

Stanley M. Weston
Chair
Matthew F. Carlucci
Vice Chair
Michelle Anchors
Daniel Brady, Ph.D.
Michael Cox
Tom Freeman
Wiley Horton
Guy W. Norris
Kimberly Bonder Rezanka



Virilindia Doss
Executive Director

C. Christopher Anderson, III
*General Counsel/
Deputy Executive Director*

State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

325 John Knox Road
Building E, Suite 200
Tallahassee, Florida 32303

(850) 488-7864 Phone
(850) 488-3077 (FAX)
www.ethics.state.fl.us

"A Public Office is a Public Trust"

MEMORANDUM

TO: Commission Members
FROM: Betsy Daley, Senior Attorney
DATE: May 18, 2016
RE: Rule Adoption Hearings

The Commission is being asked to consider and approve one rulemaking docket/agenda at the June 3 meeting. The rule amendment has been duly noticed and materials have been provided to the Joint Administrative Procedures Committee.

The matter under consideration is an amendment to Rule 34-7.010 and incorporated forms (CE Form 9 and CE Form 30) reflecting a legislative change as to gifts from agency vendors, reflecting legislative deletion of "committees of continuous existence," and reflecting legislative deletion of the Technological Research and Development Authority.

The Notice of Proposed Rule for this matter is attached. You will be asked to adopt this rule amendment at your June 3, 2016, Commission meeting.

Attachments

Section II Proposed Rules

COMMISSION ON ETHICS

RULE NO.: RULE TITLE:

34-7.010 List of Forms and Instructions

PURPOSE AND EFFECT: The rule is being amended to update two forms which are incorporated by reference in the rule. CE Form 9 is being amended to reflect a legislative change as to certain gifts from agency vendors and to reflect legislative deletion of committees of continuous existence and the Technological Research and Development Authority. CE Form 30 is being amended to reflect legislative deletion of the Technological Research and Development Authority.

SUMMARY: This rulemaking affects CE Form 9 -- Quarterly Gift Disclosure and CE Form 30 -- Donor's Quarterly Gift Disclosure. The rulemaking affects instructions for filing the forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Fewer than 100 gift donors and only a small fraction of the 40,000 persons who file financial disclosure will be required to file one or more of the two incorporated forms being amended. Other than the time expended to complete the forms, any economic impact on these filers is nominal. The Commission absorbs in its annual budget the costs of maintaining its website and distributing its forms.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Art. II, Section 8, Fla. Const., 112.322(9), FS.

LAW IMPLEMENTED: Art II, Section 8, Fla. Const., Chapter 2013-235, LOF, Chapter 2013-36, LOF, 112.3145, 112.3148, 112.3149, 112.31485, 112.3215 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 3, 2016, 8:30 a.m.

PLACE: First District Court of Appeal, Third Floor Courtroom, 2000 Drayton Drive, Tallahassee, Florida
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Diana Westberry, Executive Secretary, Commission on Ethics, (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betsy Daley, Senior Attorney, Commission on Ethics, (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.010 List of Forms and Instructions.

(1) The following forms and instructions are incorporated by reference and are used by the Commission in its dealings with the public:

(a) through (f) No change.

(g) Form 9, Quarterly Gift Disclosure. To be utilized by persons who are required to File Form 1 or Form 6 and by State procurement employees for compliance with the quarterly gift disclosure requirements of Section 112.3148(8), F.S., http://www.flrules.org/Gateway/reference.asp?No=Ref-_____. Effective _____.

(h) No change.

(i) Form 30, Donor's Quarterly Gift Disclosure. To be utilized by political committees, lobbyists (persons who for compensation sought to influence the governmental decision-making, proposal, or recommendation of an agency), and the partners, firms, principals, and employers of lobbyists for compliance with the gift disclosure requirements of Section 112.3148(5), F.S., http://www.flrules.org/Gateway/reference.asp?NO=Ref-_____. Revised 1/2016. Effective _____.

(j) No change.

(2) No change.

Rulemaking Authority Art. II, Section 8(i), Fla. Const., 112.31425, 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS. Law Implemented Art. II, Section 8(a), (f), (h), Fla. Const., 112.313(9), (12), 112.31425, 112.3143, 112.3144, 112.3145, 112.3148, 112.31485, 112.3149, 112.3215 FS. History--New 4-11-76, Formerly 34-7.10-7.22, 8.10, Amended 2-23-77, 4-7-77, 5-17-77, 10-20-77, 2-25-79, 1-29-80, 4-29-81, 1-12-82, 3-25-82, 2-21-83, Formerly 34-7.10, Amended 7-10-88, 3-4-91, 10-6-91, 10-29-91, 12-22-91, 7-5-92, 10-15-92, 12-6-92, 11-10-93, 12-27-93, 11-21-94, 2-16-95, 12-26-95, 1-27-97, 1-1-98, 1-1-99, 1-1-00, 12-4-00, 12-21-00, 10-14-01, 11-22-01, 1-1-02, 1-1-03, 1-1-04, 1-1-05, 1-1-06, 6-15-06, 1-1-07, 1-1-10, 8-18-10, 1-1-11, 1-19-11, 11-4-13, 1-1-15, 11-24-15,_____.

Form 9**QUARTERLY GIFT DISCLOSURE
(GIFTS OVER \$100)**

LAST NAME -- FIRST NAME -- MIDDLE NAME:			NAME OF AGENCY:	
MAILING ADDRESS:			OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE):	
			<input type="checkbox"/> MARCH	<input type="checkbox"/> JUNE
			<input type="checkbox"/> SEPTEMBER	<input type="checkbox"/> DECEMBER
				YEAR 20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. **You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.**

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.	STATE OF FLORIDA COUNTY OF _____ Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____ by _____ (Signature of Notary Public-State of Florida)
	(Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known _____ OR Produced Identification Type of Identification Produced _____
_____ SIGNATURE OF REPORTING OFFICIAL	

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

PART E — INSTRUCTIONS

WHO MUST FILE THIS FORM?

- Any individual, including a candidate upon qualifying, who is required by law to file full and public disclosure of his financial interests on Commission on Ethics Form 6, except Judges. (See Form 6 for a list of persons required to file that form.)
- Any individual, including a candidate upon qualifying, who is required by law to file a statement of financial interests on Commission on Ethics Form 1. (See Form 1 for a list of persons required to file that form.)
- Any procurement employee of the executive branch or judicial branch of state government. This includes any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.

NOTE: Gifts that formerly were allowed under Section 112.3148, F.S., now may be prohibited under Sections 11.045, 112.3215, and 112.31485, F.S.

WHAT GIFTS ARE REPORTABLE?

- Any gift (as defined below) you received which you believe to be in excess of \$100 in value, **EXCEPT**:
 - 1) Gifts from the following RELATIVES: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, a person who is engaged to be married to you or who otherwise holds himself or herself out as or is generally known as the person whom you intend to marry or with whom you intend to form a household, or any other natural person having the same legal residence as you.
 - 2) Gifts which you are prohibited from accepting by Sections 112.313(4) and 112.3148(4), Florida Statutes. These include any gift which you know or, with the exercise of reasonable care, should know was given to influence a vote or other action in which you are expected to participate in your official capacity; it also includes a gift worth over \$100 from a vendor doing business with your agency, a political committee or committee of continuous existence under the elections law, from a lobbyist who lobbies your agency or who lobbied your agency within the past 12 months, or from a partner, firm, employer, or principal of such a lobbyist.
 - 3) Gifts worth over \$100 for which there is a public purpose, given to you by an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board; or a gift worth over \$100 given to you by a direct-support organization specifically authorized by law to support the governmental agency of which you are an officer or employee. These gifts must be disclosed on Form 10.
- A "gift" is defined to mean that which is accepted by you or by another in your behalf, or that which is paid or given to another for or on behalf of you, directly, indirectly, or in trust for your benefit or by any other means, for which equal or greater consideration is not given within 90 days after receipt of the gift. A "gift" includes real property; the use of real property; tangible or intangible personal property; the use of tangible or intangible personal property; a preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin; forgiveness of an indebtedness; transportation (unless provided to you by an agency in relation to officially approved governmental business), lodging,

or parking; food or beverage; membership dues; entrance fees, admission fees or tickets to events, performances, or facilities; plants, flowers, or floral arrangements; services provided by persons pursuant to a professional license or certificate; other personal services for which a fee is normally charged by the person providing the services; and any other similar service or thing having an attributable value and not already described.

- The following are **NOT** reportable as gifts on this form: salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with your employment, business, or service as an officer or director of a corporation or organization; contributions or expenditures reported pursuant to the election laws, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party; an honorarium or an expense related to an honorarium event paid to you or your spouse; an award, plaque, certificate, or similar personalized item given in recognition of your public, civic, charitable, or professional service; an honorary membership in a service or fraternal organization presented merely as a courtesy by such organization; the use of a governmental agency's public facility or public property for a public purpose. Also exempted are some gifts from state, regional, and national organizations that promote the exchange of ideas between, or the professional development of, governmental officials or employees.

HOW DO I DETERMINE THE VALUE OF A GIFT?

- The value of a gift provided to you is determined using the actual cost to the donor, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided. Taxes and gratuities are not included in valuing a gift. If additional expenses are required as a condition precedent to the donor's eligibility to purchase or provide a gift and the expenses are primarily for the benefit of the donor or are of a charitable nature, the expenses are not included in determining the value of the gift.
- Compensation provided by you to the donor within 90 days of receiving the gift shall be deducted from the value of the gift in determining the value of the gift.
- If the actual gift value attributable to individual participants at an event cannot be determined, the total costs should be prorated among all invited persons. A gift given to several persons may be attributed among all of them on a pro rata basis. Food, beverages, entertainment, etc., provided at a function for more than ten people should be valued by dividing the total costs by the number of persons invited, unless the items are purchased on a per-person basis, in which case the per-person cost should be used.
- Transportation should be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses should be considered a single gift. Transportation provided in a private conveyance should be given the same value as transportation provided in a comparable commercial conveyance.
- Lodging provided on consecutive days should be considered a single gift. Lodging in a private residence should be valued at \$44 per night.
- Food and beverages consumed at a single sitting or event are a single gift valued for that sitting or meal. Other food and beverages provided on a calendar day are considered a single gift, with the total value of all food and beverages provided on that date being the value of the gift.
- Membership dues paid to the same organization during any 12-month period are considered a single gift.
- Entrance fees, admission fees, or tickets are valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater. If an admission ticket is given by a charitable organization, its value does not include the portion of the cost that represents a contribution to that charity.
- Except as otherwise provided, a gift should be valued on a per occurrence basis.

FOR MORE INFORMATION

The gift disclosures made on this form are required by Sec. 112.3148, Florida Statutes. Questions may be addressed to the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709 or by calling (850) 488-7864; information is provided at: www.ethics.state.fl.us.

FORM 30 DONOR'S QUARTERLY GIFT DISCLOSURE

(GIFTS BETWEEN \$25 AND \$100)

NAME OF PERSON SIGNING FORM:
(LAST NAME - FIRST NAME - MIDDLE NAME)

FOR QUARTER ENDING (CHECK ONE):

MARCH JUNE SEPTEMBER DECEMBER YEAR: 20 ____

NAME OF ORGANIZATION, FIRM, COMMITTEE, OR CORPORATION
FILING THIS FORM (if different from name above):

MAILING ADDRESS OF PERSON OR ENTITY FILING THIS FORM
STREET OR P.O. BOX: _____ CITY: _____ STATE: _____ ZIP: _____

INSTRUCTIONS on who must file this form and how to fill it out are on the reverse side.
NOTE: In addition to filing this form, the donor must notify the intended recipient *at the time the gift is made* that the gift will be reported.

STATEMENT OF GIFTS GIVEN DURING CALENDAR QUARTER VALUED AT MORE THAN \$25 AND NOT MORE THAN \$100

DATE GIVEN	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON WHO MADE THE GIFT	ADDRESS OF PERSON WHO MADE THE GIFT	NAME OF RECIPIENT OF GIFT	ADDRESS OF RECIPIENT

IF CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

SIGNATURE: _____ DATE: _____

FILING INSTRUCTIONS:

WHEN TO FILE: No later than the last day of the calendar quarter following the calendar quarter in which a reportable gift was given (example: if a gift is given in March, the form disclosing it should be filed by June 30).

You **do not** need to file this form unless you have given a reportable gift.

WHERE TO FILE: File with the Commission on Ethics, P.O. Drawer 15709,

Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303, **UNLESS** the reportable gift was made to an officer or employee of the **Legislative Branch** of State government (Senate, House of Representatives, Joint Legislative entities, Public Service Commission, Commission on Ethics). Gifts to Legislative Branch officials should be reported on a separate Form 30 filed with Lobbyist Registration, Office of Legislative Services, Room G-68, Claude Pepper Building, 111 W. Madison St, Tallahassee, Florida 32399.

WHO MUST FILE THIS FORM?

- Any person ("lobbyist") who for compensation was seeking at the time a gift was given (or sought during the 12 months preceding the date of the gift) to influence the governmental decisionmaking, proposal, or recommendation of an agency. *If* that person made, or directed to make, a reportable gift to a reporting individual* or procurement employee** of that agency.
- Any partner, firm, principal, or employer of such a person (lobbyist) *If* the partner, firm, principal, or employer made, or directed another to make a reportable gift to a reporting individual* or State procurement employee** of the agency that the lobbyist was seeking or sought to influence.
- A "political committee" required to register under the election campaign finance laws that made, or directed another to make, a reportable gift to a reporting individual* or procurement employee**.
- A "vendor" as defined in s. 112.3148(2)(f), F.S., that made, or directed another to make a reportable gift to a reporting individual* or procurement employee**.

* A "reporting individual" is a public officer or employee required to file a CE Form 6 or CE Form 1 financial disclosure statement. Generally, this includes elected officials, candidate for office, most appointed board members, and high level employees at State and local levels of government in Florida.

** A "procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.

This form does not have to be filed unless a reportable gift was made or directed to be made during the last calendar quarter.

WHAT GIFTS ARE REPORTABLE?

Any individual gift (as defined below) valued over \$25 but not over \$100 to a reporting individual or procurement employee on or after October 1, 1991. *The same gift need not be reported by more than one person or entity.*

Note: Gifts that formerly were allowed under Section 112.3148, F.S. now may be prohibited expenditures under Sections 11.045, 112.3215, and 112.31485, F.S.

WHAT IS A "GIFT"?

A "gift" is defined to mean that which is accepted by an official or by another in his or her behalf, or that which is paid or given to another for or on behalf of the official, directly, indirectly, or in trust for the official's benefit or by any other means, for which equal or greater consideration is not given within 90 days following receipt of the gift.

A "gift" includes: real property and its use; tangible or intangible personal property and its use; transportation (unless provided by an agency in relation to officially approved governmental business), lodging or parking; food or beverage; membership dues; entrance fees; admission fees; or tickets to events, performances, or facilities; plants, flowers, or floral arrangements; services provided by persons pursuant to a professional license or certificate; other personal services for which a fee is normally charged; forgiveness of an indebtedness; a preferential rate or terms on a debt, loan, goods, or services that is not available to all similarly situated officials or to members of the public by virtue of occupation, affiliation, age, religion, sex; or national origin; and any other similar service or thing having an attributable value.

The following are **NOT REPORTABLE** as gifts on this form: a gift accepted on behalf of a government entity or charitable organization; a gift having a public purpose from a legislative or judicial branch entity, from an executive branch department or commission, from a water management district, the South Florida Regional Transportation Authority, the ~~Technological Research and Development Authority~~, or from a county, municipality, airport authority, or school board; a gift from a direct-support organization authorized by law to support a government entity to an officer or employee of that entity; salary, benefits, services, fees, commissions, gifts, or expenses primarily associated with the recipient's business; employment, or service as an officer or director of a corporation or organization; contributions or expenditures reported pursuant to the election laws, campaign-related personal services provided by individual volunteers, and any contribution or expenditure by a political party; an honorarium or an expense related to an honorarium event to the official or official's spouse; an award, plaque, certificate, or similar personalized item given in recognition of the official's public, civic, charitable, or professional services; an honorary membership in a service or fraternal organization presented merely as a courtesy; and the use of public property or facilities for a public purpose. Also exempted are some gifts from state, regional, and national organizations that promote the exchange of ideas between or the professional development of governmental officials or employees.

HOW I VALUE A GIFT?

Except as provided below, the value of a gift is the actual cost to the donor valued on a per occurrence basis. Compensation provided within 90 days of the gift by the recipient to the donor should be deducted from the value of the gift. Taxes and gratuities are not included in valuing a gift.

- Entrance fees, admission fees, or tickets: face value of the ticket/free or on a daily per event basis, whichever is greater. If an admission ticket is given by a charitable organization, its value does not include the portion of the cost that represents a contribution to that charity.
- Lodging: on consecutive days is considered a single gift; lodging in a private residence is valued at \$44 per night.
- Transportation: value as a single gift on a round-trip basis (unless only one-way transportation is provided); value transportation in a private conveyance as if it were in a comparable commercial conveyance.
- Food and beverages consumed at a single sitting or event are a single gift valued for that sitting or meal; other food and beverages provided on a calendar day are considered a single gift, with the total value of all food and beverages provided on that date being the value of the gift.
- Personal services: value at the reasonable and customary charge for such services in the community where provided.
- Membership dues: value as a single gift all dues paid to the same organization during any 12-month period.
- Prorate total costs of an event among all invited persons if gift value for an individual participant cannot be determined. A gift given to several persons may be attributed among all of them on a pro rata basis. Food, beverages, entertainment, etc. provided at a function for more than ten people should be valued by dividing the total costs by the number of persons invited, unless the items are purchased on a per-person basis, in which case the per-person cost should be used.
- Do not include additional expenses required as a condition precedent to the donor's eligibility to purchase or provide the gift if such expenses are primarily for the benefit of the donor or are of a charitable nature.

FOR MORE INFORMATION:

This statement is required by Section 112.3148, Florida Statutes. Questions about the form or this law may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; telephone (850) 488-7864; information is also provided at: www.ethics.state.fl.us.