gathering activities.

It is unclear in the bill how the Department might verify a person's registration information. The Department could simply treat verification as a ministerial duty and accept each person's registration information as being true and accurate. Alternatively, the Department might conduct a background check of each applicant. Because of the time that might be required to process registrations, this bill may make the use of paid petition gatherers cost prohibitive.

The bill imposes a number of registration requirements on paid petition circulators. A person is required to provide to the Department:

- His or her full legal name;
- The street address at which the person legally resides;
- The person's telephone number;
- The person's date of birth;
- A copy of a valid government-issued, photo identification card;
- The name, street address, and telephone number of the person or entity from which the person will receive compensation as a direct or indirect consequence of his or her activities;
- Identification of the petition forms or petition-revocation forms that the person will be circulating;
- Any other information required by Department rule; and
- As a condition of registration, the registrant would be required to notify the Department of any change in the information submitted pursuant to this subsection within one business day after the change.

The bill gives authority to the Department to require, "...any other information required by Department rule" as a condition of registration.

Petition Form

The bill requires that the petition form that is circulated by the registrant:

- Be registered with the Department.
- Include the paid petition circulator's registration number.

Verification Requirements

The bill provides that petitions may not be verified by the supervisor, and may not be counted toward the number of valid signatures required for ballot placement if such signature was not gathered in full compliance with new s. 100.372, F.S.

Any signature gathered on a previously approved initiative petition form or petition-revocation form that is submitted for verification before August 1, 2008, may be verified and counted if otherwise valid. However, any initiative petition form or petition-revocation form that is submitted for verification on or after August 1, 2008, may be verified and counted only if it complies with new s. 100.372, F.S.

The bill is effective August 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates s. 100.372, F.S., to require registration and regulation of paid petition circulators.

Section 2. Provides a severability clause.

Section 3. Provides an effective date of August 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill would implement a new fee to be charged to those registering as paid petition circulators.

2. Expenditures:

The Department would have to make significant changes to its databases for tracking petitions and petition gathering activities. It would possibly need to create a new database and website to handle the registration of paid petition circulators, in addition to increased staff time dedicated to registration and maintenance of the registration framework.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

Supervisors would be required to use staff time to verify that paid petition circulators met the requirements of the law before verifying each petition.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill adds a new fee to be determined by the Department that will be charged to paid petition gatherers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

Provides rulemaking authority to the Department to register and regulate paid petition gatherers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

None provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the registration of paid petition
 3 circulators; creating s. 100.372, F.S.; providing
 4 definitions; requiring paid petition circulators to
 5 register with the Department of State; prohibiting
 6 compensation to petition circulators not registered with
 7 the department as paid petition circulators; providing
 8 registration qualifications and criteria; requiring a paid
 9 petition circulator's registration number on petition
 10 forms; providing for invalidity of certain petition
 11 signatures; providing for validity of forms submitted
 12 before a certain date; authorizing the department to adopt
 13 rules; providing for severability; providing an effective
 14 date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 100.372, Florida Statutes, is created
 19 to read:

20 100.372 Registration of paid petition circulators.--

21 (1) For purposes of this code:

22 (a) "Petition circulator" means any person who, in the
 23 context of a direct face-to-face interaction, presents to
 24 another person for his or her possible signature a petition form
 25 or petition-revocation form regarding ballot placement for an
 26 initiative.

27 (b) "Paid petition circulator" means a petition circulator
 28 who receives any compensation as a direct or indirect

29 consequence of the activities described in paragraph (a), other
 30 than for the reimbursement of legitimate out-of-pocket expenses
 31 incurred by the petition circulator in the ordinary course of
 32 these activities, as specified by department rule.

33 (c) "Registrant" means a person who is registered with the
 34 department as a paid petition circulator.

35 (2) A person may not engage in any activities as a paid
 36 petition circulator in this state without first registering with
 37 the department. A person or entity may not provide compensation
 38 as a direct or indirect consequence of the activities described
 39 in paragraph (1)(a) to a petition circulator who is not
 40 registered with the department as a paid petition circulator.

41 (3) A person may not be registered as a paid petition
 42 circulator by the department unless the person is:

43 (a) A citizen of the United States for purposes of s.
 44 97.041(1)(a)2.;

45 (b) A legal resident of this state for purposes of s.
 46 97.041(1)(a)3.; and

47 (c) Not a convicted felon ineligible to register to vote
 48 or vote pursuant to s. 97.041(2)(b).

49 (4) If, at any time, a registrant no longer satisfies one
 50 or more of the requirements set forth in subsection (3), the
 51 registrant's registration shall be immediately rendered invalid
 52 by operation of law, the registrant shall immediately notify the
 53 department, and the registrant shall immediately halt all
 54 activities as a paid petition circulator.

55 (5) To register with the department as a paid petition
 56 circulator, a person shall provide his or her full legal name;

57 the street address at which the person legally resides; the
 58 person's telephone number; the person's date of birth; a copy of
 59 a valid government-issued photo identification card; the name,
 60 street address, and telephone number of the person or entity
 61 from which the person will receive compensation as a direct or
 62 indirect consequence of the activities described in paragraph
 63 (1) (a); identification of the petition forms or petition-
 64 revocation forms that the person will be circulating; and any
 65 other information required by department rule. As a condition of
 66 registration, the registrant shall notify the department of any
 67 change in the information submitted pursuant to this subsection
 68 within 1 business day after such change.

69 (6) A registrant shall not circulate any petition forms or
 70 petition-revocation forms as a paid petition circulator until
 71 the registrant has registered those forms with the department.

72 (7) Every petition form or petition-revocation form
 73 presented by a paid petition circulator to a person for his or
 74 her possible signature must contain that paid petition
 75 circulator's registration number, as issued by the department.

76 (8) A signature on a petition form or petition-revocation
 77 form regarding ballot placement for an initiative is invalid,
 78 may not be verified by the supervisor of elections, and may not
 79 be counted toward the number of valid signatures required for
 80 ballot placement if such signature was not gathered in full
 81 compliance with this section.

82 (9) Any signature gathered on a previously approved
 83 initiative petition form or petition-revocation form that has
 84 been submitted for verification before August 1, 2008, may be

85 verified and counted if otherwise valid. However, any initiative
 86 petition form or petition-revocation form that is submitted for
 87 verification on or after August 1, 2008, may be verified and
 88 counted only if it complies with this section.

89 (10) The Department of State may adopt rules in accordance
 90 with ss. 120.536(1) and 120.54 to carry out the provisions of
 91 this section, including the adoption of a registration fee not
 92 exceeding the amount necessary to cover the department's cost of
 93 registration and regulation.

94 Section 2. If any provision of this act or its application
 95 to any person or circumstance is held invalid, the invalidity
 96 does not affect other provisions or applications of the act
 97 which can be given effect without the invalid provision or
 98 application, and to this end the provisions of this act are
 99 severable.

100 Section 3. This act shall take effect August 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1113 Code of Ethics for Public Officers and Employees

SPONSOR(S): Patterson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Ethics & Elections</u>	_____	<u>Mitchell</u>	<u>Mitchell</u> (BN)
2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1113 represents the 2008 legislative package for the Commission on Ethics (Commission). Subsection (8) of s.112.322, F.S., relating to the duties and powers of the Commission, provides:

It shall be the further duty of the commission to submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.

To that end, the Commission has made its recommendations in HB 1113.

The bill is effective January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill appears to implicate one of the House principles in that it does not “provide limited government.” Instead it enhances disclosure, reporting and prohibitions for public officers and employees.

B. EFFECT OF PROPOSED CHANGES:

Subsection (8) of s.112.322, F.S., relating to the duties and powers of the Commission, provides:

It shall be the further duty of the commission to submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.

To that end, the Commission has made its recommendations for 2008 in HB 1113, as set forth below.

Definition of “Business Entity”

The Commission has had an inquiry asking whether a “limited liability company” (LLC) would be a “business entity” as that term is defined in the Code of Ethics. The term is not clearly included, although an LLC might be deemed to be a corporation, firm, enterprise, or association. There is no doubt that an LLC should be considered a “business entity.”

Duties of Local Government Attorneys

Over the past several years, the Commission has reviewed situations where local public officials acted on erroneous advice from their local government attorneys. The Commission is very concerned that officials may believe that they can rely on legal advice about their obligations under the ethics laws even though the attorney’s client is the governmental agency and not the individual public official.

Section 112.313, F.S., is amended to prescribe duties of a local government attorney with respect to advising public officers or employees seeking advice. The section applies to officials seeking advice regarding compliance with standards of conduct, voting provisions, disclosure requirements or other provisions of ch. 112, F.S. When an official seeks advice regarding one of these issues, the local government attorney shall advise the officer or employee that the local government attorney is not the officer or employee’s attorney. The local government attorney shall also advise the officer or employee that he or she may seek advice on the ethics matter from the Commission. The attorney shall also advise the officer or employee that he or she may be penalized in a proceeding relating to an ethics complaint notwithstanding the fact that the officer or employee sought advice on the ethics matter. Failure on the part of a local government attorney to provide such advice does not constitute a violation and is not punishable under s.112.317, F.S.

Employment of Relatives

The Commission has reviewed a situation where a public official's relative was appointed to a position by the board on which the official served, with the official abstaining from voting. Current law prohibits the appointment of the relative, but would hold only the abstaining official responsible.

Section 112.3135, F.S., is amended to clarify that "collegial bodies of which a public official is a member" may not appoint, employ, promote, or advance a member's relative. The public official may not advocate a relative for appointment, employment, promotion, or advancement in or to any entity over which the collegial body has jurisdiction. If a prohibited appointment, employment, promotion, or advancement occurs, *both* the official and the relative shall be subject to penalties under s. 112.317, F.S. (penalties section of the Code of Ethics). However, if the appointment, employment, promotion, or advancement is made by the collegial body without the official's participation, only the relative is subject to penalties.

Contracts with Political Subdivisions

In a series of complaints from cities Southwest Ranches, Midway, and Edgewater, the Commission concluded that, where a corporation was appointed/contracted to serve as the chief executive or administrative officer of a political subdivision, the officers and employees of the corporation are not public officers or employees who would be subject to the standards of conduct in the Code of Ethics.

A newly created s. 112.3136, F.S., provides that when a political subdivision contracts with a private entity to serve as the chief administrative officer, the employees, directors, and officers of that private entity who perform the functions of the chief administrative officer or employee of the political subdivision are subject to the same ethical standards as public officers and employees who perform the same functions. Section 112.3136, F.S., applies the financial reporting requirements for local officers found in s. 112.3145, F.S., to these contractual officers and employees. It categorizes these persons as "reporting individuals" for the purposes of the gift and honoraria provisions of ss. 112.3148, F.S., and 112.3149, F.S. Section 112.3136, F.S., also applies the conduct provisions of s. 112.313, F.S., to these officers and employees and their "agency" as used in that section is the political subdivision which they contractually serve.

Voting Conflicts

There have been several recently publicized situations involving local officials participating in discussion and attempting to influence agency decisions even though they had a voting conflict that precluded them from voting on the matter. One of these officials was convicted of criminal activity arising out of this conduct. In addition, the Commission has reviewed a situation where the official voted on a matter that benefited the corporate "sibling" of his employer.

State and Local Officers

The bill expands the disclosure requirements of s. 112.3143, F.S., for state and local officers to make it clear that when the officer has a voting conflict he or she should disclose all bases for the conflict, whether based on the officer's own interests or on the interests of the officer's principal, relative, or business associate, whenever one or all of those interests exist.

State Officers

The bill makes it clear that there is a specific exception to the voting conflicts law for state officers if a conflict arises because the officer's principal will gain a special benefit, but the principal is an agency as defined in s. 112.312(2), F.S. Currently, a similar exception exists in statute for local officers.

Local Officers

With respect to local elected officers, current law provides that when a conflict of interest exists, the officer may not vote on the issue, but is not prohibited from participating in discussion on the issue or trying to influence the decision. However, disclosure of the voting conflict is required before the vote is taken. Further, if the local officer is appointed, he or she may only participate in discussion on or try to influence the issue if he or she discloses the conflict of interest prior to such participation.

HB 1113 prohibits all local officers from participating in the discussion, or influencing the decision-making, on any issue that would provide a beneficial gain or loss for the officer or the officer's relative, business associate, or principal, (other than an agency as defined in s. 112.312(2), F.S.), of which the officer has knowledge, without first disclosing the nature of his or her interest in the matter. The disclosure shall indicate the nature of all of the local officer's interests in the matter and the nature of all interests of the principals, relatives, or business associates that are known to the official. The disclosure shall be made in a written memorandum and if disclosure is not made before the meeting, it shall be made orally at the meeting when a conflict becomes known, and filed by memorandum within 15 days after the oral disclosure is made. An exception to the voting prohibition is continued for commissioners of community redevelopment agencies created under s. 163.356 or s. 163.357, F.S., and certain officers of independent special tax districts.

Financial Disclosure

The Commission has received several inquiries about why certain state and local government officers/employees are not required to file financial disclosure. Also, many forms do not specify the method of valuing financial interests (filers have the choice of picking either percentage thresholds or dollar thresholds).

Section 112.3145, F.S., is amended to include within the definition of "local officer" any appointed member of a community redevelopment agency board and the finance director of a local government, or other political subdivision. Also, this section is amended to mandate that the reporting person specify which method for valuing financial interests was used on the person's financial disclosure form.

Gifts and Honoraria

Recently, the Commission has considered the question of who is a "procurement employee," as defined for purposes of the gift law. This is a broad category of state employees that are identifiable based only on their particular activities. It would help agencies and these employees if the statute gave a more precise definition of who is a "procurement employee" and for how long.

Also, in some instances a vendor currently doing business with an agency is not the principal of a lobbyist within the past 12 months, even though all would agree that the vendor should not be providing gifts worth over \$100 to the officers and employees of that agency.

Section 112.3148, F.S., is amended to prohibit reporting individuals or procurement employees from soliciting gifts from a vendor doing business with the agency of the reporting individual or procurement employee, if the gift is for the personal benefit of a procurement employee, reporting individual or a family member of the employee or individual. These persons and anyone on their behalf are also prohibited from knowingly accepting, directly or indirectly, gifts from a vendor doing business with the agency of the reporting individual or procurement employee, if the gift exceeds \$100 in value. The language also prohibits these vendors from giving, directly or indirectly, gifts that exceed \$100 in value to a reporting individual or procurement employee, or anyone on his or her behalf.

Section 112.3149, F.S., is amended to prohibit reporting individuals or procurement employees from knowingly accepting an honorarium from a vendor doing business with the agency of the reporting individual or procurement employee. These vendors are also prohibited from giving honoraria to a reporting individual or procurement employee. HB 1113 defines vendor as "a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services."

The bill also clarifies the definition of a "procurement employee" in ss. 112.3148 and 112.3149, F.S., by specifically including employees of judicial and executive agencies within the definition (judicial and executive departments already are included). The bill narrows the definition by limiting a "procurement employee" to one who has participated in any part of the procurement process as outlined by the current definition, but only within the preceding twelve months. The cost of the procured services or commodities must exceed \$10,000 in any fiscal year, rather than \$1,000 within any period, as is currently provided by law.

Executive Branch Lobbying Regulations

The provisions of the Executive Branch Lobbying Law (s. 112.3215, F.S.) regarding procedures and penalties for violations do not parallel those provided in the Legislative Lobby Law (s. 11.045, F.S.). The bill amends s. 112.3215, F.S., to make those provisions consistent with those for lobbying the Legislature.

The amended language would allow the commission to investigate a complaint alleging that a person to whom the law is applicable made a prohibited expenditure. It would also allow the commission to investigate not only a lobbying firm, agency, officer, or employee, but also an executive branch lobbyist or principal upon receipt of a sworn complaint or random audit of lobbying reports that indicate a likely violation of the law, other than a late-filed report. The amended language applies a non-criminal fine not to exceed \$5,000.00 to any person required to register or provide information under the executive branch lobbying law who knowingly fails to disclose a material fact or who provides false information on any required report. This penalty would be in addition to any other penalty assessed by the Governor or Cabinet under subsection (10) of the existing law.

Penalties

Section 112.317, F.S., is amended to include a penalty provision for persons who are not specifically public officers and employees (other than a lobbyist or lobbying firm for violations of s. 112.3215, F.S.), but to whom the ethics code applies. According to the new language of s. 112.317, F.S., these persons would be subject to a public censure and reprimand, a civil penalty not to exceed \$10,000.00, and/or restitution of any pecuniary benefits received because of a violation. The new language also allows the Commission to recommend that restitution be paid to the penalized person's agency or to the General Revenue Fund.

Section 112.324, F.S., is amended to provide that the Governor will be the disciplinary official of any person to whom the ethics code applies, but who is not a public officer or employee. The new language excludes a lobbyist or lobbying firm for violations of s. 112.3215, F.S., from this classification.

Early Learning Coalitions

In a technical amendment, the bill amends s. 411.01(5), F.S., to change an existing reference to s. 112.3143, F.S., in order to track the changes made to that section by the bill.

C. SECTION DIRECTORY:

Section 1. Amends subsection (5) of s. 112.312, F.S., to expand the definition of business entity to include a limited liability company (LLC).

Section 2. Amends subsection (16) of s. 112.313, F.S., to clarify that local government attorneys represent the unit of local government and not the public officer or government employee and to require these attorneys to inform officials that their advice may not protect them from penalty in an ethics proceeding.

Section 3. Amends subsection (2) of s. 112.3135, F.S., to clarify the restrictions on the employment of relatives by public officials. The subsection further provides that if a prohibited appointment, employment, promotion or advancement occurs, both the official and the individual are subject to a variety of penalties provided in s. 112.317, F.S. If the official does not participate in the prohibited appointment, employment, promotion or advancement, only the individual is subject to the penalties provided in s. 112.317, F.S.

Section 4. Amends s. 112.3143, F.S., to clarify the provisions governing voting conflicts. The change in this section addresses a situation when a state or local public official votes on a matter that benefits the corporate "sibling" of his employer and imposes a requirement for local elected officials to disclose their conflicts before making any attempt to influence the matter.

Section 5. Amends subsection (1) and (3) of s. 112.3145, F.S., to include certain local officers in the limited financial disclosure requirements. The list of those required to file would include appointed officers of community redevelopment agency boards and finance directors of a county, municipality or other political subdivision. It further provides that a person filing the limited financial disclosure must indicate on the statement whether the person is using the percentage threshold or dollar threshold.

Section 6. Amends subsections (2), (3) and (4), s. 112.3148, F.S., to clarify the gift requirements for procurement employees. Only employees that have participated in the procurement of contractual services of commodities in excess of \$10,000 within the preceding 12 months would now be included in the gift law provisions. The change would also prohibit vendors doing business with an agency from providing gifts in excess of \$100 to reporting individuals or procurement employees, even though the vendor may not have been acting as a principal with a lobbyist.

Section 7. Amends subsections (1), (3) and (4) of s. 112.3149, F.S., to clarify that reporting individuals and procurement employees are prohibited from knowingly accepting honoraria from

vendors doing business with the individual's agency, and such vendors are prohibited from giving honoraria to such individuals.

Section 8. Amends subsection (8) of and adds new subsection (11) to s. 112.3215, F.S., to make the provisions of the executive branch lobbying law consistent with those of the legislative branch.

Section 9. Creates s. 112.3136, F.S., to provide that officers and employees of business entities serving as chief administrative officers of political subdivisions shall be treated as public officers and employees for the purpose of certain sections. Those sections are s. 112.313, F.S., (standards of conduct for public officers, agency employees, and local government attorneys), s. 112.3145, F.S. (limited financial disclosure), s. 112.3148, F.S., and 112.3149, F.S. (gift and honoraria laws).

Section 10. Amends subsection (1) of s. 112.317, F.S., to include penalties for persons listed in section 9 above who are acting or serving as chief administrative or executive officers or employees of a political subdivision. The penalties may include one or more of the following: public censure and reprimand, a civil penalty of up to \$1,000, or restitution to be paid to the agency or the General Revenue Fund.

Section 11. Amends subsection (8) of s. 112.324, F.S., to include persons listed in section 9 above in the reporting procedures of the Commission following a finding of a violation of part III of chapter 112 (Code of Ethics) or s. 8, Art. II, State Constitution.

Section 12. Conforming change to s. 411.01, F.S., for members of early learning coalitions.

Section 13. Provides an effective date of January 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the code of ethics for public officers
 3 and employees; amending s. 112.312, F.S.; redefining the
 4 term "business entity" to include a company; amending s.
 5 112.313, F.S.; prescribing duties of a local government
 6 attorney with respect to advising a public officer or
 7 employee seeking advice regarding compliance with a
 8 standard of conduct, voting provision, disclosure
 9 requirement, provision of part III of ch. 112, F.S., or
 10 constitutional provision governing ethics in government;
 11 providing that failure to provide such advice is not a
 12 violation of the Code of Ethics for Public Officers and
 13 Employees; amending s. 112.3135, F.S.; prohibiting a
 14 public official from appointing, employing, promoting, or
 15 advancing a relative and providing that a relative is not
 16 eligible for appointment, employment, promotion, or
 17 advancement to a position in an agency in which the
 18 official is serving, or in an agency administered by the
 19 official or collegial body of which the official is a
 20 member; providing that both the official and the
 21 official's relative are subject to penalties; providing an
 22 exception if the official does not participate in the
 23 appointment, employment, promotion, or advancement;
 24 amending s. 112.3143, F.S.; revising the disclosure
 25 requirements for a state officer when voting in an
 26 official capacity; revising the disclosure requirements
 27 for an appointed state officer participating in certain
 28 matters; providing an exception for a state officer when

29 the officer's principal is an agency as defined in s.
 30 112.312(2), F.S.; revising the disclosure requirements for
 31 a local officer when prohibited from voting; prohibiting a
 32 local officer from participating in any matter involving
 33 special gain or loss to certain parties unless such
 34 interest in the matter is disclosed; providing
 35 requirements for making the disclosure; amending s.
 36 112.3145, F.S.; redefining the term "local officer" to
 37 include an appointed member of the board of a community
 38 redevelopment agency and a finance director of a local
 39 government or other political subdivision; requiring a
 40 financial interest statement to show the statutory method
 41 used to disclose a reporting individual's financial
 42 interests; amending s. 112.3148, F.S.; redefining the term
 43 "procurement employee"; defining the term "vendor";
 44 prohibiting a reporting individual or procurement employee
 45 from soliciting a gift from certain vendors; prohibiting
 46 such individual or employee from knowingly accepting a
 47 gift in excess of a specified value from certain vendors;
 48 prohibiting certain vendors from making such a gift to
 49 such individual or employee; amending s. 112.3149, F.S.;
 50 redefining the term "procurement employee"; defining the
 51 term "vendor"; prohibiting a reporting individual or
 52 procurement employee from knowingly accepting an
 53 honorarium from certain vendors; prohibiting certain
 54 vendors from giving an honorarium to such individual or
 55 employee; amending s. 112.3215, F.S.; requiring the Ethics
 56 Commission to investigate complaints alleging prohibited

57 expenditures; providing for the investigation of lobbyists
 58 and principals under certain circumstances; providing
 59 penalties for failure to provide required information or
 60 providing false information; creating s. 112.3136, F.S.;
 61 specifying standards of conduct for officers and employees
 62 of entities serving as the chief administrative officer of
 63 a political subdivision; amending s. 112.317, F.S.;
 64 providing for penalties to be imposed against persons
 65 other than lobbyists or public officers and employees;
 66 amending s. 112.324, F.S.; providing for the commission to
 67 report to the Governor violations involving persons other
 68 than lobbyists or public officers and employees; amending
 69 s. 411.01, F.S., relating to school readiness programs;
 70 conforming a cross-reference; providing an effective date.
 71

72 Be It Enacted by the Legislature of the State of Florida:
 73

74 Section 1. Subsection (5) of section 112.312, Florida
 75 Statutes, is amended to read:

76 112.312 Definitions.--As used in this part and for
 77 purposes of the provisions of s. 8, Art. II of the State
 78 Constitution, unless the context otherwise requires:

79 (5) "Business entity" means any corporation, company,
 80 partnership, limited partnership, proprietorship, firm,
 81 enterprise, franchise, association, self-employed individual, or
 82 trust, whether fictitiously named or not, doing business in this
 83 state.

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84 Section 2. Paragraph (d) is added to subsection (16) of
 85 section 112.313, Florida Statutes, to read:

86 112.313 Standards of conduct for public officers,
 87 employees of agencies, and local government attorneys.--

88 (16) LOCAL GOVERNMENT ATTORNEYS.--

89 (d) If a public officer or employee seeks advice from the
 90 local government attorney regarding the officer's or employee's
 91 compliance with any standard of conduct, voting provision,
 92 disclosure requirement, or other provision of this part or s. 8,
 93 Art. II of the State Constitution, the local government attorney
 94 shall advise the officer or employee that the local government
 95 attorney is the attorney for the unit of local government and is
 96 not the officer's or employee's attorney; that, in addition to
 97 or in place of advice on the ethics matter from the local
 98 government attorney, the officer or employee should seek advice
 99 on the ethics matter from the commission; and that the officer
 100 or employee may be penalized in a proceeding relating to an
 101 ethics complaint notwithstanding the fact that the officer or
 102 employee sought the advice of the local government attorney on
 103 the ethics matter. Failure to provide such advice does not
 104 constitute a violation of this part and is not punishable under
 105 s. 112.317.

106 Section 3. Paragraph (a) of subsection (2) of section
 107 112.3135, Florida Statutes, is amended to read:

108 112.3135 Restriction on employment of relatives.--

109 (2) (a) A public official may not appoint, employ, promote,
 110 or advance, or advocate for appointment, employment, promotion,
 111 or advancement, in or to a position in the agency in which the

112 official is serving or over which the official, or collegial
 113 body of which the official is a member, exercises jurisdiction
 114 or control, any individual who is a relative of the public
 115 official. An individual who is a relative of a public official
 116 is not eligible for appointment, employment, promotion, or
 117 advancement may not be appointed, employed, promoted, or
 118 advanced in or to a position in an agency in which the official
 119 is serving or over which the official, or the collegial body of
 120 which the official is a member, exercises jurisdiction or
 121 control. If a prohibited appointment, employment, promotion, or
 122 advancement occurs, both the official and the individual shall
 123 be subject to penalties under s. 112.317; however, if the
 124 appointment, employment, promotion, or advancement is made by
 125 the collegial body of which the official is a member without the
 126 official's participation, only the individual shall be subject
 127 to penalties under s. 112.317. if such appointment, employment,
 128 promotion, or advancement has been advocated by a public
 129 official, serving in or exercising jurisdiction or control over
 130 the agency, who is a relative of the individual or if such
 131 appointment, employment, promotion, or advancement is made by a
 132 collegial body of which a relative of the individual is a
 133 member. However, This subsection does ~~shall~~ not apply to
 134 appointments to boards other than those with land-planning or
 135 zoning responsibilities in those municipalities with less than
 136 35,000 population. This subsection does not apply to persons
 137 serving in a volunteer capacity who provide emergency medical,
 138 firefighting, or police services. Such persons may receive,
 139 without losing their volunteer status, reimbursements for the

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140 costs of any training they get relating to the provision of
 141 volunteer emergency medical, firefighting, or police services
 142 and payment for any incidental expenses relating to those
 143 services that they provide.

144 Section 4. Section 112.3143, Florida Statutes, is amended
 145 to read:

146 112.3143 Voting conflicts.--

147 (1) As used in this section:

148 (a) "Public officer" includes any person elected or
 149 appointed to hold office in any agency, including any person
 150 serving on an advisory body.

151 (b) "Relative" means any father, mother, son, daughter,
 152 husband, wife, brother, sister, father-in-law, mother-in-law,
 153 son-in-law, or daughter-in-law.

154 (2) A ~~Ne~~ state public officer is not prohibited from
 155 voting in an official capacity on any matter. However, any state
 156 public officer voting in an official capacity upon any measure
 157 that ~~which~~ would inure to the officer's special private gain or
 158 loss; that ~~which~~ he or she knows would inure to the special
 159 private gain or loss of any principal by whom the officer is
 160 retained or to the parent organization, sibling, or subsidiary
 161 of a corporate principal by which the officer is retained, other
 162 than an agency as defined in s. 112.312(2); or that ~~which~~ the
 163 officer knows would inure to the special private gain or loss of
 164 a relative or business associate of the public officer shall,
 165 within 15 days after the vote occurs, disclose the nature of all
 166 of his or her interests in the matter, and disclose the nature
 167 of all of the interests of his or her principals, relatives, or

168 business associates which are known to him or her, ~~his or her~~
 169 ~~interest~~ as a public record in a memorandum filed with the
 170 person responsible for recording the minutes of the meeting, who
 171 shall incorporate the memorandum in the minutes.

172 (3) An appointed state public officer may not participate
 173 in any matter that would inure to the officer's special private
 174 gain or loss; that the officer knows would inure to the special
 175 private gain or loss of any principal by whom he or she is
 176 retained or to the parent organization, sibling, or subsidiary
 177 of a corporate principal by which he or she is retained, other
 178 than an agency as defined in s. 112.312(2); or that he or she
 179 knows would inure to the special private gain or loss of a
 180 relative or business associate of the public officer, without
 181 first disclosing the nature of his or her interest in the
 182 matter.

183 (a) Such disclosure, indicating the nature of all of his
 184 or her interests in the matter and disclosing the nature of all
 185 of the interests of the principals, relatives, or business
 186 associates which are known to him or her, shall be made in a
 187 written memorandum and filed with the person responsible for
 188 recording the minutes of the meeting before the meeting in which
 189 consideration of the matter will take place, and shall be
 190 incorporated into the minutes. Any such memorandum becomes a
 191 public record upon filing, shall immediately be provided to the
 192 other members of the agency, and shall be read publicly at the
 193 next meeting held subsequent to the filing of this written
 194 memorandum.

195 (b) If disclosure is not made before the meeting or if any
 196 conflict is unknown before the meeting, the disclosure shall be
 197 made orally at the meeting when it becomes known that a conflict
 198 exists. The written memorandum disclosing the nature of the
 199 conflict must be filed with the person responsible for recording
 200 the minutes of the meeting within 15 days after the oral
 201 disclosure and shall be incorporated into the minutes of the
 202 meeting at which the oral disclosure was made. Any such
 203 memorandum becomes a public record upon filing, shall
 204 immediately be provided to the other members of the agency, and
 205 shall be read publicly at the next meeting held subsequent to
 206 the filing of this written memorandum.

207 (4)-(3)(a) A ~~No~~ county, municipal, or other local public
 208 officer may not ~~shall~~ vote in an official capacity upon any
 209 measure that ~~which~~ would inure to his or her special private
 210 gain or loss; that ~~which~~ he or she knows would inure to the
 211 special private gain or loss of any principal by whom he or she
 212 is retained or to the parent organization, sibling, or
 213 subsidiary of a corporate principal by which he or she is
 214 retained, other than an agency as defined in s. 112.312(2); or
 215 that ~~which~~ he or she knows would inure to the special private
 216 gain or loss of a relative or business associate of the public
 217 officer. Such public officer shall, before ~~prior to~~ the vote is
 218 ~~being~~ taken, publicly state to the assembly the nature of all of
 219 the officer's interests ~~interest~~ in the matter, and all of the
 220 interests in the matter of his or her principals, relatives, or
 221 business associates which are known to him or her, from which he
 222 or she is abstaining from voting and, within 15 days after the

223 vote occurs, disclose the nature of all of his or her interests
 224 in the matter, and disclose the nature of all of the interests
 225 of his or her principals, relatives, or business associates
 226 which are known to him or her, his or her interest as a public
 227 record in a memorandum filed with the person responsible for
 228 recording the minutes of the meeting, who shall incorporate the
 229 memorandum in the minutes.

230 (b) However, a commissioner of a community redevelopment
 231 agency created or designated pursuant to s. 163.356 or s.
 232 163.357, or an officer of an independent special tax district
 233 elected on a one-acre, one-vote basis, is not prohibited from
 234 voting, when voting in that said capacity.

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

245 ~~(a) Such disclosure, indicating the nature of the~~
 246 ~~conflict, shall be made in a written memorandum filed with the~~
 247 ~~person responsible for recording the minutes of the meeting,~~
 248 ~~prior to the meeting in which consideration of the matter will~~
 249 ~~take place, and shall be incorporated into the minutes. Any such~~
 250 ~~memorandum shall become a public record upon filing, shall~~

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

254 ~~(b) In the event that disclosure has not been made prior~~
 255 ~~to the meeting or that any conflict is unknown prior to the~~
 256 ~~meeting, the disclosure shall be made orally at the meeting when~~
 257 ~~it becomes known that a conflict exists. A written memorandum~~
 258 ~~disclosing the nature of the conflict shall then be filed within~~
 259 ~~15 days after the oral disclosure with the person responsible~~
 260 ~~for recording the minutes of the meeting and shall be~~
 261 ~~incorporated into the minutes of the meeting at which the oral~~
 262 ~~disclosure was made. Any such memorandum shall become a public~~
 263 ~~record upon filing, shall immediately be provided to the other~~
 264 ~~members of the agency, and shall be read publicly at the next~~
 265 ~~meeting held subsequent to the filing of this written~~
 266 ~~memorandum.~~

267 (5) A county, municipal, or other local public officer may
 268 not participate in any matter that would inure to the officer's
 269 special private gain or loss; that the officer knows would inure
 270 to the special private gain or loss of any principal by whom he
 271 or she is retained or to the parent organization, sibling, or
 272 subsidiary of a corporate principal by which he or she is
 273 retained, other than an agency as defined in s. 112.312(2); or
 274 that he or she knows would inure to the special private gain or
 275 loss of a relative or business associate of the public officer,
 276 without first disclosing the nature of his or her interest in
 277 the matter.

278 (a) Such disclosure, indicating the nature of all of his
279 or her interests in the matter and disclosing the nature of all
280 of the interests of the principals, relatives, or business
281 associates which are known to him or her, shall be made in a
282 written memorandum and filed with the person responsible for
283 recording the minutes of the meeting before the meeting in which
284 consideration of the matter will take place, and shall be
285 incorporated into the minutes. Any such memorandum becomes a
286 public record upon filing, shall immediately be provided to the
287 other members of the agency, and shall be read publicly at the
288 next meeting held subsequent to the filing of this written
289 memorandum.

290 (b) If disclosure is not made before the meeting or if any
291 conflict is unknown before the meeting, the disclosure shall be
292 made orally at the meeting when it becomes known that a conflict
293 exists. The written memorandum disclosing the nature of the
294 conflict must be filed with the person responsible for recording
295 the minutes of the meeting within 15 days after the oral
296 disclosure and shall be incorporated into the minutes of the
297 meeting at which the oral disclosure was made. Any such
298 memorandum becomes a public record upon filing, shall
299 immediately be provided to the other members of the agency, and
300 shall be read publicly at the next meeting held subsequent to
301 the filing of this written memorandum.

302 (6)(e) For purposes of this section subsection, the term
303 "participate" means any attempt to influence the decision by
304 oral or written communication, whether made by the officer or at
305 the officer's direction.

306 (7)~~(5)~~ Whenever a public officer or former public officer
 307 is being considered for appointment or reappointment to public
 308 office, the appointing body shall consider the number and nature
 309 of the memoranda of conflict previously filed under this section
 310 by the ~~said~~ officer.

311 Section 5. Paragraph (a) of subsection (1) and subsection
 312 (3) of section 112.3145, Florida Statutes, are amended to read:

313 112.3145 Disclosure of financial interests and clients
 314 represented before agencies.--

315 (1) For purposes of this section, unless the context
 316 otherwise requires, the term:

317 (a) "Local officer" means:

318 1. Every person who is elected to office in any political
 319 subdivision of the state, and every person who is appointed to
 320 fill a vacancy for an unexpired term in such an elective office.

321 2. Any appointed member of any of the following boards,
 322 councils, commissions, authorities, or other bodies of any
 323 county, municipality, school district, independent special
 324 district, or other political subdivision of the state:

325 a. The governing body of the political subdivision, if
 326 appointed;

327 b. An expressway authority or transportation authority
 328 established by general law;

329 c. A community college or junior college district board of
 330 trustees;

331 d. A board having the power to enforce local code
 332 provisions;

333 e. A planning or zoning board, board of adjustment, board
 334 of appeals, community redevelopment agency board, or other board
 335 having the power to recommend, create, or modify land planning
 336 or zoning within the political subdivision, except for citizen
 337 advisory committees, technical coordinating committees, and such
 338 other groups who only have the power to make recommendations to
 339 planning or zoning boards;

340 f. A pension board or retirement board having the power to
 341 invest pension or retirement funds or the power to make a
 342 binding determination of one's entitlement to or amount of a
 343 pension or other retirement benefit; or

344 g. Any other appointed member of a local government board
 345 who is required to file a statement of financial interests by
 346 the appointing authority or the enabling legislation, ordinance,
 347 or resolution creating the board.

348 3. Any person holding one or more of the following
 349 positions: mayor; county or city manager; chief administrative
 350 employee of a county, municipality, or other political
 351 subdivision; county or municipal attorney; finance director of a
 352 county, municipality, or other political subdivision; chief
 353 county or municipal building code inspector; county or municipal
 354 water resources coordinator; county or municipal pollution
 355 control director; county or municipal environmental control
 356 director; county or municipal administrator, with power to grant
 357 or deny a land development permit; chief of police; fire chief;
 358 municipal clerk; district school superintendent; community
 359 college president; district medical examiner; or purchasing
 360 agent having the authority to make any purchase exceeding the

361 threshold amount provided for in s. 287.017 for CATEGORY ONE, on
 362 behalf of any political subdivision of the state or any entity
 363 thereof.

364 (3) The statement of financial interests for state
 365 officers, specified state employees, local officers, and persons
 366 seeking to qualify as candidates for state or local office shall
 367 be filed even if the reporting person holds no financial
 368 interests requiring disclosure, in which case the statement
 369 shall be marked "not applicable." Otherwise, the statement of
 370 financial interests shall include, at the filer's option,
 371 either:

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

379 2. All sources of income to a business entity in excess of
 380 10 percent of the gross income of a business entity in which the
 381 reporting person held a material interest and from which he or
 382 she received an amount which was in excess of 10 percent of his
 383 or her gross income during the disclosure period and which
 384 exceeds \$1,500. The period for computing the gross income of the
 385 business entity is the fiscal year of the business entity which
 386 ended on, or immediately prior to, the end of the disclosure
 387 period of the person reporting;

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

396 4. Every individual liability that equals more than the
397 reporting person's net worth; or

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

405 2. All sources of income to a business entity in excess of
406 10 percent of the gross income of a business entity in which the
407 reporting person held a material interest and from which he or
408 she received gross income exceeding \$5,000 during the disclosure
409 period. The period for computing the gross income of the
410 business entity is the fiscal year of the business entity which
411 ended on, or immediately prior to, the end of the disclosure
412 period of the person reporting;

413 3. The location or description of real property in this
414 state, except for residence and vacation homes, owned directly
415 or indirectly by the person reporting, when such person owns in

416 excess of 5 percent of the value of such real property, and a
 417 general description of any intangible personal property worth in
 418 excess of \$10,000. For the purpose of this paragraph, indirect
 419 ownership does not include ownership by a spouse or minor child;
 420 and

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

422
 423 A person filing a statement of financial interests shall
 424 indicate on the statement whether he or she is using the method
 425 specified in paragraph (a) or the method specified in paragraph
 426 (b).

427 Section 6. Paragraph (e) of subsection (2), subsections
 428 (3) and (4), and paragraph (a) of subsection (5) of section
 429 112.3148, Florida Statutes, are amended, and paragraph (f) is
 430 added to subsection (2) of that section, to read:

431 112.3148 Reporting and prohibited receipt of gifts by
 432 individuals filing full or limited public disclosure of
 433 financial interests and by procurement employees.--

434 (2) As used in this section:

435 (e) "Procurement employee" means any employee of an
 436 officer, department, board, commission, ~~or~~ council, or agency of
 437 the executive branch or judicial branch of state government who
 438 has participated in the preceding 12 months ~~participates~~ through
 439 decision, approval, disapproval, recommendation, preparation of
 440 any part of a purchase request, influencing the content of any
 441 specification or procurement standard, rendering of advice,
 442 investigation, or auditing or in any other advisory capacity in
 443 the procurement of contractual services or commodities as

444 defined in s. 287.012, if the cost of such services or
 445 commodities exceeds \$10,000 ~~\$1,000~~ in any fiscal year.

446 (f) "Vendor" means a business entity doing business
 447 directly with an agency, such as renting, leasing, or selling
 448 any realty, goods, or services.

449 (3) A reporting individual or procurement employee is
 450 prohibited from soliciting any gift from a political committee
 451 or committee of continuous existence, as defined in s. 106.011,
 452 from a vendor doing business with the reporting individual's or
 453 procurement employee's agency, or from a lobbyist who lobbies
 454 the reporting individual's or procurement employee's agency, or
 455 the partner, firm, employer, or principal of such lobbyist,
 456 where such gift is for the personal benefit of the reporting
 457 individual or procurement employee, another reporting individual
 458 or procurement employee, or any member of the immediate family
 459 of a reporting individual or procurement employee.

460 (4) A reporting individual or procurement employee or any
 461 other person on his or her behalf is prohibited from knowingly
 462 accepting, directly or indirectly, a gift from a political
 463 committee or committee of continuous existence, as defined in s.
 464 106.011, from a vendor doing business with the reporting
 465 individual's or procurement employee's agency, or from a
 466 lobbyist who lobbies the reporting individual's or procurement
 467 employee's agency, or directly or indirectly on behalf of the
 468 partner, firm, employer, or principal of a lobbyist, if he or
 469 she knows or reasonably believes that the gift has a value in
 470 excess of \$100; however, such a gift may be accepted by such
 471 person on behalf of a governmental entity or a charitable

472 organization. If the gift is accepted on behalf of a
 473 governmental entity or charitable organization, the person
 474 receiving the gift shall not maintain custody of the gift for
 475 any period of time beyond that reasonably necessary to arrange
 476 for the transfer of custody and ownership of the gift.

477 (5) (a) A political committee or a committee of continuous
 478 existence, as defined in s. 106.011; a vendor doing business
 479 with the reporting individual's or procurement employee's
 480 agency; a lobbyist who lobbies a reporting individual's or
 481 procurement employee's agency; the partner, firm, employer, or
 482 principal of a lobbyist; or another on behalf of the lobbyist or
 483 partner, firm, principal, or employer of the lobbyist is
 484 prohibited from giving, either directly or indirectly, a gift
 485 that has a value in excess of \$100 to the reporting individual
 486 or procurement employee or any other person on his or her
 487 behalf; however, such person may give a gift having a value in
 488 excess of \$100 to a reporting individual or procurement employee
 489 if the gift is intended to be transferred to a governmental
 490 entity or a charitable organization.

491 Section 7. Paragraph (e) of subsection (1) and subsections
 492 (3) and (4) of section 112.3149, Florida Statutes, are amended,
 493 and paragraph (f) is added to subsection (1) of that section, to
 494 read:

495 112.3149 Solicitation and disclosure of honoraria.--

496 (1) As used in this section:

497 (e) "Procurement employee" means any employee of an
 498 officer, department, board, commission, ~~or~~ council, or agency of
 499 the executive branch or judicial branch of state government who

500 has participated in the preceding 12 months ~~participates~~ through
 501 decision, approval, disapproval, recommendation, preparation of
 502 any part of a purchase request, influencing the content of any
 503 specification or procurement standard, rendering of advice,
 504 investigation, or auditing or in any other advisory capacity in
 505 the procurement of contractual services or commodities as
 506 defined in s. 287.012, if the cost of such services or
 507 commodities exceeds \$10,000 ~~\$1,000~~ in any fiscal year.

508 (f) "Vendor" means a business entity doing business
 509 directly with an agency, such as renting, leasing, or selling
 510 any realty, goods, or services.

511 (3) A reporting individual or procurement employee is
 512 prohibited from knowingly accepting an honorarium from a
 513 political committee or committee of continuous existence, as
 514 defined in s. 106.011, from a vendor doing business with the
 515 reporting individual's or procurement employee's agency, from a
 516 lobbyist who lobbies the reporting individual's or procurement
 517 employee's agency, or from the employer, principal, partner, or
 518 firm of such a lobbyist.

519 (4) A political committee or committee of continuous
 520 existence, as defined in s. 106.011, a vendor doing business
 521 with the reporting individual's or procurement employee's
 522 agency, a lobbyist who lobbies a reporting individual's or
 523 procurement employee's agency, or the employer, principal,
 524 partner, or firm of such a lobbyist is prohibited from giving an
 525 honorarium to a reporting individual or procurement employee.

526 Section 8. Subsection (8) of section 112.3215, Florida
 527 Statutes, is amended, present subsections (11), (12), (13), and

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528 (14) of that section are redesignated as subsections (12), (13),
 529 (14), and (15), respectively, and a new subsection (11) is added
 530 to that section, to read:

531 112.3215 Lobbying before the executive branch or the
 532 Constitution Revision Commission; registration and reporting;
 533 investigation by commission.--

534 (8) (a) The commission shall investigate every sworn
 535 complaint that is filed with it alleging that a person covered
 536 by this section has failed to register, has failed to submit a
 537 compensation report, has made a prohibited expenditure, or has
 538 knowingly submitted false information in any report or
 539 registration required in this section.

540 (b) All proceedings, the complaint, and other records
 541 relating to the investigation are confidential and exempt from
 542 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 543 Constitution, and any meetings held pursuant to an investigation
 544 are exempt from the provisions of s. 286.011(1) and s. 24(b),
 545 Art. I of the State Constitution either until the alleged
 546 violator requests in writing that such investigation and
 547 associated records and meetings be made public or until the
 548 commission determines, based on the investigation, whether
 549 probable cause exists to believe that a violation has occurred.

550 (c) The commission shall investigate any lobbying firm,
 551 lobbyist, principal, agency, officer, or employee upon receipt
 552 of information from a sworn complaint or from a random audit of
 553 lobbying reports indicating a possible violation other than a
 554 late-filed report.

555 (d) Records relating to an audit conducted pursuant to

556 this section or an investigation conducted pursuant to this
 557 section or s. 112.32155 are confidential and exempt from s.
 558 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 559 any meetings held pursuant to such an investigation or at which
 560 such an audit is discussed are exempt from s. 286.011 and s.
 561 24(b), Art. I of the State Constitution either until the
 562 lobbying firm requests in writing that such investigation and
 563 associated records and meetings be made public or until the
 564 commission determines there is probable cause that the audit
 565 reflects a violation of the reporting laws. This paragraph is
 566 subject to the Open Government Sunset Review Act in accordance
 567 with s. 119.15 and shall stand repealed on October 2, 2011,
 568 unless reviewed and saved from repeal through reenactment by the
 569 Legislature.

570 (11) Any person who is required to be registered or to
 571 provide information under this section or under rules adopted
 572 pursuant to this section and who knowingly fails to disclose any
 573 material fact that is required by this section or by rules
 574 adopted pursuant to this section, or who knowingly provides
 575 false information on any report required by this section or by
 576 rules adopted pursuant to this section, commits a noncriminal
 577 infraction, punishable by a fine not to exceed \$5,000. Such
 578 penalty is in addition to any other penalty assessed by the
 579 Governor and Cabinet pursuant to subsection (10).

580 Section 9. Section 112.3136, Florida Statutes, is created
 581 to read:

582 112.3136 Standards of conduct for officers and employees
 583 of entities serving as chief administrative officer of political

584 subdivisions.--The officers, directors, and chief executive
 585 officer of a corporation, partnership, or other business entity
 586 that is serving as the chief administrative or executive officer
 587 or employee of a political subdivision, and any business entity
 588 employee who is acting as the chief administrative or executive
 589 officer or employee of the political subdivision, shall be
 590 treated as public officers and employees for the purpose of the
 591 following sections:

592 (1) Section 112.313, and their "agency" is the political
 593 subdivision that they serve; however, the contract under which
 594 the business entity serves as chief executive or administrative
 595 officer of the political subdivision is not deemed to violate s.
 596 112.313(3).

597 (2) Section 112.3145, as a "local officer."

598 (3) Sections 112.3148 and 112.3149, as a "reporting
 599 individual."

600 Section 10. Paragraph (e) is added to subsection (1) of
 601 section 112.317, Florida Statutes, to read:

602 112.317 Penalties.--

603 (1) Violation of any provision of this part, including,
 604 but not limited to, any failure to file any disclosures required
 605 by this part or violation of any standard of conduct imposed by
 606 this part, or violation of any provision of s. 8, Art. II of the
 607 State Constitution, in addition to any criminal penalty or other
 608 civil penalty involved, shall, under applicable constitutional
 609 and statutory procedures, constitute grounds for, and may be
 610 punished by, one or more of the following:

611 (e) In the case of a person who is subject to the

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612 standards of this part, other than a lobbyist or lobbying firm
 613 under s. 112.3215 for a violation of s. 112.3215, but who is not
 614 a public officer or employee:

- 615 1. Public censure and reprimand.
- 616 2. A civil penalty not to exceed \$10,000.
- 617 3. Restitution of any pecuniary benefits received because
 618 of the violation committed. The commission may recommend that
 619 the restitution penalty be paid to the agency of the person or
 620 to the General Revenue Fund.

621 Section 11. Paragraph (d) of subsection (8) of section
 622 112.324, Florida Statutes, is amended to read:

623 112.324 Procedures on complaints of violations; public
 624 records and meeting exemptions.--

625 (8) If, in cases pertaining to complaints other than
 626 complaints against impeachable officers or members of the
 627 Legislature, upon completion of a full and final investigation
 628 by the commission, the commission finds that there has been a
 629 violation of this part or of s. 8, Art. II of the State
 630 Constitution, it shall be the duty of the commission to report
 631 its findings and recommend appropriate action to the proper
 632 disciplinary official or body as follows, and such official or
 633 body shall have the power to invoke the penalty provisions of
 634 this part, including the power to order the appropriate
 635 elections official to remove a candidate from the ballot for a
 636 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
 637 State Constitution:

638 (d) Except as otherwise provided by this part, the
 639 Governor, in the case of any other public officer, public

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640 employee, former public officer or public employee, candidate,
 641 or former candidate, or person who is not a public officer or
 642 employee, other than lobbyists and lobbying firms under s.
 643 112.3215 for violations of s. 112.3215.

644 Section 12. Paragraph (a) of subsection (5) of section
 645 411.01, Florida Statutes, is amended to read:

646 411.01 School readiness programs; early learning
 647 coalitions.--

648 (5) CREATION OF EARLY LEARNING COALITIONS.--

649 (a) Early learning coalitions.--

650 1. The Agency for Workforce Innovation shall establish the
 651 minimum number of children to be served by each early learning
 652 coalition through the coalition's school readiness program. The
 653 Agency for Workforce Innovation may only approve school
 654 readiness plans in accordance with this minimum number. The
 655 minimum number must be uniform for every early learning
 656 coalition and must:

657 a. Permit 30 or fewer coalitions to be established; and

658 b. Require each coalition to serve at least 2,000 children
 659 based upon the average number of all children served per month
 660 through the coalition's school readiness program during the
 661 previous 12 months.

662
 663 The Agency for Workforce Innovation shall adopt procedures for
 664 merging early learning coalitions, including procedures for the
 665 consolidation of merging coalitions, and for the early
 666 termination of the terms of coalition members which are
 667 necessary to accomplish the mergers. Each early learning

668 coalition must comply with the merger procedures and shall be
 669 organized in accordance with this subparagraph by April 1, 2005.
 670 By June 30, 2005, each coalition must complete the transfer of
 671 powers, duties, functions, rules, records, personnel, property,
 672 and unexpended balances of appropriations, allocations, and
 673 other funds to the successor coalition, if applicable.

674 2. If an early learning coalition would serve fewer
 675 children than the minimum number established under subparagraph
 676 1., the coalition must merge with another county to form a
 677 multicounty coalition. However, the Agency for Workforce
 678 Innovation may authorize an early learning coalition to serve
 679 fewer children than the minimum number established under
 680 subparagraph 1., if:

681 a. The coalition demonstrates to the Agency for Workforce
 682 Innovation that merging with another county or multicounty
 683 region contiguous to the coalition would cause an extreme
 684 hardship on the coalition;

685 b. The Agency for Workforce Innovation has determined
 686 during the most recent annual review of the coalition's school
 687 readiness plan, or through monitoring and performance
 688 evaluations conducted under paragraph (4)(1), that the coalition
 689 has substantially implemented its plan and substantially met the
 690 performance standards and outcome measures adopted by the
 691 agency; and

692 c. The coalition demonstrates to the Agency for Workforce
 693 Innovation the coalition's ability to effectively and
 694 efficiently implement the Voluntary Prekindergarten Education
 695 Program.

696
697 If an early learning coalition fails or refuses to merge as
698 required by this subparagraph, the Agency for Workforce
699 Innovation may dissolve the coalition and temporarily contract
700 with a qualified entity to continue school readiness and
701 prekindergarten services in the coalition's county or
702 multicounty region until the coalition is reestablished through
703 resubmission of a school readiness plan and approval by the
704 agency.

705 3. Notwithstanding the provisions of subparagraphs 1. and
706 2., the early learning coalitions in Sarasota, Osceola, and
707 Santa Rosa Counties which were in operation on January 1, 2005,
708 are established and authorized to continue operation as
709 independent coalitions, and shall not be counted within the
710 limit of 30 coalitions established in subparagraph 1.

711 4. Each early learning coalition shall be composed of at
712 least 18 members but not more than 35 members. The Agency for
713 Workforce Innovation shall adopt standards establishing within
714 this range the minimum and maximum number of members that may be
715 appointed to an early learning coalition. These standards must
716 include variations for a coalition serving a multicounty region.
717 Each early learning coalition must comply with these standards.

718 5. The Governor shall appoint the chair and two other
719 members of each early learning coalition, who must each meet the
720 same qualifications as private sector business members appointed
721 by the coalition under subparagraph 7.

722 6. Each early learning coalition must include the
723 following members:

724 a. A Department of Children and Family Services district
 725 administrator or his or her designee who is authorized to make
 726 decisions on behalf of the department.

727 b. A district superintendent of schools or his or her
 728 designee who is authorized to make decisions on behalf of the
 729 district, who shall be a nonvoting member.

730 c. A regional workforce board executive director or his or
 731 her designee.

732 d. A county health department director or his or her
 733 designee.

734 e. A children's services council or juvenile welfare board
 735 chair or executive director, if applicable, who shall be a
 736 nonvoting member if the council or board is the fiscal agent of
 737 the coalition or if the council or board contracts with and
 738 receives funds from the coalition.

739 f. An agency head of a local licensing agency as defined
 740 in s. 402.302, where applicable.

741 g. A president of a community college or his or her
 742 designee.

743 h. One member appointed by a board of county
 744 commissioners.

745 i. A central agency administrator, where applicable, who
 746 shall be a nonvoting member.

747 j. A Head Start director, who shall be a nonvoting member.

748 k. A representative of private child care providers,
 749 including family day care homes, who shall be a nonvoting
 750 member.

751 1. A representative of faith-based child care providers,
752 who shall be a nonvoting member.

753 m. A representative of programs for children with
754 disabilities under the federal Individuals with Disabilities
755 Education Act, who shall be a nonvoting member.

756 7. Including the members appointed by the Governor under
757 subparagraph 5., more than one-third of the members of each
758 early learning coalition must be private sector business members
759 who do not have, and none of whose relatives as defined in s.
760 112.3143 has, a substantial financial interest in the design or
761 delivery of the Voluntary Prekindergarten Education Program
762 created under part V of chapter 1002 or the coalition's school
763 readiness program. To meet this requirement an early learning
764 coalition must appoint additional members from a list of
765 nominees submitted to the coalition by a chamber of commerce or
766 economic development council within the geographic region served
767 by the coalition. The Agency for Workforce Innovation shall
768 establish criteria for appointing private sector business
769 members. These criteria must include standards for determining
770 whether a member or relative has a substantial financial
771 interest in the design or delivery of the Voluntary
772 Prekindergarten Education Program or the coalition's school
773 readiness program.

774 8. A majority of the voting membership of an early
775 learning coalition constitutes a quorum required to conduct the
776 business of the coalition.

777 9. A voting member of an early learning coalition may not
778 appoint a designee to act in his or her place, except as

779 otherwise provided in this paragraph. A voting member may send a
 780 representative to coalition meetings, but that representative
 781 does not have voting privileges. When a district administrator
 782 for the Department of Children and Family Services appoints a
 783 designee to an early learning coalition, the designee is the
 784 voting member of the coalition, and any individual attending in
 785 the designee's place, including the district administrator, does
 786 not have voting privileges.

787 10. Each member of an early learning coalition is subject
 788 to ss. 112.313, 112.3135, and 112.3143. For purposes of s.
 789 112.3143(4)(a) ~~s. 112.3143(3)(a)~~, each voting member is a local
 790 public officer who must abstain from voting when a voting
 791 conflict exists.

792 11. For purposes of tort liability, each member or
 793 employee of an early learning coalition shall be governed by s.
 794 768.28.

795 12. An early learning coalition serving a multicounty
 796 region must include representation from each county.

797 13. Each early learning coalition shall establish terms
 798 for all appointed members of the coalition. The terms must be
 799 staggered and must be a uniform length that does not exceed 4
 800 years per term. Appointed members may serve a maximum of two
 801 consecutive terms. When a vacancy occurs in an appointed
 802 position, the coalition must advertise the vacancy.

803 Section 13. This act shall take effect January 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 1113**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Ethics & Elections

2 Representative Patterson offered the following:

3
4 **Amendment (with title amendment)**

5
6 Remove line(s) 88-105

7
8 -----
9 **T I T L E A M E N D M E N T**

10 Remove line(s) 4-13 and insert:

11
12 term "business entity" to include a company; amending s.
13 112.3135, F.S.; prohibiting a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **HB 1113**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Ethics & Elections

2 Representative Patterson offered the following:

3

4 **Amendment**

5 Remove line(s) 596 and insert:

6 112.313(3) or s. 112.313(7).

7

8

9

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. 1113

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Ethics & Elections

2 Representative Patterson offered the following:

4 **Amendment (with title amendment)**

5 Remove line(s) 115-133 and insert:

6

7 official. An individual may not be appointed, employed,

8 promoted, or advanced in or to a position in an agency if such

9 appointment, employment, promotion, or advancement has been made

10 or advocated by a public official, serving in or exercising

11 jurisdiction or control over the agency, who is a relative of

12 the individual or if such appointment, employment, promotion, or

13 advancement is made by a collegial body of which a relative of

14 the individual is a member. If a prohibited appointment,

15 employment, promotion, or advancement occurs, both the official

16 and the individual shall be subject to penalties under s.

17 112.317; however, if the appointment, employment, promotion, or

18 advancement is made by the collegial body of which the official

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

19 is a member without the official's participation, only the
20 individual shall be subject to penalties under s. 112.317. This
21 ~~However, this subsection~~ does ~~shall~~ not apply to

22
23 **T I T L E A M E N D M E N T**
24

25 Remove line(s) 13-23 and insert:

26 Employees; amending s. 112.3135, F.S.; providing that both an
27 official and the official's relative are subject to penalties if
28 a prohibited appointment, employment, promotion, or advancement
29 to a position occurs; providing an exception if the official
30 does not participate in the appointment, employment, promotion,
31 or advancement;