

*Annual Report  
to the  
Florida Legislature  
For Calendar Year 2012*



*By the  
State of Florida  
Commission on Ethics*

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# *Message from the Chair*

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At this moment, Florida is on a precipice with an opportunity to look to the future. Our state legislative and business leadership can fulfill Florida's needs for economic recovery and still focus on our highest ethical needs, uphold respect for the laws and be sensitive to appearance of impropriety. *"To see what is right and not do it is want of courage and leadership"* Confucius. The Florida Commission on Ethics believes Florida legislators have the courage and leadership to move forward on critical issues of ethics reform in this state. They can showcase Florida as an example to the nation at a time when many think politicians fail to act in the best interest of their constituencies and place self-gain and preservation above the public good.

Florida must reject its low national rating for ethical behavior and once again lead the nation as a state recognized for its public service and honor. Our state legislative leadership has prioritized ethics reform and we look forward to working with these worthy bodies in accomplishing many reforms to augment current laws. We encourage the legislative adoption of the State of Florida Commission on Ethics proposed legislation for 2013. The Commission's agenda is focused and clear. Its highest priority is greater enforcement for the recovery of automatic fines through the imposition of liens on real and personal property. Other priorities include:

- ◆ Allowing referrals for investigation by the Commission from the Governor's Office, Florida Department of Law Enforcement, State Attorneys, and Department of Financial Services upon a super majority vote by the Commission;
- ◆ Restoring the statutory standard for the recovery of attorney's fees to require a showing that a complainant acted with actual malice; and
- ◆ Modifying the voting conflict law for state appointed officials to mirror that of local appointed officials requiring the declaration of a conflict, abstention, and filing a voting conflict memo afterward.

The current Commissioners of the Florida Commission on Ethics encourage legislative and business leaders to aim high and not to value privilege above principle and to use their resources and engage in activities worthy of their leadership bringing meaningful ethics reform identified in the Commission's legislative package.

Let us pursue commonly shared values that our great state may prosper. From strong ethics will flow a strong democracy, and a strong economy for all Floridians. So, let us proceed.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Susan Horovitz Maurer', with a long horizontal line extending to the right.

Susan Horovitz Maurer

Chair

## *2012 Commission Members*

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**SUSAN HOROVITZ MAURER, *Chair***

Ft. Lauderdale - Attorney (D)  
Term expires June 2013  
Reappointed by Governor Scott

**MORGAN R. BENTLEY, *Vice Chair***

Sarasota - Attorney (D)  
Term expires June 2014  
Reappointed by Speaker of the House Cannon

**MATTHEW F. CARLUCCI**

Jacksonville - Insurance Agent (R)  
Term expires June 2012  
Appointed by Governor Scott

**I. MARTIN FORD**

Vero Beach - Retired (R)  
Term expires June 2013  
Reappointed by Governor Scott

**JEAN M. LARSEN**

Port St. Lucie - Retired (R)  
Term expires June 2012  
Reappointed by Senate President Atwater

**LINDA M. ROBISON**

Pompano Beach - Attorney (R)  
Term expires June 2013  
Reappointed by Governor Scott

**EDWIN SCALES, III**

Key West - Attorney (R)  
Term expires June 2014  
Reappointed by Speaker of the House Cannon

**ROBERT J. SNIFFEN**

Tallahassee - Attorney (D)  
Term expires June 2012  
Reappointed by Senate President Atwater

**STANLEY WESTON**

Jacksonville - Attorney (D)  
Term expires June 2013  
Appointed Governor Scott

# *Introduction & History*

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ection 112.322(8), Florida Statutes, requires the Florida Commission on Ethics 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.” This report has been provided to the Legislature on an annual basis since 1974. The publication of this document is intended to inform the Legislature and the public of the Commission’s work during the calendar year 2012.

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of her people to protect the public trust against abuse. In 1967, the Legislature enacted “a code of ethics setting forth standards of conduct to be observed by state officers and employees in the performance of their official duties.” Chapter 67-469, Laws of Florida, declared it to be the policy of the Legislature that no state officer or employee, or member or employee of the Legislature, should have any direct or indirect business or professional interest that would “conflict with the proper discharge of his duties in the public interest.” The code was amended to be applicable to officers and employees of political subdivisions of the state in 1969 (Chapter 69-335, Laws of Florida). Five years later, the Florida Commission on Ethics was statutorily created by Chapter 74-176, Laws of Florida (now Part III, Chapter 112, Florida Statutes), to “serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state....”

In late 1975 and 1976, Governor Reubin Askew led an initiative petition drive to amend the Constitution to provide more stringent requirements relating to ethics in government and to require certain public officials and candidates to file full and public disclosure of their financial interests and their campaign finances. The voters in Florida overwhelmingly approved this measure in the 1976 General Election, and the “Sunshine Amendment,” Article II, Section 8, Florida Constitution, became part of the Constitution on January 4, 1977. The Amendment declares: “A public office is a public trust. The

people shall have the right to secure and sustain that trust against abuse.” The Constitution provides for investigations of complaints concerning breaches of the public trust and provides that the Florida Commission on Ethics be the independent commission to conduct these investigations.

The “Code of Ethics for Public Officers and Employees” adopted by the Legislature is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people in their government. The Code is intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service. Criminal penalties which initially applied to violations of the Code were eliminated in 1974 in favor of administrative enforcement.

Duties statutorily assigned to the Commission on Ethics include investigating sworn complaints alleging violations of the ethics laws, making penalty recommendations for violations, maintaining a financial disclosure notification system totaling 37,306 reporting officials and employees this past year, and issuing advisory opinions regarding Part III of Chapter 112, Florida Statutes, and Article II, Section 8, Florida Constitution. The Commission also is charged with administering the Executive Branch Lobby Registration System and Trust Fund, which provides for registration of all cabinet and executive agency lobbyists.

# *Organization*

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The Commission on Ethics is an appointive body consisting of nine members, none of whom may hold any public employment or be employed to lobby state or local government. Five of the members are appointed by the Governor and confirmed by the Senate. No more than three of the Governor's appointees may be of the same political party, and one must be a former city or county official. The Speaker of the House of Representatives and the President of the Senate each make two appointments to the Commission on Ethics. The two appointments must be persons with different political party affiliations. The appointees of the President and Speaker are not subject to Senate confirmation. Any member of the Commission on Ethics may be removed for cause by a majority vote of the Governor, the President of the Senate, the Speaker of the House, and the Chief Justice of the Florida Supreme Court.

Members of the Commission on Ethics serve two-year terms and may not serve more than two full terms in succession. A chairman and vice-chairman are selected by the members for one-year terms. Members of the Commission do not receive a salary but do receive reimbursement for travel and per diem expenses while on official Commission business.

## *Ethics Commission Staff*

Legal, investigative, and administrative functions of the Commission are performed by staff, consisting of 22 full-time equivalent positions.

Virindia Doss, Executive Director

C. Christopher Anderson, III, General Counsel and Deputy Executive Director

## *Legal Section*

Under the supervision of the Executive Director and the General Counsel, the legal section drafts opinions, orders, rules, and proposed legislation for consideration by the Commission, teaches, and responds to inquires about the ethics laws. In addition, the legal staff represents the Commission in litigation.

Legal services are provided both by staff and by Assistant Attorneys General Diane L. Guillemette and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

### *Legal Staff*

Julia Cobb Costas, Assistant General Counsel

Betsy Daley, Senior Attorney

Vacant, Attorney

Millie Fulford, Executive Secretary

## *Investigative Section*

The investigative staff, also supervised by the Executive Director, conducts investigations of violations of the ethics laws and writes narrative investigative reports. The Complaint Coordinator serves as the liaison between the Commission and the Complainant and Respondent and, as the official Clerk of the Commission, is responsible for maintaining the complaint tracking system and files.

### *Investigative Staff*

Robert G. Malone, Senior Investigator

A. Keith Powell, Senior Investigator

Tom W. Reaves, Investigator

Harry B. Jackson, Investigator

K. Travis Wade, Investigator

Ronald D. Moalli, Investigator

E. Clay Mason, Investigator

Kaye B. Starling, Complaint Coordinator

## *Financial Disclosure Section*

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws and compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure. These 37,306 reporting officials and employees were notified of their filing requirements in 2012 by the Commission on Ethics and by the Supervisors of Elections.

### *Financial Disclosure Staff*

Shirley A. Taylor, Program Administrator

Kimberly Holmes, Program Specialist

Connie Evans, Executive Secretary

Martha Larson, Executive Secretary

## *Operations and Communications*

Under the supervision of the Executive Director, this section provides information regarding Commission practices and procedures to other states, the press, and the public. This staff member also assists with the agency budget and legislative lobbying, oversees office efficiency initiatives, conducts training, and responds to general information inquiries about the Commission and the ethics laws.

### *Operations and Communications Staff*

Kerrie J. Stillman, Director of Operations and Communications

## *Administrative and Clerical Section*

Under the supervision of the Executive Director, the administrative section provides administrative and clerical support services to the Commissioners and staff.

### *Administrative and Clerical Staff*

Lynn Blais, Assistant to the Executive Director

Frances Craft, Office Manager

Dianne Wilson, Clerk (half-time)

Theresa Connell, Clerk (half-time)

# Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2012.

## BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2012 (Amounts in dollars)

	<u>Budget</u>	<u>Actual</u>	<u>Variance- Favorable (Unfavorable)</u>
<b>Revenues:</b>			
Released General Revenue Appropriations	\$2,367,752	\$2,367,752	\$0
Fines*	0	77,595	77,595
Miscellaneous Receipts	0	395	395
<b>Total Revenues</b>	<b><u>2,367,752</u></b>	<b><u>2,445,742</u></b>	<b><u>77,990</u></b>
<b>Expenditures:</b>			
Salaries and Related Benefits	1,654,556	1,606,106	48,450
Other Personal Services	319,463	294,680	24,783
Expenses	275,443	262,064	13,379
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	15,364	15,364	0
Risk management insurance	2,926	2,926	0
Legislative Carryforward **	503,984	0	503,984
Nonoperating***	100,000	1,412	98,588
<b>Total Expenditures</b>	<b><u>2,871,736</u></b>	<b><u>2,182,551</u></b>	<b><u>689,184</u></b>
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(503,984)	263,191	<u>\$767,175</u>
<b>Budgetary Fund Balance, June 30, 2012</b>		<b><u>263,191</u></b>	
Adjustment for Fines*		(77,595)	
Adjustment for Nonoperating***		(98,588)	
Adjustments for Carryforward Expenditures**		0	
<b>Adjusted Budgetary Fund Balance, June 30, 2012</b>		<b><u>\$87,007</u></b>	

### EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 201,325  
FINES: \$ 3,700

\* Fines are recorded as Collection to General Revenue and are not a Revenue in the State's Accounting System and are not an available resource to the fund.

\*\* Legislative Carryforward is prior years' unspent budget carried forward to the current year. It is treated as current appropriations.

\*\*\* Nonoperating Budget is budget set to refund fines and is not an available resource to the fund.

# Operations

The major operational functions of the Commission on Ethics are the investigation of complaints, management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. The information below is offered to provide a profile of the Commission's workload.

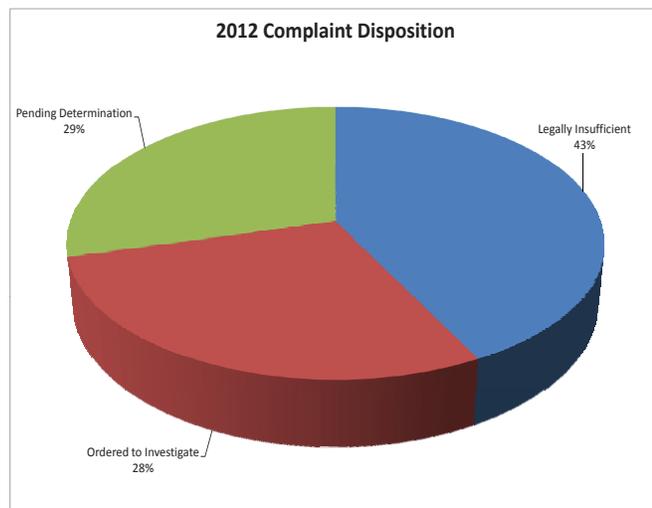
## Complaints

### Statistical Summary of Complaints Filed January 1, 2012 through December 31, 2012

Total number of complaints filed in 2012 .....296

<b>POSITION</b>	<b>NUMBER OF COMPLAINTS</b>	<b>PERCENT OF TOTAL</b>
State Elected Officer	76	25.7%
State Appointed Officers	2	0.7%
State Employee	17	5.7%
District Elected Officer	16	5.4%
District Appointed Officers	2	0.7%
District Employee	7	2.4%
County Elected Officer	43	14.5%
County Appointed Officer	3	1.0%
County Employee	9	3.0%
Municipal Elected Officer	67	22.6%
Municipal Appointed Officer	10	3.4%
Municipal Employee	37	12.5%
Judicial	2	0.7%
Candidate	5	1.7%
<b>TOTAL</b>	<b>296</b>	<b>100.0%</b>

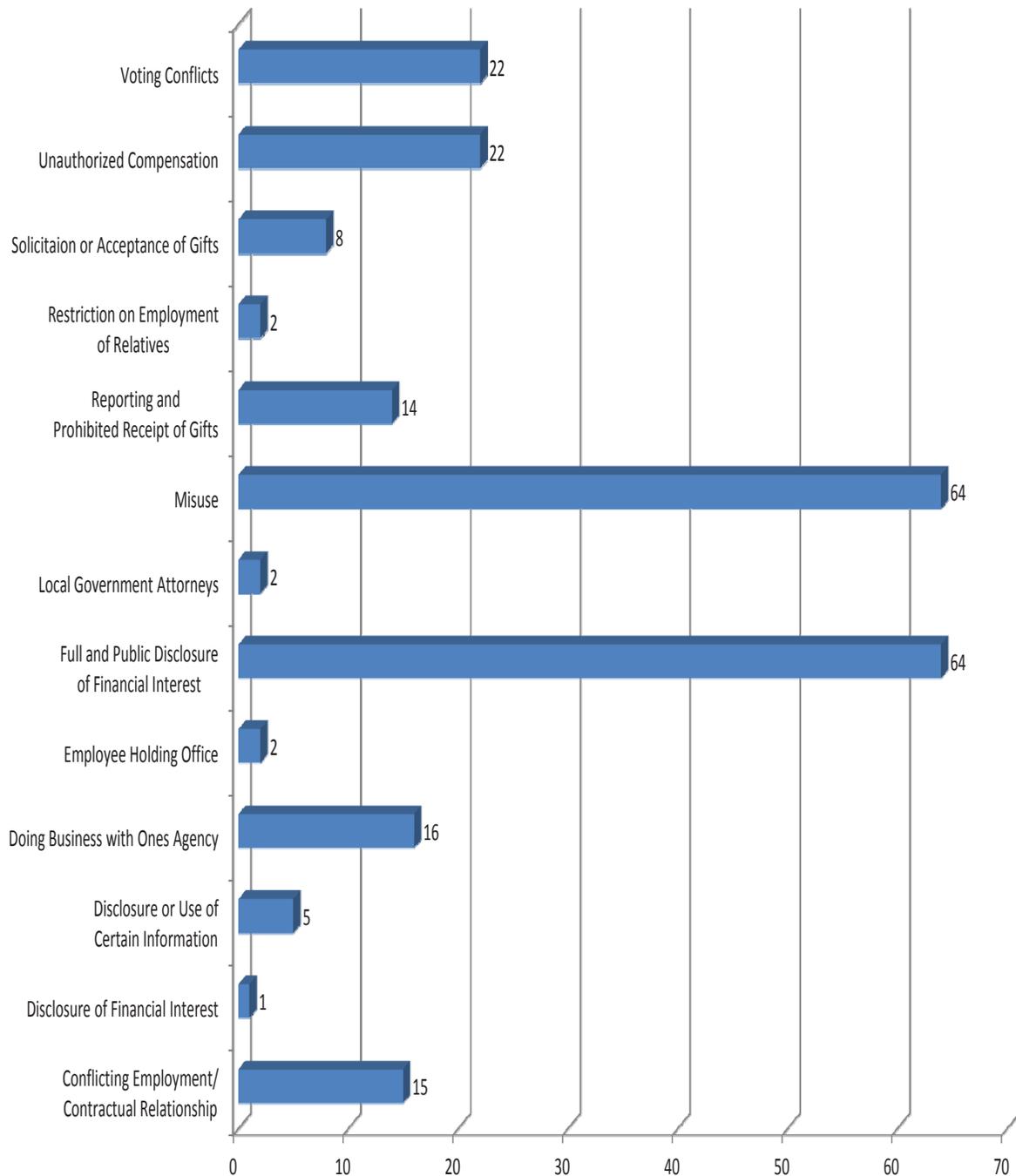
Of the 296 complaints received in 2012, 123 were dismissed for lack of legal sufficiency; 85 were ordered to be investigated; and 88 were pending legal sufficiency determination at the end of the year.



## Allegations

Of the 296 complaints received in 2012, the Commission's Executive Director ordered an investigation of 85 complaints as of December 31, 2012. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below.

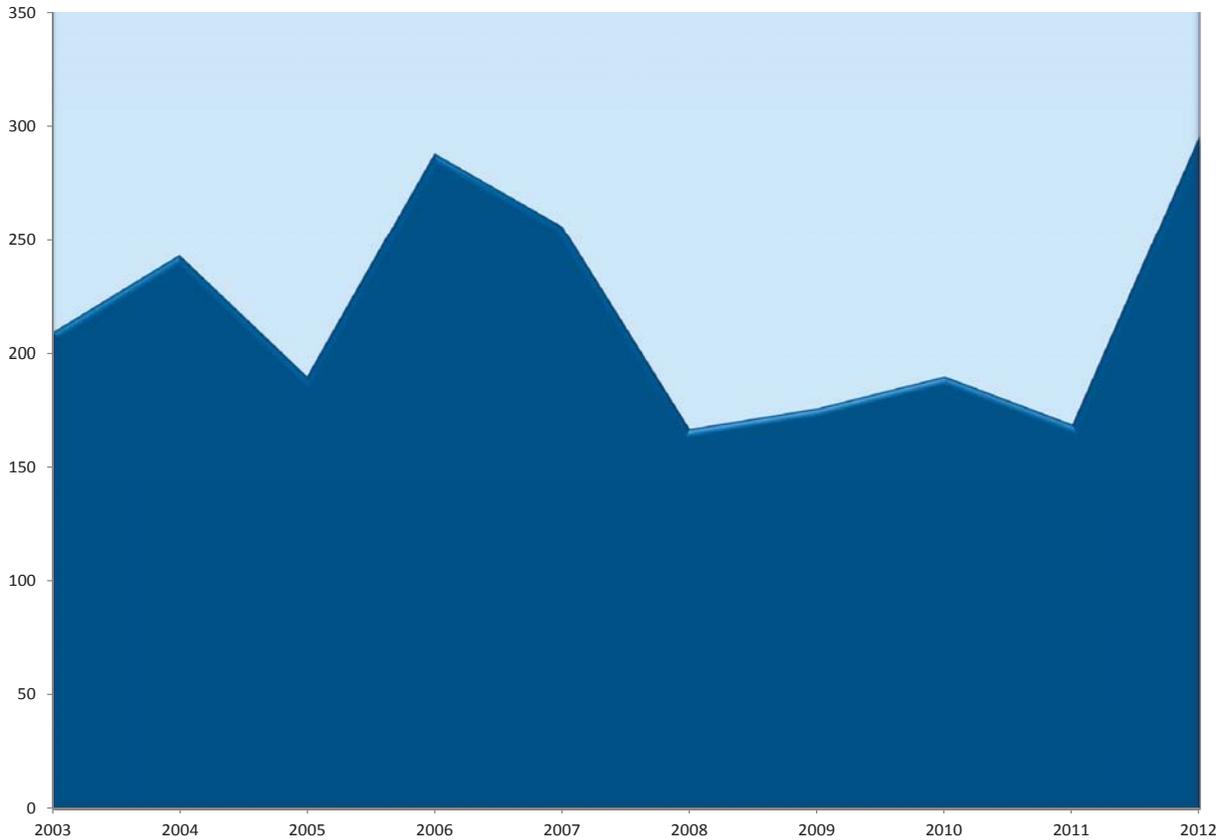
**2012 Complaint Allegations**



Ten Year History of Complaints

2012.....	296
2011.....	169
2010.....	190
2009.....	176
2008.....	167
2007.....	256
2006.....	288
2005.....	190
2004.....	243
2003.....	209

*Complaint History*



## Actions Taken on Complaints in 2012

In addition to handling the 296 new complaints received in 2012, the Commission also took action during its eight regularly-scheduled Commission meetings on complaints filed in previous years. The following is a summary of action taken in 2012 on all active complaints.

Dismissed for lack of legal sufficiency.....	134
Probable cause hearings held.....	72
No probable cause - dismissed.....	46
Probable cause - pending public hearing or stipulation .....	18
Probable cause - no further action taken.....	8
Request for withdrawal of complaint.....	2
Request granted.....	2
Request denied.....	0
Public hearings at Division of Administrative Hearings .....	5
Violation.....	2
No violation.....	3
Stipulated settlement agreements.....	12
Violation.....	12
Costs and attorney's fees petitions .....	5
Insufficient petition - dismissed.....	3
Hearing at Divison of Administrative Hearings.....	0
Settled - Case Closed.....	1
Amended Award.....	0
Motions to Dismiss .....	4
Motion granted.....	4
Motion denied.....	0

**TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS . . . 234**

## *Executive Branch Lobbyist Registration*

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration and compensation report filings of executive branch lobbyists. Jackie McLemore serves as the Registrar, with Kathleen Wilcox serving as a part-time administrative assistant.

Executive branch lobbying firms are required to electronically file quarterly compensation reports disclosing compensation received from their principals. Penalties for failure to file these quarterly reports by the deadline are automatic and accrue at \$50 for each day late, with a maximum penalty of \$5,000.

Each lobbying firm is entitled to receive a one-time fine waiver if the report is filed within 30 days after the firm is notified of the failure to file. Otherwise, the lobbying firm is assessed a fine at the time the delinquent report is filed. If an appeal is filed within 30 days after the lobbying firm is noticed of the assessed fine, the Commission has the authority to waive the assessed fines in whole or in part for good cause, based on “unusual circumstances.”

### *2012 Summary of Activity*

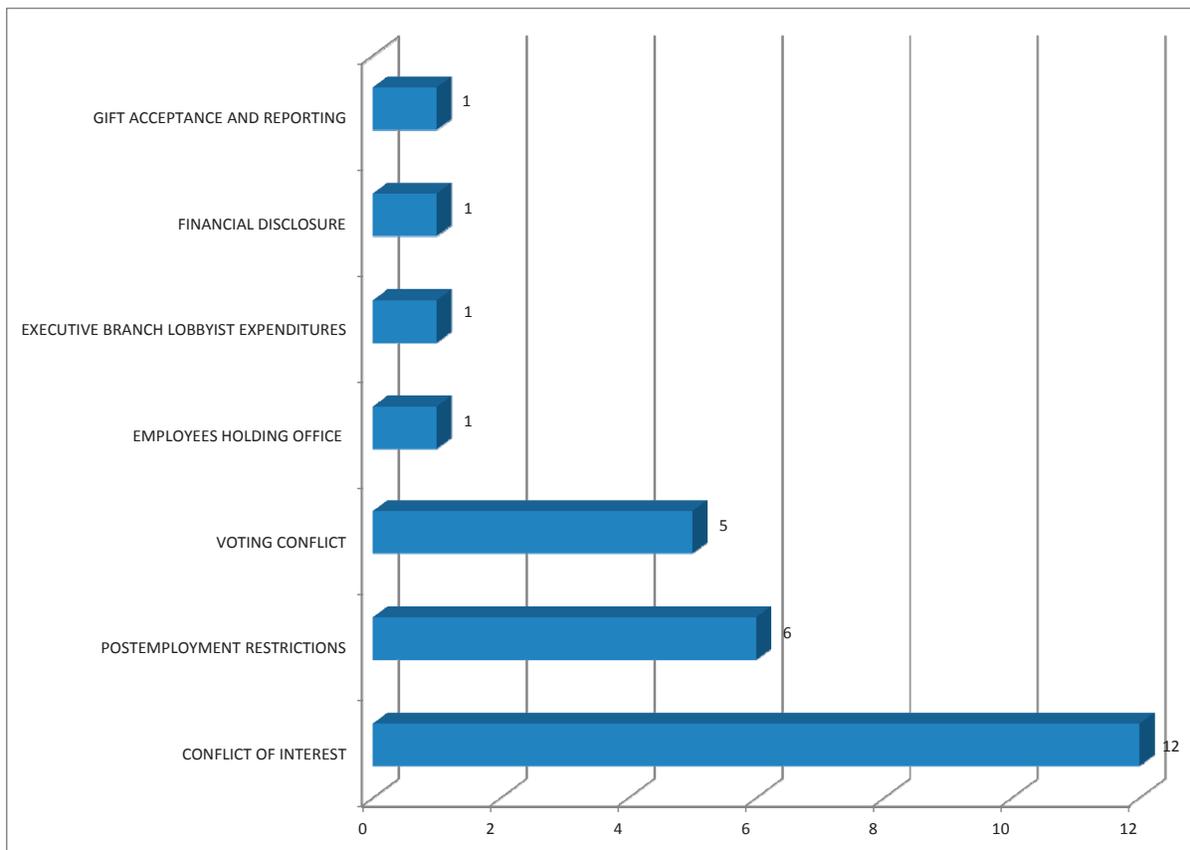
Total number of registered executive branch lobbyists .....	1,557
Total number of executive branch lobbying firms .....	367
Total number of principals represented by the lobbyists.....	7,959
Percent <i>decrease</i> in number of principals from 2011 to 2012.....	1.04%
Total number of firms delinquent in filing their compensation reports	
January - March 2012.....	9
March - May 2012 .....	20
July - September 2012 .....	19
<i>(Filing deadline for fourth period is February 2013)</i>	
Total number of firms assessed a fine in 2012	
First quarter 2012 .....	4
Second quarter 2012 .....	12
Third quarter 2012.....	9
Number of appeals considered by the Commission in 2012 .....	0

## *Advisory Opinions*

The Commission issues advisory opinions to public officers, candidates, and public employees who are in doubt about the applicability of the standards of conduct or disclosure laws to themselves or to anyone they have the power to hire or terminate. During 2012, the Commission on Ethics issued 23 advisory opinions, bringing the total issued since 1974 to 2,513.

Fifteen of the opinions rendered in 2012 were in response to requests by local officers, employees, or local government attorneys, and another eight opinions were issued regarding state level officers or employees.

The bar graph illustrates the number of instances in which a provision of the ethics code was addressed in a formal opinion of the Commission in 2012. A number of opinions addressed more than one aspect of the ethics laws.



All Commission advisory opinions, from 1974 to present, can be accessed and researched without cost on our website: <http://www.ethics.state.fl.us>.

## *Education*

A vital part of the Commission's mission is to educate public officers and employees regarding the standards of conduct and financial disclosure requirements of the Code of Ethics. Whenever possible, as personnel and resources are available, the Commission staff conducts training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2012:

### *Speaking Engagements*

- Florida Tax Collectors Continuing Education Course
- County Commissioners Certification Program
- The Florida Bar's Education Law Committee's Video Conference
- The Florida Bar's City, County, and Local Government Law Section
- Florida Public Pension Trustees Association
- Escambia County Employees
- Tax Collectors Certification Course: Duties and Responsibilities
- Delta Sigma Pi Professional Business Fraternity
- City, County, and Local Government Law Section's Board Certification Exam Review Course
- State University System Council of Counsels
- Local Police and Firefighter Pension Plan Trustees School
- Florida Association of County Attorneys Continuing Legal Education
- Port St. Lucie City Officials and Employees
- Florida Commission on Human Relations Staff
- Department of Financial Services
- Nassau County Officials
- Florida Inspector General Practical Skills for Auditors
- Leon County Board of County Commissioners
- Florida Association of Professional Lobbyists
- Broward District School Board, Attorneys and Personnel

- Department of Revenue Senior Staffers
- Florida School Board Attorneys' Association
- Florida Senators and District Staff
- Southwood Shared Resources Center
- Newly Elected School Superintendents
- Newly Elected Clerk of Courts
- Council for Governmental Ethics Laws (COGEL)

### *Publications*

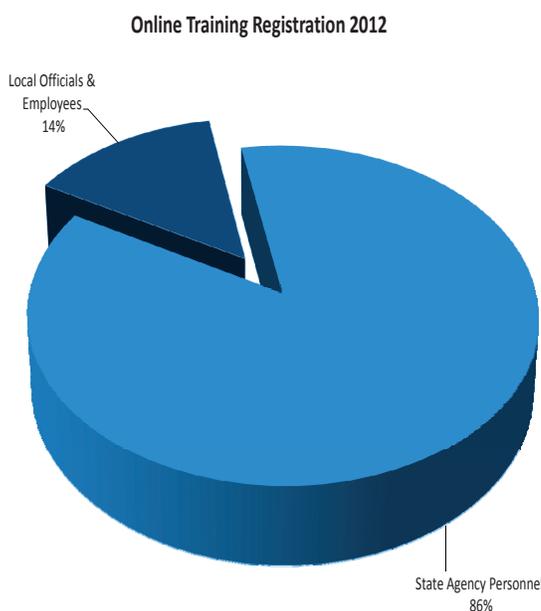
Members of the Commission's staff wrote articles printed in the following publications:

- Quality Cities Magazine
- Palm Beach Post

## Online Training

In Section 13 of Chapter 2000-243, Laws of Florida, the Florida Legislature directed the Commission on Ethics to develop a plan for implementation of a study course on the Code of Ethics, public records, and public meeting laws.

Faced with the challenge of reaching as many people as possible with meaningful training, the Ethics Commission sought the advice of The John Scott Dailey Florida Institute of Government at Florida State University concerning how best to develop such a comprehensive course. The Institute proposed that it contract through the University with a private company to develop an Internet-based study. Staff of the Ethics Commission and Attorney General's office provided the company with guidance and written materials on the pertinent subject areas. The resulting course contains interactive elements, "Frequently Asked Questions," as well as testing for review purposes and tracking. It has the added advantage of being easily amended when changes in the law occur. The course is currently available for a small fee via the Commission's website: [www.ethics.state.fl.us](http://www.ethics.state.fl.us) or by visiting: [www.iog.learnsomething.com](http://www.iog.learnsomething.com).



In 2012, 242 individuals registered for the online training course, with 242 completing the training by the end of the year. Of the registrants, 14 percent were local officials and employees, 86 percent were state agency personnel. A total of 3,403 public officers and employees have completed the course since its inception in 2002.

## *Financial Disclosure*

The Florida Commission on Ethics is required by statute to compile an annual mailing list of elected and appointed officials and employees subject to filing annual financial disclosure.

Section 112.3144, Florida Statutes, applies to persons subject to the annual filing of full and public disclosure under Section 8, Article II of the State Constitution, or other state law. These individuals file Commission on Ethics Form 6, Full and Public Disclosure of Financial Interests.

Section 112.3145(6), Florida Statutes, applies to local officers, state officers, and specified state employees subject to the annual filing of a more limited statement of financial interests. These individuals file Commission on Ethics Form 1, Statement of Financial Interests.

The deadline for filing disclosure is July 1 of each year. A grace period is provided until September 1st of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names and positions held by persons who fail to file by the end of the grace period.

Only those persons with more meaningful positions are required to file annual disclosure. Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 4, 2012, were subject to automatic fines of \$25 for each late day, up to a maximum of \$1,500. Modeled after the automatic fine system in place for campaign finance reports, the law allows the Ethics Commission to hear appeals and to waive fines under limited circumstances. Information on the following pages reflects compliance rates and disposition of appeals.

## *Compliance*

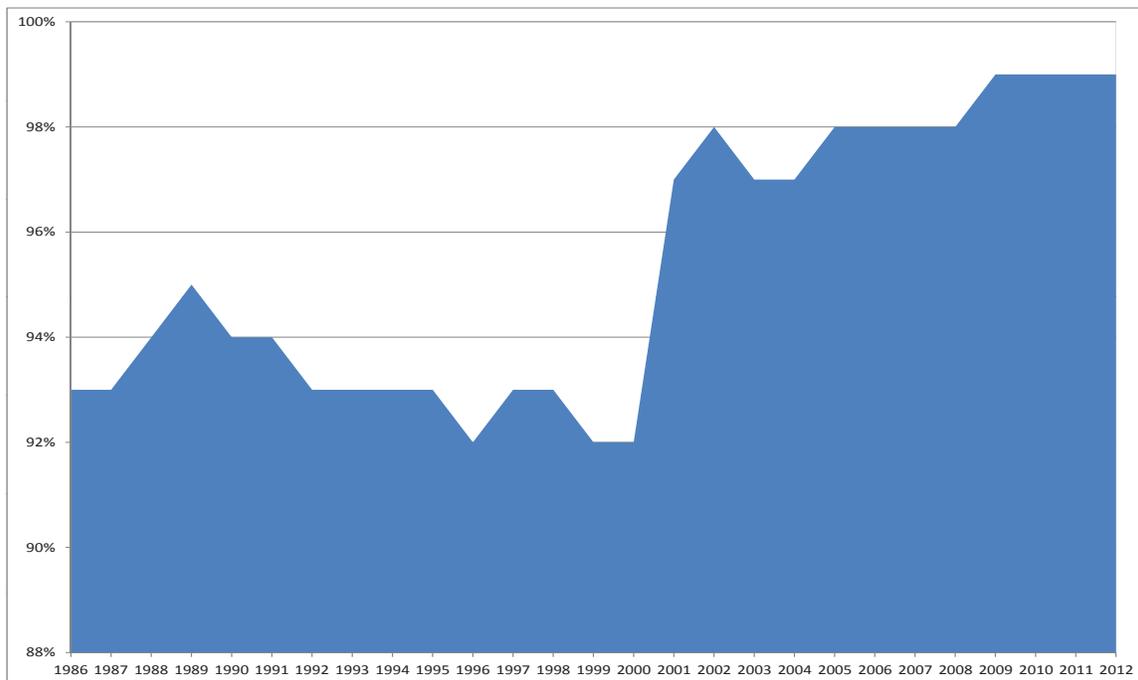
There was 99% overall compliance with the annual reporting requirement in 2012. On the local level, 34 counties reported 100% compliance in 2012. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent as of September 4, 2012 and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1986 to present.

Financial Disclosure Compliance Figures				
County	Timely Filers	Delinquent Filers	Total Filers	2012 Compliance Rate
Alachua	314	8	322	97.5%
Baker	56	0	56	100.0%
Bay	262	1	263	99.6%
Bradford	68	0	68	100.0%
Brevard	911	14	925	98.5%
Broward	2130	40	2170	98.2%
Calhoun	33	0	33	100.0%
Charlotte	152	0	152	100.0%
Citrus	111	0	111	100.0%
Clay	214	4	218	98.2%
Collier	345	0	345	100.0%
Columbia	91	0	91	100.0%
Desoto	54	0	54	100.0%
Dixie	34	1	35	97.1%
Duval	329	0	329	100.0%
Escambia	132	0	132	100.0%
Flagler	167	1	168	99.4%
Franklin	75	0	75	100.0%
Gadsden	115	1	116	99.1%
Gilchrist	44	0	44	100.0%
Glades	34	0	34	100.0%
Gulf	60	0	60	100.0%
Hamilton	60	0	60	100.0%
Hardee	60	2	62	96.8%
Hendry	101	0	101	100.0%
Hernando	94	0	94	100.0%
Highlands	156	3	159	98.1%
Hillsborough	1192	9	1201	99.3%
Holmes	57	0	57	100.0%
Indian River	239	1	240	99.6%
Jackson	180	2	182	98.9%
Jefferson	41	1	42	97.6%
Lafayette	20	0	20	100.0%
Lake	468	7	475	98.5%
Lee	1003	6	1009	99.4%
Leon	208	4	212	98.1%
Levy	132	3	135	97.8%
Liberty	16	0	16	100.0%
Madison	80	5	85	94.1%
Manatee	492	2	494	99.6%

Financial Disclosure Compliance Figures				
County	Timely Filers	Delinquent Filers	Total Filers	2012 Compliance Rate
Marion	222	1	223	99.6%
Martin	181	3	184	98.4%
Miami-Dade	2117	70	2187	96.8%
Monroe	203	0	203	100.0%
Nassau	138	0	138	100.0%
Okaloosa	331	5	336	98.5%
Okeechobee	79	0	79	100.0%
Orange	859	16	875	98.2%
Osceola	243	0	243	100.0%
Palm Beach	1416	38	1454	97.4%
Pasco	341	4	345	98.8%
Pinellas	1157	5	1162	99.6%
Polk	631	10	641	98.4%
Putnam	145	0	145	100.0%
Saint Johns	253	0	253	100.0%
Saint Lucie	236	4	240	98.3%
Santa Rosa	153	2	155	98.7%
Sarasota	404	4	408	99.0%
Seminole	432	3	435	99.3%
Sumter	151	1	152	99.3%
Suwannee	62	1	63	98.4%
Taylor	59	0	59	100.0%
Union	36	0	36	100.0%
Volusia	613	5	618	99.2%
Wakulla	58	0	58	100.0%
Walton	123	1	124	99.2%
Washington	69	1	70	98.6%
TOTAL-Form 1 Local	21,042	289	21,331	98.6%
TOTAL-Form 1 State	13,354	62	13,416	99.5%
TOTAL-Form 6 (Not Judges)	1,407	5	1,412	99.6%
TOTAL-Judges (Active)	980	0	980	100.0%
TOTAL-Judges (Senior)	167	0	167	100.0%
OVERALL TOTAL	36,950	356	37,306	99.0%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1986 - 2012)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1986	29,384	2,126	93%
1987	29,631	2,183	93%
1988	30,559	1,794	94%
1989	33,541	1,815	95%
1990	34,828	2,091	94%
1991	35,845	2,120	94%
1992	37,631	2,564	93%
1993	37,863	2,576	93%
1994	38,711	2,810	93%
1995	39,165	2,791	93%
1996	40,529	3,188	92%
1997	41,345	3,030	93%
1998	41,996	3,116	93%
1999	42,185	3,278	92%
2000	40,471	3,368	92%
2001	30,025	1,043	97%
2002	27,206	911	98%
2003	34,298	878	97%
2004	35,984	1,124	97%
2005	36,504	723	98%
2006	35,725	724	98%
2007	35,659	691	98%
2008	36,092	767	98%
2009	37,077	353	99%
2010	36,961	340	99%
2011	37,686	361	99%
2012	37,306	356	99%

### Financial Disclosure Compliance History



### **Summary of Local Level Form 1 Compliance**

- Total compliance rate for Form 1 Statement of Financial Interests was 99%.
- Of the 21,331 individuals required to file, 289 were delinquent as of September 4, 2012.
- 34 counties reported 100% compliance in 2012.

### **Summary of State Level Form 1 Compliance**

- The Form 1 compliance rate was 99%. As in the previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. The postcard reminder is an additional reminder not required by statute and continues to be quite successful.
- Of the 13,416 individuals required to file, 62 were delinquent as of September 4, 2012.

### **Summary of Full Disclosure (Form 6) Compliance**

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees was 99%.
- There were only 5 delinquencies out of a total of 1,412 individuals (excluding judges) required to file Form 6.

### **Summary of 2012 Overall Compliance**

- As of September 4, 2012, out of the 37,306 individuals required to file disclosure, there were only 356 (less than 1%) officers and employees who failed to do so.

## *Financial Disclosure Fine Appeals*

Individuals who were delinquent in filing the annual financial disclosure form, (those who did not file by the end of the September 1 grace period provided by law), are fined \$25 per day for each date late, up to a statutory maximum of \$1,500.

Individuals may opt to pay the assessed fine or may appeal the assessed fine. Under the law, the Commission has the authority to waive or reduce an assessed fine if an appeal is filed reflecting that “unusual circumstances” caused the failure to file the form on time.

For fines where there is no appeal and no payment, a Default Final Order is rendered and the cases are directly transmitted to private collection agencies for collection.

The following reflects the Commission’s actions taken on appeals of assessed fines at its eight regularly scheduled meetings held during calendar year 2012. (The fines for late filings in 2012 have recently been assessed, however actions will not be taken until 2013).

<b>Financial Disclosure Appeals 2012 Actions of Commission on Ethics</b>				
<b>COMMISSION MEETING</b>	<b>WAIVED</b>	<b>DENIED</b>	<b>COLLECTION ORDERS APPROVED</b>	<b>UNCOLLECTIBLE WRITE-OFFS</b>
February 3, 2012	35	0	101	5
March 30, 2012	34	0	13	8
May 4, 2012	10	0	0	0
June 15, 2012	36	3	13	1
July 27, 2012	35	2	0	0
September 7, 2012	6	6	0	0
October 19, 2012	1	0	6	0
November 30, 2012	0	0	0	0

# *2012 Legislative Recommendations*

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## Recovery of Fines

- The problem of officials who fail to pay the automatic fines they receive for failing to make financial disclosure is well-documented. Last year, the Commission proposed amending the law to allow it to record its final orders in these matters as liens on the debtor's real property. This year, the Commission proposes expanding on that to include placing liens on personal property, and for the Department of Financial Services to assign the delinquent claims to a collections attorney, rather than a collections agency, as is currently the case.

## Increased Penalties

- The Commission proposes increasing the maximum civil penalty from \$10,000 to \$25,000.

## Investigations

- Give the Commission limited authority to investigate situations without having to receive a complaint, and allow the Commission to investigate a situation when referred by the Governor, the Chief Financial Officer, a State Attorney, or FDLE. This authority could be limited—for example, by allowing the Commission to investigate a situation only if it has received reliable and publicly disseminated information indicating a violation of the ethics laws and only when an extraordinary majority of the Commission agree to investigate.

## Change Standard for Awarding Attorney's Fees against Complainants

- As a way in which to address the perceived “chilling effect” on potential Complainants, created by the 1st District Court of Appeal's decision in *Brown v. State, Comm'n on Ethics*, 969 So. 2d 553 (Fla. 1st DCA 2007), the Commission recommends legislatively clarifying that the standard is as it had previously been construed by the Commission—that Complainants are held to the same standard applicable to media publications regarding public figures.

## Change the Burden of Proving a Violation from “Clear and Convincing Evidence” to a “Preponderance of the Evidence”

- Another way to make the ethics laws more enforceable would be to change the burden of proving a violation from “clear and convincing evidence” to a “preponderance of the evidence.” The preponderance standard was used by the Commission from 1974 until the 1st District Court of Appeal ruled in *Latham v. Florida Comm'n on Ethics*, 694 So. 2d 83 (Fla. 1st DCA 1997) that it should be the “clear and convincing” standard.

## Financial Disclosure

- The Commission occasionally receives inquiries about why certain State and local government officers/employees are not required to file financial disclosure. Also, many filers do not specify the method of valuing financial interests (filers have the choice of picking either percentage thresholds or dollar thresholds). Therefore, the Commission recommends that the financial disclosure law cover board members of local community redevelopment agencies and local government finance directors, and clarify that the filer must specify which disclosure thresholds are being used.
- Also, all candidates for state and county offices now qualify before the July 1st deadline for financial disclosure. Previously, they qualified a week or two after July 1st, and so the law allows a candidate who also is an incumbent to file a copy of the financial disclosure form that had already been filed (with the Commission or with the Supervisor of Elections) as part of the qualifying papers. Candidates who have filed their disclosure forms when qualifying ought to be allowed to file a copy of that form as their annual financial disclosure filing.
- In opinion CEO 08-09 the Commission concluded that Assistant Regional Counsel / Criminal Conflict were not required to file financial disclosure, even though they are similar to the assistant public defenders who are required to file now. There is no reason why they should not be treated the same as the public defenders and assistant public defenders.
- Pursuant to Section 348.003, F.S., members of expressway authorities and transportation authorities created pursuant to general law are required to file full disclosure, rather than limited disclosure under Section 112.3145, F.S. Therefore, Section 112.3145 should be amended to delete references to these bodies.

## Executive Branch Lobbying Law

- The provisions of the Executive Branch Lobbying Law (Sec. 112.3215, F.S.) regarding procedures and penalties for violations do not parallel those provided in the Legislative Lobbying Law (Sec. 11.045, F.S.). This appears to have been an oversight which the Commission suggests should be corrected.

## Gift Law

- State “procurement employees” are subject to the gift law. This broad category of State employees is identifiable based only on the employees’ 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 honoraria or gifts worth over \$100 to the officers and employees of that agency. The Commission recommends that vendors be specifically added to the list of prohibited donors in sec. 112.3148.

## Voting Conflicts Law

- There have been several publicized situations involving local officials participating in discussions 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. The Commission proposes the law regarding voting conflicts be changed to prohibit local officials from making any attempt to influence a decision in which they have a conflict.
- In the past, the Commission reviewed a situation where the official voted on a matter that benefited the corporate “sibling” of his employer. It suggests specifically adding corporate siblings to the list of entities which would trigger a voting conflict.
- The Commission also recommends that the voting conflict standard for appointed State officials (as opposed to elected State officials) should be changed to mirror the standard for local officials. This means that appointed State officials would be required to abstain from voting on matters where they have a conflict of interest, whereas now they are not prohibited from voting, and would be prohibited from making any attempt to influence a decision in which they have a conflict.
- Finally, the Commission recommends that the law prohibit an official who has a conflict that requires him or her to abstain from a vote from making any attempt to influence staff about the matter, or to use staff members to influence the outcome of that matter.

## Blind Trusts

- The ethics laws of many states, as well as the U.S. government, allow a public official to place private financial interests that may pose a conflict of interest with public duties into a “blind trust.” This kind of trust is intended to remove temptation from the official and reduce even the appearance that public decisions are based on the official’s private interests, by limiting the official’s ability to control investments that may involve conflicting interests and limiting the official’s ability to even know how his interests may be affected by public policy decisions.
- The Ethics Commission recommends covering the Governor, Lieutenant Governor, and each Cabinet member, although the law easily could be amended to include other public officers and employees. The recommendations provide that if the requirements of establishing and maintaining the trust are followed, the public official’s economic interests in the trust will not give rise to either a prohibited conflict of interest or a voting conflict of interest, under the Code of Ethics, thereby protecting the official from unwarranted accusations. The proposal would require disclosure of the assets being placed in the trust, and if the trust is revoked, of the assets remaining. It would prohibit the official from exercising any control over the trust, except for general directions regarding investment goals, requests for distributions, and directions for dealing with assets which might pose a conflict of interest, and would prohibit the official from learning about the trust’s investments, except to the limited extent necessary for personal tax returns. The recommendations describe how interests in a blind trust would be reported on the official’s financial disclosure statements, limit who can serve as a trustee, prohibit the trustee from investing trust assets in businesses which the trustee knows are regulated by or doing significant business with the official’s public agency, and provide for full disclosure if the blind trust is terminated. Finally, they would require that the blind trust must be approved by the Ethics Commission.

## Disclosure of Conflict of Interest Involving a Sole Source of Supply

- The Commission considered a case involving the exemption in Section 112.313(12)(e) when the purchase was made from a sole source of supply in the political subdivision and noted that, although Section 112.3147 states that information required to be furnished by Section 112.313 should be made on forms prescribed by the Commission, the exemptions in Section 112.313(12) do not expressly require written disclosure and therefore may not give affected persons appropriate notice that a written disclosure would be required to

constitute the “full disclosure” required to qualify for the exemption. Therefore, the Commission recommends that the Legislature amend the exemptions in Section 112.313(12) to expressly state that the required disclosure be made in writing.

#### Appearance of Impropriety Standard

- Despite the specific, good standards that have been enacted by the Legislature, the Commission has expressed concern that too many members of the public believe that public officials act more out of consideration of personal gain than for the public welfare. In part, this is because of a number of situations where public officials may not have violated an existing standard, but the public believes that there has been, at least, the appearance of impropriety. The Commission is wary of enacting a standard that is too vague to be applied fairly, but notes that there currently are a number of ethical standards that apply to lawyers, judges, and even members of the Public Service Commission that address actions that give the appearance of impropriety.
- Attempting to address the problem of appearance of impropriety with more specificity, the Commission suggests that it is possible to create an ethical standard that prohibits knowingly acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy the official’s favor in the performance of official duties, or that the official is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

#### Definitions

- The definition of “business entity,” in the Code of Ethics, currently includes corporations, firms, enterprises, or associations. The Commission proposes that the definition be amended to clarify that “limited liability companies” (LLCs) meet the definition.
- The Commission recommends the definition of “candidate” in the Code of Ethics under 112.312(6), should make it clear that candidates for nonpartisan offices are covered. That statute refers to candidates who file their candidate’s oath under 99.021 and should also refer to the oath under Ch. 105.