

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, ALDERMAN KEITH
J. BLACK, ALDERMAN KATHLEEN M.
GROSS and ALDERMAN WILLIAM BIRCH,
elected officials of the Town of Briny Breezes;

COUNCILMEMBERS WALTER FAJET and
JACKY BRAVO, elected officials of Miami
Springs, Florida;

COMMISSIONER PATRICIA PETRONE, an
elected official of Lighthouse Point, Florida;

MAYOR DANIELLE H. MOORE,
PRESIDENT OF TOWN COUNCIL
MARGARET A. ZEIDMAN, COUNCIL
MEMBER EDWARD A. COONEY, COUNCIL
MEMBER LEWIS CRAMPTON, COUNCIL
MEMBER JULIE ARASKOG and COUNCIL
MEMBER BOBBIE LINDSAY, elected
officials of the Town of Palm Beach, Florida;

MAYOR BRENT LATHAM, VICE MAYOR
RICHARD CHERVONY, and
COMMISSIONER ANDY ROTONDARO,
elected officials of North Bay Village, Florida;

MAYOR GLENN SINGER, an elected official
of the Town of Golden Beach, Florida;

MAYOR BERNARD KLEPACH, an elected
official of Indian Creek, Florida;

MAYOR JEFFREY P. FREIMARK, VICE-
MAYOR SETH E. SALVER, COUNCILMAN
DAVID ALBAUM, and COUNCILMAN
DAVID WOLF, elected officials of the Village
of Bal Harbour, Florida;

MAYOR MARGARET BROWN,
COMMISSIONER MARY MOLINA-MACFIE,
COMMISSIONER CHRIS EDDY,

COMMISSIONER HENRY MEAD, and
COMMISSIONER BYRON L. JAFFE, elected
officials of the City of Weston, Florida;

MAYOR SHELLY PETROLIA, VICE-
MAYOR RYAN BOYLSTON, DEPUTY
VICE-MAYOR ROB LONG,
COMMISSIONER ADAM FRANKEL, and
COMMISSIONER ANGELA BURNS, elected
officials of the City of Delray Beach, Florida;

MAYOR JOSEPH AYOUB, COMMISSIONER
ANDY STEINGOLD, COMMISSIONER
CARLOS DIAZ, COMMISSIONER NANCY J.
BESORE, and COMMISSIONER CLIFF
MERZ, elected officials of the City of Safety
Harbor, Florida;

COMMISSIONER JEREMY KATZMAN, an
elected official of Cooper City, Florida;

MAYOR SCOTT J. BROOK, VICE-MAYOR
SHAWN CERRA, COMMISSIONER JOSHUA
SIMMONS, COMMISSIONER JOY CARTER,
and COMMISSIONER NANCY METAYER
BOWEN, elected officials of the City of Coral
Springs, Florida;

VICE-CHAIR ERIK BRECHNITZ, an elected
official of the City of Marco Island, Florida;

VICE MAYOR ARLENE SCHWARTZ,
COMMISSIONER ANTONIO V. ARSERIO,
COMMISSIONER JOANNE SIMONE, and
COMMISSIONER ANTHONY N.
CAGGIANO, elected officials of the City of
Margate, Florida;

MAYOR ROBERT T. WAGNER, COUNCIL
MEMBER JOHN STEPHENS III, COUNCIL
MEMBER TORY CJ GEILE, COUNCIL
MEMBER JAMES B. BAGBY, and COUNCIL
MEMBER TERESA R. HEBERT, elected
officials of the City of Destin, Florida;

MAYOR KENNETH R. THURSTON, COMMISSIONER MELISSA P. DUNN, and COMMISSIONER SARAI “RAY” MARTIN, elected officials of the City of Lauderhill, Florida,

MAYOR BILL GANZ, VICE-MAYOR BERNIE PARNES, COMMISSIONER BEN PRESTON, and COMMISSIONER MICHAEL HUDAK, elected officials of the City of Deerfield Beach, Florida;

VICE-MAYOR PAUL A. KRUS and COMMISSIONER RACHEL FRIEDLAND, elected officials of the City of Aventura, Florida;

VICE-MAYOR MICHAEL NAPOLEONE, COUNCILWOMAN TANYA SISKIND, COUNCILMAN JOHN T. MCGOVERN, and COUNCILMAN MICHAEL DRAHOS, elected officials of the Village of Wellington;

MAYOR FRED CLEVELAND, elected official of the City of New Smyrna Beach, Florida;

COUNCILMEMBER JENNIFER ANDREU, elected official of the City of Plantation, Florida,

COUNCILMEMBER KEM E. MASON, elected official of the Town of Lantana, Florida; and

MAYOR CHARLES EDWARD DODD, VICE MAYOR KELLY DIXON, COUNCIL MEMBER FREDERICK B. JONES, COUNCIL MEMBER BOB MCPARTLAN, AND COUNCIL MEMBER CHRISTOPHER NUNN, elected officials of the City of Sebastian, Florida,

Plaintiffs,

vs.

ASHLEY LUKIS, in her official capacity as Chair of the Florida Commission on Ethics; MICHELLE ANCHORS, in her official capacity as Vice Chair of the Florida Commission on Ethics; WILLIAM P. CERVONE, in his official

capacity as a Member of the Florida Commission on Ethics; TINA DESCOVICH, in her official capacity as Member of the Florida Commission on Ethics; FREDDIE FIGGERS, in his official capacity as a Member of the Florida Commission on Ethics; LUIS M. FUSTE, in his official capacity as a Member of the Florida Commission on Ethics; and WENGAY M. NEWTON, SR., in his official capacity as a Member of the Florida Commission on Ethics,

Defendants.

COMPLAINT

Plaintiffs bring this action against Defendants for declaratory and injunctive relief, and state as follows:

OVERVIEW

1. This is an action by a large number of Florida elected municipal officials challenging a recently enacted law (“SB 774”) that on or before July 1, 2024 compels elected municipal officials in office as of January 1, 2024 to utter very specific statements, in writing and available to the public at large through the Internet, regarding the elected officials’ personal finances, including, among other things, stating the exact amount of their net worth and income, the total dollar value of their household goods, and the precise value of every asset and amount of every liability in excess of \$1,000. An elected municipal official’s failure to make these public statements will result in significant fines, civil penalties, and even potential removal from office.

2. SB 774 amended, among other statutes, Fla. Stat. § 112.3144, and renders elected municipal officials in office as of January 1, 2024, and municipal candidates subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j).

3. Prior to the enactment of SB 774, elected municipal officials and municipal candidates were required to provide financial disclosures via a document called “Form 1” pursuant

to Fla. Stat. § 112.3145, but were not subject to the requirements of Fla. Const., art. II, § 8(j). However, Florida Statute sections 112.3144 and 99.061, as amended by SB 774 in 2023, respectively make *all* elected municipal officers and municipal candidates subject to the filing requirements of “Form 6,” which demands much more intrusive financial disclosures as outlined in the Florida Constitution and section 112.3144. A copy of Form 1 is attached as Exhibit A, and a copy of Form 6 is attached as Exhibit B.

4. Forcing municipal elected officials and municipal candidates to publicly make such statements impairs their right to be free of government-compelled, content-based, non-commercial speech, in violation of the First Amendment to the United States Constitution.

5. Rather than being the least restrictive, narrowly tailored means of accomplishing a compelling state interest, these new, financial disclosure requirements imposed on elected municipal officials and municipal candidates through SB 744 are the most restrictive means available – stricter and more onerous than required of federal elected officials (including the President of the United States) and of elected officials in other states throughout the country.

6. The additional, financial information statements required to be made by Form 6 (*e.g.*, the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1, have little, if any, bearing on an elected official’s municipal service, does not prevent or even ameliorate conflicts of interest or public corruption, and does not increase public confidence in government.

7. Form 1 is a less restrictive, alternative means of accomplishing the same governmental interests, as would be the less onerous disclosure forms used by the federal government or any of the other states in the United States.

8. Indeed, municipal elected officials and candidates operated under the requirements of Form 1 for decades, and nothing in the Legislature's enactment of the new Form 6 requirement reflected that Form 1 was insufficient and necessitated a change.

9. As such, this action seeks an order (i) declaring the 2023 amendments to Fla. Stat. § 112.3144 related to elected municipal officials and any penalties arising therefrom, including those in Fla. Stat. § 112.317, are unconstitutional under the First Amendment of the United States Constitution, and (ii) enjoining Defendants from enforcing the disclosure requirements.

JURISDICTION AND VENUE

10. The Court has subject matter jurisdiction over this case pursuant to this Court's federal question jurisdiction, 28 U.S.C. § 1331, as this case arises under the First Amendment to the United States Constitution, as made applicable to the States by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

11. This case seeks declaratory and injunctive relief, pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, Federal Rule of Civil Procedure 57, and 42 U.S.C. § 1983.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), as two of the Defendants (Freddie Figgers and Luis M. Fuste) reside in this District (and all are residents of this State), the majority of the plaintiffs reside and serve as elected officials in the District, and a substantial part of the events giving rise to the claim herein occurred in this District.

THE PARTIES

A. Plaintiffs

13. Plaintiffs in this action consist of the following current, elected officials of Florida municipalities:

- a. Town of Briny Breezes President of Town Council Elizabeth A. Loper;
- b. Town of Briny Breezes Alderman Keith J. Black;
- c. Town of Briny Breezes Alderman Kathleen M. Gross;
- d. Town of Briny Breezes Alderman William Birch;
- e. City of Miami Springs Councilmember Walter Fajet;
- f. City of Miami Springs Councilmember Jacky Bravo;
- g. City of Lighthouse Point Commissioner Patricia Petrone;
- h. Town of Palm Beach Mayor Danielle H. Moore;
- i. Town of Palm Beach President of Town Council Margaret A. Zeidman;
- j. Town of Palm Beach Council Member Edward A. Cooney;
- k. Town of Palm Beach Council Member Lewis Crampton;
- l. Town of Palm Beach Council Member Julie Araskog;
- m. Town of Palm Beach Council Member Bobbie Lindsay;
- n. North Bay Village Mayor Brent Latham;
- o. North Bay Village Vice Mayor Richard Chervony;
- p. North Bay Village Commissioner Andy Rotondaro;
- q. Golden Beach Mayor Glenn Singer;
- r. Indian Creek Mayor Bernard Klepach;
- s. Village of Bal Harbour Mayor Jeffrey P. Freimark ;
- t. Village of Bal Harbour Vice-Mayor Seth E. Salver;
- u. Village of Bal Harbour Councilman David Albaum;
- v. Village of Bal Harbour Councilman David Wolf;
- w. City of Weston Mayor Margaret Brown;
- x. City of Weston Commissioner Mary Molina-Macfie;

- y. City of Weston Commissioner Chris Eddy;
- z. City of Weston Commissioner Henry Mead;
- aa. City of Weston Commissioner Byron L. Jaffe;
- bb. City of Delray Beach Mayor Shelly Petrolia;
- cc. City of Delray Beach Vice Mayor Ryan Boylston;
- dd. City of Delray Beach Deputy Vice-Mayor Rob Long;
- ee. City of Delray Beach Commissioner Adam Frankel;
- ff. City of Delray Beach Commissioner Angela Burns;
- gg. City of Safety Harbor Mayor Joseph Ayoub;
- hh. City of Safety Harbor Commissioner Andy Steingold;
- ii. City of Safety Harbor Commissioner Carlos Diaz;
- jj. City of Safety Harbor Commissioner Nancy J. Besore;
- kk. City of Safety Harbor Commissioner Cliff Merz;
- ll. Cooper City Commissioner Jeremy Katzman;
- mm. City of Coral Springs Mayor Scott J. Brook;
- nn. City of Coral Springs Vice Mayor Shawn Cerra;
- oo. City of Coral Springs Commissioner Joshua Simmons;
- pp. City of Coral Springs Commissioner Joy Carter;
- qq. City of Coral Springs Commissioner Nancy Metayer Bowen;
- rr. City of Marco Island Vice-Chair Erik Brechnitz;
- ss. City of Margate Vice-Mayor Arlene Schwartz;
- tt. City of Margate Commissioner Antonio V. Arserio;
- uu. City of Margate Commissioner Joanne Simone;
- vv. City of Margate Commissioner Anthony N. Caggiano;

ww. City of Destin Mayor Robert T. Wagner;

xx. City of Destin Council Member John Stephens III;

yy. City of Destin Council Member Torey CJ Geile;

zz. City of Destin Council Member James B. Bagby;

aaa. City of Destin Council Member Teresa R. Hebert;

bbb. City of Lauderhill Mayor Kenneth R. Thurston;

ccc. City of Lauderhill Commissioner Melissa P. Dunn;

ddd. City of Lauderhill Commissioner Sarai “Ray” Martin;

eee. City of Deerfield Beach Mayor Bill Ganz;

fff. City of Deerfield Beach Vice-Mayor Bernie Parness;

ggg. City of Deerfield Beach Commissioner Ben Preston;

hhh. City of Deerfield Beach Commissioner Michael Hudak;

iii. City of Aventura Vice-Mayor Paul A. Kruss;

jjj. City of Aventura Commissioner Rachel Friedland;

kkk. Village of Wellington Vice-Mayor Michael Napoleone;

lll. Village of Wellington Councilwoman Tanya Siskind;

mmm. Village of Wellington Councilwoman John T. McGovern;

nnn. Village of Wellington Councilwoman Michael Drahos;

ooo. City of New Smyrna Beach Mayor Fred Cleveland;

ppp. City of Plantation Councilmember Jennifer Andreu;

qqq. Town of Lantana Councilmember Kem E. Mason;

rrr. City of Sebastian Mayor Charles Edward Dodd;

sss. City of Sebastian Vice Mayor Kelly Dixon;

ttt. City of Sebastian Council Member Frederick B. Jones;

uuu. City of Sebastian Council Member Bob McPartlan; and

vvv. City of Sebastian Council Member Christopher Nunn.

14. Plaintiffs are each duly elected or appointed officials of incorporated municipalities existing under the laws of the State of Florida and are currently in office.

15. As a result of the passage of SB 774, as of January 1, 2024, each, individual Plaintiff is subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j) and Fla. Stat. § 112.3144, and are further subject to the fines, penalties and other enforcement mechanisms outlined in Fla. Stat. §§ 112.317 and 112.324.

16. Each Plaintiff is, therefore, required to file the requisite Form 6 (rather than the prior Form 1) on or before July 1, 2024.

17. The failure of any municipal elected official, including each Plaintiff, to make the compelled statements subjects him or her to a daily fine of \$25 per day up to a maximum of \$1,500 and, following an investigation and public hearing, a potential civil penalty of up to \$20,000 and, among other things, a potential recommendation of removal from office. *See* Fla. Stat. §§ 112.3144(8)(f), 112.324(4), and 112.317.

18. Plaintiffs now face prior to the imminent deadline of July 1, 2024, the obligation to engage in non-commercial, content-based speech requirement to publicly disclose, against their will, the financial information required in Form 6, or face fines or other penalties.

19. Throughout Florida, more than 100 municipal elected officials resigned rather than agree to engage in such unwanted speech.

20. Plaintiffs strongly desire to continue to serve the public and have therefore not yet resigned, but instead have chosen to challenge the new compelled speech requirement.

21. Accordingly, Plaintiffs have each suffered a concrete and particularized injury-in-fact that is actual or imminent.

B. Defendants

22. Defendant, Ashley Lukis (“Lukis”) is the Chair and a member of the Florida Commission on Ethics (“Commission”), a commission existing pursuant to Fla. Const., Art. II, § 8(h)(1) and Fla. Stat. § 112.320. Lukis is sued in her official capacity as Chair of the Commission.

23. Defendant, Michelle Anchors (“Anchors”) is the Vice Chair and a member of the Commission. Anchors is sued in her official capacity as Vice Chair of the Commission.

24. Defendant, William P. Cervone (“Cervone”) is a member of the Commission. Cervone is sued in his official capacity as member of the Commission.

25. Defendant Tina Descovich (“Descovich”) is a member of the Commission. Descovich is sued in her official capacity as member of the Commission.

26. Defendant, Freddie Figgers (“Figgers”) is a member of the Commission. Figgers is sued in his official capacity as member of the Commission and is a resident of this District.

27. Defendant, Luis Fuste (“Fuste”) is a member of the Commission. Fuste is sued in his official capacity as member of the Commission and is a resident of this District.

28. Defendant, Wengay M. Newton, Sr. (“Newton”) is a member of the Commission. Newton is sued in his official capacity as member of the Commission.

29. Lukis, Anchors, Cervone, Descovich, Figgers, Fuste, and Newton, collectively, comprise the Commission.

30. “The Agency Head is the entire Commission, which is responsible for final agency action.” *See* Statement of Organization and Operation of the Commission on Ethics, <https://www.ethics.state.fl.us/Documents/Ethics/statement%20of%20org.pdf?cp=2024127> (last accessed February 12, 2024).

31. The Commission, through each Defendant, is charged with implementing and enforcing the State’s financial disclosure laws, including, among many other things, the receipt of

Form 6 disclosures, training regarding Form 6, investigating alleged violations regarding Form 6 filings, imposing fines for failure to file Form 6, holding enforcement hearings regarding failure to file Form 6, making recommendations of removal from office for failure to file Form 6, and rendering legally binding advisory opinions regarding Form 6. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

32. The Commission is also required to identify every person required to file Form 6, provide notification of said requirement to each person subject to these disclosures, and ensure compliance with the disclosure requirements by each person subject thereto. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

33. In addition, the Commission's 2022 Annual Report (as well as previous annual reports) expressly requested that the Legislature enact legislation to require that elected municipal officials complete Form 6, rather than Form 1, leading to the enactment of SB 774. *See* Annual Report to the Florida Legislature for Calendar Year 2022, pg. 23, <https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202425> (last accessed February 12, 2024).

34. The only justification given by the Commission for its recommendation was:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

35. Nowhere in its report did the Commission conclude that there has been an increase in the need to oppose corruption or conflicts of interest at the municipal level or that Form 1 in any way was insufficient to the task of guarding against those governmental ills. In short, the Commission justified its recommendation merely by noting that municipal officials should have

to disclose the same information others already disclose, without regard to the municipality's population, revenue, annual budget, or any elected municipal compensation amount, if any.

36. All acts alleged herein by Defendants and their agents, servants, employees, or persons acting on their behalf were done and are continuing to be done under color of state law.

37. Plaintiffs bring this action against the state officers (namely, the members of the Commission) who have the responsibility to enforce the Form 6 requirement against municipal elected officials (including Plaintiffs) and seek only prospective equitable relief to end the continuing violations of the First Amendment to the United States Constitution.

BACKGROUND

A. History of Ethical Standards in Florida

38. Beginning in the late 1960s, the Florida Legislature has enacted numerous laws regulating ethical conduct for Florida's elected officials, including laws related to the solicitation or acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure of certain information, doing business with one's agency, conflicting employment, lobbying restrictions, dual public employment, anti-nepotism, conflicts of interest, and financial disclosure. *See generally* Fla. Stat., Chapter 112.

39. The interests that the financial disclosures are intended to serve are stated by the Commission: "Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government." *See* Florida Commission on Ethics, Financial Disclosure Information, www.ethics.state.fl.us/FinancialDisclosure/Index.aspx, last accessed February 12, 2024.

40. In 1976, the Florida Constitution was amended to require that all elected, state constitutional officers annually file a full and public disclosure of their financial interests, which

is done through the state-adopted Form 6, requiring the disclosure of highly personal financial information. *See* Fla. Const. Art. II, § 8; Fla. Stat. § 112.3144; Exh. B.

41. The Form 6 requirement did not apply to elected municipal officials or candidates for municipal office prior to January 1, 2024.

B. The Change from Form 1 to Form 6 for Elected Municipal Officials

42. Instead, prior to January 1, 2024, elected municipal officials were required to make a more limited financial disclosure that nevertheless provides sufficient information to satisfy the interests of preventing conflicts of interest and public corruption and increasing public confidence in government. *See* Fla. Stat. § 112.3145. The elected municipal officials' financial disclosure was done through the state-adopted Form 1. Exh. A.

43. In the 2023 legislative session, the Florida Legislature duly enacted (and the Governor signed) SB 774, which was codified at Laws of Florida 2023-09, and which amended (in relevant part) Fla. Stat. § 112.3144, to change the financial disclosure requirements to require, as of January 1, 2024, that all elected municipal mayors and elected members of municipal governing boards (and candidates for such offices) file a Form 6 financial disclosure, rather than the previously required Form 1. *See* Fla. S.B. 774; Fla. Stat. §§ 99.061, 112.3144 (2023).

C. Comparison of Form 6 to Form 1

44. Form 6 is a highly intrusive and extreme level of required, public financial disclosure, mandating the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government. *See* Exh. B.

45. Specifically, Form 6 requires that the official disclose:

(a) the official's exact net worth, to the penny, (b) the exact aggregate value of all household goods and personal effects, (c) the precise value of every other asset individually valued at over \$1,000 (including a description of

the asset), (d) the exact outstanding amount of all liabilities in excess of \$1,000, including the name and address of the creditor, (e) every primary source of income that exceeded \$1,000 during the year, including the name and address of the source of income and the precise amount of income, (f) every secondary source of income in excess of \$1,000 from any business of which the official owns more than 5%, including the name of the business entity, the major sources of business income (namely, any that account for 10% or more of the business's revenue), and the address and principal business activity or source, and (g) any interest in certain specified types of businesses.

See Exh. B.

46. In contrast, Form 1 requires that the official disclose:

(a) the name, address and principal business active for every primary sources of income in excess of \$2,500 (but not the amount), (b) every secondary source of income in excess of \$5,000 from any business of which the official owns more than 5%, including the name of the business entity, the major source of business income (any that account for 10% or more of the business's revenue), and the address and principal business activity or source, (c) a description of all real property (but not the value) of which the official had more than a 5% ownership interest, (d) a description (but not the value) of intangible property owned by the official and valued at more than \$10,000, (e) the name and address of each creditor to whom the official owed more than \$10,000 (but not the amount owed), and (f) any interest in certain specified types of businesses.

See Exh. A.

47. The information in Form 1 and Form 6 of each filer is made publicly available through the Commission's website.

COUNT I

COMPELLED, CONTENT-BASED SPEECH IN VIOLATION OF THE FIRST AMENDMENT OF THE U.S. CONSTITUTION, PURSUANT TO 42 U.S.C. § 1983

48. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 47, as if fully set forth herein.

49. The First Amendment to the United States Constitution, as applied to the States by the Fourteenth Amendment, prohibits the government, including Defendants, from abridging Plaintiffs' freedom of speech though government-compelled speech.

50. The First Amendment's speech rights include the right to speak freely, the right to refrain from speaking at all, and the right not to speak certain words or messages.

51. The statements required by Fla. Stat. § 112.3144, through Form 6, constitute non-commercial, compelled speech from Plaintiffs in violation of the First Amendment.

52. Specifically, Fla. Stat. § 112.3144 unconstitutionally compels Plaintiffs to make invasive, public disclosures about their personal finances through Form 6.

53. The required disclosures of Fla. Stat. § 112.3144, through Form 6, are content-based speech because they compel individuals to speak a particular message. Compelled speech is no less compelled and no less speech because it is required to be in writing.

54. For example, among many other things, on July 1, 2024, each Plaintiff will be forced to say the words: "My Net Worth as of December 31, 2023 was \$_____." *See* Exh. B at 1.

55. Plaintiffs would not otherwise engage in such non-commercial, content-based speech (namely, publicly disclosing to the public their exact net worth, income, asset values and other personal financial information required in Form 6) but for the requirements of Fla. Stat. § 112.3144 and the threat of fines, penalties and other enforcement mechanisms set forth in Fla. Stat. § 112.317.

56. The compelled speech in Form 6, as required by Fla. Stat. § 112.3144, is readily reviewable (now and for many years to come) by the public on the Internet, and the information in each filed Form 6 is clearly and readily associated with the individual filer (i.e., via the name of each individual Plaintiff).

57. Because the compelled speech is effectuated through state statute, the constitutional deprivation at issue here is caused by official policy of the state and under color of state law.

58. Although Plaintiffs recognize the government's interest in preventing conflicts of interest, deterring corruption, and increasing public confidence in government, Fla. Stat. § 112.3144, as amended by SB 744, and the application of Form 6 to elected municipal officials are not narrowly tailored to achieve these interests.

59. Requiring Plaintiffs to make the additional, compelled speech required by Form 6 (as opposed to the statements previously required through Form 1) are not the least restrictive means to accomplish any compelling government purpose.

60. Accordingly, an actual controversy exists between Plaintiffs and Defendants, each of whom have adverse legal interests of sufficient immediacy to warrant the issuance of a declaratory judgment and injunctive relief.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor:

A. Declaring, pursuant to 28 U.S.C. § 2201, 42 U.S.C. § 1983, and Rule 57, Fed. R. Civ P., that Fla. Stat. § 112.3144 (2023) compels Plaintiffs to engage in content-based, non-commercial speech in violation of the First Amendment of the United States Constitution and is, therefore, unconstitutional;

B. Enjoining, pursuant to 28 U.S.C. § 2202, Defendants from enforcing Fla. Stat. § 112.3144 (including the imposition of any fines, penalties or other enforcement) against Plaintiffs, arising from the failure of any Plaintiffs to file a Form 6 while subject to such requirements;

C. Awarding Plaintiffs their costs and expenses (including attorneys' fees) incurred in bringing in this action, pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1920, and other applicable law; and

D. Granting such other relief as this Court deems just and proper.

Dated this 15th day of February, 2024.

WEISS SEROTA HELFMAN
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Counsel for Plaintiffs

Exhibit A

2023 Form 1 - Statement of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization	Suborganization	Title
SAMPLE	SAMPLE	SAMPLE

Disclosure Period

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2023 .

Primary Sources of Income

PRIMARY SOURCE OF INCOME (Over \$2,500) (Major sources of income to the reporting person)
(If you have nothing to report, write "none" or "n/a")

Name of Source of Income	Source's Address	Description of the Source's Principal Business Activity

2023 Form 1 - Statement of Financial Interests**Secondary Sources of Income**

SECONDARY SOURCES OF INCOME (Major customers, clients, and other sources of income to businesses owned by the reporting person) (If you have nothing to report, write "none" or "n/a")

Name of Business Entity	Name of Major Sources of Business' Income	Address of Source	Principal Business Activity of Source

Real Property

REAL PROPERTY (Land, buildings owned by the reporting person)
(If you have nothing to report, write "none" or "n/a")

Location/Description

Intangible Personal Property

INTANGIBLE PERSONAL PROPERTY (Stocks, bonds, certificates of deposit, etc. over \$10,000)
(If you have nothing to report, write "none" or "n/a")

Type of Intangible	Business Entity to Which the Property Relates

2023 Form 1 - Statement of Financial Interests**Liabilities**

LIABILITIES (Major debts valued over \$10,000):
(If you have nothing to report, write "none" or "n/a")

Name of Creditor	Address of Creditor

Interests in Specified Businesses

INTERESTS IN SPECIFIED BUSINESSES (Ownership or positions in certain types of businesses)
(If you have nothing to report, write "none" or "n/a")

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

2023 Form 1 - Statement of Financial Interests

Signature of Filer

Digitally signed:

Filed with COE:

E-FILING SAMPLE

Exhibit B

2023 Form 6 - Full and Public Disclosure of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization	Suborganization	Title
SAMPLE	SAMPLE	SAMPLE

Net WorthMy Net Worth as of December 31, 2023 was \$ [AMOUNT].**Assets**

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effect is N/A.

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

Description of Asset	Value of Asset

2023 Form 6 - Full and Public Disclosure of Financial Interests

Liabilities

LIABILITIES IN EXCESS OF \$1,000:

Name of Creditor	Address of Creditor	Amount of Liability

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

Name of Creditor	Address of Creditor	Amount of Liability

Income

Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2022 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2023 federal income tax return and all W2s, schedules, and attachments.

PRIMARY SOURCES OF INCOME:

Name of Source of Income Exceeding \$1,000	Address of Source of Income	Amount

SECONDARY SOURCES OF INCOME (Major customers, clients, etc. of businesses owned by reporting person):

Name of Business Entity	Name of Major Sources of Business Income	Address of Source	Principal Business Activity of Source

2023 Form 6 - Full and Public Disclosure of Financial Interests

Interests in Specified Businesses

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

Signature of Reporting Official or Candidate

Under the penalties of perjury, I declare that I have read the foregoing Form 6 and that the facts stated in it are true.

Digitally signed:

Filed with COE:

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:24-CV-20604

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, ALDERMAN KEITH
J. BLACK, ALDERMAN KATHLEEN M.
GROSS and ALDERMAN WILLIAM BIRCH,
elected officials of the Town of Briny Breezes,
Florida;

COUNCILMEMBERS WALTER FAJET and
JACKY BRAVO, elected officials of Miami
Springs, Florida;

COMMISSIONER PATRICIA PETRONE and
COMMISSIONER SANDRA JOHNSON,
elected officials of Lighthouse Point, Florida;

MAYOR DANIELLE H. MOORE,
PRESIDENT OF TOWN COUNCIL
MARGARET A. ZEIDMAN, COUNCIL
MEMBER EDWARD A. COONEY, COUNCIL
MEMBER LEWIS CRAMPTON, COUNCIL
MEMBER JULIE ARASKOG and COUNCIL
MEMBER BOBBIE LINDSAY, elected
officials of the Town of Palm Beach, Florida;

MAYOR BRENT LATHAM, VICE MAYOR
RICHARD CHERVONY, and
COMMISSIONER ANDY ROTONDARO,
elected officials of North Bay Village, Florida;

MAYOR GLENN SINGER, VICE MAYOR
BERNARD EINSTEIN, COUNCIL MEMBER
JUDY LUSSKIN, COUNCIL MEMBER
JAIME MENDAL and COUNCIL MEMBER
KENNETH BERNSTEIN, elected officials of
the Town of Golden Beach, Florida;

MAYOR BERNARD KLEPACH and
COUNCIL MEMBER IRWIN TAUBER,
elected officials of Indian Creek, Florida;

MAYOR JEFFREY P. FREIMARK, VICE-
MAYOR SETH E. SALVER, COUNCILMAN

DAVID ALBAUM and COUNCILMAN
DAVID WOLF, elected officials of the Village
of Bal Harbour, Florida;

MAYOR MARGARET BROWN,
COMMISSIONER MARY MOLINA-MACFIE,
COMMISSIONER CHRIS EDDY,
COMMISSIONER HENRY MEAD, and
COMMISSIONER BYRON L. JAFFE, elected
officials of the City of Weston, Florida;

MAYOR SHELLY PETROLIA, VICE-
MAYOR RYAN BOYLSTON, DEPUTY
VICE-MAYOR ROB LONG,
COMMISSIONER ADAM FRANKEL, and
COMMISSIONER ANGELA BURNS, elected
officials of the City of Delray Beach, Florida;

MAYOR JOSEPH AYOUB, COMMISSIONER
ANDY STEINGOLD, COMMISSIONER
CARLOS DIAZ, COMMISSIONER NANCY J.
BESORE, and COMMISSIONER CLIFF
MERZ, elected officials of the City of Safety
Harbor, Florida;

COMMISSIONER JEREMY KATZMAN, an
elected official of Cooper City, Florida;

MAYOR SCOTT J. BROOK, VICE-MAYOR
SHAWN CERRA, COMMISSIONER JOSHUA
SIMMONS, COMMISSIONER JOY CARTER,
and COMMISSIONER NANCY METAYER
BOWEN, elected officials of the City of Coral
Springs, Florida;

VICE-CHAIR ERIK BRECHNITZ, an elected
official of the City of Marco Island, Florida;

VICE MAYOR ARLENE R. SCHWARTZ,
COMMISSIONER ANTONIO V. ARSERIO,
COMMISSIONER JOANNE SIMONE, and
COMMISSIONER ANTHONY N.
CAGGIANO, elected officials of the City of
Margate, Florida;

MAYOR ROBERT T. WAGNER, COUNCIL MEMBER JOHN STEPHENS III, COUNCIL MEMBER TORY CJ GEILE, COUNCIL MEMBER JAMES B. BAGBY, and COUNCIL MEMBER TERESA HEBERT, elected officials of the City of Destin, Florida;

MAYOR KENNETH R. THURSTON, COMMISSIONER MELISSA P. DUNN, and COMMISSIONER SARAI “RAY” MARTIN, elected officials of the City of Lauderhill, Florida,

MAYOR BILL GANZ, VICE-MAYOR BERNIE PARNESS, COMMISSIONER BEN PRESTON, and COMMISSIONER MICHAEL HUDAK, elected officials of the City of Deerfield Beach, Florida;

VICE-MAYOR PAUL A. KRUSS, COMMISSIONER RACHEL FRIEDLAND and COMMISSIONER MICHAEL STERN, elected officials of the City of Aventura, Florida;

VICE-MAYOR MICHAEL NAPOLEONE, COUNCILWOMAN TANYA SISKIND, COUNCILMAN JOHN T. MCGOVERN, and COUNCILMAN MICHAEL DRAHOS, elected officials of the Village of Wellington;

COMMISSIONER KATHRYN ABBOTT, elected official Village of Pinecrest;

MAYOR FRED CLEVELAND, VICE MAYOR VALLI J. PERRINE, COMMISSIONER RANDY HARTMAN and COMMISSIONER JASON MCGUIRK, elected officials of the City of New Smyrna Beach, Florida;

MAYOR CHARLES EDWARD DODD, VICE MAYOR KELLY DIXON, COUNCIL MEMBER FREDERICK B. JONES, COUNCIL MEMBER BOB MCPARTLAN, AND COUNCIL MEMBER CHRISTOPHER NUNN, elected officials of the City of Sebastian, Florida,

COUNCIL MEMBER MARK LARUSSO and COUNCIL MEMBER TIM THOMAS, elected officials of the City of Melbourne, Florida;

VICE MAYOR FORTUNA SMUKLER, elected official of the City of North Miami Beach, Florida;

MAYOR STEVEN LOSNER and COUNCIL MEMBER ERICA G. AVILA, elected officials of the City of Homestead, Florida;

MAYOR MICHAEL J. RYAN, DEPUTY MAYOR JOSEPH A. SCUOTTO, ASSISTANT DEPUTY MAYOR NEIL C. KERCH, COMMISSIONER JACQUELINE A. GUZMAN, and COMMISSIONER MARK A. DOUGLAS, elected officials of the City of Sunrise, Florida;

MAYOR MARK MCDERMOTT, DEPUTY MAYOR STUART M. GLASS, COUNCIL MEMBER LOREN STRAND, COUNCIL MEMBER BRETT J. MILLER and COUNCIL MEMBER DOUG WRIGHT, elected officials of the Town of Indialantic, Florida;

VICE MAYOR MICHAEL CALLAHAN, COUNCIL MEMBER ROBERT DUNCAN and COUNCIL MEMBER SUZY LORD, elected officials of the Town of Cutler Bay, Florida;

MAYOR SCOTT NICKLE, DEPUTY MAYOR FRANK GUERTIN, COUNCIL MEMBER SHAUNA HUME, COUNCIL MEMBER HAMILTON BOONE, COUNCIL MEMBER ADAM DYER, elected officials of the City of Indian Harbour Beach, Florida;

MAYOR GEORGE BURCH, VICE MAYOR JESS VALINSKY, CONCIL MEMBERS JEROME CHARLES, COUNCIL MEMBER NEIL J. CANTOR and COUNCIL MEMBER SANDRA HARRIS, elected officials of the Village of Miami Shores, Florida;

MAYOR JOSE “PEPE” DIAZ,
COMMISSIONER IDANIA LLANIO,
COMMISSIONER SAUL DIAZ,
COMMISSIONER ISIDRO C. RUIS,
COMMISSIONER JOSE MARTI,
COMMISSIONER MARCUS VILLANUEVA
and COMMISSIONER REINALDO REY JR,
elected officials of the City of Sweetwater,
Florida;

VICE MAYOR LORI LEWELLEN,
COMMISSIONER TAMARA JAMES and
COMMISSIONER MARCO A. SALVINO, SR.,
elected officials of the City of Dania Beach,
Florida;

MAYOR SAMUEL PENNANT, VICE
MAYOR STEVEN GLENN, COMMISSIONER
MARY RICHARDSON, COMMISSIONER
WILLIE QUARLES and COMMISSIONER
BERTRAM GODDARD, elected officials of the
Town of Dundee, Florida;

MAYOR NANCY Z. DALEY, VICE MAYOR
MAC FULLER, COMMISSIONER CHARLES
LAKE, COMMISSIONER BRENT EDEN and
COMMISSIONER JACK DEARMIN, elected
officials of the City of Lake Alfred, Florida;

MAYOR H. L. “ROY” TYLER, VICE MAYOR
OMAR ARROYO, COMMISSIONER
MORRIS WEST, COMMISSIONER ANNE
HUFFMAN and COMMISSIONER VERNEL
SMITH, elected officials of the City of Haines
City, Florida;

MAYOR RICHARD WALKER, VICE
MAYOR JORDAN ISROW and
COMMISSIONER KENNETH CUTLER,
elected officials of the City of Parkland, Florida;

COUNCILMEMBER JENNIFER ANDREU,
elected official of the City of Plantation, Florida,

COUNCILMEMBER KEM E. MASON, elected
official of the Town of Lantana, Florida;

COMMISSIONER DAVID SUAREZ,
COMMISSIONER LAURA DOMINGUEZ,
COMMISSIONER JOSEPH MAGAZINE and
COMMISSIONER KRISTEN ROSEN
GONZALES, elected officials of the City of
Miami Beach, Florida, and

COMMISSIONER RANDY STRAUSS, elected
official of the Town of Lauderdale-By-The-Sea,
Florida,

Plaintiffs,

vs.

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics;
MICHELLE ANCHORS, in her official capacity
as Vice Chair of the Florida Commission on
Ethics; WILLIAM P. CERVONE, in his official
capacity as a Member of the Florida Commission
on Ethics; TINA DESCOVICH, in her official
capacity as Member of the Florida Commission
on Ethics; FREDDIE FIGGERS, in his official
capacity as a Member of the Florida Commission
on Ethics; LUIS M. FUSTE, in his official
capacity as a Member of the Florida Commission
on Ethics; and WENGAY M. NEWTON, SR., in
his official capacity as a Member of the Florida
Commission on Ethics,

Defendants.

AMENDED COMPLAINT¹

Plaintiffs bring this action against Defendants for declaratory and injunctive relief, and
state as follows:

OVERVIEW

¹ The only changes from the original complaint are the addition of municipal elected officials as
plaintiffs in the title and in paragraph 13.

1. This is an action by a large number of Florida elected municipal officials challenging a recently enacted law (“SB 774”) that on or before July 1, 2024 compels elected municipal officials in office as of January 1, 2024 to utter very specific statements, in writing and available to the public at large through the Internet, regarding the elected officials’ personal finances, including, among other things, stating the exact amount of their net worth and income, the total dollar value of their household goods, and the precise value of every asset and amount of every liability in excess of \$1,000. An elected municipal official’s failure to make these public statements will result in significant fines, civil penalties, and even potential removal from office.

2. SB 774 amended, among other statutes, Fla. Stat. § 112.3144, and renders elected municipal officials in office as of January 1, 2024, and municipal candidates subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j).

3. Prior to the enactment of SB 774, elected municipal officials and municipal candidates were required to provide financial disclosures via a document called “Form 1” pursuant to Fla. Stat. § 112.3145, but were not subject to the requirements of Fla. Const., art. II, § 8(j). However, Florida Statute sections 112.3144 and 99.061, as amended by SB 774 in 2023, respectively make *all* elected municipal officers and municipal candidates subject to the filing requirements of “Form 6,” which demands much more intrusive financial disclosures as outlined in the Florida Constitution and section 112.3144. A copy of Form 1 is attached as Exhibit A, and a copy of Form 6 is attached as Exhibit B.

4. Forcing municipal elected officials and municipal candidates to publicly make such statements impairs their right to be free of government-compelled, content-based, non-commercial speech, in violation of the First Amendment to the United States Constitution.

5. Rather than being the least restrictive, narrowly tailored means of accomplishing a compelling state interest, these new, financial disclosure requirements imposed on elected

municipal officials and municipal candidates through SB 744 are the most restrictive means available – stricter and more onerous than required of federal elected officials (including the President of the United States) and of elected officials in other states throughout the country.

6. The additional, financial information statements required to be made by Form 6 (*e.g.*, the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1, have little, if any, bearing on an elected official's municipal service, does not prevent or even ameliorate conflicts of interest or public corruption, and does not increase public confidence in government.

7. Form 1 is a less restrictive, alternative means of accomplishing the same governmental interests, as would be the less onerous disclosure forms used by the federal government or any of the other states in the United States.

8. Indeed, municipal elected officials and candidates operated under the requirements of Form 1 for decades, and nothing in the Legislature's enactment of the new Form 6 requirement reflected that Form 1 was insufficient and necessitated a change.

9. As such, this action seeks an order (i) declaring the 2023 amendments to Fla. Stat. § 112.3144 related to elected municipal officials and any penalties arising therefrom, including those in Fla. Stat. § 112.317, are unconstitutional under the First Amendment of the United States Constitution, and (ii) enjoining Defendants from enforcing the disclosure requirements.

JURISDICTION AND VENUE

10. The Court has subject matter jurisdiction over this case pursuant to this Court's federal question jurisdiction, 28 U.S.C. § 1331, as this case arises under the First Amendment to the United States Constitution, as made applicable to the States by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

11. This case seeks declaratory and injunctive relief, pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, Federal Rule of Civil Procedure 57, and 42 U.S.C. § 1983.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), as two of the Defendants (Freddie Figgers and Luis M. Fuste) reside in this District (and all are residents of this State), the majority of the plaintiffs reside and serve as elected officials in the District, and a substantial part of the events giving rise to the claim herein occurred in this District.

THE PARTIES

A. Plaintiffs

13. Plaintiffs in this action consist of the following current, elected officials of Florida municipalities:

- a. Town of Briny Breezes President of Town Council Elizabeth A. Loper;
- b. Town of Briny Breezes Alderman Keith J. Black;
- c. Town of Briny Breezes Alderman Kathleen M. Gross;
- d. Town of Briny Breezes Alderman William Birch;
- e. City of Miami Springs Councilmember Walter Fajet;
- f. City of Miami Springs Councilmember Jacky Bravo;
- g. City of Lighthouse Point Commissioner Patricia Petrone;
- h. City of Lighthouse Point Commissioner Sandra Johnson;
- i. Town of Palm Beach Mayor Danielle H. Moore;
- j. Town of Palm Beach President of Town Council Margaret A. Zeidman;
- k. Town of Palm Beach Council Member Edward A. Cooney;
- l. Town of Palm Beach Council Member Lewis Crampton;

- m. Town of Palm Beach Council Member Julie Araskog;
- n. Town of Palm Beach Council Member Bobbie Lindsay;
- o. North Bay Village Mayor Brent Latham;
- p. North Bay Village Vice Mayor Richard Chervony;
- q. North Bay Village Commissioner Andy Rotondaro;
- r. Golden Beach Mayor Glenn Singer;
- s. Golden Beach Vice Mayor Bernard Einstein;
- t. Council Member Judy Lusskin;
- u. Council Member Jaime Mendal
- v. Council Member Kenneth Bernstein;
- w. Indian Creek Mayor Bernard Klepach;
- x. Indian Creek Council Member Irwin Tauber;
- y. Village of Bal Harbour Mayor Jeffrey P. Freimark;
- z. Village of Bal Harbour Vice-Mayor Seth E. Salver;
- aa. Village of Bal Harbour Councilman David Albaum;
- bb. Village of Bal Harbour Councilman David Wolf;
- cc. City of Weston Mayor Margaret Brown;
- dd. City of Weston Commissioner Mary Molina-Macfie;
- ee. City of Weston Commissioner Chris Eddy;
- ff. City of Weston Commissioner Henry Mead;
- gg. City of Weston Commissioner Byron L. Jaffe;
- hh. City of Delray Beach Mayor Shelly Petrolia;
- ii. City of Delray Beach Vice Mayor Ryan Boylston;
- jj. City of Delray Beach Deputy Vice-Mayor Rob Long;

- kk. City of Delray Beach Commissioner Adam Frankel;
- ll. City of Delray Beach Commissioner Angela Burns;
- mm. City of Safety Harbor Mayor Joseph Ayoub;
- nn. City of Safety Harbor Commissioner Andy Steingold;
- oo. City of Safety Harbor Commissioner Carlos Diaz;
- pp. City of Safety Harbor Commissioner Nancy J. Besore;
- qq. City of Safety Harbor Commissioner Cliff Merz;
- rr. Cooper City Commissioner Jeremy Katzman;
- ss. City of Coral Springs Mayor Scott J. Brook;
- tt. City of Coral Springs Vice Mayor Shawn Cerra;
- uu. City of Coral Springs Commissioner Joshua Simmons;
- vv. City of Coral Springs Commissioner Joy Carter;
- ww. City of Coral Springs Commissioner Nancy Metayer Bowen;
- xx. City of Marco Island Vice-Chair Erik Brechnitz;
- yy. City of Margate Vice-Mayor Arlene Schwartz;
- zz. City of Margate Commissioner Antonio V. Arserio;
- aaa. City of Margate Commissioner Joanne Simone;
- bbb. City of Margate Commissioner Anthony N. Caggiano;
- ccc. City of Destin Mayor Robert T. Wagner;
- ddd. City of Destin Council Member John Stephens III;
- eee. City of Destin Council Member Tory CJ Geile;
- fff. City of Destin Council Member James B. Bagby;
- ggg. City of Destin Council Member Teresa Hebert;
- hhh. City of Lauderhill Mayor Kenneth R. Thurston;

- iii. City of Lauderhill Commissioner Melissa P. Dunn;
- jjj. City of Lauderhill Commissioner Sarai “Ray” Martin;
- kkk. City of Deerfield Beach Mayor Bill Ganz;
- lll. City of Deerfield Beach Vice-Mayor Bernie Parness;
- mmm. City of Deerfield Beach Commissioner Ben Preston;
- nnn. City of Deerfield Beach Commissioner Michael Hudak;
- ooo. City of Aventura Vice-Mayor Paul A. Kruss;
- ppp. City of Aventura Commissioner Rachel Friedland;
- qqq. City of Aventura Commissioner Michael Stern;
- rrr. Village of Wellington Vice-Mayor Michael Napoleone;
- sss. Village of Wellington Councilwoman Tanya Siskind;
- ttt. Village of Wellington Councilwoman John T. McGovern;
- uuu. Village of Wellington Councilwoman Michael Drahos;
- vvv. Village of Pinecrest Commissioner Kathryn Abbott;
- www. City of New Smyrna Beach Mayor Fred Cleveland;
- xxx. City of New Smyrna Beach Vice Mayor Valli J. Perrine;
- yyy. City of New Smyrna Beach Commissioner Randy Hartman
- zzz. City of New Smyrna Beach Commissioner Jason McGuirk;
- aaaa. City of Sebastian Mayor Charles Edward Dodd;
- bbbb. City of Sebastian Vice Mayor Kelly Dixon;
- cccc. City of Sebastian Council Member Frederick B. Jones;
- dddd. City of Sebastian Council Member Bob McPartlan;
- eeee. City of Sebastian Council Member Christopher Nunn;
- ffff. City of Melbourne Council Member Mark LaRusso;

gggg. City of Melbourne Council Member Tim Thomas;

hhhh. City of North Miami Beach Vice Mayor Fortuna Smukler;

iiii. City of Homestead Mayor Steven Losner;

jjjj. City of Homestead Council Member Erica G. Avila;

kkkk. City of Sunrise Mayor Michael J. Ryan;

llll. City of Sunrise Deputy Mayor Joseph A. Scuotto;

mmmm. City of Sunrise Assistant Deputy Mayor Neil C. Kerch;

nnnn. City of Sunrise Commissioner Jacqueline A. Guzman;

oooo. City of Sunrise Commissioner Mark A. Douglas;

pppp. Town of Indialantic Mayor Mark McDermott;

qqqq. Town of Indialantic Deputy Mayor Stuart M. Glass;

rrrr. Town of Indialantic Council Member Loren Strand;

ssss. Town of Indialantic Council Member Brett J. Miller;

tttt. Town of Indialantic Council Member Doug Wright;

uuuu. Town of Cutler Bay Vice Mayor Michael Callahan;

vvvv. Town of Cutler Bay Council Member Robert Duncan;

www. Town of Cutler Bay Council Member Suzy Lord;

xxxx. City of Indian Harbour Beach Mayor Scott Nickle;

yyyy. City of Indian Harbour Beach Deputy Mayor Frank Guertin;

zzzz. City of Indian Harbour Beach Council Member Shauna Hume;

aaaaa. City of Indian Harbour Beach Council Member Hamilton Boone;

bbbbb. City of Indian Harbour Beach Council Member Adam Dyer;

ccccc. Village of Miami Shores Mayor George Burch;

dddd. Village of Miami Shores Vice Mayor Jess Valinsky;

eeee. Village of Miami Shores Council Member Jerome Charles;

ffff. Village of Miami Shores Council Member Neil J. Cantor;

gggg. Village of Miami Shores Council Member Sandra Harris;

hhhh. City of Sweetwater Mayor Jose “Pepe” Diaz;

iiii. City of Sweetwater Commissioner Idania Llanio;

jjjj. City of Sweetwater Commissioner Saul Diaz;

kkkk. City of Sweetwater Commissioner Isidro C. Ruis;

llll. City of Sweetwater Commissioner Jose Marti;

mmmm. City of Sweetwater Commissioner Marcus Villanueva;

nnnn. City of Sweetwater Commissioner Reinaldo Rey, Jr;

oooo. City of Dania Beach Vice Mayor Lori Lewellen;

pppp. City of Dania Beach Commissioner Tamara James;

qqqq. City of Dania Beach Commissioner Marco A. Salvino, Sr.;

rrrr. Town of Dundee Mayor Samuel Pennant;

ssss. Town of Dundee Vice Mayor Steven Glenn;

tttt. Town of Dundee Commissioner Mary Richardson;

uuuu. Town of Dundee Commissioner Willie Quarles;

vvvv. Town of Dundee Commissioner Bertram Goddard;

www. City of Lake Alfred Mayor Nancy Z. Daley;

xxxx. City of Lake Alfred Vice Mayor Mac Fuller;

yyyy. City of Lake Alfred Commissioner Charles Lake;

zzzz. City of Lake Alfred Commissioner Brent Eden;

aaaa. City of Lake Alfred Commissioner Jack Dearmin;

bbbb. City of Haines City Mayor H.L. “Roy” Tyler;

cccccc. City of Haines City Vice Mayor Omar Arroyo;

dddddd. City of Haines City Commissioner Morris West;

eeeeee. City of Haines City Commissioner Anne Huffman;

ffffff. City of Haines City Commissioner Vernel Smith;

gggggg. City of Parkland Mayor Richard Walker;

hhhhhh. City of Parkland Vice Mayor Jordan Isrow;

iiiiii. City of Parkland Commissioner Kenneth Cutler;

jjjjjj. City of Plantation Councilmember Jennifer Andreu;

kkkkkk. Town of Lantana Councilmember Kem E. Mason;

llllll. City of Miami Beach Commissioner David Suarez;

mmmmm. City of Miami Beach Commissioner Laura Dominguez;

nnnnnn. City of Miami Beach Commissioner Joseph Magazine;

oooooo. City of Miami Beach Commissioner Kristein Rosen Gonzales;

pppppp. Town of Lauderdale-By-The-Sea Commissioner Randy Strauss.

14. Plaintiffs are each duly elected or appointed officials of incorporated municipalities existing under the laws of the State of Florida and are currently in office.

15. As a result of the passage of SB 774, as of January 1, 2024, each, individual Plaintiff is subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j) and Fla. Stat. § 112.3144, and are further subject to the fines, penalties and other enforcement mechanisms outlined in Fla. Stat. §§ 112.317 and 112.324.

16. Each Plaintiff is, therefore, required to file the requisite Form 6 (rather than the prior Form 1) on or before July 1, 2024.

17. The failure of any municipal elected official, including each Plaintiff, to make the compelled statements subjects him or her to a daily fine of \$25 per day up to a maximum of \$1,500

and, following an investigation and public hearing, a potential civil penalty of up to \$20,000 and, among other things, a potential recommendation of removal from office. *See* Fla. Stat. §§ 112.3144(8)(f), 112.324(4), and 112.317.

18. Plaintiffs now face prior to the imminent deadline of July 1, 2024, the obligation to engage in non-commercial, content-based speech requirement to publicly disclose, against their will, the financial information required in Form 6, or face fines or other penalties.

19. Throughout Florida, more than 100 municipal elected officials resigned rather than agree to engage in such unwanted speech.

20. Plaintiffs strongly desire to continue to serve the public and have therefore not yet resigned, but instead have chosen to challenge the new compelled speech requirement.

21. Accordingly, Plaintiffs have each suffered a concrete and particularized injury-in-fact that is actual or imminent.

B. Defendants

22. Defendant, Ashley Lukis (“Lukis”) is the Chair and a member of the Florida Commission on Ethics (“Commission”), a commission existing pursuant to Fla. Const., Art. II, § 8(h)(1) and Fla. Stat. § 112.320. Lukis is sued in her official capacity as Chair of the Commission.

23. Defendant, Michelle Anchors (“Anchors”) is the Vice Chair and a member of the Commission. Anchors is sued in her official capacity as Vice Chair of the Commission.

24. Defendant, William P. Cervone (“Cervone”) is a member of the Commission. Cervone is sued in his official capacity as member of the Commission.

25. Defendant Tina Descovich (“Descovich”) is a member of the Commission. Descovich is sued in her official capacity as member of the Commission.

26. Defendant, Freddie Figgers (“Figgers”) is a member of the Commission. Figgers is sued in his official capacity as member of the Commission and is a resident of this District.

27. Defendant, Luis Fuste (“Fuste”) is a member of the Commission. Fuste is sued in his official capacity as member of the Commission and is a resident of this District.

28. Defendant, Wengay M. Newton, Sr. (“Newton”) is a member of the Commission. Newton is sued in his official capacity as member of the Commission.

29. Lukis, Anchors, Cervone, Descovich, Figgers, Fuste, and Newton, collectively, comprise the Commission.

30. “The Agency Head is the entire Commission, which is responsible for final agency action.” *See* Statement of Organization and Operation of the Commission on Ethics, <https://www.ethics.state.fl.us/Documents/Ethics/statement%20of%20org.pdf?cp=2024127> (last accessed February 12, 2024).

31. The Commission, through each Defendant, is charged with implementing and enforcing the State’s financial disclosure laws, including, among many other things, the receipt of Form 6 disclosures, training regarding Form 6, investigating alleged violations regarding Form 6 filings, imposing fines for failure to file Form 6, holding enforcement hearings regarding failure to file Form 6, making recommendations of removal from office for failure to file Form 6, and rendering legally binding advisory opinions regarding Form 6. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

32. The Commission is also required to identify every person required to file Form 6, provide notification of said requirement to each person subject to these disclosures, and ensure compliance with the disclosure requirements by each person subject thereto. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

33. In addition, the Commission’s 2022 Annual Report (as well as previous annual reports) expressly requested that the Legislature enact legislation to require that elected municipal officials complete Form 6, rather than Form 1, leading to the enactment of SB 774. *See* Annual

Report to the Florida Legislature for Calendar Year 2022, pg. 23,
<https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202425>

(last accessed February 12, 2024).

34. The only justification given by the Commission for its recommendation was:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

35. Nowhere in its report did the Commission conclude that there has been an increase in the need to oppose corruption or conflicts of interest at the municipal level or that Form 1 in any way was insufficient to the task of guarding against those governmental ills. In short, the Commission justified its recommendation merely by noting that municipal officials should have to disclose the same information others already disclose, without regard to the municipality's population, revenue, annual budget, or any elected municipal compensation amount, if any.

36. All acts alleged herein by Defendants and their agents, servants, employees, or persons acting on their behalf were done and are continuing to be done under color of state law.

37. Plaintiffs bring this action against the state officers (namely, the members of the Commission) who have the responsibility to enforce the Form 6 requirement against municipal elected officials (including Plaintiffs) and seek only prospective equitable relief to end the continuing violations of the First Amendment to the United States Constitution.

BACKGROUND

A. History of Ethical Standards in Florida

38. Beginning in the late 1960s, the Florida Legislature has enacted numerous laws regulating ethical conduct for Florida's elected officials, including laws related to the solicitation

or acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure of certain information, doing business with one's agency, conflicting employment, lobbying restrictions, dual public employment, anti-nepotism, conflicts of interest, and financial disclosure. *See generally* Fla. Stat., Chapter 112.

39. The interests that the financial disclosures are intended to serve are stated by the Commission: "Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government." *See* Florida Commission on Ethics, Financial Disclosure Information, www.ethics.state.fl.us/FinancialDisclosure/Index.aspx, last accessed February 12, 2024.

40. In 1976, the Florida Constitution was amended to require that all elected, state constitutional officers annually file a full and public disclosure of their financial interests, which is done through the state-adopted Form 6, requiring the disclosure of highly personal financial information. *See* Fla. Const. Art. II, § 8; Fla. Stat. § 112.3144; Exh. B.

41. The Form 6 requirement did not apply to elected municipal officials or candidates for municipal office prior to January 1, 2024.

B. The Change from Form 1 to Form 6 for Elected Municipal Officials

42. Instead, prior to January 1, 2024, elected municipal officials were required to make a more limited financial disclosure that nevertheless provides sufficient information to satisfy the interests of preventing conflicts of interest and public corruption and increasing public confidence in government. *See* Fla. Stat. § 112.3145. The elected municipal officials' financial disclosure was done through the state-adopted Form 1. Exh. A.

43. In the 2023 legislative session, the Florida Legislature duly enacted (and the Governor signed) SB 774, which was codified at Laws of Florida 2023-09, and which amended (in relevant part) Fla. Stat. § 112.3144, to change the financial disclosure requirements to require,

as of January 1, 2024, that all elected municipal mayors and elected members of municipal governing boards (and candidates for such offices) file a Form 6 financial disclosure, rather than the previously required Form 1. *See* Fla. S.B. 774; Fla. Stat. §§ 99.061, 112.3144 (2023).

C. Comparison of Form 6 to Form 1

44. Form 6 is a highly intrusive and extreme level of required, public financial disclosure, mandating the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government. *See* Exh. B.

45. Specifically, Form 6 requires that the official disclose:

(a) the official's exact net worth, to the penny, (b) the exact aggregate value of all household goods and personal effects, (c) the precise value of every other asset individually valued at over \$1,000 (including a description of the asset), (d) the exact outstanding amount of all liabilities in excess of \$1,000, including the name and address of the creditor, (e) every primary source of income that exceeded \$1,000 during the year, including the name and address of the source of income and the precise amount of income, (f) every secondary source of income in excess of \$1,000 from any business of which the official owns more than 5%, including the name of the business entity, the major sources of business income (namely, any that account for 10% or more of the business's revenue), and the address and principal business activity or source, and (g) any interest in certain specified types of businesses.

See Exh. B.

46. In contrast, Form 1 requires that the official disclose:

(a) the name, address and principal business active for every primary sources of income in excess of \$2,500 (but not the amount), (b) every secondary source of income in excess of \$5,000 from any business of which the official owns more than 5%, including the name of the business entity, the major source of business income (any that account for 10% or more of the business's revenue), and the address and principal business activity or source, (c) a description of all real property (but not the value) of which the official had more than a 5% ownership interest, (d) a description (but not the value) of intangible property owned by the official and valued at more than \$10,000, (e) the name and address of each creditor to whom the official

owed more than \$10,000 (but not the amount owed), and (f) any interest in certain specified types of businesses.

See Exh. A.

47. The information in Form 1 and Form 6 of each filer is made publicly available through the Commission's website.

COUNT I

COMPELLED, CONTENT-BASED SPEECH IN VIOLATION OF THE FIRST AMENDMENT OF THE U.S. CONSTITUTION, PURSUANT TO 42 U.S.C. § 1983

48. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 47, as if fully set forth herein.

49. The First Amendment to the United States Constitution, as applied to the States by the Fourteenth Amendment, prohibits the government, including Defendants, from abridging Plaintiffs' freedom of speech though government-compelled speech.

50. The First Amendment's speech rights include the right to speak freely, the right to refrain from speaking at all, and the right not to speak certain words or messages.

51. The statements required by Fla. Stat. § 112.3144, through Form 6, constitute non-commercial, compelled speech from Plaintiffs in violation of the First Amendment.

52. Specifically, Fla. Stat. § 112.3144 unconstitutionally compels Plaintiffs to make invasive, public disclosures about their personal finances through Form 6.

53. The required disclosures of Fla. Stat. § 112.3144, through Form 6, are content-based speech because they compel individuals to speak a particular message. Compelled speech is no less compelled and no less speech because it is required to be in writing.

54. For example, among many other things, on July 1, 2024, each Plaintiff will be forced to say the words: "My Net Worth as of December 31, 2023 was \$_____." *See* Exh. B at 1.

55. Plaintiffs would not otherwise engage in such non-commercial, content-based speech (namely, publicly disclosing to the public their exact net worth, income, asset values and other personal financial information required in Form 6) but for the requirements of Fla. Stat. § 112.3144 and the threat of fines, penalties and other enforcement mechanisms set forth in Fla. Stat. § 112.317.

56. The compelled speech in Form 6, as required by Fla. Stat. § 112.3144, is readily reviewable (now and for many years to come) by the public on the Internet, and the information in each filed Form 6 is clearly and readily associated with the individual filer (i.e., via the name of each individual Plaintiff).

57. Because the compelled speech is effectuated through state statute, the constitutional deprivation at issue here is caused by official policy of the state and under color of state law.

58. Although Plaintiffs recognize the government's interest in preventing conflicts of interest, deterring corruption, and increasing public confidence in government, Fla. Stat. § 112.3144, as amended by SB 744, and the application of Form 6 to elected municipal officials are not narrowly tailored to achieve these interests.

59. Requiring Plaintiffs to make the additional, compelled speech required by Form 6 (as opposed to the statements previously required through Form 1) are not the least restrictive means to accomplish any compelling government purpose.

60. Accordingly, an actual controversy exists between Plaintiffs and Defendants, each of whom have adverse legal interests of sufficient immediacy to warrant the issuance of a declaratory judgment and injunctive relief.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor:

A. Declaring, pursuant to 28 U.S.C. § 2201, 42 U.S.C. § 1983, and Rule 57, Fed. R. Civ P., that Fla. Stat. § 112.3144 (2023) compels Plaintiffs to engage in content-based, non-

commercial speech in violation of the First Amendment of the United States Constitution and is, therefore, unconstitutional;

B. Enjoining, pursuant to 28 U.S.C. § 2202, Defendants from enforcing Fla. Stat. § 112.3144 (including the imposition of any fines, penalties or other enforcement) against Plaintiffs, arising from the failure of any Plaintiffs to file a Form 6 while subject to such requirements;

C. Awarding Plaintiffs their costs and expenses (including attorneys' fees) incurred in bringing in this action, pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1920, and other applicable law; and

D. Granting such other relief as this Court deems just and proper.

Dated this 22nd day of March, 2024.

WEISS SEROTA HELFMAN
COLE + BIERMAN P.L.
200 East Broward Blvd., Ste. 1900
Fort Lauderdale, FL 33301
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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March 2024, a copy of this document was filed electronically through the CM/ECF system and furnished by email to all counsel of record.

/s/ Jamie A. Cole
JAMIE A. COLE

EXHIBIT A

2023 Form 1 - Statement of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization	Suborganization	Title
SAMPLE	SAMPLE	SAMPLE

Disclosure Period

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2023 .

Primary Sources of Income

PRIMARY SOURCE OF INCOME (Over \$2,500) (Major sources of income to the reporting person)
 (If you have nothing to report, write "none" or "n/a")

Name of Source of Income	Source's Address	Description of the Source's Principal Business Activity

2023 Form 1 - Statement of Financial Interests**Secondary Sources of Income**

SECONDARY SOURCES OF INCOME (Major customers, clients, and other sources of income to businesses owned by the reporting person) (If you have nothing to report, write "none" or "n/a")

Name of Business Entity	Name of Major Sources of Business' Income	Address of Source	Principal Business Activity of Source

Real Property

REAL PROPERTY (Land, buildings owned by the reporting person)
(If you have nothing to report, write "none" or "n/a")

Location/Description

Intangible Personal Property

INTANGIBLE PERSONAL PROPERTY (Stocks, bonds, certificates of deposit, etc. over \$10,000)
(If you have nothing to report, write "none" or "n/a")

Type of Intangible	Business Entity to Which the Property Relates

2023 Form 1 - Statement of Financial Interests**Liabilities**

LIABILITIES (Major debts valued over \$10,000):
(If you have nothing to report, write "none" or "n/a")

Name of Creditor	Address of Creditor

Interests in Specified Businesses

INTERESTS IN SPECIFIED BUSINESSES (Ownership or positions in certain types of businesses)
(If you have nothing to report, write "none" or "n/a")

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

2023 Form 1 - Statement of Financial Interests

Signature of Filer

Digitally signed:

Filed with COE:

E-FILED SAMPLE

EXHIBIT B

2023 Form 6 - Full and Public Disclosure of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization	Suborganization	Title
SAMPLE	SAMPLE	SAMPLE

Net WorthMy Net Worth as of December 31, 2023 was \$ [AMOUNT].**Assets**

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effect is N/A.

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

Description of Asset	Value of Asset

2023 Form 6 - Full and Public Disclosure of Financial Interests**Liabilities**

LIABILITIES IN EXCESS OF \$1,000:

Name of Creditor	Address of Creditor	Amount of Liability

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

Name of Creditor	Address of Creditor	Amount of Liability

Income

Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2022 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2023 federal income tax return and all W2s, schedules, and attachments.

PRIMARY SOURCES OF INCOME:

Name of Source of Income Exceeding \$1,000	Address of Source of Income	Amount

SECONDARY SOURCES OF INCOME (Major customers, clients, etc. of businesses owned by reporting person):

Name of Business Entity	Name of Major Sources of Business Income	Address of Source	Principal Business Activity of Source

2023 Form 6 - Full and Public Disclosure of Financial Interests

Interests in Specified Businesses

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

Signature of Reporting Official or Candidate

Under the penalties of perjury, I declare that I have read the foregoing Form 6 and that the facts stated in it are true.

Digitally signed:

Filed with COE:

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official of the
Town of Briny Breezes, *et al.*,

Plaintiffs,
vs.

Case No. 1:24-cv-20604-JAL

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics, *et al.*,

Defendants.

**PLAINTIFFS' EXPEDITED MOTION FOR PRELIMINARY
INJUNCTION AND INCORPORATED MEMORANDUM OF LAW**

Plaintiffs, pursuant to Federal Rule of Civil Procedure 65(a) and Local Rules 7.1(b)(2), (d)(2), file this expedited motion for preliminary injunction as to their single-count Complaint.¹

INTRODUCTION

This is an action by *almost 150 elected municipal officials* challenging a recently enacted law ("SB 774") that compels all elected municipal officials in office as of and after January 1, 2024, to make very specific statements, in writing and available to everyone in the world through the Internet, regarding their personal finances. These compelled statements, which must be made on or before July 1, 2024 (and by July 1 of every year thereafter), include, among other things, stating the exact amount of their net worth and income, the total dollar value of their household goods, and the precise value of every asset and amount of every liability over \$1,000, other than household goods. An elected municipal official's failure to make these written, public statements will result in significant fines, civil penalties, and potential removal from office.

Prior to the enactment of SB 774, elected municipal officials in Florida were required to provide more limited financial disclosures, including sources (but not amounts) of income,

¹ Plaintiffs request that the Court take judicial notice of the public records of the Commission and the Florida Legislature whose contents are readily available and whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b)(2), (c)(2); *see also Coastal Wellness Centers, Inc. v. Progressive Am. Ins. Co.*, 309 F. Supp. 3d 1216, 1220 n.4 (S.D. Fla. 2018) ("The Court may take judicial notice of government publications and website materials.").

identification (but not values) of primary assets, and identification (but not amounts) of large liabilities, through a document called “Form 1.” *See* Fla. Stat. § 112.3145. Section 112.3144, as recently amended by SB 774, now mandates that all elected municipal officers file a “Form 6,” which entails far more intrusive financial disclosures than those required in a Form 1.

Specifically, among other things, the newly mandated Form 6 requires, by July 1, 2024, all elected municipal officials, in writing, to declare: (1) “My Net Worth as of December 31, 2023 was \$[AMOUNT]”; (2) “The aggregate value of my household goods and personal effect[s] is ____”; (3) the description and value or amount of all other assets and liabilities over \$1,000; and (4) every source of income in excess of \$1,000, including the name and address of the source of income and the precise amount of the income (or, alternatively, to attach a copy of their federal income tax return, including all exhibits). The speech compelled by SB 774 through Form 6 is undoubtedly content-based—municipal elected officials are required to communicate specific words and compliance with (or violation of) the law can be determined only by examining the content of the words declared by the municipal elected officials.

The United States Supreme Court has consistently held that a law that compels content-based, non-commercial speech is presumptively unconstitutional under the First Amendment to the United States Constitution. Such a law is upheld only if the government can satisfy strict scrutiny: the government has the burden to show that the law was narrowly tailored and the least restrictive means of advancing a compelling state interest.

Here, the legislative record contained no empirical examples, expert studies, analysis, or other evidence to satisfy strict scrutiny. In fact, there was no evidence at all in the legislative record that the additional financial disclosures required to be made by Form 6 (*e.g.*, the disclosure of exact net worth, exact income, and precise values of household goods and other assets and liabilities), as compared to Form 1 (which required disclosure of sources, but not amounts, of income and identification, but not values or amounts, of assets and liabilities), have any bearing on elected municipal officials’ public service or prevent (or even relate) to conflicts of interest or public corruption. The legislative record did not contain even one example of a situation where a public official’s violation of conflict of interest or other ethics laws was discovered (or would have been discovered) or prevented through the additional financial disclosures made in a Form 6 as opposed to a Form 1. The legislative record similarly shows that the Legislature never undertook to address conflict and corruption issues through less intrusive tools, such as continuing with Form 1, slightly

modifying Form 1 to lower the threshold amounts for disclosure of sources of income and ownership of assets, or utilizing forms that have been successfully used in other states. There was no evidence in the legislative record that the Form 1 disclosures were insufficient or that other less restrictive alternatives would not adequately serve the alleged compelling state interests.

Because plaintiffs are likely to prevail in demonstrating that SB 774 is an unconstitutional restriction on free speech rights, and because the invalidation of a law on constitutional grounds also satisfies the other criteria needed for a preliminary injunction, plaintiffs respectfully request that the Court enter an order preliminarily enjoining the enforcement of SB 774 during the pendency of this action.

LEGAL STANDARD

“A district court may grant injunctive relief only if the moving party shows that: (1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.” *FF Cosmetics FL, Inc. v. City of Miami Beach*, 866 F.3d 1290, 1298 (11th Cir. 2017). “[T]he burdens at the preliminary injunction stage track the burdens at trial.” *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 429 (2006). The first factor is “generally the most important factor,” “require[ing] a showing of only *likely* or probable, rather than *certain*, success.” *Garcia v. Stillman*, 661 F. Supp. 3d 1168, 1176 (S.D. Fla. 2023) (emphasis in original) (quoting *NetChoice, LLC v. Att’y Gen.*, 34 F.4th 1196, 1209 (11th Cir. 2022); then *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1232 (11th Cir. 2005)). The third and fourth factors “merge when, as here, the [g]overnment is the opposing party.” *Gonzalez v. Gov’r of Ga.*, 978 F.3d 1266, 1270–71 (11th Cir. 2020). At the preliminary injunction stage, courts “may rely on affidavits and hearsay materials which would not be admissible evidence for a permanent injunction, if the evidence is ‘appropriate given the character and objectives of the injunctive proceeding.’” *828 Mgmt., LLC v. Broward Cty.*, 508 F. Supp. 3d 1188, 1193 (S.D. Fla. 2020) (quoting *Levi Strauss & Co. v. Sunrise Int’l Trading*, 51 F.3d 982, 985 (11th Cir. 1995)).

FACTUAL BACKGROUND

The facts supporting plaintiffs’ request for a preliminary injunction are all contained in public records of governmental entities that are available on governmental websites.

A. The Parties

1. Plaintiffs are currently 147 elected municipal officials in Florida.
2. Defendants are all members of the Florida Commission on Ethics, sued in their official capacities, who are charged with implementing and enforcing Florida's financial disclosure laws that are at issue in this action.

B. The History of Financial Disclosure in Florida

3. In 1976, the Florida Constitution was amended to require that all elected state constitutional officers annually file a full and public disclosure of their financial interests, which is done through the state-adopted Form 6, requiring the disclosure of highly personal financial information. *See* Fla. Const., Art. II, § 8; Fla. Stat. § 112.3144.

4. The Form 6 requirement did not apply to elected municipal officials or candidates for municipal office prior to January 1, 2024.

5. Instead, prior to January 1, 2024, elected municipal officials were required to make a more limited financial disclosure. *See* Fla. Stat. § 112.3145. The elected municipal officials' financial disclosure was done through the state-adopted Form 1.

C. The Change from Form 1 to Form 6 for Elected Municipal Officials

6. In the 2023 legislative session, the Florida Legislature enacted (and the Governor signed) SB 774, which was codified at Laws of Florida 2023-09, and which amended (in relevant part) section 112.3144, to change the financial disclosure requirements to require, as of January 1, 2024, that all elected municipal mayors and elected members of municipal governing boards file a Form 6 financial disclosure, rather than the previously required Form 1. *See* S.B. 774; Fla. Stat. § 112.3144 (2023).

D. The Legislative Record (or Lack Thereof) Supporting the Change to Form 6

7. SB 774 was subject to review by the Senate Legislative Staff for two committees, the Committee on Ethics and Elections and the Committee on Rules, each of which prepared substantively identical staff analyses (collectively, the "Staff Analysis").²

² *See* Committee on Ethics and Elections Senate Staff Analysis (Mar. 15, 2023), <https://www.flsenate.gov/Session/Bill/2023/774/Analyses/2023s00774.ee.PDF>; Committee on Rules Senate Staff Analysis (Mar. 30, 2023), <https://www.flsenate.gov/Session/Bill/2023/774/Analyses/2023s00774.rc.PDF>.

8. The Staff Analysis contained a description of the history and explanation of the Commission on Ethics' role and of the Form 1 and Form 6 requirements, and explained the changes that were to be made through SB 774 (including the switch from Form 1 to Form 6 for elected municipal officials). *Id.* The Staff Analysis, however, did not contain any reason or justification for the change to Form 6 for municipal elected officials. It also did not include or reference empirical examples, expert studies, analyses, or other evidence supporting the change to Form 6, or demonstrating that Form 1 was somehow insufficient for municipal elected officials. It also did not contain any discussion of less restrictive alternatives.

9. The Staff Analysis stated in a footnote that “[e]nhanced financial disclosure for local elected officials” was among the legislative recommendations made by the Florida Commission on Ethics in its Annual Report to the Florida Legislature for the Calendar Year 2022 (the “2022 Annual Report”). *See* Staff Analysis, at 10, n. 90. The full text of the legislative recommendation on this issue by the Commission on Ethics in the 2022 Annual Report stated:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

See 2022 Annual Report at 23, <https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=2024310> (last visited Mar. 10, 2024). The 2022 Annual Report lacked any empirical examples, expert studies, analyses, or other evidence supporting the change to Form 6 or demonstrating that Form 1 was insufficient, and did not contain any discussion of less restrictive alternatives.

10. SB 774 was discussed and approved through two Senate committee hearings and a floor debate. No empirical examples, expert studies, analyses, or other evidence supporting the change to Form 6 or demonstrating that Form 1 was insufficient were submitted during the committee hearings or floor debate, nor was there any discussion of less restrictive alternatives (or, more generally, any possible First Amendment implications).

11. At the Senate committee hearing on March 14, 2023 of the Ethics and Elections Committee, the bill sponsor, without citing any empirical evidence or other reliable sources, assumed that, since city officials may “decide millions of dollars in budgets, it is *probably better*

for the public to have a full financial transparency.”³ (emphasis added). When asked “[w]hat prompted the need for th[e] change” from having municipals officials file a Form 1 to a Form 6, the bill sponsor did not refer to any sort of data. Instead, he indicated that the desire to have municipal officials fill out a Form 6 “has been requested by the Commission on Ethics for many, many years.”⁴ When pushed further for a rationale for the statutory change, the bill sponsor then pointed to the imbalance in the state of affairs between state governance and local governance.

12. According to the bill sponsor, unlike the Legislature, which requires dozens of persons to authorize any actions, a municipal body can approve large contracts and other significant decisions with only a few persons. In that vein, “voters deserve to know when there would be some kind of collusion and/or some kind of improper financial incentive” even on a municipal level.⁵ The bill sponsor then was asked whether the proposed heightened disclosure requirement would deter people from running for local office. The sponsor answered, “[i]t could, but if you have somebody who’s not willing to make that available do you really want them in public office.”⁶

13. At the end of the committee hearing, executive director of the Commission, Kerrie Stillman, testified to the shift in the desire to compel local officials to fill out an enhanced financial disclosure form. With no specific analysis or evidence, Ms. Stillman merely concluded that local officials’ submissions of a full and public financial disclosure will further serve the compelling state interest of avoiding a conflict of interest. Ms. Stillman could not detail the reasoning for changing the almost fifty-year requirement of compelling local officials to file a more limited financial disclosure.⁷ The Ethics and Elections Committee passed SB 774, and the bill was transferred to the Rules Committee.

14. The Senate committee hearing on SB 774 that was held on March 30, 2023 at the Rules Committee was reminiscent of the prior committee hearing—that is, Ms. Stillman repeatedly presumed, without reciting any evidence, that requiring local officials to fill out a Form 6 will

³ See Hrg. Tr. 5:05–5:13 (Sen. Brodeur), Florida Senate Committee on Ethics (Mar. 14, 2023), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202303141600&Redirect=true (last visited Mar. 2, 2024) (emphasis added).

⁴ Hrg. Tr. 9:07–9:40 (Exchange between Sens. Polsky and Brodeur).

⁵ Hrg. Tr. 10:20–11:02 (Sen. Brodeur).

⁶ Hrg. Tr. 12:15–15:00 (Exchange between Sens. Powell and Brodeur).

⁷ Hrg. Tr. 19:45–22:24 (Exchange between Sen. Powell and Ms. Stillman).

better serve the compelling governmental interests at stake.⁸ Similar to the prior committee hearing, the Senate Rules committee did not contemplate or consider other less restrictive alternatives to SB 774. The Rules Committee then passed SB 774 by a 16 to 4 vote.

15. At the final stage of the legislative process in the Senate on April 12, 2023—the Senate floor debate—the bill sponsor was asked whether SB 774 would have a chilling effect on people running for local office. In response, the bill sponsor (yet again) assumed that the statute would not discourage people from running for local office, despite the fact that several local officials had testified to the contrary.⁹ Again, no empirical examples, expert studies, analyses, or other evidence supporting the change to Form 6 or demonstrating that Form 1 was insufficient was submitted during the floor debate, nor was there any discussion of less restrictive alternatives. The Senate then voted in favor of SB 774 by a vote of 35 to 5.

16. After passage by the Senate, SB 774 moved on to the House. First reading was held on April 20, 2023, with no discussion.¹⁰

17. Second reading of SB 774 was held in the House on April 25, 2023. The House sponsor explained the bill and then admitted that Form 6 is not perfect, may be too intrusive, and that the Commission may need to alter its requirements.¹¹ Just as in the Senate, no empirical

⁸ See Hrg. Tr. 56:58–57:11, Florida Senate Committee on Rules (Mar. 30, 2023), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202303300830&Redirect=true (last visited March 2, 2024) (Ms. Stillman: “[T]he Commission *believes* that ...enhanced financial disclosure will increase public trust.” (emphasis added)); *id.* 57:42–57:56 (Ms. Stillman: “The Commission *views* as an important step towards providing greater transparency of city, elected officials . . . [to] file a form 6” (emphasis added)); *id.* 59:25–59:45 (Ms. Stillman: “[T]he Commission *believes* that this increased transparency involving financial disclosure of financial interest . . . should never be viewed as an impediment to public service.” (emphasis added)).

⁹ See Hrg. Tr. 2:55:35–2:56:16, Senate Floor Debate (Apr. 11, 2023), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304121500&Redirect=true (last visited Mar. 2, 2024) (Sen. Brodeur: “I don’t think it’s going to have a chilling effect [because] people will still run....”).

¹⁰ See <https://www.flsenate.gov/Session/Bill/2023/774/?Tab=BillHistory>.

¹¹ See Hrg. Tr. 7:00:49–7:01:14, House floor debate (April 25, 2023) <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=8900> (Rep. Roach: “My bill seeks to bring parity between what we do and what our constitutional officers in our counties do and what the local do. And I recognize your concern, I think, is that the form 6 in and of itself is too intrusive. And maybe we need to take a look and talk to the commission on ethics on whether they really need that level of detail in the form 6. My bill simply seeks to have the local elected officials do the form 6 the same as we do.”).

examples, expert studies, analyses, or other evidence supporting the change to Form 6 or demonstrating that the Form 1 was insufficient was submitted during the floor debate, nor was there any discussion of less restrictive alternatives. Nevertheless, SB 774 moved forward to Third Reading in the House.

18. The House heard SB 774 on Third and Final Reading on April 26, 2023. With no discussion or debate, the House passed SB 774 by a vote of 113 to 2.¹²

19. On May 11, 2023, the Governor signed SB 774, and it became law.

E. Mass Resignations as a Result of SB 774

20. As a result of the enactment of SB 774, 125 municipal elected officials throughout Florida have resigned to date rather than be subjected to the Form 6 financial disclosure requirements.¹³

ARGUMENT

I. PLAINTIFFS ARE SUBSTANTIALLY LIKELY TO SUCCEED ON THEIR COMPELLED SPEECH CLAIM.

In their one and only count, Plaintiffs seek to enjoin the enforcement of SB 774, arguing that the statutory requirement to file a Form 6 as applied to them constitutes content-based, non-commercial compelled speech, in violation of the First Amendment. Because this form of compelled speech is subject to strict scrutiny review, and because SB 774 is not narrowly tailored and the least restrictive alternative to serve the compelling governmental interests at stake, plaintiffs are likely to succeed on their compelled-speech claim.

A. Freedom From Compelled Speech is Protected by the First Amendment.

The Free Speech Clause of the First Amendment to the United States Constitution, which is applicable to the states through the Fourteenth Amendment, provides that “Congress shall make no law ... abridging the freedom of speech.” U.S. Const., amend. I. The Supreme Court has explained that the Free Speech Clause protects not only a person’s right to speak freely but also shields the inverse—“the right to refrain from speaking at all.” *See, e.g., Wooley v. Maynard*, 430

¹² See Hrg. Tr. 7:00:49–7:01:14, House floor debate (April 26, 2023) 5:01:30–5:02:23, <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=8924>.

¹³ See Tr. 86:09–86:16, Florida Commission on Ethics: Public Session Video (Jan. 26, 2024), <https://www.youtube.com/watch?v=7r4BwAsQFu0> (last visited Mar. 11, 2024).

U.S. 705, 714 (1977). The prohibition against compelled speech is not limited to compelled statements of opinion or values—it applies equally to compelled statements of facts, as required by Form 6. *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011) (stating “the creation and dissemination of information are speech within the meaning of the First Amendment”). Thus, “compelled statements of fact” are accorded as much constitutional protection as “compelled statements of opinion” because “either form of compulsion burdens protected speech.” *Riley v. Nat’l Fed’n of the Blind of N. Carolina, Inc.*, 487 U.S. 781, 797–98 (1988) (applying First Amendment to compelled disclosure of the percentage of charitable contributions actually turned over to charity); *see also Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 573 (1995) (holding the “general rule[] that the speaker has the right to tailor the speech[] applies not only to expressions of value, opinion, or endorsement, but equally to statements of fact the speaker would rather avoid”).

“In order to compel the exercise ... of speech, the governmental measure must punish, or threaten to punish, protected speech by governmental action that is ‘regulatory, proscriptive, or compulsory in nature.’” *Phelan v. Laramie Cnty. Cmty. Coll. Bd. of Trs.*, 235 F.3d 1243, 1246–47 (10th Cir. 2000) (quoting *Laird v. Tatum*, 408 U.S. 1 (1972)). Here, as alleged in the Complaint, “Plaintiffs would not otherwise engage in such non-commercial, content-based speech (namely, publicly disclosing to the public their exact net worth, income, asset values and other personal financial information required in Form 6) but for the requirements of Fla. Stat. § 112.3144 and the threat of fines, penalties and other enforcement mechanisms set forth in Fla. Stat. § 112.317.” [D.E. 1 ¶ 55]. Accordingly, plaintiffs’ right not to be compelled to submit a Form 6 to the Commission and communicate highly personal information constitutes speech protected by the First Amendment.

B. SB 774 Constitutes Content-Based Compelled Speech Subject to Strict Scrutiny.

Whether SB 774 passes constitutional muster largely depends on what level of scrutiny is applicable to the law. That question, in turn, hinges on the nature and character of SB 774—that is, whether SB 774 is considered a content-based or content-neutral speech restriction. Because SB 774 compels elected municipal officials to declare specific content, the law is subject to the most rigorous form of constitutional scrutiny—*i.e.*, strict scrutiny.

Laws that impinge upon the exercise of free speech can generally be divided into two general categories—content-based laws and content-neutral laws. *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 766 (2018) (“*NIFLA*”). A content-based law is subject to strict scrutiny and, as a result is “presumptively unconstitutional.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015); *see also Otto v. City of Boca Raton*, 981 F.3d 854, 868 n.6 (11th Cir. 2020) (observing that “[c]ases where th[e strict scrutiny] standard is met are few and far between” (collecting cases)). A content-neutral restriction—regulations based on the time, place or manner of a speech—meanwhile, “must withstand only intermediate scrutiny....” *Messina v. City of Fort Lauderdale*, 546 F. Supp. 3d 1227, 1237 (S.D. Fla. 2021) (quoting *McCullen v. Coakley*, 573 U.S. 464, 477 (2014)).

The Supreme Court in *Reed, supra*, made clear that a law that “expressly draws distinctions based on ... communicative content” is a facial content-based restriction. 576 U.S. at 165. “Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose.” *Id.* at 163. “Both are distinctions drawn based on the message a speaker conveys....” *Id.* at 163–64. If a law is content-based on its face (like here), the Court’s inquiry stops there, and the law is subject to strict scrutiny analysis, “**regardless** of the government’s benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech.” *Id.* at 165 (emphasis added) (quotations omitted).¹⁴ “[A] speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter.” *Id.* at 169.

Here, the challenged law is content-based on its face because, “[b]y compelling individuals to speak a particular message,” SB 774 “alter[s] the content of their speech.” *See NIFLA*, 585 U.S. at 766 (quotations omitted).¹⁵ Specifically, among other things, the newly mandated Form 6

¹⁴ If a law does not facially address content, then a court would proceed to the second step of the *Reed* analysis—assessing whether the law can be “justified without reference to the content of the regulated speech” or whether the law was “adopted by the government because of disagreement with the message the speech conveys.” *Id.* at 163 (alteration adopted) (quotations omitted). “Those laws, like those that are content based on their face, must also satisfy strict scrutiny.” *Id.*

¹⁵ As noted by Justice Breyer in his dissent in *NIFLA*, “[v]irtually every disclosure law could be considered ‘content based,’ for virtually every disclosure law requires individuals ‘to speak a particular message.’” 585 U.S. at 782 (Breyer, J., dissenting); *see also Washington Post v. McManus*, 355 F. Supp. 3d 272, 296 (D. Md.) (stating the “general rule that compelled disclosure

requires, by July 1, 2024, all elected municipal officials, in writing and available to the world on the Internet, to declare: (1) “My Net Worth as of December 31, 2023 was \$[AMOUNT]”; (2) “The aggregate value of my household goods and personal effect[s] is ____”; (3) the description and value or amount of all other assets and liabilities over \$1,000; and (4) declare every source of income in excess of \$1,000, including the name and address of the source of income and the precise amount of the income (or, alternatively, to attach a copy of their federal income tax return, including all exhibits).

Thus, SB 774 restricts the freedom of a local officer’s speech by forcing the recital of a “government-drafted script” followed by specific financial information. *See NIFLA*, 585 U.S. at 766 (determining that a statute that requires licensed clinics to provide “a government-drafted script about the availability of state-sponsored services” is a content-based restriction on speech); *see also Masonry Bldg. Owners of Oregon v. Wheeler*, 394 F. Supp. 3d 1279, 1297 (D. Or. 2019) (“By requiring URM building owners to speak a particular government-drafted message through placards, lease application disclosures, and acknowledgments, the Ordinance ‘alters the content of their speech.’” (quoting *NIFLA*, 585 U.S. at 766)); *Levine v. Fair Pol. Pracs. Comm’n*, 222 F. Supp. 2d 1182, 1190–91 (E.D. Cal. 2002) (granting a preliminary injunction on First Amendment grounds and finding that a California statute that imposed disclosure requirements on slate mailers was an impermissible content-based speech restriction). In addition, the compelled speech here is also content-based because compliance with (and enforcement of) the law can be determined only by examining the content of the words uttered by the municipal elected officials.

Once filed, any member of the public may access an official’s Form 6 and then challenge the veracity of a particular disclosure by lodging a complaint with the Commission. “If a complaint

laws, like all content-based regulations, must overcome strict scrutiny”), *aff’d* 944 F.3d 506 (4th Cir. 2019) (affirming without deciding what level of scrutiny applies); *Masonry Bldg. Owners of Oregon v. Wheeler*, 394 F. Supp. 3d 1279, 1296 (D. Or. 2019) (“[A] regulation that compels a disclosure is a content-based regulation of speech, subject to heightened scrutiny, unless an exception applies.”); Clay Calvert, *Selecting Scrutiny in Compelled-Speech Cases Involving Non-Commercial Expression: The Formulaic Landscape of a Strict Scrutiny World After Becerra and Janus*, and *First Amendment Interests-and-Values Alternative*, 31 Fordham Intell. Prop. Media & Ent. L.J. 1, 112 (2020) (“Because compelled-speech mandates invariably require messages that relate to a particular topic or specific subject matter ... they are almost automatically subject to strict scrutiny under the methodology adopted by most courts.”).

... alleges an error or omission on an annual CE Form 6 – Full and Public Disclosure of Financial Interests..., the Executive Director shall determine whether the complaint contains any allegations other than allegations of an immaterial, inconsequential, or de minimis error or omission on the disclosure form.” Fla. Admin. Code § 34-5.002(4)(b); *see also* Fla. Stat. § 112.324(1), Fla. Stat. To determine whether there are any material omissions or errors and, if so, whether to initiate the complaint procedures of section 112.324, the Commission must review the Form 6 disclosure. *See* Fla. Stat. § 112.3144(11). Thus, under certain circumstances, the Commission will have to resort to reviewing the *content* of a Form 6 in deciding whether the disclosures were complete and accurate. *See Nat’l Ass’n for Gun Rts., Inc. v. Motl*, 188 F. Supp. 3d 1020, 1035 (D. Mont. 2016) (ruling that Montana’s voting disclosure requirement is content-based on its face and finding that the statute’s “disclosure requirement, as well as the requirement to provide a signed statement affirming that the information is accurate and true, are only triggered by a reference to a candidate’s voting record”).

Closely on point is the Supreme Court’s decision in *Riley*. There, the Supreme Court considered a North Carolina law that required “professional fundraisers [to] disclose to potential donors, before an appeal for funds, the percentage of charitable contribution collected during the previous 12 months that were actually turned over to charity.” 487 U.S. at 795. The Court held that the compelled disclosure of that information constituted a content-based regulation that was subject to strict scrutiny. *Id.* (“Mandating speech that a speaker would not otherwise make necessarily alters the content of the speech. We therefore consider the Act as a content-based regulation of speech.”).¹⁶ North Carolina attempted to avoid strict scrutiny by asserting that the standard should be different for compelled speech as opposed to compelled silence. The Court rejected the argument, stating: “There is certainly some difference between compelled speech and

¹⁶ The *Riley* Court determined that the content-based law at issue there was subject to “exacting First Amendment scrutiny.” *Id.* at 798. Although “exacting scrutiny” is a nebulous term that the Supreme Court has applied in varying degrees, in this non-commercial context it appears that the term is synonymous with strict scrutiny. *See United States v. Alvarez*, 567 U.S. 709, 724–29 (2012) (holding that “exacting scrutiny” applied to the Stolen Valor Act’s prohibition on false claims of receipt of military decorations or medals and applying the strict scrutiny standard requiring a compelling government interest, direct relationship, and least restrictive alternative); *Ward v. Rock Against Racism*, 491 U.S. 781, 798 n.6 (1989) (describing the strict scrutiny standard as the “most exacting scrutiny” and requiring that laws that fall under such standard be subject to the “least-restrictive-alternative analysis”).

compelled silence, but, in the context of protected speech, the difference is without constitutional significance, for the First Amendment guarantees ‘freedom of speech,’ a term necessarily comprising the decision of both what to say and what *not* to say.” *Id.* at 796–97. Similarly, the content-based speech requirement of SB 774 is subject to strict scrutiny.¹⁷

¹⁷ SB 774 does not fit within the narrow categories of speech restrictions that would remove the case from a strict scrutiny analysis and receive less protection under the First Amendment, such as commercial speech or incidental speech swept up in the regulation of professional conduct. Commercial speech is “expression related solely to the economic interests of the speaker and its audience.” *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of N.Y.*, 447 U.S. 557, 561 (1980). The “core notion of commercial speech [is] speech which does no more than propose a commercial transaction.” *Bolger v. Young Drug Prods. Corp.*, 463 U.S. 60, 66 (1983). Although there is a financial component to SB 774 in that public officials are compelled to reveal their finances, the statute does not reference any commercial advertising, the statute is not tied to a particular product or service, and the municipal officials here do not have an economic motivation to fill out a Form 6. *See id.* at 67.

As an analog to SB 774’s regulation of the non-commercial speech of elected municipal officials, the Supreme Court has “applied strict scrutiny to content-based laws that regulate the noncommercial speech of lawyers.” *NIFLA*, 585 U.S. at 771 (citing *NAACP v. Button*, 371 U.S. 415, 418–19, 438, 443 (1963) (determining that a statute that prohibited “improper solicitation” by attorneys in an attempt to outlaw litigation-related speech of the National Association for the Advancement of Colored People (NAACP) was a non-commercial proscription on free speech in part because “no monetary stakes [were] involved”); *In re Primus*, 436 U.S. 412, 422, 432 (1978) (concluding that a statute that regulated the solicitation of prospective litigants by nonprofit organizations that engage in litigation was a non-commercial abridgment of free speech because the solicitation would not be for “pecuniary gain” and the legal services offered were “not an offer predicated on entitlement to a share of any monetary recovery”)). Here, an elected local official is not filling out a Form 6 as a pre-condition to soliciting any financial services or obtaining a pecuniary gain. Many elected municipal officials, in fact, are volunteers and draw a nominal salary, if any, from their political posts. The statutory mandate here does not harness any discernible nexus with the (non-existent) commercial interests of the local officers. Thus, SB 774 does not regulate commercial speech.

Nor does SB 774 encompass incidental speech swept up in the regulation of professional conduct. The submission of a Form 6 constitutes non-verbal speech, not some sort of conduct. Thus, Form 6 is a direct, not incidental, regulation of plaintiffs’ free speech rights. *See Otto* 981 F.3d at 865 (“[T]here is a real difference between laws directed at conduct sweeping up incidental speech on the one hand and laws that directly regulate speech on the other. The government cannot regulate speech by relabeling it as conduct. [C]haracterizing speech as conduct is a dubious constitutional enterprise, and labeling certain verbal or written communications ‘speech’ and others ‘conduct’ is unprincipled and susceptible to manipulation.” (quotations omitted)).

C. SB 774's Requirement that Municipal Elected Officials Complete a Form 6 Will Likely Fail Strict Scrutiny Because it is Not Narrowly Tailored to Further a Compelling Governmental Interests

At the outset, it is critical to note that Defendants, not Plaintiffs, have the burden of overcoming strict scrutiny. That is because “the burdens at the preliminary injunction stage track the burdens at trial.” *Gonzales*, 546 U.S. at 429. And, as mentioned above, given that SB 774 is a content-based restriction on speech, defendants would bear the burden at trial of demonstrating that the statute survives strict scrutiny. *See Ashcroft v. ACLU*, 542 U.S. 656, 665 (2004) (holding that on a preliminary injunction motion “the burden is on the government to prove that the proposed alternatives will not be as effective as the challenged statute.”); *United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 816 (2000) (decreeing that at the preliminary injunction stage, the government must “meet the requirement of narrow tailoring” and, more specifically, “demonstrate that alternative measures that burden substantially less speech would fail to achieve the government’s interests, not simply that the chosen route is easier”).

There are two components of strict scrutiny review. First, defendants must demonstrate the existence of a compelling governmental interest at stake. And second, defendants must show that the law at issue is narrowly tailored to serve the compelling state interest. Plaintiffs “must be deemed likely to prevail” on their claim that SB 774 is unconstitutional until and unless defendants can establish both prongs of strict scrutiny, which they cannot do. *See Ashcroft*, 542 U.S. at 666. For purposes of this motion, plaintiffs do not dispute that protecting against conflicts of interest and deterring corruption are compelling governmental interests. Defendants, however, have not established (nor can they) that SB 774 is narrowly tailored to achieve these compelling governmental interests.

In order to prove that SB 774 is narrowly tailored, defendants must demonstrate that the law imposes the least restrictive means of advancing the compelling governmental interest at stake. *Boos v. Berry*, 485 U.S. 312, 329 (1988) (explaining when content-based restrictions on speech are analyzed under strict scrutiny, a law “is not narrowly tailored [where] a less restrictive alternative is readily available”). In so doing, defendants must establish that the Legislature “seriously undertook to address the problem with less intrusive tools readily available to it.” *McCullen v. Coakley*, 134 S. Ct. 2518, 2539 (2014). Defendants have to prove that “alternative measures that burden substantially less speech would fail to achieve the government’s interests,

not simply that the chosen route is easier.” *Id.* at 2540. Thus, defendants “would have to show either that substantially less-restrictive alternatives were tried and failed, or that the alternatives were closely examined and ruled out for good reason.” *Bruni v. City of Pittsburgh*, 824 F.3d 353, 370 (3d Cir. 2016); *see also Reynolds v. Middleton*, 779 F.3d 222, 231 (4th Cir. 2015) (“As the Court explained in *McCullen* ... the burden of proving narrow tailoring requires the [government] to prove that it actually tried other methods to address the problem.”); *Messina*, 546 F. Supp. 3d at 1251 (finding that the government’s burden of establishing that it “seriously undertook to address the problem with less intrusive tools readily available to it” is not satisfied where “it points to no evidence that it investigated, studied, or even solicited reports on the issue”).

Defendants cannot satisfy this prong through supposition and conjecture; instead, they must rely on actual evidence. As a prime illustration of this evidentiary requirement, in *Edenfield v. Fane*, 507 U.S. 761 (1993), a First Amendment case in which the plaintiff sought permanent injunctive relief, the government had “present[ed] no studies” and relied upon a record that “contain[ed] nothing more than a series of conclusory statements that add[ed] little if anything to the [government]’s original statement of its justifications.” *Id.* at 771. Due in part to this evidentiary vacuum, the Supreme Court invalidated the restriction as a violation of the plaintiff’s First Amendment rights. As another exemplar in the First Amendment realm, in *Sable Communications of California, Inc. v. FCC*, 492 U.S. 115 (1989), the Supreme Court encountered a legislative record that was bereft of empirical evidence but brimming with anecdotes and speculative statements. There was no record evidence, the Supreme Court observed, “aside from conclusory statements during the debates by proponents of the bill,” and the record “contain[ed] no evidence” concerning the alleged effectiveness of other alternatives. *Id.* at 129. In the absence of record evidence to prove that the particular speech restriction had been narrowly tailored, the Supreme Court invalidated the speech restriction. *Id.*; *compare Sable*, 492 U.S. at 129–30 (“[A]side from conclusory statements during the debates by proponents of the bill, ... the congressional record presented to us contains no evidence as to how effective or ineffective the ... regulations were or might prove to be.”), and *United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 822 (2000) (“No support for the restriction can be found in the near barren legislative record relevant to this provision. ... [T]he Government must present more than anecdote and supposition. The question is whether an actual problem has been proved in this case. We agree that the Government has failed to establish a pervasive, nationwide problem justifying its nationwide

daytime speech ban.”), with *Turner Broadcasting System, Inc. v. FCC*, 520 U.S. 180, 187 (1997) (reviewing “a record of tens of thousands of pages of evidence” developed through “three years of pre-enactment hearings, ... as well as additional expert submissions, sworn declarations and testimony, and industry documents” in support of complex must-carry provisions (quotations omitted)).

Other courts—including this one—have emphasized the necessity of relying on actual evidence in satisfying the narrow tailoring requirement and, consequently, have entered preliminary injunctions barring the enforcement of laws that imposed certain speech restrictions. As the court astutely observed in *Messina*:

[M]ore problematic[] is the lack of any evidence to justify the law. As we’ve suggested, that evidentiary lacuna seems to confirm the Plaintiffs’ view that the City operated off of assumptions and didn’t (as the Supreme Court requires) ‘seriously [endeavor] to address the problem with less intrusive tools readily available to it.’ Again, the City has said nothing about whether it investigated the issue, what evidence it collected, or the extent to which it entertained other regulatory options. The City can’t so completely curtail a citizen’s First Amendment rights based only on what amounts to speculation.

546 F. Supp. 3d at 1251; *see also S.O.C., Inc. v. Cty. of Clark*, 152 F.3d 1136, 1147 (9th Cir. 1998) (remanding for entry of a preliminary injunction where “there [was] no evidence that an outright ban on commercial canvassing is necessary to meet the asserted interests of the County”). Thus, the government’s demonstration of the least restrictive means prong of narrow tailoring “must be genuine, not hypothesized or invented *post hoc* in response to litigation.” *Agudath Israel of Am. v. Cuomo*, 983 F.3d 620, 633 (2d Cir. 2020) (quoting *United States v. Virginia*, 518 U.S. 515, 533 (1996)). Put another way, although it is arguably permissible for the government to supplement the legislative record with evidence that a certain law was narrowly tailored, the government cannot introduce post-enactment evidence where the “congressional record contains no legislative findings that would justify [a court] in concluding that there is no constitutionally acceptable less restrictive means to achieve the [g]overnment’s interest.” *See Sable*, 492 U.S. at 129; *see also Washington Cnty. v. Gunther*, 452 U.S. 161, 176 n.16 (1981) (“We are normally hesitant to attach much weight to comments made after the passage of legislation.”); *cf. also Buehrle v. City of Key West*, 813 F.3d 973, 978–79 (11th Cir. 2015) (stating, in the context of a content-neutral regulation of free speech, that “a municipality cannot get away with shoddy data or reasoning” and instead

“must rely on at least some pre-enactment evidence that the regulation would serve its asserted interests”).

As set forth in detail, *supra* at 5–8, the legislative record contained no empirical examples, expert studies, analyses, or other evidence to satisfy strict scrutiny. In fact, there was no evidence *at all* in the legislative record that the additional financial disclosures required to be made through Form 6 (*e.g.*, the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1 (which required disclosure of sources, but not amounts, of income and identification, but not values or amounts, of assets and liabilities), have any bearing on elected municipal officials’ public service or prevent (or even relate) to conflicts of interest or public corruption. For example, the disclosure of an elected municipal official’s precise net worth is wholly irrelevant to any hypothetical violation of any conflict of interest or other ethics charge under any Florida Statute and would not constitute an element of any such violation. Although the identity of an employer of an official (which would be disclosed as a source of income on a Form 1) may be relevant to whether a municipal elected official has a voting conflict under section 112.3143, Florida Statutes (as a “principal by whom retained”), the amount that the official earned as his or her salary from that employer (required on a Form 6) is not relevant (or mentioned) in section 112.3143.¹⁸ The same is true for the mandated disclosure of asset value and the amounts of liabilities—they simply have no bearing on any potential violations of any Florida ethics laws.

In addition, the legislative record did not contain even one example of a situation where a public official’s conflict of interest or violation of other ethics laws was discovered (or would have been discovered) or prevented through the additional financial disclosures made through Form 6 as opposed to Form 1. The legislative record similarly shows that the Legislature never undertook to address conflict and corruption issues through less intrusive tools, such as continuing with Form 1, slightly modifying Form 1 to lower the threshold amounts for disclosure of sources of income and ownership of assets, or utilizing forms that have been successfully used in other states or the federal government for many years. [*See* D.E. 1 ¶¶ 5, 7]. There was no evidence in the legislative

¹⁸ Section 112.3143 addresses at length the voting conflicts of municipal elected officials, among others. Fla. Stat. § 112.3143.

record that the Form 1 disclosures were insufficient or that other less restrictive alternatives would not adequately serve the compelling state interests.

Instead, the legislative record is clear that the only rationale given for requiring elected municipal officials to submit Form 6 disclosures is that the legislators, themselves, and other elected constitutional officers are required to do so. *See, e.g.*, Hrg. Tr. 4:45–5:15, 9:35–9:45 (Sen. Brodeur), Florida Senate Committee on Ethics (Mar. 13, 2023), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq202303141600&Redirect=true (last visited Mar. 15, 2024). As the House Sponsor said (after acknowledging that the Form 6 may be “too intrusive”): “My bill seeks to bring parity between what we do and what our constitutional officers in our counties do and what the local do.” Hrg. Tr. 7:00:40–7:01:12, Florida House Session (Apr. 25, 2023), <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=8900> (last visited Mar. 15, 2024).

Defendants cannot find any refuge in their conclusory assertion that SB 774 should be upheld as constitutional because the law fosters “parity.” “[T]he First Amendment does not permit the State to sacrifice speech for efficiency.” *NIFLA*, 585 U.S. at 775. However, even if the more intrusive Form 6 disclosures are appropriate for some public officials, it does not mean that they are appropriate for all (including elected municipal officials). It may be that Form 6 would satisfy strict scrutiny for the Governor or other officials who deal with different types of issues on a larger scale than most municipalities. Simply asserting by fiat that elected officials from *all* municipalities (including some very small ones where the elected officials are paid nominally or not at all, and the issues faced are at a much smaller scale) must make the same high level of disclosure is insufficient to satisfy strict scrutiny.¹⁹ The Legislature should have (at least) considered less restrictive alternatives for elected municipal officials, which it did not do. Finally, it is a bit disingenuous for legislators to say that there should be “parity” as to ethical rules when there are numerous situations where State Legislators have decided to impose less stringent

¹⁹ Ironically, even the House Sponsor of the bill acknowledged the high burden that a Form 6 places on all persons, stating during the floor debate that “maybe we need to take a look and talk to the commission on ethics on whether they really need that level of detail in the Form 6.” Hrg. Tr. 6:59:05–7:01:22, Florida House Session (Apr. 25, 2023), <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=8900> (last visited Mar. 15, 2024).

requirements on themselves than on local officials. *See, e.g.*, Fla. Stat. §§ 112.3143 (allowing state officers to vote on measures that benefit their employer or relatives, but not allowing municipal officials to do so);²⁰ 286.011 (applying Sunshine Law requirements to elected municipal officials but not to state legislators).

Because the Florida Legislature and the Commission did not present any argument or evidence to support the notion that SB 774 is the least restrictive means of furthering the compelling governmental interests, defendants cannot show that the law would survive strict scrutiny. Accordingly, plaintiffs are substantially likely to succeed in proving that SB 774 violates their First Amendment free speech rights.

D. Plaintiffs Have Established that the Remaining Elements Justify the Issuance of a Preliminary Injunction.

Because plaintiffs have established that they are likely to succeed on the merits in this First Amendment case, the other preliminary injunction requirements are then readily satisfied as well. That is because a First Amendment violation is a “per se irreparable injury.” *LaCroix v. Town of Fort Myers Beach*, 38 F.4th 941, 954 (11th Cir. 2022); *see also KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1271–72 (11th Cir. 2006) (“[I]t is well settled that ‘[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.’”). And because defendants are state officials, “the third and fourth requirements—‘damage to the opposing party’ and ‘public interest’—can be consolidated.” *Otto*, 981 F.3d at 870. In that regard, “[i]t is clear that neither the government nor the public has any legitimate interest in enforcing an unconstitutional [law].” *Id.* Moreover, as noted above, as a result of the enactment of SB 774, 125 municipal elected officials throughout Florida have resigned rather than be subjected to Form 6 financial disclosure requirements. There is a strong public interest in ensuring that the

²⁰ Interestingly, the Commission on Ethics in its 2022 Annual Report also recommended that this be changed. *See* 2022 Annual Report at 23 (“*The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official*; and that the exemption from using the Commission’s conflict disclosure form applicable only to Legislators be eliminated.” (emphasis added)); *see also* 2015 Annual Report at 24. That recommendation, which inured to the detriment of state legislators, unlike the one mandating Form 6 for elected municipal officials, was not heeded.

continuing existence and enforcement of SB 774 not unreasonably or unnecessarily deter governmental service:

It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve.

Fla. Stat. § 112.311. Plaintiffs have established all four requirements of Rule 65 to be entitled to the entry of a preliminary injunction.

E. Plaintiffs Should not be Required to Post an Injunction Bond.

Because “public interest litigation is a recognized exception to the bond requirement,” Plaintiffs request that this Court waive the bond requirement of Rule 65(c). *See Vigue v. Shoar*, No. 3:19-CV-186-J-32JBT, 2019 WL 1993551, at *3 (M.D. Fla. May 6, 2019) (citing *City of Atlanta v. Metropolitan Atlanta Rapid Transit Auth.*, 636 F.2d 1084, 1094 (5th Cir. 1981) (“[P]ublic-interest litigation [constitutes] an area in which the courts have recognized an exception to the Rule 65 security requirement.”)); *see also Hetherington v. Madden*, 558 F. Supp. 3d 1187, 1196 n.13 (N.D. Fla. 2021) (waiving injunction bond requirement where government was preliminarily enjoined from enforcing a state law that was found to be in violation of the First Amendment); *United Food & Commercial Workers Local 99 v. Brewer*, 817 F. Supp. 2d 1118, 1128 (D. Ariz. 2011) (“There is no realistic likelihood that Defendants will be harmed by being enjoined from enforcing a law that constitutes viewpoint discrimination in violation of the First Amendment on its face. No bond will be required.”). Additionally, Defendants would not be damaged if a preliminary injunction were entered returning the parties to the status quo that existed prior to SB 774, with the Plaintiffs filing Form 1 rather than Form 6 disclosure forms.

CONCLUSION

For the reasons stated above, plaintiffs request that the Court enter a preliminary injunction enjoining defendants, along with their officers, agents, employees, attorneys, and all other persons in active concert or participation with them, from enforcing SB 774 until further order from this Court, and award any other relief that the Court deems just and proper.

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REQUEST FOR EXPEDITED RELIEF

Pursuant to Local Rule 7.1(d)(2), in light of the fact that Plaintiffs will be compelled to satisfy the compelled speech requirement of SB 774 and file a Form 6 enhanced disclosure form with the Commission by July 1, 2024, the parties will need to dispose of the instant motion (including a possible appeal) before that date, and so Plaintiffs respectfully request an expedited ruling on the instant motion during the week of April 29, 2024.

/s/ Jamie A. Cole

JAMIE A. COLE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March 2024, a copy of this document was filed electronically through the CM/ECF system and furnished by email to all counsel of record.

/s/ Jamie A. Cole

JAMIE A. COLE

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 24-20604-CIV-LENARD

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official
of the Town of Briny Breezes, et al.,

Plaintiffs,

v.

ASHLEY LUKIS, in her official capacity
As Chair of the Florida Commission
on Ethics, et al.,

Defendants.

_____ /

MOTION TO DISMISS

Defendants ASHLEY LUKIS, MICHELLE ANCHORS, WILLIAM P. CERVONE, TINA DESOCOVICH, FREDDIE FIGGERS, LUIS M. FUSTE, and WENGAY M. NEWTON, SR., pursuant to Federal Rule of Civil Procedure 12(b)(6), respectfully move for an order dismissing the Amended Complaint, ECF No. 9, for failure to state a claim upon which relief can be granted because Plaintiffs failed to allege a necessary element of their First Amendment claim (i.e., the lack of a substantial relation between the subject disclosure requirement and sufficiently important government interests). Further, the allegation that the financial disclosure requirement here is not “narrowly tailored” is conclusory in nature, and is based on

a misunderstanding of the level of scrutiny to which the challenged provision is subject.

INTRODUCTION

In 2023, the Florida Legislature passed a bill (“SB 774”),¹ which subjects municipal elected officials to the same financial disclosure requirements as state and county elected officials; specifically, completing “Form 6”² annually in accordance with the Florida Constitution’s Sunshine Amendment. Art. II, § 8, Fla. Const. The law went into effect January 1, 2024 and applies to the financial disclosures due no later than July 1, 2024. From 1976 to 2024, municipal elected officials were required to complete “Form 1”³ annually, a less demanding financial disclosure. The goals of Form 6 include deterrence of corruption and conflicting interests, creation of public confidence in Florida’s officials, educating the electorate, and improving the electoral process. *Plante v. Gonzalez*, 575 F.2d 1119, 1134 (5th Cir. 1978).

Plaintiffs, “a large number of Florida elected municipal officials,” allege that SB 774 violates their First Amendment rights by requiring them to complete and file Form 6 annually (instead of Form 1). ECF No. 9, ¶ 1. Plaintiffs allege the disclosure constitutes content-based, non-commercial compelled speech. ECF No. 9, ¶ 4.

¹ Enacted as ch. 2023, Laws of Fla.

² ECF No. 9, Ex. B.

³ ECF No. 9, Ex. A.

Plaintiffs allege SB 774 is “not the least restrictive, narrowly tailored means of accomplishing a compelling state interest,” implying that SB 774 does not survive strict scrutiny. ECF No. 9, ¶ 5.⁴

Notwithstanding that SB 774 would survive strict scrutiny, the Supreme Court has made it abundantly clear that exacting scrutiny—not strict scrutiny—applies to compelled speech challenges concerning disclosure requirements. As pleaded, the Amended Complaint is deficient as a matter of law because the allegations only concern whether SB 774 satisfies strict scrutiny. Plaintiffs fail to allege a key element of their First Amendment compelled speech claim, *i.e.* that SB 774’s Form 6 requirement for municipal elected officials lacks a substantial relationship to sufficiently important government interests, which is the exacting scrutiny standard. Further, they merely allege in a conclusory fashion that the disclosure requirement is not narrowly tailored. Accordingly, the Amended Complaint should be dismissed for failure to state a claim.

BACKGROUND

In 1976, Florida voters adopted an amendment to the Florida Constitution (the “Sunshine Amendment”) that set forth minimum ethical standards for elected

⁴ Plaintiffs, along with the municipalities they represent have also filed suit in Leon County Circuit Court challenging SB 377 on state privacy grounds. *Town of Briny Breezes v. Lukis*, no. 2024 CA 283 (Fla. 2d Cir.).

officials. Art. II, § 8, Fla. Const. The first sentence of the amendment states that “[a] public office is a public trust” and that “[t]he people shall have the right to secure and sustain that trust against abuse.” The specific requirements of the amendments and its implementing statutes serve to assure this right. *Id.* Among the ethical standards adopted was a requirement for specified public officials to file “full and public disclosure of their financial interests.” *Id.* at § 8(a). This requirement expressly applies to “[a]ll elected constitutional officers and candidates for such offices,” but also to “other public officers, candidates, and employees” that “may be determined by law.” *Id.* The Sunshine Amendment also states that it “shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.” *Id.* at 8(i). The goals of the financial disclosure requirement include deterrence of corruption and conflicting interests, creation of public confidence in Florida’s officials, educating the electorate, and improving the electoral process. *Plante v. Gonzalez*, 575 F.2d 1119, 1134 (5th Cir. 1978).

Section 112.3144, Florida Statutes, implements the financial disclosure requirements of the Sunshine Amendment. Section 112.3144(1)(a) provides that elected constitutional officers (*i.e.*, state elected officials) must submit financial disclosures to the Florida Commission on Ethics, per the Sunshine Amendment. The statute also details what information must be disclosed, such as assets exceeding

\$1,000 in value, *id.* at (6)(a), and each source of income exceeding \$1,000, *id.* at (6)(c). As of January 2024, Fla. Stat. § 112.3144(d) extends that requirement to mayors and elected municipal officials. Fla. Stat. § 112.3147 provides those financial disclosures “shall be on forms prescribed by the Commission on Ethics.”

In 1977, five Florida state senators sued state officials charged with administering the financial disclosure provisions of the Sunshine Amendment, alleging the disclosure requirement violated their federally protected right to privacy and unconstitutionally burdened candidates for office. *Plante v. Gonzalez*, 437 F. Supp. 536 (N.D. Fla. 1977), *aff’d*, 575 F.2d 1119 (5th Cir. 1978).⁵ The district court granted defendants’ motion to dismiss with prejudice, upholding the disclosure requirements as constitutional. 437 F. Supp. at 543.

The Fifth Circuit Court of Appeals affirmed, holding that the amendment’s “mandatory financial disclosure for elected officials is constitutional,” *id.* at 1136, and the amendment’s “educational goal” of informing the electorate and improving the electoral process “can be met in no other way” other than financial disclosure. *Plante* at 1136, 1137. The Amended Complaint Plaintiffs seek to raise a similar challenge under the First Amendment, alleging the disclosure constitutes compelled speech.

⁵ Fifth Circuit cases decided before September 30, 1981 are binding in the Eleventh Circuit. *Bonner v. City of Prichard, Ala.*, 661 F.2d 1206, 1207 (11th Cir. 1981).

MEMORANDUM OF LAW

I. Standards of Review

When analyzing a motion to dismiss under Rule 12(b)(6), a court must accept the allegations in the complaint as true and construe them in the light most favorable to the plaintiff. *Randall v. Scott*, 610 F.3d 701, 705 (11th Cir. 2010). However, a court has no corresponding duty to accept as true any legal conclusions in the complaint. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678; *see Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Further, the complaint must “plausibly suggest an entitlement to relief.” *Twombly*, 550 U.S. at 555.

It is well-settled that “First Amendment challenges to disclosure requirements” are subject to “exacting scrutiny.” *John Doe No. 1 v. Reed*, 561 U.S. 186, 196 (2010); *see also Americans for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2383 (2021) (“Regardless of the type of association, compelled disclosure requirements are reviewed under exacting scrutiny.”). Exacting scrutiny is less rigorous than strict scrutiny and applies to disclosure requirements because a “disclosure is a less restrictive alternative to more comprehensive regulations of speech.” *Citizens United v. FEC*, 558 U.S. 310, 369 (2010).

Under exacting scrutiny, “there must be ‘a substantial relation between the

disclosure requirement and a sufficiently important governmental interest.’ ” *Americans for Prosperity Found.*, 141 S. Ct. at 2383 (quoting *Reed*, 561 U.S. at 196). “To withstand this scrutiny, the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *Id.* The challenged rule must also “be narrowly tailored to the interest it promotes, **even if [the rule] is not the least restrictive means of achieving that end.**” *Americans for Prosperity Found.*, 141 S. Ct. at 2384 (emphasis added). Narrow tailoring “require[s] a fit that is not necessarily perfect, but reasonable; that represents not necessarily the single best disposition but one whose scope is in proportion to the interest served.” *Americans for Prosperity Found.*, 141 S. Ct. at 2384. “ ‘[I]t is immaterial’ to the level of scrutiny ‘whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters.’ ” *Americans for Prosperity Found.*, 141 S. Ct. at 2383 (quoting *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 462 (1958)).

II. Plaintiffs Failed to Allege the Absence of a Substantial Relation

To prevail on their compelled speech claim, Plaintiffs must prove no “substantial relation [exists] between the disclosure requirement and a sufficiently important governmental interest.” *Americans for Prosperity Found.*, 141 S. Ct. at 2384. Plaintiffs fail to do this because they proceed under the assumption that strict scrutiny applies here.

Plaintiffs seemingly concede the sufficient importance of the government interests at issue: “Plaintiffs recognize the government’s interest in preventing conflicts of interest, deterring corruption, and increasing public confidence in government” ECF No. 9, ¶ 58. Thus, under exacting scrutiny, the only inquiry remaining is whether there exists a “substantial relation” between Form 6 and these sufficiently important government interests. *Americans for Prosperity Found*, 141 S. Ct. at 2383. However, because the Amended Complaint is based on strict scrutiny, Plaintiffs fail to allege the absence of a substantial relation between Form 6 and these interests—the Amended Complaint does not mention the phrase “substantial relation” whatsoever. *See* ECF No. 9, ¶¶ 1–60. Therefore, Plaintiffs failed to allege a critical element to their cause of action, and failed to state a claim upon which relief can be granted. Dismissal is thus appropriate under Fed. R. Civ. P. 10(b)(6).

III. Plaintiffs Merely Allege in a Conclusory Fashion that SB 776 is Not Narrowly Tailored

Under exacting scrutiny, the challenged law must also “be narrowly tailored to the interest it promotes, even if [the law] is not the least restrictive means of achieving that end.” *Americans for Prosperity Found*, 141 S. Ct. at 2384. Narrow tailoring “require[s] a fit that is not necessarily perfect, but reasonable; that represents not necessarily the single best disposition but one whose scope is in proportion to the interest served.” *Id.*

Again, because Plaintiffs misunderstand the proper scrutiny level applicable

the financial disclosure requirements of SB 774, they allege the law violates their First Amendment rights because the Form 6 requirement is “not the least restrictive means to accomplishing any compelling government purpose.” ECF No. 9, ¶ 59. Notably, exacting scrutiny does not require the least restrictive means to accomplish government interests. *Americans for Prosperity Found*, 141 S. Ct. at 2384. Clearly, these allegations concern whether SB 774 can survive strict scrutiny review. *See id* at 2383 (“Under strict scrutiny, the government must adopt the least restrictive means of achieving a compelling state interest, . . . rather than a means substantially related to a sufficiently important interest.”) (quotations omitted). For that reason alone, the Amended Complaint is fatally deficient.

Nonetheless, the Amended Complaint merely asserts in a conclusory fashion that SB 774 is “not narrowly tailored,” but fails to provide any specific allegations in support. ECF No. 9, ¶ 59. Such “mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at 678. Instead, the Amended Complaint focuses on whether Form 6 is the least restrictive means here and cites to the prior Form 1 requirement as a less restrictive means—plainly invoking strict scrutiny. ECF No. 9, ¶¶ 7–8, 42–47, 59. The conclusory nature of the allegations regarding whether SB 774’s Form 6 requirement is narrowly tailored warrants dismissal for failure to state a claim upon which relief can be granted. Fed. R. Civ. P. 10(b)(6).

CONCLUSION

Plaintiffs’ only claim is that SB 774’s Form 6 disclosure requirement for municipal elected officials constitutes compelled speech in violation of their First Amendment rights. It is well-settled law that strict scrutiny does not apply to election-related disclosure requirements. Instead, the lesser exacting scrutiny applies. However, the Amended Complaint solely concerns allegations that SB 774 fails strict scrutiny because it is not “narrowly tailored” and “not the least restrictive means” to accomplishing the government interests here. As a result, the Amended Complaint fails to state a claim upon which relief can be granted. First, Plaintiffs fail to allege the lack of a substantial relation—a key element of exacting scrutiny—between the Form 6 requirement and the government interests at issue. Instead, the Amended Complaint focuses on Form 1 as a less restrictive means to Form 6. Second, dismissal is appropriate because Plaintiffs allege in a conclusory fashion that the Form 6 requirement is not narrowly tailored. For those reasons, the Amended Complaint must be dismissed.

Respectfully submitted,

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**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 24-20604-CIV-DAMIAN

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official
of the Town of Briny Breezes, et al.,

Plaintiffs,

v.

ASHLEY LUKIS, in her official capacity
As Chair of the Florida Commission
on Ethics, et al.,

Defendants.

_____ /

RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION

Defendants ASHLEY LUKIS, MICHELLE ANCHORS, WILLIAM P. CERVONE, TINA DESCOVICH, FREDDIE FIGGERS, LUIS M. FUSTÉ, and WENGAY M. NEWTON, SR., pursuant to Federal Rule of Civil Procedure 65(a), files this Response to Plaintiff's Motion for Preliminary Injunction, ECF No. 10.

INTRODUCTION

In this action, Plaintiffs challenge the constitutionality of SB 774,¹ which amends section 112.3144(1), Florida Statutes, to require mayors and elected members of municipal governing bodies to annually file with the Florida Commission on Ethics ("Commission") a "Form 6" financial disclosure.² Prior to the passage of SB 774, these municipal officials only had to file a

¹ Enacted as ch. 2023, Laws of Fla.

² In addition, SB 744 requires that mayors and elected members of municipal governing bodies to file their disclosures with the Commission.

much less informative “Form 1” disclosure with their local supervisor of elections. § 112.3145(2)(d), Fla. Stat. (2022). Plaintiffs allege this new requirement constitutes compelled speech in violation of their First Amendment rights. They seek a preliminary injunction to avoid complying with the amended statute, under which they are required to file a Form 6 on or before July 1, 2024 (though there is a grace period until September 1, 2024).

Plaintiffs’ Motion should be denied for several reasons. First, Plaintiffs fail to clearly establish substantial likelihood of success on the merits because they argue only that the Form 6 requirement fails strict scrutiny review. However, the correct standard is exacting scrutiny, and Plaintiffs fail to argue their likelihood of success under that standard. Nor can they—the record evidence demonstrates the Form 6 requirement easily survives exacting scrutiny because it bears a substantial relation to the compelling government interests at stake here. *See infra* at 7–11.

Second, the injunction would disrupt the status quo (that municipal elected officials file Form 6, as many already have) and would disserve the public interest because it would require Plaintiffs to file Form 1 while other municipal elected officials would file Form 6, thus confusing the public and frustrating the compelling government interests that Form 6 is meant to accomplish.

Third, Plaintiffs failed to clearly establish a substantial threat of irreparable injury. Other than the disclosure itself, Plaintiffs merely point to the hypothetical possibility that a member of the public might challenge the veracity of a Form 6 disclosure filed by one of the Plaintiffs. This is neither a substantial threat, nor an irreparable injury.

MEMORANDUM OF LAW

I. Standards of Review

“To receive a preliminary injunction, the plaintiff must clearly establish the following requirements: ‘(1) a substantial likelihood of success on the merits; (2) a substantial threat of

irreparable injury; (3) that the threatened injury to the plaintiff outweighs the potential harm to the defendant; and (4) that the injunction will not disserve the public interest.’ ” *Keister v. Bell*, 879 F.3d 1282, 1287 (11th Cir. 2018) (quoting *Palmer v. Braun*, 287 F.3d 1325, 1329 (11th Cir. 2002)). Plaintiffs bear the “burden of persuasion” on each of these four factors. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). “Failure to show any of the four factors is fatal.” *ACLU of Florida, Inc. v. Miami-Dade Cnty. Sch. Bd.*, 557 F.3d 1177, 1198 (11th Cir. 2009).

“A preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly establishes the burden of persuasion as to the four requisites.” *Keister*, 287 F.3d at 1287 (quoting *ACLU*, 557 F.3d at 1198). Indeed, the grant of a preliminary injunction is “the exception rather than the rule.” *United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983). “This is particularly true where, as here, the relief sought would be to invalidate a state statute.” *Towbin v. Antonacci*, 885 F. Supp. 2d 1274, 1280 (S.D. Fla. 2012) (Williams, J.). “The chief function of a preliminary injunction is to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.” *Robinson v. Attorney General*, 957 F.3d 1171, 1178–79 (11th Cir. 2020); see *Benisek v. Lamone*, 585 U.S. 155, 161 (2018) (the “purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.”).

II. Plaintiffs Fail to Demonstrate a Substantial Likelihood of Success on the Merits

To prevail on their First Amendment compelled speech claim, Plaintiffs must prove no “substantial relation [exists] between the disclosure requirement and a sufficiently important governmental interest.” *Americans for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2384 (2021). Plaintiffs concede the government interests here are compelling. See ECF No. 10 at 14. Therefore, Plaintiffs must show the lack of a substantial relation between the Form 6 requirement and said compelling interests. See, e.g., *VoteAmerica v. Raffensperger*, 609 F. Supp. 3d 1341, 1366 (N.D.

Ga. 2022) (finding a “substantial relation” between the language of a disclaimer provision and “the state’s interests in reducing voter confusion and ensuring the effective and efficient administration of its elections”). However, Plaintiffs failed to argue the lack of a substantial relation between the Form 6 requirement and the instant government interests—the Motion contains no mention whatsoever of the phrase “substantial relation.” Plaintiffs therefore failed to clearly establish a substantial likelihood of success on the merits and Plaintiffs’ Motion must be denied.

It is well-settled that “First Amendment challenges to disclosure requirements” are subject to “exacting scrutiny.” *John Doe No. 1 v. Reed*, 561 U.S. 186, 196 (2010); *Buckley v. Valeo*, 424 U.S. 1, 64 (1976) (“We long have recognized that significant encroachments on First Amendment rights of the sort that compelled disclosure imposes . . . must survive exacting scrutiny.”) (citing *NAACP v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 461 (1958)); *Americans for Prosperity Found.*, 141 S. Ct. at 2383 (“Regardless of the type of association, compelled disclosure requirements are reviewed under exacting scrutiny.”); see *Worley v. Florida Sec’y of State*, 717 F.3d 1238, 1245 (11th Cir. 2013) (“Florida’s PAC regulations are subject to exacting scrutiny”); see also *id.* at 1251 (“Supreme Court and Circuit precedent has consistently upheld organizational and reporting requirements against facial challenges, in part because crafting such disclosure schemes is better left to the legislature”) (quotation omitted).

Exacting scrutiny is less rigorous than strict scrutiny and applies to disclosure requirements because a “disclosure is a less restrictive alternative to more comprehensive regulations of speech.” *Citizens United v. FEC*, 558 U.S. 310, 369 (2010). Under exacting scrutiny, “there must be ‘a substantial relation between the disclosure requirement and a sufficiently important governmental interest.’ ” *Americans for Prosperity Found.*, 141 S. Ct. at 2383 (quoting *Doe*, 561 U.S. at 196). “To withstand this scrutiny, the strength of the governmental interest must reflect the seriousness

of the actual burden on First Amendment rights.” *Id.* The challenged rule must also “be narrowly tailored to the interest it promotes, **even if [the rule] is not the least restrictive means of achieving that end.**” *Americans for Prosperity Found.*, 141 S. Ct. at 2384 (emphasis added). “ ‘[I]t is immaterial’ to the level of scrutiny ‘whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters.’ ” *Americans for Prosperity Found.*, 141 S. Ct. at 2383 (quoting *NAACP*, 357 U.S. at 462).

Plaintiffs argue strict scrutiny applies to the Form 6 disclosure requirement, but they are wrong. As noted *supra*, the Supreme Court has repeatedly held disclosure requirements are subject to exacting scrutiny, not strict scrutiny. *See, e.g., Americans for Prosperity Found.*, 141 S. Ct. at 2383; *Citizens United*, 558 U.S. at 369; *Doe*, 561 U.S. at 196; *Buckley*, 424 U.S. at 64; *NAACP*, 357 U.S. at 462; *see also Worley*, 717 F.3d at 1245. Plaintiffs cite *Riley v. Nat'l Fed'n of the Blind of N. Carolina, Inc.*, 487 U.S. 781 (1988) in support of applying strict scrutiny here, but that case holds that exacting scrutiny rather than strict scrutiny applied to the disclosure requirements at issue in that case. *Id.* at 796.³ At issue in *Riley* was a requirement that, before appealing for funds, “professional fundraisers” in North Carolina had to disclose to donors the percentage of charitable contributions collected during the past year “that were actually turned over to charity.” *Id.* at 795. The Supreme Court held that “North Carolina's content-based regulation is subject to exacting First Amendment scrutiny.” *Id.* at 798. Although the *Riley* court held that disclosure requirement unconstitutional, the government interest in *Riley*—“informing donors how the money they contribute is spent in order to dispel the alleged misperception that the money they give to professional fundraisers goes in greater-than-actual proportion to benefit charity”—was

³ Plaintiffs concede this distinction in a footnote, ECF No. 10 at 12 n.16, but attempt to explain it away by incorrectly asserting that “it appears that the term is synonymous with strict scrutiny.” *Id.*

significantly weaker than the government interests in this case. *Riley*, 487 U.S. at 798. Here, municipal elected officials are required to disclose financial information to deter corruption and conflicts of interest, bolstering the public's confidence in Florida officials, and educating the public—undisputedly compelling government interests.⁴

The other cases Plaintiffs rely on are equally unavailing; either because exacting scrutiny applied, disclosure requirements were not at issue, or the cases are simply not binding. For example, Plaintiffs primarily rely on *NIFLA*, but that case is inapposite because it solely concerned “the First Amendment rights of professionals,” in the context of a “notice” requirement for some California abortion clinics—not financial disclosures for elected officials. *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 771 (2018). The level of scrutiny in *NIFLA* was also not of primary concern to the inquiry, which was whether “professional speech [should be treated] as a unique category that is exempt from ordinary First Amendment principles.” *Id.* at 773. However, the *NIFLA* court ultimately did not need to address that question because the notice requirement “[could] not survive even intermediate scrutiny” due to various deficiencies of the notice requirement. *Id.*

Reed is similarly unavailing because that case concerned an Arizona town’s code “that prohibit[ed] the display of outdoor signs without a permit,” but allowed exceptions based on the contents of a sign, such as signs with an ideological, religious, or political message. *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 155 (2015). The code was subject to (and failed) strict scrutiny because it “define[d] the categories of temporary, political, and ideological signs on the basis of

⁴ It should also be noted that in striking down the requirement that professional fundraiser make the disclosures at issue, the Supreme Court offered as a “more benign and narrowly tailored option[]” that “as a general rule, the State may itself publish the detailed financial disclosure forms it requires professional fundraisers to file.” *Riley*, 487 U.S. at 800. This is precisely what § 112.3144 requires.

their messages and then subject[ed] each category to different restrictions.” *Reed*, 576 U.S. at 156. The sign code in *Reed* is not analogous to the modest financial disclosure requirement for elected officials challenged here, so *Reed* is inapplicable.

In short, since the *NAACP* decision in 1958, the Supreme Court has held that exacting scrutiny applies to disclosure requirements like the instant one. However, Plaintiffs’ Amended Complaint and Motion are founded entirely on the premise that the Form 6 requirement fails strict scrutiny review. Plaintiffs therefore cannot demonstrate entitlement to the requested injunctive relief and their Motion should be dismissed.

Furthermore, the public record and evidence presented at the evidentiary hearing on Plaintiffs’ Motion will show a substantial relation exists between the Form 6 requirement and the compelling government interests here, including *inter alia* deterrence of corruption and conflicting interests, bolstering the public’s confidence in Florida’s officials, and educating the public. **Exhibit 4**, Stillman Decl., ¶ 9; *see also Plante v. Gonzalez*, 575 F.2d 1119, 1134 (5th Cir. 1978).⁵ Notwithstanding the fatal deficiencies in Plaintiffs’ Motion, the record demonstrates that a substantial relation exists between the Form 6 requirement and the government interests here. According to the Commission’s 2023 Annual Report, there has been a “steady, upward trend” of the number of ethical complaints against elected officials received by the Commission since 2017, including against municipal elected officials. **Exhibit 1** at 9; *see also* Ex. 4, ¶ 4. Each year, members of the public complain to the Commission about municipal elected officials more than any other group. Ex. 1 at 10; Ex. 4, ¶ 5. In 2023, municipal elected officials were the subject of

⁵ In upholding the Sunshine Amendment, which is the authority under which § 112.3144 was enacted and amended, the former Fifth Circuit found that elected officials are “not ordinary citizens, but [elected officials] who have chosen to run for office” *Id.* at 1135. While elected officials do not lose all constitutional protections, there are “some limits on the privacy they may expect,” “even in financial matters.” *Id.* at 1135, 1136.

32.2% of all complaints received by the Commission), compared to county officials (23.6%), district officials (9.2%), and state officials (3.4%). *Id.* Similarly, in 2022, municipal elected officials were the subject of the most complaints (23.8%). **Exhibit 2** at 9. In 2022, complaints concerning the government interests here (e.g., corruption, conflicts of interests, disproportionate benefits) constituted the majority of complaints—as is typically the case each year. *See* Ex. 2 at 10; Ex. 4, ¶ 6. Further, the Commission drafts advisory opinions on conflicts of interest more than any other topic. *See* Ex. 2 at 14; Ex. 4, ¶ 7. Based on *inter alia* these consistent trends, the Commission recommended imposing a Form 6 requirement on municipal elected officials in 2022, Ex. 2 at 23, and had done so since 2015. **Exhibit 3** at 24; Ex. 4, ¶ 15.

The subject matter of the public's complaints to the Commission suggests the public is consistently concerned about *inter alia* conflicts of interest, corruption, and violations of financial disclosure laws. *See* Ex. 2 at 10; Ex. 1 at 11 (charts detailing subject of complaints to Commission); Ex. 4, ¶ 6.

Form 6 is a more fulsome disclosure than Form 1, and requires information not required by Form 1. *See* Table of Comparison, *infra*; Ex. 4, ¶ 10. By requiring more fulsome disclosure, such as all assets over \$1,000, the Form 6 requirement plugs the gaps left open by Form 1 and is thus a narrowly tailored means of deterring corruption and conflicts of interest, bolstering the public's confidence in Florida officials, and educating the public. *See* Ex. 4, ¶ 9.

Table Comparing the Information Disclosed in Form 1 and Form 6

Information Disclosed	Form 1	Form 6
Dollar Values of Disclosed Income, Assets, and Liabilities	No	Yes
Net Worth	N/A	Net worth as of December 31, annually (or a most recent date, if the official desires)
Income	Primary sources: “major sources of income” over \$2,500 (need not disclose public salary) and Secondary sources: ⁶ “major customers, clients, and other sources of income to businesses owned by reporting person.” ⁷	Every separate source and amount of income exceeding \$1,000, including secondary sources (public salary must be disclosed); or Federal income tax return (redacted).
Assets	Intangible personal property (i.e., stocks, bonds, certificates of deposit, etc.) valued over \$10,000; and Real property (i.e. land and buildings).	All assets exceeding \$1,000. Household goods and personal effects (e.g., jewelry, guns, art, vehicles, etc.) may be reported in lump sum if exceeding \$1,000.
Liabilities	Major debts over \$10,000	Liabilities in excess of \$1,000
Business Interests	Ownership or positions in specified businesses (e.g., banks, insurance companies, utilities companies).	Ownership or positions in specified businesses (e.g., banks, insurance companies, utilities companies).

Sources: Fla Stat. §§ 112.3144, 3145; Form 1 and Form 6 (ECF Nos. 9-1, 9-2); 2023 Form 1 and Form 6 Instructions (available on the Commission’s website at <https://disclosure.floridaethics.gov/2023/form/1/instructions/print> and <https://disclosure.floridaethics.gov/2023/form/6/instructions/print>) (last visited, April 3, 2024).

⁶ “Secondary sources of income” are major clients or customers of a business of which the official owns more than five percent, and either received over \$5,000 in income (for purposes of a Form 1) or over \$1,000 in income (for purposes of a Form 6).

⁷ “Major clients” or “customers” supply more than ten percent of the annual gross income of a business owned by the official.

Of note, Form 6 requires dollar values for the various assets, liabilities, and sources of income disclosed, whereas Form 1 does not (Form 1 only requires identifying the asset, liability, or source of income, which only provides limited information to the public). In addition, Form 6 requires disclosing the official's net worth, while Form 1 does not. Disclosing an official's net worth provides context to the disclosures, as does requiring dollar values for disclosed assets, liabilities, and income. Ex. 4, ¶ 10. For example, if an official had a low net worth, but disclosed a relatively high-value asset or income stream, members of the public could infer that the private interests associated with asset or income source might motivate the official's public actions or tempt them to dishonor their public responsibilities, and that awareness and vigilance in monitoring public actions associated with those private interests is warranted. In contrast, if an official were to disclose a high net worth, but a relatively low-value asset or income stream, members of the public could infer that the associated private interests might not motivate the official's public actions or influence his or her public decision making, possibly allowing them to dismiss it as a likely source of concern.

Another notable difference is that Form 1 only requires disclosure of real property and intangible personal property (stocks, bonds, etc.) exceeding \$10,000 in value, but does not require that individual values be disclosed. No tangible personal property must be disclosed. Therefore, if subject to Form 1, an official could possess valuable tangible personal property, but would not need to disclose it; therefore, not conveying the complete extent of an official's financial situation, which reduces the disclosure's effectiveness and value to the public. Ex. 4, ¶ 12. In contrast, Form 6 requires disclosure of all tangible personal property held for investment purposes exceeding \$1,000 in value, thus conveying a more accurate picture of a public officer's finances and potential conflicts. *Id.* In addition, Form 6 filers must identify and list the value of real property interests

and intangible personal property. *See* Form 6 Instructions at 2. Considering the public’s concern regarding municipal elected officials’ financial conflicts, and the government’s interest in preventing corruption and conflicts of interest, subjecting municipal elected officials to Form 6 bears a substantial relation to—and is a narrowly tailored means of—accomplishing said interests.

Similarly, Form 1 only requires disclosure of liabilities exceeding \$10,000, whereas Form 6 requires disclosure of liabilities exceeding \$1,000. Form 6’s more fulsome requirement ensures the public is aware of any potential vulnerabilities in an elected official, which could compromise their independent judgment, pose a conflict of interest, or even subject them to blackmail. Ex. 4, ¶ 14. In the same vein, Form 1 requires disclosure of primary sources of income exceeding \$2,500 and “major” secondary sources of income; whereas Form 6 requires disclosing all sources of income exceeding \$1,000. Therefore, for example, bad actors could funnel undisclosed money to officials through sources not exceeding \$2,500, but Form 1 would not require disclosure of these transactions. Ex. 4, ¶ 13. Form 6’s requirement that all sources of income exceeding \$1,000 serves to provide the public a greater understanding of an official’s income streams and potential conflicts. The above differences between Form 1 and Form 6 demonstrates that Form 6 is narrowly tailored and the least restrictive means here because only Form 6—not Form 1—addresses the above discrepancies between the information disclosed in Form 1 and Form 6.

In conclusion, Plaintiffs failed to bear their burden of persuasion to clearly establish a substantial likelihood on the merits. Plaintiffs’ entire argument is predicated on applying the wrong level of scrutiny (strict scrutiny), and for that reason alone, Plaintiffs failed to shoulder their burden. Nonetheless, the record evidence demonstrates a substantial relation between the Form 6 requirement and compelling government interests, and that Form 6 is narrowly tailored. Accordingly, Plaintiff failed to (and cannot) establish their entitlement to the requested injunctive

relief, and the Motion must be denied.

III. Plaintiffs Failed to Clearly Establish a Substantial Threat of Irreparable Injury

Plaintiffs must also “clearly establish . . . a substantial threat of irreparable injury.” *Keister*, 879 F.3d at 1287. However, Plaintiffs failed to clearly establish this—Plaintiffs merely point to the hypothetical possibility that a member of the public might “challenge the veracity of a particular disclosure by lodging a complaint with the Commission.” ECF No. 10 at 11. Plaintiffs allege no other threat of injury (except for the disclosure itself), instead focusing on the ostensible lack of legislative findings in support of the Form 6 requirement and arguing Form 6 is not the least restrictive means to accomplish the government interests here. *See* ECF No. 10 at 14–19. Therefore, apart from the disclosure itself, Plaintiffs only point to a hypothetical possibility of injury, and it is not clear said injury would be irreparable.

Further, Plaintiffs point to the July 1, 2024 deadline to file Form 6 as the date their purported injury will accrue. However, Fla. Stat. § 112.3144(8)(c) provides a grace period until September 1 each year to file Form 6 before penalties are imposed. Therefore, Plaintiffs failed to “clearly establish” a “substantial threat” that their First Amendment rights will allegedly be violated on July 1, 2024.

IV. The Injunction Would Disrupt the Status Quo and Disserve to the Public Interest

As of January 2024 (before this case began), the status quo is that municipal elected officials must file Form 6 disclosures by July 1 of each year. Since January 1, 2024, a total of 127 municipal elected officials have filed a Form 6 disclosure Ex. 4, ¶ 8. Therefore, granting the requested preliminary injunction would disrupt the status quo by allowing Plaintiffs to file Form 1 while other municipal elected officials file Form 6 (and continue to do so).

In addition, the requested injunction raises other concerns. Assuming *arguendo* the Court

grants injunctive relief to only the named Plaintiffs, then other non-party municipal elected officials would still be required to file Form 6 (as some already have). This scenario would only confuse the public, which frustrates the government interests here, and would thus “disserve the public interest.” *Keister*, 879 F.3d at 1287.

Alternatively, assuming *arguendo* the Court extends the requested injunctive relief to all municipal elected officials, other concerns arise. First, extending the injunction to all non-party municipal elected officials raises concerns about the scope of the injunction. “Injunctive relief should be limited in scope to the extent necessary to protect the interests of the parties.” *Keener v. Convergys Corp.*, 342 F.3d 1264, 1269 (11th Cir. 2003); *see also Thomas v. Bryant*, 614 F.3d 1288, 1317–18 (11th Cir. 2010) (“we must also ensure that the scope of the awarded relief does not exceed the identified harm.”). Indeed, just last year, a district court enjoined the Commission on Ethics from enforcing article 2, section 8(f)(2) of the Florida Constitution against every “public officer,” despite not all public officers appearing as parties and only one plaintiff having standing. The Eleventh Circuit granted a motion to stay the injunction, holding the injunction was broader than necessary to protect the interest of the parties. *Garcia v. Executive Dir., Florida Comm’n on Ethics*, No. 23-12663, ECF No. 36 (11th Cir. Nov. 30, 2023). Similarly, an injunction as to all municipal elected officials would be too broad in scope.

Second, 127 municipal elected officials have already filed their Form 6 disclosures. Ex. 4, ¶ 8. Would the injunction require them to also file Form 1? Would the Commission need to expunge these officials’ Form 6 disclosures? These questions highlight the potential disservice to the public interest that the requested injunction poses.

In sum, the requested injunction would disrupt the status quo and should be denied for that reason. Further, a narrow injunction would confuse the public (and thus disserve the public

interest) because Plaintiffs would be required to file Form 1, while other municipal elected officials would file Form 6. On the other hand, an injunction applied to all municipal elected officials (including non-parties) would be too broad under Eleventh Circuit precedent and disserve the public interest. For all the above reasons, Plaintiffs' Motion should be denied.

V. Plaintiffs Should Post an Injunction Bond

A preliminary injunction cannot be granted unless the movant posts a bond "in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c). The amount of the bond lies within the court's discretion. *Carillon Importers, Ltd. v. Frank Pesce Int'l Grp. Ltd.*, 112 F.3d 1125, 1127 (11th Cir. 1997).

Considering the low likelihood of success on the merits, the Court will likely not need to address this issue. Nonetheless, Defendants submit that, if the Motion is granted, the Court should exercise its discretion and require Plaintiffs to post an injunction bond in accord with Rule 65(c).

CONCLUSION

For the reasons set forth above, Defendants respectfully request this Court deny Plaintiffs' Motion for Preliminary Injunction.

Dated: April 5, 2024

Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ Alexander Beg
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ASSISTANT ATTORNEY GENERAL
Florida Bar No. 1042019
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Counsel for Defendants

*Annual Report
to the
Florida Legislature
For Calendar Year 2023*



*By the
State of Florida
Commission on Ethics*

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Message from the Chair

This year, change has been nearly the only constant for the Florida Commission on Ethics. Thanks to a relentless staff and enthusiastic membership, the Commission has not missed a beat. For that, I am deeply grateful.

The Commission's year began with the roll-out of electronic filing for approximately 2,600 Form 6 filers—a formidable undertaking executed with precision, which generated praise from filers around the State. But more change at an equally daunting scale was still to come: beginning January 1, 2024, all Form 6 and Form 1 filers are required to file electronically, and the universe of Form 6 filers is also expanding dramatically, from approximately 2,600 to 5,200. The past year has seen thousands of hours of staff time dedicated to acquiring the infrastructure necessary to seamlessly implement these changes with as little disruption to filers as possible, and training filers around the State on the new requirements. Despite challenges big and small along the way, these roll-outs have been a success due to meticulous planning and execution.

The Commission has also seen a record-setting year in the pace of completing investigations and resolutions. Thanks to recent augmentation of the Commission's investigative team and the leadership of previous Commissioners and current staff, the timeline for completing investigations and resolving complaints is at a historic low, with no signs of backtracking. The Commission's "new normal" in this regard is one to be proud of.

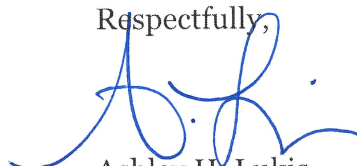
Finally, the members. The Commission has seen five new members—myself included—and seven departures this year alone. Every single new member has hit the ground running with eagerness and appreciation of our important mission. And every seasoned member went above and beyond in demonstrating leadership and endless collegiality as we all worked to row in the same direction and ultimately execute our constitutional charge. The Executive Director and General Counsel were instrumental in facilitating all of these transitions with more patience than any of us probably deserved.

Amidst all this change, the staff has been perhaps the one enduring constant at the Commission this year. Regardless of the agency, Florida's taxpayers are most efficiently served by staff comprised of subject-matter experts. Every member of the Commission's staff comfortably checks that box.

No two people will agree on every issue, all of the time—especially when a bunch of lawyers get involved (which is a dig squarely at myself)—but productive disagreement and discussion are essential to this process. It is the best way to protect our shared objective of reaching the right results under Florida law and preserve the integrity of this Commission's work.

I remain humbled by and grateful for this opportunity, and hope Floridians feel well-served by a group of people who genuinely care about the mission of this body and the public servants within its jurisdiction.

Respectfully,



Ashley H. Lukis
Chair, Florida Commission on Ethics

2023 Commission Members

ASHLEY LUKIS, Chair
Tallahassee - Attorney (R)
Appointed by Governor Ron DeSantis

MICHELLE ANCHORS, Vice Chair
Fort Walton Beach - Attorney (D)
Appointed by Senate President Bill Galvano

WILLIAM P. CERVONE
Gainesville - Former State Attorney (R)
Appointed by House Speaker Chris Sprowls

TINA DESCOVICH
Indialantic - Nonprofit Executive (R)
Appointed by Governor Ron DeSantis

FREDDIE FIGGERS
Fort Lauderdale - Inventor - Executive (D)
Appointed by Governor Ron DeSantis

LUIS M. FUSTÉ
Coral Cables – Attorney (NPA)
Appointed by Governor Ron DeSantis

WENGAY M. NEWTON, SR.
St. Petersburg - Former State Representative (D)
Appointed by House Speaker Chris Sprowls

Introduction & History

Section 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 2023.

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 38,026 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's jurisdiction was expanded with the adoption of Amendment 12 by Florida voters in 2018. The Constitutional provisions regarding abuse of office for a disproportional benefit were implemented December 31, 2020, and the implementation of the lobbying and post-officeholding provisions took effect December 31, 2022. The Commission also is charged with administering the Executive Branch Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and departments, Commissions, and agencies of the executive branch. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Reporting system home page at www.floridalobbyist.gov.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23 full-time equivalent positions.

Kerrie J. Stillman, Executive Director

Steven Zuilkowski, Deputy Executive Director and General Counsel

Legal Section

Under the supervision of the Deputy 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Elizabeth Miller and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Assistant General Counsel

Katharine Heyward, Attorney

Joseph Burns, Attorney

Investigative Section

The investigative staff, supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

A. Keith Powell, Investigations Manager

Ronald D. Moalli, Senior Investigator

Charlie Shotwell, Investigator

Tracey Maleszewski, Investigator

Brian Durham, Investigator

John Cizmadia, Investigator

Marian Lambeth, Investigator

Robert Malone, Investigator

Complaints

Under the supervision of the Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 38,257 reporting officials and employees were notified of their filing requirements in 2022 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Keyana Green, Executive Secretary

Public Information & Administrative Section

Under the supervision of the Executive Director, the Chief Administrator oversees office technology, responds to general inquiries about the ethics laws, provides information regarding Commission practices and procedures to the press and the public, and oversees the administrative and clerical support staff who provide support services to the Commissioners and staff.

Administrative and Clerical Staff

Lynn Blais, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Vacant, Executive Secretary

Rachel Campbell, Clerk (half-time)

Jeremy Pennington, Clerk (half-time)

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration of executive branch lobbyist and compensation report filings of executive branch lobbying firms.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2023.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2023 (Amounts in dollars)

	Ethics General Revenue		
	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$3,016,874	\$3,016,874	\$0
Fines*	0	25,119	\$25,119
Miscellaneous Receipts	0	0	\$0
Total Revenues	3,016,874	3,041,993	25,119
Expenditures:			
Salaries and Related Benefits	2,029,805	1,783,364	246,441
Other Personal Services	470,480	413,368	57,112
Expenses	262,140	208,712	53,428
Operating Capital Outlay	2,500	1,390	1,110
Ethics Commission Lump Sum	81,823	0	81,823
Transfers to Administrative Hearings	66,884	66,884	0
Risk management insurance	3,242	3,242	0
Legislative Carryforward **	2,891,175	25,769	2,865,406
Nonoperating***	100,000	3,000	97,000
Total Expenditures	5,908,049	2,505,729	3,402,320
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(2,891,175)	536,265	\$3,427,439
Budgetary Fund Balance, June 30, 2023		536,265	
Adjustment for Fines*		(25,119)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2023		\$411,145	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 338,100
FINES: \$ 3,300

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

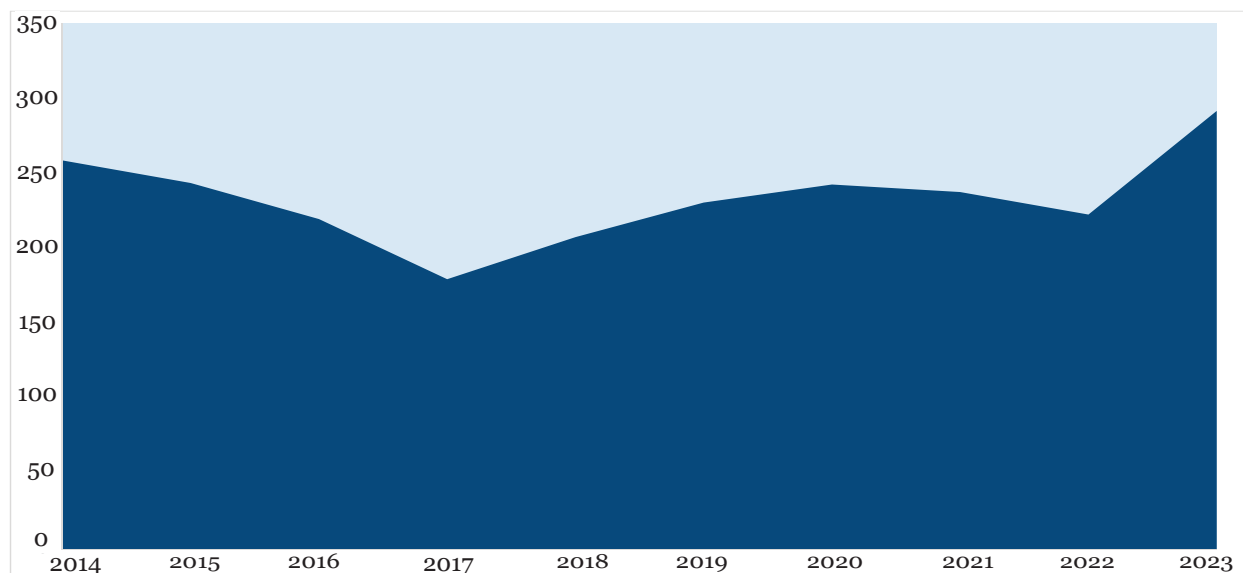
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. This section offers a profile of the Commission's workload.

Complaints

Ten Year History of Complaints

Looking at the number of complaints filed annually, it appears there is a steady, upward trend since 2017. This year, we experienced the highest year-to-year increase in complaints filed with the Commission since 2012. It is anticipated that with the full implementation of Amendment 12, and more public awareness of its requirements due to recent litigation, the Commission may see further increases in the number of complaints.

2023.....	292
2022.....	223
2021.....	238
2020.....	243
2019.....	231
2018.....	211
2017.....	180
2016.....	220
2015.....	244
2014.....	259



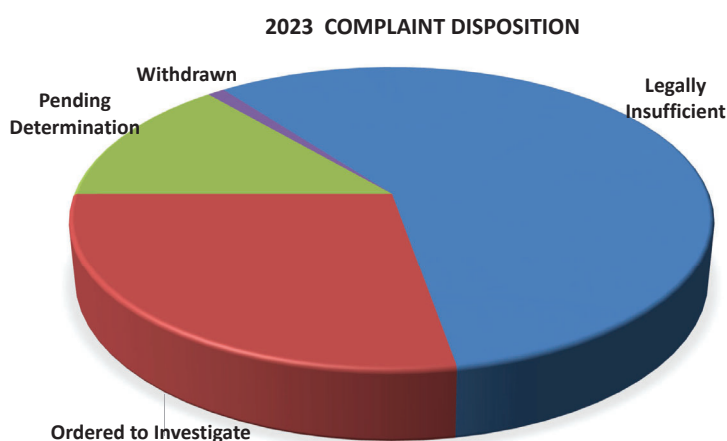
* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Complaints

Total number of complaints and referrals filed in 2023.292

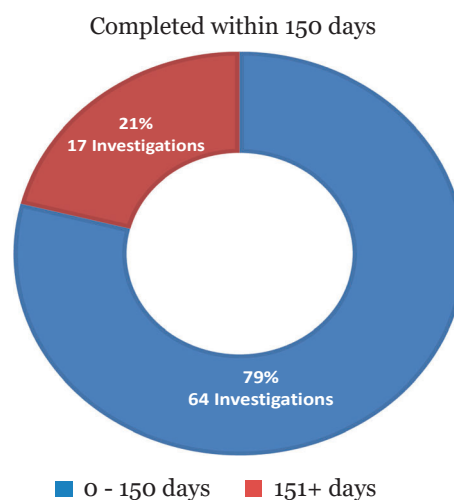
POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	10	3.4%
State Employee	23	7.9%
District Elected	27	9.2%
District Employee	3	1.0%
County Elected	69	23.6%
County Appointed	1	0.3%
County Employee	27	9.2%
Municipal Elected	94	32.2%
Municipal Appointed	17	5.8%
Municipal Employee	20	6.8%
Other	1	0.3%
TOTAL	292	100.0%

Of the 292 complaints and referrals received in 2023, 168 were dismissed for lack of legal sufficiency; 3 withdrawn; 81 were ordered to be investigated; and 40 were pending a legal sufficiency determination, as of December 31.



Timeframes for Completed Investigations

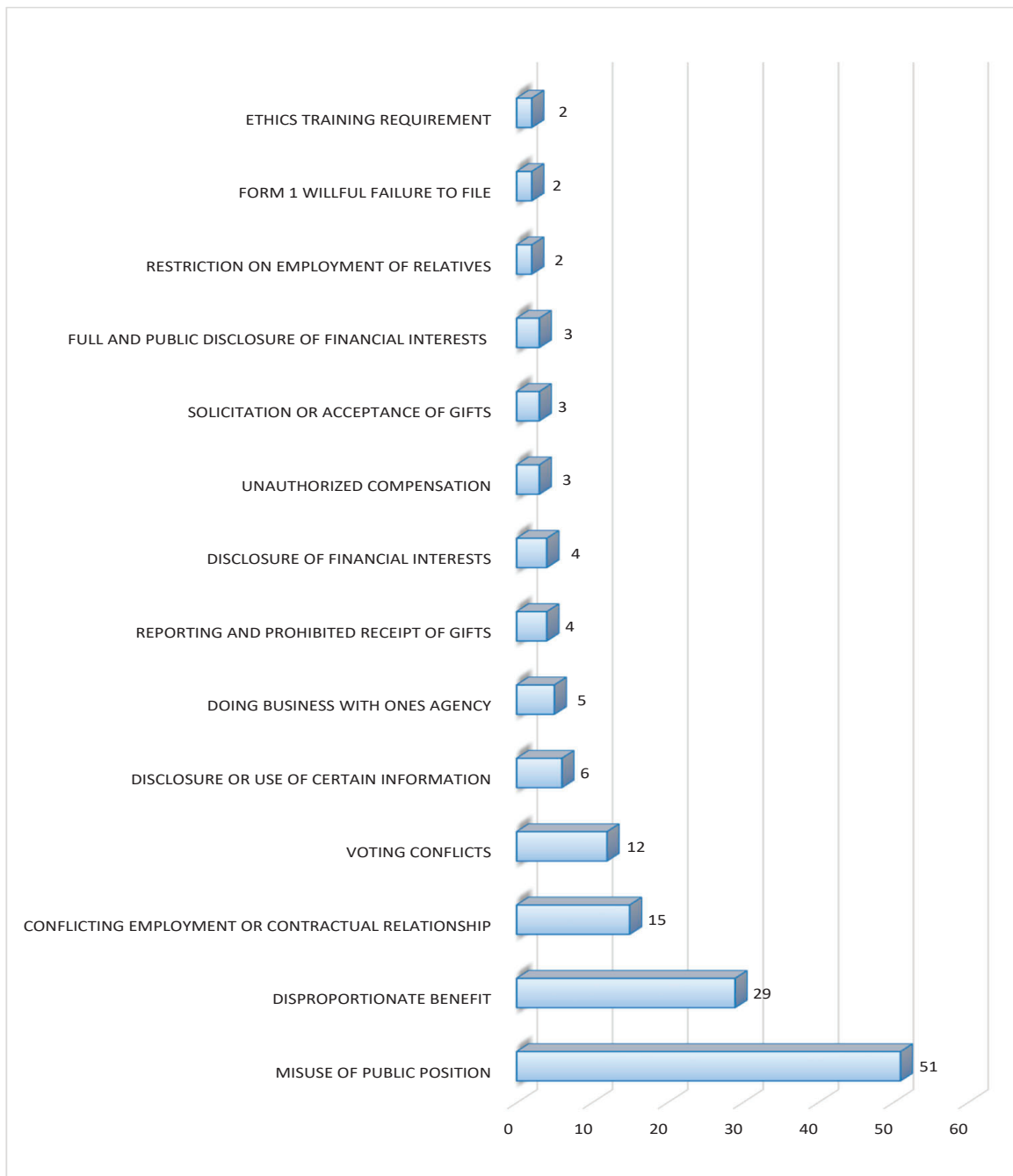
An analysis of all 81 investigations completed in 2023 shows that 64 were completed within 150 days of the investigation being ordered, and the average was 121 days.



Allegations

Of the 292 complaints and referrals received in 2023, 81 had been ordered to be investigated as of December 31, 2023. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Most complaints contained allegations concerning more than one area of law.

2023 Complaint Allegations



Actions Taken on Complaints in 2023

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2023, across all active complaints.

Complaints & Mandatory Willfulness Investigations.....	326
Dismissed for lack of legal sufficiency	217
Dismissed for lack of jurisdiction	4
Complainant withdrawal request granted	4
Probable cause hearings held	82
No probable cause - dismissed.....	54
Probable cause	14
Probable cause - no further action	13
Dismissed	1
Stipulations	13
Violation	13
Final Action - Relinquished Jurisdiction by	
Division of Administrative Hearings.....	2
Advocate Motion to Dismiss Complaint.....	4
Costs and attorney's fees petitions	1
Insufficient petition - dismissed	1
TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS	327

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2023 Summary of Activity

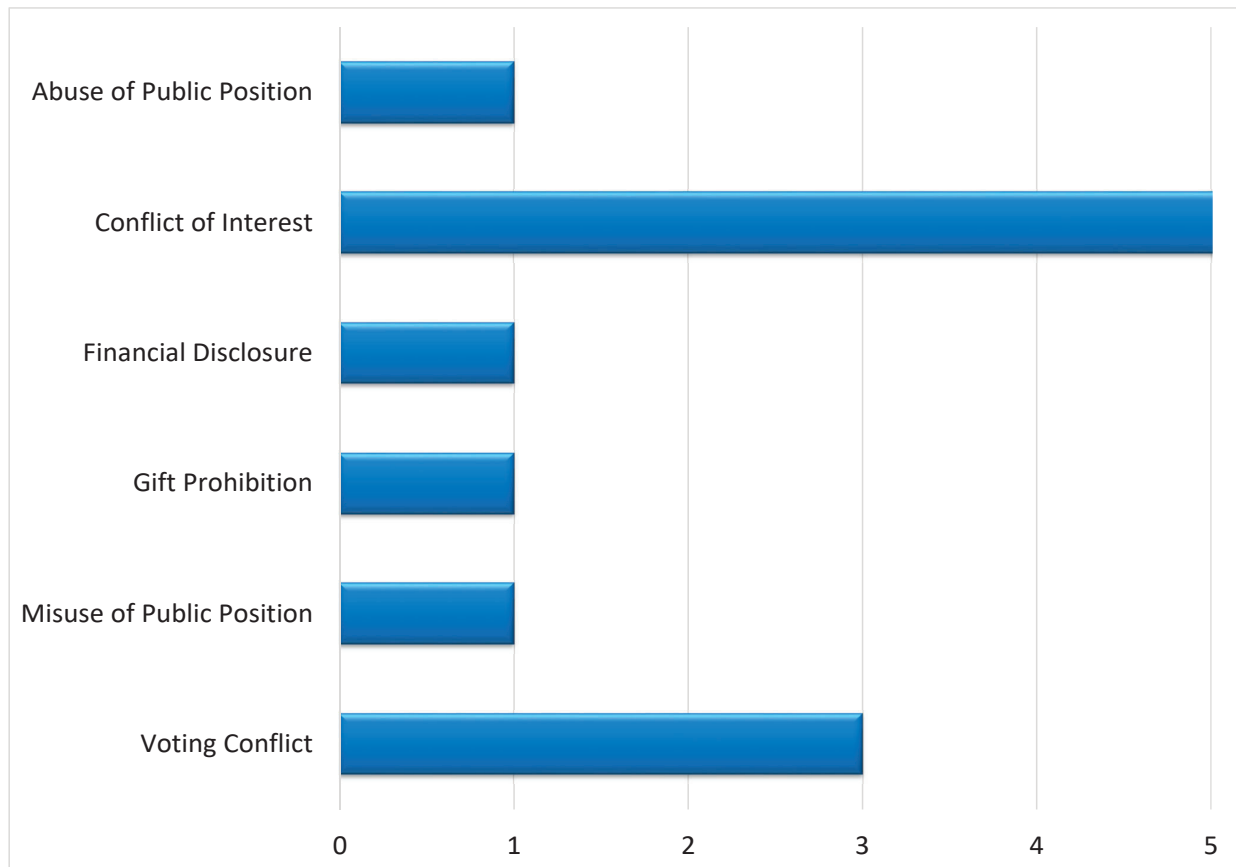
Total number of registered executive branch lobbyists	1544
Total number of executive branch lobbying firms	330
Total number of principals represented by the lobbyists.....	13,509
Percent <i>increase</i> in number of principals from 2022 to 2023	9.72%
Total number of firms delinquent in filing their compensation reports	
October - December 2022.....	13
<i>(Filing deadline for fourth quarter 2022 was February 14, 2023)</i>	
January - March 2023	17
April - June 2023	10
July - September 2023.....	14
Total number of firms assessed a fine in 2023	
Fourth quarter 2022	8
<i>(Filing deadline for fourth quarter 2022 was February 14, 2023)</i>	
First quarter 2023.....	13
Second quarter 2023	9
Third quarter 2023	9
Number of appeals considered by the Commission in 2023.....	2

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 2023, the Commission on Ethics issued eight advisory opinions, bringing the total issued since 1974 to 2,702.

Six of the opinions rendered in 2023 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2023. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered. The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2023:

- City of Gainesville
- Florida Department of Revenue Property Tax Oversight Courses
- Florida Department of Revenue's Duties & Responsibilities Tax Collectors
- Property Appraisers & Tax Collectors at DOR'S Continuing Education
- Florida Public Pension Trustee's Association's Winter Trustee School
- Training for new Supervisors of Elections
- Property Appraisers Association of Florida's Mid-Winter Conference
- Florida Coordinating Council for the Deaf and Hard of Hearing
- Florida's Bar Annual Sunshine Law, Public Records, and Ethics Conference
- Florida Bar's City, County, & Local Law Certification Review Course
- Florida Public Relations Association's Leadership Class
- Assistant State Attorneys of the 8th Judicial Circuit
- Florida Department of Environmental Protection
- Florida Association of Constitutional Officers
- Administrative Law Judges and Judges of Compensation Claims
- Florida League of Cities Conference
- Escambia County Employees
- Association of Inspectors General
- Broward County Municipal Clerks Association
- Levy County Municipal Clerks
- Florida School Board Attorneys Association
- ManaSota League of Cities
- Institute for County Government Training
- Tri-County League of Cities
- Council on Governmental Ethics Laws (COGEL) Conference

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. Additionally the Commission was tasked with the development of an electronic filing system. The phased launch began January 1, 2022 with Form 6 filers. The system was paused in June and relaunched January 1, 2023. Form 1 filers will file electronically beginning January 1, 2024. The Commission has invested significant staff hours over the past year to the details of the development and launch of the system and the Commission expects significant workload increases with the rollout of the program.

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2023, 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

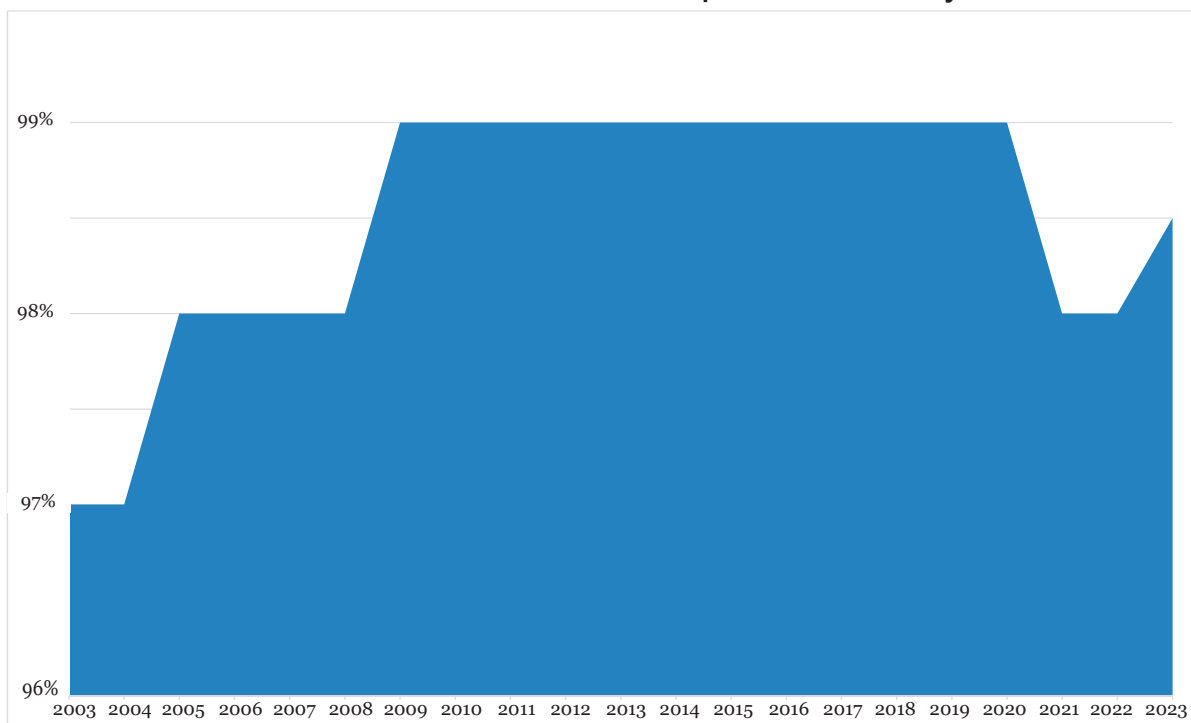
There was more than a 98.5% overall compliance with the annual reporting requirement in 2023. On the local level, 30 counties reported 100% compliance in 2023. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 2003 to present.

2023 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	0	278	278	100%
Baker	0	48	48	100%
Bay	2	261	263	99%
Bradford	0	63	63	100%
Brevard	3	779	782	99.6%
Broward	44	2344	2388	98%
Calhoun	0	27	27	100%
Charlotte	2	161	163	99%
Citrus	0	108	108	100%
Clay	0	230	230	100%
Collier	3	389	392	99%
Columbia	0	85	85	100%
Miami-Dade	174	2342	2516	93%
Desoto	4	62	66	94%
Dixie	0	31	31	100%
Duval	1	397	398	99.7%
Escambia	0	175	175	100%
Flagler	2	189	191	99%
Franklin	1	67	68	99%
Gadsden	1	92	93	99%
Gilchrist	0	41	41	100%
Glades	0	35	35	100%
Gulf	1	52	53	98%
Hamilton	1	52	53	98%
Hardee	1	52	53	98%
Hendry	0	95	95	100%
Hernando	0	86	86	100%
Highlands	1	165	166	99%
Hillsborough	31	1118	1149	97%
Holmes	1	70	71	99%
Indian River	0	236	236	100%
Jackson	1	166	167	99%
Jefferson	0	43	43	100%
Lafayette	0	20	20	100%
Lake	4	493	497	99%
Lee	5	1043	1048	99.5%
Leon	2	235	237	99%
Levy	1	127	128	99%
Liberty	0	24	24	100%
Madison	0	65	65	100%

2023 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	3	517	520	99%
Marion	1	233	234	99.6%
Martin	0	247	247	100%
Monroe	0	202	202	100%
Nassau	3	191	194	99%
Okaloosa	2	323	325	99%
Okeechobee	1	82	83	99%
Orange	7	869	876	99%
Osceola	0	259	259	100%
Palm Beach	81	1593	1674	95%
Pasco	1	462	463	99.8%
Pinellas	6	1192	1198	99.5%
Polk	17	645	662	97%
Putnam	0	134	134	100%
Saint Johns	5	363	368	99%
Saint Lucie	3	284	287	99%
Santa Rosa	0	186	186	100%
Sarasota	1	401	402	99.8%
Seminole	9	434	443	98%
Sumter	0	161	161	100%
Suwannee	0	58	58	100%
Taylor	0	52	52	100%
Union	0	41	41	100%
Volusia	6	642	648	99%
Wakulla	0	70	70	100%
Walton	0	129	129	100%
Washington	0	65	65	100%
TOTAL-FORM 1 LOCAL	432	22181	22613	98%
TOTAL-FORM 1 STATE	114	12690	12804	99%
TOTAL-FORM 6 (NOT JUDGES)	7	1380	1387	99.5%
TOTAL-JUDGES (ACTIVE)	0	1033	1033	100%
TOTAL-JUDGES (SENIOR)	0	189	189	100%
OVERALL TOTAL	553	37473	38026	98.5%

FINANCIAL DISCLOSURE FILING COMPLIANCE (2003 - 2023)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%
2021	38,519	604	98%
2022	38,257	715	98%
2023	38,026	553	98.5%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 98.1%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephoned filers to remind them to file. These reminders are not required by statute, but are part of the Commission's additional efforts to encourage compliance.
- Of the 22,613 individuals required to file, 432 were delinquent.
- 30 counties reported 100% compliance in 2023.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.1%. Postcard and telephone reminders also were used with these filers.
- Of the 12,804 individuals required to file, only 114 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.5%. Postcard and telephone reminders also were used with these filers.
- There were only 7 delinquencies out of a total of 1,387 individuals (excluding judges) required to file Form 6.

Summary of 2022 Overall Compliance

- Out of the 38,026 individuals who were non-judicial financial disclosure filers, there were only 553 (less than 1%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2023. (The fines for late filings in 2023 recently have been assessed and will be reported in 2024).

Financial Disclosure Appeals 2023 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 27, 2023	1	0	0	0	0
March 10, 2023	2	0	0	0	0
April 21, 2023	0	0	0	0	4
June 9, 2023	0	0	0	0	0
July 28, 2023	5	1	1	0	0
September 8, 2023	0	0	0	0	0
October 20, 2023	1	0	0	0	0
December 1, 2023	6	0	0	0	0

2024 Legislative Recommendations

For 2024, the Commission on Ethics makes the following recommendations regarding legislative changes to the Code of Ethics for Public Officers and Employees (Code of Ethics).

Conflicts of Interest

Section 112.313(7)(a), Florida Statutes, prohibits a public officer or employee from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, Section 112.3143, Florida Statutes, state and local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of

protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

Costs and Fees Eligibility for Candidates

In a recent meeting, the Commission considered a fees petition filed by a candidate who did not hold public office. That petition was dismissed because as the law is currently written, candidates cannot petition for attorney's fees. The Commission could recommend a minor change to the law that would permit candidates, when their petition meets the requirements of the law, could go to a hearing to seek payment of attorney's fees and costs by a complaint.

Individuals appointed to fill an elected office

The Commission should consider a recommendation that 112.3144(10) be amended to clarify that individuals appointed to complete the remainder of the term of office for a Form 6 office are required to complete a Form 6 disclosure.

Fines for In-Office and Post-Office Lobbying Restrictions

In 2023, the Legislature accepted the Commission's recommendation to increase the penalties for ethics violations by increasing the civil penalties in Section 112.317 from \$10,000 to \$20,000. Staff has identified that the In-Office and Post-Office Lobbying Restrictions do not rely on Section 112.317 for penalties, but instead rely on Section 112.3122. Section 112.3122 has its own penalty provision, which includes civil penalties up to \$10,000. The section should be amended to comport with Section 112.317.

Salary Withholding for Complaint Penalties

Currently, the Commission Advocates obtain judgments from the courts when a Respondent fails to pay an imposed penalty. The Advocates ask the Commission consider recommending an additional tool for collecting civil penalties under 112.317(2). Salary withholding would be an efficient, cost-effective way to collect complaint civil penalties. It has proven very effective with the statutory automatic fines for late-filed disclosure forms. Language could be adapted from 112.31455(1) and added to 112.317.

Legislation Opposed by the Commission

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, unlimited in amount, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

*Annual Report
to the
Florida Legislature
For Calendar Year 2022*



*By the
State of Florida
Commission on Ethics*

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Message from the Chair

Nearly fifty years ago, the Florida Legislature realized the need to uphold ethics and integrity in Florida's government at all levels. The result was the creation of the Florida Commission on Ethics in 1974. I was privileged to be the first person appointed to the commission.

We had no staff and not even an office, but the nine of us, all new to the process began the task of writing rules and drafting forms, many of which we still use today. Over the nearly half century of the commission's existence, its role and scope has been expanded by subsequent actions of the legislature. Our staff component has grown along with the ability to serve both governments and citizens around the state.

The most significant recent development has been the implementation of e-filing. In 2022, prior to the system pause in June, over 800 Form 6 disclosures were filed electronically. A total of 38,257 persons filed various forms of financial disclosure at the state and local level during 2022. The timeliness of those disclosures has to be catalogued by commission staff. The e-filing system relaunched for Form 6 filers in 2023 and once fully implemented will provide for ease of filing and more accurate recording of information.

During calendar year 2022, the Commission took 232 actions on complaints during its eight regularly scheduled meetings, including seventy-three probable cause hearings, final action on fourteen settlement agreements, and eight recommended orders.

The total staff component of the Commission is twenty-three. In addition to reviewing and investigating complaints, the Commission's excellent legal staff reviews and drafts numerous advisory opinions in response to requests from eligible persons on how to proceed in various complex situations under the ethics laws. Opinions not only guide those requesting, but also the commission has built a library of formal opinions for others to follow. The Commission also administers the Executive Branch Lobbyist Registration laws.

The origin of the commission was to not only reprimand and impose sanctions on those who have done wrong, but to create an overall awareness that ethics and

integrity should be a standard for all serving in various governmental positions in Florida.

One of the original purposes for forming the commission was to make public at certain position levels the financial assets and liabilities of those serving in public office. A person's financial condition can influence their public action and the public has a right to know.

The Code of Ethics for Public Officers and Employees, adopted by the Legislature contains standards of ethical conduct and disclosures applicable to public officers, employees, candidates, lobbyists, and others in state and local government.

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist. The commission is charged with upholding those standards at all levels of government in the state.

Having been appointed two more times to the commission and now as the outgoing chairman, it has been a great honor to serve both the Commission and the State. We currently have one the best commissions we have ever had, men and women committed to ethics and integrity and the standards and laws charged to the Commission.

It is the intent of the act creating the commission to implement the objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

The Florida Commission on Ethics does its assigned tasks well and is a bright light for ethics and integrity in Florida.

Sincerely,

John Grant
Chair, Florida Commission on Ethics

2022 Commission Members

JOHN GRANT, *Chair*

Tampa - Attorney (R)

Appointed by Governor Ron DeSantis

GLENTON "GLEN" GILZEAN, JR., *Vice Chair*

Orlando - Non-profit Executive (R)

Appointed by Governor Ron DeSantis

MICHELLE ANCHORS

Fort Walton Beach - Attorney (D)

Appointed by Senate President Bill Galvano

WILLIAM P. CERVONE

Gainesville - Former State Attorney (R)

Appointed by House Speaker Chris Sprowls

DON GAETZ

Niceville - Retired Health Care Executive (R)

Appointed by Senate President Wilton Simpson

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)

Appointed by Governor Ron DeSantis

ED H. MOORE

Tallahassee - Association Executive (R)

Appointed by Governor Ron DeSantis

WENGAY M. NEWTON, SR.

St. Petersburg -

Former Member of the Florida House of Representatives (D)

Appointed by House Speaker Chris Sprowls

JIM WALDMAN

Fort Lauderdale - Attorney (D)

Appointed by Governor Ron DeSantis

Introduction & History

Section 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 2022.

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 38,257 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's jurisdiction was expanded with the adoption of Amendment 12 by Florida voters in 2018. The Constitutional provisions regarding abuse of office for a disproportional benefit were implemented December 31, 2020, and the implementation of the lobbying and post-officeholding provisions took effect December 31, 2022. The Commission also is charged with administering the Executive Branch Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and departments, Commissions, and agencies of the executive branch. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Reporting system home page at www.floridalobbyist.gov.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23 full-time equivalent positions.

Kerrie J. Stillman, Executive Director

Steven Zuilkowski, Deputy Executive Director and General Counsel

Legal Section

Under the supervision of the Deputy 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Elizabeth Miller and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Assistant General Counsel

Katharine Heyward, Attorney

Joseph Burns, Attorney

Investigative Section

The investigative staff, supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

A. Keith Powell, Investigations Manager

Ronald D. Moalli, Senior Investigator

Charlie Shotwell, Investigator

Tracey Maleszewski, Investigator

Ana Sanchez, Investigator

Brian Durham, Investigator

John Cizmada, Investigator

Marian Lambeth, Investigator

Complaints

Under the supervision of the Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 38,257 reporting officials and employees were notified of their filing requirements in 2022 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Keyana Green, Executive Secretary

Public Information & Administrative Section

Under the supervision of the Executive Director, the Chief Administrator oversees office technology, responds to general inquiries about the ethics laws, provides information regarding Commission practices and procedures to the press and the public, and oversees the administrative and clerical support staff who provide support services to the Commissioners and staff.

Administrative and Clerical Staff

Lynn Blais, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Vacant, Executive Secretary

Alex Rudd, Clerk (half-time)

Rachel Campbell, Clerk (half-time)

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration of executive branch lobbyist and compensation report filings of executive branch lobbying firms.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2022.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2022 (Amounts in dollars)

	Ethics General Revenue		Variance- Favorable (Unfavorable)
	Budget	Actual	
Revenues:			
Released General Revenue Appropriations	\$2,789,233	\$2,789,233	\$0
Fines*	0	23,590	\$23,590
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,789,233	2,812,823	23,590
Expenditures:			
Salaries and Related Benefits	1,893,549	1,690,873	202,676
Other Personal Services	470,480	415,879	54,601
Expenses	262,140	209,052	53,088
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	59,834	59,834	0
Risk management insurance	3,230	3,230	0
Legislative Carryforward **	2,616,065	35,255	2,580,810
Nonoperating***	100,000	0	100,000
Total Expenditures	5,405,298	2,414,123	2,991,175
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(2,616,065)	398,700	\$3,014,765
Budgetary Fund Balance, June 30, 2022		398,700	
Adjustment for Fines*		(23,590)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2022		\$275,110	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 312,772
FINES: \$ 4,700

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

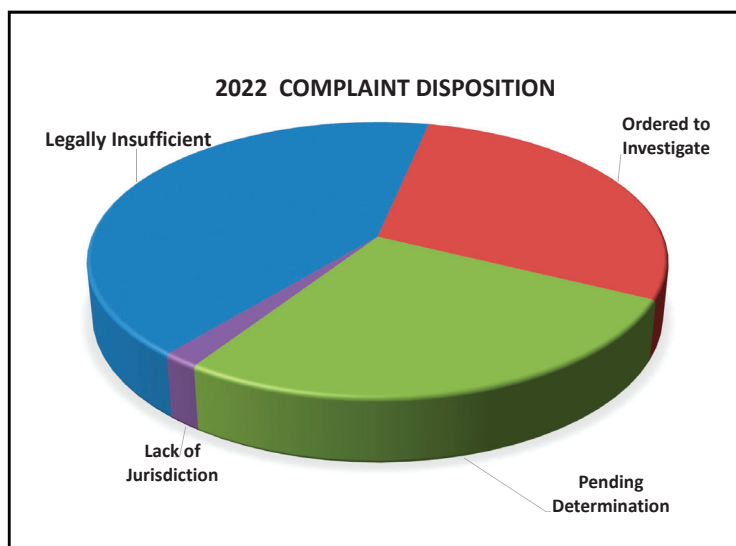
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. This section offers a profile of the Commission's workload

Complaints

Total number of complaints and referrals filed in 2022223

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	12	5.4%
State Employee	20	9.0%
District Elected	24	10.8%
District Appointed	2	0.9%
District Employee	10	4.5%
County Elected	36	16.1%
County Appointed	2	0.9%
County Employee	24	10.8%
Municipal Elected	53	23.8%
Municipal Appointed	10	4.5%
Municipal Employee	23	10.3%
Candidate	4	1.8%
Lobbyist	3	1.3%
TOTAL	223	100.0%

Of the 223 complaints and referrals received in 2022, 95 were dismissed for lack of legal sufficiency; 2 were dismissed because of lack of jurisdiction; 65 were ordered to be investigated; and 61 were pending a legal sufficiency determination, as of December 31.

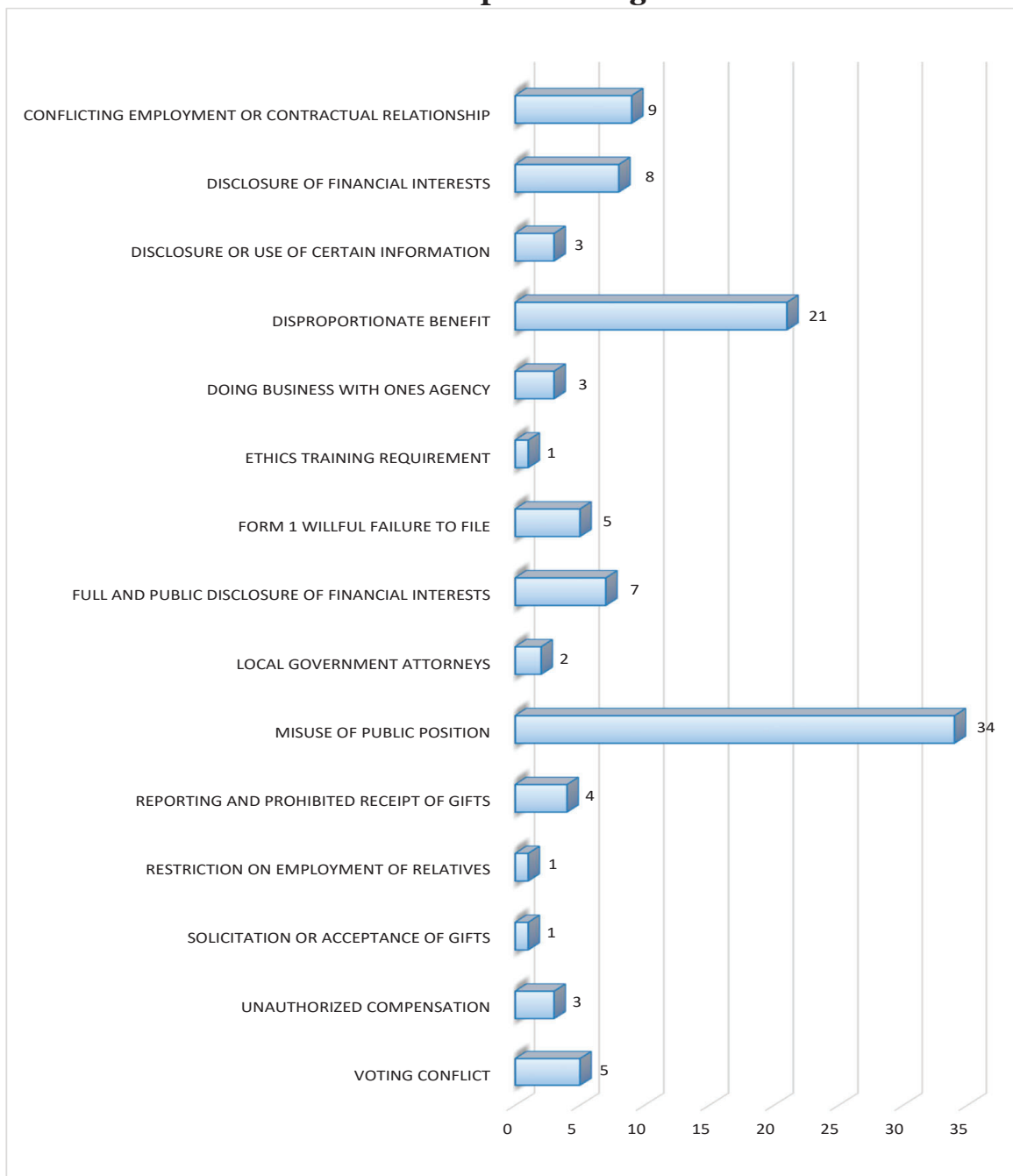


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 223 complaints and referrals received in 2022, 65 had been ordered to be investigated as of December 31, 2022. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Most complaints contained allegations concerning more than one area of law.

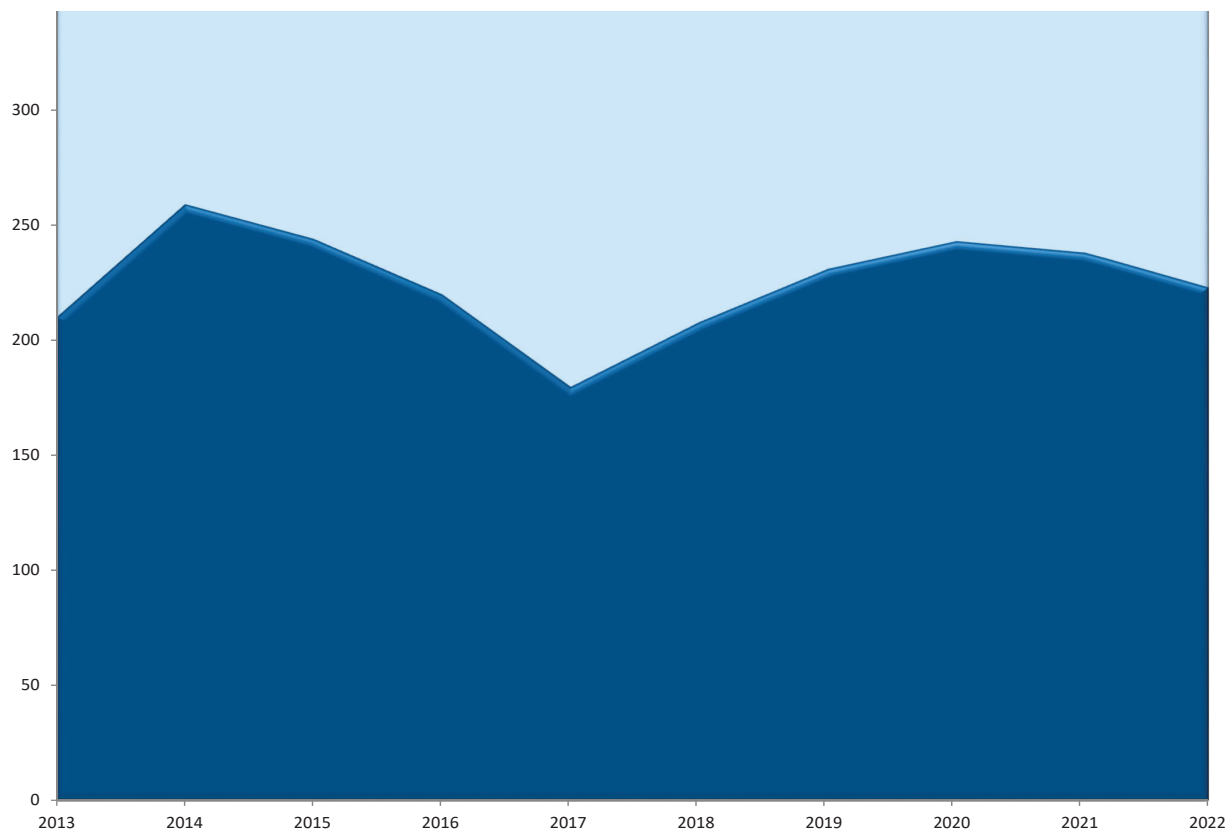
2022 Complaint Allegations



Ten Year History of Complaints

Over the past 10 years, the Commission's complaint numbers have remained relatively steady. However, it is anticipated that with the full implementation of Amendment 12, the Commission will see an increase in the number of complaints filed in the future, as the impact of the Amendment is fully realized.

2022.....	223
2021	238
2020.....	243
2019	231
2018	211
2017.....	180
2016.....	220
2015	244
2014	259
2013.....	210

Complaint History

Actions Taken on Complaints in 2022

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2022, across all active complaints.

Complaints & Mandatory Willfulness Investigations.....	227
Dismissed for lack of legal sufficiency	126
Dismissed for lack of jurisdiction	6
Probable cause hearings held	73
No probable cause - dismissed.....	44
Probable cause	23
Probable cause - no further action	5
Advocate's Motion to Dismiss	1
Stipulations	14
Violation	12
Rejected	2
Public hearings at the Division of Administrative Hearings.....	8
Violation	7
No Violation	1
Costs and attorney's fees petitions	1
Parties Settled - dismissed.....	0
Insufficient petition - dismissed	1
Statutorily-Required Investigation of Lobbying Firm Compensation Audits	4
Probable Cause.....	2
No probable cause.....	2

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS 232

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2022 Summary of Activity

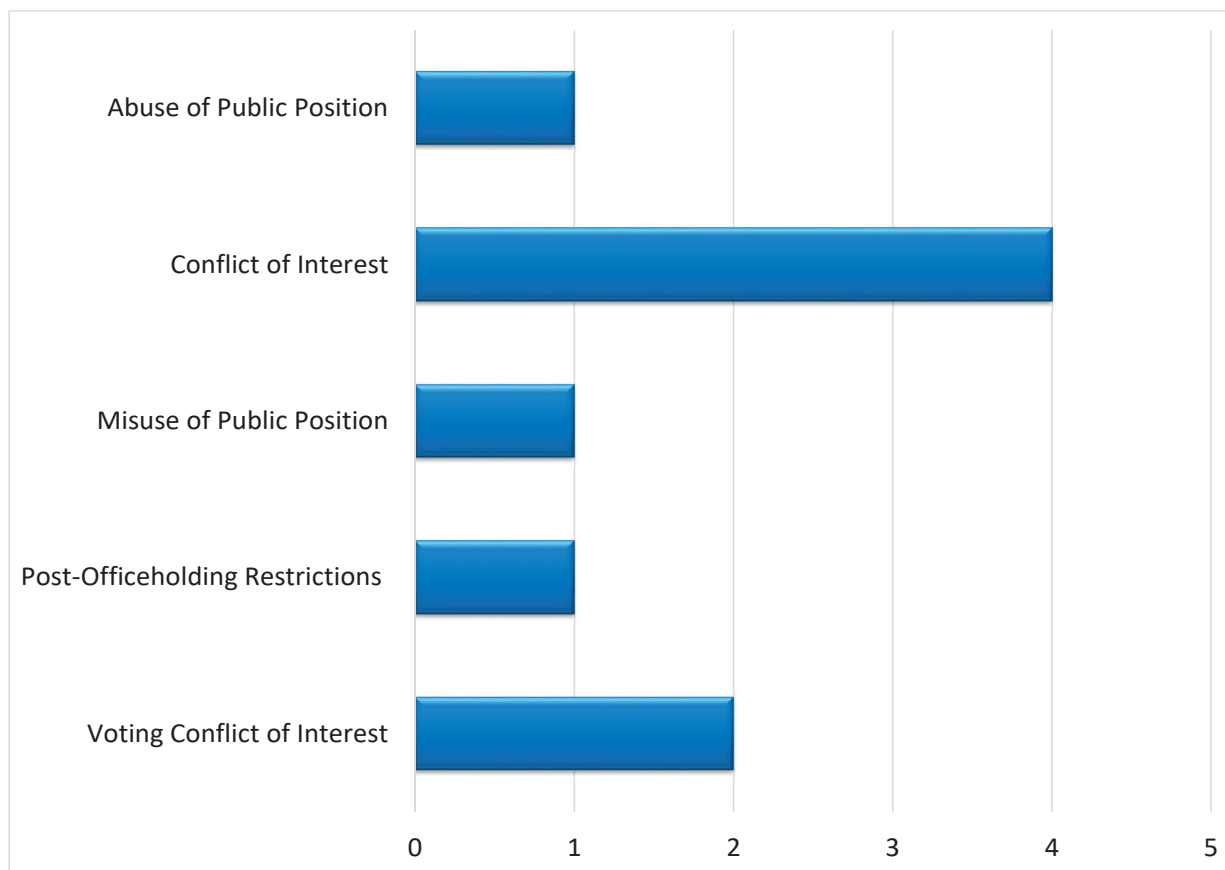
Total number of registered executive branch lobbyists	1,481
Total number of executive branch lobbying firms	317
Total number of principals represented by the lobbyists	12,312
Percent <i>increase</i> in number of principals from 2021 to 2022	1.39%
Total number of firms delinquent in filing their compensation reports	
October - December 2021	19
<i>(Filing deadline for fourth quarter 2021 was February 14, 2022)</i>	
January - March 2022	20
April - June 2022	10
July - September 2022.....	13
Total number of firms assessed a fine in 2022	
Fourth quarter 2021	13
<i>(Filing deadline for fourth quarter 2021 was February 14, 2022)</i>	
First quarter 2022.....	12
Second quarter 2022	8
Third quarter 2022	11
Number of appeals considered by the Commission in 2022.....	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 2021, the Commission on Ethics issued five advisory opinions, bringing the total issued since 1974 to 2,694.

Three of the opinions rendered in 2022 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2022. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered. The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2022:

- Judges of Compensation Claims
- Florida Department of Revenue's Property Tax Oversight Courses
- Department of Revenue's Duties & Responsibilities of Florida's Tax Collectors
- Florida Bar online Education Law workshop
- Florida Public Pension Trustees Association's Winter Conference
- The Florida Bar's Annual Sunshine Law, Public Records, & Ethics Conference
- Florida Court Clerks & Comptrollers Winter Conference
- The Florida Bar's City, County, & Local Board Certification Review Course
- Florida Justice Administrative Commission Conference
- Florida Department of Health Attorneys
- 2022 Conference of County Court Judges
- Excambia County senior staff
- Florida School Board Attorneys Association
- Broward County School Board
- Florida Association of Counties
- Florida Senate

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. Additionally the Commission was tasked with the development of an electronic filing system. The phased launch began January 1, 2022 with Form 6 filers. The system was paused in June and relaunched January 1, 2023. Form 1 filers will file electronically beginning January 1, 2024. The Commission has invested significant staff hours over the past year to the details of the development and launch of the system and the Commission expects significant workload increases with the rollout of the program.

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2021, 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 more than a 98% overall compliance with the annual reporting requirement in 2022. On the local level, 20 counties reported 100% compliance in 2022. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1992 to present.

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	5	280	285	98.2%
Baker	3	45	48	93.8%
Bay	1	269	270	99.6%
Bradford	0	63	63	100.0%
Brevard	14	772	786	98.2%
Broward	84	2309	2393	96.5%
Calhoun	0	30	30	100.0%
Charlotte	1	163	164	99.4%
Citrus	0	110	110	100.0%
Clay	1	219	220	99.5%
Collier	0	389	389	100.0%
Columbia	2	78	80	97.5%
Miami-Dade	147	2378	2525	94.2%
Desoto	2	67	69	97.1%
Dixie	1	34	35	97.1%
Duval	1	382	383	99.7%
Escambia	4	171	175	97.7%
Flagler	2	183	185	98.9%
Franklin	1	64	65	98.5%
Gadsden	6	92	98	93.9%
Gilchrist	0	40	40	100.0%
Glades	0	38	38	100.0%
Gulf	0	53	53	100.0%
Hamilton	1	47	48	97.9%
Hardee	2	54	56	96.4%
Hendry	0	96	96	100.0%
Hernando	1	87	88	98.9%
Highlands	5	146	151	96.7%
Hillsborough	76	1322	1398	94.6%
Holmes	0	69	69	100.0%
Indian River	0	237	237	100.0%
Jackson	2	176	178	98.9%
Jefferson	1	44	45	97.8%
Lafayette	0	19	19	100.0%
Lake	6	477	483	98.8%
Lee	25	1007	1032	97.6%
Leon	3	234	237	98.7%
Levy	1	122	123	99.2%
Liberty	0	29	29	100.0%
Madison	2	66	68	97.1%

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	10	501	511	98.0%
Marion	7	220	227	96.9%
Martin	0	250	250	100.0%
Monroe	0	205	205	100.0%
Nassau	3	189	192	98.4%
Okaloosa	5	323	328	98.5%
Okeechobee	0	79	79	100.0%
Orange	35	858	893	96.1%
Osceola	0	250	250	100.0%
Palm Beach	86	1562	1648	94.8%
Pasco	4	469	473	99.2%
Pinellas	10	1215	1225	99.2%
Polk	36	624	660	94.5%
Putnam	2	131	133	98.5%
Saint Johns	1	352	353	99.7%
Saint Lucie	2	283	285	99.3%
Santa Rosa	1	183	184	99.5%
Sarasota	2	380	382	99.5%
Seminole	12	411	423	97.2%
Sumter	2	152	154	98.7%
Suwannee	0	56	56	100.0%
Taylor	3	49	52	94.2%
Union	0	38	38	100.0%
Volusia	5	647	652	99.2%
Wakulla	0	62	62	100.0%
Walton	4	126	130	96.9%
Washington	0	61	61	100.0%
TOTAL-FORM 1 LOCAL	630	22137	22767	97.2%
TOTAL-FORM 1 STATE	79	12822	12901	99.4%
TOTAL-FORM 6 (NOT JUDGES)	6	1372	1378	99.6%
TOTAL-JUDGES (ACTIVE)	0	1022	1022	100.0%
TOTAL-JUDGES (SENIOR)	0	189	189	100.0%
OVERALL TOTAL	715	37542	38257	98.1%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1992 - 2022)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%
2021	38,519	604	98%
2022	38,257	715	98%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 97.2%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephoned filers to remind them to file. These reminders are not required by statute, but are part of the Commission's additional efforts to encourage compliance.
- Of the 22,767 individuals required to file, 630 were delinquent.
- 20 counties reported 100% compliance in 2022.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.4%. Postcard and telephone reminders also were used with these filers.
- Of the 12,901 individuals required to file, only 79 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.6%. Postcard and telephone reminders also were used with these filers.
- There were only 6 delinquencies out of a total of 1,378 individuals (excluding judges) required to file Form 6.

Summary of 2022 Overall Compliance

- Out of the 38,257 individuals who were non-judicial financial disclosure filers, there were only 715 (approximately 2%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2022. (The fines for late filings in 2022 recently have been assessed and will be reported in 2023).

Financial Disclosure Appeals 2022 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 21, 2022	6	0	0	0	0
March 4, 2022	0	0	0	0	0
April 22, 2022	5	0	0	0	0
June 3, 2022	1	0	0	0	0
July 22, 2022	4	0	2	0	0
September 9, 2022	0	0	0	0	0
October 21, 2022	0	0	0	0	2
December 2, 2022	1	0	0	0	0

2022 Legislative Recommendations

Conflicts of Interest

Section 112.313(7)(a), Florida Statutes, prohibits a public officer or employee from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, Section 112.3143, Florida Statutes, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters. The Commission also recommends Section 112.3215(9) be amended to allow the Commission to find probable cause, but then opt to take no further action.

Increase of Civil Penalties

Currently, Section 112.317, Florida Statutes, provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

Ethics Training

Pursuant to the provisions of Section 112.3142(2)(e), Florida Statutes, a constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which their term of office began. In 2019, the law was amended to require commissioners of community redevelopment agencies to complete 4 hours of ethics training. However, they were not included in the new office or new term of office exemption language contained in Section 112.3142(2)(e), Florida Statutes. As a result, CRA board members are required to take four hours of training regardless of when they take office, even if their start date is near the very end of the year. The Commission believes CRA board members should be added to the exemption language appearing in Section 112.3142(2)(e), Florida Statutes.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, unlimited in amount, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

*Annual Report
to the
Florida Legislature
For Calendar Year 2015*




*By the
State of Florida
Commission on Ethics*

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Message from the Chair

 Now is the time.

In the last few years, Florida has seen dramatic changes in its Ethics laws.

These changes cover a variety of situations aimed at making those individuals involved in public service even more accountable. For instance, these changes now require training for Constitutional officers and elected municipal officials; provide new prohibitions on gifts from vendors and political committees; and prohibit members of the Legislature from voting on measures that would benefit them. Also, many more people—including many who previously would have been considered private-sector employees—must now file financial disclosure and are subject to much of the Code of Ethics for Public Officers and Employees.

As the gatekeeper of financial disclosure, the Commission is tasked with the recovery of automatic fines for failure to file the requisite financial disclosure and with instituting investigations to determine whether the delinquency was willful. And given our technology driven world today, the Commission now must post the Full and Public Disclosure of Financial Interests online and receive disclosures filed with qualifying officers electronically, and has developed, pursuant to changes made by the Legislature in 2013, a proposal for electronic filing of disclosure.

Given these recent changes, the Commission has been implementing these additional requirements with its usual alacrity. It has held training conferences and created online training, and in 2015 alone conducted training for 32 entities. It has collected more than \$140,000 in automatic fines in the past two years. In conformity with changes to the Administrative Procedures Act, it has reviewed and updated all its rules. It has completed and submitted its proposal for e-filing a month early. And it has done all of this while still addressing more than 200 complaints, 15 formal opinions, and more than 150 informal letters of guidance, and managing more than 10,000 executive branch lobbyist registrations and their attendant compensation reporting.

The Commission has historically demonstrated its dedication to the mission

of preserving the public trust, and in the last two years the Legislature has entrusted it with even more responsibility. But one thing the Commission has repeatedly—and unsuccessfully—requested is the authority to initiate its own investigations. Self-initiation is a fundamental component for an agency of this nature, and has been endorsed by editorial boards, public interest groups, and grand juries. Indeed, it was advocated by Governor Jeb Bush's Public Corruption Study Commission in 1999. With its 40-plus year track record of even-handedness and careful deliberation in its handling of ethics investigations and its well-documented responsiveness to legislative changes, the Commission has demonstrated that it is worthy and deserving of this authority. Self-initiation would be critical in the Commission's quiver of tools and would strengthen its mission, if such authority is given by the Legislature.

As the Commission continues its work as the caretaker of the public trust, self-initiation would be an integral step in the Commission fulfilling its mission.

Now is the time.

Yours truly,

A handwritten signature in dark ink, appearing to read "Stanley Weston", written in a cursive style.

Stanley Weston
Chairman, Florida Commission on Ethics

2015 Commission Members

STANLEY WESTON, *Chair*

Jacksonville - Attorney (D)
Term expires June 2017
Reappointed by Governor Rick Scott

MATTHEW F. CARLUCCI, *Vice Chair*

Jacksonville - Insurance Agent (R)
Term expires June 2016
Reappointed by Governor Rick Scott

MICHELLE ANCHORS

Ft. Walton Beach - Attorney (D)
Term expires June 2016
Reappointed by Senate President Don Gaetz

DAN BRADY, Ph.D.

Miami Shores - Retired Social Work &
Community Mental Health Care Professional (R)
Term expires June 2017
Appointed by Governor Rick Scott

MICHAEL COX

Trinity - Financial Planner (D)
Term expires June 2016
Appointed by Speaker of the House Will Weatherford

TOM FREEMAN

DeBary - Retired Judge (R)
Term expires June 2016
Reappointed by Senate President Don Gaetz

WILEY HORTON

Tallahassee - Attorney (R)
Term expires June 2016
Appointed by Speaker of the House Will Weatherford

GUY NORRIS

Lake City - Attorney (D)
Term expires June 2017
Appointed by Governor Rick Scott

KIMBERLY BONDER REZANKA

Viera - Attorney (R)
Term expires June 2017
Appointed by Governor Rick Scott

Introduction & History

Section 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 2015.

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 38,613 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

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 24 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. The legal staff also represents the Commission in litigation, and pursuant to Ch. 2013-36, Laws of Florida, attempts to make collections on automatic fines imposed for failing to timely file financial disclosure.

Legal services are provided both by staff and by Assistant Attorneys General Melody Hadley and Elizabeth Miller, who has been assigned by the Attorney General to act as full-time Advocate for the Commission.

Legal Staff

Betsy Daley, Senior Attorney

Grayden Schafer, Senior Attorney

Caroline Klancke, Attorney

Susan Herendeen, Attorney

Diana Westberry, Administrative Assistant

Brittany Pace, 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.

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

Roberto Anderson-COrdova, Investigator

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 38,613 reporting officials and employees were notified of their filing requirements in 2015 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Carolyn Carbonell, Executive Secretary

Azie Russell, 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. The Director also prepares the agency budget and assists with legislative lobbying, oversees office efficiency initiatives, and conducts training and responds to general information inquiries about the ethics laws. 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.

Operations and Communications Staff

Kerrie J. Stillman, Director of Operations and Communications

Millie Fulford, Complaint Coordinator

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)

Jason Arthmann, Clerk (half-time)

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2015.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2015 (Amounts in dollars)

	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$2,619,002	\$2,619,002	\$0
Fines*	0	58,282	58,282
Miscellaneous Receipts	500	362	(138)
Total Revenues	2,619,502	2,677,646	58,144
Expenditures:			
Salaries and Related Benefits	1,818,843	1,756,674	62,169
Other Personal Services	408,702	325,061	83,641
Expenses	240,139	215,963	24,176
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	47,213	47,213	0
Risk management insurance	4,605	4,605	0
Legislative Carryforward **	864,684	5,000	859,684
Nonoperating***	100,000	0	100,000
Total Expenditures	3,484,186	2,354,516	1,129,670
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(864,684)	323,130	\$1,187,814
Budgetary Fund Balance, June 30, 2015		323,130	
Adjustment for Fines*		(58,282)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**		5,000	
Adjusted Budgetary Fund Balance, June 30, 2014		\$169,848	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 259,055
FINES: \$ (1,650)****

* 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.

****\$3,500 collected in fines, but there was an increase in the budget allowance of \$5,000 which resulted in the (\$1,650) balance.

Operations

The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* 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.

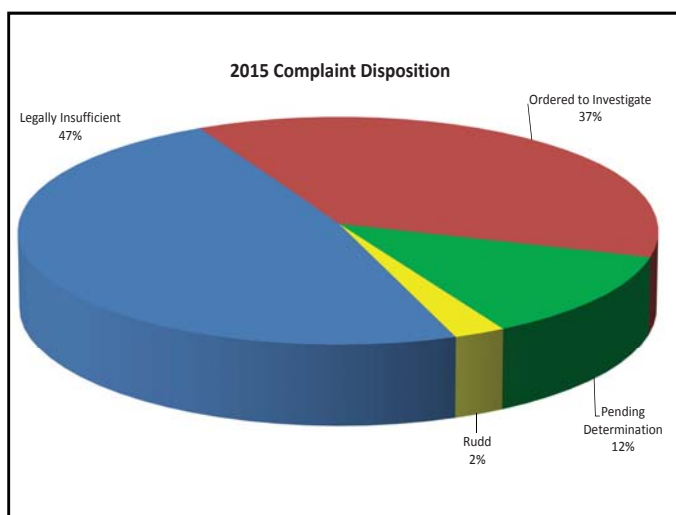
Complaints

Statistical Summary of Complaints and Referrals Filed January 1, 2015 through December 31, 2015

Total number of complaints and referrals filed in 2015 244

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	5	2.0%
State Appointed	6	2.5%
State Employee	31	12.7%
District Elected	12	4.9%
District Appointed	1	0.4%
District Employee	10	4.1%
County Elected	39	16.0%
County Appointed	11	4.5%
County Employee	28	11.5%
Municipal Elected	59	24.2%
Municipal Appointed	9	3.7%
Municipal Employee	32	13.1%
Other	1	0.4%
TOTAL	244	100.0%

Of the 244 complaints and referrals received in 2015, 117 were dismissed for lack of legal sufficiency; 6 were dismissed because the public interest would not be served by proceeding further (Rudd Amendment); 91 were ordered to be investigated; and 30 were pending a legal sufficiency determination.

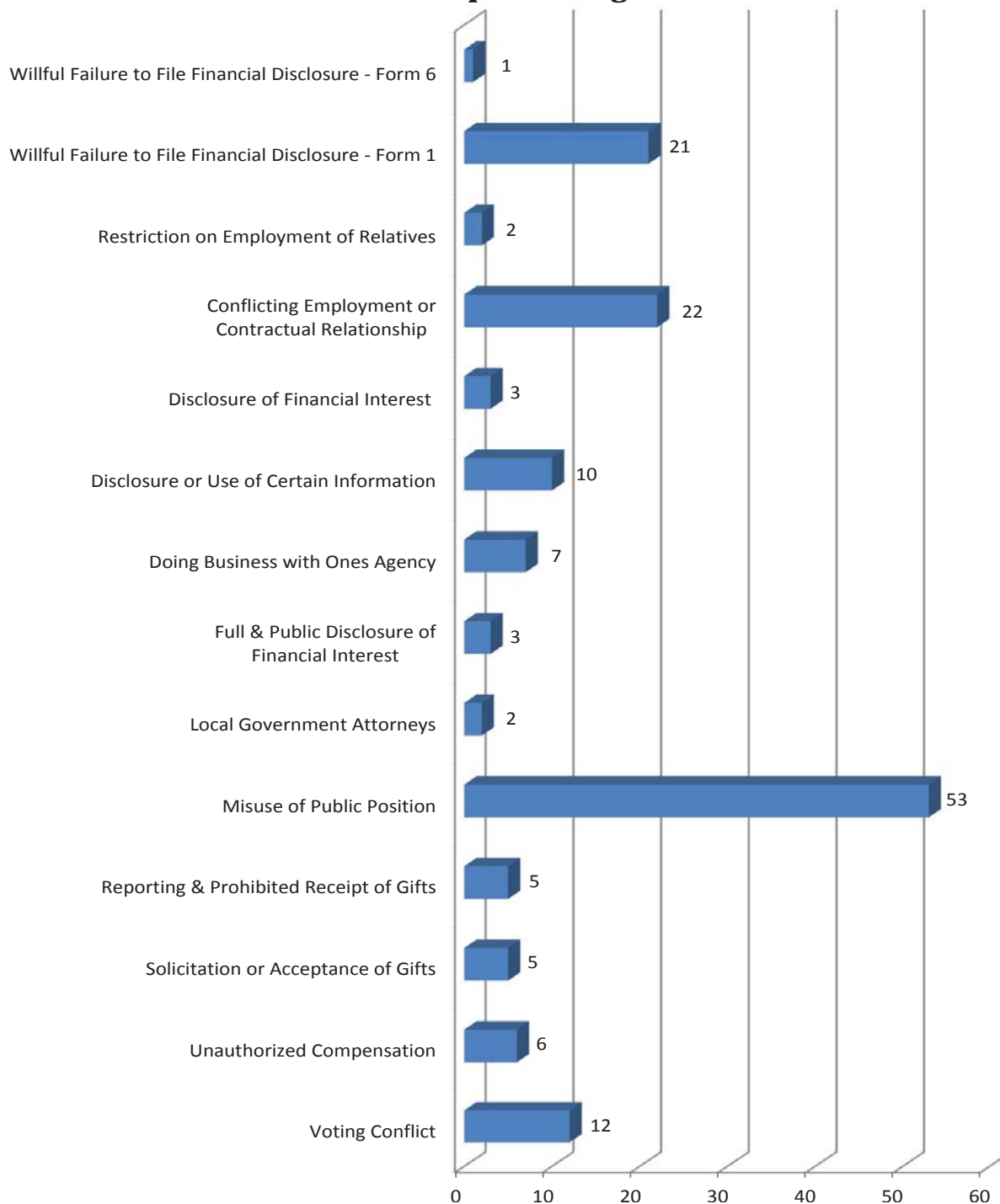


* Pursuant to Ch. law 2013-36, Laws of Florida, the Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 244 complaints and referrals received in 2015, 91 were ordered to be investigated as of December 31, 2015. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Many complaints contained allegations concerning more than one area of law.

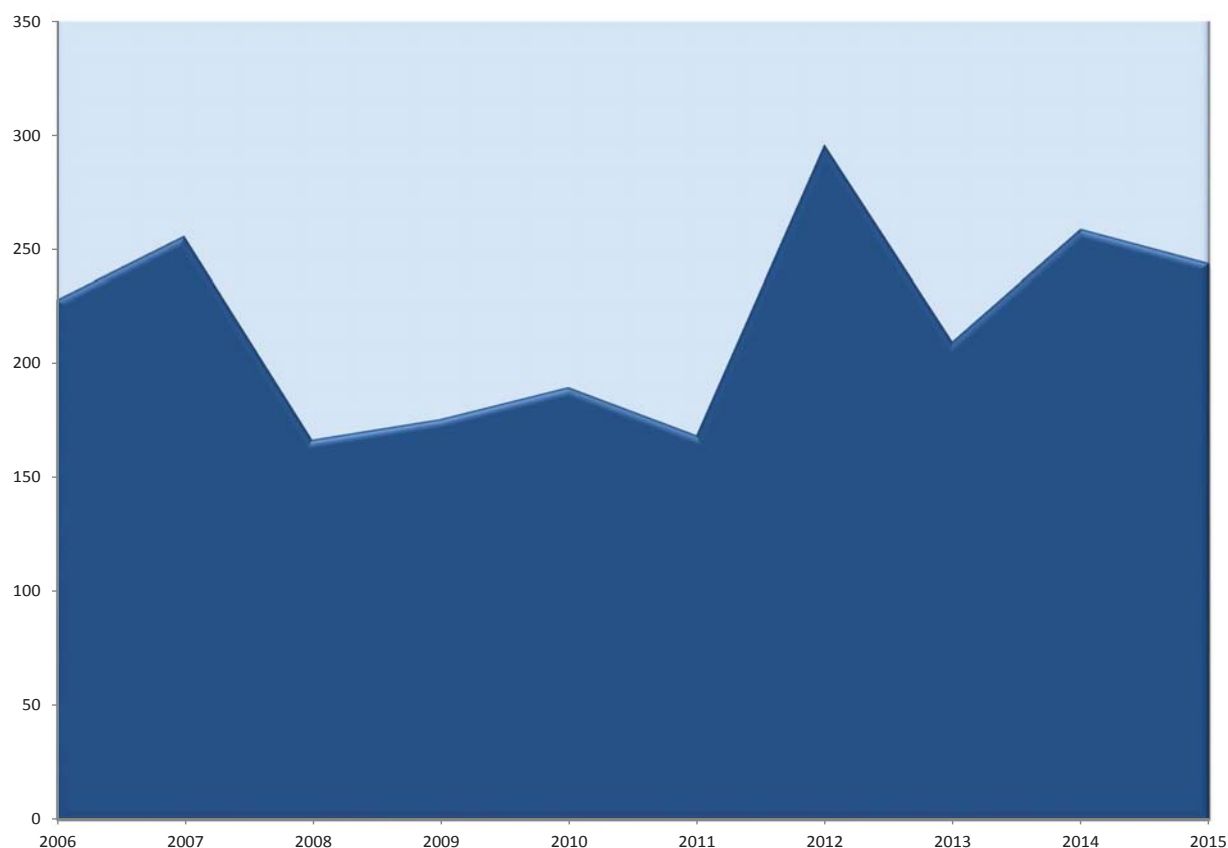
2015 Complaint Allegations



Ten Year History of Complaints

<i>2015</i>	<i>244</i>
<i>2014</i>	<i>259</i>
<i>2013</i>	<i>210</i>
<i>2012</i>	<i>296</i>
<i>2011</i>	<i>169</i>
<i>2010</i>	<i>190</i>
<i>2009</i>	<i>176</i>
<i>2008</i>	<i>167</i>
<i>2007</i>	<i>256</i>
<i>2006</i>	<i>288</i>

Complaint History



Actions Taken on Complaints in 2015

In addition to handling the 244 new complaints and referrals received in 2015, 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 2015 on all active complaints.

Dismissed for lack of legal sufficiency.....	145
Motions to Dismiss (Rudd Amendment)*	6
Probable cause hearings held.....	74
No probable cause - dismissed.....	55
Probable cause - public hearing or stipulation.....	16
Probable cause - no further action.....	3
Self-initiated complaints for willful failure to file disclosure	17
Dismissed for lack of jurisdiction	9
No probable cause - dismissed	2
Probable cause - public hearing or stipulation.....	6
Request for withdrawal of complaint.....	1
Request granted.....	0
Request denied.....	1
Public hearings at Division of Administrative Hearings	3
Violation.....	2
No violation.....	1
Stipulated settlement agreements.....	13
Violation.....	13
Costs and attorney's fees petitions	2
Insufficient petition - dismissed.....	1
Hearing at Division of Administrative Hearings (settled).....	1
TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS	261

* 112.324(12), F.S. the commission may, at its discretion, dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

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."

2015 Summary of Activity

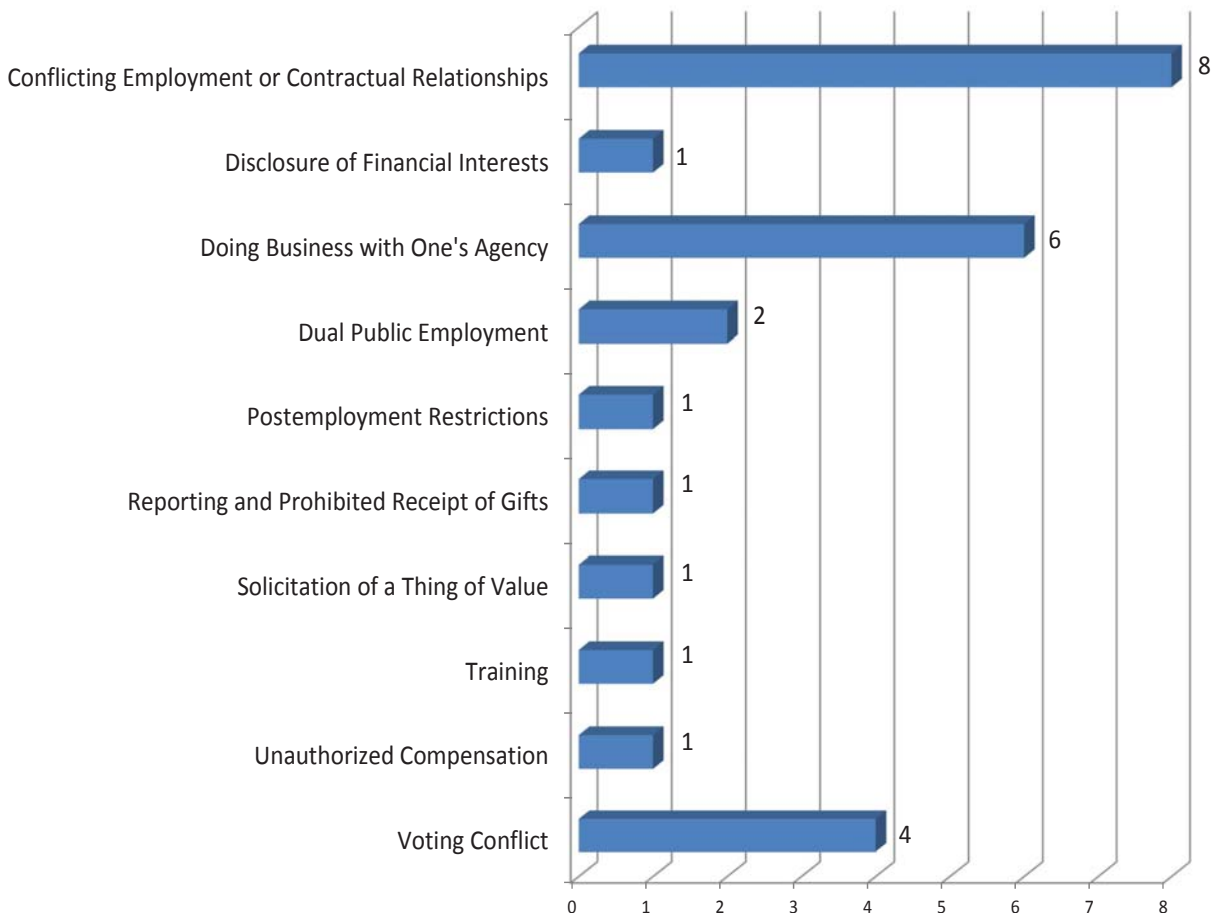
Total number of registered executive branch lobbyists	1,551
Total number of executive branch lobbying firms	376
Total number of principals represented by the lobbyists.....	10,117
Percent <i>increase</i> in number of principals from 2014 to 2015	9%
Total number of firms delinquent in filing their compensation reports	
January - March 2015.....	13
March - May 2015	16
July - September 2015	21
<i>(Filing deadline for fourth quarter is February 2016)</i>	
Total number of firms assessed a fine in 2015	
First quarter 2015	7
Second quarter 2015	8
Third quarter 2015.....	11
Number of appeals considered by the Commission in 2015	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 2015, the Commission on Ethics issued fifteen advisory opinions, bringing the total issued since 1974 to 2,586.

Twelve of the opinions rendered in 2015 were in response to requests by local officers, employees, or local government attorneys, and another three opinions were issued regarding state level officers or employees.

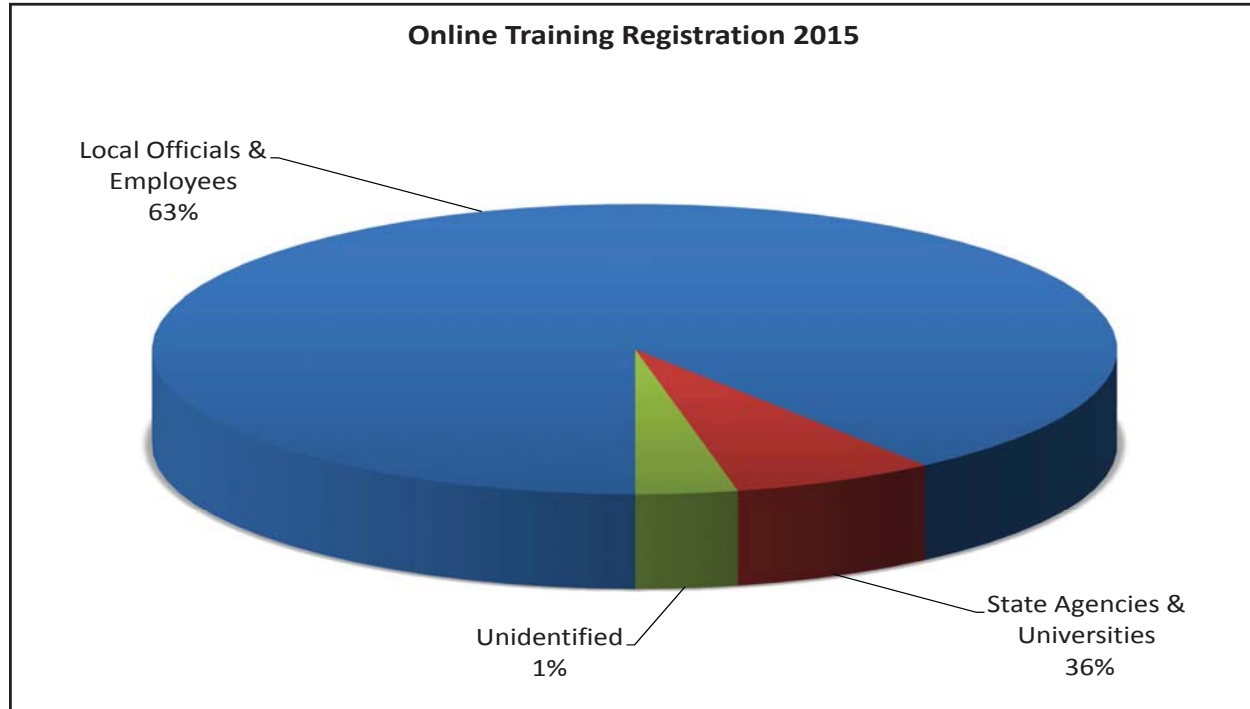
The bar graph illustrates the number of instances in which a provision of the ethics code was addressed in a formal opinion of the Commission in 2015. A number of opinions addressed more than one aspect of the ethics laws.



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

Training & Education

Four hours of ethics training is required for all Constitutional officers and beginning in 2015 elected municipal officers also were required to have training each calendar year. The Commission now has a training page on its website that features latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state. Since 2000, a comprehensive online training course on ethics, sunshine law, and public records is available through a partnership with The John Scott Dailey Florida Institute of Government at Florida State University. The institute also offers a four hour video course from our successful multi-day ethics conference held in 2014.



In 2015, 415 individuals registered for, and completed the online training courses: 257 registrants completed all or part of the comprehensive 12-hour online course, and 158 completed the newly designed 4-hour video-based course. Of the registrants, 395 were local officials and employees, 5 were state agency and employees, 30 were State agencies/Universities personnel, and 15 were unidentified (or private sector). A total of 4,355 public officers and employees have completed the course since its inception in 2002.

Speaking Engagements

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, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2015:

- Continuing Education Workshop for Tax Collectors
- CLE Seminar for Attorneys of the Department of Financial Services
- Members of the Florida Senate
- Florida Bar's Environmental and Land Use Section
- City and County Managers Association
- Florida Public Pension Trustees Association Conference
- Florida School Board Attorneys Association
- Florida Association of Property Appraisers
- Florida Bar Local Government Section's Annual Sunshine & Ethics Seminar
- City of Sanford Public Records, Open Meetings, & Ethics Training
- Florida League of Cities, the Institute of Government at FSU, & the Florida City & County Management Association, for local public officers & employees.
- Florida Sheriffs Association's Commander's Academy
- Florida League of Cities and the Florida Association of Counties
- Department of Revenue's continuing education workshop for Property Appraisers
- Haines City training for various local governments in central Florida
- City, County, and Local Government Law Section
- Justice Administrative Commission
- State Department fellow: Ukraine
- Trustees of Police and Firefighter Pension Boards
- Department of Health Attorneys
- Florida State Association of Supervisors of Elections Annual Conference

- Department of Revenue's Duties and Responsibilities of Florida Tax Collectors
- Florida Association of Counties Conference
- Tallahassee Ethics Board
- Newly Appointed Supervisor of Elections
- Department of Revenue Duties and Responsibilities of Florida Tax Collectors
- Florida Government General Counsels Association
- Escambia County Employees
- Broward County School Board
- Judges of Compensation Claims
- Judicial Nominating Commission Members

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, 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 1, 2015, 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

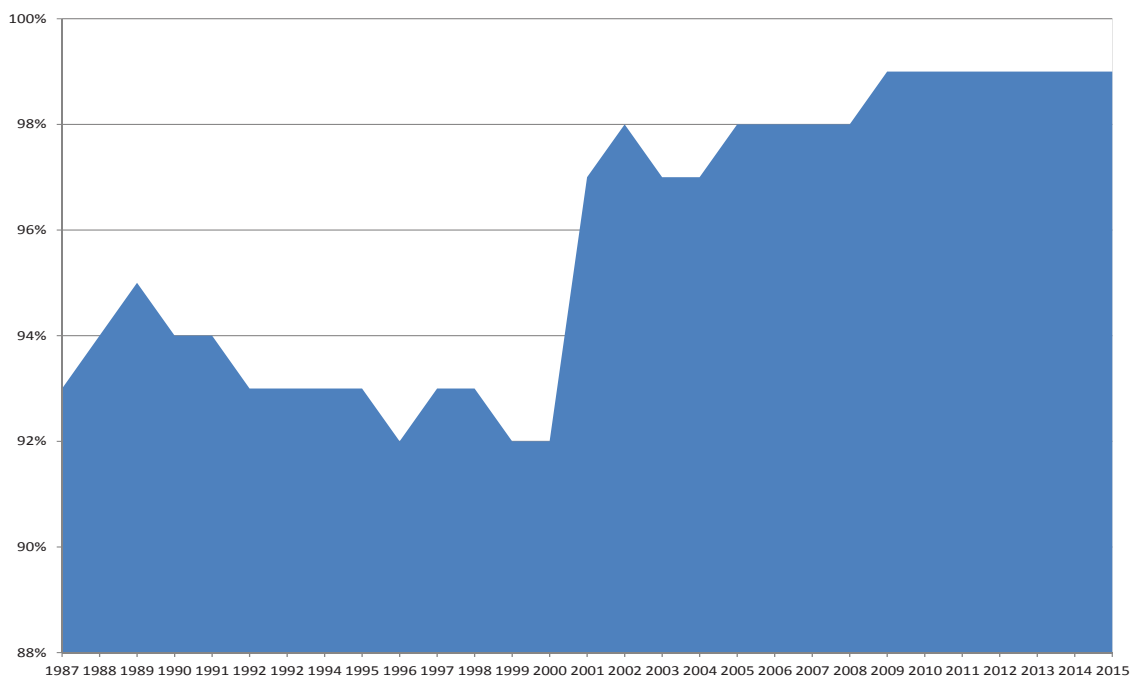
There was more than a 99% overall compliance with the annual reporting requirement in 2015. On the local level, 33 counties reported 100% compliance in 2015. This represents a four-county increase in counties reporting 100% compliance. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1987 to present.

Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	2015 Compliance Rate
Alachua	0	320	320	100.0%
Baker	0	54	54	100.0%
Bay	1	253	254	99.6%
Bradford	0	74	74	100.0%
Brevard	11	938	949	98.8%
Broward	43	2290	2333	98.2%
Calhoun	0	40	40	100.0%
Charlotte	1	147	148	99.3%
Citrus	0	110	110	100.0%
Clay	0	207	207	100.0%
Collier	0	367	367	100.0%
Columbia	1	103	104	99.0%
Desoto	0	63	63	100.0%
Dixie	0	38	38	100.0%
Duval	1	338	339	99.7%
Escambia	1	176	177	99.4%
Flagler	1	183	184	99.5%
Franklin	3	72	75	96.0%
Gadsden	3	123	126	97.6%
Gilchrist	1	38	39	97.4%
Glades	0	38	38	100.0%
Gulf	0	62	62	100.0%
Hamilton	0	60	60	100.0%
Hardee	2	60	62	96.8%
Hendry	0	94	94	100.0%
Hernando	1	107	108	99.1%
Highlands	2	166	168	98.8%
Hillsborough	10	1238	1248	99.2%
Holmes	0	68	68	100.0%
Indian River	1	234	235	99.6%
Jackson	0	180	180	100.0%
Jefferson	0	42	42	100.0%
Lafayette	0	18	18	100.0%
Lake	2	458	460	99.6%
Lee	8	990	998	99.2%
Leon	3	229	232	98.7%
Levy	0	129	129	100.0%
Liberty	0	27	27	100.0%
Madison	0	91	91	100.0%
Manatee	3	528	531	99.4%

Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	2015 Compliance Rate
Marion	1	220	221	99.5%
Martin	0	173	173	100.0%
Miami-Dade	43	2050	2093	97.9%
Monroe	0	207	207	100.0%
Nassau	0	148	148	100.0%
Okaloosa	2	324	326	99.4%
Okeechobee	0	86	86	100.0%
Orange	8	872	880	99.1%
Osceola	0	260	260	100.0%
Palm Beach	33	1447	1480	97.8%
Pasco	1	390	391	99.7%
Pinellas	6	1185	1191	99.5%
Polk	5	671	676	99.3%
Putnam	0	148	148	100.0%
Saint Johns	0	269	269	100.0%
Saint Lucie	3	254	257	98.8%
Santa Rosa	0	205	205	100.0%
Sarasota	2	383	385	99.5%
Seminole	3	462	465	99.4%
Sumter	1	157	158	99.4%
Suwannee	0	58	58	100.0%
Taylor	0	60	60	100.0%
Union	0	45	45	100.0%
Volusia	3	758	761	99.6%
Wakulla	0	76	76	100.0%
Walton	1	120	121	99.2%
Washington	0	81	81	100.0%
TOTAL-Form 1 Local	211	21862	22073	99.0%
TOTAL-Form 1 State	76	13820	13896	99.5%
TOTAL-Form 6 (Not Judges)	4	1410	1414	99.7%
TOTAL-Non-Judicial Filers	291	37092	37383	99.2%
TOTAL-Judges (Active)	0	1044	1044	100.0%
TOTAL-Judges (Senior)	0	186	186	100.0%
OVERALL TOTAL	291	38322	38613	99.2%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1987 - 2015)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
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%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 99%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephones filers to remind them to file. These reminders are not required by statute, but are part of the Commission's efforts to encourage compliance.
- Of the 22,073 individuals required to file, 211 were delinquent.
- 33 counties reported 100% compliance in 2015.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.5%. Postcard and telephone reminders also were used with these filers.
- Of the 13,896 individuals required to file, only 76 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.7%. Postcard and telephone reminders also were used with these filers.
- There were only 4 delinquencies out of a total of 1,414 individuals (excluding judges) required to file Form 6.

Summary of 2015 Overall Compliance

- Out of the 37,383 individuals who were non-judicial financial disclosure filers, there were only 291 (less than 1%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its eight regularly scheduled meetings held during calendar year 2015. (The fines for late filings in 2015 recently have been assessed and will be reported in 2016).

Financial Disclosure Appeals 2015 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE WRITE-OFFS
January 23, 2015	0	0	0	0	0
March 6, 2015	3	0	0	0	4
April 17, 2015	4	1	0	24	0
June 5, 2015	6	1	41	20	0
July 24, 2015	3	0	0	15	1
September 11, 2015	6	1	1	2	0
October 23, 2015	19	1	0	0	1
December 11, 2015	39	1	9	0	0

2016 Legislative Recommendations

Investigations

- Give the Commission limited authority to investigate situations without having to receive a complaint, by allowing it to investigate a situation if it has received reliable and publicly disseminated information indicating a violation of the ethics laws, and an extraordinary majority of the Commission agrees to investigate.

Conflicts of Interest

- Section 112.313(7)(a), the conflict of interest law, prohibits an official from having certain contractual relationships. But corporations and various other entities are viewed as separate legal persons from those who own or control them. This creates a loophole which may allow an official's wholly-owned, one-man corporate entity to do things the official himself could not—such as have a contractual relationship with a company doing business with his agency. To close this loophole, the Commission recommends changing the law to apply the prohibition not only to officials, but to any legal entity the official controls.

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. The 2013 Legislature gave the Commission the ability to make salary withholdings and garnish wages, and extended the statute of limitations to 20 years. As a complement to these tools, the Commission proposes further amending the law to allow it to record its final orders in these matters as liens on the debtor's real and personal property.

Increased Penalties

- The Commission proposes the maximum be increased from \$10,000 to \$20,000.

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 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.

Increased Reporting for Elected Officials

- All elected Constitutional officers must file Form 6—Full and Public Disclosure of Financial Interests. Many other elected officers have similar authority and spending power, but are only required to file the less-informative Form 1—Disclosure of Financial Interests. The Commission believes that anyone asking for the citizens' votes should be willing to make full disclosure, and should be required to file the form 6.

Financial Disclosure

- A 2013 change to the law allows filers 30 days to correct a "de minimis" error or omission, but it is not clear what is to be considered "de minimis" and what is not. The Commission recommends the Legislature specify what it considers "de minimis" to aid the Commission in implementing this section.
- Section 112.3145 provides two ways in which Form 1 filers can disclose their income, intangible personal property, and liabilities. The "dollar value threshold" method requires reporting based on a fixed threshold; for example, an official reports the source of gross income over \$2,500. The "comparative (percentage) threshold" method requires reporting based on a calculation; for example, an official reports the source of income which exceeded 5% of his gross income.

The comparative percentage threshold method is complicated and confusing to users, requires a great deal of explanation in the instructions and by staff, and in most cases is less informative to the public than the dollar value threshold method. As such, the Commission recommends eliminating the percentage threshold method.

Voting Conflicts Law

- The Commission recommends 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, including making any attempt to influence staff about the matter, or to use staff members to influence the outcome of that matter. This would address situations in which local officials participate in discussions and attempt to influence agency decisions even though they have a voting conflict that precludes them from later voting on the matter.
- The Commission also recommends that the voting conflict standard for appointed State officials be changed to mirror the standard for local officials.

Anti-Nepotism Law

- The Commission has seen situations where a public official's relative was appointed or hired to a position by the board on which the official served, with the official abstaining from voting. It recommends that the law be amended to hold the relative who was improperly appointed or hired responsible under these circumstances.

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 24-20604-CIV-DAMIAN

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official
of the Town of Briny Breezes, et al.,

Plaintiffs,

v.

ASHLEY LUKIS, in her official capacity
As Chair of the Florida Commission
on Ethics, et al.,

Defendants.

_____ /

DECLARATION OF KERRIE STILLMAN

1. My name is Kerrie Stillman, I am over 18 years of age, and I am competent to give this declaration. The facts and opinions stated herein are based on my personal knowledge and beliefs.

2. I am employed by the Florida Commission on Ethics (the "Commission"). I currently serve as the Executive Director.

3. As Executive Director, I am the Commission's chief administrative employee and am responsible for carrying out the directives of the Commission and for supervising its staff. My responsibilities include overseeing the processing and investigation of citizen complaints of alleged ethics violations by elected officials and candidates for elective office, working with the Chair of the Commission and the Commission itself to make recommendations to the Florida Legislature regarding changes to ethics laws to further promote the public trust, and overseeing administration of the Sunshine Amendment (as well as implementing pertinent legislation, such as

Fla. Stat. §§ 112.3144, 3145).

4. There has been a steady, upward trend of the number of ethical complaints against public officers and employees received by the Commission since 2017, including those filed against municipal elected officials.

5. Members of the public complain to the Commission about municipal elected officials more than any other group.

6. Issues concerning corruption, conflicts of interests, and financial disclosures are typically the most common subjects of complaints filed with the Commission each year.

7. The Commission drafts advisory opinions on conflicts of interest more than any other topic.

8. Since January 1, 2024, a total of 127 municipal elected officials have filed a Form 6 disclosure.

9. The purposes of requiring municipal elected officials to complete Form 6 include deterrence of corruption and conflicting interests, bolstering of public confidence in Florida's officials, and educating the public.

10. Form 6, in part, requires disclosure of information that need not be disclosed under Form 1, such as net worth; tangible property exceeding \$1,000 in value; and dollar values for all assets, liabilities, and income disclosed.

11. By requiring more fulsome disclosure, Form 6 provides a clearer picture of a public officer's finances and potential conflicts than Form 1. For example, an official's net worth provides context to other disclosed information, as does disclosing the dollar value of disclosed assets, liabilities, and income.

12. Form 1 does not require disclosure of tangible personal property, meaning that

officials subject to Form 1 would not need to disclose valuable assets, therefore not conveying the complete extent of an official's financial situation, which reduces the disclosure's effectiveness and value to the public. In contrast, Form 6 requires disclosure of all tangible personal property held for investment purposes exceeding \$1,000 in value, thus conveying a more accurate picture of a public officer's finances and potential conflicts.

13. Form 1 requires disclosure of primary sources of income exceeding \$2,500 and "major" secondary sources of income. Therefore, for example, bad actors could funnel undisclosed money to officials through sources not exceeding \$2,500, and Form 1 would not require disclosure of the transaction. In contrast, Form 6 requires disclosing all sources of income exceeding \$1,000, which provides greater understanding to the public of a public officer's income streams and potential conflicts.

14. Form 1 only requires disclosure of liabilities exceeding \$10,000, whereas Form 6 requires disclosure of liabilities exceeding \$1,000. Form 6's more fulsome requirement ensures the public is aware of any potential vulnerabilities in an elected official, which could compromise their independent judgment, pose a conflict of interest, or even potentially subject them to blackmail.

15. Considering the relatively high number of complaints against municipal elected officials, the public's concern with corruption and conflicts of interest, and the potential for abuse that could go undetected under Form 1, as described above, the Commission has recommended to the Legislature amending Fla. Stat. § 112.3144 to require municipal elected officials to complete Form 6 since 2015. In 2022, the Commission made the following recommendation:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected

municipal officials regardless of the population or revenue of the municipality.


Annual Report to the Florida Legislature for Calendar Year 2022 by the State of Florida Commission on Ethics, at 23 (attached hereto as **Exhibit 1**).

16. In addition to providing Florida citizens with important information concerning their elected officials and candidates for elective office, the disclosures required by Form 6 will encourage these officials to avoid situations and relationships that may present a conflict of interest.

17. Since 1976, all elected constitutional officers and candidates for such offices have been required to make a full and public disclosure of their financial interests. In that time, I am not aware of any information provided to the Commission indicating that this disclosure requirement has led to a shortage of qualified candidates for constitutional offices. There is no reason to believe that expanding the disclosure requirements to mayors and other elected members of the governing bodies of municipalities would lead to a shortage of candidates for these offices.

I have personal knowledge of the foregoing facts, and I am competent to testify to such facts. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 4, 2024.


KERRIE STILLMAN
Executive Director
Florida Commission on Ethics
Tallahassee, Florida

STATE OF FLORIDA
COUNTY OF LEON

Sworn to (or affirmed) and subscribed before by means of ☒ physical presence or ☐ online notarization, this 4th day of April, 2024 by **Kerrie Stillman**, who is ☒ personally known or ☐ produced identification.



Signature of Notary Public



Notary Stamp

Exhibit 1

*Annual Report
to the
Florida Legislature
For Calendar Year 2022*



*By the
State of Florida
Commission on Ethics*

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Message from the Chair

Nearly fifty years ago, the Florida Legislature realized the need to uphold ethics and integrity in Florida's government at all levels. The result was the creation of the Florida Commission on Ethics in 1974. I was privileged to be the first person appointed to the commission.

We had no staff and not even an office, but the nine of us, all new to the process began the task of writing rules and drafting forms, many of which we still use today. Over the nearly half century of the commission's existence, its role and scope has been expanded by subsequent actions of the legislature. Our staff component has grown along with the ability to serve both governments and citizens around the state.

The most significant recent development has been the implementation of e-filing. In 2022, prior to the system pause in June, over 800 Form 6 disclosures were filed electronically. A total of 38,257 persons filed various forms of financial disclosure at the state and local level during 2022. The timeliness of those disclosures has to be catalogued by commission staff. The e-filing system relaunched for Form 6 filers in 2023 and once fully implemented will provide for ease of filing and more accurate recording of information.

During calendar year 2022, the Commission took 232 actions on complaints during its eight regularly scheduled meetings, including seventy-three probable cause hearings, final action on fourteen settlement agreements, and eight recommended orders.

The total staff component of the Commission is twenty-three. In addition to reviewing and investigating complaints, the Commission's excellent legal staff reviews and drafts numerous advisory opinions in response to requests from eligible persons on how to proceed in various complex situations under the ethics laws. Opinions not only guide those requesting, but also the commission has built a library of formal opinions for others to follow. The Commission also administers the Executive Branch Lobbyist Registration laws.

The origin of the commission was to not only reprimand and impose sanctions on those who have done wrong, but to create an overall awareness that ethics and

integrity should be a standard for all serving in various governmental positions in Florida.

One of the original purposes for forming the commission was to make public at certain position levels the financial assets and liabilities of those serving in public office. A person's financial condition can influence their public action and the public has a right to know.

The Code of Ethics for Public Officers and Employees, adopted by the Legislature contains standards of ethical conduct and disclosures applicable to public officers, employees, candidates, lobbyists, and others in state and local government.

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist. The commission is charged with upholding those standards at all levels of government in the state.

Having been appointed two more times to the commission and now as the outgoing chairman, it has been a great honor to serve both the Commission and the State. We currently have one the best commissions we have ever had, men and women committed to ethics and integrity and the standards and laws charged to the Commission.

It is the intent of the act creating the commission to implement the objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

The Florida Commission on Ethics does its assigned tasks well and is a bright light for ethics and integrity in Florida.

Sincerely,

John Grant
Chair, Florida Commission on Ethics

2022 Commission Members

JOHN GRANT, *Chair*

Tampa - Attorney (R)

Appointed by Governor Ron DeSantis

GLENTON "GLEN" GILZEAN, JR., *Vice Chair*

Orlando - Non-profit Executive (R)

Appointed by Governor Ron DeSantis

MICHELLE ANCHORS

Fort Walton Beach - Attorney (D)

Appointed by Senate President Bill Galvano

WILLIAM P. CERVONE

Gainesville - Former State Attorney (R)

Appointed by House Speaker Chris Sprowls

DON GAETZ

Niceville - Retired Health Care Executive (R)

Appointed by Senate President Wilton Simpson

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)

Appointed by Governor Ron DeSantis

ED H. MOORE

Tallahassee - Association Executive (R)

Appointed by Governor Ron DeSantis

WENGAY M. NEWTON, SR.

St. Petersburg -

Former Member of the Florida House of Representatives (D)

Appointed by House Speaker Chris Sprowls

JIM WALDMAN

Fort Lauderdale - Attorney (D)

Appointed by Governor Ron DeSantis

Introduction & History

Section 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 2022.

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 38,257 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's jurisdiction was expanded with the adoption of Amendment 12 by Florida voters in 2018. The Constitutional provisions regarding abuse of office for a disproportional benefit were implemented December 31, 2020, and the implementation of the lobbying and post-officeholding provisions took effect December 31, 2022. The Commission also is charged with administering the Executive Branch Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and departments, Commissions, and agencies of the executive branch. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Reporting system home page at www.floridalobbyist.gov.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23 full-time equivalent positions.

Kerrie J. Stillman, Executive Director

Steven Zuilkowski, Deputy Executive Director and General Counsel

Legal Section

Under the supervision of the Deputy 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Elizabeth Miller and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Assistant General Counsel

Katharine Heyward, Attorney

Joseph Burns, Attorney

Investigative Section

The investigative staff, supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

A. Keith Powell, Investigations Manager

Ronald D. Moalli, Senior Investigator

Charlie Shotwell, Investigator

Tracey Maleszewski, Investigator

Ana Sanchez, Investigator

Brian Durham, Investigator

John Cizmada, Investigator

Marian Lambeth, Investigator

Complaints

Under the supervision of the Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 38,257 reporting officials and employees were notified of their filing requirements in 2022 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Keyana Green, Executive Secretary

Public Information & Administrative Section

Under the supervision of the Executive Director, the Chief Administrator oversees office technology, responds to general inquiries about the ethics laws, provides information regarding Commission practices and procedures to the press and the public, and oversees the administrative and clerical support staff who provide support services to the Commissioners and staff.

Administrative and Clerical Staff

Lynn Blais, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Vacant, Executive Secretary

Alex Rudd, Clerk (half-time)

Rachel Campbell, Clerk (half-time)

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration of executive branch lobbyist and compensation report filings of executive branch lobbying firms.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2022.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2022 (Amounts in dollars)

	Ethics General Revenue		Variance- Favorable (Unfavorable)
	Budget	Actual	
Revenues:			
Released General Revenue Appropriations	\$2,789,233	\$2,789,233	\$0
Fines*	0	23,590	\$23,590
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,789,233	2,812,823	23,590
Expenditures:			
Salaries and Related Benefits	1,893,549	1,690,873	202,676
Other Personal Services	470,480	415,879	54,601
Expenses	262,140	209,052	53,088
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	59,834	59,834	0
Risk management insurance	3,230	3,230	0
Legislative Carryforward **	2,616,065	35,255	2,580,810
Nonoperating***	100,000	0	100,000
Total Expenditures	5,405,298	2,414,123	2,991,175
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(2,616,065)	398,700	\$3,014,765
Budgetary Fund Balance, June 30, 2022		398,700	
Adjustment for Fines*		(23,590)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2022		\$275,110	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 312,772
FINES: \$ 4,700

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

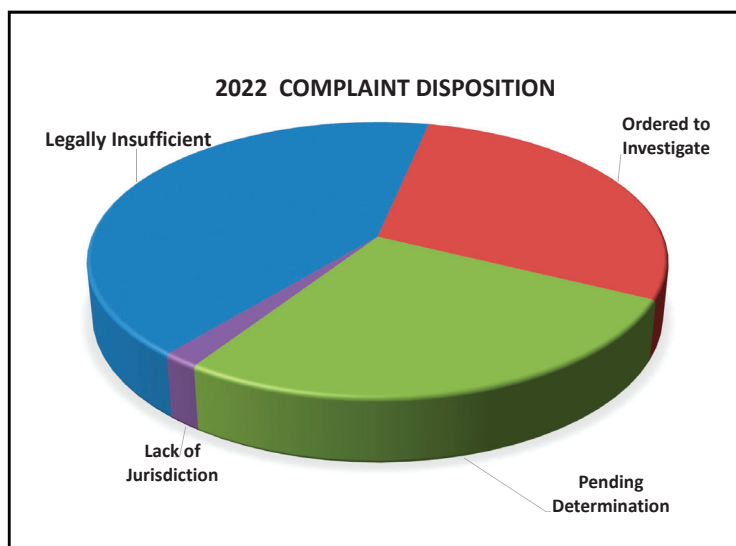
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. This section offers a profile of the Commission's workload

Complaints

Total number of complaints and referrals filed in 2022223

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	12	5.4%
State Employee	20	9.0%
District Elected	24	10.8%
District Appointed	2	0.9%
District Employee	10	4.5%
County Elected	36	16.1%
County Appointed	2	0.9%
County Employee	24	10.8%
Municipal Elected	53	23.8%
Municipal Appointed	10	4.5%
Municipal Employee	23	10.3%
Candidate	4	1.8%
Lobbyist	3	1.3%
TOTAL	223	100.0%

Of the 223 complaints and referrals received in 2022, 95 were dismissed for lack of legal sufficiency; 2 were dismissed because of lack of jurisdiction; 65 were ordered to be investigated; and 61 were pending a legal sufficiency determination, as of December 31.

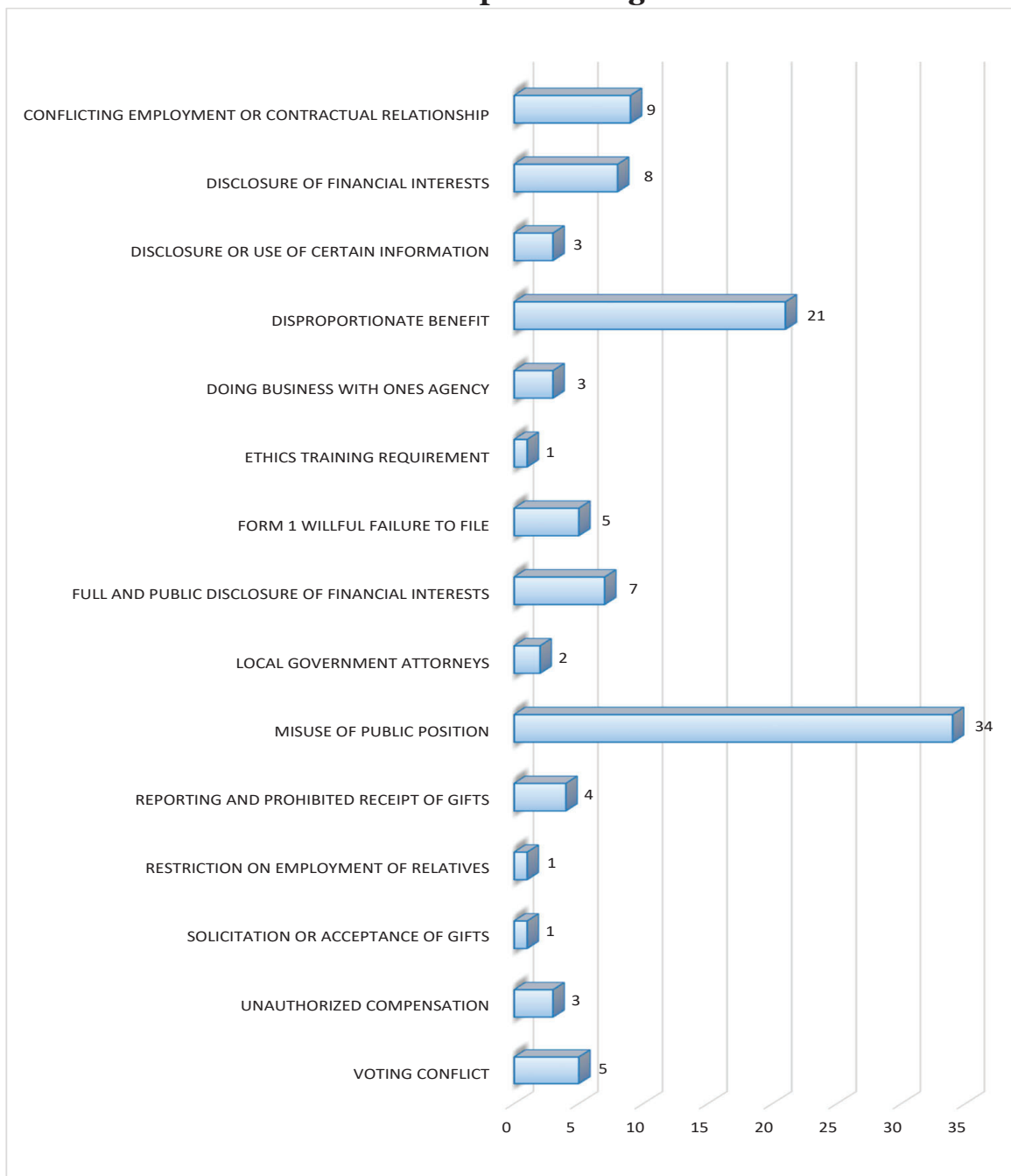


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 223 complaints and referrals received in 2022, 65 had been ordered to be investigated as of December 31, 2022. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Most complaints contained allegations concerning more than one area of law.

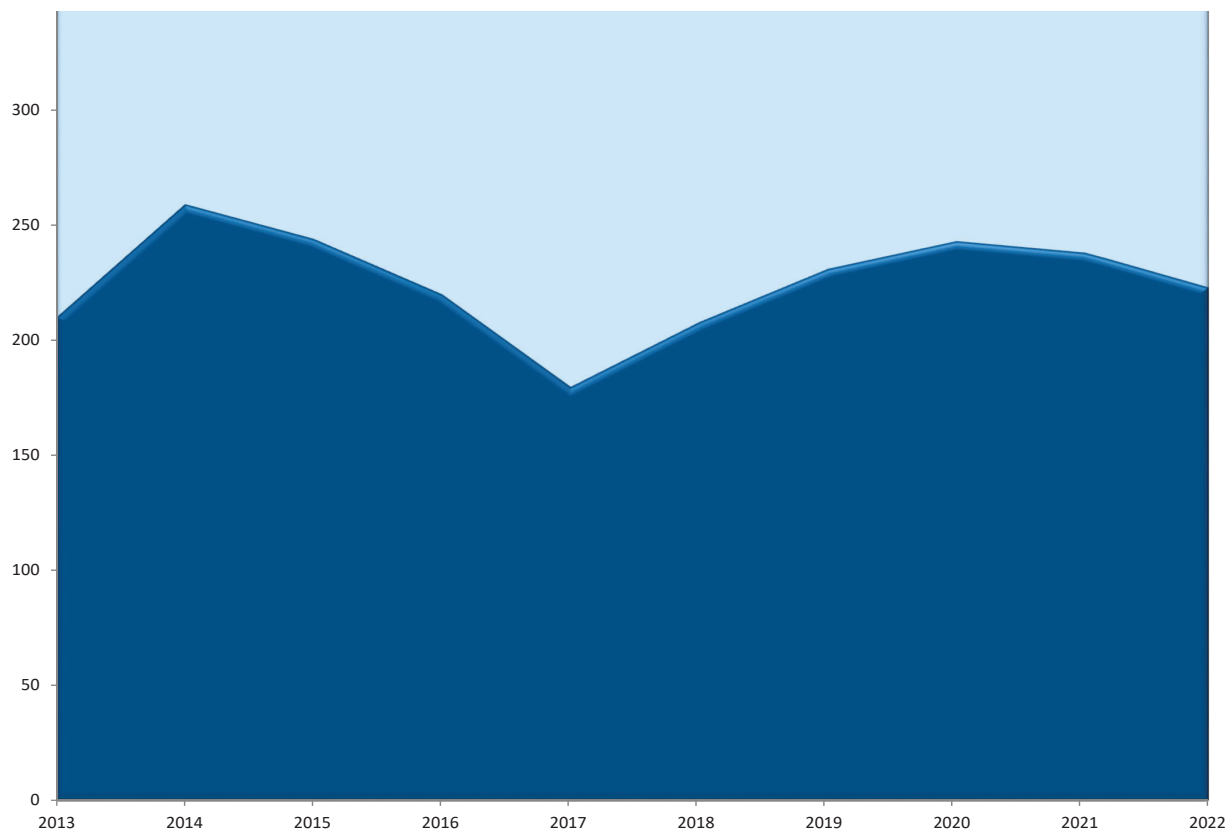
2022 Complaint Allegations



Ten Year History of Complaints

Over the past 10 years, the Commission's complaint numbers have remained relatively steady. However, it is anticipated that with the full implementation of Amendment 12, the Commission will see an increase in the number of complaints filed in the future, as the impact of the Amendment is fully realized.

2022.....	223
2021	238
2020.....	243
2019	231
2018	211
2017.....	180
2016.....	220
2015	244
2014	259
2013	210

Complaint History

Actions Taken on Complaints in 2022

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2022, across all active complaints.

Complaints & Mandatory Willfulness Investigations.....	227
Dismissed for lack of legal sufficiency	126
Dismissed for lack of jurisdiction	6
Probable cause hearings held	73
No probable cause - dismissed.....	44
Probable cause	23
Probable cause - no further action	5
Advocate's Motion to Dismiss	1
Stipulations	14
Violation	12
Rejected	2
Public hearings at the Division of Administrative Hearings.....	8
Violation	7
No Violation	1
Costs and attorney's fees petitions	1
Parties Settled - dismissed.....	0
Insufficient petition - dismissed	1
Statutorily-Required Investigation of Lobbying Firm Compensation Audits	4
Probable Cause.....	2
No probable cause.....	2

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS 232

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2022 Summary of Activity

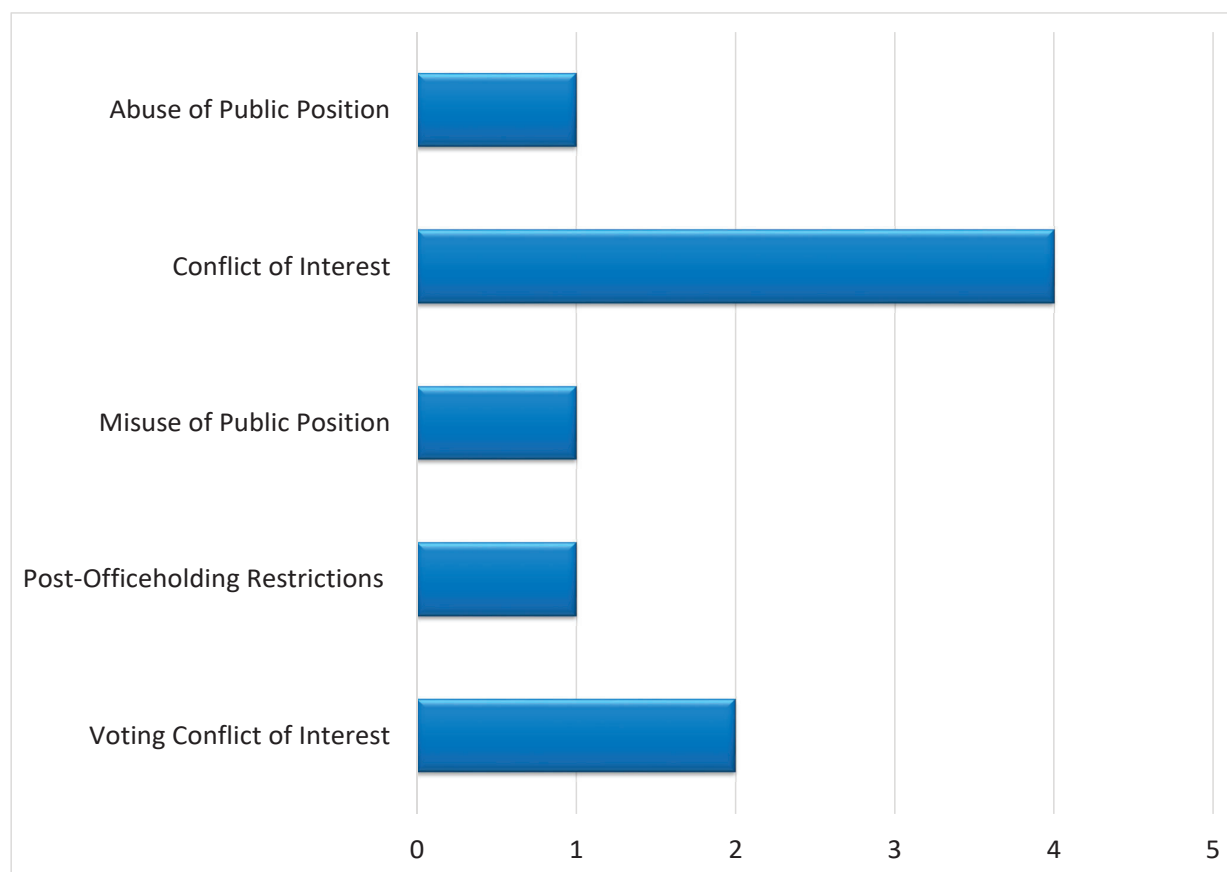
Total number of registered executive branch lobbyists	1,481
Total number of executive branch lobbying firms	317
Total number of principals represented by the lobbyists	12,312
Percent <i>increase</i> in number of principals from 2021 to 2022	1.39%
Total number of firms delinquent in filing their compensation reports	
October - December 2021	19
(<i>Filing deadline for fourth quarter 2021 was February 14, 2022</i>)	
January - March 2022	20
April - June 2022	10
July - September 2022.....	13
Total number of firms assessed a fine in 2022	
Fourth quarter 2021	13
(<i>Filing deadline for fourth quarter 2021 was February 14, 2022</i>)	
First quarter 2022.....	12
Second quarter 2022	8
Third quarter 2022	11
Number of appeals considered by the Commission in 2022.....	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 2021, the Commission on Ethics issued five advisory opinions, bringing the total issued since 1974 to 2,694.

Three of the opinions rendered in 2022 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2022. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered. The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2022:

- Judges of Compensation Claims
- Florida Department of Revenue's Property Tax Oversight Courses
- Department of Revenue's Duties & Responsibilities of Florida's Tax Collectors
- Florida Bar online Education Law workshop
- Florida Public Pension Trustees Association's Winter Conference
- The Florida Bar's Annual Sunshine Law, Public Records, & Ethics Conference
- Florida Court Clerks & Comptrollers Winter Conference
- The Florida Bar's City, County, & Local Board Certification Review Course
- Florida Justice Administrative Commission Conference
- Florida Department of Health Attorneys
- 2022 Conference of County Court Judges
- Excambia County senior staff
- Florida School Board Attorneys Association
- Broward County School Board
- Florida Association of Counties
- Florida Senate

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. Additionally the Commission was tasked with the development of an electronic filing system. The phased launch began January 1, 2022 with Form 6 filers. The system was paused in June and relaunched January 1, 2023. Form 1 filers will file electronically beginning January 1, 2024. The Commission has invested significant staff hours over the past year to the details of the development and launch of the system and the Commission expects significant workload increases with the rollout of the program.

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2021, 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 more than a 98% overall compliance with the annual reporting requirement in 2022. On the local level, 20 counties reported 100% compliance in 2022. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1992 to present.

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	5	280	285	98.2%
Baker	3	45	48	93.8%
Bay	1	269	270	99.6%
Bradford	0	63	63	100.0%
Brevard	14	772	786	98.2%
Broward	84	2309	2393	96.5%
Calhoun	0	30	30	100.0%
Charlotte	1	163	164	99.4%
Citrus	0	110	110	100.0%
Clay	1	219	220	99.5%
Collier	0	389	389	100.0%
Columbia	2	78	80	97.5%
Miami-Dade	147	2378	2525	94.2%
Desoto	2	67	69	97.1%
Dixie	1	34	35	97.1%
Duval	1	382	383	99.7%
Escambia	4	171	175	97.7%
Flagler	2	183	185	98.9%
Franklin	1	64	65	98.5%
Gadsden	6	92	98	93.9%
Gilchrist	0	40	40	100.0%
Glades	0	38	38	100.0%
Gulf	0	53	53	100.0%
Hamilton	1	47	48	97.9%
Hardee	2	54	56	96.4%
Hendry	0	96	96	100.0%
Hernando	1	87	88	98.9%
Highlands	5	146	151	96.7%
Hillsborough	76	1322	1398	94.6%
Holmes	0	69	69	100.0%
Indian River	0	237	237	100.0%
Jackson	2	176	178	98.9%
Jefferson	1	44	45	97.8%
Lafayette	0	19	19	100.0%
Lake	6	477	483	98.8%
Lee	25	1007	1032	97.6%
Leon	3	234	237	98.7%
Levy	1	122	123	99.2%
Liberty	0	29	29	100.0%
Madison	2	66	68	97.1%

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	10	501	511	98.0%
Marion	7	220	227	96.9%
Martin	0	250	250	100.0%
Monroe	0	205	205	100.0%
Nassau	3	189	192	98.4%
Okaloosa	5	323	328	98.5%
Okeechobee	0	79	79	100.0%
Orange	35	858	893	96.1%
Osceola	0	250	250	100.0%
Palm Beach	86	1562	1648	94.8%
Pasco	4	469	473	99.2%
Pinellas	10	1215	1225	99.2%
Polk	36	624	660	94.5%
Putnam	2	131	133	98.5%
Saint Johns	1	352	353	99.7%
Saint Lucie	2	283	285	99.3%
Santa Rosa	1	183	184	99.5%
Sarasota	2	380	382	99.5%
Seminole	12	411	423	97.2%
Sumter	2	152	154	98.7%
Suwannee	0	56	56	100.0%
Taylor	3	49	52	94.2%
Union	0	38	38	100.0%
Volusia	5	647	652	99.2%
Wakulla	0	62	62	100.0%
Walton	4	126	130	96.9%
Washington	0	61	61	100.0%
TOTAL-FORM 1 LOCAL	630	22137	22767	97.2%
TOTAL-FORM 1 STATE	79	12822	12901	99.4%
TOTAL-FORM 6 (NOT JUDGES)	6	1372	1378	99.6%
TOTAL-JUDGES (ACTIVE)	0	1022	1022	100.0%
TOTAL-JUDGES (SENIOR)	0	189	189	100.0%
OVERALL TOTAL	715	37542	38257	98.1%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1992 - 2022)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%
2021	38,519	604	98%
2022	38,257	715	98%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 97.2%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephoned filers to remind them to file. These reminders are not required by statute, but are part of the Commission's additional efforts to encourage compliance.
- Of the 22,767 individuals required to file, 630 were delinquent.
- 20 counties reported 100% compliance in 2022.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.4%. Postcard and telephone reminders also were used with these filers.
- Of the 12,901 individuals required to file, only 79 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.6%. Postcard and telephone reminders also were used with these filers.
- There were only 6 delinquencies out of a total of 1,378 individuals (excluding judges) required to file Form 6.

Summary of 2022 Overall Compliance

- Out of the 38,257 individuals who were non-judicial financial disclosure filers, there were only 715 (approximately 2%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2022. (The fines for late filings in 2022 recently have been assessed and will be reported in 2023).

Financial Disclosure Appeals 2022 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 21, 2022	6	0	0	0	0
March 4, 2022	0	0	0	0	0
April 22, 2022	5	0	0	0	0
June 3, 2022	1	0	0	0	0
July 22, 2022	4	0	2	0	0
September 9, 2022	0	0	0	0	0
October 21, 2022	0	0	0	0	2
December 2, 2022	1	0	0	0	0

2022 Legislative Recommendations

Conflicts of Interest

Section 112.313(7)(a), Florida Statutes, prohibits a public officer or employee from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, Section 112.3143, Florida Statutes, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters. The Commission also recommends Section 112.3215(9) be amended to allow the Commission to find probable cause, but then opt to take no further action.

Increase of Civil Penalties

Currently, Section 112.317, Florida Statutes, provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

Ethics Training

Pursuant to the provisions of Section 112.3142(2)(e), Florida Statutes, a constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which their term of office began. In 2019, the law was amended to require commissioners of community redevelopment agencies to complete 4 hours of ethics training. However, they were not included in the new office or new term of office exemption language contained in Section 112.3142(2)(e), Florida Statutes. As a result, CRA board members are required to take four hours of training regardless of when they take office, even if their start date is near the very end of the year. The Commission believes CRA board members should be added to the exemption language appearing in Section 112.3142(2)(e), Florida Statutes.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, unlimited in amount, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

IN THE CIRCUIT COURT OF THE 2ND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2024 CA 000283

TOWN OF BRINY BREEZES, FLORIDA, a
Florida municipal corporation, et al.,

Plaintiffs,

vs.

ASHLEY LUKIS, in her official capacity
as Chair of the Florida Commission on
Ethics, et al.,

Defendant.

VIDEOCONFERENCE DEPOSITION

OF

KERRIE STILLMAN

DATE TAKEN: Wednesday, April 10, 2024

TIME: 10:02 a.m.

PLACE: Zoom Videoconference

Examination of the witness taken before:

TONI FREEMAN GREENE, Court Reporter
United Reporting, Inc.
633 South Andrews Avenue, Suite 202
Fort Lauderdale, Florida 33301

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected
official of the Town of Briny
Breezes, et al.,

Plaintiff,

vs. Case No. 1:24-cv-20604-MD

ASHLEY LUKIS, in her official capacity
as Chair of the Florida Commission on
Ethics, et al.,

Defendant.

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633 South Andrews Avenue, Suite 202
Fort Lauderdale, Florida 33301

1 A P P E A R A N C E S:

2

Counsel for Plaintiffs:

3

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4

JEREMY SAUL ROSNER, ESQ.

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10

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I N D E X

WITNESS	PAGE
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E X H I B I T S
(Exhibits retained by Mr. Cole)

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1 PURSUANT TO NOTICE for the taking of
2 the deposition of KERRIE STILLMAN, upon oral
3 examination in the above-styled cause, at the
4 instance of the Plaintiffs, for the purposes of
5 discovery or use at trial or both, pursuant to
6 Florida Rules of Civil Procedure, proceedings
7 therefore were held before Toni Freeman Greene,
8 Court Reporter and Notary Public in and for the
9 State of Florida at Large, via Zoom
10 videoconference, on April 10, 2024, commencing at
11 10:02 a.m.

12 KERRIE STILLMAN, called as a witness
13 by the Plaintiffs, having been first duly sworn,
14 testified as follows:

15 THE WITNESS: I do.

16 DIRECT EXAMINATION

17 BY MR. COLE:

18 Q. Good morning. Can you please state
19 your full name for the record.

20 A. Kerrie Stillman.

21 Q. And Ms. Stillman, do you have a
22 position with the Commission on Ethics?

23 A. Yes.

24 Q. What is your position, please?

25 A. My position is executive director.

1 Q. And as executive director of the
2 Florida Commission on Ethics, what are your
3 responsibilities?

4 A. I'm hired by the Commission to oversee
5 the day-to-day operations of the office under the
6 direction of the Commission.

7 Q. And could you just very briefly tell
8 us your educational background?

9 A. I have a bachelor's degree and a
10 master's degree from Florida State University.
11 The master's is in communications, the bachelor's
12 is in political science.

13 Q. And after you graduated from college
14 and you were getting your master's, what were
15 your job experiences, generally?

16 A. I have devoted most of my professional
17 career to being a public servant. I've been with
18 the Ethics Commission for 29 years. I also spent
19 a few years in the private sector in marketing
20 and insurance and research.

21 Q. So when you said you were with the
22 Commission on Ethics for 29 years, is it the last
23 29 years?

24 A. There was a break in service, but I
25 first went to work with the Commission in

1 December of '92, and then there was a break in
2 service in the late '90s to early 2000s, and then
3 I came back to the Commission after being in a
4 variety of capacities here.

5 **Q. And where were you during your break**
6 **from the Florida Commission on Ethics?**

7 A. I was with a market research firm and
8 with a financial services firm working in
9 marketing for both of those.

10 **Q. So during the 29 years you've been**
11 **with the Commission on Ethics, what positions**
12 **have you held?**

13 A. I have held the position of complaint
14 coordinator, who served as clerk of the
15 Commission, I was the assistant to the executive
16 director, I was the public information officer
17 and the director of operations, and then deputy
18 executive director and then executive director.

19 **Q. Are there any positions that you**
20 **haven't had at the Commission on Ethics? You**
21 **don't have to answer that.**

22 **So you understand you're here today as**
23 **the corporate representative of the Commission on**
24 **Ethics; is that correct?**

25 A. Yes.

1 Q. All right. And you understand that,
2 as the corporate representative, I'll be asking
3 you questions and you'll be answering and giving
4 the position of the corporate rep of the
5 Commission on Ethics. You understand that?

6 A. Yes.

7 Q. Who decided that you would be the
8 corporate representative today?

9 A. It was a decision of myself and my
10 general counsel.

11 Q. And are you familiar with the basic
12 history of ethics and ethics regulation in
13 Florida?

14 A. Yes.

15 Q. So in the early '70s would it be
16 accurate to say that there were some serious
17 issues regarding corruption and conflicts in
18 Florida that led to new laws and to even the
19 creation of the Commission on Ethics?

20 A. Yes.

21 Q. And what types of conflicts and
22 corruption instances happened that led to the
23 government in Florida to act?

24 A. Well, there were a lot of things
25 during the Watergate era, at the time of

1 Watergate, that led to, you know, many states
2 taking a good look at the government corruption
3 laws and it led to ethics laws being passed.

4 Q. And in Florida there were some
5 specific instances of some elected officials,
6 mainly at the state level, that had taken bribes
7 or voted with conflicts of interest and issues
8 like that that were highly publicized at the
9 time; isn't that correct?

10 A. I would imagine there were. I'm not
11 specifically familiar with that.

12 Q. All right. And when was the
13 Commission on Ethics created?

14 A. Oh, in statute it came into being in
15 1974.

16 Q. So you're about to celebrate your 50th
17 anniversary.

18 A. This is our 50th year. Yes.

19 Q. Is there going to be some kind of big
20 party for the 50th anniversary or anything like
21 that?

22 A. We're not much for parties, but we
23 would -- we would commemorate it. Yes.

24 Q. Okay. So the Commission on Ethics was
25 created by legislation, by the state legislature,

1 is that correct, initially?

2 A. Yes.

3 Q. And back at that same time Governor
4 Askew was pushing for stricter ethics laws; is
5 that correct?

6 MR. STAFFORD: Object to form. Go
7 ahead and answer.

8 THE WITNESS: That's my understanding.
9 BY MR. COLE:

10 Q. And because the legislature wouldn't
11 pass everything he wanted, he decided to do that
12 through a constitutional method; is that correct?

13 A. That's my understanding.

14 Q. In fact, that was the first
15 constitutional amendment initiated by the people;
16 isn't that correct?

17 A. I don't know.

18 Q. So the constitutional amendment was
19 done through a petition drive and a certain
20 number of people, voters, signed a petition and
21 that put it on the ballot and then it got
22 enacted; is that correct?

23 A. Yes.

24 Q. And the constitutional amendment that
25 was enacted did not -- it only applied to, for

1 disclosure purposes, elected constitutional
2 officers and candidates for such offices and, as
3 may be determined by law, other public officers
4 and employees; is that correct?

5 A. Yes.

6 Q. And that's the language in Section --
7 I'm sorry -- Article II, Section 8, sub (a) of
8 the current Florida Constitution; is that
9 correct?

10 A. Yes.

11 Q. So the original Sunshine Amendment did
12 not include municipal elected officials; is that
13 correct?

14 A. Yes.

15 Q. And after it was enacted in 1976, in
16 1977 the same legislature actually passed a bill
17 to include municipal elected officials, but it
18 was vetoed by Governor Askew; isn't that correct?

19 A. I don't know.

20 Q. And when the Sunshine Amendment was
21 drafted, it could have included elected municipal
22 officials, but it didn't; isn't that correct?

23 MR. STAFFORD: Object to form.

24 THE WITNESS: It did not include.

25 BY MR. COLE:

1 Q. And they could have, right? I mean,
2 when they drafted it they could have included
3 elected municipal officials if Governor Askew
4 wanted to include them; isn't that correct?

5 A. Yes.

6 Q. Okay. So I'd like to show you
7 Exhibit A, which is Article II, Section 8 of the
8 Constitution of Florida. Do you have that in
9 front of you?

10 A. Yes.

11 Q. Can you look at this and identify this
12 as Article II, Section 8 of the Constitution?

13 A. Yes.

14 Q. So the Sunshine Amendment didn't
15 include all of Article II, Section 8. Over
16 future years there were some changes made. But
17 it did include Sections (a) through (e); is that
18 correct?

19 A. I don't know what it included to begin
20 with.

21 Q. Well, (f) deals with lobbying. Do you
22 recall that being enacted in 2018?

23 A. Yes.

24 Q. So that was not part of it initially,
25 correct?

1 A. Correct.

2 Q. So in Article II, Section 8, or Ethics
3 in Government -- it starts out "Ethics in
4 Government." That's the title, right, of
5 Article II, Section 8?

6 A. There is no title on this exhibit.

7 Q. Okay. Well, under Article II,
8 Section 8, it says, "Section 8, Ethics in
9 Government." Do you see that in boldface?

10 A. I see it now. Yes.

11 Q. That's the title I was talking about.
12 So would you agree that generally that's what
13 this is talking about, ethics in government?

14 A. Yes.

15 Q. And it starts out, "A public office is
16 a public trust." Do you see that?

17 A. Yes.

18 Q. And what do you view that to mean?

19 A. I view that to mean that public
20 officials hold their offices for the benefit of
21 the public. The public entrusts government
22 decisions to the elected officials.

23 Q. And then, the next sentence says:

24 "The people shall have the right to
25 secure and sustain that trust against abuse."

1 Do you see that?

2 A. Yes.

3 Q. And does the Commission on Ethics
4 administer laws that deal with the abuse of the
5 public trust?

6 A. Yes.

7 Q. Would you agree that that's pretty
8 much the overriding mission of the Commission on
9 Ethics is to protect against the abuse of the
10 public trust?

11 A. Yes, with -- in conflicts of interest.

12 Q. Would a conflict of interest be an
13 abuse of the public trust?

14 A. Yes.

15 Q. So that would be part of abuse of
16 public trust.

17 Well, in fact, on your letterhead
18 doesn't it say, like, a public office is a public
19 trust? There's something even on your letterhead
20 that uses those words; isn't that correct?

21 A. Yes.

22 Q. What does it say on your letterhead,
23 do you recall?

24 A. It says, "A public office is a public
25 trust."

1 Q. Okay. That's what I thought.

2 And then the Constitution goes on to
3 say, "To assure this right:" -- and it lists
4 various things. And the first is that:

5 "All elected constitutional officers
6 and candidates for such offices and, as may be
7 determined by law, other public officers,
8 candidates and employees, shall file full and
9 public disclosure of their financial interests."

10 Do you see that?

11 A. Yes.

12 Q. And has this, the full and public
13 disclosure of financial interests, has that been
14 implemented through a form?

15 A. Yes.

16 Q. What is that form called?

17 A. Form 6.

18 Q. So would you agree with me that the
19 Form 6, which is under sub (a) of Article II,
20 Section 8, is intended to assure the right
21 against abuse of the public trust?

22 A. Yes.

23 Q. Then Article II, Section 8 goes on and
24 talks about, in (c), talks about private gain,
25 anyone who breaches the public trust for private

1 gain. Would that be a conflict of interest that
2 you mentioned before?

3 A. Yes.

4 Q. And then, in Section (j) -- well,
5 which seems to be -- it's called "Schedule," that
6 details what initially would be included in the
7 full public disclosure of financial interests,
8 right, on the second page, sub (j), near the
9 bottom?

10 A. I see it. Yes. Thank you.

11 Q. All right. So it says "Schedule," and
12 then it says, "On the effective date of this
13 amendment and until changed by law." It talks
14 about what needs to be disclosed for full and
15 public disclosure; is that correct?

16 A. Yes.

17 Q. That could be changed by law, so the
18 legislature can change that if it wants; is that
19 correct?

20 A. Yes.

21 Q. And at the end, I guess it's, (j)(3),
22 it says:

23 "The independent commission provided
24 for in subsection (g) shall mean the Florida
25 Commission on Ethics."

1 Do you see that?

2 A. Yes.

3 Q. The Commission on Ethics is who
4 administers the financial disclosure under
5 Article II, Section 8(a); is that correct?

6 A. Yes.

7 MR. STAFFORD: Jamie, did you intend
8 to make that an exhibit?

9 MR. COLE: Yeah. We'll make that
10 Exhibit A.

11 (Plaintiff's Exhibit A was marked for
12 identification.)

13 BY MR. COLE:

14 Q. So I want to talk just briefly about
15 the Commission on Ethics. Who are the members of
16 the Commission on Ethics? Like, how are they --
17 strike that.

18 How are the members of the Commission
19 on Ethics appointed to office?

20 A. We have five members who are appointed
21 by the governor with no more than three from the
22 same political party. We have two members
23 appointed by the senate president, they have to
24 be from different political parties.

25 Two members appointed by the Speaker

1 of the House have to be from different political
2 parties. They serve two-year terms and they can
3 be reappointed to serve two full terms in
4 succession, although the law recently -- the law
5 this last session changed in that regard, and so
6 they can serve two terms total if that piece of
7 legislation is signed into law.

8 **Q. Did the Commission on Ethics propose**
9 **the term limit or was that something that was**
10 **done by the legislature on its own?**

11 A. No. That was a policy choice of the
12 legislature. The Commission did not make a
13 decision on it.

14 **Q. And so the governor, the president of**
15 **the senate and the Speaker of the House are the**
16 **ones who appoint the members?**

17 A. Yes.

18 **Q. And subject to the different parties,**
19 **can they appoint just anyone that they want?**

20 A. They can. One member of the
21 Commission must have -- must be a former local
22 government official.

23 **Q. But it's not specifying whether that's**
24 **one of the governor's appointees or the present**
25 **senate's appointees or a Speaker of the House**

1 appointees, right?

2 A. That's a governor's appointee.

3 Q. So one of the governors has to be a
4 former --

5 A. I believe. I believe there's a
6 governor -- yes.

7 Q. Do the appointees of the Commission on
8 Ethics have to also be approved by the senate?

9 A. The governor's appointees are accepted
10 through confirmation by the senate.

11 Q. The other -- the president of the
12 senate's appointees are not?

13 A. Correct.

14 Q. And the Speaker of the House's
15 appointees are not?

16 A. Correct.

17 Q. How many members are there currently
18 on the Commission on Ethics?

19 A. There are seven.

20 Q. So there's two vacant seats?

21 A. There are.

22 Q. And how long have those seats been
23 vacant?

24 A. We have one seat that has been vacant
25 since -- both seats -- I think one's been vacant

1 since December and the other has been vacant, I
2 believe, since December or January.

3 Q. So when you say December, that's
4 December of 2023?

5 A. That's correct.

6 Q. And the other has been vacant since
7 approximately that same time or possibly in
8 January of '24?

9 A. That's correct.

10 Q. Did those members resign?

11 A. Yes.

12 Q. And another member resigned in August
13 of '23; is that correct?

14 A. Yes.

15 Q. And is it correct that after the
16 legislature passed SB 774 three members of the
17 Commission on Ethics did resign?

18 A. That's correct. But I don't have
19 information that it was related to 774.

20 Q. Okay. You don't know why they
21 resigned, but time-wise, after SB 774 took effect
22 in July 1 of '23, effective in 2024, three
23 members of the Commission on Ethics have
24 resigned?

25 A. That's correct.

1 Q. And of the five current governor
2 appointees, have they all -- strike that.

3 There's two vacancies, right? Whose
4 vacancies are there, Governor-appointee
5 vacancies, senate or House?

6 A. One is a governor's appointment spot
7 and one is a senate appointment spot.

8 Q. And those have been vacant now for
9 three or four months, right?

10 A. Yes.

11 Q. Do you know why they haven't been
12 filled?

13 A. No.

14 Q. And for the four governor appointees
15 that are on the Commission on Ethics, have they
16 all been confirmed by the senate?

17 A. No.

18 Q. And how many of them have not been
19 confirmed by the senate?

20 A. I believe that two are pending
21 confirmation.

22 Q. And when were those two appointed?

23 A. One was appointed in August of '23 and
24 the other was appointed right around that same
25 time. We had a number of appointments that came

1 within a few meetings --

2 Q. So -- I didn't mean to interrupt. I
3 am so sorry.

4 A. I believe those appointments were in
5 the July, August, September timeframe.

6 Q. But both of those appointments were
7 prior to the 2024 legislative session; is that
8 correct?

9 A. Yes.

10 Q. So the senate had the opportunity to
11 confirm both of those appointments in the 2024
12 session but did not do so; is that correct?

13 A. Correct.

14 Q. But they continue to serve on the
15 Commission on Ethics even though the senate chose
16 not to confirm them; is that correct?

17 A. Yes.

18 MR. STAFFORD: Object to form.

19 BY MR. COLE:

20 Q. I want to talk just briefly about what
21 the Commission on Ethics does.

22 So as far as financial disclosure,
23 what does the Commission on Ethics do?

24 A. The Commission maintains a list of
25 individuals required to file financial

1 disclosure, we're required to notify individuals
2 of their annual disclosure requirement, we're
3 required to notify them when they don't file, and
4 if they fail to file by the expiration of the
5 grace period, then there are statutorily assessed
6 fines that accrue.

7 We're also required to investigate
8 individuals with a \$1500 fine to determine
9 whether or not their failure to file was willful.

10 **Q. And if you decide that it was willful,**
11 **what happens?**

12 A. If the Commission determines that a
13 filer willfully failed to file a disclosure form
14 and they approved the maximum \$1500 fine, the
15 Commission's only recommendation as to penalty
16 that they can make is removal from office.

17 **Q. Just so I understand, so if they have**
18 **not filed the form and you have imposed a \$1500**
19 **fine and then you decide it was a willful failure**
20 **to file, you can then recommend removal from**
21 **office and that's the only thing you can do?**

22 A. That is the only penalty for a willful
23 failure to file. I would also add that filers
24 have an opportunity to appeal their fine. That
25 is assessed by the Commission to have that fine

1 reduced or waived.

2 Q. Does that happen often?

3 A. Yes. We receive appeals to fines.

4 Q. And does the Commission on Ethics
5 often waive the fines?

6 A. Yes. When the requirement for unusual
7 circumstances is met.

8 Q. In fact, one of your Commission on
9 Ethics members right now has an appeal of a fine
10 that's on an upcoming agenda; isn't that correct?

11 A. Yes.

12 Q. And the staff is recommending that it
13 be waived; is that correct?

14 A. Yes.

15 Q. I would assume that that commissioner
16 will not participate in that issue; is that
17 correct?

18 A. Correct. They will not act as a
19 commissioner during consideration of that matter.

20 Q. Because they have a conflict of
21 interest, right?

22 A. Correct.

23 Q. You would agree that it would be a
24 conflict of interest for a member of the
25 Commission on Ethics to vote to waive a fine that

1 was being imposed against themselves; is that
2 correct?

3 A. A voting conflict.

4 Q. That would be a voting conflict,
5 right?

6 A. Yes.

7 Q. Okay. Does a voting conflict on the
8 Commission on Ethics work the same as a city
9 voting conflict, where they have to announce it
10 at a public meeting and then they have to fill
11 out -- they can't vote and they have to fill out
12 a Form 9, I think, or --

13 A. No. It's a Form 8A for state-level
14 officials. The law operates a little bit
15 differently for state-level officials in terms of
16 when they must abstain from the vote. But yes,
17 announce abstain file form.

18 Q. Okay. And the rules that you have
19 just explained for financial disclosure applies
20 to both Form 1 and Form 6; is that correct?

21 A. Financial -- I'm sorry. Can you
22 repeat the question?

23 Q. The policy you described with the
24 fines applies for the failure to file any
25 financial disclosure form, be it Form 1 or

1 Form 6, correct?

2 A. Yes. Yes.

3 Q. And just so that the record is clear,
4 what's a Form 1?

5 A. A Form 1 is a statement of financial
6 interest. It's another way to file disclosure.

7 Q. And prior to SB 774, elected municipal
8 officials filed a Form 1, and now, starting in
9 2024, they're going to have to file a Form 6; is
10 that correct?

11 A. Yes.

12 Q. So if an official files a -- either a
13 Form 1 or a Form 6, does the Commission on Ethics
14 look at it when it's filed?

15 A. No.

16 Q. But the Commission on Ethics puts it
17 on the Commission on Ethics website so anyone in
18 the world who has internet access can look at it;
19 is that correct?

20 A. The law requires that the forms be
21 published.

22 Q. All right. And how does the
23 Commission on Ethics publish them?

24 A. In the past the Commission scanned the
25 Form 6s into a PDF and posted them on our

1 website. With electronic filing that's done via
2 the electronic system, but also on our website.

3 Q. So when an elected official or any
4 official fills out a Form 1 or a Form 6 in 2024,
5 it will automatically be placed on your website,
6 which is accessible through the internet; is that
7 correct?

8 A. Yes.

9 Q. And prior to you going to this
10 electronic system the Form 1s were not filed with
11 the Commission on Ethics; is that correct?

12 A. Form 1s for local filers were not
13 previously filed with the Commission on Ethics.

14 Q. So for elected municipal officials,
15 let's just talk about that for a minute, they
16 would file a Form 1 and they would file it with
17 their local supervisor of elections; is that
18 correct?

19 A. Yes.

20 Q. And that's not just when they're first
21 running, but during their entire term of office,
22 that's where they would file a Form 1?

23 A. Yes.

24 Q. And would the Supervisor of Elections
25 send a copy of that to the Commission on Ethics?

1 A. No.

2 Q. So would the Supervisor of Elections
3 post it on the Supervisor of Elections website?

4 A. I don't know.

5 Q. They weren't required to, were they?

6 A. The law did not require the Form 1s be
7 posted on the internet.

8 Q. So prior to 2024, if an elected
9 municipal official filed a Form 1 with the
10 Supervisor of Elections, if someone from the
11 public wanted to see it they would have to go to
12 the Supervisor of Elections and do a public
13 records request, right?

14 A. I don't know that they would have to
15 make the public records request in person, but
16 they would make a public records request for
17 them. Yes.

18 Q. But if a city wanted, a city could
19 have its own requirement that those forms be
20 filed on their own website. And some cities did
21 that, didn't they?

22 A. I don't know.

23 Q. In fact, some counties like Broward
24 County required cities to post elected municipal
25 officials' Form 1s on the city website.

1 MR. STAFFORD: Object to form.

2 BY MR. COLE:

3 Q. Did you know that?

4 A. No. I'm not familiar with the various
5 local requirements in different areas of Florida.

6 Q. All right. So there was no
7 requirement that Form 1s would be placed on the
8 internet until this year; is that correct?

9 A. Not under state law.

10 Q. You testified that the Commission on
11 Ethics doesn't look at the Form 1 or the Form 6
12 when it's filed, but if someone sees it and
13 someone thinks something is not correct in it,
14 they could file an ethics complaint; is that
15 correct?

16 A. Yes.

17 Q. And that would be filed with the
18 Commission on Ethics?

19 A. Yes.

20 Q. Okay. And the process that would
21 follow from that point forward would be the same
22 as any other ethics complaint; is that correct?

23 A. I'm sorry. Could you repeat the
24 question? There's a lot of background noise. I
25 have trouble hearing.

1 Q. Oh, okay. I'm sorry.

2 If someone filed a complaint for an
3 elected official not meeting the financial
4 disclosure Form 1 or Form 6 properly, the process
5 the Commission on Ethics would use to process and
6 handle that complaint is the same as any other
7 ethics complaint; is that correct?

8 A. Yes.

9 Q. All right. So can you just go -- I
10 want to just go through the process, the
11 complaint process.

12 So let's say someone wants to file an
13 ethics complaint. Can they do it anonymously?

14 A. No.

15 Q. So they have to give their name in
16 order to do that; is that correct?

17 A. Yes.

18 Q. And they also have to give their
19 contact information, their address; is that
20 correct?

21 A. Yes.

22 Q. And they have to swear that the
23 information is correct. It's a notarized form;
24 isn't that correct?

25 A. Yes. It is a notarized form.

1 Q. Does the complaint have to be based on
2 personal knowledge?

3 A. Not at this time.

4 Q. But if the governor signs a bill that
5 was just passed, it would have to be based on
6 personal knowledge; is that correct?

7 A. Personal knowledge or information
8 other than hearsay. Yes.

9 Q. And can the Commission on Ethics
10 initiate its own complaint?

11 A. No. The only self-initiation, if you
12 will, is the legal requirement that the
13 Commission look at those who failure to file the
14 forms and do a willful investigation. But other
15 than that there is no self-initiation.

16 Q. So if someone files a form but does
17 not complete the information correctly and a
18 complaint is filed, the Commission on Ethics can
19 investigate that complaint; is that correct?

20 A. If the complaint allegations are
21 legally sufficient to allege a possible
22 violation, then yes, the Commission investigates
23 the complaint.

24 Q. So if someone files a Form 6 and it
25 says their net worth is a million dollars and

1 someone files an ethics complaint and they say --
2 in the Form 6 they say their net worth is a
3 million dollars, there's no way that that's true,
4 and that's all it says, would that be a legally
5 sufficient ethics complaint that could create an
6 investigation?

7 A. No.

8 Q. So in the complaint they need to give
9 an explanation for why the information on the
10 disclosure is not correct; is that correct?

11 A. Yes.

12 Q. And as of now it doesn't have to be
13 based on personal knowledge, but if the Governor
14 signs that bill it will have to be based on
15 personal knowledge?

16 A. Yes.

17 Q. So when an ethics complaint is
18 received for any ethics issue, the first thing
19 that happens is, there's a determination of legal
20 sufficiency; is that correct?

21 A. Yes. That is the first step in the
22 process.

23 Q. And who does that? Who looks at it to
24 determine if it's legally sufficient?

25 A. It gets assigned to a member of our

1 legal staff who drafts the legal sufficiency and
2 then that is reviewed by the general counsel and
3 by me.

4 Q. So do you make the decision it's
5 legally sufficient or does it go to the
6 Commission on Ethics?

7 A. If there is a recommendation that the
8 complaint is legally insufficient and should be
9 dismissed, that goes before the Commission for
10 consideration during an executive session
11 meeting. If the complaint is legally sufficient,
12 then I sign the order to investigate.

13 Q. So if you believe it's legally
14 sufficient, it doesn't go to the Commission on
15 Ethics, it just proceeds to the next step?

16 A. That's correct.

17 Q. But if you believe that it's not
18 legally sufficient, you take it to the Commission
19 on Ethics in a private session and they can
20 either agree with you or not agree with you?

21 A. Correct.

22 Q. Okay. And if they agree with you,
23 it's just dismissed and no one from the public
24 ever knows about it; is that correct?

25 A. No. That's not correct.

1 Q. So if it is dismissed it still becomes
2 a matter of public record?

3 A. Yes. All complaints, although they're
4 confidential when they're filed, they're
5 confidential and exempt from public records law,
6 once the Commission makes the decision as to that
7 case, whether it be dismissed or whether it be a
8 decision related to probable cause or no probable
9 cause, the complaint becomes public record when
10 that order is entered.

11 Q. Okay. So assuming that you determine
12 it is legally sufficient, what's the next step in
13 the complaint process?

14 A. The preliminary investigation.

15 Q. And who does that?

16 A. A member of our investigative staff.

17 Q. I don't mean to go out of order, but
18 how many people work for the Commission on
19 Ethics? Is there about 25 people?

20 A. It's less than 25 FTEs. I think we're
21 sitting at 20, 21 FTEs right now.

22 Q. So you're the executive director, so
23 you're one. Just generally, without giving me
24 names, what is the groups of people that work for
25 the Commission on Ethics?

1 A. Well, we have the deputy executive
2 director and general counsel, we have three
3 lawyers currently who work under its direction,
4 we have three financial disclosure staff members,
5 eight investigators.

6 We have a complaint coordinator who
7 serves as clerk for the Commission and then we
8 have five FTEs that are administrative support
9 staff.

10 And then we have one lobbyist
11 registrar who is the executive branch lobbyist
12 registrar who works in an office downtown with
13 the legislative office registrar.

14 **Q. So now let's go back. After the**
15 **preliminary investigation is done, what's the**
16 **next step in the complaint process?**

17 A. Once the preliminary investigation is
18 concluded a copy of that is provided to the
19 respondent. That's the person the complaint is
20 filed against. They have an opportunity to
21 respond in writing to that and we schedule the
22 matter for a probable cause hearing to be held in
23 executive session.

24 The complaint file, including the
25 investigative report, is also provided to the

1 Commission advocate. The Commission advocates do
2 not work in the Commission on Ethics or with the
3 Commission on Ethics, they are employees of the
4 Office of the Attorney General and they review
5 and prosecute ethics cases.

6 So the investigative report and file
7 is sent to them for their review and analysis and
8 for them to make a written recommendation as to
9 whether or not there's probable cause.

10 Q. And so they're going to have kind of
11 like a prosecutor?

12 A. Yes.

13 Q. So if they don't think there's
14 probable cause, what happens at that point?

15 A. They write a recommendation as to
16 whether or not there's probable cause. A copy of
17 that goes to the respondent so they can reply in
18 writing, and that is a part of the file that's
19 under consideration by the full Commission during
20 the probable cause hearing.

21 Q. And does the advocate make his or her
22 recommendation as to probable cause before or
23 after the respondent gets to give their side of
24 the story?

25 A. They do not have to wait for a

1 response from the respondent to the investigative
2 report to file the recommendation. Sometimes
3 those responses are filed prior to the
4 recommendation and sometimes not.

5 **Q. All right. So then, the next step**
6 **would be that the Commission on Ethics, in a**
7 **private session, determines whether or not**
8 **there's probable cause; is that correct?**

9 A. That is correct. The respondent, and
10 if they have counsel, can attend those meetings
11 and have the opportunity to address the
12 Commission.

13 **Q. And then, let's assume they find**
14 **there's not probable cause, the Commission on**
15 **Ethics. Then it's dismissed; is that correct?**

16 A. That's right. Upon the issuance of
17 their public report the matter becomes a public
18 record.

19 **Q. But if they find that there is**
20 **probable cause, what happens next?**

21 A. Also becomes public record upon the
22 entering of their order finding probable cause,
23 and then the matter goes to what we call the
24 final action stage, where the respondent is
25 entitled to an evidentiary hearing before an

1 administrative law judge or they could choose to
2 reach a settlement agreement with the Commission
3 advocate.

4 **Q. If they reach a settlement it goes to**
5 **the Commission on Ethics to approve the**
6 **settlement?**

7 A. Yes. In a public session meeting the
8 Commission considers the settlement agreement.

9 **Q. And if there is no settlement it goes**
10 **to an administrative law judge who makes**
11 **recommendations to the Commission on Ethics?**

12 A. There's a recommended order that's
13 issued by the administrative law judge.
14 Exceptions can be filed. That is then heard by
15 the Commission for final action during the public
16 session meeting.

17 **Q. And then the Commission on Ethics**
18 **hears it and either they agree with the**
19 **recommended order and enter an order or they**
20 **disagree, then they make their decision; is that**
21 **correct?**

22 A. They'll take final action, finding a
23 violation or finding no violation, and recommend
24 a penalty if appropriate.

25 **Q. All right. So if the Commission on**

1 **Ethics finds violation, what penalties can they**
2 **impose?**

3 A. There's a range of penalties in
4 112.317 that can depend on the -- whether it's a
5 former official employee or a current official.

6 But in general it can be public,
7 censure reprimand, restitution, suspension,
8 demotion, a reduction in salary, removal from
9 office.

10 But, by far the most common penalty is
11 a civil penalty. For a long time that penalty
12 was \$10,000 per violation. With legislation, I
13 think it was part of 774, the civil penalty
14 amount was raised to \$20,000 per violations for
15 allegations that occurred after that particular
16 civil penalty was written.

17 **Q. If a person is already out of office,**
18 **is a civil penalty the only thing that can be**
19 **imposed at that point?**

20 A. Yes. Public censure and reprimand as
21 well.

22 **Q. Okay. Gotcha.**

23 So if -- let's just say there's an
24 elected official who is currently in office, a
25 municipal elected official, and they really don't

1 want to fill out this Form 6 and they resign now.
2 They're required within 60 days to file a type of
3 Form 6, right?

4 A. That's correct.

5 Q. If they say, I'm not doing it, they
6 can be imposed the automatic fine, \$1500, but
7 other than that --

8 A. (Inaudible.)

9 Q. What?

10 A. No.

11 Q. Okay. They can't be imposed a fine?

12 A. The automatic statutory fine of \$25 a
13 day up to 1500 is only for the annual filing
14 that's due July 1st with a grace period to
15 September 1st.

16 For the 6F or the 1F, there's no
17 automatic statutory penalty. There would --
18 there could only be the possibility of a civil
19 penalty if a complaint is filed and ultimately a
20 violation is found.

21 Q. So if an elected official doesn't file
22 the form, they can't be falling automatically,
23 but someone can file a complaint that they didn't
24 file the form and then they would have to pay
25 a up to \$20,000 penalty?

1 A. If they were found in violation for
2 failure to file a Form 6F, ultimately the
3 Commission would make a recommendation of a
4 penalty.

5 Q. Okay. So I want to talk a little bit
6 more about the purpose of financial disclosure.
7 We already talked about the Constitution, which
8 basically says it's to assure the people's right
9 to be secure against abusive of public trust.

10 And you would agree with me that's the
11 primary purpose of the financial disclosure; is
12 that correct?

13 A. That is the primary purpose of the
14 ethics laws. Yeah.

15 Q. Okay. And I want to just turn to
16 Exhibit B.

17 MR. STAFFORD: Which one is that?

18 MR. COLE: B. B, as in boy. It's
19 the -- well, I'm going to ask her what it is
20 in a second. Do you see the second exhibit?

21 MR. STAFFORD: Are you talking about
22 the amended complaint?

23 MR. COLE: No. The documents that
24 I -- the composite exhibits that we sent to
25 you.

1 MR. STAFFORD: They didn't have an
2 exhibit number or letter, we just printed
3 them out in order. The second one we
4 have -- we have -- the first one's a
5 deposition notice, the second was the
6 amended complaint.

7 If you just give us a title we can
8 pull it up.

9 MR. COLE: Okay. They were actually
10 bookmarked and had A, B, C. I guess you
11 didn't see the bookmark. It's okay.

12 It's the Guide to the Sunshine
13 Amendment.

14 MR. STAFFORD: That's Number 6. And
15 this is Exhibit B?

16 MR. COLE: Yeah. We're going to make
17 that Exhibit B.

18 (Plaintiff's Exhibit B was marked for
19 identification.)

20 BY MR. COLE:

21 **Q. And can you identify what Exhibit B**
22 **is?**

23 A. It's the Florida Commission on Ethics
24 Guide to the Sunshine Amendment and Code of
25 Ethics for Public Officers and Employees.

1 Q. Is this something that's put out by
2 the Florida Commission on Ethics?

3 A. It is.

4 Q. And why is this put out? What's the
5 purpose of this?

6 A. We often refer to it as a citizens
7 guide to the ethics laws. It's an easy way to
8 digest the laws as opposed to reading the
9 statutes.

10 Q. But this is put out to inform the
11 public about ethics laws; is that correct?

12 A. Yes.

13 Q. And if you could turn to page 14,
14 under F, "Disclosures"; do you see that?

15 A. Yes.

16 Q. So under "Disclosures," the first
17 sentence says:

18 "Conflicts of interest may occur when
19 public officials are in a position to make
20 decisions that affect their personal financial
21 interests."

22 Then it says:

23 "This is why public officers and
24 employees, as well as candidates who run for
25 public office, are required to publicly disclose

1 their financial interests."

2 Do you see that?

3 A. Yes.

4 Q. So do you agree that the reason that
5 public officers are required to publicly disclose
6 their financial interest is to avoid conflicts of
7 interest?

8 A. Yes.

9 Q. And it also says:

10 "The disclosure process serves to
11 remind officials of their obligation to put the
12 public interest above personal considerations."

13 Do you see that?

14 A. Yes.

15 Q. Do you view that as the primary
16 purpose of it or is that just another thing that
17 it accomplishes?

18 A. It's -- it's one of the things that it
19 accomplishes.

20 Q. And it says:

21 "It also helps citizens to monitor the
22 considerations of those who spend their tax
23 dollars and participate in public policy
24 decisions or administration."

25 Again, is that something that is just

1 something else that it accomplishes or is that
2 the primary purpose?

3 A. That's one of the things.

4 Q. Right. But it's not one of the
5 primary -- the primary purpose is to avoid these
6 conflicts of interest, right?

7 A. I'm sorry. Say that again?

8 Q. The purpose of it is to avoid the
9 conflicts of interest, although it also does help
10 citizens monitor; is that correct?

11 MR. STAFFORD: Object to form.

12 THE WITNESS: Yes.

13 BY MR. COLE:

14 Q. And I'd like you to go a couple of
15 exhibits later. It's 112.3144. It's a Florida
16 statute.

17 MR. STAFFORD: 3144?

18 MR. COLE: Yes. 3144.

19 MR. STAFFORD: That's number 8.

20 MR. COLE: That would be Exhibit D,
21 actually, not C.

22 MR. STAFFORD: C. C, as in Charlie?

23 MR. COLE: No. D, as in dog. I took
24 it out of --

25 MR. STAFFORD: Did we skip C?

1 MR. COLE: Yes.

2 MR. STAFFORD: Okay.

3 MR. COLE: Sorry about that. We're
4 just going to make it as D.

5 (Plaintiff's Exhibit D was marked for
6 identification.)

7 BY MR. COLE:

8 Q. Do you see Section 112.3144 in front
9 of you?

10 A. Yes.

11 Q. And is this Section 112.3144, Florida
12 Statutes?

13 A. Yes.

14 Q. And you're familiar with this statute?

15 A. Yes.

16 Q. This is the section about full and
17 public disclosure of financial interests, right?

18 A. Yes.

19 Q. And this is basically the statute that
20 implements the constitutional requirement for
21 full and public financial disclosure?

22 A. Yes.

23 Q. If you could just turn to the last
24 page of the exhibit, it's section 11(c) near the
25 top.

1 A. Okay.

2 Q. 11(c) says:

3 "For purposes of this section, an
4 error or omission is immaterial, inconsequential,
5 or de minimis if the original filing provided
6 sufficient information for the public to identify
7 potential conflicts of interest."

8 See that?

9 A. Yes.

10 Q. Okay. So would you agree that what's
11 really important in these financial disclosures
12 is making sure that there's sufficient
13 information for the public to identify potential
14 conflicts of interest?

15 MR. STAFFORD: Object to form.

16 THE WITNESS: Should I answer?

17 MR. STAFFORD: Yes. Go ahead and
18 answer. Sorry.

19 THE WITNESS: Yes. The original
20 filing is to provide sufficient information
21 to identify the potential conflicts of
22 interest.

23 BY MR. COLE:

24 Q. All right. And the purpose of the
25 Form 6 is to provide this information for the

1 public to identify potential conflicts of
2 interest, right?

3 MR. STAFFORD: Object to form. You
4 can answer.

5 THE WITNESS: Yes.

6 BY MR. COLE:

7 Q. All right. That's consistent with
8 what you've been testifying to all morning, which
9 is, the purposes is to avoid conflicts of
10 interest. That's the main focus of this, right?

11 A. Yes.

12 MR. COLE: Okay. If you don't mind,
13 I'm going to take a one or two-minute break
14 because I have to get some water too.

15 MR. STAFFORD: Can we take five so
16 everybody gets a chance to --

17 MR. COLE: Sure. Why don't we take a
18 five-minute break. So we'll come back at
19 11:03.

20 MR. STAFFORD: Okay.

21 MR. COLE: Okay. Thanks.

22 (A brief recess was taken.)

23 (Plaintiff's Exhibit C was marked for
24 identification.)

25 BY MR. COLE:

1 Q. So I'd like you to look at the
2 exhibit -- it's the exhibit from the website of
3 the Commission on Ethics. It says "Financial
4 Disclosure Information" at the top. It should be
5 right before the one that was marked as
6 Exhibit D. Do you have that?

7 A. Yes.

8 Q. So can you identify Exhibit C as two
9 pages from the Commission on Ethics website?

10 MR. STAFFORD: Now, Jamie, this is
11 Exhibit C, as in Charlie?

12 MR. COLE: Yes. I just had them in
13 that order, so I'm going to do it as C.

14 MR. STAFFORD: Okay.

15 MR. COLE: And I know we're out of
16 order and I apologize, but it just makes it
17 easier to do it that way.

18 BY MR. COLE:

19 Q. Can you identify this as two pages
20 from the Commission on Ethics website?

21 A. I have three pages from the website.

22 Q. Okay. Yes. The third page is just a
23 couple lines, right? Okay. So the first -- and
24 who is responsible for the Commission on Ethics
25 website?

1 A. We are, at the office, the staff.

2 Q. Okay. So the first section says,
3 "What is the purpose of filing disclosure forms?"

4 Do you see that?

5 A. Yes.

6 Q. And it says:

7 "Financial disclosure is required of
8 public officials and employees because it enables
9 the public to evaluate potential conflicts of
10 interest, deters corruption and increases public
11 confidence in government."

12 Do you see that?

13 A. Yes.

14 Q. So the first part of that is the
15 conflicts of interest, which is what we've been
16 talking about.

17 The deterring corruption, is that part
18 of protecting against the abuse of public trust
19 also?

20 A. Yes.

21 Q. So would you agree with me that the
22 real purpose of the financial disclosure is to
23 protect against the abuse of public trust, which
24 is what the Constitution says?

25 A. Yes.

1 Q. And that would include conflicts of
2 interest and that would also include deterring
3 corruption, correct?

4 A. Yes.

5 Q. What is corruption?

6 MR. STAFFORD: Object to form.

7 THE WITNESS: Are you looking for a
8 dictionary definition or what --

9 BY MR. COLE:

10 Q. No, no. In the context of the
11 Commission on Ethics you're saying, you know, the
12 purpose of the financial disclosure, you have the
13 conflicts of interest and deterring corruption.

14 So would you agree that if someone is
15 abusing the public trust, that would be a type of
16 corruption, right?

17 A. That can be a type of corruption.
18 Yes.

19 Q. If you're attempting a bribe, is that
20 corruption?

21 A. Yes.

22 Q. Any unlawful compensation would be
23 corruption, correct?

24 A. Yes.

25 Q. And a conflict of interest -- you

1 know, a voting conflict of interest, if you vote
2 for something that financially benefits yourself,
3 that's part of corruption too, isn't it?

4 A. It's a conflict of interest. Yes.

5 Q. All right. Now, this increasing
6 public confidence in government, that's not --
7 that's something you want to have happen, but
8 that's not something that protects against abuse
9 of the public trust, right?

10 That's kind of just another ancillary
11 benefit to financial disclosure, but the real
12 purpose is to prevent against the abuse of the
13 public trust, right?

14 A. Strict transparency. Yes.

15 Q. Okay. Well, transparency goes beyond
16 just breaching the public trust, right? So --

17 I'm trying to understand what the real
18 purpose of financial disclosure is. And when you
19 talk about transparency, is that the same as a
20 conflict of interest?

21 I mean, transparency is just knowing
22 what's happening in government, like the Sunshine
23 Law and those types of things, right?

24 MR. STAFFORD: Object to form.

25 THE WITNESS: Well, I think that

1 transparency in the ethics laws, financial
2 disclosure, all of those things go back to a
3 public office being a public trust and
4 protecting the public's trust against abuse.

5 BY MR. COLE:

6 Q. And the reason you want to do that,
7 one of the reasons that you want to protect the
8 public against breach of the public trust is it
9 increases confidence in government, right?

10 A. Yes.

11 Q. But the financial disclosure forms
12 themselves, the purpose is to protect against the
13 breach of public trust?

14 A. Yes. That is -- yes. That is one of
15 the purposes.

16 Q. And educating the public and letting
17 them know things is a tool to protect against the
18 breach of the public trust?

19 A. Yes.

20 Q. And when you refer to educating the
21 public, you're talking about educating the public
22 about things related to an official's position or
23 official's job, right, something that could
24 impact their job?

25 MR. STAFFORD: Object to form.

1 THE WITNESS: Related to carrying out
2 the duties of their office.

3 BY MR. COLE:

4 Q. So if it is information that has
5 nothing to do with conflicts or nothing to do
6 with corruption or nothing to do with their
7 duties of office, educating them about that is
8 not within the scope of the purpose of financial
9 disclosure, right?

10 MR. STAFFORD: Object to form.

11 THE WITNESS: I'm not sure I
12 understand the question.

13 BY MR. COLE:

14 Q. All right. I'm just talking about --
15 educating the public is a very broad statement.
16 The extent that the Commission on Ethics wants to
17 educate the public, you want to educate them
18 either as to the laws, the conflict laws, which
19 is why you do your Guide to the Sunshine
20 Amendment, or as to financial information of the
21 elected officials that could lead them to
22 evaluate potential conflicts of interest or
23 things related to their job as a public official.

24 A. Yes. Evaluating potential conflicts
25 of interest is one of the purposes. Yes.

1 MR. COLE: Okay. I guess let's go to
2 the next exhibit, which we'll mark as
3 Exhibit E, which is the 2023 Form 6. So
4 we'll mark that as E.

5 And at the same time, why don't we go
6 ahead and mark as F the instructions that
7 come along with it, 2023 Form 6
8 Instructions.

9 (Plaintiff's Exhibits E and F were
10 marked for identification.)

11 BY MR. COLE:

12 Q. Okay. First I'd like to -- can you
13 look at Exhibit E and can you identify what this
14 document is?

15 A. The 2023 Form 6 Full and Public
16 Disclosure of Financial Interests.

17 Q. And can you look at Exhibit F and tell
18 me what that is?

19 A. 2023 Form 6 Instructions.

20 Q. And you're very familiar with both of
21 these documents; is that correct?

22 A. I am familiar with it. Yes.

23 Q. You're the one -- you deal with them
24 all the time, right?

25 A. I personally do not provide guidance

1 as to completion of the specifics of Form 6, but
2 I'm very familiar with the form. Yes.

3 Q. Okay. So let's start by talking about
4 who has to file Form 6. Under the Constitution,
5 when we started, the Constitution required of
6 Form 6 to be all elected constitutional officers
7 and candidates for such offices and then anyone
8 else that the legislature says has to file it.

9 But let's start from elected
10 constitutional officers. What positions are
11 elected constitutional officers?

12 A. Well, it lists -- it lists out who has
13 to file here, starting the governor, lieutenant
14 governor, cabinet members, members of the
15 legislature, state attorneys, public defenders,
16 clerk of circuit courts, sheriffs, tax
17 collectors, property appraisers, supervisors of
18 elections, county commissioners, district school
19 board members.

20 Q. Okay. But I guess my first question
21 is, elected constitutional officers, who are
22 they?

23 You're looking at Exhibit F on the
24 instructions where it says, "Who Must File
25 Form 6"? Is that where you're reading from?

1 A. Yes.

2 Q. So under the Constitution, the elected
3 constitutional officers have to fill this out,
4 but the legislature, by statute, can have other
5 people do it as well; is that correct?

6 A. Yes.

7 Q. Okay. So I'm trying to figure out
8 which of all these people that are listed in
9 Exhibit F, which are the elected constitutional
10 officers.

11 So the governor is an elected
12 constitutional officer, right?

13 A. Yes.

14 Q. The lieutenant governor is as well,
15 correct?

16 A. I presume so.

17 Q. The cabinet members, they're elected
18 constitutional officers, right?

19 A. I presume so. Yes.

20 Q. And there's three cabinet members.
21 There's a attorney general, there's a
22 agricultural commissioner, commissioner of
23 Department of Agricultural and Consumer Affairs,
24 I think it's called, and the CFO. Those are the
25 three categories, right?

1 A. Yes.

2 Q. An then it says members of
3 legislature. So that would include the senate
4 and the House, right?

5 A. Yes.

6 Q. There's 120 members of the House of
7 Representatives, right?

8 A. Yes. I believe that's correct.

9 Q. There's 40 senators in the State
10 senate, correct?

11 A. Yes.

12 Q. Then it says state attorneys. Are
13 state attorneys constitutional officers or are
14 they required just because there's a statute on
15 them, do you know?

16 A. I do not know offhand.

17 Q. Do you deem state attorneys to be
18 state elected officials or county elected
19 officials?

20 A. I -- I would -- I view them as state.

21 Q. State. Okay. And public defenders,
22 do you view those as state elected officials or
23 county elected officials?

24 A. I view them as state level.

25 Q. Clerks of circuit courts, those are

1 also in the Constitution, so those are elected
2 constitutional officers, right?

3 A. Yes.

4 Q. And do you view those as state elected
5 officials or county elected officials?

6 A. Judicial circuit. I would put them on
7 par with state, but I don't know what their exact
8 delineation is.

9 Q. But then, in your -- and we'll get to
10 this in awhile. In your annual reports you break
11 down state elected officials, county elected
12 officials and district elected officials and city
13 elected officials. I'm just trying to determine
14 why.

15 So are the clerks of courts included
16 in the state numbers or the county numbers?

17 A. They would be included in the state
18 numbers.

19 Q. Okay. And the sheriffs, those are
20 also included in the state numbers?

21 A. No. Those would be local.

22 Q. The sheriffs would be county?

23 A. Yes.

24 Q. And tax collectors, are they county or
25 state?

1 A. County.

2 Q. And property appraisers, county or
3 state?

4 A. County.

5 Q. And supervisors of elections?

6 A. County.

7 Q. County commissioners?

8 A. County.

9 Q. Elected superintendents of schools.

10 Are those part of the school districts or are
11 those within the district or are those county?

12 A. I would view those as district.

13 Q. And members of the district school
14 boards, are those -- that would be district,
15 right?

16 A. District. Yes.

17 Q. Mayor and members of Jacksonville City
18 Council. Now, why are they included? They've
19 been included for several years, even before
20 SB 774, right?

21 A. They have been included as Form 6
22 filers for a numbers of years. I do not
23 specifically know why, but I would understand
24 that they have a unique form of government and
25 that was a part of what was required.

1 Q. And they wanted -- they asked to be
2 part of Form 6 -- I mean, they wanted -- they
3 voluntarily joined as part of the --

4 A. I do not know. I do not know if it
5 was voluntarily.

6 Q. But on your chart that would be part
7 of the city elected officials, right?

8 A. Yes.

9 Q. Judges of compensation claims. Do you
10 know why they're included in the Form 6?

11 A. I do not.

12 Q. They wouldn't be under city or county,
13 that would be under the judicial side, right?

14 A. Yes.

15 Q. The Duval County Superintendent of
16 Schools, that would be part the district, right?

17 A. Yes.

18 Q. And members of the Florida Housing
19 Finance Corporation Board, would that be a
20 district?

21 A. I'm -- I am not sure. But since it's
22 a -- my assumption would be that would be state.

23 Q. That would be state. Okay.

24 Expressway authorities and
25 transportation authorities, are those state or

1 are those city? Or county? Or district?

2 A. Well, I think there are a number of
3 different expressway authorities and
4 transportation authorities, so whether it's state
5 or local would depend on what authority it was.

6 Q. Bridge authorities. Do you know what
7 that is; state, local, county?

8 A. I do not know offhand.

9 Q. How about toll authorities?

10 A. I don't know offhand. I guess it
11 would depend on what toll authorities. There are
12 a number of different toll authorities, I would
13 assume, with the different authority boards that
14 exist.

15 Q. And expressway agencies created
16 pursuant to Chapters 3.8 or 3.3? Do you know --

17 A. I do not know.

18 Q. You don't know. All right.

19 Then it talks about mayors. Those are
20 city or municipalities, right? That's municipal?

21 A. Yes.

22 Q. And elected members of the governing
23 body of municipalities are also municipal, right?

24 A. Yes.

25 Q. And it says each member of the

1 Commission on Ethics. Is that state?

2 A. Yes.

3 Q. And judges, as required by the Code of
4 Judicial Conduct, that's judicial, that's
5 separate, right?

6 A. Yes. And I might add that the
7 Commission does not have authority over judges.
8 They're not subject to the Commission's
9 jurisdiction.

10 Q. All right. So when a judge completes
11 a Form 6 does the judge give it to the Commission
12 on Ethics or does the judge submit it somewhere
13 else?

14 A. We are the repository for the Judge's
15 form.

16 Q. So the judges are going to be filling
17 out Form 6s and through the electronic system
18 that you have?

19 A. Yes.

20 Q. But if they fail to, you can't give
21 them automatic fines, can you?

22 A. That's correct.

23 Q. And if someone files a complaint as to
24 a Form 6 for a judge, it doesn't go through the
25 Commission on Ethics process right?

1 A. For a sitting judge we would return
2 that complaint to them and tell them to contact
3 the Judicial Qualifications Commission.

4 Q. So in talking about all these various
5 people who must file, are some of these positions
6 elected positions and some are appointed
7 positions, right?

8 A. Yes.

9 Q. And are some of these positions people
10 that make decisions about money and some of these
11 positions really don't make decisions about money
12 or large amounts of money; is that corrects?

13 MR. STAFFORD: Object to form.

14 THE WITNESS: Yes.

15 BY MR. COLE:

16 Q. All right. For example, members of
17 the Commission on Ethics, they're not elected,
18 right?

19 A. Correct.

20 Q. And they don't deal with large amounts
21 of money, do they?

22 A. I don't know what you define as large
23 amounts of money.

24 Q. Okay. Gotcha. That's fine.

25 All right. So now, let's just -- you

1 know, I'm gonna go -- well, you know, let me just
2 go on.

3 So how many people or how many
4 officials in, let's just say, in 2022, before
5 this new law took effect, how many people filed a
6 Form 6? Excluding judges.

7 A. Oh. I know in terms of a full member
8 about 2600. I would have to look to see what the
9 breakdown was between nonjudicial and judicial.

10 Q. That 2600 includes judicial; is that
11 correct?

12 A. Yes. That's a rough estimate.

13 Q. All right. And you had mentioned that
14 once it's filed electronically it's on the
15 internet. That's correct, right?

16 A. Yes. We're required to publish the
17 forms.

18 Q. So once it's on the Commission on
19 Ethics site can anyone in the world just go on
20 that site and look at it?

21 A. Yes.

22 Q. Does a person have to give their name
23 in order to look at it?

24 A. No.

25 Q. Do they have to register with the

1 Commission on Ethics or register with the site in
2 order to look at it?

3 A. No.

4 Q. Do they have to certify they're not
5 using it for improper purposes before they look
6 at it?

7 A. No.

8 Q. In other states and in the federal
9 government, in some of them, are you aware that
10 you do have to register in order to look at
11 public exposure forms?

12 MR. STAFFORD: Object to form.

13 THE WITNESS: Yes.

14 BY MR. COLE:

15 Q. You need to give your name and your
16 contact information and you need to say --
17 certify that they're not using for improper
18 purposes right?

19 A. The first part of your question
20 blipped out in the video and audio. Could you
21 repeat it, please?

22 Q. All right. In the federal system,
23 like, with House representatives or a federal
24 judge, if someone wanted to look at their
25 financial disclosure form they need to register

1 and give their name, give their address and also
2 certify they're not using it for improper
3 purposes, right?

4 A. I -- I'm not familiar with the
5 requirements under federal law.

6 Q. But in Florida, for the Form 6 and for
7 the Form 1, there's no requirement to give your
8 name or contact information or register or
9 certify that they're not using it for an improper
10 purpose, correct?

11 A. No.

12 Q. Okay. If you go back in time, back to
13 1976 or '77, '78, '79, right after the
14 constitutional amendment was passed, the Florida
15 public disclosure form -- I'm not sure if it
16 was -- was it called a Form 6 then or do you know
17 when it started being called a Form 6?

18 A. Yes. I believe it's been a Form 6
19 since it was promulgated in the early part of
20 1977.

21 Q. Okay. So back in '77, in '78, in '79,
22 those early years when a public official filed a
23 Form 6, they did it on paper, they didn't do
24 electronic, right?

25 A. Yes. Filed on paper.

1 Q. And it would be -- was it a public
2 record that someone could look at if they
3 requested it?

4 A. I can't speak for 1977. I assume it
5 was public record. But from the time I have been
6 with the Commission, when it was filed on paper
7 previously, it was a public record.

8 Q. Okay. And it's called a full and
9 public disclosure, so it does seem like it would
10 be always meant to be public, right?

11 A. Yes.

12 Q. It's in its name, so I assume that.

13 A. Yes.

14 Q. But back then, when an elected
15 official submitted their Form 6, if someone
16 wanted to look at it they would have to do a
17 public records request, right?

18 A. Yes.

19 Q. They couldn't go on the internet and
20 look at it, right?

21 A. Correct.

22 Q. There was no internet back then,
23 correct?

24 A. Correct.

25 Q. And they couldn't send an email public

1 records request, could they?

2 A. Right.

3 Q. There was no email back then, right?

4 A. Correct.

5 Q. They couldn't do a fax request, even,

6 in '76 because there weren't even faxes back

7 then, right?

8 A. Correct.

9 Q. So they had to do a written public

10 record of -- send a letter or drop off a written

11 public records request, right?

12 A. I would presume so. Yes.

13 Q. And back then they would also have to

14 disclose who -- their identity in order to do

15 that, right?

16 A. I'm not sure whether or not Florida's

17 public records law back then required that you

18 identify yourself. It's my understanding, in all

19 the years that I've worked for the Commission, we

20 cannot require somebody to give us their name.

21 Q. That's the current law. But you don't

22 know back in the '70s and '80s whether or not

23 Florida public records requests required there to

24 be a name, do you?

25 A. I do not know.

1 Q. Okay. So would you agree that the
2 burden on the disclosure of an official that is
3 disclosing this information kind of is greater
4 now than it was then because it's just on the
5 internet and everyone can see it, whereas, back
6 then it was available but it was not easily
7 accessible?

8 A. They were not published prior to about
9 2012.

10 Q. And that's -- you know, when it comes
11 to your -- say your private information, whether
12 it's available for anyone to see or someone has
13 to request it and go through a process, there is
14 a difference, don't you agree?

15 A. Yes.

16 Q. Okay. And you would that all the
17 information on a Form 6 is generally private
18 information, normally not information that people
19 just go around broadcasting?

20 MR. STAFFORD: Object to form. You
21 can go ahead. Sorry.

22 THE WITNESS: Can you repeat the
23 question again, please?

24 BY MR. COLE:

25 Q. Would you agree that the Form 6

1 requires you to disclose personal and financial
2 information?

3 A. Yes.

4 Q. And would you agree that the type of
5 personal and financial information, the amount of
6 net worth, the amount of income, et cetera, is
7 generally considered to be private information?

8 A. Yes.

9 MR. COLE: So what I'd like to do is
10 go to the next two exhibits, which is
11 just -- is the Form 1, which would be G, and
12 the Form 1 instructions will be H.

13 (Plaintiff's Exhibits G and H were
14 marked for identification.)

15 BY MR. COLE:

16 Q. Can you identify Exhibit G and tell me
17 what it is?

18 A. 2023 Form 1 Statement of Financial
19 Interests.

20 Q. And H?

21 A. 2023 Form 1 Instructions.

22 Q. So for Form 1, there's a large group
23 of people that file Form 1; is that correct?

24 A. Yes.

25 Q. About how many Form 1s in 2022 were

1 **filed?**

2 A. Approximately 36,000 or so total at
3 the state level up.

4 Q. Okay. And how many Form 6s did you
5 say were filed?

6 A. About 2600 or so. The final number
7 each year is usually between 38,000 and
8 39,000-some-odd, close to 40,000 people.

9 Q. And of the 36,000 Form 1s that were
10 filed in 2022, approximately how many of those
11 were municipal elected officials?

12 A. It's my understanding that there are
13 about 2600 municipal elected officials in there.
14 That's just a rough number I was given.

15 Q. Well, do you know how many
16 municipalities are in Florida? 412?

17 A. It's more than 400. About 444, but I
18 don't know the exact.

19 Q. Okay. You think it's over 400 and
20 less than 450; is that correct?

21 A. It's in that range.

22 Q. It says it's 412.

23 A. Okay.

24 Q. But in that range, right?

25 A. (Nodding.)

1 Q. Okay. And the 2600 for municipal,
2 those are municipal elected officials. Is that
3 what you're saying, 2600?

4 A. The information that the League of
5 Cities mentioned to me was roughly 2600 people.

6 Q. So among the people that have to file
7 a Form 1, what it lists on the instructions is,
8 it does say elected public officials not serving
9 in a political subdivision of the state. So
10 that's a requirement to fill out a Form 6.

11 So would you agree that there are
12 elected officials who fill out a Form 1?

13 A. Yes.

14 Q. And can you give me examples of any
15 elected officials that fill out a Form 1?

16 A. There are some CDDs who -- community
17 development districts who have elected board
18 members.

19 Q. Okay. And how about water management
20 districts? Some of those are elected, right?

21 A. Yes. Soil and water management
22 districts. Water management districts. Yes.

23 Q. They fill out Form 1s, right?

24 A. Yes.

25 Q. And there's some, like, water inland

1 districts, you know, like on the beach, those are
2 also Form 1, right?

3 A. Yes. I believe so.

4 Q. Do you know how many elected officials
5 file -- other than municipalities, do you know
6 how many elected officials file Form 1s?

7 A. No. I do not know that number off the
8 top of my head.

9 Q. And some of those elected officials
10 who filed Form 1s, other than municipalities,
11 also control money; is that correct?

12 A. Yes.

13 Q. And CDDs often control large amounts
14 of -- well, significant amounts of expenditures
15 of money, right?

16 A. Yes.

17 Q. Water management districts spend money
18 as well, correct?

19 A. Yes.

20 Q. So what is the -- I'm trying to
21 understand the logic of the line between Form 6
22 and Form 1. Is there any rule of logic that
23 would apply some rational explanation for why
24 certain people are Form 6 and certain people are
25 Form 1?

1 MR. STAFFORD: Object to form. Go
2 ahead. You can answer if you know.

3 THE WITNESS: Okay. Are you asking
4 about the Commission's recommendation and
5 why it's city commissioners and mayors?

6 BY MR. COLE:

7 Q. Well, I'm gonna get to that, but even
8 beyond that. I'm just trying to understand, what
9 is the -- is there a logical line under Florida
10 law that these types of people fill out Form 6
11 and these types of people, positions, fill out
12 Form 1?

13 It seems like there's elected
14 officials that fill out Form 6 and there's
15 elected officials that fill out Form 1, right?

16 A. Yes.

17 Q. And there's elected officials who
18 control money that fill out Form 1 and there's
19 elected official who control money who fill out
20 Form 6, right?

21 A. Yes.

22 Q. And there's appointed people who fill
23 out Form 6, right? There's some appointed people
24 that fill out Form 6 who are not elected?

25 A. Yes.

1 Q. And there's some appointed people who
2 control a lot of money who are appointed, but
3 they file Form 1, right?

4 MS. MOODY: Object to form.

5 THE WITNESS: Yes.

6 BY MR. COLE:

7 Q. So is there a logical basis for where
8 the line is currently drawn between who fills out
9 Form 6 and who fills out Form 1?

10 MR. STAFFORD: Object to form. You
11 can answer.

12 THE WITNESS: Well, the law delineates
13 who has to file the Form 1.

14 BY MR. COLE:

15 Q. The law delineates who has to fill out
16 the Form 6, right?

17 A. That is correct.

18 Q. Okay. But I'm trying to understand,
19 is there a rational basis, even, for where that
20 line is drawn between who does a Form 6 and who
21 does a Form 1?

22 MR. STAFFORD: Object to form. You
23 can answer.

24 THE WITNESS: I'm not -- I'm not
25 sure -- are you wanting -- are you asking

1 for my opinion or are you asking me for the
2 logical -- the logic behind the laws?

3 BY MR. COLE:

4 Q. Well, you're here to speak for the
5 Commission on Ethics and you administer this law.
6 Do you see, as the representative of the
7 Commission on Ethics, any logical basis for where
8 this law is drawn right now between Form 6 and
9 Form 1?

10 MR. STAFFORD: Object to form. You
11 can answer.

12 THE WITNESS: I'm sorry. The end of
13 that statement, you said?

14 BY MR. COLE:

15 Q. And if so, what is the basis for the
16 line between who does Form 6 and who does Form 1?

17 MR. STAFFORD: Object to form. You
18 can answer.

19 THE WITNESS: Well, I think the line
20 has changed over time in terms of the
21 legislature deciding what the policy was
22 going to be and the Commission implementing
23 that policy.

24 BY MR. COLE:

25 Q. So the legislatures makes political

1 decisions as to who should do Form 6 and who
2 should do Form 1, but I'm asking, is there any
3 logic to those decisions, any rational basis for
4 drawing the line as it's drawn?

5 MR. STAFFORD: Object to form. You
6 can answer if you know.

7 THE WITNESS: I -- I would imagine
8 there's a rational basis for each time they
9 pass a law and the Commission implements it.

10 BY MR. COLE:

11 Q. Well, one of the things that the
12 Commission on Ethics does is try to bolster
13 confidence in government, right, and educate the
14 government and educate the people.

15 When people ask you, why does -- why
16 does, you know, a city commissioner have to fill
17 out a Form 6 but an elected member of a community
18 development district that controls just as much
19 money doesn't have to? You know --

20 MR. STAFFORD: Object to form.

21 BY MR. COLE:

22 Q. -- why one and not the other?

23 MR. STAFFORD: Object to form. You
24 can answer.

25 THE WITNESS: With the recommendation

1 that city commissioners and mayors file
2 Form 6, when that originally came into
3 being, the Commission's consensus at the
4 time was brought about by a commissioner
5 who, you know, based on what they had seen
6 come before them, he was a financial person
7 and he did not feel that you could really
8 tell much of anything from the Form 1. And
9 he felt like anybody who was elected to
10 office should have to fill out Form 6.

11 But certainly he was surprised that
12 city commissioners and mayors filled out the
13 Form 1. And the Commission discussed that
14 idea that city commissioners and mayors, who
15 are very similarly situated as to county
16 commissioners, fill out a different form
17 than -- than county commissioners.

18 BY MR. COLE:

19 **Q. So is it the position of the**
20 **Commission on Ethics that all elected officials**
21 **should be filling out Form 6s?**

22 MR. STAFFORD: Object to form.

23 THE WITNESS: That is not the -- that
24 is not the current position of the
25 Commission and that was not the ultimate

1 recommendation made at that time, but that
2 was a part of the discussion.

3 BY MR. COLE:

4 Q. All right. Well, I'm trying to
5 understand the rationale for why you would
6 recommend that some elected officials who control
7 money have to fill out a Form 6 but other elected
8 officials who control money fill out a Form 1.

9 What is the reason why some do and
10 some don't?

11 A. The Commission's recommendation as to
12 city commissioners and mayors was that they made
13 very similar decisions as do county commissioners
14 and therefore they should be filling out the same
15 kind of form that would provide transparency as
16 to possible conflicts of interest.

17 Q. But don't they make the same types of
18 decisions that elected officials on CDDs make?

19 MR. STAFFORD: Object to form. You
20 can answer if you know.

21 THE WITNESS: I don't know the precise
22 kinds of decisions where they might be
23 similar or different from CDD.

24 BY MR. COLE:

25 Q. Well, the types of decisions where

1 there's conflicts of interest often deal with the
2 expenditure of money, right?

3 A. Yes.

4 Q. So isn't it true that there's some
5 CDDs and water management districts that spend a
6 lot more money than some of these small cities?

7 MR. STAFFORD: Object to form. You
8 can answer if you know.

9 THE WITNESS: Yes.

10 BY MR. COLE:

11 Q. Okay. So why would a municipal
12 elected official in a small city, say, with a
13 budget of \$2 million, have to fill out a Form 6
14 while a elected official and a CDD that spends
15 \$10 million a year doesn't have to fill out a
16 Form 6?

17 A. I don't know the answer to your
18 question.

19 Q. And the reason you don't know the
20 answer to the question is because there's really
21 no logical reason why the line would be drawn as
22 it is; isn't that correct?

23 MR. STAFFORD: Object to form. You
24 can answer if you know.

25 THE WITNESS: I -- I don't know the

1 answer to that question.

2 BY MR. COLE:

3 Q. So you don't know any logical reason
4 why the line is drawn as it is?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: I believe I already
7 answered why the line was drawn the way it
8 is.

9 BY MR. COLE:

10 Q. Well, you answered why the
11 recommendation was made for city elected
12 officials and you said it was because they make
13 the same types of decisions as county elected
14 officials.

15 But why should the line for Form 6 be
16 such that city commission elected officials have
17 to make form 6 but CDD and water management
18 districts and various other ones do not?

19 MR. STAFFORD: Object to form.

20 THE WITNESS: That -- that was a
21 policy decision of the legislature.

22 BY MR. COLE:

23 Q. I understand that, but I'm trying to
24 understand the reason why the legislature made
25 the decision. And you know, I understand that

1 because other people do it they should have to do
2 it. But there's other people that don't have to
3 do it and they're requiring them to do it.

4 So where is -- I'm just trying to
5 understand, what is the basis for the distinction
6 between who does a Form 1 and who does a Form 6?
7 I mean, is there really any flat line rule that
8 all elected officials that control a certain
9 amount of money have to do it? Because, it
10 doesn't seem like those lines work when I look at
11 who does each form.

12 MR. STAFFORD: Object to form. Answer
13 if you know.

14 THE WITNESS: Those are policy
15 decisions of the legislature.

16 BY MR. COLE:

17 Q. Okay. So you can't tell me why a city
18 elected official is gonna have to fill out a
19 Form 6 but a CDD elected official doesn't?

20 MR. STAFFORD: Objection. Asked and
21 answered multiple times.

22 MR. COLE: Well, I've asked and it
23 hasn't really been answered. Maybe it's
24 because there is no answer, and I certainly
25 would respect that.

1 If you don't know -- if there's no
2 answer as to why, you know, there's some
3 elected officials who control money and have
4 to file a Form 6 and others don't and why
5 appointed officials file Form 1, some even
6 Form 6, if there's no real answer, that's
7 fine.

8 But, if there is a logical answer and
9 some rationale for it, I just want to know
10 what it is.

11 MR. STAFFORD: You asked her multiple
12 times and Ms. Stillman told you her opinion,
13 her knowledge on that, and I don't think
14 it's anything more beyond that.

15 So if you can't, just by asking it
16 other ways -- you're entitled to an answer,
17 but you may not be entitled to the answer
18 that you're looking for. But you can go
19 ahead and -- you can keep asking and I will
20 keep objecting.

21 MR. COLE: No, no. That's fine. I
22 mean, I'm not going to belabor the point.

23 BY MR. COLE:

24 **Q. But I just want to make sure, if**
25 **there's any other rationale that you can think of**

1 for why the line has been drawn between Form 1
2 and Form 6 other than -- you know, is there any
3 real rationale for that?

4 MR. STAFFORD: Object to form.

5 THE WITNESS: I -- I feel like I
6 have -- I have given you the information
7 that I have with regard to your question.
8 The legislature sets the policy of the state
9 and the Commission implements that.

10 BY MR. COLE:

11 Q. Okay. So if the legislature says
12 that, say, members of the Commission on Ethics
13 have to fill out a Form 6 and the only reason
14 they are requiring you to do so is because what's
15 good for the goose is good for the gander, you'll
16 still administer, because that's what they said
17 the answer is, right?

18 A. That is correct.

19 Q. And the Commission on Ethics never
20 recommended that Commission on Ethics members
21 fill out Form 6, right?

22 A. Correct.

23 Q. And in fact, there are many people or
24 many positions that fill out Form 1s that have a
25 lot more authority than the Commission on Ethics

1 people, when it comes to being elected, to
2 spending money; isn't that correct?

3 A. Yes.

4 Q. Were you surprised when the
5 legislature amended the bill at the last minute
6 to add Commission on Ethics members?

7 A. I'm rarely surprised by decisions of
8 the legislature.

9 Q. Nor am I. And the Commission on
10 Ethics never recommended that they be subject to
11 Form 6, right?

12 A. When the idea appeared in the bill and
13 the Commission met, they voted to support that
14 part of the bill that Ethics Commission members
15 file a Form 6.

16 Q. Okay. But once it was added they said
17 they would support the bill as a whole, but
18 that's the exact issue, they never recommended it
19 on their own, right?

20 A. They did not recommend that they
21 themselves file the Form 6, but they specifically
22 voted to support that addition that was made to
23 the bill that they, as members of the Commission,
24 would file a Form 6.

25 Q. And do you know how many people have

1 been approached to serve on the Commission of
2 Ethics and have said they're not willing to do so
3 because they don't want to fill out a Form 6?

4 A. No.

5 Q. Okay. I want to talk about what's
6 required in a Form 6 as opposed to a Form 1. So
7 let's just go to the Form 6, which is Exhibit E.

8 The first thing, you know, after the
9 name and agency information is net worth. Do you
10 see that?

11 A. Yes.

12 Q. So what's required to be disclosed
13 here? It says, "My net worth as of December 31,
14 2023 was" -- and it has a dollar sign and an
15 amount. Do you see that?

16 A. Yes.

17 Q. So in filling this out an elected
18 municipal official is going to be required to
19 say, "My net worth as of December 31, 2023 was,"
20 and then give a number; is that correct?

21 A. Yes.

22 Q. And the number that they have to give
23 is their exact net worth, right?

24 A. Yes.

25 Q. So would it be in compliance with the

1 law for them to fill it out and say, my net worth
2 as of December 31, 2023 was none of your
3 business?

4 A. The law requires that they give their
5 net worth as a dollar amount.

6 Q. So can they just fill it out and just
7 say, my net worth as of December 31, 2023 was
8 none of your business? Would that be in
9 compliance with the law?

10 A. No.

11 Q. Would it be in compliance with the law
12 for them to say, my net worth as of December 31,
13 2023 was more than \$100,000?

14 A. The law requires a net worth.

15 Q. So if they say, my net worth as of
16 December 31, 2023 was more than \$100,000, would
17 they be out of compliance with the law?

18 A. The instructions require that they do
19 a total value of their assets and subtract the
20 amount of all their liabilities.

21 Q. So if you can just answer my question
22 yes or no.

23 If a municipal elected official says,
24 my net worth as of December 31, 2023 was more
25 than \$100,000, would that be in violation of the

1 law?

2 MR. STAFFORD: Objection.

3 THE WITNESS: I believe -- I believe
4 that they would be at risk of being found in
5 violation. So if somebody asked me if they
6 could do that, I would suggest that they put
7 the proper dollar amount there.

8 BY MR. COLE:

9 Q. When you say the proper amount, you
10 mean the exact dollar amount, right?

11 A. Yes. Yes.

12 Q. What if they said, my net worth as of
13 December 31, 2023 was around \$100,000? Would
14 that be acceptable?

15 A. Ultimately what is acceptable under
16 the law is a decision of the Commission, the
17 Commission body, if somebody were to file a
18 complaint.

19 But when somebody calls our office and
20 asks about figuring out their net worth, we're
21 going to tell them how to calculate it and tell
22 them to put that down.

23 Q. Okay. So in filling this out, what
24 you would tell someone is, in order to be in
25 compliance with the law you need to say, my net

1 worth as of December 31, 2023 was -- and give an
2 exact amount, correct?

3 A. Yes.

4 Q. There's no other options, you've gotta
5 give the exact amount?

6 A. That is what we advise.

7 Q. You can't say it was none of your
8 business, right?

9 A. Yes.

10 Q. You can't say it was over \$100,000,
11 right?

12 A. Right.

13 Q. You can't say it was approximately
14 \$100,000?

15 A. Yes.

16 Q. You can't say it was between 100,000
17 and \$200,000?

18 A. Right. We tell filers to put their
19 net worth there, the exact amount.

20 Q. And then, if they don't, they're not
21 in compliance, right?

22 A. Ultimately the Commission would decide
23 if somebody's form was compliant with the law, if
24 somebody filed a complaint and alleged that the
25 form, you know, had not been properly completed

1 and made a specific allegation as to the net
2 worth.

3 Q. Okay. So if someone said, my net
4 worth as of December 31, 2023 was none of your
5 business, and no one filed a complaint, nothing
6 would happen, right?

7 A. Correct.

8 Q. But if someone saw it and filed a
9 complaint and it went to the Commission on
10 Ethics, would you find that that is a legally
11 sufficient complaint?

12 A. That would likely be a legally
13 sufficient complaint that would be investigated.

14 Q. And there's not much to investigate.
15 The form says what it says. It says none of your
16 business. Is that something you think the
17 Commission on Ethics would ultimately find is a
18 violation of the Form 6 requirements?

19 A. That would be my assumption.

20 Q. Okay. And I don't mean to be, you
21 know, extreme, but, you know, it does seem like
22 that would be a violation of the law, right, to
23 say it's none of your business? All right.

24 So let's talk about conflicts of
25 interest. How does the amount of an elected

1 official's net worth relate to conflicts of
2 interest?

3 A. Well, I think the net worth, you know,
4 informs what is on the rest of the form. It
5 helps the public to evaluate the information on
6 the financial disclosure form to determine
7 whether or not there is a potential conflict of
8 interest.

9 Q. Has the Commission on Ethics done any
10 analysis or empirical studies that compare the
11 amount of net worth on a Form 6 with the amount
12 of people who are found have ethics violations?

13 A. No.

14 Q. All right. So is it the position of
15 the Commission on Ethics that people with a very
16 low net worth are more likely to commit ethics
17 violations than people with a high net worth?

18 A. No.

19 Q. Is it the position of the Commission
20 on Ethics that people with a high net worth are
21 more likely to commit ethical violations than
22 people with a low net worth?

23 A. No.

24 Q. So whether you're rich or poor you
25 could be honest or dishonest, right?

1 A. Yes.

2 Q. There's plenty of people through
3 history that have been very wealthy but are
4 very -- are criminals or are unethical; isn't
5 that correct?

6 A. Yes.

7 Q. In fact, a person may have a net worth
8 because they've been committing unethical or
9 improper behavior.

10 A. Okay.

11 Q. So one difference between a Form 6 and
12 a Form 1 is, in the Form 6 you have to give the
13 net worth and in the Form 1 you don't have to
14 give the net worth. Right?

15 A. Yes.

16 Q. And have you ever had a ethics
17 complaint, other than for not properly filling
18 out a financial disclosure form, that referenced
19 the person's net worth as an element of the
20 complaint for an ethics violation?

21 A. Could you repeat that question,
22 please?

23 Q. Have you ever had any experience where
24 someone has made an ethics complaint and part of
25 the ethics complaint referenced the net worth

1 disclosure on a Form 6 other than that they
2 didn't file a Form 6 correctly?

3 A. Yes. I believe that has happened.

4 Q. How many times has that happened?

5 A. I -- I don't know. I don't have a --
6 I don't have a metric at the moment.

7 Q. Is that something that commonly
8 happens?

9 A. I don't know. I would -- I would have
10 to look back at all the different financial
11 disclosure complaints to determine whether or not
12 it was common.

13 Q. Did you advise the legislature of any
14 examples of people who had ethics violations that
15 included something involving their net worth
16 disclosures?

17 A. I don't recall.

18 Q. You testified that you were at all the
19 committee hearings and the senate floor and the
20 House floor, that you were there at those
21 meetings, right? I watched you on video. I saw
22 you. So you were there, right?

23 A. Yes. And I may have understood --
24 this recommendation regarding the Form 6 for
25 municipal elected officials and mayors was

1 something going back to 2015. So I was thinking
2 back through all the years if there was ever a
3 time something like that was given and I cannot
4 recall.

5 If you're specifically asking about in
6 consideration of 774, I do not -- I do not
7 believe a question like that was posed or that an
8 answer like that was given.

9 Q. So in connection with SB 774, did the
10 Commission on Ethics give the legislature any
11 studies or research or analysis other than their
12 annual report to support their recommendation
13 that municipal elected officials be subject to
14 Form 6 instead of Form 1?

15 A. No.

16 Q. And while you were at the hearings and
17 watching all the hearings did you hear anyone
18 else talk about any studies or empirical examples
19 or research that supported requiring municipal
20 elected officials to use Form 6 instead of
21 Form 1?

22 A. No.

23 Q. All right. So going back to the --
24 the form -- okay. I guess, is the amount of a
25 person's net worth ever an element of a charge

1 for any ethics violation, other than not

2 disclosure -- or other than failure to disclose?

3 A. I don't know if I can say that it ever
4 has been, but not that I can recall.

5 Q. Okay. So let's just talk about a, you
6 know, a standard voting conflict.

7 Under the law if a municipal elected
8 official is going to vote on something that
9 enures to their special private gain or loss or
10 one of their relatives, they can't vote on it,
11 right?

12 A. A relative, a business associate, a
13 principal by whom they retained themselves, then
14 they have a voting conflict.

15 Q. All right. So does their net worth
16 have anything to do with whether or not they have
17 a voting conflict?

18 A. Well, whether or not somebody has a
19 voting conflict depends on what the measure is
20 that is under consideration.

21 Q. Okay. So let's just say that the City
22 is gonna buy computers and they're buying it
23 from -- you know, deciding between Apple and IBM,
24 and one of the elected official works for Apple
25 and the question is whether or not they have a

1 voting conflict.

2 Whether their net worth is a million
3 dollars or \$10 million or \$50,000 has no bearing
4 on that, right?

5 MR. STAFFORD: Object to form. You
6 can answer if you know.

7 THE WITNESS: Right.

8 BY MR. COLE:

9 Q. Can you think of any example where a
10 voting conflict question would be impacted on how
11 much net worth a person has?

12 A. I cannot think of an example.

13 Q. Okay. And so let's talk about doing
14 business with one's agency. That's another
15 ethical violation, right?

16 A. Yes.

17 Q. And basically that says that if you
18 have a business your business can't do business
19 with the City subject to various exceptions,
20 right?

21 A. Right.

22 Q. Okay. Does the amount of the elected
23 official's net worth have any bearing on a claim
24 for violation of that rule of doing business with
25 one's agency?

1 A. It's not an element of the law.

2 Q. Okay. Can you think of any ethics law
3 where the amount of an elected official's net
4 worth is an element of the law?

5 A. Well, it's a requirement of the
6 disclosure form, so 3144 for certain.

7 Q. Okay. Other than that?

8 A. An example where their net worth is an
9 element of the law? No. Other than the
10 disclosure law.

11 Q. All right. Let's move on to -- I
12 guess we'll move on to assets. So that's the
13 next thing on Form 6.

14 So the next question on here is, "The
15 aggregate value of my household goods and
16 personal effect is" -- and it says "N/A."

17 I assume that a municipal elected
18 official needs to put in a dollar amount there?
19 Or alternatively they can just list every asset
20 individually valued over a thousand dollars,
21 right?

22 A. Yes. "N/A" was just placed there
23 because we put a sample form out so that people
24 could see what the form looked like.

25 Q. So in order to comply with this law,

1 if they're not gonna list all the individual
2 assets, they need to say, "The aggregated value
3 of my household goods and personal effect is" --
4 and give a number, an exact number, right?

5 A. Yes.

6 Q. Okay. And could they be in compliance
7 with the law if they said, the aggregate value of
8 my household goods and personal effect is none of
9 your business? Would that be in compliance with
10 the law?

11 A. No.

12 Q. And would it be in compliance with the
13 law to say, the aggregate value of my household
14 goods and personal effects is more than \$10,000?
15 Would that be in compliance with the law?

16 A. Well, again, whether or not the
17 Commission would find a violation would be a
18 decision of the Commission.

19 Q. But if someone calls the Commission on
20 Ethics and asks them, do I need to give an exact
21 number or can I just say more \$10,000, your
22 answer would be what?

23 A. I would suggest that they are putting
24 an aggregate value of their household goods and
25 personal effects, that they put the value of

1 their household goods and personal effects.

2 Q. Okay. So they're not supposed to say
3 a range or say it's more than a certain amount,
4 they're supposed to give you an exact amount,
5 right?

6 A. Unless they're going to list
7 everything under their assets that meets the
8 disclosure threshold.

9 Q. Okay. So can you tell me whether
10 there's any ethics law where an element of that
11 law would be the aggregate value of household
12 goods and personal effects?

13 A. No.

14 Q. I mean, when we're talking about
15 household goods and personal effects, what are we
16 talking about? What is included in that?

17 A. All of the things that one would have
18 in their house that is not -- for personal use,
19 if you will, as opposed to collection. So your
20 couch, your refrigerator, all of the things we
21 all accumulate in our home. As well as vehicles
22 for personal use.

23 Q. Okay. So if you have a vehicle that's
24 for your personal use, you would include it here,
25 right?

1 A. You can include it in your household
2 goods and personal effects. Yes.

3 Q. But if an elected official is a car
4 aficionado and has 10 cars, can they include all
5 10 in the household goods and personal effects or
6 just the one that they use for personal use, not
7 for a collection?

8 A. If the vehicles are for personal use
9 they can be included in the household goods and
10 personal effects.

11 Q. If they have 10 of them, they're all
12 antique cars, is that something you can include
13 or is that something that has to be separate?

14 A. Usually that's something that would
15 need to be listed as an asset.

16 Q. Okay. And what about a coin
17 collection or a stamp collection? Is that a
18 household good or personal effect?

19 A. Let me look. I believe that is
20 considered household goods, personal effects.

21 Q. And that's in the instructions, right?

22 A. Yes. That's what I'm looking for.

23 Q. Okay.

24 A. Let's see. We have a pop-up about
25 that or the form, but I don't see it. I don't

1 see it here. But I know we do speak to coin
2 collections and stamp collections, I believe.

3 Q. Okay. So in a Form 1 you don't have
4 to state the aggregate value of your household
5 goods, right?

6 A. Correct.

7 Q. So for assets on a Form 1, what do you
8 need to disclose?

9 A. Well, Form 1 doesn't have a section
10 for assets.

11 Q. So you don't have to disclose assets,
12 but you do need to disclose intangible personal
13 property --

14 A. Correct.

15 Q. -- over \$10,000, right?

16 A. Yes.

17 Q. Okay. So what is a tangible personal
18 property?

19 A. It can be stocks, bonds, investment
20 accounts.

21 Q. Okay. So under a Form 6 you have to
22 disclose assets, tangible and intangible, right?

23 A. Right.

24 Q. Can you give me example of a tangible
25 asset that you would disclose on Form 6 that's

1 worth more than a thousand dollars and that's not
2 part of your household goods? What is a tangible
3 asset?

4 A. Well, you might have -- you might
5 have stock.

6 Q. Did you say stock?

7 A. Yes.

8 Q. That's an intangible asset, right?

9 A. I thought you asked about the 6. Are
10 you asking about the 1?

11 Q. I'm asking about the Form 6. The
12 differences.

13 So one of the differences is, on a
14 Form 6 you need to disclose your tangible assets
15 over a thousand dollars and in a Form 1 you don't
16 have to disclose tangible assets at all, correct?

17 A. Correct.

18 Q. Now, on a Form 1 -- hold on.

19 All right. So I guess I'm just trying
20 to understand what tangible assets would be
21 disclosed on a Form 6.

22 What is a tangible asset? What are we
23 talking about? I understand, in your house you
24 have lots of tangible assets. You have your car,
25 you have furniture. But what would be a tangible

1 asset that's not included in your household
2 goods?

3 A. Your home or other property that you
4 own in Florida and outside of Florida.

5 Q. And you have to identify that on a
6 Form 1 or a Form 6, right?

7 A. Your home -- your personal residence
8 would not be identified on a Form 1, necessarily.

9 Q. But any other real estate property
10 would be, right?

11 A. Form 1 only requires that you disclose
12 property that you own in Florida, but you don't
13 have to disclose your homes or your vacation
14 residences.

15 Whereas, on the Form 6 you would
16 disclose property -- any property that meets the
17 threshold that you own both in Florida and
18 outside of Florida.

19 Q. So if you own a piece of property in
20 Ohio, can you -- what bearing does that have on
21 your job as a city commissioner and your duties
22 as a city commissioner in Florida?

23 MR. STAFFORD: Object to form. Answer
24 if you can.

25 THE WITNESS: Well, it can have a

1 bearing. And I say that because there --
2 there was a case a number of years ago that
3 dealt with an elected official who -- who
4 was given roughly a half a million dollars,
5 or the half a million dollars was given to
6 his wife to purchase property out of state,
7 A vacation property out of state.

8 BY MR. COLE:

9 Q. So if they were given a half a million
10 dollars, wouldn't that be income that has to be
11 disclosed on a Form 1?

12 A. Well, yes. That was -- that was a
13 part of it. Yes. Potentially gift, potentially
14 income, potentially property. Yes.

15 Q. So whether it was an elected official
16 filling out a Form 1 or a Form 6, that had be to
17 disclosed either way, right?

18 A. Form 1, that property would not be
19 required to be disclosed because it was out of
20 state.

21 Q. Right. But in that situation the fact
22 that someone gave them \$500,000 would have to be
23 disclosed either as income or a gift, right?

24 A. It was to purchase the property.

25 Q. Right. But if they gave her either

1 the property or the money, either way they have
2 to disclose it as either a gift or income, right?

3 A. Yes. But the income, it was property.

4 Q. Right. But, before I made that
5 example whether an elected official had to fill
6 out a Form 1 or a Form 6, they were required to
7 disclose it.

8 A. They were not -- a Form 1 filer would
9 not disclose property that they owned outside of
10 Florida.

11 Q. But when they were given the property
12 or given the \$500,000 to buy the property, they
13 would have had to disclose that as a gift or
14 income on a Form 1.

15 A. Potentially. Yes. But a gift isn't
16 disclosed on a Form 1 or a Form 6. That's
17 disclosed on a gift form.

18 Q. They still have to disclose it, right?
19 I mean, whether it's disclosed on -- whether or
20 not they have to fill out a Form 6, they're still
21 making a public disclosure of the gift or the
22 income, correct?

23 A. Yes. Form 1 and Form 6 filers are
24 subject to gift disclosure laws. And if the gift
25 is from someone who is not a lobbyist or a

1 principal of a lobbyist given to a local level
2 official and it's more than a hundred dollars,
3 it's reportable.

4 But if it's from a prohibited donor
5 it's not reportable, it's just simply prohibited.

6 MR. COLE: All right. Now, it is
7 12:15. Why don't we take a lunch break.
8 Will 45 minutes be enough or how much time
9 do you need?

10 MR. STAFFORD: That's fine. Yeah.
11 That should be more than enough.

12 MR. COLE: All right. So why don't we
13 restart at 1:00 o'clock.

14 (Luncheon recess from 12:18 p.m. to
15 1:05 p.m.)

16 BY MR. COLE:

17 Q. All right. So we're on assets, the
18 Form 6 and the Form 1.

19 So for the aggregate value of the
20 household goods, is there any relationship
21 between the aggregated value of a person's
22 household goods and any ethics law?

23 MR. STAFFORD: Object to form.

24 THE WITNESS: The financial disclosure
25 law.

1 BY MR. COLE:

2 Q. Other than the financial disclosure
3 law, is there any other ethics law where the
4 aggregated value of the household goods would be
5 an element or be related in any way?

6 MR. STAFFORD: Same objection.

7 THE WITNESS: It's not specifically
8 enumerated in other laws. No.

9 BY MR. COLE:

10 Q. Okay. And as far as if a person
11 decides to list all their assets individually,
12 would you agree that if someone has a, you know,
13 a couch worth \$1200 as opposed to a couch worth
14 \$1800, it won't make any bit of difference as to
15 any ethics law?

16 MR. STAFFORD: Object to form.

17 THE WITNESS: Well, assets over a
18 thousand are required to be listed,
19 individually listed on the Form 6 unless
20 they're included in household goods,
21 personal.

22 BY MR. COLE:

23 Q. All right. So other than it being
24 required to be listed, is there any conflict law
25 or law or corruption or any other ethics law

1 where it would make a difference if someone's
2 couch is worth \$1200 as opposed to \$1800?

3 A. No.

4 Q. Okay. And for other assets, let's say
5 someone has a boat. Would that be listed as an
6 asset worth over a thousand dollars?

7 A. I am -- I am not certain about boats,
8 whether that could be put in with household goods
9 and personal effects. Like I said, the household
10 goods and personal effects descriptor is not --

11 Q. I have a plane, personal plane. Would
12 that be something that would be a household good?

13 A. I am -- I am not certain.

14 Q. Okay. All right.

15 So after assets, the next thing that
16 needs to be disclosed is liabilities. So in a
17 Form 6 all liabilities in excess of a thousand
18 dollars have to be disclosed, correct?

19 A. Yes.

20 Q. And that includes the amount of the
21 liability; is that correct?

22 A. Yes.

23 Q. All right. And in a Form 1, what has
24 to be disclosed for liabilities?

25 A. Liabilities over \$10,000, the name and

1 the address of the creditor.

2 Q. Okay. So is there any relationship
3 between liabilities and any specific ethics law
4 other than the disclosure law?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: No.

7 BY MR. COLE:

8 Q. The next section deals with income.
9 And under the Form 6 you've got a disclosure of
10 primary sources of income, which is any income
11 over a thousand dollars; is that correct?

12 A. Yes.

13 Q. And so in discussing your primary
14 sources of income you're required to say what the
15 amount is from each source of income, correct?

16 A. Yes.

17 Q. And if you filled out the form, and
18 for the amount you just said, none of your
19 business, that would not be in compliance with
20 the Form 6 requirements, right?

21 A. Correct.

22 Q. So if someone is a city commissioner
23 or a city mayor and their primary job is to be a
24 lawyer and they made \$300,000 a year, they would
25 have to disclose that on the form, correct?

1 A. Yes.

2 Q. Right. And they'd have to disclose
3 the \$300,000 amount as well, right?

4 A. You mean -- any source of income, yes.

5 Q. Okay. And on a Form 1, if their
6 primary source of income was their job at the law
7 firm they would disclose that they worked at the
8 law firm, but they wouldn't have to disclose the
9 dollar amount --

10 A. That's correct.

11 Q. -- of their income?

12 Okay. And how is the dollar amount of
13 their income relevant to any ethics claim other
14 than failure to file the disclosure form?

15 MR. STAFFORD: Object to form. You
16 can answer if you know.

17 THE WITNESS: I don't know
18 specifically -- I mean, that was what was
19 called for when they did the initial Form 6,
20 that was something that they had there. I
21 don't know what the rationale was at that
22 time.

23 BY MR. COLE:

24 Q. Okay. Would you agree that now
25 there's no relationship between the amount of

1 income a person makes at their main job and any
2 ethics law in Florida?

3 MR. STAFFORD: Object to form. You
4 can answer if you know.

5 THE WITNESS: I mean, in terms of the
6 amount of somebody's source of income, that
7 could potentially inform other things,
8 depending on what somebody has alleged in
9 another area of the law.

10 BY MR. COLE:

11 Q. Okay. Well, let's just think of a --
12 the voting conflict situation. Let's say -- I'll
13 use the same example I used earlier, that there's
14 a city and they're trying to decide whether to
15 buy Apple computers or Dell computers and an
16 elected official is an employee at Apple and they
17 make \$50,000 or they make \$100,000.

18 Does it matter, to whether they have a
19 voting conflict, whether they made \$50,000 or
20 \$100,000?

21 MR. STAFFORD: Object to form.

22 THE WITNESS: No.

23 BY MR. COLE:

24 Q. Okay. And say, for doing business
25 with one's agency, if someone owns a company and

1 they make pencils and they want to sell their
2 pencils to the City, does it matter if they make
3 \$50,000 from their business that sells pencils or
4 \$100,000? It still -- the analysis of whether
5 they're doing business with -- it doesn't matter,
6 does it?

7 A. No.

8 Q. Okay. And take bribery. Let's say a
9 city commissioner is going to vote on a
10 development project and their employer tells
11 them, you know, I really want you to vote for --
12 you know, their employee says, this will benefit
13 us, so they want to give them money.

14 Does it matter how much money they
15 make? I mean, isn't a bribe a bribe no matter
16 how much money you earn from your main job -- let
17 me strike that.

18 MR. STAFFORD: Object to form.

19 MR. COLE: Let me strike the question.

20 Let me try it again.

21 BY MR. COLE:

22 Q. So can you think of any scenario where
23 the amount of money that the person makes at
24 their main job is gonna have any bearing on an
25 ethics violation?

1 MR. STAFFORD: Object to form. You
2 can answer if you know.

3 THE WITNESS: I mean, I don't know.

4 BY MR. COLE:

5 Q. All right. Let's say a person owns a
6 municipal bond in Ohio that pays interest of
7 \$15,000 a year. Will they have to disclose that
8 as income on a Form 6?

9 A. If they own a what?

10 Q. A municipal bond.

11 So a person owns a municipal bond and
12 it pays them \$15,000 a year in income. That's
13 something that that \$15,000 a year is a source of
14 income, right, that they have to disclose?

15 A. If it meets -- if it's income for tax
16 purposes, yes, it will be disclosed.

17 Q. Right. So if it's a nontaxable bond,
18 then it doesn't have to be disclosed, right?

19 A. I don't know the answer to that
20 question. You know, I would have to --

21 Q. All right. Let's assume a municipal
22 elected official owns a municipal bond from Ohio
23 and it pays \$15,000 a year in interest. They
24 have to disclose that, isn't that correct, as
25 income?

1 A. Any source of income more than a
2 thousand dollars must be disclosed on the Form 6.

3 Q. Okay. So can you tell me any kind of
4 ethics charge in Florida that could be brought
5 that would have any relevance to the amount being
6 15,800 as opposed to 20,000 or 10,000 in income,
7 other than just failure to disclose it on the
8 form?

9 A. I don't know.

10 Q. All right. So for secondary sources
11 of income, both the Form 1 and the Form 6
12 require -- they have different threshold amounts,
13 correct?

14 A. Correct.

15 Q. And do you know why they have
16 different threshold amounts?

17 A. No.

18 Q. Has the Commission on Ethics ever
19 considered recommending that the threshold
20 amounts in the Form 1 be changed to be the same
21 as the Form 6?

22 A. Not to my knowledge, that's not been.
23 No.

24 Q. So instead of having municipal elected
25 officials do the Form 6, did the Commission on

1 Ethics consider having the municipal elected
2 officials do a different form that would
3 basically be the Form 1 but with the same
4 threshold amounts as Form 6?

5 A. No. That was not discussed.

6 Q. Okay. Was there any consideration by
7 the Commission on Ethics to create a new,
8 different form, something between a Form 1 and a
9 Form 6, that municipal elected officials would
10 complete?

11 A. No.

12 Q. Did the Commission on Ethics look at
13 other state financial disclosure forms to decide
14 what would be the appropriate level of disclosure
15 for municipal elected officials?

16 A. No. Not for -- not -- not that I can
17 recall.

18 Q. For all those questions I just asked
19 you, when you were at the legislative hearings
20 did the state legislature consider any of those
21 things?

22 A. Not to my -- not to my knowledge. But
23 I don't know what all they considered outside of
24 the hearings that I attended.

25 Q. All right. So in the public hearings

1 you didn't hear anything about -- talking about
2 either just having municipal elected officials
3 having Form 1 with different threshold amounts or
4 a different form in between the Form 1 and the
5 Form 6 or one of the forms similar to used in a
6 different state? You didn't hear any discussion
7 about any of that, right?

8 A. Not that I recall. No.

9 Q. There's another section in the Form 1
10 and Form 6 for interest in specified businesses.
11 That's the same in the Form 1 and the Form 6,
12 right? There's no difference?

13 A. Let me look here. I think it's the
14 same in both. I just want to make sure that the
15 threshold is not different. Yes. They're the
16 same.

17 Q. Then, as far as training and
18 certification, that's the same in Form 1 and
19 Form 6, you still have to certify that you've
20 completed the training, right?

21 A. If you are subject to the training
22 requirement. Yes.

23 MR. COLE: Okay. I'd like to go ahead
24 and mark the next exhibit, which is gonna
25 be -- we'll start with I, which is the 2018

1 annual report, and let's mark as J, 2019,
2 and K for 2020, and L will be 2021 and
3 M will be 2022.

4 (Plaintiff's Exhibits I through M were
5 marked for identification.)

6 BY MR. COLE:

7 Q. Let's just go through these quickly
8 for identification purposes.

9 So Exhibit I is -- tell me what
10 Exhibit I is.

11 A. The annual report to the Florida
12 legislature for calendar year 2018.

13 Q. And what is an annual report by the
14 Commission on Ethics?

15 A. The Commission is required to provide
16 the legislature with a report of its activities
17 and it does so on an annual basis.

18 Q. So when do you prepare your annual
19 report?

20 A. It is prepared after the close of the
21 calendar year.

22 Q. So the 2018 annual report would have
23 been completed in early 2019, correct?

24 A. Yes.

25 Q. Approximately what month do you

1 complete that?

2 A. I'm sorry. Did you say what month did
3 we complete it in? Usually January.

4 Q. Okay. So generally it is prepared
5 before the start of the next legislative session;
6 is that correct?

7 A. Except on even years, when they start
8 meeting in January, we -- we draft it and then it
9 has to be considered by our Commission at its
10 January meeting before it's provided.

11 Q. So when you make legislative
12 recommendations that are included in the annual
13 report, if it's a legislative session starting in
14 January do you provide it to the legislature even
15 before you do your annual report?

16 A. We will provide the recommendations to
17 the legislature prior to session, but we include
18 those recommendations as a part of our annual
19 report.

20 Q. So when do you normally develop your
21 legislative recommendations?

22 A. That depends on the -- the will of the
23 Commission and when the legislative session
24 begins, you know. So sometimes we get started on
25 that -- I've seen them get started on it in the

1 spring, but usually it's summer to fall.

2 Q. All right. So can you identify
3 Exhibit J?

4 A. That's the annual report for 2019.

5 Q. And can you identify Exhibit K?

6 A. The annual report for 2020.

7 Q. And can you identify Exhibit L?

8 A. The annual report for 2021.

9 Q. And can you identify Exhibit M?

10 A. The annual report for 2022.

11 Q. Okay. So let's start with M, which is
12 the annual report for 2022. And I'd just ask
13 that you turn to page 9.

14 So on page 9 there's a section that
15 says "Complaints." Do you see that?

16 A. Yes.

17 Q. Okay. So for 2022, what was the total
18 number of complaints and referrals filed?

19 A. 223.

20 Q. Okay. And how many of those related
21 to state elected officials?

22 A. 12.

23 Q. And how many to district elected
24 officials?

25 A. 24.

1 Q. County elected officials?

2 A. 36.

3 Q. And municipal elected officials.

4 A. 53.

5 Q. So for the state elected officials

6 there were 12 complaints. That's 12 out of how

7 many?

8 A. 223.

9 Q. Twelve complaints out of how many

10 elected officials, state elected officials?

11 A. I don't have that number.

12 Q. So for municipal elected officials

13 there's 53 and you don't know out of how many the

14 53 are?

15 A. Well, there were 53 complaints filed

16 against municipal elected officials and my

17 understanding, from the League of Cities, is

18 there's roughly 2600 municipal elected officials.

19 Q. So in other words -- do you have a

20 calculator with you by any chance?

21 A. I do not.

22 Q. On the phone?

23 A. I do not have my phone in front of me.

24 Q. Okay. So if you took 53 and divided

25 that by 2600, that would be about 2 percent.

1 Does that sound about right?

2 A. I'll have to take your word for it.

3 Q. All right. For county elected
4 officials there were 36. Do you know how many
5 county elected officials are included that are
6 doing Form 1 and Form 6s?

7 A. No. I don't have that.

8 Q. But for municipalities, there's over
9 400 municipalities. There's only 67 counties,
10 right?

11 A. Yes.

12 Q. So isn't it true that the amount of
13 county elected officials is much smaller than
14 municipal elected officials?

15 A. That would be able to be deduced from
16 that. Yes.

17 Q. Well, if there's 67 counties, we -- we
18 know approximately how many county commissioners
19 there are, right? There's probably about 500,
20 right? This is about, on average, about seven
21 county commissioners in each county, and if
22 there's 67, that would be about 500, right?

23 A. Okay.

24 Q. And what else is included in the
25 county elected officials?

1 A. What do you mean by, what else is
2 included in county elected officials?

3 Q. Well, what I'm trying to figure out is
4 approximately how many -- what the pool of Form 1
5 and Form 6 filers that fall under county elected
6 is.

7 We know there were 36 complaints, but
8 to know what the percentage of county elected
9 officials had complaints against them we would
10 need to know the total of county elected
11 officials, right?

12 A. Right. That's not something that we
13 calculate. We are calculating, for the purposes
14 of our annual report, how many complaints we
15 received that were filed against elected county
16 commissioners or elected state officials,
17 municipal elected officials.

18 And that's a matter of what complaints
19 were filed in that given year, and there's a
20 five-year statute of limitations on top.

21 Q. All right. So I guess what I'm trying
22 to figure out is whether or not the percentage of
23 elected officials at the municipal level that had
24 complaints against them is higher or lower than
25 the percentage of county elected officials that

1 have had complaints against them.

2 And to do that they would need to know
3 the pool of elected officials, right, the number
4 of county elected officials?

5 A. Yes.

6 Q. Okay. Has the Commission on Ethics
7 ever done that analysis to try to figure out
8 whether municipal elected officials have a
9 percentage of all the elected officials, a higher
10 or lower number of -- percentage of complaints
11 compared to county or state or district
12 officials?

13 A. No. That's not one of the
14 calculations we did for our annual report.

15 Q. Right. Again, I know it's not in your
16 annual report, but have you ever done that
17 analysis at all?

18 A. Not to -- not to my knowledge.

19 Q. Okay. How would I find out the total
20 number of state elected officials that exist that
21 filed, you know, Form 1 or Form 6?

22 A. Well, we would have to look at our
23 financial disclosure database of officials for a
24 particular year.

25 Q. And is that accessible on your

1 website?

2 A. Well, certainly the list of disclosure
3 filers for each year is accessible on our website
4 and people generally can search by organization
5 or by name, but our office has a list for each
6 year, the official filer list.

7 Q. And is that list broken down by these
8 categories of position?

9 A. No. It is a list of persons whose
10 names have been provided to us as individuals who
11 are required to file financial disclosure.

12 Q. Okay. So if I wanted -- I'm just
13 trying to find out, how would I find out this
14 information?

15 I want to know, for state elected, on
16 the first line of the chart, it says there's
17 12 complaints, I want to know how many state
18 elected officials there were that didn't have
19 complaints filed against them. Is there any way
20 to determine that?

21 A. You know, I imagine there would be.

22 Q. Okay. So if I were to want to get
23 that information, how would I ask for it?

24 A. Well, you could, I guess, make a
25 request for the official list or make a request,

1 maybe, for a given year for city commissioners
2 who are on the list to file disclosures or county
3 commissioners who are on the list to file
4 disclosures.

5 Q. Well, for municipal elected officials
6 it's kind of easy, because, municipal elected
7 officials, I know how many municipal elected
8 officials there are.

9 But when you say county elected, I
10 don't know what is included in that. Is it just
11 county commissioners or is it also supervisors of
12 elections or how --

13 Is there something in writing
14 somewhere that designates what positions are
15 within each category of how much people file in
16 that category?

17 A. Complaints are in different database
18 from financial disclosure. Those two systems
19 don't -- exist separately.

20 And so when a complaint comes in the
21 clerk of admissions designates in the system
22 whether it's a county elected official or a state
23 elected official or a municipal elected official.

24 So yeah. County elected officials
25 could include sheriffs, you know, could include

1 supervisors of elections, tax collectors,
2 property appraisers. County level elected
3 officials could be included in that number of
4 complaints being filed.

5 Q. So how would I find out which
6 categories were included in each one of these
7 groups?

8 A. Well, that would be a matter of each
9 and every complaint that gets filed with the
10 Commission, comparing the -- the title and the
11 agency with the designation system.

12 Q. So that's how I could find out the
13 complaints, but the positions, if I want to know,
14 for state elected, how many -- when it's
15 12 complaints, 12 out of how many? What's the
16 universe of state elected officials that are
17 considered to be part of this category? How
18 would I find that out?

19 A. I mean, it would be any state elected
20 official who's -- I mean, complaints can be filed
21 against somebody for -- it's a statute of
22 limitations of five years. So it could be a
23 former elected state official who would be in the
24 elected official category.

25 If somebody had a complaint filed

1 against them in 2022 and they left office in --
2 at the end of 2018 and the conduct related to
3 2018, we would still have the ability to log in
4 that complaint and consider the legal sufficiency
5 of it and then potentially an investigation, if
6 the law calls for that.

7 Q. All right. So for municipal elected
8 it shows 53, which was 23.8 percent of all the
9 complaints, and for county it was 36, which was
10 16.1 percent of all the complaints.

11 But you would agree that the municipal
12 elected is a bigger pool of -- I'm sorry -- is
13 a -- yes -- is a much larger pool, like,
14 2600 people, than the county pool, which is
15 smaller, then the state pool is even smaller,
16 right?

17 A. Yes.

18 Q. All right. So if I wanted -- it
19 wouldn't be accurate to use the 23.8 and the 16.1
20 to say that -- I mean, it's accurate to say there
21 were more complaints filed against municipal
22 officials, but it's not accurate to say, as a
23 percentage of all municipal officials, as opposed
24 to county officials, the percentage of claims is
25 higher, correct, because, the pool is bigger?

1 A. This report, the information reported
2 to the legislature in this report is a reflection
3 of the percent of total complaints that are
4 received. That's what that table represents.

5 Q. Exactly. This does not show that
6 municipal elected officials are more likely to
7 have complaints filed against them than state or
8 county officials, instead, there's just more
9 municipal officials than are elected in the state
10 or county, right?

11 A. Yes. We -- we reported that we
12 received more complaints in 2022 against
13 municipal elected officials.

14 Q. No, no. I understand that. But --

15 A. I guess I don't understand the
16 question. I'm sorry.

17 Q. I guess what -- there's an
18 implication, when you say you have more
19 complaints against municipal officials, that
20 municipal officials, you know, have more ethical
21 problems.

22 But if there is twice as many
23 municipal elected officials as there are county
24 elected officials and they have less than twice
25 as many complaints, wouldn't the municipal

1 officials be less likely to have the ethical
2 problems than the county officials? Do you
3 understand what I'm saying?

4 MR. STAFFORD: Object to form. You
5 can answer it if you understand.

6 THE WITNESS: I -- I guess I -- can
7 you repeat the question for me, please?

8 BY MR. COLE:

9 Q. What I'm trying to get at, okay, is,
10 if you're gonna compare municipal elected
11 officials to county elected officials, and let's
12 just assume for now that there's 2600 elected
13 officials for the municipal category, which is
14 what you had testified to, let's say for the
15 county elected officials there's 1300, there's
16 half as many. Okay? Let's assume that for a
17 second.

18 Would you agree that you would expect
19 the municipal officials to have twice as many
20 complaints as the county elected officials if
21 everyone was even?

22 A. Yes.

23 Q. But here the municipal elected
24 officials have 23.8 percent and the county
25 elected have 16.1. So there's maybe a 40 percent

1 higher for the municipal.

2 But if there's twice as many
3 municipal, then the municipal actually has a less
4 per capita, so to speak, than the county, right?

5 MR. STAFFORD: Object to form. You
6 can answer.

7 THE WITNESS: Okay.

8 BY MR. COLE:

9 Q. But is that a correct analysis? Is
10 what I'm saying correct?

11 MR. STAFFORD: Object to form.

12 THE WITNESS: I would assume so. Yes.

13 BY MR. COLE:

14 Q. All right. And the same for the state
15 elected officials. If there's only, you know, a
16 quarter as many of elected officials at the state
17 level that are part of the pool, you would expect
18 municipal to be five -- four times more than the
19 state, right?

20 A. Yes.

21 Q. And the Commission on Ethics has never
22 done an analysis of, does municipal elected
23 officials, what percentage have ethics complaints
24 compared to what percentage of county elected
25 officials have it or district elected officials

1 or state elected officials. You've never done
2 that analysis?

3 A. Not to my knowledge. No.

4 Q. All right. So what I'd like you to do
5 is just keep page 9 open and go to 2021, which is
6 Exhibit L. And go to page 9. Do you have that
7 page open? Okay.

8 Oh, one other question. So in
9 March -- well, SB 774 was approved in the
10 legislative session in 2023; is that correct?

11 A. Yes.

12 Q. And that was in the March/April
13 timeframe, right?

14 A. Yes.

15 Q. So the last annual report that was
16 available to legislatures when they considered
17 SB 774 was the 2022 annual report, correct?

18 A. In 2023? Yes.

19 Q. Right. They didn't have the 2023
20 annual report because it didn't come out until
21 '24, right?

22 A. Yes.

23 Q. Okay. So now let's look at Exhibit L,
24 which is the 2021 report. Now, the total number
25 in the 2021 annual report, the total number of

1 complaints was how much? How much was the total
2 complaints?

3 A. I'm sorry. It's hard to hear. We've
4 got a lot of background noise. I'm sorry.

5 Q. What was the total number of
6 complaints in 2021?

7 A. 238.

8 Q. Okay. So in 2022 you testified it
9 was 223. So it actually had gone down a little
10 bit from 2021 to 2022?

11 A. Yes.

12 Q. Okay. And the number of municipal
13 complaints, how much was that in 2021?

14 A. 72.

15 Q. And in 2022 it was 53. So it had also
16 gone down --

17 A. Yes.

18 Q. -- from 2021 to 2022.

19 All right. So let's look at 2020.
20 And if you go to page 9 -- no. Page 10. It
21 changed. All right. So you're looking at
22 page 10 of 2020?

23 A. Yeah.

24 Q. Okay. So the number of complaints
25 in 2020, what was the total number?

1 A. 243.

2 Q. So if you compared 2020 to 2021 to
3 2022, it went down from 243 to 238 to 223; is
4 that correct?

5 A. Yes.

6 Q. So in the three years before SB 774
7 was adopted it had gone down each year, correct?

8 A. Yes.

9 Q. And the number for municipal elected
10 was 62; is that correct?

11 A. Yes.

12 Q. So municipal went from 62 to 72, but
13 then it went down to 53, correct?

14 A. Yes.

15 Q. So in 2023, looking at this data, the
16 number in 2022 was less than 2021 or 2020. In
17 fact, in 2022 it had been the lowest number in
18 all those three years.

19 A. Yes.

20 Q. And let's look at 2019. Now we're
21 back to page 9. So on page 9 for 2019, the total
22 number of complaints was how much?

23 A. 231.

24 Q. So from 2019 it went from 231 then to
25 243, so it went up, and then it went down to 238

1 and then down to 223, is that correct, from year
2 to year?

3 A. Yes.

4 Q. So the number in 2022 was less than
5 2019, '20 or '21, correct?

6 A. Yes.

7 Q. And for municipal elected officials
8 for 2019 it was how much?

9 A. 84.

10 Q. So if you go year to year it went from
11 84 to 62 to 72 to 53, correct?

12 A. Yes.

13 Q. So the number in 2022 was less than
14 2019, '20 or '21, correct?

15 A. Yes.

16 Q. And then, let's look at 2018, which is
17 also page 9. In 2018 the number of complaints
18 was how much?

19 A. 211.

20 Q. So that number was less than the
21 following four years, correct?

22 A. Yes.

23 Q. And the municipal elected was how
24 much?

25 A. 68.

1 Q. I'm sorry. Did you say 68?

2 A. Yes.

3 Q. So 68 -- so the number for municipal,
4 the 53 in 2022, was actually the lowest of all
5 five years, correct?

6 A. Yes.

7 Q. So now, as far as the total number of
8 complaints, they've generally, in all these
9 years, been between 211 and 243 with -- and the
10 lowest was in 2022 with 223. But generally
11 they're in same range, wouldn't you agree?

12 A. Yes.

13 Q. The number of complaints over the five
14 years was generally in the same range, but the
15 lowest amount is in 2022.

16 A. The lowest number of complaints were
17 filed in 2018.

18 Q. Okay.

19 A. From this group that we have out.

20 Q. All right. And then, but the 223 is
21 still lower than the prior three years, then,
22 right?

23 A. 223 --

24 Q. Lower than the number for --

25 A. Yes.

1 Q. Okay. And then, for municipal, the
2 lowest number is in 2022, right?

3 A. Yes.

4 Q. So as the legislators were looking at
5 considering SB 774, they had this data, right?
6 They had -- the annual reports are produced to
7 the legislature every year. So they had these,
8 right?

9 A. They were provided to the legislature.
10 Whether the members of the committee had the
11 annual reports in front of them, I do not know.

12 Q. Okay. Well, we know that, at least in
13 2022, they looked at it, because they filed the
14 bills based on the legislative recommendation,
15 right?

16 MR. STAFFORD: Object to form.

17 THE WITNESS: We -- we provide the
18 annual report to the leadership in the
19 senate and the House and the Ethics
20 Committee chair, the oversight offices.

21 BY MR. COLE:

22 Q. So you don't know if each of the
23 legislators even had these reports, do you?

24 A. I do not know.

25 Q. Okay. But assuming they had them,

1 based on this information would you agree that
2 the number of total complaints and municipal
3 complaints, when you look at all these here, are
4 basically lower for total complaints and lower
5 for municipal complaints?

6 A. Are you talking about overall numbers
7 or municipal?

8 Q. First talking overall numbers. So
9 overall, although 2018 was lightly less, 2019,
10 '20, '21 were all higher.

11 So based on this, would you conclude
12 that the number of total complaints was on an
13 upward trend or basically a flat trend and the
14 prior year was a little bit lower?

15 A. Well, they had been on an upper
16 trajectory. 2022 was slightly lower than 2021 as
17 well.

18 Q. Well, '22 was lower than '21 and '21
19 was lower than '20 and '20 was lower than '19,
20 right?

21 A. Yes. If you're only looking at 2019
22 through 2022, then the lowest number of overall
23 complaints was in 2022.

24 Q. And then, if you look at municipal for
25 the whole -- you know, all five years, the lowest

1 was in 2022, right?

2 A. Yes.

3 Q. So would you agree with me, for
4 complaints against municipal elected officials
5 there was a downward trend, not an upward trend
6 over these five years?

7 A. Yes. An upward.

8 Q. All right. So I'd like you to go back
9 to Exhibit M, which was the '22 report.

10 A. Okay.

11 Q. And I'd like you to turn to page 23,
12 which is the legislative recommendations.

13 A. 2022. Page 23?

14 Q. Yeah. Actually, I'm going to strike
15 that. I wanted to do something first.

16 As far as the number of complaints,
17 how many of those complaints actually result in
18 probable cause? And I guess it's all on page 12,
19 right? Go to page 12.

20 A. Of which year, 2022?

21 Q. 2022.

22 A. Okay. So these were actions taken on
23 complaints in 2022. Actions taken on complaints
24 in 2022 and arise from complaints that were filed
25 in previous years, as well as some in 2022.

1 Q. Okay.

2 A. So just -- just so we know -- I know
3 that it sometimes can be confusing. But in 2022
4 we're working complaints from a number of
5 different years.

6 And so of the 232 actions that were
7 taken, there were 73 probable cause hearings
8 held, 23 of which resulted in a probable cause
9 finding and five of which resulted in a probable
10 cause, no further action finding. So a total of
11 28 probable cause findings.

12 Q. Okay. So let me just kind of go
13 through this, just so I make sure I understand.

14 So there were -- out of 227, 126 were
15 dismissed for lack of sufficiency; is that
16 accurate?

17 A. Yes. 126 were dismissed for legal
18 insufficiency.

19 Q. So more than half of the complaints
20 were just dismissed for legal insufficiency. Is
21 that approximately the same every year or has
22 that been changing?

23 A. Roughly. Yes. That's roughly
24 accurate.

25 Q. Okay. So about half, maybe a little

1 more than half, were dismissed for legal
2 insufficiency and some are dismissed for lack of
3 jurisdiction, a smaller number though, right?

4 A. Yes.

5 Q. So who dismisses it for lack of
6 jurisdiction? How does that work?

7 A. The Commission.

8 Q. The Commission. So do you make a
9 recommendation to the Commission and do they meet
10 in the closed session, just like for legal
11 insufficiency?

12 A. Yes. It could be in a -- in a closed
13 session. There could be other motions for lack
14 of jurisdiction that could come through.

15 Q. Okay.

16 A. But most dismissals or lack of
17 jurisdiction come during the sufficiency stage.

18 Q. Okay. So generally more than half,
19 then, between being dismissed for lack of legal
20 sufficiency and lack of jurisdiction, probably
21 about 60 percent are dismissed; is that correct?

22 A. Yes. I'm certainly comfortable saying
23 more than half are dismissed without
24 investigation.

25 Q. And then, after the investigations go,

1 approximately what percentage is there probable
2 cause and they move forward?

3 A. Well, I don't have any percentages for
4 you. I can only point to the actions taken in
5 different years and how the numbers break down in
6 terms of numbers of probable cause hearings held.

7 Q. Okay. So there was 73 probable cause
8 hearings. That's only about a third of the 227,
9 right?

10 A. Yes.

11 Q. Okay. And then, of those more than
12 half are found not to have probable cause and
13 they're just dismissed, right?

14 A. Right.

15 Q. So out of the 227, how many ultimately
16 resulted in either a stipulation or a finding of
17 a violation?

18 A. Well, again, we're not talking about a
19 subset of the probable cause actions that were
20 found, because sometimes a stipulation is from a
21 complaint from a different year, a probable cause
22 finding from a different year.

23 But in this particular year, in the
24 actions that were taken by the Commission,
25 14 complaints had stipulated agreements that came

1 before the Commission; 12 of those stipulations
2 were adopted and two were rejected.

3 Q. And if it's rejected, what happens
4 then?

5 A. Then the parties go back to the
6 drawing board. They can come back at a future
7 meeting with a new settlement agreement or they
8 can go to an evidentiary hearing at the Division
9 of Administrative Hearings.

10 Q. So in 2022 the total amount of
11 complaints that resulted in either a stipulation,
12 a violation or a Division of Administrative
13 Hearing finding of violation was 19, correct?

14 A. Yes.

15 Q. And if we go back to 2021 and see how
16 many there were that year. On page 12.

17 From page 12 there was 16 stipulated
18 violations and one Division of Administrative
19 Hearing violations. There were 17 in the prior
20 year, right?

21 A. Yes.

22 Q. Okay. So let's see what happened in
23 2020, which starts on page -- well, what page is
24 it?

25 A. 13.

1 Q. All right. There were eight
2 stipulation of violations and one -- there were
3 nine, right?

4 A. There were nine violations found.
5 Yes.

6 Q. Okay. Then, in 2019, let's see how
7 many there are. Looks like 20 plus 2, 22?

8 A. Yes. Yes. 22.

9 Q. And then, in '18, there would be 16
10 for 2018?

11 A. Yes.

12 Q. So if you add all those up, we get 12,
13 17, 9, 22 and 16; 77 during the five-year period,
14 correct?

15 A. I'll trust your math on that.

16 Q. Okay. And I believe, as we were going
17 through the total number, there was between
18 211 and 243. So there's probably, in the five
19 years, about 11 or 1200 complaints, right? I
20 mean, it's about between 200 and 250 each year,
21 so about 1100.

22 So do you feel that the 77 violations
23 is a lot over a five-year period or is that a
24 small amount?

25 MR. STAFFORD: Object to form.

1 THE WITNESS: I don't -- I don't have
2 anything to compare that to other than to
3 say that's the number that they found during
4 that time period.

5 BY MR. COLE

6 Q. So has the Commission ever made any
7 analysis to compare the number of found
8 violations per year over the last 50 years to see
9 whether there was more or less violations now
10 than there was, you know, 20 years ago or
11 30 years ago or 40 years ago or 50 years ago?
12 Have you done any analysis like that?

13 A. No.

14 Q. And you didn't provide any analysis
15 like that to the state legislature, did you?

16 A. No.

17 Q. All right. I want to go back to
18 Exhibit M and go to page 10. These are the main
19 types of complaints; is that correct?

20 A. These are the allegations that had
21 been ordered to be investigated.

22 Q. Okay. So the one that's the largest
23 is Misuse of Public Position, correct?

24 A. Yes.

25 Q. So what is misuse of public position?

1 A. 112.313 subsection (6) prohibits a
2 public officer or employee from corruptly using
3 or attempting to use their official position or
4 official resources in order to receive a personal
5 benefit, privilege or exemption for themselves or
6 someone else.

7 Q. Would you view that as within the
8 breach of public trust?

9 A. Yes.

10 Q. And would you also view that as a type
11 of conflict that fits within the conflict
12 category?

13 MR. STAFFORD: Object to form.

14 MR. COLE: All right. Well, let me
15 strike.

16 BY MR. COLE:

17 Q. For misuse of public position, is the
18 elected official doing something that's in their
19 personal benefit that conflicts with their duties
20 as a public official?

21 A. Yes. All the ethics laws are designed
22 to make sure that public officials are using
23 their position for the benefit of the people.
24 They hold those offices for the benefit of the
25 people.

1 Q. But it all kind of fits under that
2 genre of conflicts, right?

3 A. Yes.

4 Q. And for misuse of public position,
5 would that be something like a municipal elected
6 official using his city position to make a
7 recommendation for someone in a private context?
8 Would that be a misuse of public position?

9 A. You know, if you're talking about
10 recommendations, it's the -- it is the totality
11 of those facts that indicate whether or not
12 there's a possible violation of the misuse
13 section of the law, because it does require
14 intent.

15 Q. Corrupt intent, right?

16 A. Yes. Wrongful intent.

17 Q. Right. So could you give me an
18 example of what a misuse of public position would
19 be?

20 A. We see common misuse of public
21 positions, public resources and staff during
22 public business hours for campaign events. We
23 see it as a misuse of purchasing cards to make
24 personal purchases.

25 We see allegations -- all sorts of

1 allegations. It's the most common type of
2 allegation that we see. So somebody uses public
3 dollars to travel to a conference where they
4 don't actually attend the conference, so misuse
5 of public dollars for their hotel stay.

6 We see it in the do you know who I am
7 context of public officials, you know, to derive
8 some sort of a benefit where they, you know,
9 bring the import of their office to a purely
10 private (inaudible.) It could be any number of
11 things.

12 Q. And would it matter if an elected
13 official's now worth either a million dollars or
14 \$50,000 as to whether or not they're guilty of
15 misuse of public position?

16 A. Not that in and of itself.

17 Q. Right. And would it matter if the
18 elected officials are earning \$300,000 a year
19 from his main job or \$50,000 a year for his main
20 job, would that matter as to a claim for misuse
21 of public position?

22 MR. STAFFORD: Object to form.

23 THE WITNESS: No.

24 BY MR. COLE:

25 Q. Would the amount of household -- the

1 aggregated value of their household, assets of an
2 elected official, have any bearing on the claim
3 for misuse of public position?

4 MR. STAFFORD: Object to form.

5 THE WITNESS: No.

6 BY MR. COLE:

7 Q. And the next category that has the
8 most complaints is disproportionate benefit. Can
9 you tell me what that is?

10 A. It's a constitutional provision that
11 was passed in 2018 by the voters. It's very
12 similar to misuse of public position.

13 It says that an official cannot abuse
14 their position in order to receive a
15 disproportionate benefit for themselves, their
16 employer, corporations to which they're
17 affiliated. I don't have the law in front of me.

18 Q. And then, for -- same questions I
19 asked you before, would it matter how much a
20 person's net worth is in determining whether or
21 not it's a disproportionate benefit?

22 MR. STAFFORD: Object to form.

23 THE WITNESS: Right. Because you have
24 to prove the elements of the -- of the law.

25 BY MR. COLE:

1 Q. And their net worth is not one of the
2 elements?

3 A. Well, that may depend on the
4 allegations. But in and of itself it's not an
5 element of a violation.

6 Q. I notice something was just handed to
7 you. What is that?

8 A. This is Article 2, Section 8. It has
9 the disproportionate benefit law in it.
10 Exhibit A.

11 Q. Okay. I was just wondering who handed
12 that to you, because he's not on the screen.

13 MR. SJOSTROM: Noah Sjostrom.

14 MR. COLE: Oh. I did not even know
15 you were here. I don't think you announced
16 your appearance. Okay.

17 I don't mean to be a stickler, but I
18 think I'd prefer it if no one hands the
19 witness documents that might help them
20 answer questions. That's probably not
21 appropriate in a deposition.

22 BY MR. COLE:

23 Q. So for disproportionate benefit
24 claims, the amount of a person's income from
25 their main job also has no bearing or relevance

1 to that claim, right?

2 MR. STAFFORD: Object to form.

3 THE WITNESS: Not unless it's a part
4 of a fact pattern of the allegation.

5 BY MR. COLE:

6 Q. Okay. How could it be a part of a
7 fact pattern of the allegation?

8 A. I -- I don't know. There are many,
9 many allegations that get made. I -- I can't
10 begin to fathom all the different types of
11 allegations.

12 But is it a requirement or an element
13 of that law? No. But could fact patterns come
14 in in complaints that encompass various parts of
15 a disclosure form? Sure. But in and of itself,
16 no.

17 Q. All right. The next category is based
18 on size of complaints is conflicting employment
19 or contractual relationship, right?

20 A. Yes.

21 Q. And what is that?

22 A. It's -- there's two parts to that law.
23 An official cannot have a contractual
24 relationship or employment with a business entity
25 or an agency that's subject to the regulation of

1 or doing business with their agency.

2 The second part of the statute says
3 that they can't have a contractual relationship
4 or employment that creates a impediment to public
5 duty or a frequently recurring conflict or, you
6 know, cause them to disregard their public
7 duties.

8 **Q. And the identity of a person's**
9 **employer would be relevant to a claim for**
10 **conflicting employment or a contracting**
11 **relationship, right?**

12 A. Yes.

13 **Q. But the amount that they make from the**
14 **income from their employer would not be an**
15 **element bearing on a claim for conflicting**
16 **employment or contractual relationship, right?**

17 MR. STAFFORD: Object to form.

18 THE WITNESS: There is an exemption,
19 but I think that's for \$500. So in and of
20 itself --

21 BY MR. COLE:

22 **Q. So the answer to my question would be**
23 **no?**

24 A. Correct.

25 **Q. And for all of these, other than the**

1 willful failure to file a disclosure form, would
2 you agree that the amount of net worth is not an
3 element?

4 MR. STAFFORD: Object to form.

5 THE WITNESS: In -- in the laws -- as
6 a requirement in the -- on the Form 6 in
7 3144?

8 BY MR. COLE:

9 Q. Right. Other than the complaints for
10 Form 1, willful failure to file or full and
11 public disclosure of financial interests, which
12 are the disclosure part, other than that, would
13 you agree that a person's net worth is not an
14 element of any of these?

15 MR. STAFFORD: Object to form.

16 THE WITNESS: Correct.

17 BY MR. COLE:

18 Q. Okay. And other than the Form 1,
19 willful failure to file and full and public
20 financial disclosure, other than those two, would
21 you agree that a person's net aggregate value of
22 household goods has no relevance or bearing on
23 any of these?

24 A. I'm sorry. Could you repeat the
25 question?

1 Q. Other than the formal and willful
2 failure to file and the full and public
3 disclosure of financial interests, other than
4 those two, would you agree that a person's
5 household aggregate net worth has no relevance or
6 bearing on any of the other types of complaints
7 listed here?

8 MR. STAFFORD: Object to form.

9 THE WITNESS: Yes.

10 BY MR. COLE:

11 Q. And would you agree that, other than
12 the formal and willful failure to file and the
13 full and public disclosure of financial
14 interests, a person's income does not have any
15 bearing on the -- any of these areas of
16 allegation?

17 MR. STAFFORD: Object to form.

18 THE WITNESS: I don't -- I don't know.

19 BY MR. COLE:

20 Q. Well, are there any where income would
21 be relevant, the amount of income for any of
22 these?

23 A. Is there a scenario where it could?
24 Perhaps.

25 Q. All right. Can you think of a perhaps

1 where it would come up? I'm actually trying to
2 come up with one and I can't come up with one.
3 That's why I'm asking you if you have any.

4 It just seems like income has nothing
5 to do with any of these, the amount of income,
6 but if it does, I just want you to tell me how it
7 does.

8 A. I thought I answered the question. Is
9 there another question?

10 Q. Well, I don't think -- you answered,
11 perhaps, and I'm trying to delve into that, what
12 that means.

13 As you sit here today, can you think
14 of any situation where the amount of a person's
15 income is relevant or related to any of the
16 claims or complaint allegations on this chart
17 other than the ones dealing with the Form 1 and
18 the Form 6?

19 MR. STAFFORD: Object to form.

20 THE WITNESS: Not at the moment.

21 BY MR. COLE:

22 Q. All right. So if you could turn to
23 page 23, the legislative recommendation.

24 A. Which exhibit are we in?

25 Q. We're in Exhibit M, the 2022 annual

1 report, under the legislative recommendations.

2 A. Okay.

3 Q. Okay. So the third recommendation
4 deals with enhanced financial disclosure for
5 local elected officials, correct?

6 A. Yes.

7 Q. And is this the one that led to
8 SB 774?

9 MR. STAFFORD: Object to form.

10 THE WITNESS: This -- this was a
11 legislative recommendation related to what
12 ultimately passed in 774, but unrelated to
13 the House bill.

14 BY MR. COLE:

15 Q. When you say unrelated to the House
16 bill, what do you mean by that?

17 A. The sponsor in the House indicated
18 that he was not aware of the Commission's
19 recommendation as to enhanced financial
20 disclosure. It came to him from a legislative
21 delegation meeting from a constituent.

22 Q. But ultimately the House bill is not
23 the one that passed, it's the Senate Bill 774
24 that passed, right?

25 A. Right. It was the House -- yes.

1 Ultimately 774 is the one that was signed into
2 law.

3 Q. And was it the House bill that
4 originally had city and county managers in it?

5 A. You know, I -- I know city and county
6 managers appeared in the bill at some point under
7 consideration of 774, but I do not remember
8 specifically which chamber.

9 Q. There was a proposal in one of the
10 chambers to require city and county managers to
11 do a Form 6 instead of a Form 1, right?

12 A. Yes.

13 Q. And city and county managers are not
14 elected, they're appointed, right?

15 A. Yes.

16 Q. And was there ever any explanation
17 given during the discussions as to why city
18 managers and county managers were not included or
19 were taken out?

20 A. No. I was not privy to any reasoning
21 or decision by the legislature with regard to
22 that.

23 Q. So going back to the recommendation on
24 page 23, the first sentence says:

25 "Elected municipal officials are very

1 important and administer vast amounts of public
2 resources."

3 Do you see that? Do you see that?

4 A. Yes. I'm on page 23.

5 Q. Do you see the first sentence, where
6 it says:

7 "Elected municipal officials are very
8 important and administer vast amounts of public
9 resources."

10 Do you see that?

11 A. Yes.

12 Q. And it says:

13 "For these and other reasons their
14 disclosure should be on par without that of
15 county officials and others who file Form 6,
16 rather than Form 1."

17 And then it says:

18 "The Commission believes the enhanced
19 disclosure should be applied to all elected
20 municipal officials regardless of the population
21 or revenue of the municipality."

22 Do you see that?

23 A. Yes.

24 Q. That was the recommendation that was
25 made by the Commission on Ethics in 2022 before

1 2023, correct?

2 A. Yes.

3 Q. Other than this, other than the 2022
4 annual report, did the Commission on Ethics give
5 any other materials or studies or analysis or
6 empirical data to the legislature regarding this
7 issue?

8 A. No. Not to my knowledge.

9 Q. And isn't it true that elected
10 officials of community development districts and
11 water management districts are very important and
12 administer vast amounts of public resources?

13 A. Yes.

14 Q. But the Commission on Ethics did not
15 recommend that they be subject to the Form 6, did
16 they?

17 A. No. They have not yet done that.

18 Q. And why not?

19 A. That's -- that is not the
20 recommendation that they make. Like I said,
21 originally the discussion was all elected
22 officials and they decided that they would move
23 forward with city commissioners and mayors.

24 Q. But what's written here talks about
25 elected officials who are very important and

1 administer vast amounts of resources.

2 Is that the standard for who should be
3 subject to Form 6? If that's the reason given
4 here, shouldn't that be applied to all elected
5 officials that are very important and administer
6 vast amounts of public resources?

7 A. You know, that's not my decision to
8 make, but if that were to be the legislative
9 policy on that, they could certainly do that.

10 Q. But this says, "For these, comma, and
11 other reasons, comma" --

12 A. Yes.

13 Q. -- "their disclosures should be on
14 par."

15 So did the Commission on Ethics give
16 anything to the legislature as to the other
17 reasons?

18 A. In terms of the other reasons, some of
19 the things that were discussed is, you know, the
20 impacts of decisions of city commissioners and
21 mayors on the -- on their citizens.

22 Q. Okay. But --

23 A. And that a level of transparency for
24 city commissioners and mayors should not vary
25 based on the -- based on the revenue of a town or

1 the population of a town, because the citizens in
2 those cities are no less entitled to the same
3 transparency as citizens in other larger
4 metropolitan areas.

5 Q. But citizens within community
6 development districts should not be entitled to
7 the same transparency as the others?

8 A. That was not specifically discussed.

9 Q. So my question was, it says, "For
10 these and other reasons." And my question was
11 whether or not the other reasons were ever
12 disseminated by the Commission on Ethics to the
13 Florida legislature.

14 A. No. I think the Commission provided
15 answers to questions when they were asked in
16 committee meetings, provided, you know, analyses
17 as requested, and that was the information
18 provided to the legislature.

19 Q. And when you said questions were
20 answered at committee hearings, those were the
21 public hearings where you answered questions; is
22 that correct?

23 A. Public hearings where I answered the
24 questions. Yes.

25 Q. You also referenced some analysis that

1 was given to them when requested. What was
2 requested and what was provided?

3 A. Agencies receive bill analysis
4 requests for certain bills and when we receive
5 those we provide analysis or information related
6 to fiscal impacts and implementation concerns
7 with particular bills that are with -- to the
8 legislature.

9 Q. SB 774. Did the Commission on Ethics
10 provide any other information as to SB 774 other
11 than what you're showing -- other than the 2022
12 annual report?

13 A. Yeah. I -- there were -- there were
14 bill analyses done, I would believe.

15 Q. All right. And that would have been
16 contained without the legislative staff analysis
17 that were done by the committees?

18 A. Right. They would -- yes. They would
19 have access to those.

20 Q. Okay. So based on what's written in
21 the legislative recommendation, it seems like the
22 main justification that's being given is that
23 city officials are just as important and --
24 concerning the same amounts of money as the
25 county officials and therefore they should be

1 doing the same form as county officials, right?

2 A. Yes.

3 Q. All right. But that supposes that
4 county officials should be doing Form 6s, right?

5 A. Yes.

6 Q. But you could put the city officials
7 on par with the county officials by telling
8 county officials they could fill out Form 1.
9 Wouldn't that do the same thing?

10 MR. STAFFORD: Object to form.

11 THE WITNESS: County officials are
12 required to file the Form 6.

13 BY MR. COLE:

14 Q. Right. But if you wanted them on par,
15 there's two ways to put everything on par, either
16 you make them all do Form 6 or all do Form 1, or
17 the third way, you could have something in
18 between and they could all be on par.

19 But was there any analysis given that
20 a proper amount for city and county officials
21 should be Form 6?

22 A. Was there anything given to -- I
23 missed the last part of the question.

24 Q. (Inaudible) the legislature that shows
25 that the amount of disclosure being part of

1 county officials was the appropriate amount?

2 A. I'm sorry. It's hard to hear you.

3 Q. All right. Let me back up.

4 So this is saying that city officials
5 and county officials should be the same, on par.
6 They should be treated the same for disclosure,
7 right?

8 A. Yes. That was a part of their
9 discussions.

10 Q. Right. But they could be treated the
11 same and it could be something other than the
12 Form 6 or the Form 1. It could be something in
13 between, where they both have to do, say,
14 disclose sources of income and identify assets
15 but not give values or both not have to give
16 net worth.

17 I mean, you could come up with
18 different alternatives where the city and the
19 county officials would be the same, other than
20 making them fill out Form 6, right?

21 A. I would imagine the Commission could
22 make that recommendation. I've never heard any
23 discussion as such.

24 Q. But if the recommendation was to make
25 them on par with county officials, the complicit

1 assumption is that the county officials have the
2 right amount of disclosure, right?

3 A. That the county officials have the
4 what?

5 Q. Correct amount of disclosure.

6 A. Yeah.

7 MR. STAFFORD: Object to form.

8 BY MR. COLE:

9 Q. In your affidavit you said that
10 members of the public complained to the
11 Commission about municipal elected officials more
12 than any other group. Do you recall that?

13 A. Yes.

14 Q. Now, isn't it possible that the reason
15 they complained more about municipal elected
16 officials than any other group is because the
17 number of municipal elected officials is just
18 much bigger than any other group?

19 A. Speaking to the number of complaints
20 that we receive on elected officials.

21 Q. Right. So the reason that there's
22 more complaints is because there's more municipal
23 elected officials, right?

24 MR. STAFFORD: Object to form.

25 THE WITNESS: That could be one

1 reason. Another reason could be that
2 citizens are really more plugged in to their
3 local government than state government, for
4 example, because, you know, they're more in
5 tune with what's happening in their back
6 yard.

7 BY MR. COLE:

8 Q. But proportionately you don't know
9 whether or not there's more complaints against
10 municipal elected officials than the other
11 elected officials, do you?

12 A. We know that we receive more
13 complaints against municipal elected officials
14 than others in complaints that we've received.

15 Q. But you also know that there's more
16 municipal elected officials than there are state
17 elected officials or county elected officials,
18 right?

19 A. Yes.

20 Q. So you would expect to get more
21 complaints?

22 A. You could. Yes.

23 Q. So is the amount of complaints that's
24 being received regarding municipal elected
25 officials out of proportion to the amount for the

1 district and state and county elected officials?

2 A. Not necessarily.

3 Q. You don't know whether it's out of
4 proportion or not, do you?

5 A. I have not run the numbers that way,
6 (indiscernible) on what's in our annual report.

7 Q. All right. You said the Commission
8 drafted advisory opinions on conflicts of
9 interest more than any other topic. So would it
10 be your belief that the conflicts of interest is
11 probably is biggest example of breaches of the
12 public trust?

13 A. No. When we speak about that, that
14 has to do with the area of law, so 112.313(7) and
15 112.313(3), those two areas of law tend to be the
16 most technical in dealing with the legalities of
17 corporations and employment and the like. So
18 there tends to be more questions about that area
19 of law.

20 Q. So just because there's more questions
21 about their opinions on an issue, that's not a
22 bad thing, right? That just means officials are
23 asking you what they're supposed to do rather
24 than just violating the law, right?

25 A. Yes. They're seeking guidance so that

1 they can comply with the ethics laws.

2 Q. That's what you want them to do,
3 right?

4 A. Yeah. We would rather help somebody
5 with an advisory opinion than have to investigate
6 them. Yes.

7 Q. Exactly. Okay.

8 In your affidavit you said that since
9 January 1, 2024 a total of 127 municipal elected
10 officials have filed a Form 6 disclosure, right?

11 A. Yes.

12 Q. So do you know why 127 municipal
13 elected officials filed a Form 6 already, even
14 though it's not due until July?

15 A. There are a number of reasons that
16 that can be. It can be for qualifying for
17 office. But we always have people who tend to
18 file early because they like to go ahead and get
19 it done.

20 So I do know there have been some
21 qualifying periods, so that would have been
22 people who, in an election year like this, we
23 would have more forms filed earlier than in a
24 non-election year.

25 Q. In fact, out of the 127 the vast

1 majority of those were people who qualified for
2 election, right?

3 A. I did not look at the purpose for it,
4 but there have -- like I said, there has been
5 qualifying for office, and so I would expect
6 there to be a number from (inaudible).

7 Q. And if they were qualified for office
8 they had to do the Form 6 now, they couldn't wait
9 until July, right?

10 A. It trailed off at the end. Not that
11 they could have?

12 Q. So if they were qualified for election
13 after January 1, 2024 or for reelection after
14 January 1, 2024, they would have to fill out the
15 Form 6, right?

16 A. Yes.

17 Q. And when they fill out the Form 6
18 because they're running for reelection, do they
19 do that electronically with the Commission on
20 Ethics?

21 A. Yes.

22 Q. And do candidates who are not
23 incumbents or running, they have to fill out a
24 Form 6 also, right?

25 A. Yes.

1 Q. And where do they file that?

2 A. They file it with their qualifying
3 officer.

4 Q. So that's not done electronically?

5 A. No. They don't have a filing
6 requirement, so they do not file electronically
7 with the Commission. They access the same system
8 and walk through the form in the same way, but
9 then they file the printout forms with their
10 qualifying officer.

11 Q. So is that accessible on the
12 Commission on Ethics website?

13 A. Not on the Commission's website. It's
14 my understanding that the qualifying officers
15 handle the publication status that's required.

16 Q. But in municipalities the qualified
17 officers generally see the clerk, right?

18 A. I don't know. Could be a city clerk,
19 could be a supervisor of elections. I don't
20 know.

21 Q. And there's no requirement that they
22 put it on the internet, is there?

23 A. I don't know what the elections law
24 requires.

25 Q. So if an injunction were entered in

1 this case that said that for 150 or so plaintiffs
2 that they don't have to file the Form 6 this
3 year, would you be able to administer that?

4 A. We would have to find a way to
5 administer that.

6 Q. There'd be a way to do it, right? It
7 wouldn't be impossible for you to do that?

8 A. It would not be impossible. It would
9 add a layer of confusion and we would have to
10 figure out how to do it, but we would figure out
11 how to do it.

12 Q. When you say there'd be a layer of
13 confusion, what is the confusion? If you have a
14 list of 150 people that don't have to file a
15 Form 6 and they just don't file a Form 6,
16 wouldn't you know just to find them because
17 they're on the list? Couldn't you just check the
18 list and not find them?

19 A. Right. We'd have to manually go in
20 the system and change a form requirement for
21 particular officials.

22 Q. But you said it would cause confusion.
23 I'm not sure what the confusion is. It doesn't
24 seem that difficult.

25 A. Confusion for filers.

1 Q. Well, the filers are the Plaintiffs,
2 so they want this. So I assume they're willing
3 to deal with that confusion.

4 So is there any other confusion?

5 A. Yes. When I speak of filers I speak
6 of all nearly 40,000 filers. So when we're
7 talking about, you know, city commissioners and
8 mayors and other folks who file a form, they are
9 likely to have questions:

10 I have a Form 6 on my dashboard but I
11 heard that there is a court decision that now I
12 only have to file the 1, and I don't want to file
13 the 6, I want to file the 1, how come the 6 is
14 showing up?

15 So there will be -- there will be
16 confusion.

17 Q. But what you're calling confusion,
18 it's really just, you're gonna get inquiries and
19 you're just gonna have to -- you will just have
20 to tell them what they have to do, right?

21 A. There are likely to be people who are
22 confused about their filing requirement in light
23 of the injunction and things that they have
24 heard.

25 Q. So if there were an injunction entered

1 as to the 150 plaintiffs, would the Commission on
2 Ethics prefer that that just applied to all the
3 city elected officials statewide or would you
4 rather it just apply to the 150?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: I haven't -- I haven't
7 brought that before my Commission.

8 BY MR. COLE:

9 Q. Well, as the executive director, which
10 would be easier for you, if there was all the
11 elected officials statewide for municipalities or
12 just the 150 that are named plaintiffs?

13 A. There's -- there's nothing easy about
14 disclosure, speaking for the Commission on
15 Ethics, particularly in a launch year for
16 electronic filing. So my preference would be to
17 implement the law as currently written.

18 MR. STAFFORD: Hey Jamie, we've been
19 going about an hour and a half. Can we take
20 about five, ten minutes?

21 MR. COLE: Absolutely. You need to
22 take a break at 3:30, right? Is that the
23 time?

24 MR. STAFFORD: Yeah.

25 MR. COLE: All right. Yeah. Let's

1 take five. Be back at, what, 2:40?

2 MR. STAFFORD: Works for me.

3 (A brief recess was taken.)

4 BY MR. COLE:

5 Q. All right. In your affidavit you say
6 that an official's net worth provides context to
7 other disclosed information as does disclosing
8 dollar value of disclosed assets, liability of
9 income. How does it provide context? What does
10 that mean?

11 A. Well, it's -- you know, somebody has a
12 high net worth, you would expect to see a number
13 of things disclosed individually with -- with
14 amounts that might be indicative of such a net
15 value.

16 Q. I have no idea what that meant. Can
17 you explain that more?

18 A. Well, if somebody has a high net worth
19 you would expect them to have a higher dollar
20 value of assets than liabilities.

21 Q. Wouldn't it have, by definition -- if
22 they have a high net worth, they do have more
23 assets and liabilities. Isn't that the
24 definition of net worth?

25 A. Right. But the form is not simply to

1 divide or subtract the reported liabilities from
2 the reported assets and report that as a net
3 worth. It's all of your assets and all of your
4 liabilities. So it does encompass some things
5 that, you know, aren't require to be disclosed.

6 Q. And how does that have any bearing on
7 any of the potential ethics laws or complaints?

8 A. It gives a fuller picture of
9 somebody's financial interests who's serving in a
10 position of public trust.

11 Q. So if someone has a high net worth,
12 but when you look at the disclosed assets and
13 disclosed liabilities it doesn't appear that they
14 should have a high net worth, is that an ethics
15 violation?

16 MR. STAFFORD: Object to form.

17 THE WITNESS: Not in and of itself.

18 BY MR. COLE:

19 Q. So let's just say the reason that they
20 have a high net worth beyond what's disclosed is,
21 they have some asset that for some reason is not
22 reportable? I mean, what could be a reason why
23 their net worth is higher than the difference
24 between their assets and their liabilities?

25 A. They could have assets or liabilities

1 not required to be disclosed on the form. Could
2 be that they forgot to put something on the form.
3 Could be that something's been left off.

4 **Q. But how does that relate to any**
5 **conflict of interest or other ethical violation**
6 **other than not filling out a form right?**

7 A. Well, other than not filling out the
8 form, when the public can review the disclosed
9 responses they can then go do research to
10 determine if they think that there is something
11 strange about the form to see if they can
12 identify something that may have been left off
13 that might be relevant to a matter before the
14 city commission.

15 **Q. So what kind of things could there be,**
16 **like what kind of assets are there that are not**
17 **required to be disclosed? I mean, I know assets**
18 **under a thousand dollars, but that's not going to**
19 **make a major difference in someone's net worth.**

20 So what type of assets could you be
21 talking about that would not be disclosed on a
22 **Form 6?**

23 A. If it would be all right I'd like to
24 look at that exhibit so that I can look at the
25 form.

1 Q. Absolutely. So you want to look at
2 the instruction for Form 6?

3 A. I want to look at the Form 6 and the
4 Form 6 instruction.

5 It's going to be anything that is
6 valued at more than a thousand dollars.

7 Q. Right. So I guess I'm trying to
8 understand how, if someone's showing a high net
9 worth but the assets they're showing and the
10 liabilities they're showing do not equate --

11 Like, let's say they show a
12 million-dollar net worth but they only have, you
13 know, \$100,000 worth of assets and \$10,000 worth
14 of liabilities; obviously they filed the form
15 wrong, because they didn't disclose some assets.

16 Are there any assets that they did
17 have to disclose that they weren't required to
18 disclose?

19 A. I think -- the only possibility that I
20 can think of offhand in terms of an asset that
21 might not be disclosed on a Form 6 would be the
22 Florida pension, because that's -- I think we
23 have an ethics opinion on that, I think.
24 CEO 11-11 or 12-10 relates to disclosure of that.

25 Q. The fact that they have a pension with

1 the State doesn't relate to any ethics violations
2 or ethics laws, right?

3 A. Right. They don't have control of the
4 moneys in that.

5 Q. So I guess I'm still missing what this
6 context is.

7 A. It could be that -- it could be that
8 they left something off of the form.

9 Q. All right. Other than that they left
10 off something on the form, there's no other
11 ethics laws or violations that it would be
12 relevant to, right?

13 A. You know, if -- if they have an asset
14 that relates to a parcel of property and that
15 parcel of property is a part of a development or
16 rezoning or something like that, that could be
17 relevant to a building conflict.

18 Q. So let's just assume for a minute that
19 a (inaudible) is filling out a Form 1. They need
20 to disclose real property, right?

21 A. I'm sorry. They're drilling.

22 MR. STAFFORD: They're doing
23 sandblasting out here now.

24 THE WITNESS: I apologize. I don't --
25 you're asking about the Form 1 and real

1 property?

2 BY MR. COLE:

3 Q. Under Form 1 the filer has to disclose
4 real property, right?

5 A. Real property in Florida?

6 Q. Yes. Real property in Florida. They
7 have to disclose it, right?

8 A. Yes. But not their personal
9 residences.

10 Q. Not the value?

11 A. Not the?

12 Q. Not the value?

13 A. Not their personal residences at all
14 and not the value.

15 Q. Okay. So let's just say an elected
16 official owns a piece of property in a city and
17 it's up for rezoning and they didn't disclose it
18 on the Form 1, even though they were supposed to,
19 and they didn't disclose it on the -- or, if they
20 have Form 6, they didn't disclose it on Form 6.

21 If they're not going to disclose it,
22 it doesn't really matter which forms they're
23 filing, right?

24 A. I'm not sure I understand your
25 question.

1 Q. In trying to decide whether they have
2 to file a Form 1 or a Form 6, there's an
3 assumption that they're going to file whatever
4 form they're required to file and do it properly,
5 because, if they're not, then the whole system
6 really doesn't -- of disclosure doesn't work,
7 right?

8 A. Yes. They are, by law, required to
9 disclose certain things on the forms.

10 Q. Okay. So if an elected official owns
11 a piece of property in the city and there's a
12 rezoning of that piece of property and they vote
13 on it, whether they had to file a Form 1 or a
14 Form 6 they would have had to disclose that they
15 own that piece of property, right?

16 A. Yes. If it's in Florida.

17 Q. Well, it's in the city that's being
18 rezoned, so it has to be in Florida.

19 A. Okay.

20 Q. Now, they would also have to disclose
21 it on a Form 8, right, that they own the
22 property?

23 A. That's a voting conflict form. They
24 would only -- they would disclose it if they have
25 a voting conflict. They would have to disclose

1 that they have a voting conflict and the nature
2 of their voting conflict.

3 Q. You would agree with me, if they own
4 the property that's being rezoned they have a
5 voting conflict, right?

6 A. Yes. Whether or not somebody has a
7 voting conflict depends on the size of the class,
8 the nature of the interest involved.

9 But yes. Let's assume that the piece
10 of property that the -- the interest that they
11 have and the place that's being rezoned is
12 sufficient to cause a voting conflict. Yes.

13 Q. So whether they have to file Form 1 or
14 Form 6 doesn't really make a difference, they
15 still would have had to disclose that they owned
16 the property?

17 A. Well, unless it was their personal
18 residence. Because, on a Form 1 you don't have
19 to disclose your personal residence.

20 Q. All right. So if it's your personal
21 residence that's being rezoned you have to
22 disclose it on a Form 8, right?

23 A. A voting conflict's an 8D.

24 Q. Right. And if their one house is
25 being rezoned, it's just their house being

1 rezoned, they have a conflict and they should
2 announce the conflict and they should fill out
3 the Form 8 and they should disclose that they own
4 it, right?

5 A. Yes.

6 Q. So that example it doesn't really
7 matter if it's Form 1 or Form 6, because at the
8 end of the day it comes out anyway, right?

9 MR. STAFFORD: Object to form.

10 THE WITNESS: Well, they're different
11 laws and officials have to comply with each
12 of the laws.

13 BY MR. COLE:

14 Q. Absolutely. But as far as the public
15 knowing that they own the house, there is a form
16 that they have to fill out. Even if it's not a
17 Form 1, they still have to disclose it under
18 Form 8?

19 A. At the time -- they have to disclose
20 the information at the time of the vote and file
21 the form -- file that form 8B within 15 days.
22 But their disclosure may have been required to be
23 filed sometime prior before then.

24 Q. But so, in fact, when they filed their
25 disclosure they may not have known that. Or they

1 may have owned the house.

2 So if they owned the house as -- if
3 they don't own the house as of December 31 of
4 '23, they buy the house in January of '24, they
5 file their disclosure in July for '23, they don't
6 have to disclose it on Form 6, right? Because
7 they didn't own it on December 31, '23.

8 A. When did you say they got the house?

9 Q. January of '24.

10 A. They bought a home in January of '24.
11 And are they filling out -- they're filling out a
12 Form 6?

13 Q. Yes. As of July 1 of 2024 --

14 A. Okay.

15 Q. So they wouldn't disclose the house,
16 right?

17 A. Unless they disclosed their net worth
18 as a more current date, then yeah.

19 Q. Okay. But they would still have to
20 fill out a Form 8B no matter what?

21 A. They would have to disclose their
22 voting conflict on the Form 8B.

23 Q. All right. In your response to the
24 motion it says:

25 "For example, if an official had a low

1 net worth, but disclosed a relatively high-value
2 asset or income stream, members of the public
3 could infer that the private interests associated
4 with asset or income source might motivate the
5 official's public actions or tempt them to
6 dishonor their public responsibilities and the
7 awareness and vigilance in monitoring public
8 actions associated with those private interests
9 warranted."

10 Do you agree with that?

11 A. Can I see the document, please?

12 MR. STAFFORD: Are you referring to
13 the answer to your motion for preliminary
14 injunction or are you referring to
15 Ms. Stillman's declaration?

16 MR. COLE: No. It's the response to
17 the motion for preliminary injunction is
18 what I'm referring to.

19 And I'm just trying to understand what
20 this -- it's not cited --

21 THE WITNESS: Can I look at this and
22 is this a particular exhibit?

23 MR. COLE: It's not an exhibit. I
24 don't know if they have --

25 MR. STAFFORD: If you're asking her

1 directly about a passage in a written
2 document, I believe she's entitled to take a
3 look at that.

4 MR. COLE: Absolutely.

5 MR. STAFFORD: I'm going to ask that
6 she be given that opportunity.

7 MR. COLE: I have no objection to
8 that. Absolutely.

9 MR. STAFFORD: What page are you on?

10 MR. COLE: Page 10 in the middle of
11 the first paragraph, it starts, "For
12 example." And I'm just trying to
13 understand --

14 MR. STAFFORD: Say the page number
15 again.

16 MR. COLE: 10. It's in the middle of
17 the first paragraph. It starts, "For
18 example."

19 THE WITNESS: Okay. And what is your
20 question in relation to that sentence,
21 please?

22 BY MR. COLE:

23 Q. Well, it's that sentence and the next
24 sentence, "In contrast." Did you read the rest
25 of the paragraph also?

1 A. Okay.

2 Q. So I guess I'm just trying to
3 understand what this means, because I've read it
4 20 times and it doesn't make sense to me. So can
5 you try to tell me the point this makes and if
6 you agree with it?

7 A. Well, I think that the -- I think the
8 point that it's trying to make is that an
9 official's demonstration of their financial
10 interest upon the form can be an indicator to the
11 public of whether or not they got a high income
12 stream coming to them and where it might be
13 coming from. And whether or not that comports
14 with what their net worth is.

15 So that may alert a member of the
16 public that perhaps something hasn't been
17 disclosed properly, even though they might not
18 know what that is, and that might cause them to
19 be more vigilant in paying attention to that
20 official's decisionmaking.

21 Q. Let me just break that down a little
22 bit. So when you say, be more diligent in
23 watching the decisionmaking, you're basically
24 saying that they're more likely to put an ethics
25 violation. Is that what you're saying?

1 A. No. That's not what I said at all.
2 I'm saying, to a citizen, that might cause them
3 to pay more attention to the decisions that that
4 individual is making because they might have more
5 questions about what the income sources or
6 liabilities of that person are and whether or not
7 it's an accurate disclosure.

8 **Q. This all goes to whether it's an**
9 **accurate disclosure, not whether there's a**
10 **conflict or some other violation of some law?**

11 A. Well, there could be a conflict out
12 there that the public won't know about because
13 it's not on the form. And by looking at the
14 form, a member of the public might be more
15 vigilant -- or vigilant, excuse me, it's a long
16 day -- might be more vigilant in watching the
17 decisions that are made by that particular public
18 official.

19 **Q. But isn't that the same as saying that**
20 **if someone has a low net worth and a low income**
21 **the public should be more vigilant because they**
22 **may be more likely to commit an ethics violation?**

23 A. No. That's not at all what I was
24 saying. I'm talking about the disclosure of the
25 assets and liabilities in conjunction with what

1 their net worth is and whether or not they may
2 have over-reported or under-reported or left
3 something off of the form.

4 If the net worth and the assets and
5 the liabilities seem to not make sense to a
6 member of the public, they may be more vigilant
7 in observing that public official's decision.

8 Whether it's low net worth or high net
9 worth, if they believe there is something wrong
10 with the form they're gonna maybe pay more
11 attention to that official.

12 **Q. So basically is what you're saying is**
13 **that the official should have to fill out a**
14 **Form 6 because if they improperly fill out the**
15 **form so that their net worth does not jibe with**
16 **their assets and liabilities the public will be**
17 **looking closer? Is that what you're saying?**

18 **A.** I lost the last few words of what you
19 said.

20 **MR. STAFFORD:** Jamie, can you try to
21 speak up a little bit? You've been doing
22 great, but we have a lot of background noise
23 that seems to be increasing. So if you
24 could -- the louder you can be, it would
25 certainly help us out.

1 MR. STAFFORD: I will certainly try.

2 Can you increase the volume?

3 THE WITNESS: It tends to be, kind of
4 at the end, your words trail off sometimes.
5 And that's where it's hard for me to catch
6 you. I apologize.

7 (Discussion off the record.)

8 BY MR. COLE:

9 Q. So is what you're saying that
10 municipal elected officials should have to fill
11 out a Form 6 because if they improperly fill out
12 the Form 6 so that their net worth does not jibe
13 with their assets and liabilities, the public
14 should look at what they do closer?

15 A. In the context of this paragraph it's
16 comparing the Form 6 with the Form 1.

17 And the example in the document talked
18 about utilizing the net worth in conjunction with
19 the rest of the form to provide a more
20 comprehensive view of the public official's
21 financial interest and how the public might
22 perceive the information that they see on the
23 form. Just an example.

24 Q. All right. But that doesn't really
25 relate to whether or not someone has violated any

1 law other than the disclosure law, correct?

2 MR. STAFFORD: Object to form.

3 THE WITNESS: Right. Well, we
4 don't -- we don't know if things aren't
5 disclosed.

6 BY MR. COLE:

7 Q. In your affidavit at paragraph 14 it
8 says that Form 1 -- well, can you look at --
9 rather, read it, because I know you're having
10 trouble hearing me. Can you look at paragraph 14
11 of your affidavit?

12 MR. STAFFORD: Now, what exhibit
13 letter is this?

14 MR. COLE: I believe it's -- it's -- I
15 don't think we marked it as an exhibit.

16 MR. STAFFORD: Where is it on your
17 list?

18 MR. COLE: It was in -- she was
19 looking at it before, wasn't she?

20 MR. STAFFORD: But it was not
21 identified as an exhibit at that time.

22 MR. COLE: Right. I did not identify
23 it as an exhibit.

24 BY MR. COLE:

25 Q. Have you read paragraph 14?

1 A. Yes.

2 Q. Okay. So in paragraph 14 it's talking
3 about liabilities and in a Form 6 liabilities --
4 I'm sorry -- in Form 1 the filer only has to
5 disclose liabilities over 10,000 because Form 6
6 requires liabilities disclosed over 1,000, right?
7 That's the difference?

8 A. Yes.

9 Q. Okay. And then it says:

10 "Form 6's more fulsome requirement
11 ensures the public is aware of any potential
12 vulnerabilities in an elected official, which
13 could compromise their independent judgment, pose
14 a conflict of interest or even potentially
15 subject them to blackmail."

16 So is what this saying is that an
17 elected official is more than -- has a liability
18 in excess of \$10,000 -- I'm sorry. Strike that.

19 If an elected official has a liability
20 between 1,000 and 10,000, that's the only
21 difference, they may have some potential
22 vulnerability. That's what this is saying?

23 A. Yes. If they have more liability that
24 could subject them to additional conflict of
25 interest concerns. Yes.

1 Q. All right. But that's if they have
2 some big liability there could be more conflict
3 concerns. If it's a large liability, right, not
4 if it's a small liability?

5 A. Yes.

6 Q. Right. And so this is only talking
7 about liabilities between -- under \$10,000. So
8 is it your position that if someone owes \$5,000
9 that there is some big potential for
10 vulnerability, a conflict, because they owe
11 someone \$5,000?

12 A. I mean -- I mean, it says -- it says
13 what it says, that the Form 6 is a more fulsome
14 requirement that makes the public aware of
15 potential vulnerabilities of an elected official.
16 So there are going to potentially be fewer things
17 disclosed with the different reporting
18 thresholds.

19 Q. And none of those disclosures are
20 elements of conflicts of interest or any other
21 ethics laws other than disclosure laws?

22 MR. STAFFORD: Object to form.

23 THE WITNESS: The disclosure forms
24 relate to the disclosure laws.

25 BY MR. COLE:

1 Q. Okay. The fact that someone owes
2 someone a certain amount of money does not mean
3 they violated some ethics law, right?

4 A. Correct.

5 Q. And the fact that someone owes someone
6 \$20,000 or \$30,000, the amount doesn't make any
7 difference to any of the conflicts of interest or
8 ethics laws?

9 A. The financial disclosures are a level
10 of transparency for the citizens, which I talked
11 about earlier.

12 They're -- you know, there was a case
13 where somebody received funds to purchase land
14 outside of Florida. That was -- you know, that
15 was not only a gift, but that was something that
16 was -- that should have been on the disclosure
17 form that wasn't.

18 So you can't say that there's no
19 interactions between the disclosure forms and
20 other areas of law.

21 Q. You said it wasn't on the disclosure
22 form. It was required to be on the disclosure
23 form, they just didn't put it on, right?

24 A. That -- that is correct.

25 Q. All right. Then it says, "or

1 potentially may subject them to blackmail." What
2 does that mean? How can it subject them to
3 blackmail?

4 A. How can owing money subject somebody
5 to blackmail?

6 Q. If I owe \$50,000 to a bank I'm
7 subjected to blackmail from a bank? I don't
8 understand.

9 A. I -- the statement in the document is,
10 "potentially subject them to blackmail."

11 Q. How does the fact that you owe money
12 to someone subject you to blackmail?

13 A. Well, I did not write the document, so
14 I can tell you that if somebody owes money and
15 somebody offers them money to pay that off,
16 potentially in exchange for official action. And
17 that can happen to anybody.

18 Q. That would be bribery, not blackmail,
19 right?

20 A. Yes.

21 Q. And you said you didn't write this
22 document. Who wrote this document?

23 A. Legal counsel.

24 Q. And did you review it?

25 A. I did.

1 Q. And you signed it, right?

2 A. Yes.

3 Q. So let's just talk about blackmail for
4 one second.

5 So let's say you have a bad actor who
6 wants to find someone to blackmail. They need to
7 find someone with a lot of money and a lot of
8 assets.

9 By putting on the internet Form 6s,
10 doesn't it open the door to bad actors to be able
11 to find wealthy people so they can blackmail
12 them?

13 A. You know, having information on the
14 internet is a level of transparency that's
15 required by law for the Form 1 and the Form 6.

16 Q. I understand it's required by law.
17 We're challenging the law.

18 So the question is, doesn't putting on
19 the internet an individual elected official's net
20 worth and assets open the door to bad actors to
21 look at the Form 6s to find targets for
22 blackmail?

23 MR. STAFFORD: Object to form.

24 THE WITNESS: I don't know. I guess
25 you could potentially say.

1 BY MR. COLE:

2 Q. Well, what was the last thing you
3 said?

4 (The requested portion was read by the
5 reporter.)

6 BY MR. COLE:

7 Q. Is identity theft a major problem in
8 America today?

9 A. According to news reports, yes.

10 Q. And don't all of the experts regarding
11 identity theft constantly tell you, don't put
12 personal information on the internet?

13 A. Correct.

14 Q. So doesn't putting your net worth,
15 your assets -- identifying your assets where you
16 have your brokerage accounts, your bank accounts,
17 you know, all the assets, all your liabilities,
18 aren't you giving substantial private information
19 to bad actors to commit identity theft?

20 MR. STAFFORD: Object to form.

21 THE WITNESS: I'm not aware of any
22 official who has notified the Commission
23 that, as a result of their Form 6 being
24 online for the last 10 years, of being a
25 victim of identify theft by virtue of the

1 disclosure form.

2 BY MR. COLE:

3 Q. Well, when someone is the victim of
4 identity theft they don't usually know what
5 caused the identify theft, they just know someone
6 stole their identity.

7 So isn't it possible that elected
8 officials have been subject to identify theft and
9 they just didn't know it was from the Form 6?

10 MR. STAFFORD: Object to form.

11 THE WITNESS: I -- I suppose that's
12 true.

13 BY MR. COLE:

14 Q. And as far as -- related to identity
15 theft, is computer ransomware a major problem in
16 America these days?

17 A. Yes.

18 Q. And doesn't it -- one of the ways that
19 bad actors hack into computers is by sending
20 emails that look like they're legitimate but
21 they're not really legitimate?

22 A. Yes.

23 Q. And if someone like a bad actor looks
24 at a Form 6 and knows all this personal financial
25 information, won't it be easier for them to

1 create false emails that look real, but they have
2 all this personal information in that the elected
3 official will think is real and might click on
4 something they shouldn't click?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: I don't know the answer
7 to that.

8 BY MR. COLE:

9 Q. Wouldn't you agree with me that, in
10 today's modern society, putting personal
11 financial information onto the internet that's
12 accessible to everyone without even
13 identification or registration is dangerous?

14 MR. STAFFORD: Object to form.

15 THE WITNESS: It's a requirement of
16 the law, which is why we do it.

17 BY MR. COLE:

18 Q. No. I understand that. But doesn't
19 it put the elected officials who are filing these
20 forms at risk?

21 A. I don't have any personal information
22 that it does or that it doesn't. But it is
23 personal information out on the internet that is
24 required to be placed there by law.

25 Q. Right. But you're not required to do

1 a Form 1 or a Form 6 -- or you do a Form 1? What
2 do you do?

3 A. Every staff member of the Florida
4 Commission on Ethics, regardless of their
5 position or whether they're full time or part
6 time, has to file a Form 1.

7 Q. Okay. So you do a Form 1. But do you
8 voluntarily just put on the internet your net
9 worth and all of your assets just for the world
10 to see?

11 MR. STAFFORD: Object to form.
12 BY MR. COLE:

13 Q. Have you?

14 A. No. Certainly there's information on
15 the internet about me.

16 Q. Right. But you don't post on Facebook
17 or any of the social medias your net worth and
18 all of your assets and all of your liabilities
19 and the net aggregate value of your household
20 goods; you don't put that on the internet, right?

21 A. No.

22 Q. Why not?

23 A. I -- why not?

24 Q. Because it's private.

25 A. I don't --

1 Q. First of all, it's because it's
2 private information, right?

3 A. Yes. Given the -- and I'm -- I'm just
4 not that person.

5 Q. Right. So it's private information,
6 and in addition, you would be putting yourself at
7 risk.

8 MR. STAFFORD: Object to form.

9 THE WITNESS: I -- I don't know that I
10 would be putting myself at risk.

11 BY MR. COLE:

12 Q. Well, are you careful not to put
13 personal information on the internet?

14 A. Yes.

15 Q. And that type of personal information
16 that's required in a Form 6 is the type of
17 personal information that you are careful not to
18 put on the internet, right?

19 MR. STAFFORD: Object to form.

20 THE WITNESS: I'm -- I'm mostly
21 careful not to put certain information about
22 my family.

23 BY MR. COLE:

24 Q. If you go to paragraph 13 of your
25 affidavit it talks about the difference between

1 the sources of income, one being based on 2500
2 and one based on a thousand. Different
3 thresholds, right?

4 A. Yes.

5 Q. And then, it expresses a concern,
6 because of that difference, that, "bad actors
7 could funnel undisclosed money to officials
8 through sources not exceeding \$2500, but Form 1
9 would not require disclosure."

10 Do you see that?

11 A. Yes.

12 Q. All right. So let's just assume a bad
13 actor wants to give \$10,000 to an elected
14 official. What this is saying is, they could
15 find, you know, four different people and funnel
16 2500 each -- from each one, the number wouldn't
17 exceed 2500, so it wouldn't have to be disclosed.

18 Is that what that is saying?

19 A. Yes.

20 Q. All right. But if you do a Form 6,
21 couldn't the bad actor just as easily find
22 10 people and have each one funnel \$1,000 to the
23 elected official?

24 A. I don't know how easily they could
25 find additional people to do that.

1 Q. Well, if they could find four people
2 they could theoretically find 10, right?

3 A. Okay.

4 Q. But even beyond that, if you've got a
5 bad actor giving what's essentially a bribe to an
6 elected official, whether their exposure amount
7 threshold is 1,000 or 2500, do you think an
8 elected official is gonna disclose a bribe?

9 A. I don't know.

10 Q. Well, have you ever seen a disclosure
11 form that has, as a source of income, a bribery
12 from so-and-so?

13 A. Well, it requires the description of
14 the source of income and the amount and the place
15 it's from.

16 Q. So if the description on the income
17 was bribe, would that be an issue?

18 A. Well, it doesn't require the
19 classification of the amount, it says source of
20 income, address and amount.

21 Q. Okay. But you suspect that someone
22 who's accepted a bribe is going to actually
23 disclose it on a disclosure form?

24 A. I do not know.

25 Q. Back in the early '70s, when the first

1 disclosure requirements were enacted by the
2 state, before the 76th Amendment, are you aware
3 that a large number of city officials, elected
4 and appointed on boards, resigned rather than
5 filling out the form that was required at the
6 time?

7 A. I do know that -- I have been told
8 that a number of officials resigned. I don't
9 know what the number was.

10 Q. Okay. But even back in the early '70s
11 city officials were resigning because of
12 disclosure forms, while you didn't really hear
13 about that at the state level, that state
14 officials or county officials were resigning. It
15 was city officials that were resigning; isn't
16 that correct?

17 A. City officials were resigning when?

18 Q. In the early '70s, when they first
19 enacted the disclosure requirement.

20 A. I don't know who was resigning then.

21 Q. So after this law, SB 774, was
22 enacted, isn't it true that a large number of
23 municipal elected officials resigned prior
24 to December 31?

25 A. There were officials who resigned as a

1 result of the legislation.

2 Q. And over a hundred resigned; isn't
3 that correct?

4 A. Yes.

5 Q. I think the actual number is 125,
6 approximately?

7 A. That is the number that was shared
8 with me by the League of Cities.

9 Q. Okay. And does it concern you that so
10 many elected officials chose to resign rather
11 than fill out the form?

12 MR. STAFFORD: Object to form.

13 THE WITNESS: Yes.

14 BY MR. COLE:

15 Q. And in contrast, you put in your
16 affidavit that you're not aware of there being a
17 shortage of qualified candidates for the state
18 offices and county offices as a result of Form 6,
19 right?

20 A. Correct.

21 Q. So what's the difference between city
22 and municipal elected officials that's causing
23 them to resign, whereas, at the county and the
24 state level they're doing the Form 6 and they're
25 not resigning?

1 A. I'm not sure I understand your
2 question.

3 Q. Well, do you have any idea why this
4 resignation issue seems to be affecting
5 municipalities but didn't affect counties and
6 state officials?

7 A. Are you talking about with 774?

8 Q. Yeah.

9 A. From municipal reports there were
10 officials resigning because they did not want to
11 file the Form 6.

12 Q. Right. But in your affidavit you say
13 that for elected constitutional offices, that
14 they've been required to make full and public
15 disclosures since 1976 -- this is paragraph 17 --
16 and in that time were not aware of any
17 information providing to the Commission
18 indicating that this disclosure requirement has
19 led to a shortage of candidates in constitutional
20 office.

21 A. Yes.

22 Q. But, for cities it seems like the
23 reaction has been different. I mean, 125 city
24 officials resigned before January 1 rather than
25 fill out the form. And 150 are -- filed this

1 lawsuit challenging the law.

2 Do you know why municipal elected
3 officials feel it's inappropriate, whereas the
4 county and the state officials seem to accept it?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: No.

7 BY MR. COLE:

8 Q. And isn't it true that for a lot of
9 cities the municipal elected officials are not
10 paid or paid extremely small amounts?

11 A. That they're not compensated as public
12 officials?

13 Q. Exactly.

14 A. Yes.

15 Q. And do you know how much it costs to
16 have a CPA figure out your net worth and the
17 value of every asset and liability?

18 MR. STAFFORD: Object to form.

19 THE WITNESS: I -- I've not used a CPA
20 for that purpose.

21 BY MR. COLE:

22 Q. So for Form 1 you've just done it
23 yourself, you haven't gotten a CPA, right?

24 A. Yes.

25 Q. But for municipal elected officials

1 that have to do a Form 6 that requires them to
2 calculate their exact net worth, some of them may
3 feel they don't want to risk violating the ethics
4 laws and that to comply they need to hire a CPA;
5 isn't that correct?

6 A. Hiring a CPA or attorney to assist you
7 with your disclosure has been something that's
8 been in place for quite some time.

9 MR. STAFFORD: Hey Jamie, it's time
10 for me to take a quick break. It's almost
11 3:30. Can we take 10? Hopefully it
12 shouldn't last more than 10 minutes.

13 MR. COLE: What time do you want us to
14 reconvene?

15 MR. STAFFORD: How about, can we do --
16 let's do 15 just to make sure and give
17 everybody a chance to take a break.

18 MR. COLE: 3:45?

19 MR. STAFFORD: Yep.

20 MR. COLE: All right.

21 (A brief recess was taken.)

22 BY MR. COLE:

23 Q. All right. So we were talking about
24 hiring a CPA or an attorney. Do you have any
25 idea what it would cost to hire a CPA or an

1 attorney to fill out of a Form 6?

2 A. I do not.

3 Q. Would it surprise you to hear that
4 some CPAs are charging as much as 2500, \$3500?

5 A. I don't know what customary charges of
6 CPAs are.

7 Q. So do you think it's reasonable to
8 expect someone to volunteer for public service
9 and not get paid, but have to pay 2500 or \$3500
10 in order to fill out a form?

11 MR. STAFFORD: Object to form.

12 THE WITNESS: Well, the -- most people
13 do not utilize a CPA or attorney to complete
14 their form. It's certainly not a
15 requirement.

16 BY MR. COLE:

17 Q. And up to this point if you filled out
18 the form and you were wrong, you got a \$10,000
19 fine. Now, potentially, you could have a \$20,000
20 fine; isn't that correct?

21 A. Correct. But if you look in the
22 annual reports, we don't -- we only receive a few
23 complaints against -- on Form 6 each year.

24 Q. I'd like to talk about the differences
25 between municipal elected officials and

1 municipalities and other the people that do
2 Form 6.

3 So for example, state legislators do a
4 Form 6. And I know during the legislative
5 debates I heard a lot of them say, well, we,
6 being the state legislators, have to do it, so
7 the city people should have to do it.

8 Did you hear them say that also?

9 A. Yes.

10 Q. And in fact, there was a discussion at
11 one of the hearings, I think the -- one of the
12 first senate hearings, where Senator Polsky asked
13 the senate sponsor about the Sunshine Law.

14 So isn't it true that the Sunshine Law
15 applies to municipal elected officials but does
16 not apply to legislators? Isn't that correct?

17 A. I think they have a different version
18 of the Sunshine Law.

19 Q. But they're allowed to talk to other
20 legislators about matters that come before them,
21 whereas city officials can't.

22 A. Correct.

23 Q. So if there is a bad actor who was
24 bribing a city official to do something, to get a
25 law passed, and in a city that city official

1 can't talk to the other elected officials and
2 can't enact legislation just by him or herself,
3 right?

4 A. Correct.

5 Q. Okay. But in state legislatures,
6 let's say a state senator, let's say a bad actor
7 bribes the state senator so that there can be,
8 let's say, an appropriation to a city and then
9 the city's gonna use -- the appropriation is
10 going to result in some benefit to some company.

11 So that company bribes a state senator
12 to get this law passed, and that state senator,
13 because the Sunshine Law doesn't stop him, is
14 allowed to talk to every other state senator and
15 try to convince them to pass that law. Isn't
16 that correct?

17 A. I would presume so. Yes.

18 Q. And that state senator could even go
19 to every other state senator and say, look, I
20 really want you to pass this law, it's my number
21 one priority, and if you vote for this, I'll vote
22 for whatever other law you want me to vote for.

23 You can do that, right?

24 A. I -- I don't presume to know how the
25 legislature works with regard to those things,

1 but.

2 Q. But that is a significant difference
3 between cities that are subject to Sunshine Law
4 and legislators who are not subject to the same
5 Sunshine Law, isn't it?

6 A. Yes. In terms of Sunshine Law.

7 Q. And another difference between cities
8 and either counties or other -- other elected
9 official (indiscernible) is the fact that in a
10 lot of cities they don't get paid or they get
11 paid very little, whereas the governor, the
12 cabinet members, state elected officials, most
13 county officials do get paid a much higher salary
14 than city elected officials.

15 MR. STAFFORD: Object to form.

16 BY MR. COLE:

17 Q. In general, isn't that correct?

18 A. Right. But you know, there are some
19 of those other boards that file Form 6 where
20 those folks are not compensated.

21 Q. Okay.

22 A. Public trust -- I find positions of
23 public trust is not based on compensation, so.

24 Q. Okay. And in most of the other people
25 that file Form 6, there's a larger pool of

1 potential people who could run for those offices,
2 whereas in some cities it's a much smaller pool;
3 isn't that correct?

4 A. Yes. In small cities. Yes.

5 Q. So even if you had a city with, say,
6 40,000 people, and if it has districts, in each
7 district there's only 10,000 people that could
8 run, whereas every state senator has six, 700,000
9 people or whatever they have in their district,
10 and every county commissioner -- and some of the
11 big counties have, you know, four or 500,000 in
12 some of them; isn't that correct?

13 A. Okay.

14 Q. So you agree with me that there's just
15 a smaller pool of potential people who could run
16 in some cities? And in fact, we've seen in some
17 cities, you've had three or four or even five
18 members of a five-member city or municipal
19 commission resign and they haven't even been able
20 to find people to run it. Isn't that true?

21 MR. STAFFORD: Object to form.

22 THE WITNESS: I -- I am aware of
23 multiple people in some small cities
24 resigning, but I am not aware of
25 difficulties in getting people to run.

1 MR. COLE: Okay. That is all the
2 questions I have for you. Thank you very
3 much.

4 MR. STAFFORD: Are you finished?

5 MR. COLE: I am.

6 MR. STAFFORD: Okay. Could you give
7 us five minutes, since we're going to talk
8 about whether or not I want to do any cross?

9 MR. COLE: Sure.

10 MR. STAFFORD: We'll go off for five
11 minutes.

12 (A brief recess was taken.)

13 CROSS-EXAMINATION

14 BY MR. STAFFORD:

15 Q. All right. Ms. Stillman, I have a few
16 questions based on what you were asked before.

17 As we talked about, the Sunshine
18 Amendment says that people have a right to secure
19 and sustain a public office as a public trust to
20 secure that against abuse.

21 In keeping that in mind, would it be
22 in the public interest to know whether or not an
23 elected public or municipal elected official had
24 a net worth that doubled the first year he or she
25 was at office?

1 A. Yes.

2 Q. Okay. How about whether or not, from
3 one year to another, a municipal elected official
4 has new sources of significant income?

5 A. Yes.

6 Q. Would the public have an interest in
7 knowing whether or not the municipal public
8 elected official had liabilities that drop
9 significantly from one year to the next?

10 A. Yes.

11 Q. And would the public have an interest
12 in knowing whether a public municipal elected
13 official's assets increased significantly from
14 one year to the next?

15 A. Yes.

16 Q. Okay. Do you believe that having the
17 municipal elected officials filing a Form 6 would
18 result in more information being made available
19 to the public?

20 A. Yes.

21 Q. And do you believe that, in and of
22 itself, could lead to more complaints filed with
23 the Commission?

24 A. No.

25 Q. You don't think that would increase

1 the number of complaints?

2 A. Not necessarily.

3 Q. But the complaints that, I guess -- I
4 think we talked about or you talked about before,
5 with the exception of the filing requirements,
6 the Commission does not investigate or look at
7 any of these forms unless a complaint is brought
8 by a member of the public.

9 A. That's correct.

10 Q. And if, by requiring municipal elected
11 officials to file a Form 6, that would provide
12 information from which more complaints could be
13 filed, would that increase the number of matters
14 that the Commission could look into with respect
15 to ethics violations?

16 A. Yes.

17 Q. Is the deterrence of public
18 corruption, public conflicts of interest or the
19 appearance of conflict of interest, is that a
20 purpose of the financial disclosure requirements?

21 A. Yes.

22 Q. Do you believe that requiring
23 municipal elected officials to file a Form 6
24 rather than a Form 1 would provide greater
25 deterrence for those municipal elected officials?

1 A. In terms of corruption? Yes.

2 Q. And the appearance of impropriety, is
3 that a concern of -- the appearance of conflicts
4 of interest or impropriety, is that a concern of
5 the Commission?

6 A. It's definitely a concern of the
7 public. And the transparency is an important
8 aspect of rooting out potential conflicts of
9 interest.

10 Q. Now, if the Commission were to get a
11 complaint that included information about a
12 increase in net worth, a decrease in liability or
13 an increase in income, would that be something
14 that the Commission would be interested in?

15 A. In and of itself there would have to
16 be specific allegations related to that.

17 Q. You were asked questions about the
18 numbers and types of complaints from 2019 to
19 2022. Those were the years of COVID, correct?

20 A. Yes.

21 Q. Okay. Do you believe that may have
22 had an effect on the numbers and types of
23 complaints that the Commission received?

24 A. I -- I would believe that's very
25 possible. Yes.

1 Q. Now, we talked about Senate Bill 774.
2 The annual report of the Commission, that's not
3 the only source of information for the
4 legislature regarding ethics matters?

5 A. I -- no.

6 Q. I believe you touched on this with the
7 House bill, but would you expect that legislators
8 get information or complaints from constituents
9 about local officials and the appearance of
10 impropriety or corruption?

11 A. Yes.

12 Q. And that was, in fact, the basis for
13 the House bill that was the companion to 774?

14 A. That was my understanding from
15 Representative Roach, that this was a -- the
16 enhanced financial disclosure was an issue that a
17 constituent brought to him.

18 Q. And I guess, touching on this again,
19 the annual reports regarding the numbers and
20 types of complaints, those would not reflect
21 officials who were deterred from committing any
22 potential ethics violations by the fact that they
23 had to disclose information on Form 6?

24 A. Correct.

25 Q. Now, does the fact that some elected

1 officials -- I think you were asked about water
2 management districts and CDDs. Does the fact
3 that they are not required to file Form 6 at this
4 time, does that mean that there is no reason in
5 the future that they should be required to file
6 that?

7 A. Correct.

8 Q. Okay. And 774 is not the final
9 decision over who has to file Form 6. It's not
10 set in stone, they could make a change in each
11 legislative session?

12 A. Yes.

13 Q. Okay. And you were asked about one of
14 the -- as a potential resolution to have county
15 elected officials file a Form 1. Would that be a
16 violation of the Sunshine Amendment?

17 A. Yes. Article 2, Section 8 currently
18 requires that they file a Form 6.

19 Q. Now, the purpose of --

20 MR. STAFFORD: Sorry. Was there an
21 objection or anything?

22 MR. COLE: No.

23 MR. STAFFORD: Okay. I thought I
24 heard something.

25 MR. COLE: I can object if you like.

1 BY MR. STAFFORD:

2 Q. Now, the purpose of filing a Form 6 is
3 not necessarily to directly prove an ethics
4 violation; is that correct?

5 A. Correct.

6 Q. Okay. It is, rather, to provide the
7 public with the necessary information for the
8 public to look further into an elected official
9 based upon information that could be reflected in
10 Form 6?

11 A. Yes.

12 Q. Okay. And for example, the Commission
13 has no way of independently knowing what matters
14 come before a particular elected official for a
15 vote.

16 A. Yes.

17 Q. That would result from a member of the
18 public looking at a Form 6 and then looking at a
19 particular vote of a public official to say, this
20 is something that I believe needs to be looked
21 into?

22 A. That is correct.

23 Q. Now, I think that we also talked a
24 little bit about the Form 8, which is, as I
25 understand it, the voting conflict?

1 A. Memorandum of Voting Conflict.

2 Q. Would the fact that there's
3 information that would be required to be
4 disclosed on a Form 6, would that provide some
5 assurance that a Form 8 would be filed?

6 A. It depends on what the voting conflict
7 is. But yes.

8 Q. I mean, what I mean, and correct me if
9 I'm wrong, the Form 8, that is the public
10 official's own decision whether or not to file
11 Form 8. They're the ones who determine whether
12 or not they have a voting conflict?

13 A. They're required, if they have a
14 voting conflict, to announce and file the form.

15 Q. All right. Now, you were asked some
16 questions about the requirement to fill out
17 dollar amounts on Form 6. Would the amount of an
18 individual's net worth, income, liabilities and
19 assets, could that bear on the scale of a
20 conflict of interest?

21 A. Could you repeat that question?

22 Q. Certainly. Form 6 requires a
23 disclosure of the dollar amounts of net worth,
24 income, liabilities and assets. Would the fact
25 of having that disclosure, could that bear on

1 whether or not there is a conflict of interest in
2 appearance of impropriety?

3 A. Yes.

4 Q. Okay. And you were asked some
5 questions about identity theft. It's true that
6 Form 6 specifically forbids a filer from
7 providing a Social Security number or an account
8 number, correct?

9 A. Yes.

10 Q. Okay. And I believe you already
11 answered this, but is there any information that,
12 since the passage of 774 -- I know there have
13 been officials that have resigned. Is there any
14 information that these municipalities have been
15 unable to find candidates for those offices?

16 A. No. No. Not reported to mine.

17 Q. And could one of the reasons that an
18 individual resigns from a position rather than
19 filing a Form 6 be because, if that individual
20 filed a Form 6 it would reveal conflicts that
21 were not -- that would not be revealed on a
22 Form 1?

23 A. Yes.

24 Q. And I believe you were asked about
25 problems with phishing, which is the email that

1 opens up something that just kind of goes in and
2 tunnels through your online information. Is
3 there any information that Form 6 has led to any
4 phishing problems with elected officials who are
5 required to file it?

6 A. Not that I'm aware.

7 MR. STAFFORD: I believe that's all
8 the questions that I have.

9 MR. COLE: Okay. I just have a couple
10 more questions.

11 REDIRECT EXAMINATION

12 BY MR. COLE:

13 Q. If a Form 6 showed that an elected
14 official's net worth doubled year to year and
15 someone filed a complaint and the complaint says,
16 the elected official's net worth doubled from the
17 prior year to this year and therefore they must
18 be accepted bribes, would you find that to be
19 legally sufficient if that's all it says?

20 A. That would likely be legally
21 insufficient because it would be conclusory, it
22 wouldn't be making a specific allegation.

23 Now, whether or not something is
24 sufficient depends on, you know, what precisely
25 is alleged in the complaint.

1 Q. All right. And if all that's alleged
2 is their net worth doubled, that's all that's
3 alleged, that's not enough for you to investigate
4 an elected official, right?

5 A. Correct.

6 Q. The same thing if they have a lot more
7 assets one year than they had the prior year and
8 someone files a complaint just based on that,
9 that would not be enough to cause a -- it would
10 be insufficient to do an investigation, correct?

11 A. In and of itself, no.

12 Q. And the same thing if they have a new
13 source of income, that is not, in and of itself,
14 enough to, if it was in a complaint, to justify
15 an investigation, correct?

16 A. Just by having a new source of income?
17 No.

18 Q. Or someone's liabilities went down on
19 your -- from the prior year, that wouldn't be
20 enough to justify an investigation, right?

21 A. In and of itself, likely not.

22 Q. You had said that there might have
23 been less complaints because of COVID. During
24 COVID didn't cities continue to operate?

25 A. Yes. In Florida, yes.

1 Q. And in fact, cities had a lot of extra
2 things to deal with because of COVID, things were
3 very busy during COVID; isn't that correct?

4 A. I -- I don't know what -- what all
5 cities were having to do, whether they were more
6 busy or less busy.

7 Q. But during the COVID years you
8 actually did get complaints, right? It's not as
9 if there were no complaints during COVID years.

10 A. Correct.

11 Q. And in fact, the number of complaints
12 in the COVID years were higher -- well, in 2019,
13 '20 and '21, which were the COVID years,
14 notwithstanding COVID the number of complaints
15 was higher than in 2022; isn't that correct?

16 A. I believe that's what we went over
17 earlier today. Yes.

18 Q. And by 2022 we still had COVID, we
19 still have COVID today, but by 2022 COVID was a
20 lot less restrictive on operations of government
21 and business than it was in 2020 and '21, right?

22 A. Yes.

23 Q. So before you even testified that the
24 number of complaints in 2022 was 223 and there
25 were more during 2021 and '20, notwithstanding

1 COVID, and more in 2019, then the trend,
2 notwithstanding COVID, you know, was from 2021 to
3 2022 it was still going down; is that correct?

4 A. Yes.

5 Q. You had said in response to a question
6 that the number of complaints does not include
7 those that were deterred because of Form 6,
8 right, that because of Form 6 some people might
9 have been deferred from committing conflicts of
10 interest and therefore there would be less
11 conflicts, right?

12 A. Yes.

13 Q. So if that were true, wouldn't you
14 expect that the percentage of state elected
15 officials that have complaints filed against them
16 and a percentage of county elected officials that
17 have complaints filed against them should be less
18 proportionate to the total pool, that municipal
19 elected officials were doing Form 1 and therefore
20 would not have been deterred?

21 A. I'm -- I'm not sure that I follow you.

22 Q. Well, and if -- I mean, talking about
23 the number of complaints, if -- let's just
24 assume, based on the number of state elected
25 officials, that the percentage of state elected

1 officials for which a complaint is filed, was
2 filed, is higher than the percentage of municipal
3 elected officials which a complaint was filed.
4 That would be inconsistent with the thought that
5 Form 6 deters unethical behavior, correct?

6 A. I'm trying to follow your line of
7 thinking with regard to this question.

8 Q. All right. Let's do it this way:

9 Let's just say that 2022, 2 percent of
10 the city elected officials had ethics complaints
11 filed against them and 3 percent of the county
12 elected official had ethics complaints filed
13 against them. Wouldn't that be inconsistent with
14 the position that the Form 6 requirement deters
15 complaints?

16 MR. STAFFORD: Object to form.

17 THE WITNESS: I don't know.

18 BY MR. COLE:

19 Q. You were asked whether it's possible
20 for the county -- for the state legislature to
21 allow the county commissioners to do a Form 1 and
22 you said that that would violate the Sunshine
23 Amendment, correct?

24 A. Because the Constitution requires that
25 the county commissioners file a Form 6 currently.

1 Q. Well, the constitution doesn't use the
2 word Form 6, the Constitution requires them to do
3 a full and public disclosure, correct?

4 A. That is the Form 6.

5 Q. Well, the Constitution doesn't say
6 Form 6, the Constitution says that they have to
7 do a full and public disclosure and then the
8 Constitution also says that the legislature can
9 change the parameters of what constitutes full
10 and public disclosure, correct?

11 A. Yes.

12 Q. So if the legislature wanted, they
13 could change for, say, state elected officials,
14 county commissioners, for all of them they could
15 take out the amounts and they can take out net
16 worth and they can say, that's what constitutes
17 full and public disclosure, correct?

18 A. I'll have to look at Article 2,
19 Section 8, but I assume that the legislature can
20 pass whatever laws they deem appropriate, as they
21 set the policy for the state.

22 Q. Okay. So theoretically, the
23 legislature could say, we're gonna have, you
24 know, all public officials, all elected
25 officials, public officials, city, county, state,

1 district, even -- everyone just fill out the same
2 full and public disclosure, and then define the
3 full and public disclosure to be what's currently
4 Form 1. They could do that, right?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: Yes. They could require
7 a lower standard of disclosure as full and
8 public disclosure if they were so inclined.

9 BY MR. COLE:

10 Q. For Social Security numbers, I think
11 you were asked a question whether or not elected
12 officials can put their Social Security numbers
13 in response to the Form 6. I think you said that
14 they can. In fact, they're not required to, but
15 they're allowed to, right?

16 A. Their Social Security numbers and
17 account numbers are not required and the law
18 specifically indicates that they should not
19 require those numbers and that information be
20 provided as a part of the disclosure.

21 Q. Right. But if they accidentally
22 disclosed it, what would happen?

23 A. The law says that if they accidentally
24 do that and they realize that they inadvertently
25 provided that information, they're required to

1 notify the Commission in writing that that's been
2 done and where that disclosure -- that accidental
3 disclosure was made so that the Commission can
4 pull the form down and redact that information.

5 I can tell you, as a -- that's most
6 likely to happen, the disclosure of Social
7 Security numbers, when they file their tax return
8 in lieu of reporting income.

9 **Q. Has this happened? Have people**
10 **accidentally included their tax returns and had**
11 **Social Security numbers in it?**

12 A. It does happen, but when there are
13 attachments to the form we have the system set up
14 to route those to a holding tank so that we can
15 take a look and sort of be a backstop to keep
16 that from happening.

17 **Q. The Form 1 for 2024 is different than**
18 **the Form 1 was for 2023, isn't it?**

19 A. It's the 2023 Form 1 that's filed in
20 2024. Yes. It is -- it is different in the
21 manner of calculating interest.

22 **Q. In calculating what?**

23 A. The manner of calculating your
24 financial interest.

25 **Q. So in fact, there's two differences.**

1 One is, it's done electronically for the
2 Commission on Ethics instead of Supervisor of
3 Elections, and the second is that you longer use
4 the comparator method; is that correct?

5 A. That's right. The comparative
6 threshold is no longer there.

7 Q. And why was the comparative threshold
8 eliminated?

9 A. Well, there was a few reasons when the
10 legislature first contemplated doing an
11 electronic filing system. One of the things that
12 they did with that law change was eliminated the
13 ability for a tax return to be included with a
14 Form 6 filing, and then, after the law was
15 enacted they wanted the ability of tax returns to
16 be there again, so they are.

17 And the other item was, the
18 comparative threshold was eliminated to
19 facilitate a more streamlined disclosure process
20 for electronic filing and to simplify the
21 process.

22 Q. So the reason that the comparative
23 method was eliminated was because you were going
24 to electronic filing and this simplified the
25 electronic filing; is that correct?

1 A. It did. The dollar value was easier
2 for people to follow.

3 Q. That was part of a law that was passed
4 in 2019?

5 A. Yes.

6 Q. So the reason that was changed had
7 nothing to do with the amount of disclosure,
8 which is really just for administrative
9 convenience because you were switching to an
10 electronic method, correct?

11 A. That was a part of the reason that
12 that was done. But historically, with a
13 comparative threshold, folks with a high net
14 worth might not have to disclose as much.

15 Q. Have you gotten any comments from
16 people who fill out Form 1 who, you know, had
17 realized that was changing?

18 A. No. Not at this time.

19 Q. But that, in the next couple months,
20 when they start noticing?

21 A. We might hear from them. Yes.

22 Q. You were asked a question whether one
23 of the reasons why someone might resign rather
24 than file a Form 6 is because they don't want to
25 disclose conflicts. Remember that?

1 A. Because they don't want the more
2 stringent disclosure requirements?

3 Q. Right. You said one of the reasons
4 that people have resigned is because they don't
5 want to disclose, through the Form 6, something
6 that might constitute a conflict.

7 A. That could be a reason. Yes.

8 Q. Another reason could be that their
9 employer doesn't allow it; isn't that correct?

10 A. That could be a reason. Yes.

11 Q. Another reason they might resign
12 rather than file their disclosure is because they
13 are concerned about their privacy; isn't that
14 correct?

15 A. Yes.

16 Q. Another reason they might resign
17 rather than file the Form 6 is because they're
18 worried about blackmail or kidnapping; isn't that
19 correct?

20 A. I would imagine that there are a lot
21 of reasons that they might not.

22 Q. That's one of them, right?

23 A. Pardon me?

24 Q. Could be one of them?

25 A. That -- yes.

1 Q. And another reason why an elected
2 municipal official may resign rather than file a
3 Form 6 is because they're worried about identity
4 theft, correct?

5 MR. STAFFORD: Object to form.

6 THE WITNESS: As you've stated today,
7 yes.

8 BY MR. COLE:

9 Q. And another reason why an elected
10 official might resign because of Form 6 would be
11 because they have children and they don't want
12 their children and their children's friends to
13 know how much money they make and how much money
14 they have.

15 MR. STAFFORD: Object to form.

16 THE WITNESS: Yes.

17 BY MR. COLE:

18 Q. And another reason why an elected
19 municipal official might resign rather than fill
20 out a Form 6 is because they live in small town
21 and they don't want everyone in the small town to
22 know their personal and financial information;
23 isn't that correct?

24 A. That could be a reason. Yes.

25 MR. COLE: All right. I have no

1 further questions.

2 MR. STAFFORD: I have nothing more.

3 And we will read.

4 (Deposition concluded at 4:28 p.m.)

C E R T I F I C A T E

I, KERRIE STILLMAN, have read the foregoing deposition given by me on April 10, 2024, and the statements contained therein, together with any additions or corrections made on the attached Errata Sheet, are true and correct.

SIGNED at _____, Florida,
this ____ day of _____, 2024.

_____,
KERRIE STILLMAN

The foregoing certificate was subscribed to before me this ____ day of _____, 2024.

Notary Public

CERTIFICATE OF REPORTER OATH

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, TONI FREEMAN GREENE, the undersigned
Notary Public, in and for the State of Florida,
hereby certify that the witness named herein
appeared before me and was duly sworn.

WITNESS my hand and official seal this
12th day of April, 2024.



TONI FREEMAN GREENE

NOTARY PUBLIC - STATE OF FLORIDA

MY COMMISSION NO. GG 978843

EXPIRES: APRIL 14, 2024

DEPOSITION CERTIFICATE

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Toni Freeman Greene, Court Reporter
and Notary Public in and for the State of Florida
at Large, hereby certify that the witness
appeared before me for the taking of the
foregoing deposition, and that I was authorized
to and did stenographically report the
deposition, and that the transcript is a true and
complete record of the testimony given by the
witness.

I FURTHER CERTIFY that I am neither an
attorney, nor counsel for the parties to this
cause, nor a relative or employee of any attorney
or party connected with this litigation, nor am I
financially interested in the outcome of this
action.

Dated this 12th day of April, 2024,
Miami, Miami-Dade County, Florida.



TONI FREEMAN GREENE

Court Reporter



1 UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT
2 OF FLORIDA, MIAMI DIVISION

3 PRESIDENT OF TOWN COUNCIL ELIZABETH A. LOPER,
4 elected official of the Town of Briny Breezes,
5 Plaintiff,

6 vs. Case No. 1:24-cv-20604-MD
7 ASHLEY LUKIS, in her official capacity as Chair
8 of the Florida Commission on Ethics, et al.,
9 Defendants.

10 IN THE CIRCUIT COURT OF THE 2ND JUDICIAL CIRCUIT
11 IN AND FOR LEON COUNTY, FLORIDA

12 TOWN OF BRINY BREEZES, FLORIDA, a Florida
13 municipal corporation, et al.,
14 Plaintiffs,

15 vs. CASE NO.: 2024 CA 000283
16 ASHLEY LUKIS, in her official capacity as Chair
17 of the Florida Commission on Ethics, et al.,
18 Defendant.

19 TO: KERRIE STILLMAN c/o
20 WILLIAM HENRY STAFFORD III, ESQ.
21 Office of the Attorney General
22 PL-01 The Capitol
23 Tallahassee, FL 32399-1050

24 Your deposition taken in the
25 above-entitled cause is now ready for
signature. Please come to this office and
sign same; or if you wish to waive the
signing of the deposition, please so advise.

If this deposition has not been signed
by May 12, 2024, we shall consider your
signature waived.

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Toni Freeman Greene, Court Reporter

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SECTION 8. Ethics in government.-- A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f)(1) For purposes of this subsection, the term "public officer" means a statewide elected officer, a member of the legislature, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, an elected special district officer in a special district with ad valorem taxing authority, or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government.

(2) A public officer shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office.

(3) A public officer shall not lobby for compensation on issues of policy, appropriations, or procurement for a period of six years after vacation of public position, as follows:

a. A statewide elected officer or member of the legislature shall not lobby the legislature or any state government body or agency.

b. A person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department.

c. A county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer shall not lobby the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department.



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special district with ad valorem taxing authority shall not lobby his or her former agency or governing body.

(4) This subsection shall not be construed to prohibit a public officer from carrying out the duties of his or her public office.

(5) The legislature may enact legislation to implement this subsection, including, but not limited to, defining terms and providing penalties for violations. Any such law shall not contain provisions on any other subject.

(g) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(h)(1) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(2) A public officer or public employee shall not abuse his or her public position in order to obtain a disproportionate benefit for himself or herself; his or her spouse, children, or employer; or for any business with which he or she contracts; in which he or she is an officer, a partner, a director, or a proprietor; or in which he or she owns an interest. The Florida Commission on Ethics shall, by rule in accordance with statutory procedures governing administrative rulemaking, define the term "disproportionate benefit" and prescribe the requisite intent for finding a violation of this prohibition for purposes of enforcing this paragraph. Appropriate penalties shall be prescribed by law.

(i) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(j) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (g), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to paragraph (1).

(3) The independent commission provided for in subsection (g) shall mean the Florida Commission on Ethics.

History.—Proposed by Initiative Petition filed with the Secretary of State July 29, 1976; adopted 1976; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Am. proposed by Constitution Revision Commission, Revision No. 7, 2018, filed with the Secretary of State May 9, 2018; adopted 2018.

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FLORIDA COMMISSION ON ETHICS



GUIDE to the SUNSHINE AMENDMENT and CODE of ETHICS for Public Officers and Employees

2024



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I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees 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 for their government. The Code is also 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. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

II. ROLE OF THE COMMISSION ON ETHICS

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use by Supervisors of Elections and the Commission in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

III. THE ETHICS LAWS

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

A. PROHIBITED ACTIONS OR CONDUCT

1. *Solicitation and Acceptance of Gifts*

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec. 112.3148, Fla. Stat.]

However, notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than \$100 that formerly

were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. *Unauthorized Compensation*

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. *Misuse of Public Position*

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. *Abuse of Public Position*

Public officers and employees are prohibited from abusing their public positions in order to obtain a disproportionate benefit for themselves or certain others. [Article II, Section 8(h), Florida Constitution.]

5. *Disclosure or Use of Certain Information*

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position, for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

6. *Solicitation or Acceptance of Honoraria*

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to \$5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

B. **PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS**

1. *Doing Business With One's Agency*

- a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or

services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

- b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. *Conflicting Employment or Contractual Relationship*

- a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]
- b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]
- c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. *Exemptions*—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

- a) When the business is rotated among all qualified suppliers in a city or county.
- b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter

the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

- c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.
- d) When an emergency purchase must be made to protect the public health, safety, or welfare.
- e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.
- f) When the aggregate of any such transactions does not exceed \$500 in a calendar year.
- g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.
- h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).
- i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.
- j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of

the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. *Additional Exemptions*

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.]

5. *Legislators Lobbying State Agencies*

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. *Additional Lobbying Restrictions for Certain Public Officers and Employees*

A statewide elected officer; a member of the legislature; a county commissioner; a county officer pursuant to Article VIII or county charter; a school board member; a superintendent of schools; an elected municipal officer; an elected special district officer in a special district with ad valorem taxing authority; or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office. [Art. II Sec 8(f)(2), Fla. Const. and Sec. 112.3121, Fla. Stat.]

7. *Employees Holding Office*

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

8. *Professional and Occupational Licensing Board Members*

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

9. *Contractual Services: Prohibited Employment*

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

10. *Local Government Attorneys*

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

11. *Dual Public Employment*

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES**1. *Anti-Nepotism Law***

A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute "jurisdiction or control" for the purposes of this prohibition. This provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

2. *Additional Restrictions*

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS**1. *Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers***

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. *Lobbying by Former State Employees*

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

- a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.
- b) serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. *6-Year Lobbying Ban*

For a period of six years after vacation of public position occurring on or after December 31, 2022, a statewide elected officer or member of the legislature shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature or any state government body or agency. [Art. II Sec 8(f)(3)a., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby for compensation on issues of policy, appropriations, or procurement before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department. [Art. II Sec 8(f)(3)b., Fla. Const. and Sec. 112.3121, Fla. Stat.]

For a period of six years after vacation of public position occurring on or after December 31, 2022, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby for compensation on issues of policy, appropriations, or procurement before his or her former agency or governing body. [Art. II Sec 8(f)(3)c., Fla. Const. and Sec. 112.3121, Fla. Stat.]

4. *Additional Restrictions on Former State Employees*

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

5. *Lobbying by Former Local Government Officers and Employees*

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

E. **VOTING CONFLICTS OF INTEREST**

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

F. DISCLOSURES

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. *FORM 1 - Limited Financial Disclosure*

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

- 1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is

for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.

- 3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, local boards of trustees and presidents of state universities, and members of the Florida Prepaid College Board.

LOCAL OFFICERS include:

- 1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.
- 3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
- 4) Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other

political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$35,000 for the local governmental unit.

- 5) Members of governing boards of charter schools operated by a city or other public entity.
- 6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

- 1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
- 2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.
- 3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.

- 4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.
- 5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
- 6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$35,000.
- 7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When to File:

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

File with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

Beginning January 1, 2024, all Form 1 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name or organization on the Commission's website.

2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the

issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

File with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

Beginning January 1, 2024, all Form 2 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable on the Commission's website.

4. FORM 6 - Full and Public Disclosure

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of a city council and candidates for these offices; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); members of the Florida Housing Finance Corporation Board and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Officials must file FORM 6 annually by July 1 with the Commission on Ethics.

Beginning January 1, 2023, all Form 6 disclosures must be filed electronically through the Commission's electronic filing system. These disclosures will be published and searchable by name and organization on the Commission's website.

CANDIDATES who do not currently hold a position requiring the filing of a Form 1 or Form 6 must register and use the electronic filing system to complete the Form 6, then print and file the disclosure with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. *FORM 6F - Final Form 6 Full and Public Disclosure*

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. *FORM 9 - Quarterly Gift Disclosure*

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more than \$100, other

than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. *FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses*

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than \$100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year, with the officer's or employee's FORM 1 or FORM 6. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. *FORM 30 - Donor's Quarterly Gift Disclosure*

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than \$100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee: a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between \$25 and \$100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, any expenditure made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

IV. AVAILABILITY OF FORMS

Beginning January 1, 2024, LOCAL OFFICERS and EMPLOYEES, and OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file FORM 1 annually must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

ELECTED CONSTITUTIONAL OFFICERS and other officials who must file Form 6 annually, including City Commissioners and Mayors, must file electronically via the Commission's Electronic Financial Disclosure Management System (EFDMS). Paper forms will not be promulgated. Communications regarding the annual filing requirement will be sent via email to filers no later than June 1. Filers must maintain an updated email address in their User Profile in EFDMS.

V. PENALTIES

A. *Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics*

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000*, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

B. *Penalties for Candidates*

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed \$10,000*, and triple the value of a gift received from a political committee.

C. *Penalties for Former Officers and Employees*

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed \$10,000*, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

*Conduct occurring after May 11, 2023, will be subject to a recommended civil penalty of up to \$20,000. [Ch. 2023-49, Laws of Florida.]

D. Penalties for Lobbyists and Others

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to \$5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift or honorarium or fail to comply with the gift reporting requirements for gifts worth between \$25 and \$100, may be penalized by a fine of not more than \$5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined \$50 per day per report for each day the report is late, up to a maximum fine of \$5,000 per report.

E. Felony Convictions: Forfeiture of Retirement Benefits

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

F. Automatic Penalties for Failure to File Annual Disclosure

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25 for each day late the form is filed after September 1, up to a maximum penalty of \$1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

VI. ADVISORY OPINIONS

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

A. *Who Can Request an Opinion*

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

B. *How to Request an Opinion*

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

C. *How to Obtain Published Opinions*

All of the Commission's opinions are available for viewing or download at its website: www.ethics.state.fl.us.

VII. COMPLAINTS

A. *Citizen Involvement*

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at www.ethics.state.fl.us. The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can download a complaint form (FORM 50) from the Commission's website: www.ethics.state.fl.us, or contact the Commission office at the address or phone number shown on the inside front cover of this booklet.

B. *Referrals*

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

C. *Confidentiality*

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. How the Complaint Process Works

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented, or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

E. Dismissal of Complaints At Any Stage of Disposition

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

F. Statute of Limitations

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

VIII. EXECUTIVE BRANCH LOBBYING

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report

with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at www.floridalobbyist.gov. Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration
Room G-68, Claude Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1425
Phone: 850/922-4990

IX. WHISTLE-BLOWER'S ACT

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

X. ADDITIONAL INFORMATION

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at www.ethics.state.fl.us.

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

XI. TRAINING

Constitutional officers, elected municipal officers, commissioners of community redevelopment agencies (CRAs), and commissioners of community development districts are required to receive a total of four hours training, per calendar year, in the area of ethics, public

records, and open meetings. The Commission on Ethics does not track compliance or certify providers. Officials indicate their compliance with the training requirement when they file their annual Form 1 or Form 6.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff.

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Financial Disclosure Information - Ethics

Search opinions and orders with  **Search & Browse** ([http://sb.flleg.gov/nxt/gateway.dll?f=templates&fn=default.htm\\$vid=html:coe](http://sb.flleg.gov/nxt/gateway.dll?f=templates&fn=default.htm$vid=html:coe))

Financial Disclosure Information

What is the purpose of filing disclosure forms?

Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government.

Who must file disclosure?

All elected state and local public officers are required to file a financial disclosure form and many appointed board members also must file. There are certain state and local employees who are also subject to the disclosure filing requirement because of the position they hold or because they have purchasing authority that exceeds \$35,000.

[See Sections 112.3144 (http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=112.3144&URL=0100-0199/0112/Sections/0112.3144.html) and 112.3145 (http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=112.3145&URL=0100-0199/0112/Sections/0112.3145.html), Florida Statutes]

General Information about Filing Financial Disclosure

You can find information about financial disclosure in the Commission's publication A Guide to the Sunshine Amendment and Code of Ethics (</Documents/Publications/GuideBookletInternet.pdf?cp=202449>). The Commission's rules on financial disclosure can be found here (</Research/Rules.aspx>). The Commission's opinions and orders regarding the financial disclosure law can be researched here (</Research/Search.aspx>). A summary of the Commission's most significant opinions dealing with financial disclosure can be found here (</FinancialDisclosure/FinancialDisclosureOpinions.aspx>). Detailed instructions for completing the disclosure forms are contained on each form, which can be found here (</FinancialDisclosure/DownloadAForm.aspx>).

For assistance with financial disclosure, you may wish to contact the Commission's Financial Disclosure Coordinator, Kimberly Holmes, at disclosure@leg.state.fl.us (<mailto:disclosure@leg.state.fl.us>). Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this agency. Instead, contact us by phone or in writing.

Financial Disclosure Forms

Clicking here (</FinancialDisclosure/DownloadAForm.aspx>) will take you to a list of the forms needed to file the disclosures required by the ethics laws. From that page you can view or print any forms you may need, and read descriptions of who has to file which forms, what deadlines may apply, and what information must be reported.



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Financial Disclosure Information - Ethics

Financial Disclosure Coordinator Information

Each year, the Florida Commission on Ethics prepares the list of persons holding governmental positions who are required to file financial disclosure for the previous year. The Commission obtains the name and address of each of these persons from coordinators who have been designated from each State and local government agency.

Automatic Fines for Failure to File Disclosure on Time

Financial disclosure is due July 1 of each year for the preceding calendar year. A grace period is in effect until September 1. If the disclosure is not filed or postmarked by September 1, an automatic fine of \$25 per day will begin to accrue, and will continue to build until the disclosure is filed, or the fine reaches \$1,500. Fines may be appealed to the Commission, which can waive or reduce the fine, if unusual circumstances prevented the filer from filing on time.

Clicking here (</FinancialDisclosure/FinancialDisclosureAppeals.aspx>) will take you to a sample appeal form which may be downloaded and filed with the Commission to appeal an automatic fine for failure to timely file financial disclosure. You are not required to use this form when appealing a fine; it is provided for your convenience.

An automatic fine for failure to timely file financial disclosure can be paid online with a credit card and by clicking here (<https://flalegstore.com/fines>). Unpaid fines may be recovered through salary withholding, wage garnishment, or referral to a collection agency. In addition, failure to file can result in removal from office or employment.



You will need Adobe Reader to view documents. If you do not already have Adobe Reader



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Adobe Reader

(<http://www.adobe.com/go/getreader>)

installed, or if you are having trouble viewing one of the documents, get a free version from Adobe.

Contact Us

Kerrie Stillman, Executive Director
The Florida Commission on Ethics
P. O. Drawer 15709
Tallahassee, FL 32317-5709
(850) 488-7864

FAQ

- How do I request public records? (/Documents/Publications/records_sign.pdf?cp=202449)
- How do I file a complaint? (</Documents/Forms/Complaint%20Form.PDF?cp=202449>)
- How do I request an opinion? (/Support/FAQs.aspx#request_opinion)
- How do I obtain copies of meeting materials, forms, and instructions? (</Support/FAQs.aspx#copies>)

Publications

- Press Releases (</PublicInformation/NewsAndEvents.aspx>)

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Financial Disclosure Information - Ethics

- [Meeting Agendas \(/PublicInformation/NewsAndEvents.aspx\)](/PublicInformation/NewsAndEvents.aspx)
- [Guide to the Sunshine Amendment Code of Ethics \(/Documents/Publications/GuideBookletInternet.pdf?cp=202449\)](/Documents/Publications/GuideBookletInternet.pdf?cp=202449)
- [Annual Reports \(/PublicInformation/Publications.aspx\)](/PublicInformation/Publications.aspx)
- [Regulatory Plans \(/PublicInformation/RegulatoryPlans.aspx\)](/PublicInformation/RegulatoryPlans.aspx)

[Contact Information \(/AboutUs/ContactUs.aspx\)](/AboutUs/ContactUs.aspx) | [Terms of Use \(/TermsOfUse.aspx\)](/TermsOfUse.aspx) | [Accessibility \(/Accessibility.aspx\)](/Accessibility.aspx) | [Privacy Statement \(/PrivacyStatement.aspx\)](/PrivacyStatement.aspx)

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Statutes & Constitution : View Statutes : Online Sunshine

Select Year: 2023 ▼

The 2023 Florida Statutes (including Special Session C)

Title X	Chapter 112	View Entire Chapter
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	

112.3144 Full and public disclosure of financial interests.—

(1)(a) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year, or any other person required by law to file a disclosure under this section, shall file that disclosure with the Florida Commission on Ethics. Additionally, an officer who is required to complete annual ethics training pursuant to s. [112.3142](#) must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(b) A member of an expressway authority, transportation authority, bridge authority, toll authority, or expressway agency created pursuant to chapter 343, chapter 348, or any other general law shall comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution.

(c) Each member of the governing body of a large-hub commercial service airport, except for members required to comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution, shall comply with the financial disclosure requirements of s. [112.3145](#)(3). For purposes of this paragraph, the term “large-hub commercial service airport” means a publicly owned airport that has at least 1 percent of the annual passenger boardings in the United States as reported by the Federal Aviation Administration.

(d) Beginning January 1, 2024, the following local officers must comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution and this section:

1. Mayors.
2. Elected members of the governing body of a municipality.

(e) Beginning January 1, 2024, each member of the Commission on Ethics must comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution and this section.

(2) Beginning January 1, 2022, all disclosures filed with the commission must be filed electronically through an electronic filing system that is created and maintained by the commission as provided in s. [112.31446](#).

(3) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year is not required to file a statement of financial interests pursuant to s. [112.3145](#)(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. Until the electronic filing system required by subsection (2) is implemented, if an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(4) Beginning January 1, 2022, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement may submit a copy of the full and public disclosure of financial interests filed with the commission, or a verification or receipt of the filing, with the officer before whom he or she qualifies. A candidate not subject to an annual filing requirement does not file with the commission



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complete and print a full and public disclosure of financial interests to file with the officer before whom he or she qualifies.

(5) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as "household goods and personal effects":

- (a) Jewelry;
- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(6)(a) With respect to reporting, assets valued in excess of \$1,000 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting liabilities valued in excess of \$1,000 for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(c) Each separate source and amount of income which exceeds \$1,000 must be identified. For the purpose of a filer reporting income, the commission shall accept federal income tax returns. If a filer submits a federal income tax return for the purpose of reporting income, he or she must also include all attachments and schedules associated with such federal income tax return.

(7)(a) Beginning January 1, 2023, a filer may not include in a filing to the commission a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers or bank account, debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of such information.

(b) The commission shall redact a filer's social security number; bank account number; debit, charge, or credit card number; or any other personal or account information that is legally protected from disclosure under state or federal law upon written notification from the filer of its inadvertent inclusion. Such notice must specify the information inadvertently included and the specific section or sections of the disclosure in which it was included.

(c) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:

- 1. Any filer submitting information through the electronic filing system may not include a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.
- 2. Information submitted through the electronic filing system may be open to public inspection and copying.
- 3. Any filer has a right to request that the commission redact from his or her filing any social security number; bank account number; or debit, charge, or credit card number contained in the filing. Such request must be made

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in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(8) Forms or fields of information for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution must be prescribed by the commission. The commission shall allow a filer to include attachments or other supporting documentation when filing a disclosure. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. Each unit of government shall assist the commission in compiling the list by providing to the commission not later than February 1 of each year the name, e-mail address, physical address, and name of the office held by such person within the respective unit of government as of December 31 of the preceding year.

(b) Not later than June 1 of each year, the commission shall notify by e-mail all persons required to file a full and public disclosure of financial interests of all of the following:

1. All applicable filing deadlines for completing and filing the full and public disclosure of financial interests prescribed under subsection (3) on the electronic filing system.
2. Instructions on how to complete and file the full and public disclosure of financial interests as prescribed by subsection (3) on the electronic filing system, or where to access such instructions.

Beginning January 1, 2023, paper forms may not be provided and persons required to file a full and public disclosure of financial interests must complete and file their disclosures on the electronic filing system pursuant to subsection (2).

(c) Not later than August 1 of each year, the commission shall determine which persons on the list have failed to file full and public disclosure and shall send delinquency notices to such persons. Each notice must state that a grace period is in effect until September 1 of the current year. The notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis by e-mail as long as a person remains delinquent.

(d) Disclosures must be received by the commission not later than 11:59 p.m. of the due date. Beginning January 1, 2023, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed disclosure.

(e) Beginning January 1, 2023, a written declaration, as provided for under s. 92.525(2), accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

(f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific that the amount of the fine due is based upon when the disclosure is filed on the electronic filing system created and maintained by the commission as provided in s. 112.31446.

1. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 2. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 2. The moneys shall be deposited into the General Revenue Fund.

2. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be in writing and received by the commission within 30 days after the notice of payment due is transmitted. In such a case, the reporting person

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must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. For purposes of this subparagraph, "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(g) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (10).

(i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(9) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment. The commission shall forward its recommendations as provided in s. 112.324.

(10) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection. When an elected local officer specified in paragraph (1)(d) leaves office before the expiration of his or her term, any individual appointed to replace such officer for the remainder of that term must file a full and public disclosure of financial interests annually thereafter for the remainder of his or her term in office.

(11)(a) The commission shall treat an amendment to a full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as part of the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat an amendment to a new final full and public disclosure of financial interests as part of the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a

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final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file an amendment to the new final full and public disclosure of financial interests correcting any errors. If the filer does not file an amendment to the new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

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

(12)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(13) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

(14) The provisions of this section constitute a revision to the schedule included in s. 8(i), Art. II of the State Constitution.

History.—s. 1, ch. 82-98; s. 3, ch. 88-358; s. 19, ch. 91-45; s. 4, ch. 94-277; s. 1409, ch. 95-147; s. 2, ch. 2000-243; s. 30, ch. 2000-258; s. 127, ch. 2003-261; s. 3, ch. 2006-275; s. 7, ch. 2013-36; s. 3, ch. 2014-183; s. 3, ch. 2019-97; s. 2, ch. 2019-169; s. 2, ch. 2020-167; ss. 91, 92, ch. 2022-157; s. 35, 36, ch. 2023-8; s. 3, ch. 2023-49.

2023 Form 6 - Full and Public Disclosure of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization

Suborganization

Title

SAMPLE

SAMPLE

SAMPLE

Net WorthMy Net Worth as of December 31, 2023 was \$ [AMOUNT].**Assets**

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.

The aggregate value of my household goods and personal effect is N/A.

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

Description of Asset	Value of Asset

2023 Form 6 - Full and Public Disclosure of Financial Interests**Liabilities**

LIABILITIES IN EXCESS OF \$1,000:

Name of Creditor	Address of Creditor	Amount of Liability

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

Name of Creditor	Address of Creditor	Amount of Liability

Income

Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2022 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.

☐ I elect to file a copy of my 2023 federal income tax return and all W2s, schedules, and attachments.

PRIMARY SOURCES OF INCOME:

Name of Source of Income Exceeding \$1,000	Address of Source of Income	Amount

SECONDARY SOURCES OF INCOME (Major customers, clients, etc. of businesses owned by reporting person):

Name of Business Entity	Name of Major Sources of Business Income	Address of Source	Principal Business Activity of Source

2023 Form 6 - Full and Public Disclosure of Financial Interests

Interests in Specified Businesses

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

Signature of Reporting Official or Candidate

Under the penalties of perjury, I declare that I have read the foregoing Form 6 and that the facts stated in it are true.

Digitally signed:

Filed with COE:

2023 Form 6 Instructions Full and Public Disclosure of Financial Interests

Notice

Annual Full and Public Disclosure of Financial Interests is due July 1, 2024. If the annual form is not submitted via the electronic filing system created and maintained by the Commission by September 3, 2024 an automatic fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500. Failure to file also can result in removal from public office or employment. [s. 112.3144, F.S. – applicable to officials other than judges]

In addition, failure to make any required disclosure constitutes grounds for and may be punished by one or more of the following: disqualification from being on the ballot, impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not exceeding \$10,000. [s. 112.317, F.S.]

Instructions for Completing and Filing Form 6 Full and Public Disclosure of Financial Interests

When to File:

Officeholders: No later than July 1, 2024

Candidates: During the qualifying period.

Who Must File Form 6:

All persons holding the following positions: Governor, Lieutenant Governor, Cabinet members, members of the Legislature, State Attorneys, Public Defenders, Clerks of Circuit Courts, Sheriffs, Tax Collectors, Property Appraisers, Supervisors of Elections, County Commissioners, elected Superintendents of Schools, members of District School Boards, Mayor and members of the Jacksonville City Council, Judges of Compensation Claims; the Duval County Superintendent of Schools, and members of the Florida Housing Finance Corporation Board, each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, toll authority, or expressway agency created pursuant to Chapter 348 or 343, F.S., or any other general law, mayors, elected members of the governing body of a municipality, each member of the Commission on Ethics and judges, as required by Canon 6, Code of Judicial Conduct.

Attachments:

A filer may include and submit attachments or other supporting documentation when filing a disclosure.

Public Record:

The disclosure form is a public record and is required by law to be posted to the Commission's website. **Your Social Security number, bank account, debit, charge, and credit card numbers, mortgage or brokerage account numbers, personal identification numbers, or taxpayer identification numbers are not required and should not be included.** If such information is included in the filing, it may be made available for public inspection and copying unless redaction is required by the filer, without any liability to the Commission. If you are an active or former officer or employee listed in Section 119.071, F.S., whose home address or other information is exempt from disclosure, the Commission will maintain that confidentiality if you submit a written and notarized request.

Questions about this form or the ethics laws may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864.

Net Worth

[Required by Art. II, s. 8(a)(1)(1), Fla. Const.]

Report your net worth as of December 31, 2023, or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting your liabilities from your assets will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

1. The aggregate value of household goods and personal effects, as reported in the Assets section of this
2. The value of all assets worth over \$1,000, as reported in the Assets section; and,
3. The total value of any assets worth less than \$1,000 that were not reported or included in the category "household goods and personal effects."



To total the amount of your liabilities, add:

1. The total amount of each liability you reported in the Liabilities section of this form, except for any amounts listed in the "joint and several liabilities not reported above" portion; and,
2. The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

Assets Worth More Than \$1,000

[Required by Art. II, s. 8, Fla. Const.; s. 112.3144, F.S.]

Household Goods and Personal Effects:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

Assets Individually Valued at More Than \$1,000:

Describe, and state the value of, each asset you had on the reporting date you selected for your net worth, if the asset was worth more than \$1,000 and if you have not already included that asset in the aggregate value of your household goods and personal effects. Assets include, but are not limited to, things like interests in real property; cash; stocks; bonds; certificates of deposit; interests in businesses; beneficial interests in trusts; money owed you (including, but not limited to, loans made as a candidate to your own campaign); bank accounts in which you have an ownership interest; Deferred Retirement Option Program (DROP) accounts; and the Florida Prepaid College Plan. Assets also include investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan. Note that the product contained in a brokerage account, IRA, or the Florida College Investment Plan, is your asset — not the account or plan itself.

You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

- Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property's location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.
- Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. **Do not list simply "stocks and bonds" or "bank accounts".** For example, list "Stock (Williams Construction Co.)," "Bonds (Southern Water and Gas)," "Bank accounts (First National Bank)," "Smith family trust," "Promissory note and mortgage (owed by John and Jane Doe)."

How to Value Assets:

- Value each asset by its fair market value on the date used in the Net Worth section of this form.
- Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as tenants by the entirety or jointly with right of survivorship, including bank accounts held in such a manner, must be reported at 100% of their value.
- Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.
- Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.
- Real property may be valued at its market value for tax purposes, unless a more accurate fair market value is available.
- Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.
- Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.
- Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by "buy-out" agreements. It is suggested that the method of valuation chosen be indicated on the form.
- Life Insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.
- The asset value of a leased vehicle is the vehicle's present value minus the lease residual (a number found on the lease document).

Liabilities

[Required by Art. II, s. 8, Fla. Const.; s. 112.312, F.S.]

Liabilities in Excess of \$1,000:

List the name and address of each creditor to whom you owed more than \$1,000 on the date you chose for your net worth, and list the amount you owed. Liabilities include: accounts, notes, and interest payable; debts or obligations (excluding taxes, unless the taxes have been reduced to a judgment) to governmental entities; judgments against you, and the unpaid portion of vehicle leases.

You are not required to disclose liabilities that are solely your spouse's responsibility.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed (unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" on a note and are jointly liable or jointly and severally liable, then it is not a contingent liability.

How to Determine the Amount of a Liability:

- Generally, the amount of the liability is the face amount of the debt.
- The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments.
- If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.
- If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. However, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship, report 100% of the total amount owed.
- If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

Examples:

- You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a savings and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit card debts need not be reported.
- You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

Joint and Several Liabilities Not Reported Above:

List in this part of the form the amount of each debt for which you were jointly and severally liable, that is not reported in the "Liabilities in Excess of \$1,000" part of the form. Example: You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

Income

[Required by Art. II, s. 8, Fla. Const.]

Primary Sources of Income:

List the name of each source of income that provided you with more than \$1,000 of income during 2023, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

"Income" means the same as "gross income" for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony if it is considered gross income under federal law, but not child support. Where income is derived from a business activity you should report the income to you, as calculated for income tax purposes, rather than the income to the business.

For purposes of reporting your income, you have the option of either completing this section or submitting a copy of your 2023 federal income tax return, including all schedules, W2s, and attachments.

Examples:

- If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total

amount of income received from it.

- If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, you should list the name of the firm, its address, and the amount of your distributive share.
- If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than \$1,000. Do not aggregate income from all of these investments.
- If more than \$1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as "sale of (name of company) stock," for example.
- If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

Secondary Sources of Income:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. **It is not for reporting income from second jobs.** That kind of income should be reported as a "Primary Source of Income." You will **not** have anything to report **unless**:

1. You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and
2. You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's most recently completed fiscal year), the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

- You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).
- You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership's gross income, and the tenant's address and principal business activity.

Interests in Specified Businesses

[Required by s. 112.3145, F.S.]

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during 2023, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

Training Certification

[Required by s. 112.3142, F.S.]

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2023 Form 6 Instructions - Electronic Financial Disclosure Management System

If you are a Constitutional or elected municipal officer, or an elected local officers of independent special districts, including any person appointed to fill a vacancy on an elected special district board, whose service began on or before March 31 of the year for which you are filing, you are required to complete four hours of ethics training which addresses Article II, Section 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and open meetings laws of the state. You are required to certify on this form that you have taken such training.

2023 Form 1 - Statement of Financial Interests**General Information**

Name: DISCLOSURE FILER

Address: SAMPLE ADDRESS

County: SAMPLE COUNTY

PID SAMPLE

AGENCY INFORMATION

Organization

Suborganization

Title

SAMPLE

SAMPLE

SAMPLE

Disclosure Period

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2023 .

Primary Sources of Income

PRIMARY SOURCE OF INCOME (Over \$2,500) (Major sources of income to the reporting person)
 (If you have nothing to report, write "none" or "n/a")

Name of Source of Income	Source's Address	Description of the Source's Principal Business Activity

2023 Form 1 - Statement of Financial Interests**Secondary Sources of Income**

SECONDARY SOURCES OF INCOME (Major customers, clients, and other sources of income to businesses owned by the reporting person) (If you have nothing to report, write "none" or "n/a")

Name of Business Entity	Name of Major Sources of Business' Income	Address of Source	Principal Business Activity of Source

Real Property

REAL PROPERTY (Land, buildings owned by the reporting person)
(If you have nothing to report, write "none" or "n/a")

Location/Description

Intangible Personal Property

INTANGIBLE PERSONAL PROPERTY (Stocks, bonds, certificates of deposit, etc. over \$10,000)
(If you have nothing to report, write "none" or "n/a")

Type of Intangible	Business Entity to Which the Property Relates

2023 Form 1 - Statement of Financial Interests**Liabilities**

LIABILITIES (Major debts valued over \$10,000):
(If you have nothing to report, write "none" or "n/a")

Name of Creditor	Address of Creditor

Interests in Specified Businesses

INTERESTS IN SPECIFIED BUSINESSES (Ownership or positions in certain types of businesses)
(If you have nothing to report, write "none" or "n/a")

Business Entity # 1

Training

Based on the office or position you hold, the certification of training required under Section 112.3142, F.S., is not applicable to you for this form year.

2023 Form 1 - Statement of Financial Interests

Signature of Filer

Digitally signed:

Filed with COE:

E-FILING SAMPLE

2023 Form 1 Instructions Statement of Financial Interests

Notice

The annual Statement of Financial Interest is due July 1, 2024. If the annual form is not submitted via the electronic filing system created and maintained by the Commission September 3, 2024, an automatic fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500. Failure to file also can result in removal from public office or employment. [s. 112.3145, F.S.]

In addition, failure to make any required disclosure constitutes grounds for and may be punished by one or more of the following: disqualification from being on the ballot, impeachment, removal or suspension from office or employment, demotion, reduction in salary, reprimand, or a civil penalty not exceeding \$10,000. [s. 112.317, F.S.]

When To File:

Initially, each local officer/employee, state officer, and specified state employee must file **within 30 days** of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.

Candidates must file at the same time they file their qualifying papers.

Thereafter, file by July 1 following each calendar year in which they hold their positions.

Finally, file a final disclosure form (Form 1F) within 60 days of leaving office or employment. Filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2023.

Who Must File Form 1

1. Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
2. Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding those required to file full disclosure on Form 6 as well as members of solely advisory bodies, but including judicial nominating commission members; Directors of Enterprise Florida, Scripps Florida Funding Corporation, and Career Source Florida; and members of the Council on the Social Status of Black Men and Boys; the Executive Director, Governors, and senior managers of Citizens Property Insurance Corporation; Governors and senior managers of Florida Workers' Compensation Joint Underwriting Association; board members of the Northeast Fla. Regional Transportation Commission; board members of Triumph Gulf Coast, Inc; board members of Florida Is For Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.
3. The Commissioner of Education, members of the State Board of Education, the Board of Governors, the local Boards of Trustees and Presidents of state universities, and the Florida Prepaid College Board.
4. Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file Form 6.
5. Appointed members of the following boards, councils, commissions, authorities, or other bodies of county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; community college or junior college district boards of trustees; boards having the power to enforce local code provisions; boards of adjustment; community redevelopment agencies; planning or zoning boards having the power to recommend, create, or modify land planning or zoning within a political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, and except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; pension or retirement boards empowered to invest pension or retirement funds or determine entitlement to or amount of pensions or other retirement benefits, and the Pinellas County Construction Licensing Board.
6. Any appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
7. Persons holding any of these positions in local government: county or city manager; chief administrative employee or finance director of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$35,000 for the local governmental unit.



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2023 Form 1 Instructions - Electronic Financial Disclosure Management System

8. Officers and employees of entities serving as chief administrative officer of a political subdivision.
9. Members of governing boards of charter schools operated by a city or other public entity.
10. Employees in the office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
11. The following positions in each state department, commission, board, or council: Secretary, Assistant or Deputy Secretary, Executive Director, Assistant or Deputy Executive Director, and anyone having the power normally conferred upon such persons, regardless of title.
12. The following positions in each state department or division: Director, Assistant or Deputy Director, Bureau Chief, and any person having the power normally conferred upon such persons, regardless of title.
13. Assistant State Attorneys, Assistant Public Defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel, Public Counsel, full-time state employees serving as counsel or assistant counsel to a state agency, administrative law judges, and hearing officers.
14. The Superintendent or Director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
15. State agency Business Managers, Finance and Accounting Directors, Personnel Officers, Grant Coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$35,000.
16. The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.
17. Each member of the governing body of a "large-hub commercial service airport," as defined in Section 112.3144(1)(c), Florida Statutes, except for members required to comply with the financial disclosure requirements of s. 8, Article II of the State Constitution.

ATTACHMENTS: A filer may include and submit attachments or other supporting documentation when filing disclosure.

PUBLIC RECORD: The disclosure form is a public record and is required by law to be posted to the Commission's website. Your Social Security number, bank account, debit, charge, and credit card numbers, mortgage or brokerage account numbers, personal identification numbers, or taxpayer identification numbers are not required and should not be included. If such information is included in the filing, it may be made available for public inspection and copying unless redaction is required by the filer, without any liability to the Commission. If you are an active or former officer or employee listed in Section 119.071, F.S., whose home address or other information is exempt from disclosure, the Commission will maintain that confidentiality *if you submit a written and notarized request.*

QUESTIONS about this form or the ethics laws may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303; telephone (850) 488-7864.

Instructions for Completing Form 1

Primary Sources of Income

[Required by s. 112.3145(3)(b)1, F.S.]

This section is intended to require the disclosure of your principal sources of income during the disclosure period. You do not have to disclose any public salary or public position(s). The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should disclose the source of that income if it exceeded the threshold.

Please list in this part of the form the name, address, and principal business activity of each source of your income which exceeded \$2,500 of gross income received by you in your own name or by any other person for your use or benefit.

"Gross income" means the same as it does for income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples include: compensation for services, income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, social security, distributive share of partnership gross income, and alimony if considered gross income under federal law, but not child support.

Examples:

- If you were employed by a company that manufactures computers and received more than \$2,500, list the name of the company, its address, and its principal business activity (computer manufacturing).
- If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$2,500, list the name of the firm, its address, and its principal business activity (practice of law).
- If you were the sole proprietor of a retail gift business and your gross income from the business exceeded \$2,500, list the name of the business, its address, and its principal business activity (retail gift sales).
- If you received income from investments in stocks and bonds, list each individual company from which you derived more than \$2,500. Do not aggregate all of your investment income.

- If more than \$2,500 of your gross income was gain from the sale of property (not just the selling price), list as a source of income the purchaser's name, address and principal business activity. If the purchaser's identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed as "sale of (name of company) stock," for example.
- If more than \$2,500 of your gross income was in the form of interest from one particular financial institution (aggregating interest from all CD's, accounts, etc., at that institution), list the name of the institution, its address, and its principal business activity.

Secondary Sources of Income

[Required by s. 112.3145(3)(b)2, F.S.]

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported in "Primary Sources of Income," if it meets the reporting threshold. You will not have anything to report unless, during the disclosure period:

1. You owned (either directly or indirectly in the form of an equitable or beneficial interest) more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, LLC, limited partnership, proprietorship, joint venture, trust, firm, etc., doing business in Florida); **and,**
2. You received more than \$5,000 of your gross income during the disclosure period from that business entity.

If your interests and gross income exceeded these thresholds, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity's gross income (computed on the basis of the business entity's most recently completed fiscal year), the source's address, and the source's principal business activity.

Examples:

- You are the sole proprietor of a dry cleaning business, from which you received more than \$5,000. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of the uniform rental company, its address, and its principal business activity (uniform rentals).
- You are a 20% partner in a partnership that owns a shopping mall and your partnership income exceeded the above thresholds. List each tenant of the mall that provided more than 10% of the partnership's gross income and the tenant's address and principal business activity.

Real Property

[Required by s. 112.3145(3)(b)3, F.S.]

In this part, list the location or description of all real property in Florida in which you owned directly or indirectly at any time during the disclosure period in excess of 5% of the property's value. You are not required to list your residences. You should list any vacation homes if you derive income from them.

Indirect ownership includes situations where you are a beneficiary of a trust that owns the property, as well as situations where you own more than 5% of a partnership or corporation that owns the property. The value of the property may be determined by the most recently assessed value for tax purposes, in the absence of a more accurate fair market value.

The location or description of the property should be sufficient to enable anyone who looks at the form to identify the property. A street address should be used, if one exists.

Intangible Personal Property

[Required by s. 112.3145(3)(b)3, F.S.]

Describe any intangible personal property that, at any time during the disclosure period, was worth more than \$10,000 and state the business entity to which the property related. Intangible personal property includes things such as cash on hand, stocks, bonds, certificates of deposit, vehicle leases, interests in businesses, beneficial interests in trusts, money owed you (including, but not limited to, loans made as a candidate to your own campaign), Deferred Retirement Option Program (DROP) accounts, the Florida Prepaid College Plan, and bank accounts in which you have an ownership interest. Intangible personal property also includes investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan. Note that the product contained in a brokerage account, IRA, or the Florida College Investment Plan is your asset—not the account or plan itself. Things like automobiles and houses you own, jewelry, and paintings are not intangible property. Intangibles relating to the same business entity may be aggregated; for example, CDs and savings accounts with the same bank. Property owned as tenants by the entirety or as joint tenants with right of survivorship, including bank accounts owned in such a manner, should be valued at 100%. The value of a leased vehicle is the vehicle's present value minus the lease residual (a number found on the lease document).

Liabilities

[Required by s. 112.3145(3)(b)4, F.S.]

List the name and address of each creditor to whom you owed more than \$10,000 at any time during the disclosure period. The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments. You are not required to list the amount of any debt. You do not have to disclose credit card and retail installment accounts, taxes owed (unless reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, or contingent liabilities. A "contingent liability" is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a "co-maker" and are jointly liable or jointly and severally liable, then it is not a contingent liability.

Interests in Specified Businesses

[Required by s. 112.3145(7), F.S.]

The types of businesses covered in this disclosure include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies, utility companies, entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

Disclose in this part the fact that you owned during the disclosure period an interest in, or held any of certain positions with the types of businesses listed above. You must make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during the disclosure period, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list the name of the business, its address and principal business activity, and the position held with the business (if any). If you own(ed) more than a 5% interest in the business, indicate that fact and describe the nature of your interest.

Training Certification

[Required by s. 112.3142, F.S.]

If you are a Constitutional or elected municipal officer appointed school superintendent, a commissioner of a community redevelopment agency created under Part III, Chapter 163, or an elected local officers of independent special districts, including any person appointed to fill a vacancy on an elected special district board, whose service began on or before March 31 of the year for which you are filing, you are required to complete four hours of ethics training which addresses Article II, Section 8 of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and open meetings laws of the state. You are required to certify on this form that you have taken such training.

*Annual Report
to the
Florida Legislature For
Calendar Year 2018*



*By the
State of Florida
Commission on Ethics*



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Message from the Chair

It is a tremendous honor to be afforded the opportunity to serve as a Commissioner of the Florida Commission on Ethics. I will always be appreciative for the appointment by former Governor Rick Scott and look forward to meeting the great challenges of this public service for the remainder of my term. I am also greatly appreciative of the dedicated service to our State by my fellow Commissioners, both past and current, who spend many, many hours of study in preparation for our consideration of the cases and matters presented. Suffice it to say that I learn from the wise discernment of my fellow Commissioners at every meeting. Your confidence in selecting me as your Chairman may lead some to question your wise discernment, but I will be forever grateful for the privilege.

Likewise, the Executive Director, Virlindia Doss, the Deputy Executive Director/General Counsel, Chris Anderson, and our dedicated Commission staff never disappoint in their remarkable work ethic, their clear articulation of our ethics laws, and their uniform and proper application of the high ethical standards rightly demanded by our citizens from all public officials. It is a great privilege to work with every one of you and, as a taxpayer, I thank you for your noble service to our State.

To our public officials and public employees, I also want to thank you for your honorable service to our great State. We greatly appreciate the continued commitment by our State's executive and legislative branches to the highest ethical standards in government, and the First District Court of Appeal for the use of its facilities to conduct our public meetings in a most appropriate forum.

As we begin the new year, I ask and encourage all public officials, whether in state or local governments, elected or appointed, to take the opportunity today, and at the commencement of each year, to read Article II, Section 8 of the Florida Constitution on Ethics in Government, and the Code of Ethics for Public Officers and Employees in Part III of Chapter 112, Florida Statutes.

We cannot be reminded too often that our public office is a public trust; that it is essential to the proper conduct and operation of government that public officials be independent and impartial, and that our public office never be used for improper

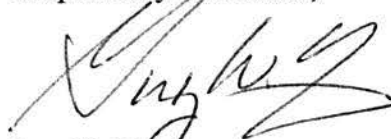
private gain. While it is essential that government attract those citizens best qualified to serve, we must always avoid any conflict between our private interests that may create even the appearance of impropriety in the exercise of our responsibilities to the public.

It is our highest duty as public officers to conduct ourselves at all times in a manner that protects the integrity of government, and strengthens the faith and confidence of our citizens in their government. In all matters, our foremost concern must be to promote the public interest and maintain the respect of our citizens in their State and local government by observing the highest standards of decorum and ethics consistent with the Florida Ethics Code and the advisory opinions of this Commission, regardless of our personal considerations.

Therefore, we should also remind ourselves that to serve the highest public interest this Commission is, and must always be, independent, with the unfettered ability to fully and freely conduct investigations and make public reports on all complaints concerning breach of public trust without outside interference or hindrance. It is a testament to the great leadership of our State that the Commission's independence is firmly established and has been uniformly recognized over the last 44 years. This public mandate also requires that the Commission continue to receive sufficient appropriations of financial resources necessary to attract the highly qualified personnel required to perform the work of the Commission, to meet the increasing technological demands of our responsibilities and to be recognized as a nationwide leader for ethics laws enforcement, as should be expected for the third most populous State. As the great State of Florida continues to expand its leadership role nationally, our commitment to integrity in government must keep pace. It is our sacred duty.

Thank you again for the honor and privilege to serve as Chairman and best wishes to all for a safe and prosperous 2019.

Respectfully submitted,



Guy W. Norris
Chair, Florida Commission on Ethics

2018 Commission Members

GUY NORRIS, Chair
Lake City - Attorney (R)
Term expires June 2019
Appointed by Governor Rick Scott

KIMBERLY BONDER REZANKA, Vice Chair
Cocoa - Attorney (R)
Term expires June 2019
Appointed by Governor Rick Scott

JASON DAVID BERGER
Palm City - Attorney (R)
Term expires June 2020
Appointed by Senate President Joe Negron

DAN BRADY, Ph.D.
Miami Shores - Retired Social Work and
Community Mental Health Care Professional (D)
Term expires June 2019
Appointed by Governor Rick Scott

ANTONIO CARVAJAL
Tallahassee - Foundation Executive (D)
Term expires June 2020
Appointed by House Speaker Richard Corcoran

JOANNE LEZNOFF
Tallahassee - Retired (R)
Term expires June 2020
Appointed by House Speaker Richard Corcoran

F. SHIELDS MCMANUS
Stuart - Attorney (D)
Term expires June 2020
Appointed by Senate President Joe Negron

WILLIAM "WILLIE" N. MEGGS
Tallahassee - Former State Attorney (D)
Term expires June 2019
Appointed by Governor Rick Scott

GARRETT RICHTER
Naples - Bank Executive (R)
Term expires June 2020
Appointed by Governor Rick Scott

Introduction & History

Section 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 2018.

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 39,402 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 Lobbyist Registration System and Trust Fund, which provides for registration of all persons wishing to lobby the Governor, Cabinet, and executive branch agencies.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 25.5 full-time equivalent positions.

Virlindia 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. The legal staff also represents the Commission in litigation, and attempts to make collections on automatic fines imposed for failing to timely file financial disclosure.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Melody Hadley and Elizabeth Miller, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Senior Attorney

Caroline Klancke, Senior Attorney

Lane Johnson, Attorney

Deanna Rahming, Attorney

Diana Westberry, Administrative Assistant

Vacant, 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.

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

Kathleen Mann, Investigator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and liaises with agency Financial Disclosure coordinators. Some 39,402 reporting officials and employees were notified of their filing requirements in 2018 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Staci France, Executive Secretary

Vacant, 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. The Director of Operations also prepares the agency budget and assists with legislative lobbying, oversees office efficiency initiatives, and conducts training and responds to general information inquiries about the ethics laws. 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.

Operations and Communications Staff

Kerrie J. Stillman, Director of Operations and Communications

Millie Fulford, Complaint Coordinator

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

Jason Arthmann, Clerk (half-time)

Zachary Turner, Clerk (half-time)

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.

Lobbyist Registration Staff

Jackie McLemore, Registrar

Vacant, Administrative Assistant (half-time)

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2018.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2018 (Amounts in dollars)

	Ethics General Revenue		
	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$2,657,988	\$2,657,988	\$0
Fines*	0	69,224	\$69,224
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,657,988	2,727,212	69,224
Expenditures:			
Salaries and Related Benefits	1,882,851	1,765,476	117,375
Other Personal Services	391,730	364,684	27,046
Expenses	258,033	204,964	53,069
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	22,045	22,045	0
Risk management insurance	3,329	3,329	0
Legislative Carryforward **	1,471,885	20,549	1,451,336
Nonoperating***	100,000	300	99,700
Total Expenditures	4,129,873	2,381,347	1,748,526
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(1,471,885)	345,864	\$1,817,749
Budgetary Fund Balance, June 30, 2018		345,864	
Adjustment for Fines*		(69,224)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2017		\$176,640	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 286,565
FINES: \$ 1,900

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

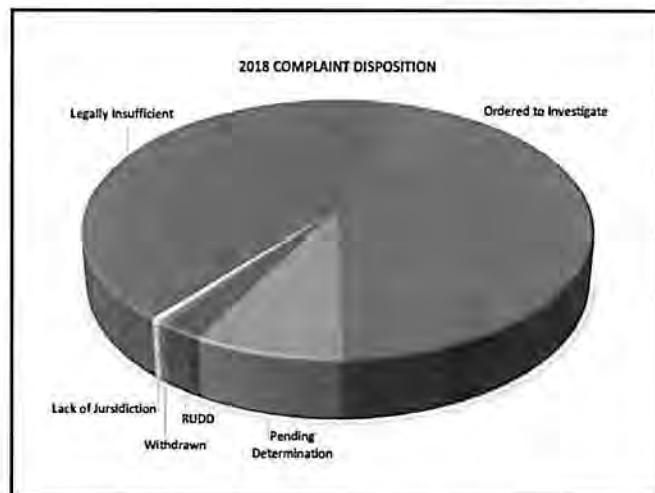
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. Below is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

Complaints

Total number of complaints and referrals filed in 2018..... 211

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	11	5.2%
State Appointed	1	0.5%
State Employee	18	8.5%
District Elected	21	10.0%
District Appointed	3	1.4%
District Employee	5	2.4%
County Elected	16	7.6%
County Appointed	1	0.5%
County Employee	15	7.1%
Municipal Elected	68	32.2%
Municipal Appointed	6	2.8%
Municipal Employee	23	10.9%
Candidate	23	10.9%
TOTAL	211	100.0%

Of the 211 complaints and referrals received in 2018, 91 were dismissed for lack of legal sufficiency; 1 was dismissed for lack of jurisdiction, 5 were dismissed because the public interest would not be served by proceeding further (Rudd Amendment); 1 was withdrawn, 96 were ordered to be investigated; and 17 were pending a legal sufficiency determination.

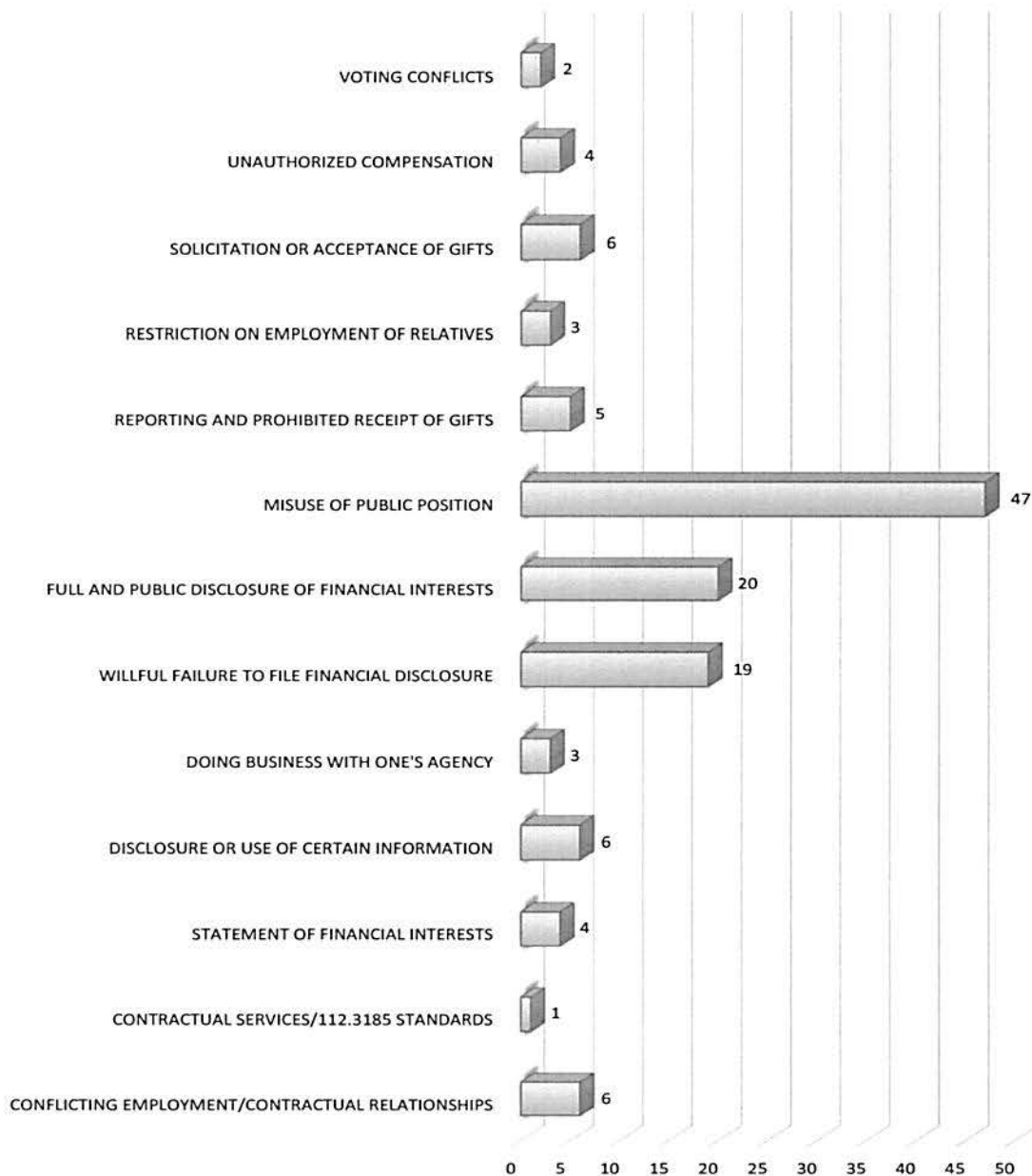


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 211 complaints and referrals received in 2018, 96 had been ordered to be investigated as of December 31, 2018. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Many complaints contained allegations concerning more than one area of law.

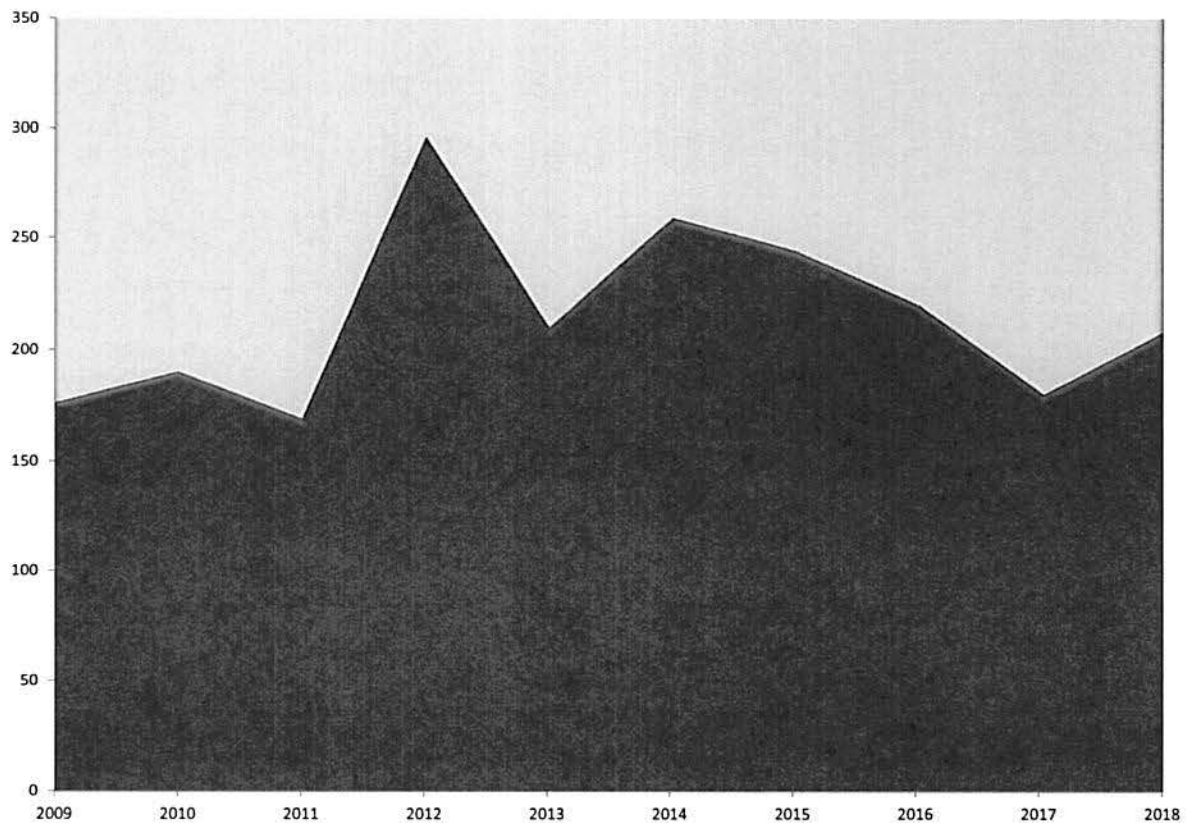
2018 Complaint Allegations



Ten Year History of Complaints

2018	211
2017	180
2016.....	220
2015	244
2014	259
2013	210
2012	296
2011.....	169
2010	190
2009.....	176

Complaint History



Actions Taken on Complaints in 2018

The Commission took action during its eight regularly-scheduled meetings on complaints, referrals, statutorily mandated investigations concerning lobbyist compensation reports and to determine whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2018.

Complaints & Mandatory Willfulness Investigations.....	216
Dismissed for lack of legal sufficiency	100
Dismissed as public interest not served by further proceedings*	7
Dismissed for lack of jurisdiction	9
Probable cause hearings held	82
No probable cause - dismissed.....	48
Probable cause	24
Probable cause - no further action	10
Stipulation	15
Violation	14
Rejected	1
Public hearings at the Division of Administrative Hearings.....	3
Violation	2
Dismissed.....	1
Costs and attorney's fees petitions	3
Insufficient petition - dismissed	3
Reconsideration of Penalty - Consideration of Remand from the 5 DCA.....	1
Statutorily-Required Investigation of Lobbying Firm Compensation Audits	13
Probable cause	7
No probable cause.....	6

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS 233

* Pursuant to Section 112.324(12), F.S. the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

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."

2018 Summary of Activity

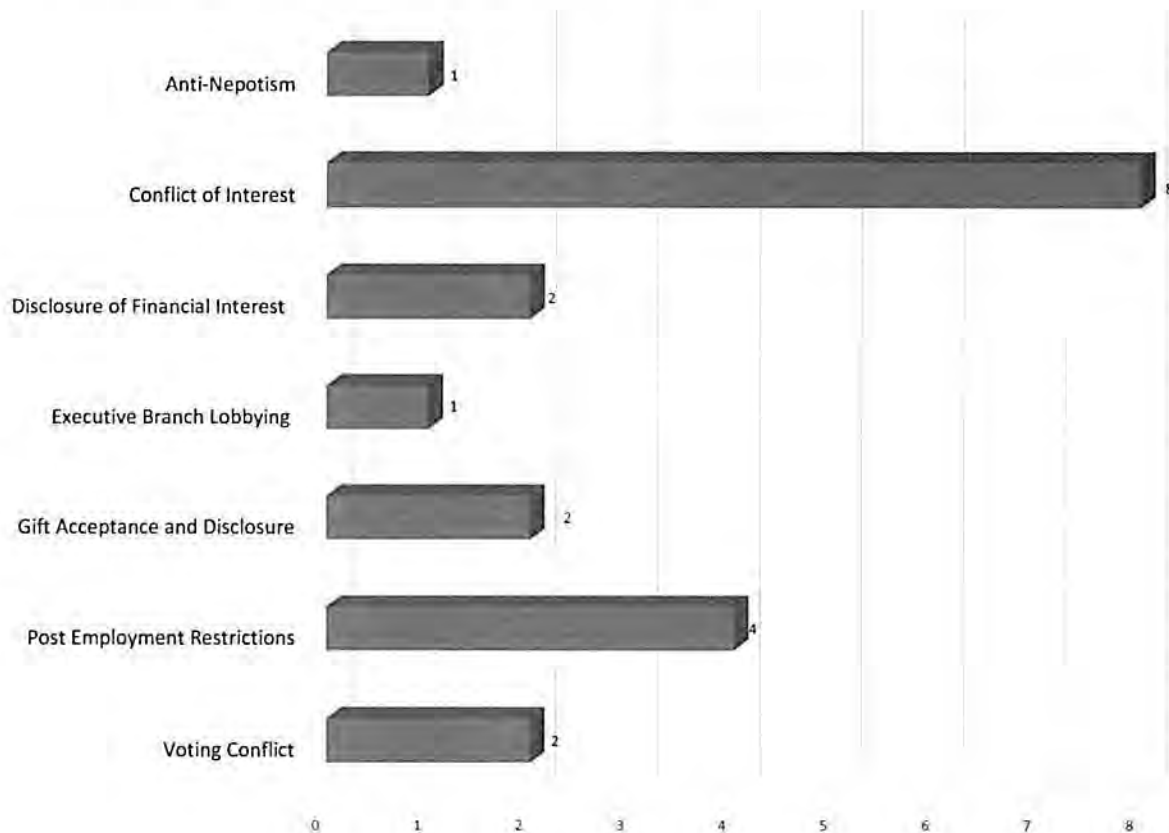
Total number of registered executive branch lobbyists	1,538
Total number of executive branch lobbying firms	347
Total number of principals represented by the lobbyists.....	10,794
Percent <i>decrease</i> in number of principals from 2017 to 2018	4.4%
Total number of firms delinquent in filing their compensation reports	
October - December 2017	22
<i>(Filing deadline for fourth quarter 2017 was February 14, 2018)</i>	
January - March 2018.....	11
March - May 2018.....	17
July - September 2018.....	15
Total number of firms assessed a fine in 2018	
Fourth quarter 2017	12
<i>(Filing deadline for fourth quarter 2017 was February 14, 2018)</i>	
First quarter 2018.....	4
Second quarter 2018.....	11
Third quarter 2018	9
Number of appeals considered by the Commission in 2018	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 2018, the Commission on Ethics issued eighteen advisory opinions, bringing the total issued since 1974 to 2,642.

Eleven of the opinions rendered in 2018 were in response to requests by local officers, employees, or local government attorneys, and another seven 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 2018. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools) and elected municipal officers are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

A comprehensive online training course on ethics, sunshine law, and public records is available through a partnership with The John Scott Dailey Florida Institute of Government at Florida State University. The institute also offers a four hour video course from our successful multi-day ethics conference held in 2014.

In 2018, 337 individuals registered for and completed the Florida Institute of Government online training courses: 110 individuals completed all or part of the comprehensive 12-hour online course, and 227 completed the 4-hour video-based course. All 337 registrants were local officials and employees. A total of 5,362 public officers and employees have completed the course since its inception.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2018:

- Florida School Board Association
- Seven Springs Rotary Club
- Property Appraiser's Association of Florida
- Florida Tax Collectors
- Florida Public Pension Trustees Association
- Florida Association of Counties
- Florida Association of Property Appraisers
- General Counsel's Association
- Broward Health
- Sunshine Law, Public Records, and Ethics Seminar
- Continuing Education Workshop for Property Appraisers
- The Florida Bar's City, County, and Local Government Law Section's Board Certification Exam Review Course
- Group of Assistant Attorneys General & the Office of Financial Regulation
- Municipal Police and Firefighter's Pension Trustee School
- Florida Association of Counties
- New Motor Vehicles (Lemon Law) Arbitrators
- Florida Association of School Board Attorneys
- Soil and Water Conservation District Supervisors
- Florida Tax Collectors Association Education Forum
- Department of Health Attorneys
- Escambia County
- Florida Court Clerks and Comptrollers
- Florida Counties Association

- Florida School Board Association
- The Florida Senate
- Broward County School Board

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2018, 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

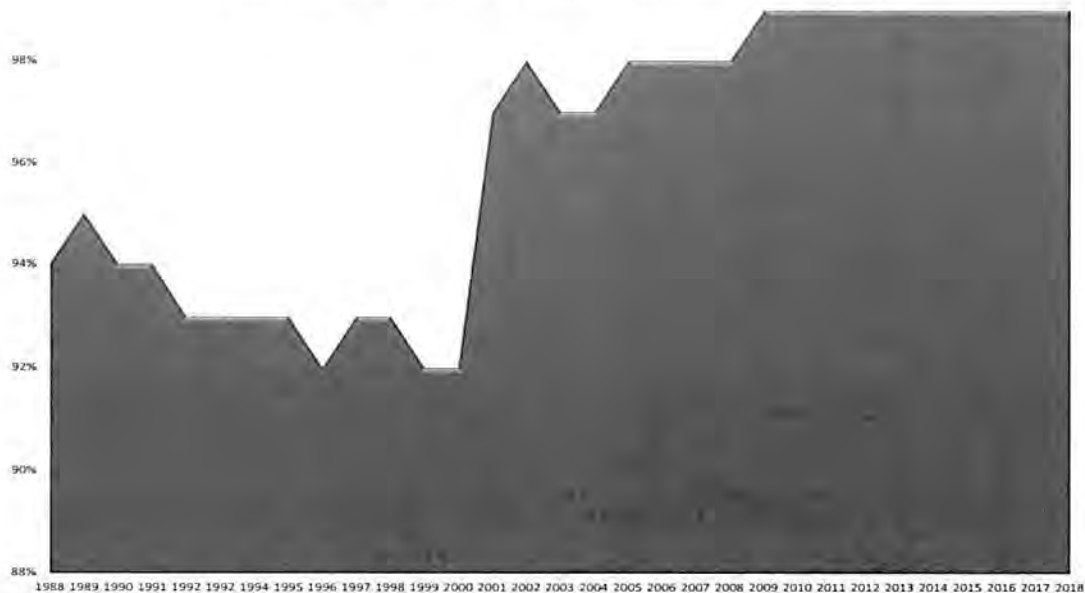
There was more than a 99% overall compliance with the annual reporting requirement in 2018. On the local level, 35 counties reported 100% compliance in 2018. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1988 to present.

2018 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	4	298	302	98.7%
Baker	0	50	50	100.0%
Bay	0	267	267	100.0%
Bradford	2	67	69	97.1%
Brevard	3	909	912	99.7%
Broward	36	2137	2173	98.3%
Calhoun	0	34	34	100.0%
Charlotte	0	145	145	100.0%
Citrus	0	118	118	100.0%
Clay	1	215	216	99.5%
Collier	0	381	381	100.0%
Columbia	0	93	93	100.0%
Miami-Dade	38	2251	2289	98.3%
Desoto	0	66	66	100.0%
Dixie	0	34	34	100.0%
Duval	0	363	363	100.0%
Escambia	1	169	170	99.4%
Flagler	2	179	181	98.9%
Franklin	0	70	70	100.0%
Gadsden	2	105	107	98.1%
Gilchrist	0	40	40	100.0%
Glades	0	42	42	100.0%
Gulf	0	63	63	100.0%
Hamilton	0	61	61	100.0%
Hardee	0	62	62	100.0%
Hendry	0	94	94	100.0%
Hernando	0	104	104	100.0%
Highlands	3	157	160	98.1%
Hillsborough	27	1515	1542	98.2%
Holmes	0	75	75	100.0%
Indian River	0	248	248	100.0%
Jackson	0	173	173	100.0%
Jefferson	0	44	44	100.0%
Lafayette	0	20	20	100.0%
Lake	9	449	458	98.0%
Lee	11	1012	1023	98.9%
Leon	5	241	246	98.0%
Levy	1	128	129	99.2%
Liberty	0	26	26	100.0%
Madison	0	83	83	100.0%

2018 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	5	539	544	99.1%
Marion	0	236	236	100.0%
Martin	1	213	214	99.5%
Monroe	2	226	228	99.1%
Nassau	0	174	174	100.0%
Okaloosa	5	346	351	98.6%
Okeechobee	0	95	95	100.0%
Orange	17	935	952	98.2%
Osceola	1	255	256	99.6%
Palm Beach	46	1607	1653	97.2%
Pasco	2	452	454	99.6%
Pinellas	5	1176	1181	99.6%
Polk	8	661	669	98.8%
Putnam	0	141	141	100.0%
Saint Johns	0	307	307	100.0%
Saint Lucie	7	268	275	97.5%
Santa Rosa	0	221	221	100.0%
Sarasota	2	403	405	99.5%
Seminole	8	484	492	98.4%
Sumter	0	150	150	100.0%
Suwannee	0	57	57	100.0%
Taylor	0	58	58	100.0%
Union	0	46	46	100.0%
Volusia	1	635	636	99.8%
Wakulla	1	70	71	98.6%
Walton	1	142	143	99.3%
Washington	1	69	70	98.6%
TOTAL-FORM 1 LOCAL	258	22554	22812	98.9%
TOTAL-FORM 1 STATE	65	13910	13975	99.5%
TOTAL-FORM 6 (NOT JUDGES)	3	1395	1398	99.8%
TOTAL-Non-Judicial Filers	326	37859	38185	99.1%
TOTAL-JUDGES (ACTIVE)	0	1012	1012	100.0%
TOTAL-JUDGES (SENIOR)	0	205	205	100.0%
OVERALL TOTAL	326	39076	39402	99.2%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1988 - 2018)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
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%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 98.9%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephones filers to remind them to file. These reminders are not required by statute, but are part of the Commission's efforts to encourage compliance.
- Of the 22,812 individuals required to file, 258 were delinquent.
- 35 counties reported 100% compliance in 2018.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.5%. Postcard and telephone reminders also were used with these filers.
- Of the 13,975 individuals required to file, only 65 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.8%. Postcard and telephone reminders also were used with these filers.
- There were only 3 delinquencies out of a total of 1398 individuals (excluding judges) required to file Form 6.

Summary of 2018 Overall Compliance

- Of the 38,185 non-judicial financial disclosure filers, only 326 (less than 1%) failed to file on time.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its seven regularly scheduled meetings held during calendar year 2018. (The fines for late filings in 2018 recently have been assessed and will be reported in 2019).

Financial Disclosure Appeals 2018 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 19, 2018	3	0	1	0	0
March 9, 2018	6	0	4	4	0
April 20, 2018	7	0	3	0	0
June 8, 2018	7	0	5	0	0
July 27, 2018	10	1	8	52	1
September 7, 2018	29	0	7	34	0
October 19, 2018	27	0	11	8	0
December 7, 2018	9	1	2	13	0

2018 Legislative Recommendations

Conflicts of Interest

- The law prohibits an official from having a contractual relationship with a company doing business with his or her own agency. So City Councilman A could not contract with Business B, if that company is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission sees this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Attorney Fees

- Persons against whom complaints have been filed can seek to recover costs and attorney fees from their accuser, in what can be expensive and protracted litigation. But if the complainant successfully defends against a fees petition, current law does not allow the recovery of his or her own costs and fees. The Commission proposes addressing this imbalance by allowing the prevailing party in a fees petition—whether it be the respondent or the complainant—to recover costs and fees incurred both in the fees petition and the underlying complaint proceeding.

Enhanced Financial Disclosure for Local Elected Officials

- All elected Constitutional officers must file Form 6—Full and Public Disclosure of Financial Interests, while municipal governing board members are only required to file the less-informative Form 1—Statement of Financial Interests. The Commission believes anyone asking for the citizens' votes should be willing to make full disclosure, and should be required to file the Form 6, and that this standard should apply uniformly to all municipalities, whether they be large or small.

Voting Conflicts Law

- Under current law, local elected officials can participate in the discussion of a measure in which they have a conflict, without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. The Commission believes this restriction should apply equally to elected officers.

The Commission also believes the voting conflict standard for state officials should mirror the standard for local officials. This would mean state officials would be required to abstain from voting not only on those matters which would inure to their own special gain or loss, but also on matters which would inure to the special private gain or loss of a relative, principal, or business associate.

Representing Clients Before One's Own Board

- The Commission has consistently advised in its opinions that a conflict would be created were a member of a collegial body, or his professional firm partners or associates, to represent clients before that board. The Commission views this as an important public protection, and opposes any relaxation of this standard.

*Annual Report
to the
Florida Legislature
For Calendar Year 2019*



*By the
State of Florida
Commission on Ethics*



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Message from the Chair

To preserve the public trust.

An aphorism that is often quoted, but an enigma to most. Yet that is the charge under which the nine volunteer members of Florida Commission on Ethics - supported by the twenty-four dedicated staff of the Commission - toils. The people of Florida "have the right to secure and sustain" that public trust against abuse, so says Article II, Section 8 of the Florida Constitution. And by passage of Amendment 12 to the Florida Constitution in late 2018, the people voiced their collective demand that public officers and public employees shall not abuse their positions to obtain a personal benefit.

Amendment 12 mandated that the Commission on Ethics prescribe the rules to implement this Constitutional abuse prohibition. While the Commission promulgates rules yearly regarding financial reporting, this particular rule-making was an anomaly for the Commission. The process encompassed two rule-making hearings (at the June and the July Commission meetings), hundreds of pages of submitted documents from the public, and hours of public comment and debate. This arduous process resulted in the approval by the Commission of Rule 34-18.001, Florida Administrative Code, which defines "disproportionate benefit" and specifies the requisite intent for a finding of a violation of Article II, Section 8(h)(2) of the Florida Constitution. The adopted Rule has already produced one Advisory Opinion on Abuse of Public Position, CEO 19-23.

As you will see in this Annual Report, the Commission issued twenty-five Advisory Opinions in 2019. Section 112.322(3) of the Florida Statutes allows public officers, candidates for public office and public employees to request guidance when in doubt about the applicability and interpretation of Part III, Chapter 112, Florida Statutes, or Section 8, Article II of the Florida Constitution. These requests for advisory opinions require clarity of facts and application of prior opinions. The Commission scrutinizes these opinions, often asking for more information, further analysis or changes to the draft opinions. These Advisory Opinions bind the conduct

of the requestor. The Commission is mindful of the impact and importance of these Advisory Opinions.

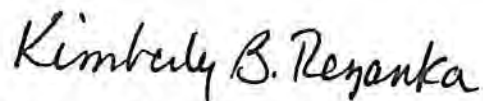
The Commission is also mindful of the effect of its probable cause determinations. Starting in 2017, the probable cause hearings on statutorily-required investigations of lobbying firm compensation audits began. Thirty (30) of these hearings have occurred since January 2017. The Commissioners' debate on these matters is often passionate due to the seemingly strict liability nature of Section 112.3215(8), Florida Statutes. While a request to amend the statute is not a 2019 legislative recommendation from the Commission, it may well be in the future.

Clearly, the Florida Commission on Ethics plays a vital role in preserving the public trust, but it is only able to discharge its responsibilities due to the amazing work of its staff. Led by the new Executive Director and (continuing) General Counsel, C. Christopher Anderson III, the staff professionally and assiduously manages the various tasks of the Commission. Mr. Anderson was unanimously selected by the Commission to replace retiring Executive Director Virindia Doss, and is a tremendous asset to the Commission. Ms. Doss served the Commission in various roles since 1991, becoming the Executive Director in 2011 until her retirement in July 2019. Her perspicacity, grace and wit contributed greatly to the Commission and will be missed by all.

Turning to the Commissioners, those with whom I serve and have served, they all exhibit wisdom, integrity, and humanity, and I am grateful and thankful to have crossed their paths.

In conclusion, I would like to thank the Florida Legislature for its continued support of the Commission, and urge the Legislature to continue its vigilance in protecting the public trust. To quote the ancient poet Horace, "Begin, be bold, and venture to be wise".

Respectfully submitted,



Kimberly Bonder Rezanka
Chair, Florida Commission on Ethics

2019 Commission Members

KIMBERLY BONDER REZANKA, *Chair*

Cocoa - Attorney (R)

Term expires June 2019

Appointed by Governor Rick Scott

DAN BRADY, Ph.D., *Vice Chair*

Miami Shores - Retired Social Work and
Community Mental Health Care Professional (D)

Term expires June 2019

Appointed by Governor Rick Scott

JASON DAVID BERGER

Palm City - Attorney (R)

Term expires June 2020

Appointed by Senate President Joe Negrón

ANTONIO CARVAJAL

Tallahassee - Foundation Executive (D)

Term expires June 2020

Appointed by House Speaker Richard Corcoran

GLENTON "GLEN" GILZEAN, JR.

Orlando - Non-profit Executive (R)

Term expires June 2021

Appointed by Governor Ron DeSantis

JOHN GRANT

Tampa - Attorney (R)

Term expires June 2021

Appointed by Governor Ron DeSantis

JOANNE LEZNOFF

Fernandina Beach - Retired (R)

Term expires June 2020

Appointed by House Speaker Richard Corcoran

F. SHIELDS MCMANUS

Stuart - Attorney (D)

Term expires June 2020

Appointed by Senate President Joe Negrón

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)

Term expires June 2021

Appointed by Governor Ron DeSantis

Introduction & History

Section 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 2019.

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 39,433 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 Lobbyist Registration System and Trust Fund, which provides for registration of all persons wishing to lobby the Governor, Cabinet, and executive branch agencies. In addition, the Commission will be administering "Amendment 12" to the State Constitution adopted by the voters in 2018.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23.5 full-time equivalent positions.

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

Kerrie J. Stillman, 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation, and attempts to make collections on automatic fines imposed for failing to timely file financial disclosure.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Melody Hadley and Elizabeth Miller, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Senior Attorney

Caroline Klancke, Senior Attorney

Steven Zuilkowski, Attorney

Vacant, Attorney

Investigative Section

The investigative staff, also supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

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

Kathleen Mann, Investigator

Vacant, Investigator

Complaints

Under the supervision of the Deputy Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and liaises with agency Financial Disclosure coordinators. Some 39,433 reporting officials and employees were notified of their filing requirements in 2019 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Staci France, Executive Secretary

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, Chief Administrator

Diana Westberry, Office Manager

Victoria Kaiser, Assistant to the Executive Director

Zachary Turner, Clerk (half-time)

Brian Lenberg, Clerk (half-time)

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.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Vacant, Administrative Assistant (half-time)

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2019.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2019 (Amounts in dollars)

	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$2,742,458	\$2,742,458	\$0
Fines*	0	54,763	\$54,763
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,742,458	2,797,221	54,763
Expenditures:			
Salaries and Related Benefits	1,902,652	1,841,084	61,568
Other Personal Services	391,730	356,975	34,755
Expenses	258,325	217,540	40,785
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	7,408	0	7,408
Transfers to Administrative Hearings	79,020	79,020	0
Risk management insurance	3,323	3,323	0
Legislative Carryforward **	1,651,001	0	1,651,001
Nonoperating***	100,000	534	99,466
Total Expenditures	4,393,459	2,498,476	1,894,983
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(1,651,001)	298,745	<u>\$1,949,746</u>
Budgetary Fund Balance, June 30, 2019		298,745	
Adjustment for Fines*		(54,763)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2018		\$143,982	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 293,175
FINES: \$ 2,300

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

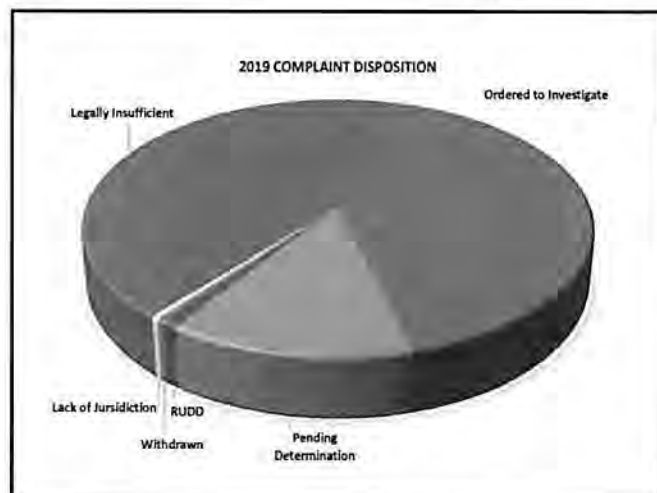
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. Below is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

Complaints

Total number of complaints and referrals filed in 2019..... 231

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	14	6.1%
State Appointed	1	0.4%
State Employee	17	7.4%
District Elected	8	3.5%
District Appointed	5	2.2%
District Employee	4	1.7%
County Elected	27	11.7%
County Appointed	2	0.9%
County Employee	26	11.3%
Municipal Elected	84	36.4%
Municipal Appointed	18	7.8%
Municipal Employee	12	5.2%
Candidate	3	1.3%
Lobbyist	9	3.9%
Other	1	0.4%
TOTAL	231	100.0%

Of the 231 complaints and referrals received in 2019, 100 were dismissed for lack of legal sufficiency; 1 was dismissed for lack of jurisdiction, 2 were dismissed because the public interest would not be served by proceeding further ("Rudd Amendment"); 1 was withdrawn, 96 were ordered to be investigated; and 31 were pending a legal sufficiency determination.

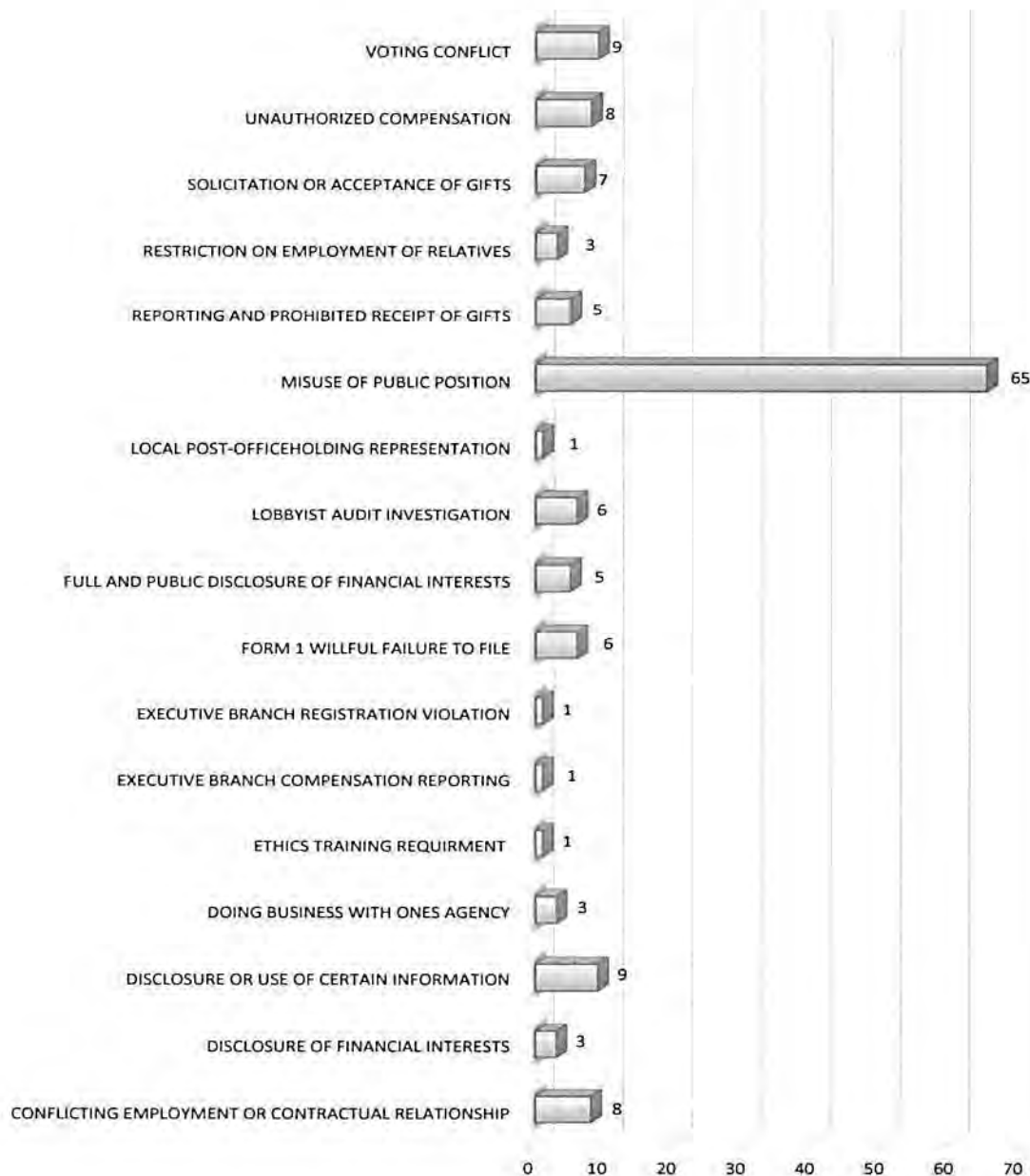


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 231 complaints and referrals received in 2019, 96 had been ordered to be investigated as of December 31, 2019. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Many complaints contained allegations concerning more than one area of law.

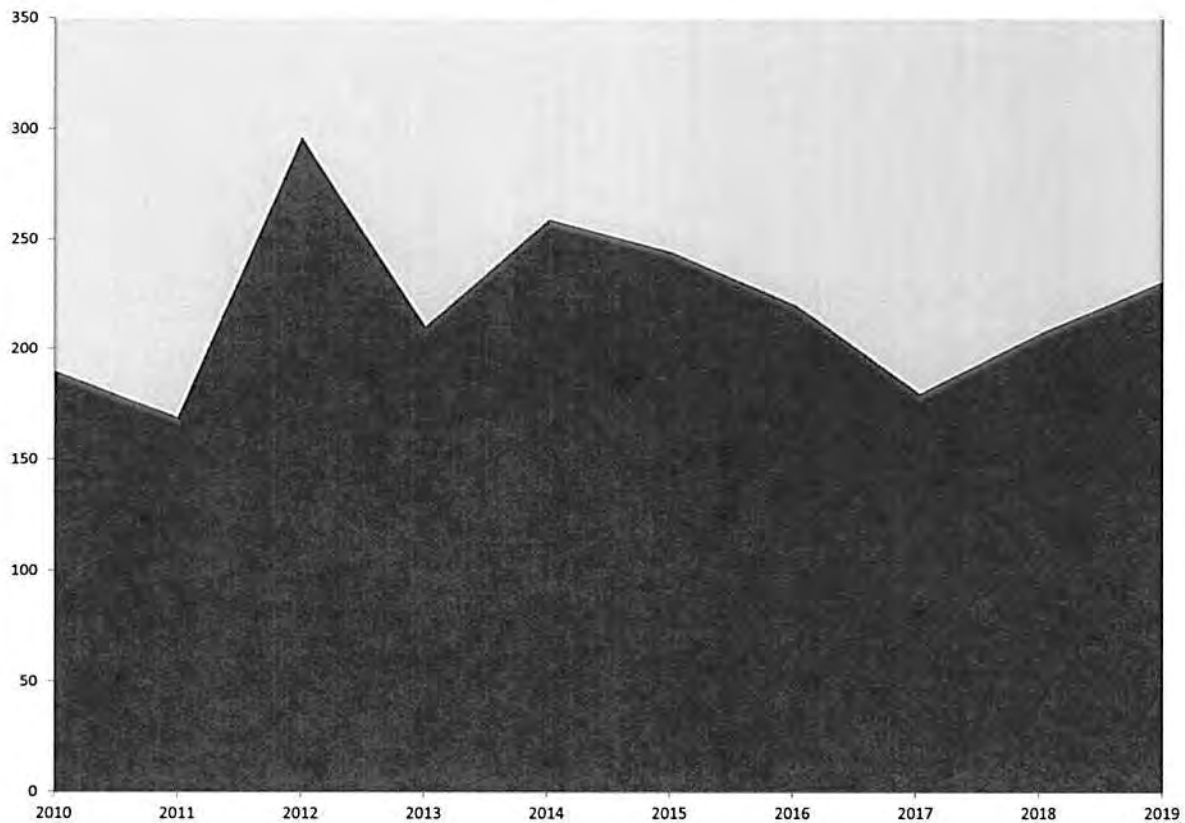
2019 Complaint Allegations



Ten Year History of Complaints

2019	231
2018	211
2017.....	180
2016	220
2015	244
2014.....	259
2013.....	210
2012	296
2011.....	169
2010	190

Complaint History



Actions Taken on Complaints in 2019

The Commission took action during its eight regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2019.

Complaints & Mandatory Willfulness Investigations.....	216
Dismissed for lack of legal sufficiency	112
Dismissed as public interest not served by further proceedings*	2
Dismissed for lack of jurisdiction	12
Dismissed for time barred	1
Dismissed for death	2
Advocate motion to dismiss	1
Probable cause hearings held	62
No probable cause - dismissed.....	36
Probable cause	24
Probable cause - no further action	8
Stipulations	22
Violation	20
Rejected	2
Public hearings at the Division of Administrative Hearings.....	2
Violation	2
Costs and attorney's fees petitions	3
Awarded	1
Insufficient petition - dismissed	2
Statutorily-Required Investigation of Lobbying Firm Compensation Audits	7
Probable cause	1
No probable cause.....	6
TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS	226

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25.00 for each principal represented, which is deposited into the Executive Branch Lobbyist Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2019 Summary of Activity

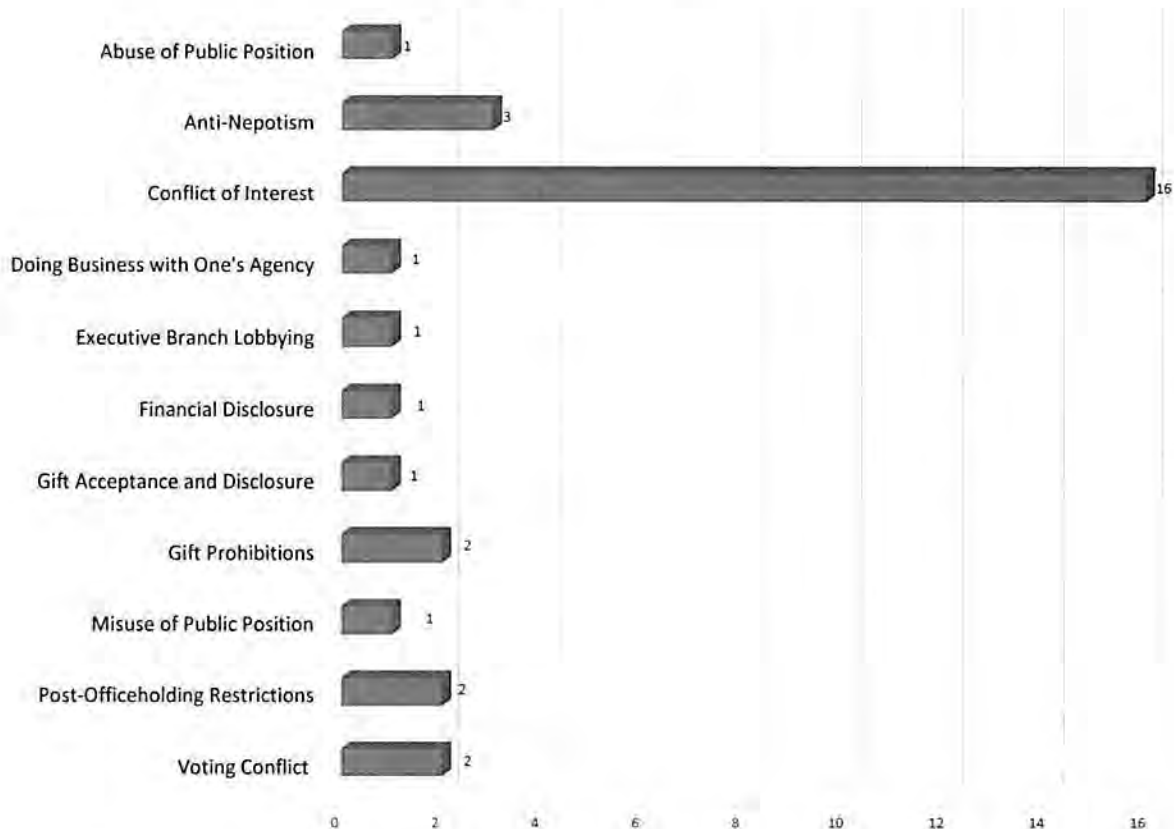
Total number of registered executive branch lobbyists	1,603
Total number of executive branch lobbying firms	363
Total number of principals represented by the lobbyists	11,974
Percent <i>increase</i> in number of principals from 2018 to 2019	11%
Total number of firms delinquent in filing their compensation reports	
October - December 2018	15
<i>(Filing deadline for fourth quarter 2018 was February 14, 2019)</i>	
January - March 2019	9
March - May 2019	18
July - September 2019	12
Total number of firms assessed a fine in 2019	
Fourth quarter 2018	12
<i>(Filing deadline for fourth quarter 2018 was February 14, 2019)</i>	
First quarter 2019	5
Second quarter 2019	9
Third quarter 2019	8
Number of appeals considered by the Commission in 2019	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 2019, the Commission on Ethics issued twenty five advisory opinions, bringing the total issued since 1974 to 2,667

Twenty two of the opinions rendered in 2019 were in response to requests by local officers, employees, or local government attorneys, and another three 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 2019. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools) and elected municipal officers are required to complete four hours of ethics training each calendar year.*

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

A comprehensive online training course on ethics, sunshine law, and public records is available through a partnership with The John Scott Dailey Florida Institute of Government at Florida State University. The institute also offers a four hour video course from our successful multi-day ethics conference held in 2014.

In 2019, 327 individuals registered for and completed the Florida Institute of Government online training courses: 90 individuals completed all or part of the comprehensive 12-hour online course, and 237 completed the 4-hour video-based course. All 327 registrants were local officials and employees. A total of 5,689 public officers and employees have completed the course since its inception.

* And CRA members, beginning in 2020.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2019:

- City of Tallahassee
- Judges of Compensation Claims
- Continuing Education Workshop for Florida Tax Collectors
- Duties and Responsibilities of Florida Tax Collectors
- Florida Public Pension Trustees Association (FPPTA)
- Florida Clerks of Court & Comptrollers Winter Conference
- Association of Government Accountants' 2019 Conference
- Florida Bar
- Florida Association of Property Appraisers' 2019 Pre-Legislative Conference
- Property Appraisers Association of Florida 2019 Mid-Winter Conference
- Board of Trustees of Florida Agricultural and Mechanical University
- Sunshine Law, Public Records, & Ethics Seminar sponsored by The Florida Bar & the Bar's City, County, & Local Government Law Section
- General Counsels' Monthly Luncheon
- Florida Counties Foundation's Legislative Day Workshop
- 2019 Certification Exam Review Course sponsored by the City, County, & Local Government Law Section of The Florida Bar
- Hernando County
- Police and Firefighters' Pension Trustee's School
- Department of Financial Services
- Florida Association of County Attorneys
- Monroe County and the State Attorney of the 16th Judicial Circuit
- Florida Association of Counties

- Association of Florida Conservation Districts
- City of Madeira Beach
- Florida School Board Attorneys Association's Annual Conference
- 2019 Florida Tax Collector Association's Fall Education Forum
- Florida Atlantic University Trustees
- Tenth Judicial Circuit Public Defender's Office
- Broward School Board and School Administrators
- Florida Association of Counties' Conference

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2019, 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

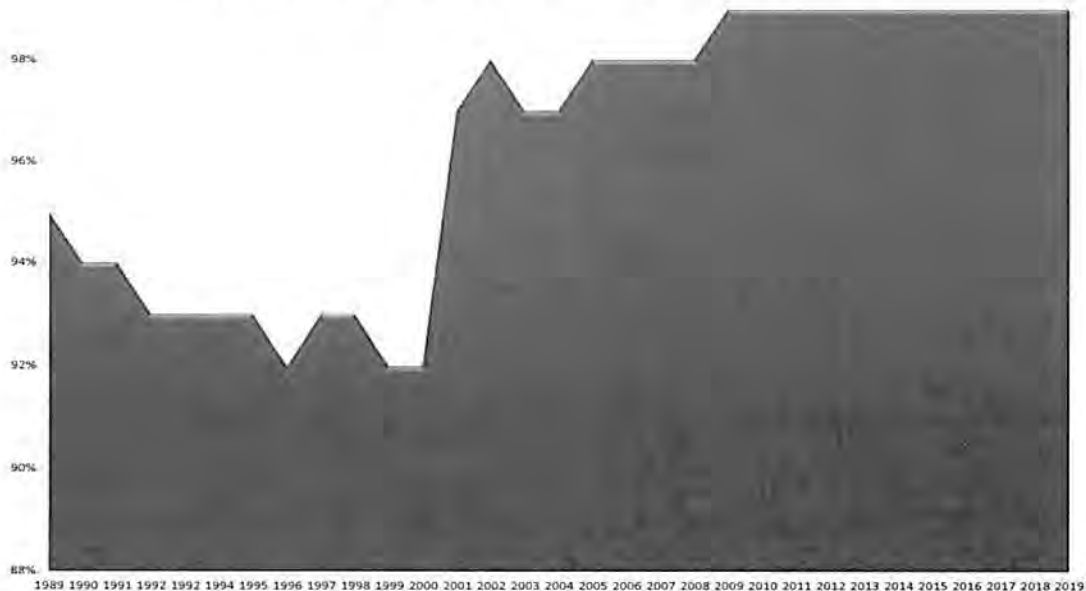
There was more than a 99% overall compliance with the annual reporting requirement in 2019. On the local level, 30 counties reported 100% compliance in 2019. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1988 to present.

2019 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	2	315	317	99.4%
Baker	0	46	46	100.0%
Bay	1	274	275	99.6%
Bradford	0	66	66	100.0%
Brevard	10	839	849	98.8%
Broward	44	2339	2383	98.2%
Calhoun	0	33	33	100.0%
Charlotte	1	145	146	99.3%
Citrus	3	120	123	97.6%
Clay	1	214	215	99.5%
Collier	0	365	365	100.0%
Columbia	0	95	95	100.0%
Miami-Dade	76	2273	2349	96.8%
Desoto	0	64	64	100.0%
Dixie	0	35	35	100.0%
Duval	2	375	377	99.5%
Escambia	2	157	159	98.7%
Flagler	1	178	179	99.4%
Franklin	1	70	71	98.6%
Gadsden	2	103	105	98.1%
Gilchrist	0	44	44	100.0%
Glades	1	43	44	97.7%
Gulf	0	62	62	100.0%
Hamilton	0	56	56	100.0%
Hardee	0	63	63	100.0%
Hendry	0	95	95	100.0%
Hernando	0	102	102	100.0%
Highlands	1	151	152	99.3%
Hillsborough	16	1561	1577	99.0%
Holmes	0	75	75	100.0%
Indian River	0	249	249	100.0%
Jackson	1	170	171	99.4%
Jefferson	0	44	44	100.0%
Lafayette	0	19	19	100.0%
Lake	10	463	473	97.9%
Lee	6	963	969	99.4%
Leon	2	236	238	99.2%
Levy	2	124	126	98.4%
Liberty	0	24	24	100.0%
Madison	0	81	81	100.0%

2019 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	0	565	565	100.0%
Marion	0	227	227	100.0%
Martin	0	207	207	100.0%
Monroe	0	218	218	100.0%
Nassau	0	179	179	100.0%
Okaloosa	6	338	344	98.3%
Okeechobee	0	74	74	100.0%
Orange	11	918	929	98.8%
Osceola	2	252	254	99.2%
Palm Beach	52	1609	1661	96.9%
Pasco	5	444	449	98.9%
Pinellas	6	1206	1212	99.5%
Polk	10	637	647	98.5%
Putnam	0	141	141	100.0%
Saint Johns	0	318	318	100.0%
Saint Lucie	7	259	266	97.4%
Santa Rosa	1	204	205	99.5%
Sarasota	1	397	398	99.7%
Seminole	3	486	489	99.4%
Sumter	0	158	158	100.0%
Suwannee	0	55	55	100.0%
Taylor	1	57	58	98.3%
Union	3	38	41	92.7%
Volusia	6	635	641	99.1%
Wakulla	1	69	70	98.6%
Walton	0	132	132	100.0%
Washington	1	68	69	98.6%
TOTAL-FORM 1 LOCAL	301	22622	22923	98.7%
TOTAL-FORM 1 STATE	94	13739	13833	99.3%
TOTAL-FORM 6 (NOT JUDGES)	17	1399	1416	98.8%
TOTAL-NON-JUDICIAL FILERS	412	37760	38172	99.0%
TOTAL-JUDGES (ACTIVE)	0	1068	1068	100.0%
TOTAL-JUDGES (SENIOR)	0	193	193	100.0%
OVERALL TOTAL	412	39021	39433	99.0%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1989 - 2019)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1989	33,541	1,815	95%
1990	34,828	2,091	94%
1991	35,845	2,120	94%
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 98.7%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephones filers to remind them to file. These reminders are not required by statute, but are part of the Commission's efforts to encourage compliance.
- Of the 22,923 individuals required to file, 301 were delinquent.
- 30 counties reported 100% compliance in 2019.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.3%. Postcard and telephone reminders also were used with these filers.
- Of the 13,833 individuals required to file, only 94 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 98.8%. Postcard and telephone reminders also were used with these filers.
- There were only 17 delinquencies out of a total of 1416 individuals (excluding judges) required to file Form 6.

Summary of 2019 Overall Compliance

- Of the 38,172 non-judicial financial disclosure filers, only 412 (less than 1%) failed to file on time.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its eight regularly scheduled meetings held during calendar year 2019. (The fines for late filings in 2019 recently have been assessed and will be reported in 2020).

Financial Disclosure Appeals 2019 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 25, 2019	3	0	2	0	0
March 8, 2019	4	0	0	0	1
April 12, 2019	9	0	0	0	0
June 7, 2019	42	0	2	0	0
July 26, 2019	19	0	0	92	0
September 13, 2019	6	0	0	0	1
October 25, 2019	4	0	5	0	0
December 16, 2019	8	0	2	5	0

2019 Legislative Recommendations

Conflicts of Interest

The law prohibits an official from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard

State officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they don't have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population of the municipality.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2014 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

*Annual Report
to the
Florida Legislature
For Calendar Year 2020*



*By the
State of Florida
Commission on Ethics*



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Message from the Chair

When appointed to the Commission on Ethics in December of 2015 I had a vague understanding of the role of the Commission in providing an avenue for the people of Florida to bring to the attention of their government the conduct of public officials whose behavior they felt did not meet the standard of either good government or what was appropriate to a public office holder. I know that ethics are based on well-founded standards of right and wrong that prescribe what humans ought to do, in our case public officials, in terms of rights and obligations. As Ayn Rand had said, "Ethics is a code of values which guides our choices and actions and determines the purpose and course of our lives." What I probably did not understand was both how important the Commission was in providing a process to allow average citizens this opportunity and how much time and energy the Commission invests in making this process work for everyone involved.

I have learned a number of things over my five years of service on the Commission. I learned that things are not always black or white and that an individual's behavior is often viewed differently by the individuals engaged in the process. One person's "outrageous" behavior is presented as normal and harmless by another. I have learned that in the process of both law and rulemaking, issues can become complicated, leaving individuals involved in the Commission's processes occasionally disappointed in the outcomes.

I have learned that doing your job as a Commissioner requires time in preparing for the meetings. One must review a considerable amount of material provided by staff related to matters before the Commission. One needs to develop a basic understanding of Florida's ethics laws and past Commission actions. One needs to develop patience and empathy towards both the respondent and the complainant to ensure that their case is heard and that their rights are protected. For those individuals who are employed or engaged in a law practice, you need to take at least a day off for Commission meetings. Above all else, one needs to always place the public good first and foremost in the Commission's deliberations.

What has made my service on the Commission so interesting and rewarding has been the people I have served with and the staff I have worked with. I have never served with a group of individuals who were more committed to make the organization they were members of do its job well. They were smart, fair and open-minded, willing to express their observations and opinions, willing to listen to the observations and opinions

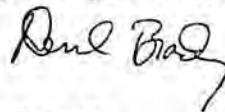
of others, well prepared for meetings, and considerate and understanding of all the parties to the process. Never, in my five years of service, can I remember a deliberation that was either derogatory or disingenuous among the members. It was both a pleasure and an honor to serve.

What made serving on the Commission so easy was the overall caliber of the staff. C. Chris Anderson III, the Commission's Executive Director and General Counsel, brings both a personal style and legal background that makes the Commission work like a well-oiled machine. The legal staff, including the two Advocates, provide clear and understandable legal advice and direction to the Commission. Their willingness to make certain the members understand the issues is commendable. The investigative staff does a great job of collecting the facts and bringing detailed reporting to the Commission. The administrative and clerical staff make certain that everything required is available and provided on a timely basis.

Before closing, I need to take a few moment to talk about the volume of work done by the Commission and COVID-19. It presented an unparalleled challenge to making things work after March of 2020. How we worked and traveled and how public business was conducted changed during that period. Since April 2020, the Commission has met six times, with five of the six meetings being held face to face in Tallahassee, in the Senate Office Building in a large room with proper social distancing. This effort in conducting the public's business reflects the Commission members' and staff's dedication to "getting the job done." During the 2020 calendar year, the Commission presented 13 legal opinions and took 235 actions on complaints at its meetings. Notably, staff processed 38,792 disclosure forms, the vast majority of which were filed with its office between May and September.

Commission staff continue to spend countless hours on the electronic filing system, preparing for the phased launch in January 2022. We hope the 2021 session will bring consideration and passage of some of our recommendations found in this report. The Legislature's policymaking and continued support of the Commission's independence plays a crucial part in the ability of the Commission to uphold its responsibility of upholding the public trust.

Respectfully submitted,



Daniel Brady
Chair, Florida Commission on Ethics

2020 Commission Members

DAN BRADY, Ph.D., Chair

Miami Shores - Retired Social Work and
Community Mental Health Care Professional (D)
Appointed by Governor Rick Scott
*Commission Service ended December 2020

JOANNE LEZNOFF, Vice Chair

Fernandina Beach - Retired (R)
Appointed by House Speaker Richard Corcoran

MICHELLE ANCHORS

Fort Walton Beach - Attorney (D)
Appointed by Senate President Bill Galvano
* Appointed October 2020

JASON DAVID BERGER

Palm City - Attorney (R)
Appointed by Senate President Joe Negron
* Commission service ended June 2020

ANTONIO CARVAJAL

Tallahassee - Public Interest Organization Executive (D)
Appointed by House Speaker Richard Corcoran

TRAVIS CUMMINGS

Fleming Island - Insurance & Employee Benefits Services (R)
Appointed by Governor Ron DeSantis
* Appointed December 2020

GLENTON "GLEN" GILZEAN, JR.

Orlando - Non-profit Executive (R)
Appointed by Governor Ron DeSantis

2020 Commission Members

DON GAETZ

Niceville (R)

Appointed by Senate President Bill Galvano

* Appointed July 2020

JOHN GRANT

Tampa - Attorney (R)

Appointed by Governor Ron DeSantis

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)

Appointed by Governor Ron DeSantis

F. SHIELDS MCMANUS

Stuart - Attorney (D)

Appointed by Senate President Joe Negron

* Commission service ended October 2020

KIMBERLY BONDER REZANKA

Cocoa - Attorney (R)

Appointed by Governor Rick Scott

* Commission service ended December 2020

JIM WALDMAN

Fort Lauderdale - Attorney (D)

Appointed by Governor Ron DeSantis

* Appointed December 2020

Introduction & History

Section 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 2020.

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 38,792 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 Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and Subordinate Agencies, and the executive branch agencies. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Lobbyist Registration and Compensation System home page at www.floridalobbyist.gov. In addition, the Commission will be administering State Constitution "Amendment 12" adopted by the voters in 2018, effective December 31, 2020.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23.5 full-time equivalent positions.

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

Kerrie J. Stillman, 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Melody Hadley and Elizabeth Miller, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Senior Attorney

Caroline Klancke, Senior Attorney

Steven Zuilkowski, Attorney

Vacant, Attorney

Investigative Section

The investigative staff, also supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

Robert G. Malone, Senior Investigator

A. Keith Powell, Senior Investigator

Tom W. Reaves, Investigator

Ronald D. Moalli, Investigator

Kathleen Mann, Investigator

Charlie Fields, Investigator

Charlie Shotwell, Investigator

Vacant, Investigator

Complaints

Under the supervision of the Deputy Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 39,433 reporting officials and employees were notified of their filing requirements in 2020 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Vacant, Executive Secretary

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, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Zachary Turner, Clerk (half-time)

Brian Lenberg, Clerk (half-time)

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.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Vacant, Administrative Assistant (half-time)

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2020.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2020 (Amounts in dollars)

	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$2,732,722	\$2,732,722	\$0
Fines*	0	38,265	\$38,265
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,732,722	2,770,987	38,265
Expenditures:			
Salaries and Related Benefits	1,902,552	1,658,897	243,655
Other Personal Services	447,630	376,852	70,778
Expenses	260,114	202,529	57,585
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	3,315	0	3,315
Transfers to Administrative Hearings	16,029	16,029	0
Risk management insurance	3,082	3,082	0
Legislative Carryforward **	1,795,517	18,020	1,777,497
Nonoperating***	100,000	0	100,000
Total Expenditures	4,528,239	2,275,409	2,252,830
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(1,795,517)	495,578	<u>\$2,291,095</u>
Budgetary Fund Balance, June 30, 2020		495,578	
Adjustment for Fines*		(38,265)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2019		\$357,313	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 308,250
FINES: \$ 2,300

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

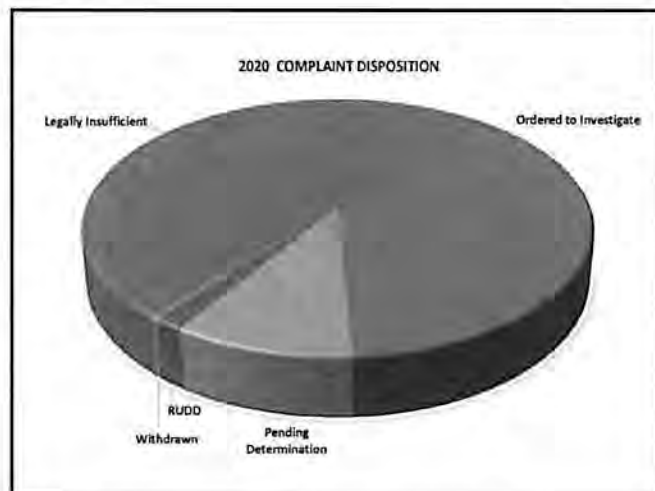
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. Below is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

Complaints

Total number of complaints and referrals filed in 2020243

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	12	4.9%
State Appointed	2	0.8%
State Employee	7	2.9%
District Elected	28	11.5%
District Appointed	2	0.8%
District Employee	6	2.5%
County Elected	48	19.8%
County Appointed	2	0.8%
County Employee	28	11.5%
Municipal Elected	62	25.5%
Municipal Appointed	9	3.7%
Municipal Employee	7	2.9%
Candidate	19	7.8%
Lobbyist	4	1.6%
Other	7	2.9%
TOTAL	243	100.0%

Of the 243 complaints and referrals received in 2020, 123 were dismissed for lack of legal sufficiency; 4 were dismissed because the public interest would not be served by proceeding further ("Rudd Amendment"); 1 was withdrawn, 91 were ordered to be investigated; and 24 were pending a legal sufficiency determination.

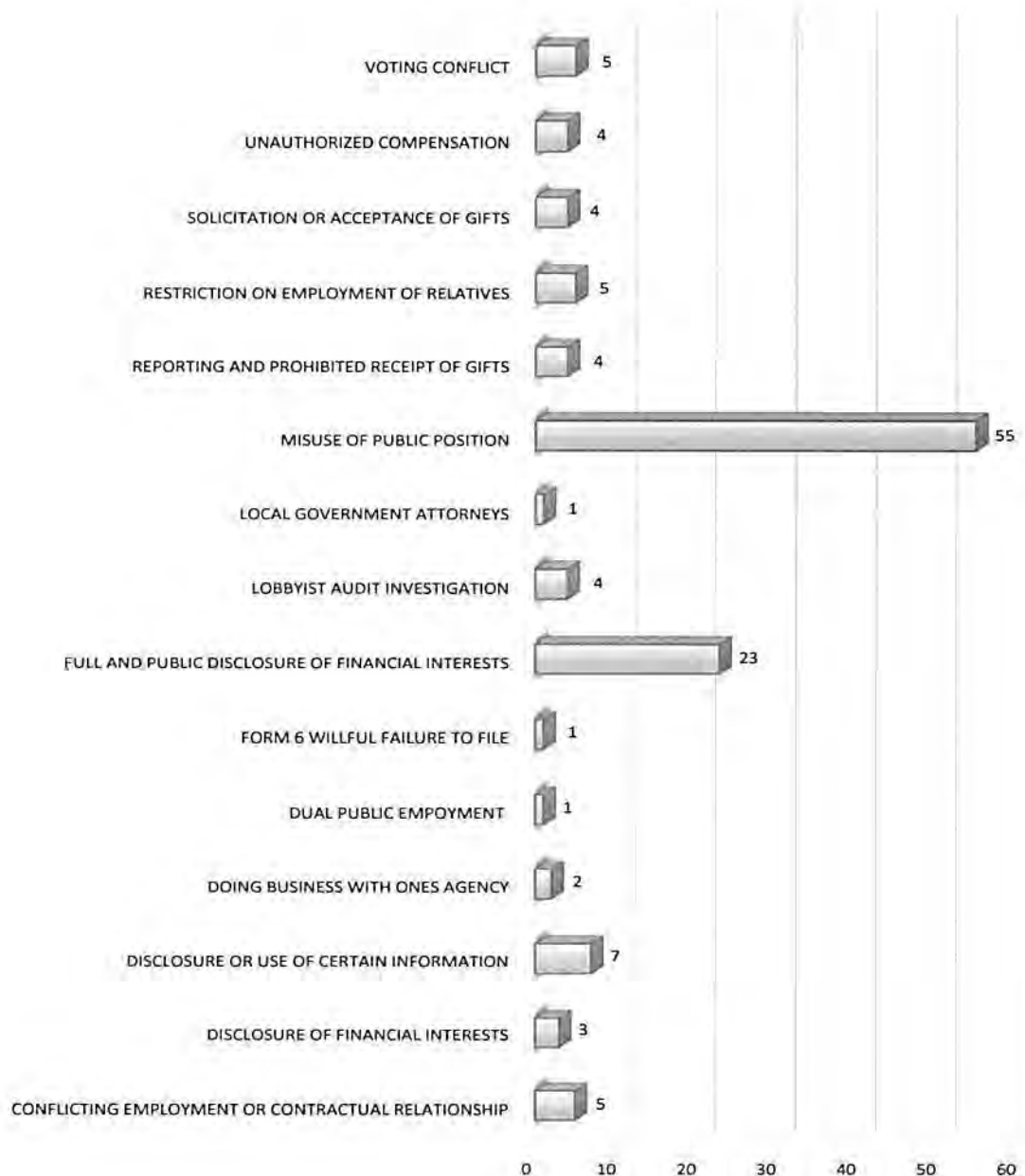


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 243 complaints and referrals received in 2020, 91 had been ordered to be investigated as of December 31, 2020. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Many complaints contained allegations concerning more than one area of law.

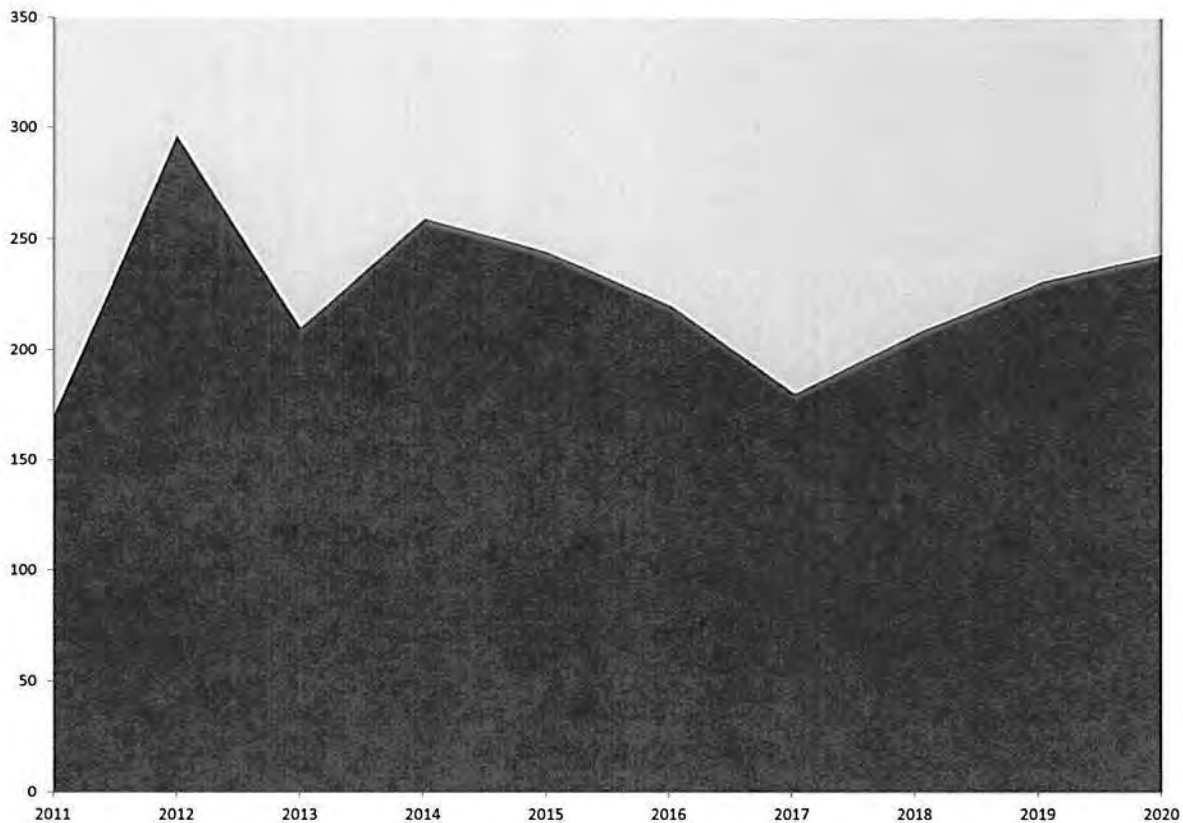
2020 Complaint Allegations



Ten Year History of Complaints

2020.....	243
2019	231
2018.....	211
2017	180
2016	220
2015.....	244
2014.....	259
2013	210
2012	296
2011.....	169

Complaint History



Actions Taken on Complaints in 2020

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2020.

Complaints & Mandatory Willfulness Investigations.....	234
Dismissed for lack of legal sufficiency	144
Dismissed as public interest not served by further proceedings*	9
Dismissed for lack of jurisdiction	4
Dismissed due to death of respondent	1
Probable cause hearings held	66
No probable cause - dismissed.....	42
Probable cause	16
Probable cause - no further action	8
Stipulations	8
Violation	8
Public hearings at the Division of Administrative Hearings.....	2
Violation	1
No Violation	1
Costs and attorney's fees petitions	1
Awarded	0
Insufficient petition - dismissed	1
TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS	235

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2020 Summary of Activity

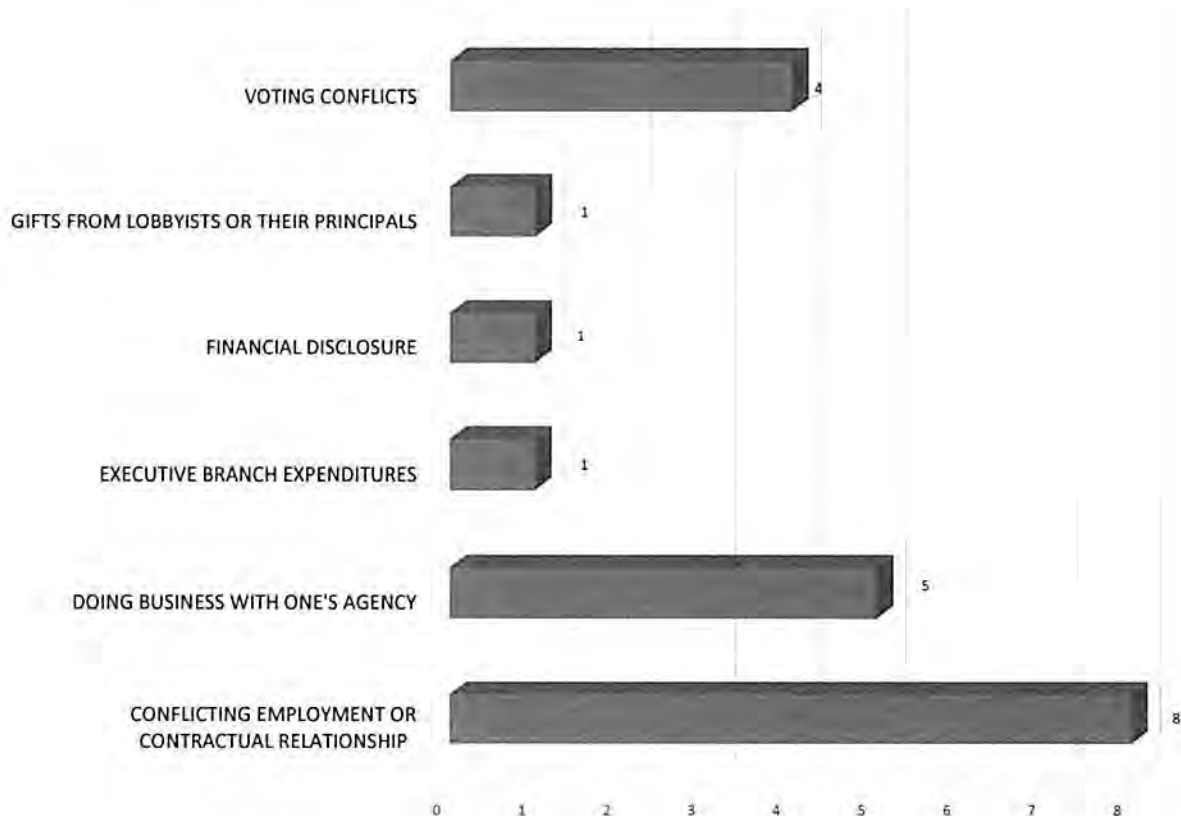
Total number of registered executive branch lobbyists	1,488
Total number of executive branch lobbying firms	342
Total number of principals represented by the lobbyists	11,624
Percent <i>increase</i> in number of principals from 2019 to 2020	1%
Total number of firms delinquent in filing their compensation reports	
October - December 2019	17
<i>(Filing deadline for fourth quarter 2019 was February 14, 2020)</i>	
January - March 2020	19
April - June 2020	17
July - September 2020	9
Total number of firms assessed a fine in 2020	
Fourth quarter 2019	10
<i>(Filing deadline for fourth quarter 2019 was February 14, 2020)</i>	
First quarter 2020	12
Second quarter 2020	14
Third quarter 2020	9
Number of appeals considered by the Commission in 2020	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 2020, the Commission on Ethics issued thirteen advisory opinions, bringing the total issued since 1974 to 2,680.

Eleven of the opinions rendered in 2020 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2020. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

A comprehensive online training course on ethics, sunshine law, and public records is available through a partnership with The John Scott Dailey Florida Institute of Government at Florida State University. The institute also offers a four hour video course from our successful multi-day ethics conference held in 2014.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2020:

- Judges of Compensation Claims
- Florida Public Pension Trustees Association (FPPTA)
- Property Appraiser Association of Florida
- Duties and Responsibilities of Florida Tax Collectors,
Florida Department of Revenue
- Tax Collectors Continuing Education Course,
Florida Department of Revenue
- 2020 Ethics, Public Records, & Sunshine Law for County Commissioners
put on by the Florida Association of Counties
- Sunshine Law, Public Records, & Ethics Seminar sponsored by The Florida
Bar & the Bar's City, County, & Local Government Law Section
- City, County, and Local Government Law Section
- Escambia County Employees
- Florida Public Pension Trustees Association's Virtual Summit
- Florida Sheriffs' Association's Sheriff's Academy
- Florida Court Clerks and Comptrollers Association
- District School Board of Broward County
- Florida School Board Attorneys Association
- Florida Association of Counties' Institute for County Government
- New Court Clerk's Academy

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2020, 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

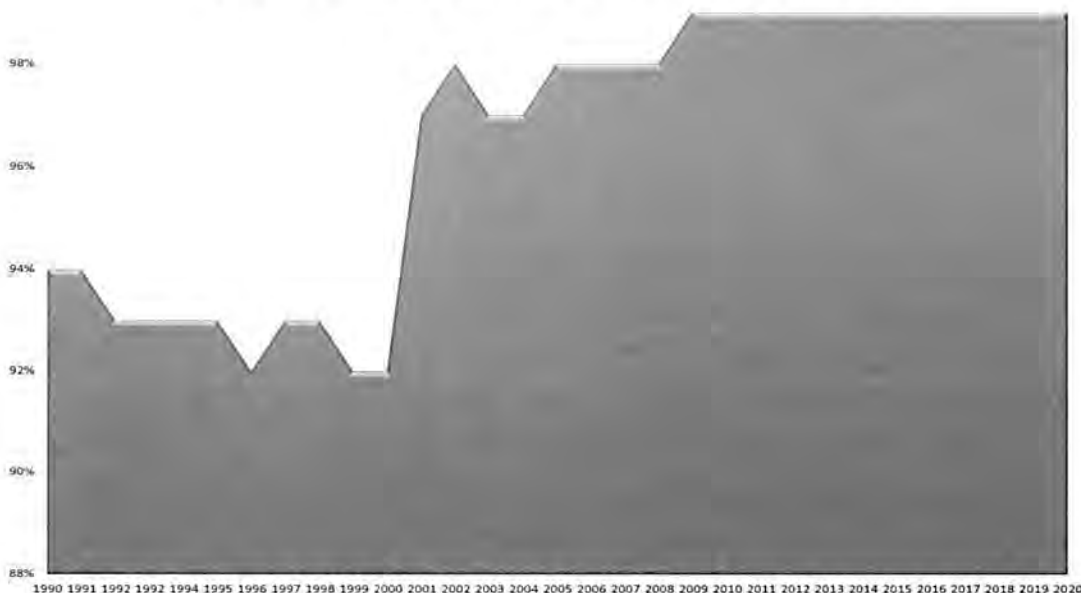
There was more than a 99% overall compliance with the annual reporting requirement in 2020. On the local level, 31 counties reported 100% compliance in 2020. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1990 to present.

2020 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	3	316	319	99.1%
Baker	0	43	43	100.0%
Bay	0	272	272	100.0%
Bradford	0	65	65	100.0%
Brevard	6	781	787	99.2%
Broward	67	2364	2431	97.2%
Calhoun	0	33	33	100.0%
Charlotte	0	159	159	100.0%
Citrus	1	115	116	99.1%
Clay	0	204	204	100.0%
Collier	0	383	383	100.0%
Columbia	0	98	98	100.0%
Miami-Dade	109	2220	2329	95.3%
Desoto	1	62	63	98.4%
Dixie	0	35	35	100.0%
Duval	3	360	363	99.2%
Escambia	5	160	165	97.0%
Flagler	1	178	179	99.4%
Franklin	0	79	79	100.0%
Gadsden	2	101	103	98.1%
Gilchrist	0	41	41	100.0%
Glades	0	42	42	100.0%
Gulf	0	58	58	100.0%
Hamilton	1	49	50	98.0%
Hardee	0	57	57	100.0%
Hendry	0	99	99	100.0%
Hernando	0	97	97	100.0%
Highlands	1	152	153	99.3%
Hillsborough	27	1347	1374	98.0%
Holmes	1	72	73	98.6%
Indian River	0	246	246	100.0%
Jackson	2	166	168	98.8%
Jefferson	0	42	42	100.0%
Lafayette	0	20	20	100.0%
Lake	11	468	479	97.7%
Lee	15	957	972	98.5%
Leon	2	231	233	99.1%
Levy	1	131	132	99.2%
Liberty	0	24	24	100.0%
Madison	2	79	81	97.5%

2020 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	2	547	549	99.6%
Marion	1	219	220	99.5%
Martin	0	204	204	100.0%
Monroe	1	214	215	99.5%
Nassau	0	188	188	100.0%
Okaloosa	2	351	353	99.4%
Okeechobee	0	76	76	100.0%
Orange	13	876	889	98.5%
Osceola	0	257	257	100.0%
Palm Beach	58	1611	1669	96.5%
Pasco	2	437	439	99.5%
Pinellas	8	1205	1213	99.3%
Polk	18	630	648	97.2%
Putnam	1	140	141	99.3%
Saint Johns	0	325	325	100.0%
Saint Lucie	2	262	264	99.2%
Santa Rosa	0	213	213	100.0%
Sarasota	2	385	387	99.5%
Seminole	3	426	429	99.3%
Sumter	0	150	150	100.0%
Suwannee	0	57	57	100.0%
Taylor	2	54	56	96.4%
Union	2	38	40	95.0%
Volusia	3	602	605	99.5%
Wakulla	0	70	70	100.0%
Walton	0	135	135	100.0%
Washington	0	70	70	100.0%
TOTAL-FORM 1 LOCAL	381	22148	22529	98.3%
TOTAL-FORM 1 STATE	72	13593	13665	99.5%
TOTAL-FORM 6 (NOT JUDGES)	3	1381	1384	99.8%
TOTAL-JUDGES (ACTIVE)	0	1010	1010	100.0%
TOTAL-JUDGES (SENIOR)	0	204	204	100.0%
OVERALL TOTAL	456	38336	38792	99.0%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1990 - 2020)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1990	34,828	2,091	94%
1991	35,845	2,120	94%
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 98.3%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephones filers to remind them to file. These reminders are not required by statute, but are part of the Commission's efforts to encourage compliance.
- Of the 22,529 individuals required to file, 381 were delinquent.
- 31 counties reported 100% compliance in 2020.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.5%. Postcard and telephone reminders also were used with these filers.
- Of the 13,665 individuals required to file, only 72 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.8%. Postcard and telephone reminders also were used with these filers.
- There were only 3 delinquencies out of a total of 1384 individuals (excluding judges) required to file Form 6.

Summary of 2020 Overall Compliance

- Out of the 37,578 individuals who were non-judicial financial disclosure filers, there were only 456 (approximately 1%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2020. (The fines for late filings in 2020 recently have been assessed and will be reported in 2021).

Financial Disclosure Appeals 2020 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 24, 2020	4	0	1	0	0
March 6, 2020	6	0	1	0	1
June 5, 2020	49	0	1	0	0
July 24, 2020	4	0	1	0	0
September 11, 2020	5	0	1	22	0
October 23, 2020	0	0	0	0	0
December 4, 2020	5	0	0	0	0

2020 Legislative Recommendations

Conflicts of Interest

The law prohibits an official from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population of the municipality.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, *unlimited in amount*, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters.

Increase of Civil Fine Penalties

Currently, the law provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

*Annual Report
to the
Florida Legislature
For Calendar Year 2021*



*By the
State of Florida
Commission on Ethics*



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Message from the Chair

"Ethics is knowing the difference between what you have a right to do and what is right to do"
- Potter Stewart-Supreme Court Justice 1958-1981

Regardless of the technical accuracy or veracity of Potter Stewart's quote on ethics, it evokes acknowledgement of the existing distance between morality and ethics. In the ideal however, there should be no daylight between what is right and lawfully permissible when it comes to public service integrity. Attaining higher standards towards this goal evolves over time and involves a continuing cycle of behaviors offending the public trust, community reactions and expectations, ensuing representative policy making and execution of those policies. Ultimately, as a society we aim to protect the faith in our system of public governance by ensuring the highest ethics from its public servants.

In Florida, I believe we continually strive to achieve this ideal. We are fortunate to have statutes and a constitution that set strong parameters regarding what is appropriate behavior to ensure that public servants are transparently serving the public, above other interests. However, laws are only as effective as their application. As much as the constitution framers and lawmakers work to ensure requirements and guidance are clear and comprehensive, they know that each ethics situation brings with it its own unique circumstances, some of which are pivotal to a just assessment. The Florida Commission on Ethics exists because of the acknowledgement that the appropriate application of law in this area requires a degree of analysis, evaluation, deliberation and understanding of human motivation from a variety of perspectives to render good decisions in accordance with the state's policies.

During my time thus far on the Commission, I have continually been impressed with the amount of effort and consideration provided by my colleagues to the matters that come before us. The weight of our responsibilities is apparent to each Commissioner, evidenced by the quality of work devoted to every case, opinion or other item for

consideration; thoroughly examining all the materials, carefully applying circumstances to the law, deducing the presence or absence of intent when appropriate, and comparing cases to preceding ones to ensure consistency and fairness. Each Commissioner's effort and perspective adds value to the discussion and, even if rejected, the outcome, as few stones remain unturned. I am often surprised at the diversity of questions, analysis, debate, and conclusions reached and how hashing those out among us usually yields a more just result. Doing our collective best is imperative because in addition to seeking the best possible application of the law, what we do affects people's lives and is one part of how ethics evolve towards the ideal.

In addition to my colleagues, I am equally impressed by Commission staff and advocates who consistently produce a high quality, thorough, consistent and impartial work product upon which Commissioners rely. This year staff has also made significant headway to reduce the case load backlog and make final preparations as the Commission prepares to launch the e-filing initiative to bring the filing of financial disclosures into the 21st century.

I would like to thank former Speakers of the House of Representatives, Richard Corcoran and Jose Oliva for giving me the opportunity to serve among such fine colleagues and staff as well as thank my Co-Commissioners for giving me the pleasure to serve as their Chair. Together, we serve the people by applying sound ethics policies to the matters before us while doing our part in the evolution towards the ethical ideal.

Sincerely,


JoAnne Leznoff
Chair, Florida Commission on Ethics

2021 Commission Members

JOANNE LEZNOFF, *Chair*

Fernandina Beach - Retired (R)

Appointed by House Speaker Richard Corcoran

JOHN GRANT, *Vice Chair*

Tampa - Attorney (R)

Appointed by Governor Ron DeSantis

MICHELLE ANCHORS

Fort Walton Beach - Attorney (D)

Appointed by Senate President Bill Galvano

ANTONIO CARVAJAL

Tallahassee - Public Interest Organization Executive (D)

Appointed by House Speaker Richard Corcoran

TRAVIS CUMMINGS

Fleming Island - Insurance & Employee Benefits Services (R)

Appointed by Governor Ron DeSantis

GLENTON "GLEN" GILZEAN, JR.

Orlando - Non-profit Executive (R)

Appointed by Governor Ron DeSantis

DON GAETZ

Niceville (R)

Appointed by Senate President Wilton Simpson

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)

Appointed by Governor Ron DeSantis

JIM WALDMAN

Fort Lauderdale - Attorney (D)

Appointed by Governor Ron DeSantis

Introduction & History

Section 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 2021.

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 38,519 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's jurisdiction was expanded with the adoption of Amendment 12 by Florida voters in 2018. The Constitutional provisions regarding abuse of office for a disproportional benefit were implemented December 31, 2020, with the implementation of the lobbying and post-officeholding provisions set to take effect at the end of 2022. The Commission also is charged with administering the Executive Branch Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and departments, Commissions, and agencies of the executive branch. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Reporting system home page at www.floridalobbyist.gov.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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.

Kerrie J. Stillman, Executive Director

Caroline Klancke, Deputy Executive Director and General Counsel

Legal Section

Under the supervision of the Deputy 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Elizabeth Miller and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Assistant General Counsel

Steven Zuilkowski, Senior Attorney

Suhail Chhabra, Attorney

Investigative Section

The investigative staff, supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

Robert G. Malone, Senior Investigator

A. Keith Powell, Senior Investigator

Ronald D. Moalli, Investigator

Kathleen Mann, Investigator

Charlie Shotwell, Investigator

Matthew Garrigan, Investigator

Tracey Maleszewski, Investigator

Ana Sanchez, Investigator

Complaints

Under the supervision of the Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 38,519 reporting officials and employees were notified of their filing requirements in 2021 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Keyana Green, Executive Secretary

Public Information & Administrative Section

Under the supervision of the Executive Director, the Chief Administrator oversees office technology, responds to general inquiries about the ethics laws, provides information regarding Commission practices and procedures to the press and the public, and oversees the administrative and clerical support staff who provide support services to the Commissioners and staff.

Administrative and Clerical Staff

Lynn Blais, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Thomas Coleman, Clerk (half-time)

Danny Killeen, Clerk (half-time)

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration of executive branch lobbyist and compensation report filings of executive branch lobbying firms.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2021.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2021 (Amounts in dollars)

	Budget	Actual	Variance- Favorable (Unfavorable)
Revenues:			
Released General Revenue Appropriations	\$2,818,895	\$2,818,895	\$0
Fines*	0	14,992	\$14,992
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,818,895	2,833,887	14,992
Expenditures:			
Salaries and Related Benefits	1,864,370	1,647,673	216,697
Other Personal Services	444,090	365,904	78,186
Expenses	254,851	195,990	58,861
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	123,261	0	123,261
Transfers to Administrative Hearings	28,899	28,899	0
Risk management insurance	3,424	3,424	0
Legislative Carryforward **	2,152,830	16,123	2,136,707
Nonoperating***	100,000	0	100,000
Total Expenditures	4,971,725	2,258,014	2,713,711
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(2,152,830)	575,873	<u>\$2,728,703</u>
Budgetary Fund Balance, June 30, 2020		575,873	
Adjustment for Fines*		(14,992)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2021		\$460,881	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 295,160
FINES: \$ 3,050

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

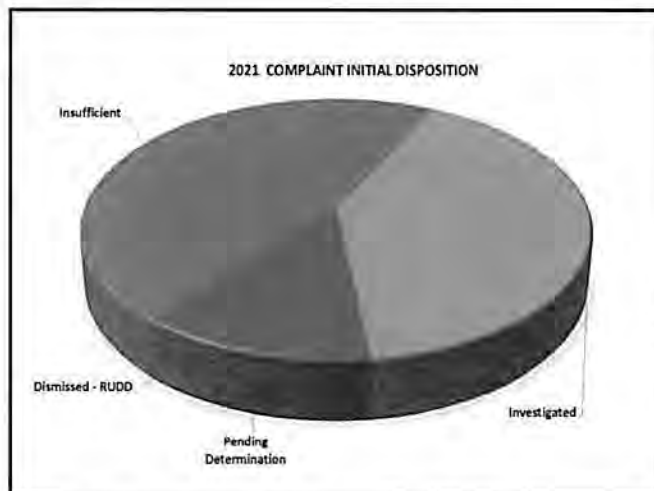
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. This section offers a profile of the Commission's workload, which notwithstanding the Covid-19 pandemic, has remained steady. Despite staffing challenges, the Commission staff continues to adapt and increase productivity.

Complaints

Total number of complaints and referrals filed in 2021.....238

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	17	7.1%
State Appointed	4	1.7%
State Employee	9	3.8%
District Elected	27	11.3%
District Employee	9	3.8%
County Elected	37	15.5%
County Appointed	3	1.3%
County Employee	20	8.4%
Municipal Elected	72	30.3%
Municipal Appointed	3	1.3%
Municipal Employee	32	13.4%
Candidate	1	0.4%
Lobbyist	4	1.7%
TOTAL	238	100.0%

Of the 238 complaints and referrals received in 2021, 109 were dismissed for lack of legal sufficiency; 1 was dismissed because the public interest would not be served by proceeding further ("Rudd Amendment"); 97 were ordered to be investigated; and 31 were pending a legal sufficiency determination, as of December 31.

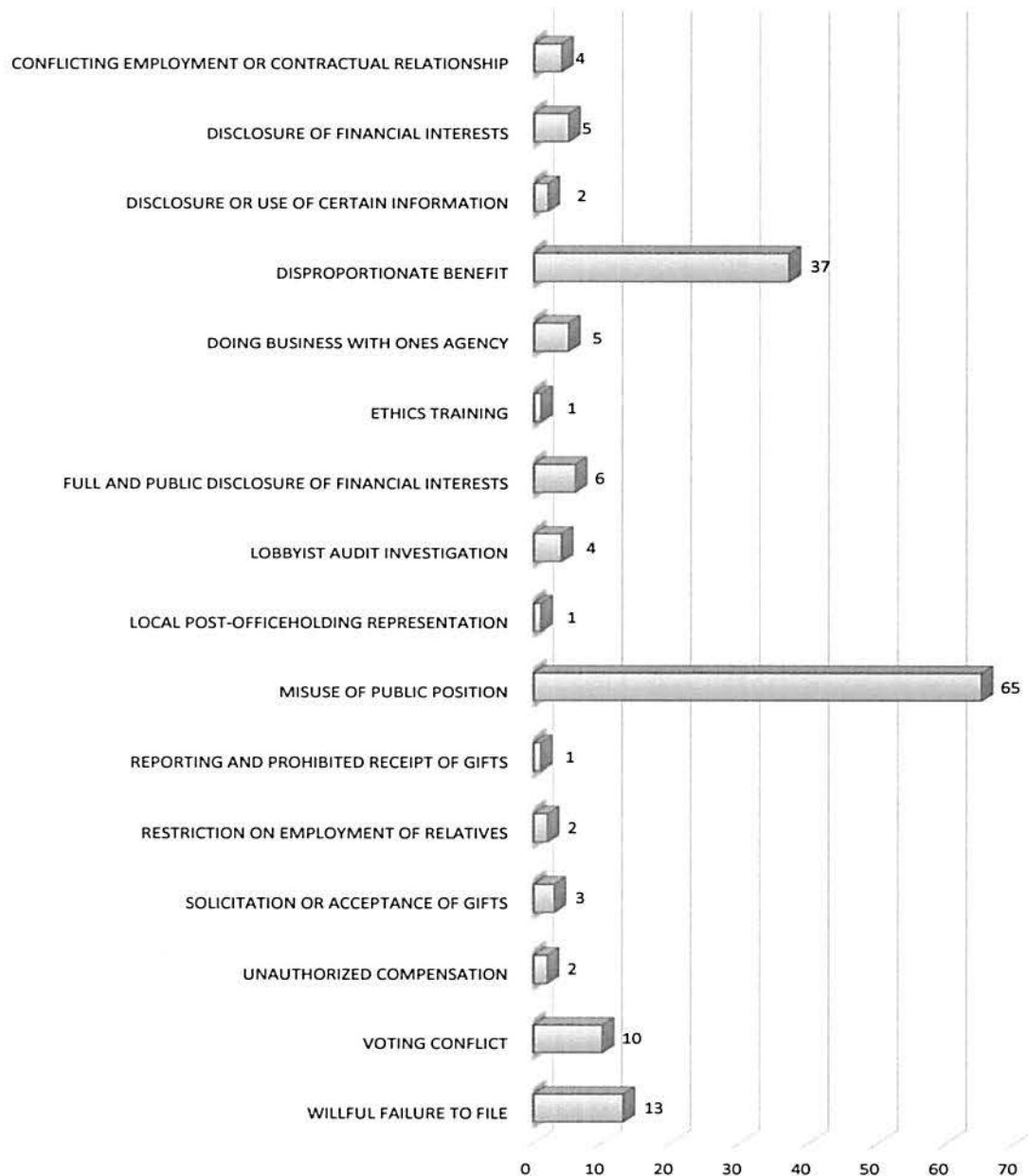


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 238 complaints and referrals received in 2021, 97 had been ordered to be investigated as of December 31, 2021. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Many complaints contained allegations concerning more than one area of law.

2021 Complaint Allegations

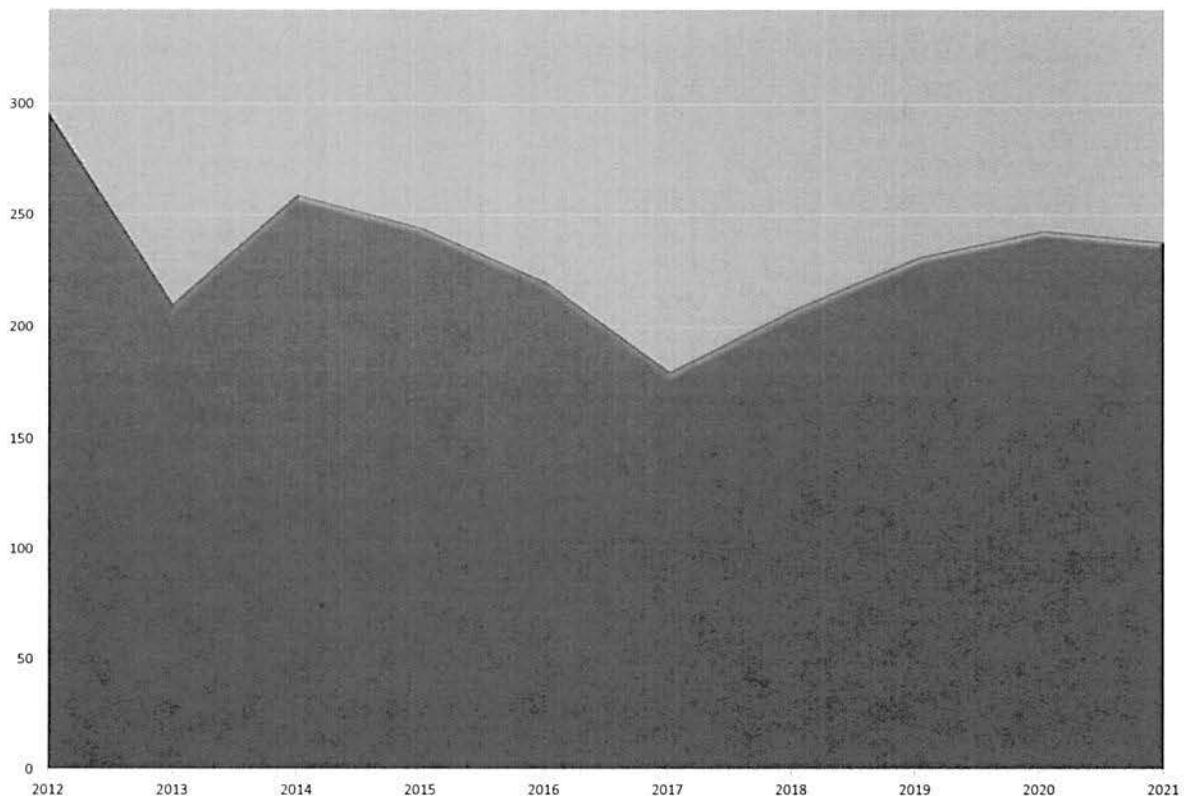


Ten Year History of Complaints

Over the past 10 years, the Commission's complaint numbers have remained relatively steady. However, it is anticipated that with the full implementation of Amendment 12, the Commission will see an increase in the number of complaints filed in the future, as the impact of the Amendment is fully realized.

2021	238
2020.....	243
2019.....	231
2018	211
2017	180
2016	220
2015.....	244
2014	259
2013	210
2012	296

Complaint History



Actions Taken on Complaints in 2021

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2021.

Complaints & Mandatory Willfulness Investigations.....	232
Dismissed for lack of legal sufficiency	109
Dismissed for lack of jurisdiction	1
Dismissed as public interest not served by further proceedings*	1
Dismissed due to death of respondent	1
Request for Withdrawal - denied.....	1
Probable cause hearings held	101
No probable cause - dismissed.....	74
Probable cause	22
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Stipulations	16
Violation	16
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Violation	1
No Violation	0
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Insufficient petition - dismissed	1

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS 234

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2021 Summary of Activity

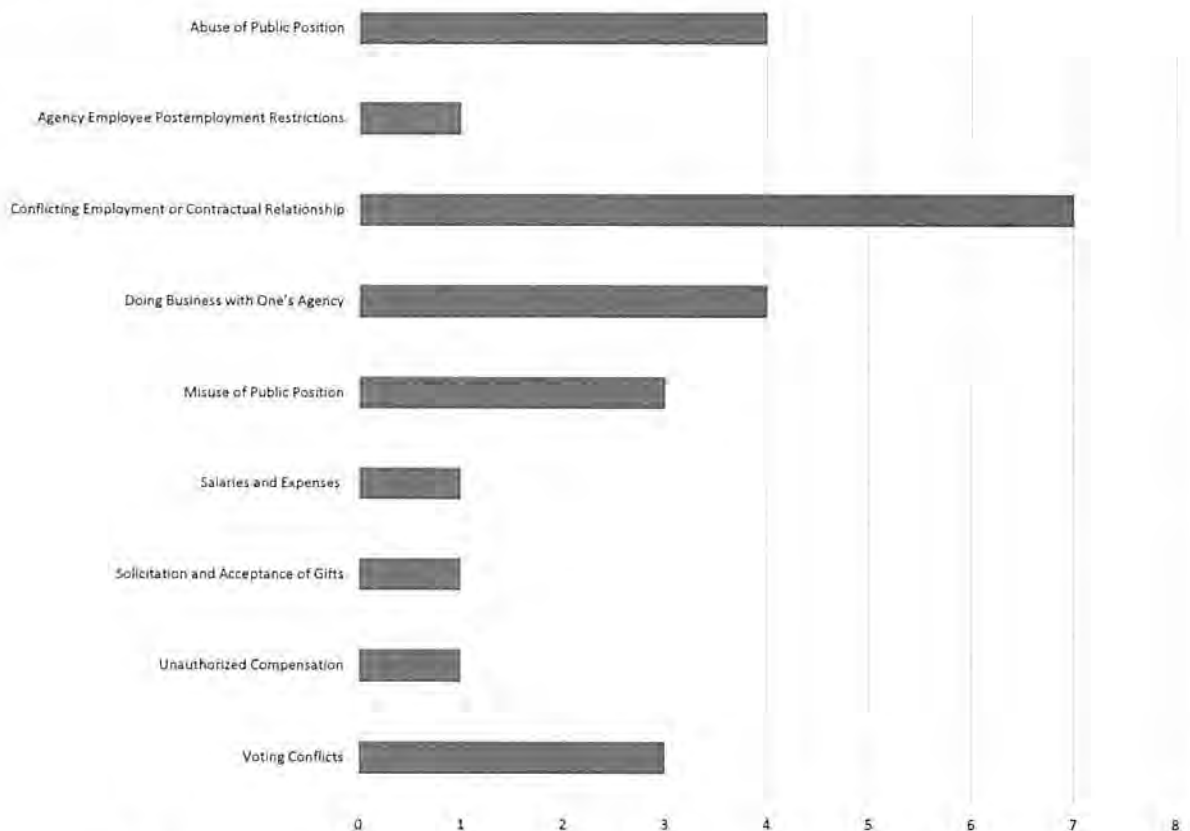
Total number of registered executive branch lobbyists	1,510
Total number of executive branch lobbying firms	334
Total number of principals represented by the lobbyists	12,143
Percent <i>increase</i> in number of principals from 2020 to 2021	4.46%
Total number of firms delinquent in filing their compensation reports	
October - December 2020	14
<i>(Filing deadline for fourth quarter 2020 was February 14, 2021)</i>	
January - March 2021	15
April - June 2021	17
July - September 2021	33
Total number of firms assessed a fine in 2021	
Fourth quarter 2020	7
<i>(Filing deadline for fourth quarter 2020 was February 14, 2021)</i>	
First quarter 2021	11
Second quarter 2021	10
Third quarter 2021	24
Number of appeals considered by the Commission in 2021	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 2021, the Commission on Ethics issued nine advisory opinions, bringing the total issued since 1974 to 2,689.

Seven of the opinions rendered in 2021 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2021. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered. The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2021:

- The Florida Bar Ethics and Education law
- Judges of Compensation Claims
- Florida Department of Revenue's Property Tax Oversight Courses
- Property Appraiser Association of Florida (PAAF)
- Pension Trustees, Florida League of Cities
- University of West Florida Board of Trustees
- Florida County Clerks and Comptrollers
- 2021 Ethics, Public Records, & Sunshine Law for County Commissioners
sponsored by the Florida Association of Counties Foundation
- Florida Public Pension Trustees Association (FPPTA)
- Florida Association of County Attorneys (FACA)
- Gainesville Mayor, City Commission and advisory board members
- Florida Tax Collectors Association
- Broward County School Board
- Florida School Board Attorneys Association
- Florida Department of Health

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. Additionally the Commission was tasked with the development of an electronic filing system. The phased launch began January 1, 2022 with Form 6 filers. Form 1 filers will file electronically beginning January 1, 2023. The Commission has invested significant staff hours over the past year to the details of the development and launch of the system and the Commission expects significant workload increases with the rollout of the program.

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2021, 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

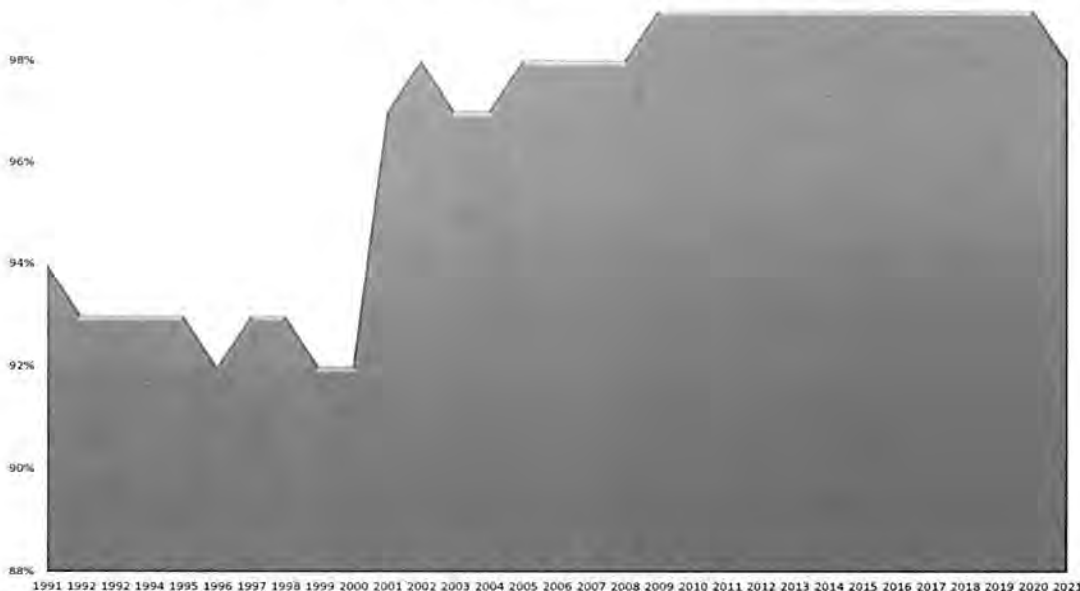
There was more than a 98% overall compliance with the annual reporting requirement in 2021. On the local level, 31 counties reported 100% compliance in 2021. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1990 to present.

2021 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	3	294	297	99.00%
Baker	0	45	45	100.00%
Bay	0	258	258	100.00%
Bradford	0	65	65	100.00%
Brevard	3	797	800	99.60%
Broward	69	2326	2395	97.10%
Calhoun	0	33	33	100.00%
Charlotte	1	162	163	99.40%
Citrus	1	119	120	99.20%
Clay	0	217	217	100.00%
Collier	2	392	394	99.50%
Columbia	0	91	91	100.00%
Miami-Dade	147	2216	2363	93.80%
Desoto	2	67	69	97.10%
Dixie	0	38	38	100.00%
Duval	1	376	377	99.70%
Escambia	4	157	161	97.50%
Flagler	0	179	179	100.00%
Franklin	1	68	69	98.60%
Gadsden	1	110	111	99.10%
Gilchrist	0	35	35	100.00%
Glades	0	44	44	100.00%
Gulf	0	54	54	100.00%
Hamilton	0	51	51	100.00%
Hardee	0	58	58	100.00%
Hendry	0	102	102	100.00%
Hernando	0	94	94	100.00%
Highlands	2	146	148	98.60%
Hillsborough	39	1379	1418	97.20%
Holmes	0	71	71	100.00%
Indian River	0	241	241	100.00%
Jackson	0	178	178	100.00%
Jefferson	0	46	46	100.00%
Lafayette	0	19	19	100.00%
Lake	3	489	492	99.40%
Lee	20	946	966	97.90%
Leon	1	232	233	99.60%
Levy	1	127	128	99.20%
Liberty	1	23	24	95.80%
Madison	1	71	72	98.60%

2021 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	8	502	510	98.40%
Marion	8	223	231	96.50%
Martin	0	228	228	100.00%
Monroe	0	207	207	100.00%
Nassau	4	187	191	97.90%
Okaloosa	6	330	336	98.20%
Okeechobee	0	84	84	100.00%
Orange	5	883	888	99.40%
Osceola	1	250	251	99.60%
Palm Beach	86	1577	1663	94.80%
Pasco	8	465	473	98.30%
Pinellas	6	1198	1204	99.50%
Polk	36	624	660	94.50%
Putnam	0	135	135	100.00%
Saint Johns	0	331	331	100.00%
Saint Lucie	0	265	265	100.00%
Santa Rosa	0	174	174	100.00%
Sarasota	3	382	385	99.20%
Seminole	8	423	431	98.10%
Sumter	1	159	160	99.40%
Suwannee	0	60	60	100.00%
Taylor	2	50	52	96.20%
Union	0	40	40	100.00%
Volusia	4	621	625	99.40%
Wakulla	0	61	61	100.00%
Walton	2	134	136	98.50%
Washington	0	70	70	100.00%
TOTAL-FORM 1 LOCAL	491	22079	22570	97.80%
TOTAL-FORM 1 STATE	97	13166	13263	99.30%
TOTAL-FORM 6 (NOT JUDGES)	16	1431	1447	98.90%
TOTAL-JUDGES (ACTIVE)	0	1051	1051	100.00%
TOTAL-JUDGES (SENIOR)	0	188	188	100.00%
OVERALL TOTAL	604	37915	38519	98.40%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1991 - 2021)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1991	35,845	2,120	94%
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%
2021	38,519	604	98%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 97.8%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephones filers to remind them to file. These reminders are not required by statute, but are part of the Commission's efforts to encourage compliance.
- Of the 22,570 individuals required to file, 491 were delinquent.
- 31 counties reported 100% compliance in 2021.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.3%. Postcard and telephone reminders also were used with these filers.
- Of the 13,263 individuals required to file, only 97 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 98.9%. Postcard and telephone reminders also were used with these filers.
- There were only 16 delinquencies out of a total of 1447 individuals (excluding judges) required to file Form 6.

Summary of 2021 Overall Compliance

- Out of the 38,519 individuals who were non-judicial financial disclosure filers, there were only 604 (approximately 1.5%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2021. (The fines for late filings in 2021 recently have been assessed and will be reported in 2022).

Financial Disclosure Appeals 2021 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 22, 2021 (Postponed)	0	0	0	0	0
February 5, 2021	0	0	0	0	0
March 5, 2021	0	0	0	0	1
June 4, 2021	11	0	0	0	0
July 23, 2021	11	0	1	0	0
September 10, 2021	1	0	2	117	3
October 22, 2021	3	0	0	0	3
December 3, 2021	0	0	0	67	0

2022 Legislative Recommendations

Conflicts of Interest

Section 112.313(7)(a), Florida Statutes, prohibits a public officer or employee from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, Section 112.3143, Florida Statutes, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population of the municipality.

Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters.

Increase of Civil Penalties

Currently, Section 112.317, Florida Statutes, provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

Ethics Training

Pursuant to the provisions of Section 112.3142(2)(e), Florida Statutes, a constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which their term of office began. In 2019, the law was amended to require commissioners of community redevelopment agencies to complete 4 hours of ethics training. However, they were not included in the new office or new term of office exemption language contained in Section 112.3142(2)(e), Florida Statutes. As a result, CRA board members are required to take the training regardless of when they take office. The Commission believes CRA board members should be added to the exemption language appearing in Section 112.3142(2)(e), Florida Statutes.

Amendment 12 Lobbying Restrictions

The Commission encourages the legislature to support the most stringent penalties with respect to violations of the 6-year lobbying ban, were they to be proposed, even were they to include criminal penalties, should those be proposed.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, unlimited in amount, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

*Annual Report
to the
Florida Legislature
For Calendar Year 2022*



*By the
State of Florida
Commission on Ethics*



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Message from the Chair

Nearly fifty years ago, the Florida Legislature realized the need to uphold ethics and integrity in Florida's government at all levels. The result was the creation of the Florida Commission on Ethics in 1974. I was privileged to be the first person appointed to the commission.

We had no staff and not even an office, but the nine of us, all new to the process began the task of writing rules and drafting forms, many of which we still use today. Over the nearly half century of the commission's existence, its role and scope has been expanded by subsequent actions of the legislature. Our staff component has grown along with the ability to serve both governments and citizens around the state.

The most significant recent development has been the implementation of e-filing. In 2022, prior to the system pause in June, over 800 Form 6 disclosures were filed electronically. A total of 38,257 persons filed various forms of financial disclosure at the state and local level during 2022. The timeliness of those disclosures has to be catalogued by commission staff. The e-filing system relaunched for Form 6 filers in 2023 and once fully implemented will provide for ease of filing and more accurate recording of information.

During calendar year 2022, the Commission took 232 actions on complaints during its eight regularly scheduled meetings, including seventy-three probable cause hearings, final action on fourteen settlement agreements, and eight recommended orders.

The total staff component of the Commission is twenty-three. In addition to reviewing and investigating complaints, the Commission's excellent legal staff reviews and drafts numerous advisory opinions in response to requests from eligible persons on how to proceed in various complex situations under the ethics laws. Opinions not only guide those requesting, but also the commission has built a library of formal opinions for others to follow. The Commission also administers the Executive Branch Lobbyist Registration laws.

The origin of the commission was to not only reprimand and impose sanctions on those who have done wrong, but to create an overall awareness that ethics and

integrity should be a standard for all serving in various governmental positions in Florida.

One of the original purposes for forming the commission was to make public at certain position levels the financial assets and liabilities of those serving in public office. A person's financial condition can influence their public action and the public has a right to know.

The Code of Ethics for Public Officers and Employees, adopted by the Legislature contains standards of ethical conduct and disclosures applicable to public officers, employees, candidates, lobbyists, and others in state and local government.

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist. The commission is charged with upholding those standards at all levels of government in the state.

Having been appointed two more times to the commission and now as the outgoing chairman, it has been a great honor to serve both the Commission and the State. We currently have one the best commissions we have ever had, men and women committed to ethics and integrity and the standards and laws charged to the Commission.

It is the intent of the act creating the commission to implement the objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

The Florida Commission on Ethics does its assigned tasks well and is a bright light for ethics and integrity in Florida.

Sincerely,

John Grant
Chair, Florida Commission on Ethics

2022 Commission Members

JOHN GRANT, *Chair*

Tampa - Attorney (R)
Appointed by Governor Ron DeSantis

GLENTON "GLEN" GILZEAN, JR., *Vice Chair*

Orlando - Non-profit Executive (R)
Appointed by Governor Ron DeSantis

MICHELLE ANCHORS

Fort Walton Beach - Attorney (D)
Appointed by Senate President Bill Galvano

WILLIAM P. CERVONE

Gainesville - Former State Attorney (R)
Appointed by House Speaker Chris Sprowls

DON GAETZ

Niceville - Retired Health Care Executive (R)
Appointed by Senate President Wilton Simpson

WILLIAM "WILLIE" N. MEGGS

Tallahassee - Former State Attorney (D)
Appointed by Governor Ron DeSantis

ED H. MOORE

Tallahassee - Association Executive (R)
Appointed by Governor Ron DeSantis

WENGAY M. NEWTON, SR.

St. Petersburg -
Former Member of the Florida House of Representatives (D)
Appointed by House Speaker Chris Sprowls

JIM WALDMAN

Fort Lauderdale - Attorney (D)
Appointed by Governor Ron DeSantis

Introduction & History

Section 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 2022.

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 38,257 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's jurisdiction was expanded with the adoption of Amendment 12 by Florida voters in 2018. The Constitutional provisions regarding abuse of office for a disproportional benefit were implemented December 31, 2020, and the implementation of the lobbying and post-officeholding provisions took effect December 31, 2022. The Commission also is charged with administering the Executive Branch Lobbyist Registration System and the Executive Branch Lobby Registration Trust Fund. Section 112.3215, Florida Statutes, provides registration requirements for persons wishing to lobby the Executive Office of the Governor, Governor and Cabinet and departments, Commissions, and agencies of the executive branch. Additionally, Section 112.32155, Florida Statutes, directs the Commission to provide an electronic filing system for lobbying firm's to submit quarterly compensation reports. This information is accessible by visiting the Florida Reporting system home page at www.floridalobbyist.gov.

Organization

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. 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 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; however, members whose terms have expired continue to serve until they are replaced. A chair and vice-chair 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 23 full-time equivalent positions.

Kerrie J. Stillman, Executive Director

Steven Zuilkowski, Deputy Executive Director and General Counsel

Legal Section

Under the supervision of the Deputy 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 inquiries about the ethics laws. The legal staff also represents the Commission in litigation.

Commission staff does not prosecute complaints. Those services are provided by Assistant Attorneys General Elizabeth Miller and Melody Hadley, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

Legal Staff

Grayden Schafer, Assistant General Counsel

Katharine Heyward, Attorney

Joseph Burns, Attorney

Investigative Section

The investigative staff, supervised by the Executive Director, conducts investigations of alleged violations of the ethics laws and writes narrative investigative reports.

Investigative Staff

A. Keith Powell, Investigations Manager

Ronald D. Moalli, Senior Investigator

Charlie Shotwell, Investigator

Tracey Maleszewski, Investigator

Ana Sanchez, Investigator

Brian Durham, Investigator

John Cizmadia, Investigator

Marian Lambeth, Investigator

Complaints

Under the supervision of the Executive Director, 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.

Millie Fulford, Complaint Coordinator

Financial Disclosure Section

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure, tracks late filers and automatic fines, and interacts with agency Financial Disclosure coordinators. Some 38,257 reporting officials and employees were notified of their filing requirements in 2022 by the Commission and by the Supervisors of Elections.

Financial Disclosure Staff

Kimberly Holmes, Program Administrator

Emily Prine, Program Specialist

Keyana Green, Executive Secretary

Public Information & Administrative Section

Under the supervision of the Executive Director, the Chief Administrator oversees office technology, responds to general inquiries about the ethics laws, provides information regarding Commission practices and procedures to the press and the public, and oversees the administrative and clerical support staff who provide support services to the Commissioners and staff.

Administrative and Clerical Staff

Lynn Blais, Chief Administrator

Diana Westberry, Office Manager

Kathy Steverson, Assistant to the Executive Director

Vacant, Executive Secretary

Alex Rudd, Clerk (half-time)

Rachel Campbell, Clerk (half-time)

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration of executive branch lobbyist and compensation report filings of executive branch lobbying firms.

Lobbyist Registration Staff

Karen Murphy-Bunton, Registrar

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2022.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2022 (Amounts in dollars)

	Ethics General Revenue		Variance- Favorable (Unfavorable)
	Budget	Actual	
Revenues:			
Released General Revenue Appropriations	\$2,789,233	\$2,789,233	\$0
Fines*	0	23,590	\$23,590
Miscellaneous Receipts	0	0	\$0
Total Revenues	2,789,233	2,812,823	23,590
Expenditures:			
Salaries and Related Benefits	1,893,549	1,690,873	202,676
Other Personal Services	470,480	415,879	54,601
Expenses	262,140	209,052	53,088
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfers to Administrative Hearings	59,834	59,834	0
Risk management insurance	3,230	3,230	0
Legislative Carryforward **	2,616,065	35,255	2,580,810
Nonoperating***	100,000	0	100,000
Total Expenditures	5,405,298	2,414,123	2,991,175
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures	(2,616,065)	398,700	\$3,014,765
Budgetary Fund Balance, June 30, 2022		398,700	
Adjustment for Fines*		(23,590)	
Adjustment for Nonoperating***		(100,000)	
Adjustments for Carryforward Expenditures**			
Adjusted Budgetary Fund Balance, June 30, 2022		\$275,110	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 312,772
FINES: \$ 4,700

* Fines are recorded as Collection to General Revenue. They 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 a current appropriation.

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

Operations

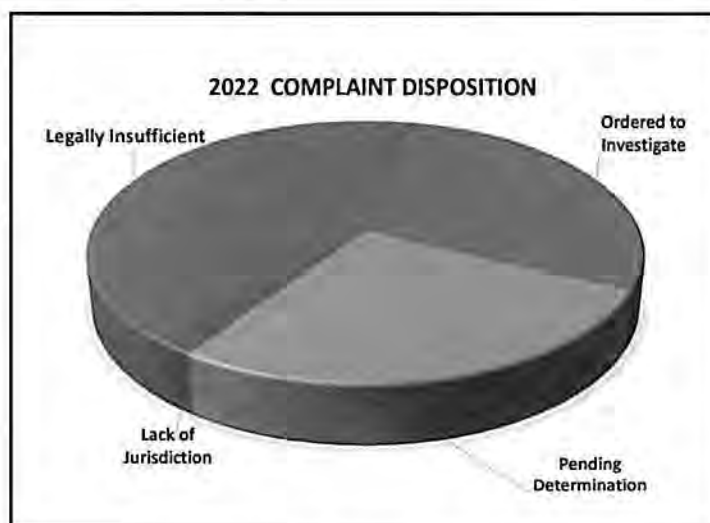
The major operational functions of the Commission on Ethics are the investigation of complaints and referrals,* management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. This section offers a profile of the Commission's workload

Complaints

Total number of complaints and referrals filed in 2022223

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected	12	5.4%
State Employee	20	9.0%
District Elected	24	10.8%
District Appointed	2	0.9%
District Employee	10	4.5%
County Elected	36	16.1%
County Appointed	2	0.9%
County Employee	24	10.8%
Municipal Elected	53	23.8%
Municipal Appointed	10	4.5%
Municipal Employee	23	10.3%
Candidate	4	1.8%
Lobbyist	3	1.3%
TOTAL	223	100.0%

Of the 223 complaints and referrals received in 2022, 95 were dismissed for lack of legal sufficiency; 2 were dismissed because of lack of jurisdiction; 65 were ordered to be investigated; and 61 were pending a legal sufficiency determination, as of December 31.

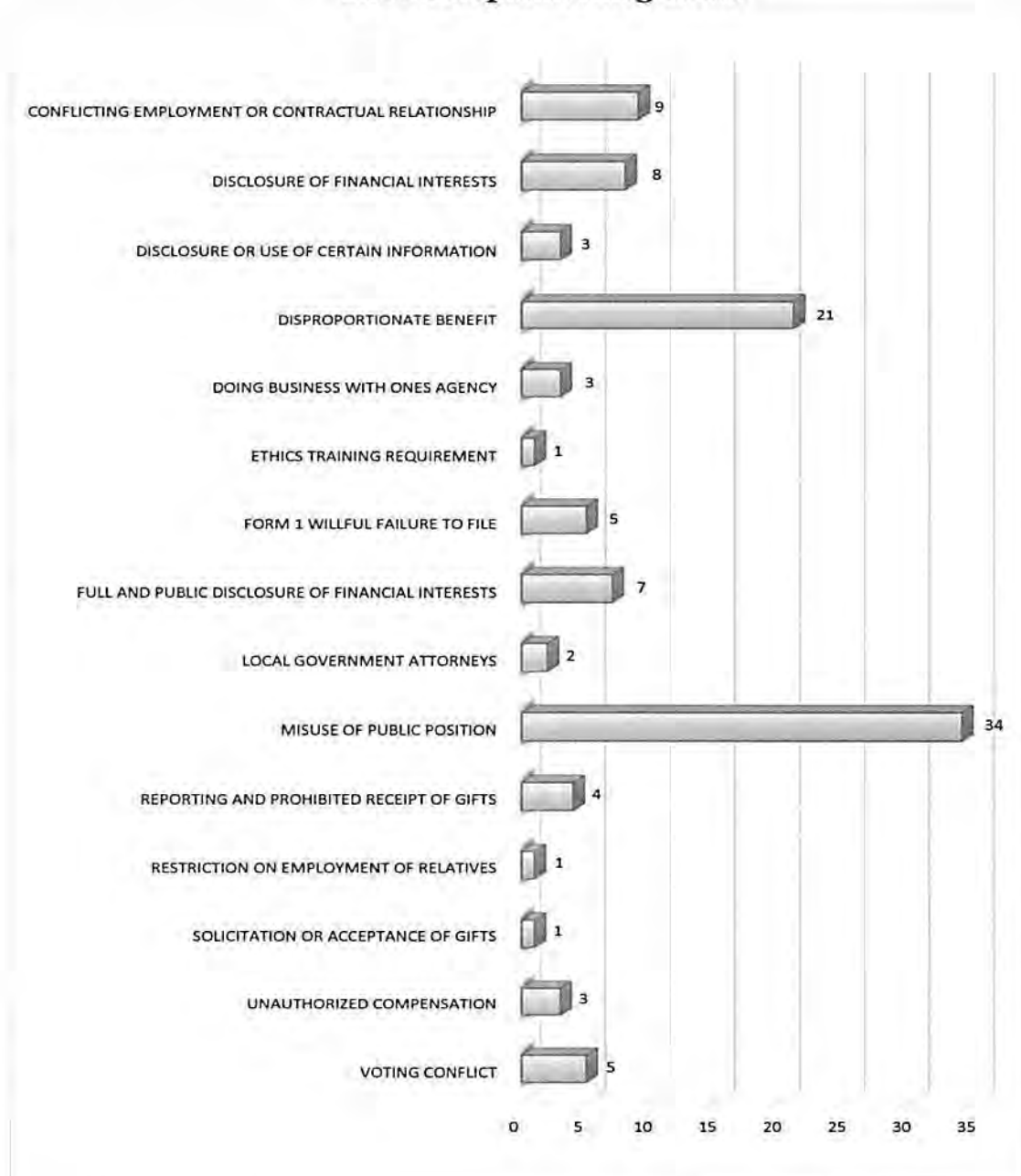


* The Commission may accept referrals from the Governor, State Attorneys, U.S. Attorneys, and the Florida Department of Law Enforcement.

Allegations

Of the 223 complaints and referrals received in 2022, 65 had been ordered to be investigated as of December 31, 2022. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below. Most complaints contained allegations concerning more than one area of law.

2022 Complaint Allegations

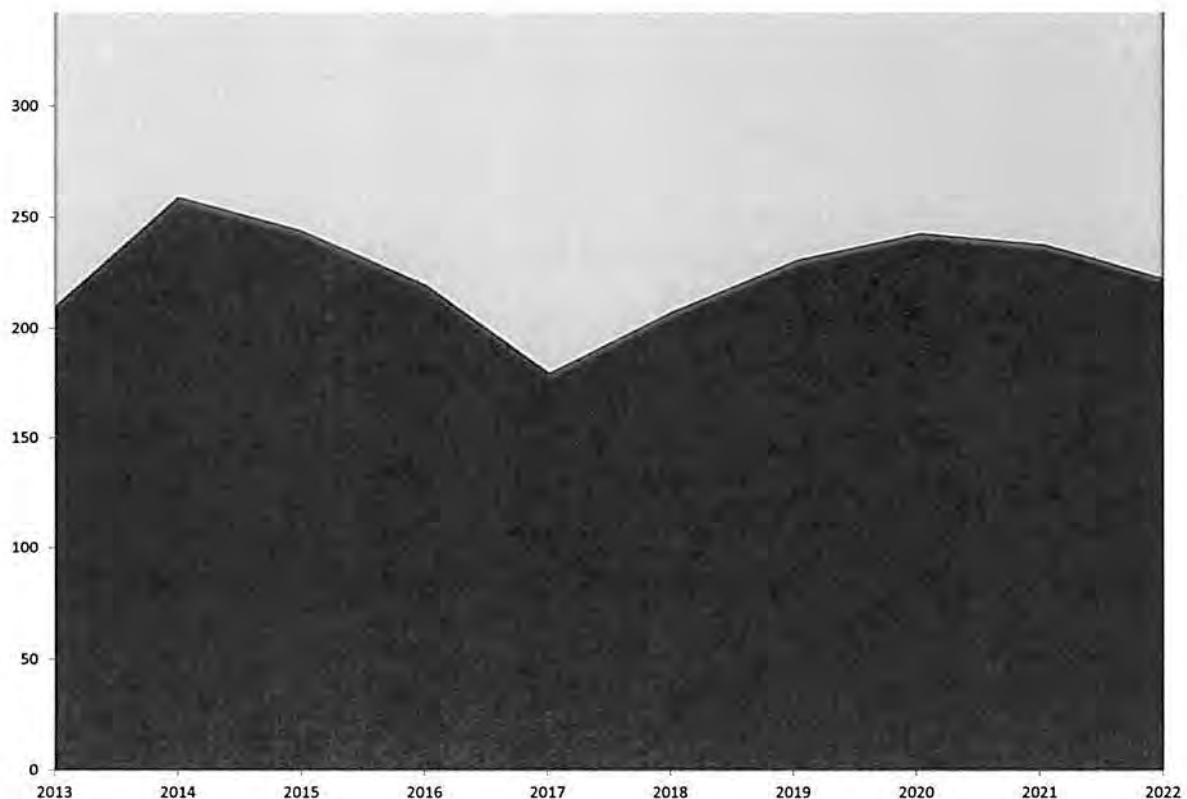


Ten Year History of Complaints

Over the past 10 years, the Commission's complaint numbers have remained relatively steady. However, it is anticipated that with the full implementation of Amendment 12, the Commission will see an increase in the number of complaints filed in the future, as the impact of the Amendment is fully realized.

2022.....	223
2021	238
2020.....	243
2019	231
2018	211
2017	180
2016	220
2015	244
2014	259
2013	210

Complaint History



Actions Taken on Complaints in 2022

The Commission took action during its regularly-scheduled meetings on complaints, referrals, statutorily-mandated investigations concerning lobbyist compensation reports, determination as to whether late-filed disclosure was "willful," and petitions for costs and attorney fees. The following is a summary of action taken in 2022, across all active complaints.

Complaints & Mandatory Willfulness Investigations.....	227
Dismissed for lack of legal sufficiency	126
Dismissed for lack of jurisdiction	6
Probable cause hearings held	73
No probable cause - dismissed.....	44
Probable cause	23
Probable cause - no further action	5
Advocate's Motion to Dismiss	1
Stipulations	14
Violation	12
Rejected	2
Public hearings at the Division of Administrative Hearings.....	8
Violation	7
No Violation	1
Costs and attorney's fees petitions	1
Parties Settled - dismissed.....	0
Insufficient petition - dismissed	1
Statutorily-Required Investigation of Lobbying Firm Compensation Audits	4
Probable Cause.....	2
No probable cause.....	2

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS 232

* Pursuant to Section 112.324(12), F.S. ("Rudd Amendment") the Commission may dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further.

Executive Branch Lobbyist Registration

A person who is a "lobbyist" as defined in Section 112.3215(1)(h), F.S., may not lobby an Executive branch agency until he or she has registered as a lobbyist with the Commission. Executive branch lobbyist registration may be made by electronic means via the Lobbyist Registration and Compensation Reporting system located at www.floridalobbyist.gov. Lobbyist registrants are required to pay an annual registration fee of \$25 for each principal represented, which is deposited into the Executive Branch Lobby Registration Trust Fund. The fee is payable on a calendar year basis and there is no charge if a lobbyist amends his or her registration to lobby additional agencies on behalf of the same principal.

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."

2022 Summary of Activity

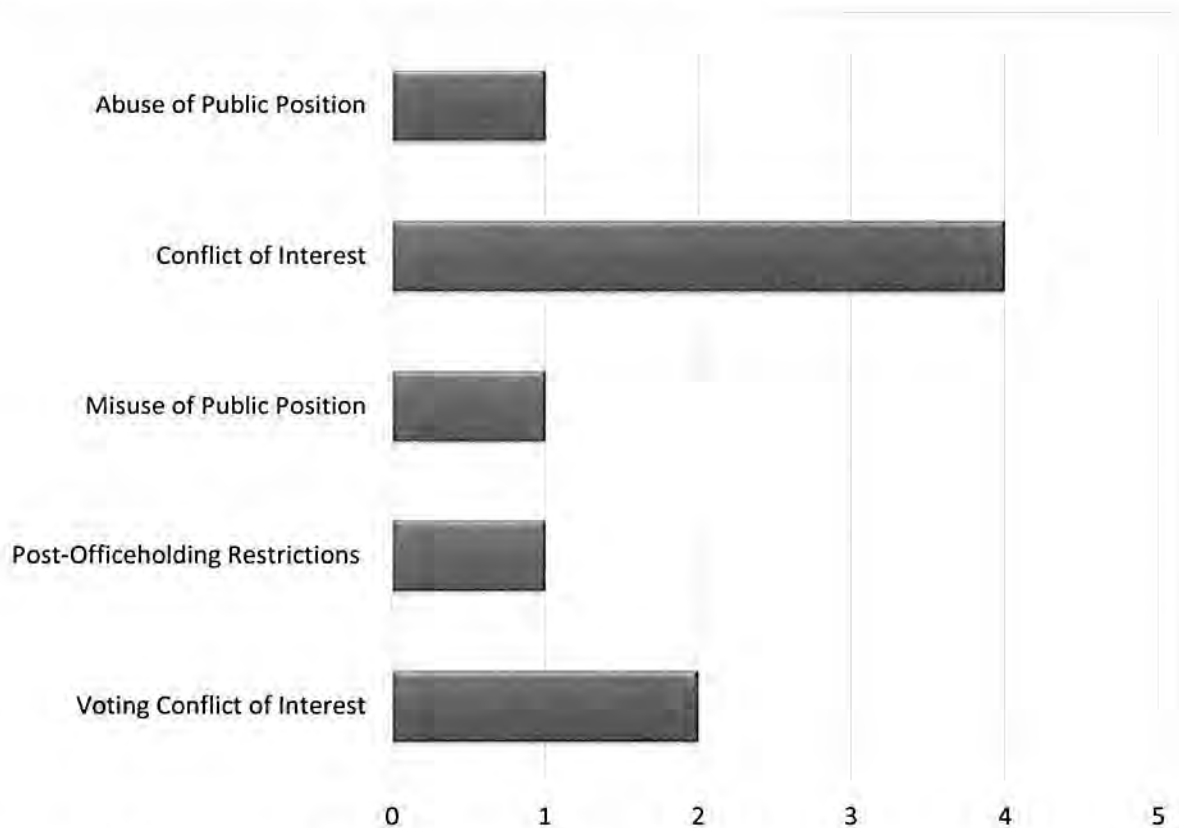
Total number of registered executive branch lobbyists	1,481
Total number of executive branch lobbying firms	317
Total number of principals represented by the lobbyists	12,312
Percent <i>increase</i> in number of principals from 2021 to 2022	1.39%
Total number of firms delinquent in filing their compensation reports	
October - December 2021	19
<i>(Filing deadline for fourth quarter 2021 was February 14, 2022)</i>	
January - March 2022	20
April - June 2022	10
July - September 2022	13
Total number of firms assessed a fine in 2022	
Fourth quarter 2021	13
<i>(Filing deadline for fourth quarter 2021 was February 14, 2022)</i>	
First quarter 2022	12
Second quarter 2022	8
Third quarter 2022	11
Number of appeals considered by the Commission in 2022	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 2021, the Commission on Ethics issued five advisory opinions, bringing the total issued since 1974 to 2,694.

Three of the opinions rendered in 2022 were in response to requests by local officers, employees, or local government attorneys, and another two 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 2022. 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>.

Training & Education

Pursuant to Section 112.3142, Florida Statutes, Florida's Constitutional officers (including the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools), elected municipal officers, and CRA members are required to complete four hours of ethics training each calendar year.

The training must include:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)
- Public Records
- Public Meetings (Sunshine Law)

The requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered. The Commission has a training page on its website that features the latest administrative rules and ethics opinions on the mandatory training requirements. From that page, individuals can access free training audio and video of the Commission's staff, as well as a listing of live training opportunities conducted by staff at various locations around the state.

Speaking Engagements

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. As personnel and resources are available, members of the Commission's staff conduct training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2022:

- Judges of Compensation Claims
- Florida Department of Revenue's Property Tax Oversight Courses
- Department of Revenue's Duties & Responsibilities of Florida's Tax Collectors
- Florida Bar online Education Law workshop
- Florida Public Pension Trustees Association's Winter Conference
- The Florida Bar's Annual Sunshine Law, Public Records, & Ethics Conference
- Florida Court Clerks & Comptrollers Winter Conference
- The Florida Bar's City, County, & Local Board Certification Review Course
- Florida Justice Administrative Commission Conference
- Florida Department of Health Attorneys
- 2022 Conference of County Court Judges
- Excambia County senior staff
- Florida School Board Attorneys Association
- Broward County School Board
- Florida Association of Counties
- Florida Senate

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. Additionally the Commission was tasked with the development of an electronic filing system. The phased launch began January 1, 2022 with Form 6 filers. The system was paused in June and relaunched January 1, 2023. Form 1 filers will file electronically beginning January 1, 2024. The Commission has invested significant staff hours over the past year to the details of the development and launch of the system and the Commission expects significant workload increases with the rollout of the program.

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, 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 1 of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names of, and positions held by, persons who fail to file by the end of the grace period.

Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2021, 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

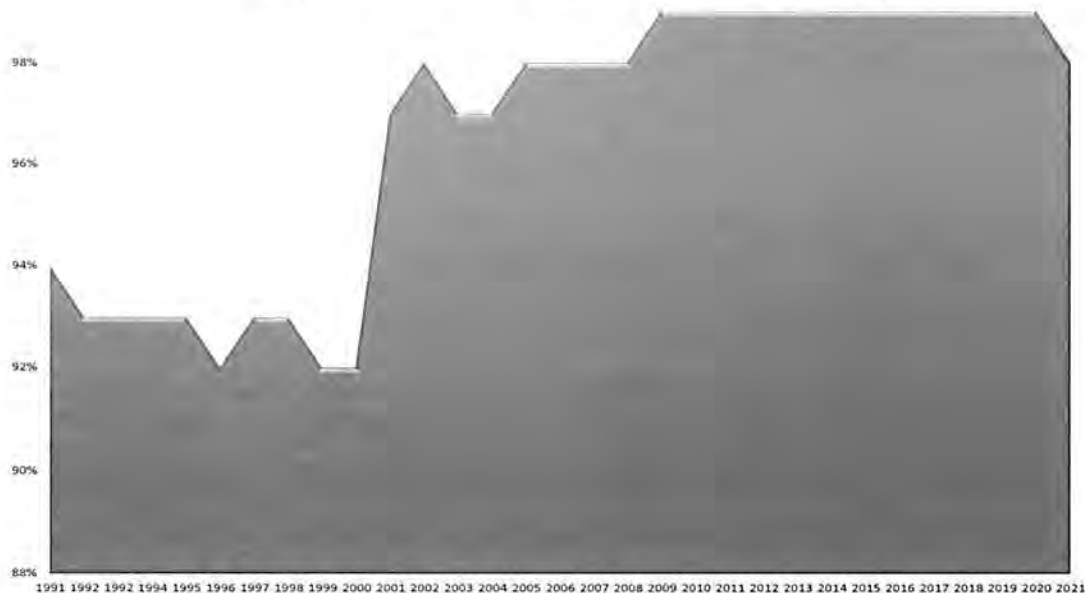
There was more than a 98% overall compliance with the annual reporting requirement in 2022. On the local level, 20 counties reported 100% compliance in 2022. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent, and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1992 to present.

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Alachua	5	280	285	98.2%
Baker	3	45	48	93.8%
Bay	1	269	270	99.6%
Bradford	0	63	63	100.0%
Brevard	14	772	786	98.2%
Broward	84	2309	2393	96.5%
Calhoun	0	30	30	100.0%
Charlotte	1	163	164	99.4%
Citrus	0	110	110	100.0%
Clay	1	219	220	99.5%
Collier	0	389	389	100.0%
Columbia	2	78	80	97.5%
Miami-Dade	147	2378	2525	94.2%
Desoto	2	67	69	97.1%
Dixie	1	34	35	97.1%
Duval	1	382	383	99.7%
Escambia	4	171	175	97.7%
Flagler	2	183	185	98.9%
Franklin	1	64	65	98.5%
Gadsden	6	92	98	93.9%
Gilchrist	0	40	40	100.0%
Glades	0	38	38	100.0%
Gulf	0	53	53	100.0%
Hamilton	1	47	48	97.9%
Hardee	2	54	56	96.4%
Hendry	0	96	96	100.0%
Hernando	1	87	88	98.9%
Highlands	5	146	151	96.7%
Hillsborough	76	1322	1398	94.6%
Holmes	0	69	69	100.0%
Indian River	0	237	237	100.0%
Jackson	2	176	178	98.9%
Jefferson	1	44	45	97.8%
Lafayette	0	19	19	100.0%
Lake	6	477	483	98.8%
Lee	25	1007	1032	97.6%
Leon	3	234	237	98.7%
Levy	1	122	123	99.2%
Liberty	0	29	29	100.0%
Madison	2	66	68	97.1%

2022 Financial Disclosure Compliance Figures				
County	Delinquent Filers	Timely Filers	Total Filers	Compliance Rate
Manatee	10	501	511	98.0%
Marion	7	220	227	96.9%
Martin	0	250	250	100.0%
Monroe	0	205	205	100.0%
Nassau	3	189	192	98.4%
Okaloosa	5	323	328	98.5%
Okeechobee	0	79	79	100.0%
Orange	35	858	893	96.1%
Osceola	0	250	250	100.0%
Palm Beach	86	1562	1648	94.8%
Pasco	4	469	473	99.2%
Pinellas	10	1215	1225	99.2%
Polk	36	624	660	94.5%
Putnam	2	131	133	98.5%
Saint Johns	1	352	353	99.7%
Saint Lucie	2	283	285	99.3%
Santa Rosa	1	183	184	99.5%
Sarasota	2	380	382	99.5%
Seminole	12	411	423	97.2%
Sumter	2	152	154	98.7%
Suwannee	0	56	56	100.0%
Taylor	3	49	52	94.2%
Union	0	38	38	100.0%
Volusia	5	647	652	99.2%
Wakulla	0	62	62	100.0%
Walton	4	126	130	96.9%
Washington	0	61	61	100.0%
TOTAL-FORM 1 LOCAL	630	22137	22767	97.2%
TOTAL-FORM 1 STATE	79	12822	12901	99.4%
TOTAL-FORM 6 (NOT JUDGES)	6	1372	1378	99.6%
TOTAL-JUDGES (ACTIVE)	0	1022	1022	100.0%
TOTAL-JUDGES (SENIOR)	0	189	189	100.0%
OVERALL TOTAL	715	37542	38257	98.1%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1992 - 2022)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1992	37,631	2,564	93%
1992	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%
2013	37,890	309	99%
2014	38,181	249	99%
2015	38,613	291	99%
2016	38,824	289	99%
2017	38,909	314	99%
2018	39,402	326	99%
2019	39,433	412	99%
2020	38,792	456	99%
2021	38,519	604	98%
2022	38,257	715	98%

Financial Disclosure Compliance History



Summary of Local Level Form 1 Compliance

- Total compliance rate for Form 1 Statement of Financial Interests was 97.2%. As in previous years, disclosure staff sent reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. Commission staff also telephoned filers to remind them to file. These reminders are not required by statute, but are part of the Commission's additional efforts to encourage compliance.
- Of the 22,767 individuals required to file, 630 were delinquent.
- 20 counties reported 100% compliance in 2022.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99.4%. Postcard and telephone reminders also were used with these filers.
- Of the 12,901 individuals required to file, only 79 were delinquent.

Summary of Full Disclosure (Form 6) Compliance

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees other than judges was 99.6%. Postcard and telephone reminders also were used with these filers.
- There were only 6 delinquencies out of a total of 1,378 individuals (excluding judges) required to file Form 6.

Summary of 2022 Overall Compliance

- Out of the 38,257 individuals who were non-judicial financial disclosure filers, there were only 715 (approximately 2%) officers and employees who failed to do so.

Financial Disclosure Fine Appeals

Individuals 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 day 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 either transmitted to private collection agencies for collection, or the Commission attempts to make collections.

The following reflects the Commission's actions taken on appeals of assessed fines at its regularly scheduled meetings held during calendar year 2022. (The fines for late filings in 2022 recently have been assessed and will be reported in 2023).

Financial Disclosure Appeals 2022 Actions of Commission on Ethics					
COMMISSION MEETING	WAIVED	REDUCED	DENIED	DEFAULT ORDERS APPROVED	UNCOLLECTIBLE
January 21, 2022	6	0	0	0	0
March 4, 2022	0	0	0	0	0
April 22, 2022	5	0	0	0	0
June 3, 2022	1	0	0	0	0
July 22, 2022	4	0	2	0	0
September 9, 2022	0	0	0	0	0
October 21, 2022	0	0	0	0	2
December 2, 2022	1	0	0	0	0

2022 Legislative Recommendations

Conflicts of Interest

Section 112.313(7)(a), Florida Statutes, prohibits a public officer or employee from having a contractual relationship with a company doing business with the official's own agency. So City Councilman A cannot contract with Business B, if Business B is doing business with his City. But if Councilman A creates "A, Inc.," that corporation can do business with Business B without violating the law, even if "A, Inc.," is solely owned by Councilman A. The Commission has seen this as thwarting the underlying goal of the law, which is to prevent officials from having relationships with companies doing business with their agencies.

Voting Conflicts Law

Under current law, Section 112.3143, Florida Statutes, local elected officials can participate in the discussion of a measure in which they have a conflict without revealing the existence of that conflict until the vote is actually taken. This means the official can make every effort to persuade his or her colleagues without telling them (and the public) about the conflict. Appointed officials, in contrast, must declare their conflict before participating in the discussion of the measure. Elected officials should have to adhere to the same standard.

In addition, state officers only have to abstain if the measure helps or hurts them personally. Unlike local officials, they do not have to abstain when the measure benefits their employer, relative, etc.

The Commission has expressed that the voting conflict standard should be the same for everyone, whether the official is appointed or elected and whether the official is a state or local official; and that the exemption from using the Commission's conflict disclosure form applicable only to Legislators be eliminated.

Enhanced Financial Disclosure for Local Elected Officials

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

Dismissal of Complaints Alleging de minimis Financial Disclosure Violations

Section 112.324(11), Florida Statutes, currently allows the Commission to dismiss complaints alleging de minimis violations attributable to inadvertent or unintentional error, except for financial disclosure complaints. The Commission believes the statute should be amended to allow for dismissal of financial disclosure complaints, too.

Dismissal of Lobbying Firm Audit matters

Section 112.324(12), Florida Statutes, which allows the Commission to dismiss complaints when it finds that the public interest would not be served by proceeding further on the complaint, currently is not available for dismissal of lobbying firm audit matters under Section 112.3215, Florida Statutes, even when circumstances justify such a dismissal. The Commission recommends amending Section 112.324(12) to allow for dismissal of audit matters. The Commission also recommends Section 112.3215(9) be amended to allow the Commission to find probable cause, but then opt to take no further action.

Increase of Civil Penalties

Currently, Section 112.317, Florida Statutes, provides for a maximum fine of \$10,000 for a violation of the ethics laws. This amount has not been increased since 1994. Due to inflation and seriousness of ethics offenses, the Commission believes the maximum fine amount should be increased.

Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

Ethics Training

Pursuant to the provisions of Section 112.3142(2)(e), Florida Statutes, a constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which their term of office began. In 2019, the law was amended to require commissioners of community redevelopment agencies to complete 4 hours of ethics training. However, they were not included in the new office or new term of office exemption language contained in Section 112.3142(2)(e), Florida Statutes. As a result, CRA board members are required to take four hours of training regardless of when they take office, even if their start date is near the very end of the year. The Commission believes CRA board members should be added to the exemption language appearing in Section 112.3142(2)(e), Florida Statutes.

Representing Clients Before One's Own Board

The Commission has opinions as early as 1977 and even since 2020 interpreting Section 112.313(7), Florida Statutes, to say, in essence, that if a person serves on a board, he cannot represent clients before that board, and neither can other members of his professional firm. This interpretation is similar to the Rules of Professional Conduct of the Florida Bar, which impute the conflict of one lawyer to all lawyers in the firm. The Commission views this as an important public protection, and opposes any relaxation of this standard.

Gifts, Expenditures, or Compensation from Lobbyists

The Commission opposed HB 1435 and SB 1490 in the 2020 session. These bills, which did not pass, would have allowed donations from lobbyists or their principals, unlimited in amount, to certain public employees and appointed public officials if the donations were used toward costs associated with serious injury, disease, or illness of the employee, appointed officer, or his or her child. Such a vast exemption to the gift and expenditure laws, aimed at public officials when they are most vulnerable to undue influence from special interests, would seriously undermine effective restrictions and prohibitions which have protected the public trust for many years. The Commission continues to oppose an unlimited exemption to the gift and expenditure laws.

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official of the
Town of Briny Breezes, *et al.*,

Plaintiffs,
vs.

Case No. 1:24-cv-20604-MD

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics, *et al.*,

Defendants.

REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs file this Reply in support of their Motion for Preliminary Injunction [D.E. 10] (the “Motion”), as follows:

I. PLAINTIFFS ARE SUBSTANTIALLY LIKELY TO SUCCEED ON THE MERITS

Plaintiffs are substantially likely to prevail on their claim that SB 774’s statutory Form 6 requirement is an unlawful abridgment of their free speech in violation of the First Amendment because Defendants have failed to satisfy their burden of demonstrating that the content-based, non-commercial speech regulation can withstand strict scrutiny.¹ Defendants have not established that the law is narrowly tailored and the least restrictive means of achieving the compelling governmental interests at stake. Instead, in their Response [D.E. 16], they assert that a slightly lower level of scrutiny, “exacting scrutiny,” should apply in this case, and that Plaintiffs have not satisfied this level of review because SB 774 bears a substantial relation to the government interests at stake. Defendants, however, have not shown that the Court should deviate from the strict scrutiny standard of review that typically applies to non-commercial, content-based speech regulations. Moreover, even if the Court were to apply exacting scrutiny, Plaintiffs would still

¹ This case is but one of several First Amendment violations that have recently plagued Florida’s citizenry. “Of late, it has happened so frequently, some might say you can set your clock by it.” *Wood v. Fla. Dep’t of Educ.*, 2024 WL 1536749, at *1 & n.1 (N.D. Fla. Apr. 9, 2024) (reciting recent Eleventh Circuit cases that have granted a preliminary injunction on the grounds of a First Amendment violation).

likely prevail on the merits as Defendants (who, even under exacting scrutiny, bear the burden of disproving a constitutional violation)² have not presented evidence to satisfy that standard.

A. Strict Scrutiny is the Proper Level of Review in this Case.

Plaintiffs rely on Supreme Court cases that have determined that strict scrutiny applies in evaluating whether a law that is non-commercial, content-based, and compels speech passes constitutional muster: *Riley v. Nat'l Fed. of the Blind of N. Car., Inc.*, 487 U.S. 781 (1988), *Nat'l Institute of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018) (“*NIFLA*”), and *Reed v. Town of Gilbert*, 576 U.S. 155 (2015); *see also Otto v. City of Boca Raton*, 981 F.3d 854, 868 n.6 (11th Cir. 2020); [D.E. 10 at 9–13]. Defendants’ attempt to distinguish these cases misses the mark.

As to *Riley*, Defendants suggest that the Supreme Court there applied exacting scrutiny. This is incorrect. Although the *Riley* Court labelled its form of constitutional scrutiny as “exacting scrutiny,” its substantive analysis of the law in question involved, in reality, strict scrutiny analysis, requiring “that government not dictate the content of speech absent compelling necessity, and then, only by means precisely tailored.” 487 U.S. at 800.³ Thus, the test applied in *Riley* has repeatedly been referred to as “strict scrutiny.” *See NIFLA*, 585 U.S. 756 (noting that the *Riley* Court “applied strict scrutiny to content-based laws that regulate . . . professional fundraisers”); *McConnell v. FEC*, 540 U.S. 93, 140 (2003) (observing that *Riley* treated “solicitation restriction that required fundraisers to disclose particular information as a content-based regulation subject to strict scrutiny . . .”). Even the dissent in *Riley* referred to the scrutiny applied by the majority of the Court as “strict scrutiny.” 487 U.S. at 810.

² Defendants incorrectly argue that under exacting scrutiny Plaintiffs bear the burden of demonstrating that SB 774 does not meet the standard. [D.E. 16 at 3]. Similar to a preliminary injunction motion that applies strict scrutiny, [D.E. 10 at 14], Defendants still bear the burden of proving that SB 774 satisfies exacting scrutiny. *See Sindicato Puertorriqueno de Trabajadores v. Fortuno*, 699 F.3d 1, 12 n.8 (1st Cir. 2012) (observing that at the preliminary injunction stage the government bears the burden of proving that the law survives exacting scrutiny); *see also Galassini v. Town of Fountain Hills*, 2011 WL 5244960, at *5 (D. Ariz. Nov. 3, 2011).

³ The labels given by courts for the appropriate level of scrutiny have, at times, been admittedly nebulous. “In some cases, the Supreme Court has referred to ‘exacting scrutiny’ while describing the standard for evaluating content-based regulation of speech. However, those opinions use language associated with the strict scrutiny standard.” *In re Ga. Senate Bill 202*, 622 F. Supp. 3d 1312, n.17 (N.D. Ga. 2022); *United States v. Alvarez*, 567 U.S. 709, 724–29 (2012) (substantively applying strict scrutiny but referring to the level of review as “exacting scrutiny”).

For *NIFLA*, Defendants urge that this Court assign little significance to the case because “[t]he level of scrutiny [was] not of primary concern” as the Court concluded that the speech regulation at issue could “not even survive intermediate scrutiny.” [D.E. 16 at 6]. Defendants conveniently omit the First Amendment doctrinal statement that preceded the Court’s conclusion: “this Court has applied strict scrutiny to content-based laws that regulate the non-commercial speech of lawyers, professional fundraisers, and organizations that provide specialized advice about international law.” 585 U.S. at 771 (collecting cases). Accordingly, *NIFLA*’s dictate that strict scrutiny apply to content-based, non-commercial speech regulations is applicable here.

As to *Town of Gilbert*, Defendants correctly point out the case involved sign code regulation rather than financial disclosures, [D.E. 16 at 6–7], but fail to address the thrust of the decision—that regulation of speech based on content, regardless of the degree of such regulation, is subject to strict scrutiny, [see D.E. 10 at 10].

In short, the Supreme Court decisions in *Riley*, *NIFLA*, and *Town of Gilbert* (and the Eleventh Circuit decision in *Otto*) clearly hold that strict scrutiny applies to claims which challenge laws that compel content-based, non-commercial speech. Here, Defendants do not dispute that Form 6 compels content-based, non-commercial speech. [Compare D.E. 10 at 13 n.17, with D.E. 16 at 3–7]; see also COE Depo.⁴ 88:6–10, 90:7–9 (conceding that if an elected official stated on Form 6 that “my net worth as of December 31, 2023 was none of your business,” it would not be in compliance with the law); *id.* 99:6–11, 110:17–21 (same as to aggregate value of household goods and amount of primary income). Thus, strict scrutiny applies.

Defendants urge the Court to instead apply “exacting scrutiny” relying on cases outside of the compelled speech context. [D.E. 16 at 4 (citing *Am. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373 (2021) (“*AFP*”); *John Doe No. 1 v. Reed*, 561 U.S. 186 (2010); *Buckley v. Valeo*, 424 U.S. 1 (1976) (*per curiam*); *NAACP v. State of Ala. ex rel. Patterson*, 357 U.S. 449 (1958))]. These cases have no application here.

NAACP, *Buckley*, *Doe*, and *AFP* are not compelled speech cases; instead, in all four cases, the only claims made were for violation of the freedom of association. In *NAACP*, the NAACP

⁴ On April 10, 2024, Kerrie Stillman, the executive director of the Florida Commission on Ethics (COE), was deposed as the corporate representative of Defendants. The transcript of Ms. Stillman’s deposition along with the exhibits referenced thereto are being filed with the Court contemporaneous with this Reply. Citations to the deposition shall be COE Depo. ____.

argued that Alabama’s compelled disclosure of its membership lists will “abridge the rights of its rank-and-file members to engage in lawful association in support of their common beliefs.” 357 U.S. at 460. Determining that the freedom to associate is an implicit unenumerated right, the Supreme Court proclaimed that the government’s actions were subject to the “closest scrutiny” and that the government had the burden to prove that its interest was “compelling.” *Id.* at 460–61, 463. In so stating, the Court held that Alabama “has fallen short of showing a controlling justification for the deterrent effect on the free enjoyment of the right to associate which disclosure of membership lists is likely to have.” *Id.* at 466.

In *Buckley*, litigants challenged the Federal Election Campaign Act’s requirement that candidates and political committees disclose and report campaign contributions as violating their freedom of association. 424 U.S. at 62. Citing *NAACP*, the *Buckley* Court stated, “[i]n several situations concerning the electoral process, the principle has been developed that restrictions on access to the electoral process must survive exacting scrutiny.” *Id.* at 93–94. Notably, even in applying exacting scrutiny, the Court considered whether the disclosure requirements were narrowly tailored and were the least restrictive means of furthering the governmental interests. *Id.* at 68, 81.

In *Doe*, the sponsor of a petition and several signers sought to enjoin the secretary of state from publicly releasing any documents that would reveal the names and contact information of people who signed the petition, alleging that the Washington Public Records law was unconstitutional as applied to referendum petitions. 561 U.S. at 193. Importantly, the freedom of association challenge in that case dealt with the dissemination of the names and contact information by the Attorney General. Unlike here, where Plaintiffs are challenging a law requiring them to compute and compile private financial information which will then be published to the world, the *Doe* plaintiffs had challenged the dissemination of information that had been provided regarding the plaintiffs’ affiliations with a particular group.

The most recent freedom of association decision was *AFP*. There, several charities challenged on freedom of association grounds a California law that required them to disclose the names and addresses of major donors over \$5,000. 141 S. Ct. at 2379–81. The information was supposed to remain confidential, but the trial court found that there had been many leaks and so

California could not ensure the confidentiality of donors' information.⁵ *Id.* at 2381. The plaintiffs asserted that their freedom of association had been unlawfully infringed when the law eliminated donors' anonymity, thereby making donors less likely to contribute and subject them to the risk of reprisals. *Id.* at 2380.

Critically, the Justices in *AFP* could not form a majority agreement as to the applicable standard of scrutiny. One justice, Justice Thomas, indicated strict scrutiny should apply and that it was not satisfied, *id.* at 2390; two (Justices Alito and Gorsuch) expressly declined to decide whether strict or exacting scrutiny applied because they found that neither would be satisfied, *id.* at 2393; three (Chief Justice Roberts, and Justices Kavanaugh and Barrett) found that exacting scrutiny applied and was not satisfied, *id.* at 2383; and the remaining three (Justices Kagan, Sotomayor, and Breyer) dissented, stating that a flexible level of scrutiny should apply depending upon the burden on First Amendment rights and that the standard applicable in that case was satisfied, *id.* at 2396. Thus, in *AFP*, a majority of Justices could not concur on what form of constitutional scrutiny would apply, although a majority did find that the standard would *at least* be what was labeled as "exacting scrutiny," if not strict scrutiny.

The Supreme Court's stance in *NAACP*, *Buckley*, *Doe*, and *AFP* with respect to the freedom of association does not negate or otherwise diminish the applicability of *Riley*, *NIFLA*, and *Town of Gilbert* (and *Otto*) to the compelled speech claim here. What's more, the Supreme Court has not expressed any proclivity to extend the narrow circumstances of the freedom of association cases to compelled free speech claims. Thus, a strict scrutiny standard of review ought to apply.

B. Plaintiffs are Likely to Succeed on the Merits Under Either Form of Scrutiny.

The differences between strict scrutiny (urged by Plaintiffs) and exacting scrutiny (urged by Defendants) are marginal, at best. To demonstrate strict scrutiny, the government must prove that the speech regulation was narrowly tailored and the least restrictive means to achieve a compelling governmental interest. To satisfy the *AFP* exacting scrutiny standard, the government must show that there is "a substantial relation between the disclosure requirement and a sufficiently important governmental interest." 141 S. Ct. at 2383 (citing *Doe*, 561 U.S. at 196). The Court did not define what would be a "sufficiently important governmental interest." Rather, it appears that

⁵ In contrast, the Form 6 compelled statements will automatically be available on the Internet for everyone's viewing pleasure. COE Depo. 27:3–8.

the level of important governmental interest would depend upon the burden on First Amendment rights: “To withstand this scrutiny, the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *Id.* Thus, depending upon the level of burden on the implicit right to association, the government interest may need to be (or be close to) the compelling interest required under strict scrutiny. Naturally, the exacting standard then requires a tighter fit than merely a substantial relationship:

A substantial relation is necessary *but not sufficient* to ensure that the government adequately considers the potential for First Amendment harms before requiring that organizations reveal sensitive information about their members and supporters. Where exacting scrutiny applies, the challenged requirement must be *narrowly tailored* to the interest it promotes, even if it is not the least restrictive means of achieving that end.

Id. at 2384 (emphasis added). Thus, both a “substantial relation” and “narrow tailoring” are necessary to satisfy exacting scrutiny. Although the regulation does not necessarily have to be the *least* restrictive means, the government is *still obliged to consider less intrusive alternatives, nonetheless*. *Id.* at 2386 (stating that the government “is not free to enforce any disclosure regime that furthers its interests. It must instead demonstrate its need for universal production *in light of any less intrusive alternatives*” (citation omitted) (emphasis added)); *see also Buckley*, 424 U.S. at 68 (pondering whether the law at issue was the least restrictive means of accomplishing the governmental interests at stake). Overall, the exacting standard, which requires a “sufficiently important governmental interest,” a “substantial relation,” “narrow tailoring,” and consideration of “less intrusive alternatives,” is a slightly less demanding standard than strict scrutiny. *Am. for Prosperity*, 141 S. Ct. at 2383–84, 2386.

Under either standard, Defendants have failed to demonstrate that SB 774 passes constitutional muster. The interest sought to be furthered by financial disclosure is to protect against the abuse of public trust. The origin of the “full and public disclosure” required by Form 6 is Article II, Section 8, of the Florida Constitution: “A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right: (a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.” *Id.* Defendants, in fact, confirmed that “the overriding mission of the [COE] is to protect against the abuse of the public trust.” COE Depo. 14:3–21. Accordingly, Form 6 “is intended to assure the right against abuse of the public trust.” *Id.* at 15:18–22; *see also id.* at 44:4–8

(acknowledging that “the reason that public officers are required to publicly disclose their financial interest is to avoid conflicts of interest”); *see also* § 112.3144(11)(c), Fla. Stat. Although the primary interest in financial disclosure is to protect against abuse of the public trust by avoiding conflict of interest, financial disclosure has other impacts (such as bolstering confidence in government, reminding elected officials of ethics requirements, and educating the public), although these other interests are mere byproducts of the primary interest served by financial disclosure laws.⁶ COE Depo. 43–44. For purposes of this motion, Plaintiffs do not dispute that protecting against the abuse of the public trust is a compelling interest (under strict scrutiny) or a sufficiently important interest (under exacting scrutiny).

Thus, the key issue is the relationship (or lack thereof) of that interest to the requirement in SB 774 that municipal elected officials file a Form 6 rather than a Form 1. Under strict scrutiny, Defendants would need to demonstrate that the requirement is narrowly tailored *and* the least restrictive means of protecting against the abuse of public trust. Under the *AFP* “exacting scrutiny” standard, Defendants would need to show that an elected municipal official’s filing of a Form 6 is substantially related and narrowly tailored to the protection against the abuse of public trust, and that they considered the enhanced financial disclosure in light of any “less intrusive alternatives.” 141 S. Ct. at 2383–84, 2386. Defendants have not justified the law under either standard, and their arguments to the contrary are to no avail.

First, Defendants posit that “there has been a steady, upward trend of the number of ethics complaints against elected officials received by COE since 2017, including against municipal elected officials.” [D.E. 16 at 7]. That is simply untrue, based upon the actual of ethics complaints in the five years before the enactment of SB 774:

<u>Year</u>	<u>Total Complaints</u>	<u>Municipal Complaints</u>
2022	223	53
2021	238	72
2020	243	62
2019	231	84
2018	211	68

⁶ For First Amendment scrutiny, the Court needs to determine the interest allegedly served by the challenged law. The government must articulate that interest with *specificity* (here, protection from abuse of the public trust), rather than make abstract statements. *See Complete Angler, LLC v. City of Clearwater*, 607 F. Supp. 2d 1326, 1334 (M.D. Fla. 2009); *Awad v. Ziriak*, 670 F.3d 1111, 1130 (10th Cir. 2012).

COE Depo. 120:11–137:3; COE Depo. Exs. I–M.⁷ Rather than show a steady upward trend in total complaints, the total number of complaints had been in the same range each year, and the total complaints in 2022 were actually less than in any of the prior three years. COE Depo. 136:7–25. And for complaints against municipal elected officials, the number of complaints in 2022 was *lower* than in any of the prior four years. *Id.* 137:1–3.

Second, Defendants assert that there are more complaints filed against municipal elected officials than any other group. [D.E. 16 at 7]. Yet again, COE’s public data does not support this claim. Defendants refer to the number and percentage of complaints reported in the Annual Reports that were directed to each category of officials, including municipal elected officials. For example, in 2022, 53 complaints (23.8% of all complaints) were directed at municipal elected officials, 12 complaints (5.4% of all complaints) were directed at state elected officials, and 36 complaints (16.1% of all complaints) were directed at county elected officials. [D.E. 16 at 6–7]; COE Depo. 120:17–122:2, 128:7–131:7; COE Depo. Ex. M at 9. The fallacy in this approach is that the pool of officials in each category is not the same. For instance, if there were 2,000 municipal elected officials but only 500 county elected officials, it would be expected that there would be four times the number of complaints against municipal officials. This is especially poignant in light of the fact that Florida has over 400 municipalities (with roughly 2,600 municipal elected officials), as compared to only 67 counties. COE Depo. 72:15–73:5, 121:15–18, 122:8–23. It stands to reason, therefore, that the pool of county elected officials is *much smaller* than the pool of municipal elected officials, and it would be expected that the number of complaints against municipal elected officials would be much larger. *Id.* at 122:12–16. Defendants acknowledged, however, that they have never isolated each category of elected official in analyzing whether the percentage of members of a particular category have had complaints filed than other categories. *See id.* at 123:21–124:18.

Third, Defendants point to the heightened nature of a Form 6 disclosure as “provid[ing] context to the disclosure,” arguing that elected officials would apparently be more or less susceptible to abusing the public trust depending upon that official’s relative amounts of net worth, income, and assets. [D.E. 16 at 10]. But in her subsequent deposition testimony, Defendants’

⁷ The numbers of complaints are included in COE’s Annual Report each year. The Annual Reports are issued shortly after the end of each year and provided to the Florida Legislature. COE Depo. 95:9–15, 118:13–120:1, 137:4–20.

corporate representative admitted that Defendants had not partaken in any sort of analysis or empirical studies that compares the total number of ethics complaints with the level of net worth, stating that Defendants have not harped on whether there is a correlation between net worth and likelihood to commit ethics violations. COE Depo. 92:9–23; *see also id.* 92:24–93:1 (acknowledging that “whether you’re rich or poor you could be honest or dishonest”).

And *fourth*, Defendants imagine some narrow hypothetical scenarios where a Form 6 would convey information that could be important that would not otherwise be revealed by a Form 1. [D.E. 16 at 11]. But, as the Motion underscores, supposition and conjecture has no evidentiary value in proving that the law is narrowly tailored. [D.E. 10 at 15 (citing *United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 822 (2000) (emphasizing that the “[g]overnment must present more than anecdote and supposition”)]. Defendants have not pointed to “actual problems” where a municipal elected official had an ethics violation that would have been disclosed through a Form 6 but not a Form 1. *See Playboy Ent. Grp.*, 529 U.S. at 822.

All told, Defendants have not demonstrated any relationship, let alone a substantial relationship, between the interest of protecting against the abuse of the public trust and SB 774’s requirement that all elected municipal officials state the *amount* of their net worth, *amount* of income, *value* of household goods, *value* of every asset, and *amount* of every liability. Specifically, the record shows that:

- Neither the Florida Legislature nor COE relied upon any expert studies, empirical examples, analysis, or research that would justify SB 774. COE Depo. 92:9–13, 94:13–95:22, 159:3–8; [D.E. 10 at 4–8]. Nor did COE and the Florida Legislature discuss disclosure forms utilized by other states prior to enacted SB 774. COE Depo. 66:8–67:11. COE and the Florida Legislature, moreover, did not consider adopting a disclosure form in between a Form 1 and a Form 6 before enacting SB 774. [See D.E. 10 at 4–8].
- COE did not rely on any valid factual findings in recommending that municipal elected officials file a Form 6. COE Depo. 120:11–137:3.
- COE does not look at financial disclosure forms when they are filed. COE Depo. 26:12–15.
- COE corporate representative could not articulate a rational justification for why certain elected officials who handle large sums of money must file a Form 6 as compared to other elected officials who also deal with large financial transaction (such as persons elected to a community development district or a water management district) that continue to file a Form 1. COE Depo. 73:11–86:3.
- The amount of net worth, income, household goods, assets, and liabilities are not elements of any ethics violation. COE Depo. 95:23–96:4, 97:22–98:1, 100:9–13, 108:2–8, 150:1–5, 150:23–151:13, 152:13–155:20.

Because Defendants did not consider less restrictive alternatives or even demonstrate that SB 774 is substantially related to the prevention of the abuse of public trust, they have failed to carry their burden of proving under either exacting or strict scrutiny that SB 774 does not violate Plaintiffs' First Amendment rights.

II. PLAINTIFFS HAVE MET THE REMAINING ELEMENTS OF AN INJUNCTION

Defendants' arguments as to the other preliminary injunction criterion can be summarily rejected. As to the threat of an irreparable injury, Defendants assert that the threatened loss of First Amendment freedoms does not constitute a "threat of injury." [D.E. 16 at 12]. But, as explained in the Motion [D.E. 10 at 19] (and unrebutted in the Response), "the loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Regarding the inquiry of whether an injunction of SB 774 will disserve the public interest, Defendants, without citing any authority, argue that the entry of injunction would disrupt the status quo because certain municipal elected officials have already filed a Form 6 prior to the July 1, 2024 deadline (many because it was necessary to qualify for reelection). [D.E. 16 at 12; COE Depo. 168:8–169:9]. Defendants' rationale would turn well-established precedent on the enjoinder of constitutional violations on its head by urging that SB 774, despite not compelling speech until July 1, 2024, should be afforded some unbridled deference because the law is now the "status quo." But the true "status quo" would really be the preceding fifty years in which municipal elected officials only had to file Form 1, not the six months between SB 774's enactment date (January 1, 2024) and effective date (July 1, 2024). Regardless, Defendants do not mention, let alone attempt to distinguish, the long line of cases that hold that the "public interest" requirement is automatically satisfied whenever a law is found likely to be unconstitutional because "neither the government nor the public has any legitimate interest in enforcing an unconstitutional [law]." *LaCroix v. Town of Ft. Myers Beach*, 38 F.4th 941, 955 (11th Cir. 2022).

As its final argument, Defendants recite the general principle that the Court has broad discretion in deciding whether to require the posting of an injunction bond and, with no explanation as to a basis or an amount, implores that the Court "require Plaintiffs to post an injunction bond." [D.E. 16 at 14]. Once again, Defendants have ignored the chain of cases that waived the bond requirement where the injunction was imposed against the continued enforcement of an unconstitutional law. *See Vigue v. Shoar*, 2019 WL 1993551, *2–3 (M.D. Fla. 2019). In addition,

Defendants would suffer not financial damage if the injunction was later found to have been improvidently granted.⁸

CONCLUSION

For the reasons stated above and set forth in the Motion, Plaintiffs respectfully request that the Court grant the Motion.

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⁸ In addition, in light of the fact that SB 774 compels all municipal elected officials throughout Florida to file a Form 6 and that the unconstitutionality of the law is not dependent on facts that are unique to Plaintiffs (and that all elected municipal officials in Florida are equally impacted by, and therefore would have standing to challenge, the law), the injunction should apply statewide to enjoin Defendants from forcing *any* elected municipal officials to file a Form 6. *See Rodgers v. Bryant*, 942 F.3d 451, 457–58 (8th Cir. 2019) (“Arkansas argues that the district court ‘gave no rationale for enjoining enforcement as to all beggars in [Arkansas].’ However, the district court specifically found that: (1) Arkansas’s anti-loitering law is ‘plainly unconstitutional’; (2) Arkansas’s public interest ‘is best served by preventing governmental intrusions into the rights protected under the Federal Constitution’; and (3) ‘preventing [Arkansas] from enforcing a law that is plainly unconstitutional’ would cause ‘no injury.’ These findings were sufficient to justify the district court’s imposition of a statewide preliminary injunction, particularly because they in no way depended on facts unique to Rodgers and Dilbeck.” (second and third alteration in original) (citations omitted)).

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official of the
Town of Briny Breezes, *et al.*,

Plaintiffs,
vs.

Case No. 1:24-cv-20604-MD

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics, *et al.*,

Defendants.

PLAINTIFFS' RESPONSE TO MOTION TO DISMISS

Plaintiffs respond to the Motion to Dismiss filed by Defendants on April 1, 2024, [D.E. 15], as follows:

INTRODUCTION

This is an action by *over 150 elected municipal officials* challenging a recently enacted law (“SB 774”) that compels all elected municipal officials to make very specific statements, in writing and available to everyone in the world through the Internet, regarding their personal finances. The only claim brought in this action is that the law compels content-based, non-commercial speech in violation of the freedom of speech guaranteed by the First Amendment to the United States Constitution. The United States Supreme Court has consistently held that content-based regulations of non-commercial speech—whether they prohibit or compel such speech—is subject to the highest level of scrutiny (usually referred to as “strict scrutiny”) and will be allowed only if the government shows that the law was narrowly tailored and the least restrictive means of advancing a compelling state interest.

Defendants seek dismissal of the Amended Complaint on the sole ground that they believe that the standard for the Court to evaluate the law should be “exacting scrutiny,” rather than “strict scrutiny.” Rather than discuss (or even cite) the controlling United States Supreme Court decisions related to compelled, content-based speech, Defendants instead primarily rely on one case: *Americans for Prosperity Found. v. Bonta*, 141 S. Ct. 2373 (2021). There, the Supreme Court discussed the applicable standard to apply to freedom of association (not compelled, content-based

free speech) claims, and the justices disagreed amongst themselves as to the applicable standard of review to apply to freedom of association cases. Although there was no level of scrutiny that the five Justices agreed would apply to freedom of association cases, six did find that the standard would *at least* be what was labeled as “exacting scrutiny” (although one, and possibly three, wrote that it should be “strict scrutiny”). Even under the “exacting scrutiny” standard, the government still must demonstrate a “sufficiently important governmental interest,” “substantial relation,” “narrow tailoring” and a necessity in light of any “less intrusive alternatives.” *Id.* at 2383–84, 2386.

Whether examined through the lens of “strict scrutiny” that has been applied to compelled, content-based speech claims or the marginally less demanding “exacting scrutiny” standard discussed in *Americans for Prosperity* for freedom of association claims, SB 774 woefully fails to pass constitutional muster for First Amendment purposes. The Motion to Dismiss should be denied because the Amended Complaint sufficiently alleges in a non-conclusory fashion that SB 774, with its compulsion requiring Plaintiffs to declare their personal financial information (including their precise net worth, exact amount of income, precise value of assets, and amounts of liabilities), is neither related to nor narrowly tailored to promote, much less achieve, the ostensible justifications for its enactment. It is grossly overreaching and intrusive in compelling speech when there is no indication the prior Form 1 disclosure requirements were not up to the task. That alone suffices to state a claim of First Amendment violation under *either* strict scrutiny or the exacting scrutiny standard Defendants insist governs this case. Dismissal is thus inappropriate.

LEGAL STANDARD FOR A MOTION TO DISMISS

The sole gravamen of Defendants’ Motion to Dismiss is that Plaintiffs asserted that “strict scrutiny” applies to this compelled, content-based speech claim but that the standard should instead be “exacting scrutiny.” As noted below, Defendants are incorrect—strict scrutiny should apply. But even if they were correct, stating the wrong standard of legal scrutiny would not justify dismissal of an action. “Federal pleading rules call for ‘a short and plain statement of the claim showing that the pleader is entitled to relief,’ Fed. Rule Civ. Proc. 8(a)(2); they *do not countenance dismissal of a complaint for imperfect statement of the legal theory* supporting the claim asserted.” *Johnson v. City of Shelby*, 574 U.S. 10, 11 (2014) (emphasis added). “The federal rules effectively abolish the restrictive theory of the pleadings doctrine, making it clear that it is unnecessary to set out a legal theory for the plaintiff’s claim for relief.” *Id.* at 12 (quoting 5 Wright & A. Miller, Federal Practice and Procedure § 1219, at 277–278 (3d ed. 2004) (“Wright & Miller”)); *see also* 5

Wright & Miller § 1357 (4th ed. 2024) (“Many federal courts have concluded that the complaint should not be dismissed merely because the plaintiff’s allegations do not support the legal theory he or she intends to proceed on, since the district court is under a duty to examine the complaint to determine if the allegations provide for relief on any possible legal theory.”).

On a Rule 12(b)(6) motion to dismiss, because a court “accept[s] the allegations in the complaint as true and construe[s] them in the light most favorable to the plaintiff,” *Ironworkers Local Union 68 v. AstraZeneca Pharm., LP*, 634 F.3d 1352, 1359 (11th Cir. 2011), a plaintiff need only “plead [enough] factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged,” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Accordingly, motions to dismiss under Rule 12(b)(6) are highly disfavored and rarely granted.¹

ARGUMENT

I. STRICT SCRUTINY IS THE PROPER LEVEL OF REVIEW IN THIS CASE THAT CHALLENGES A LAW THAT COMPELS CONTENT-BASED, NON-COMMERCIAL SPEECH.

The Free Speech Clause of the First Amendment to the United States Constitution, which is applicable to the states through the Fourteenth Amendment, provides that “Congress shall make no law . . . abridging the freedom of speech.” U.S. Const., amend. I. The Supreme Court has explained that the Free Speech Clause protects not only a person’s right to speak freely but also

¹ As part of the “Background” (and not part of any argument), Defendants cite the case of *Plante v. Gonzalez*, 575 F.2d 1119, 1134 (5th Cir. 1978). In that case, the Florida financial disclosure requirement was challenged under the federal “right to privacy, derived from the shadows of the Bill of Rights and made applicable to Florida through the fourteenth amendment.” *Id.* at 1123. No claim was brought for compelled, content-based speech under the First Amendment. As to the federal privacy claim, the Old Fifth Circuit ruled that “[f]inancial privacy is not within the autonomy branch of the right to privacy,” and thus “the senators cannot bring their complaint *within this branch of the right to privacy*.” *Id.* at 1132 (emphasis added). Thus, the only strand to the right to privacy under which the senators could proceed was the “right to confidentiality.” *Id.* The court then rejected the application of “exacting scrutiny” applicable to claims for violation of the right to association because “memberships and associations were revealed, if at all, only tangentially.” *Id.* The court, therefore, determined that “the balancing standard seems appropriate.” *Id.* at 1134. This is a very low standard, far less than strict scrutiny or exacting scrutiny. The court then applied the balancing test and concluded it was satisfied. The *Plante* decision has no bearing on this case because it did not consider a claim of compelled, content-based speech and applied a far less strenuous standard than strict scrutiny (or even exacting scrutiny).

shields the inverse, “the right to refrain from speaking at all.” *See, e.g., Wooley v. Maynard*, 430 U.S. 705, 714 (1977).

Laws that impinge upon the exercise of free speech can be divided into two categories: content-based laws and content-neutral laws. *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755, 766 (2018) (“*NIFLA*”). A content-based law that infringes on free speech is subject to the highest level of scrutiny, normally labeled “strict scrutiny”²:

[T]his Court has applied strict scrutiny to content-based laws that regulate the non-commercial speech of lawyers, ... professional fundraisers, ... and organizations that provide specialized advice about international law....

Id. at 771 (citations omitted)³; *see also Otto v. City of Boca Raton*, 981 F.3d 854, 861 (11th Cir. 2020) (applying strict scrutiny to content-based law banning conversion therapy). The strict scrutiny standard for content-based speech applies equally to claims based upon compelled speech and compelled silence., *Riley v. Nat’l Fed’n of the Blind of N. Carolina, Inc.*, 487 U.S. 781, 796–97 (1988) (“There is certainly some difference between compelled speech and compelled silence, but, in the context of protected speech, the difference is without constitutional significance, for the First Amendment guarantees ‘freedom of speech,’ a term necessarily comprising the decision of both what to say and what *not* to say.”).

In the Motion to Dismiss, Defendants do not dispute that the speech that is compelled by the law challenged in this case is content-based and non-commercial. Thus, the appropriate level

² A content-neutral restriction—regulations based on the time, place or manner of speech—meanwhile, is subject to intermediate scrutiny. *Solantic, LLC v. City of Neptune Beach*, 410 F.3d 1250, 1258 (11th Cir. 2005).

³ The citations in *NIFLA* that were omitted above were: *Reed v. Town of Gilbert*, 576 U.S. 155 (2015) (applying strict scrutiny to sign code’s content-based restrictions); *NAACP v. Button*, 371 U.S. 415 (1963) (applying strict scrutiny to law prohibiting improper solicitation by attorneys to outlaw litigation-related speech of the NAACP); *In re Primus*, 436 U.S. 412, 432, (1978) (applying “exacting scrutiny” to a non-profit organization’s solicitation of prospective clients to litigate certain political causes); *Riley v. Nat’l Fed’n of the Blind of N. Carolina, Inc.*, 487 U.S. 781 (1988) (applying strict scrutiny to law requiring professional fundraisers to disclose percentage of contributions turned over to charity); and *Holder v. Humanitarian Law Project*, 561 U.S. 1, 27–28 (2010) (applying a “more rigorous scrutiny” than intermediate scrutiny challenge to a statute that prohibited knowingly providing material support to foreign terrorist organization because that statute regulated speech on the basis of its content).

of analysis is the highest level of First Amendment scrutiny, normally referred to as “strict scrutiny,” which requires that the government demonstrate that the law is narrowly tailored and the least restrictive means of advancing the compelling government interest at stake. *Boos v. Berry*, 485 U.S. 312, 329 (1988) (explaining when content-based restrictions on speech are analyzed under strict scrutiny, a law “is not narrowly tailored [where] a less restrictive alternative is readily available”).

The labels given by the courts for the appropriate level of scrutiny have, at times, been admittedly nebulous. “In some cases, the Supreme Court has referred to ‘exacting scrutiny’ while describing the standard for evaluating content-based regulation of speech. However, those opinions use language associated with the strict scrutiny standard.” *In re Georgia Senate Bill 202*, 622 F. Supp. 3d 1312, n.17 (N.D. Ga. 2022). For example, in *United States v. Alvarez*, the Supreme Court applied the highest level of scrutiny (requiring the least restrictive means and a compelling interest) but referred to the review as “exacting scrutiny.” 567 U.S. 709, 724–29 (2012). More recently, in *McCutcheon v. Federal Elections Commission*, 572 U.S. 185, 197 (2014), the Supreme Court stated, “[u]nder exacting scrutiny, the Government may regulate protected speech only if such regulation promotes a compelling interest and is the least restrictive means to further the articulated interest.”

Similarly, in *Riley*, the Supreme Court ruled “that North Carolina’s content based regulation is subject to exacting First Amendment scrutiny.” 487 U.S. at 798. The *Riley* Court, however, applied a strict scrutiny type of analysis, requiring “that government not dictate the content of speech absent compelling necessity, and then, only by means precisely tailored.” *Id.* at 800. Accordingly, the test applied in *Riley* has repeatedly been referred to as “strict scrutiny.” *See NIFLA*, 585 U.S. at 756 (“[The] Court has applied strict scrutiny to content-based laws that regulate . . . professional fundraisers” (citing *Riley*, 487 U.S. at 798)); *McConnell vs. FEC*, 540 U.S. 93, 140 (2003) (observing that *Riley* treated “solicitation restriction that required fundraisers to disclose particular information as a content-based regulation subject to strict scrutiny because it ‘necessarily alter[ed] the content of the speech’”; *United States v. Williams*, 553 U.S. 285, 316 n.2 (2008) (Souter, J. dissenting) (stating that *Riley* “invalidat[ed] professional fundraiser regulation under strict scrutiny”). In the dissent in *Riley*, itself, Justices Rehnquist and O’Connor state that in the majority opinion of the Court, the “Court concludes... that strict scrutiny should be applied and that the statute does not survive that scrutiny.” *Riley*, 487 U.S. at 810. Thus, regardless of its

label, this Court should apply the highest level of scrutiny in this case, requiring that the change from Form 1 to Form 6 be narrowly tailored and the least restrictive means to further a compelling state interest.

II. EXACTING SCRUTINY IS NOT THE PROPER LEVEL OF REVIEW IN THIS CASE.

Defendants, citing *Americans for Prosperity*, assert that “exacting scrutiny” should be applied in this case because, “[r]egardless of the type of association, compelled disclosure requirements are reviewed under exacting scrutiny.” [D.E. 15 at 6 (quoting *Americans for Prosperity*, 141 S. Ct. at 2373, 2383)]. There, several charities challenged a California law that required charities to disclose to the Attorney General’s Office the names and addresses of major donors over \$5,000. 141 S. Ct. at 2379–81. The information was supposed to remain confidential, but the trial court found that there had been many leaks and that California could not ensure the confidentiality of donors’ information.⁴ *Id.* at 2381. Unlike this case, the law in *American for Prosperity* was not challenged on the grounds that it compelled content-based speech. Rather, the claim was that the law violated the free association rights of donors because, by eliminating donors’ anonymity, it would make donors less likely to contribute and subject them to the risk of reprisals. *Id.* at 2380. Moreover, the donors, themselves, were not required to make any statements.

Unlike the freedom of speech, the right to free association is not set forth in the text of the Constitution. Nevertheless, the Supreme Court has “long understood as implicit in the right to engage in activities protected by the First Amendment a corresponding right to associate with others.” *Id.* at 2382. Thus, unlike compelled speech, the standard for review is not necessarily strict scrutiny. Accordingly, the *Americans for Prosperity* Court needed to determine the appropriate level of scrutiny for claims involving the “right to associate with others.” 141 S. Ct. at 2382. The Justices, however, disagreed amongst themselves. One justice (Justice Thomas) indicated strict scrutiny should apply and that it was not satisfied, *id.* at 2390; two (Justices Alito and Gorsuch) expressly declined to decide whether strict or exacting scrutiny applied because they found that neither would be satisfied, *id.* at 2393; three (Justices Roberts, Kavanaugh and Barrett) found that exacting scrutiny applies and was not satisfied, *id.* at 2383; and the remaining three (Justices

⁴ In contrast, the Form 6 compelled statements by municipal elected officials about their own financial conditions will automatically be on the Internet available to everyone in the world. [D.E. 9 ¶¶ 1, 56].

Kagan, Sotomayor and Breyer) dissented and found that a flexible level of scrutiny should apply depending upon the burden on First Amendment rights and that the standard applicable in that case was satisfied, *id.* at 2396. Thus, in *Americans for Prosperity*, a majority of Justices could not agree on what form of constitutional scrutiny would apply, although a majority did find that the standard would at least be what was labeled as “exacting scrutiny,” if not strict scrutiny.

The “exacting scrutiny” standard in *Americans for Prosperity* is still a very high level of scrutiny that is difficult for the government to meet: “Under that standard, there must be a substantial relation between the disclosure requirement and a sufficiently important governmental interest.” *Id.* at 2383 (citing *Doe v. Reed*, 561 U.S. 186, 196 (2010)).⁵ The Court, however, did not define what would be a “sufficiently important governmental interest.” Rather, it appears that the level of important governmental interest would depend upon the burden on First Amendment rights: “To withstand this scrutiny, the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *Id.* Thus, depending upon the level of burden on the implicit right to association, the government interest may need to be (or be close to) the compelling interest required under strict scrutiny. Moreover, the exacting standard required a tighter fit than merely a substantial relationship:

A substantial relation is necessary *but not sufficient* to ensure that the government adequately considers the potential for First Amendment harms before requiring that organizations reveal sensitive information about their members and supporters. Where exacting scrutiny applies, the challenged requirement must be *narrowly*

⁵ Defendants cite *Doe* in the Motion to Dismiss but do not discuss it. [D.E. 15 at 6]. In *Doe*, the sponsor of a petition and several signers sought to enjoin the secretary of state from publicly releasing any documents that would reveal the names and contact information of people who signed a petition, alleging that the Washington Public Records law was unconstitutional as applied to referendum petitions. 561 U.S. at 193. Importantly, the challenge there was to the dissemination of the names and contact information by the Attorney General, not the requirement that a person who signs a petition to state information about themselves. Here, Plaintiffs are challenging the compelled speech; there, the plaintiffs were challenging the dissemination of information that had been provided. The *Doe* Court then applied an exacting scrutiny test and, without determining whether the statute in question was narrowly tailored to the governmental interest at stake, found that the law withstood such a standard because public dissemination of the signers was substantially related to the important interest of preserving the integrity of the electoral process. *Id.* at 199; *see also id.* at 213 (Sotomayor, J., concurring) (noting that, in the context of the government’s decision to make referendum petition signatures available for public inspection, it was unnecessary for the government to “prove that such reasonable, nondiscriminatory restrictions are narrowly tailored to its interests” (quotations omitted)). Thus, *Doe* has no bearing here because it was not a compelled speech claim.

tailored to the interest it promotes, even if it is not the least restrictive means of achieving that end.

Id. at 2384 (emphasis added). Thus, both a “substantial relation” and “narrow tailoring” are still required. Although the regulation does not necessarily have to be the *least* restrictive means, the government “is not free to enforce any disclosure regime that furthers its interests. It must instead demonstrate its need for universal production *in light of any less intrusive alternatives.*” *Id.* at 2386 (citation omitted and emphasis added). Defendants fail to point out this critical component of the Supreme Court’s analysis.

Thus, the minimum standard that a majority of the Court in *Americans for Prosperity* would apply requires a “sufficiently important governmental interest,” “substantial relation,” “narrow tailoring,” and a necessity in light of any “less intrusive alternatives.” *Id.* at 2383, 2384, 2386.

III. EVEN IF THE COURT APPLIED THE *AMERICANS FOR PROSPERITY* EXACTING SCRUTINY STANDARD, THE MOTION TO DISMISS SHOULD BE DENIED.

The differences between “strict scrutiny” and “exacting scrutiny” (as set forth in *Americans for Prosperity*) are marginal, at best. Both are very demanding standards that are difficult to satisfy. In this case, the focus is not on the government interest, but rather the relationship (or lack thereof) of that interest to the requirement in SB 774 that municipal elected officials file Form 6 rather than Form 1. Under the *Americans for Prosperity* “exacting scrutiny” standard urged by Defendants, the government would still bear the onus of showing “substantial relation,” “narrow tailoring,” and a necessity for the requirement in light of any “less intrusive alternatives.” 141 S. Ct. at 2383, 2384, 2386. The Amended Complaint (the allegations of which, for purposes of this Motion to Dismiss, must be accepted as true and reasonably construed in a light most favorable to Plaintiffs) clearly contains sufficient non-conclusory allegations to allow the Court to draw the reasonable inference that the “exacting standard” would not be met.⁶

⁶ It is true that Plaintiffs did not mention the “substantial relation” standard, [see D.E. 15 at 7–8], because Plaintiffs believe that strict scrutiny, not exacting scrutiny, applies. However, such a *legal* allegation is not necessary given that the specific factual allegations made would nonetheless support the lack of a substantial relationship. Defendants are also incorrect that Plaintiffs’ allegations of lack of narrow tailoring are merely conclusory. The Amended Complaint includes specific allegations to support the lack of narrow tailoring. [D.E. 9 ¶¶ 5, 35, 38].

The Amended Complaint contains sufficient allegations to allow the Court to find that SB 774 lacks a “substantial relation” to the purported state interests. [See D.E. 9 ¶ 6 (“The additional, financial information statements required to be made by Form 6 (e.g., the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1, *have little, if any, bearing* on an elected official’s municipal service, does not prevent or even ameliorate conflicts of interest or public corruption, and does not increase public confidence in government.” (emphasis added)); *id.* ¶ 42 (positing that the existing Form 1 requirement already “provides sufficient information to satisfy the interests of preventing conflicts of interest and public corruption and increasing public confidence in government”); *id.* ¶ 44 (averring that the new Form 6 requirement mandates “the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government”)].

The Amended Complaint, in addition, is brimming with allegations to allow the Court to find that SB 774 is not narrowly tailored to address the purported state interests. [See D.E. 9 ¶ 5 (alleging that the new financial disclosure requirements are not “narrowly tailored” because they are stricter and more onerous than required of federal elected officials and of elected officials in other states throughout the country); *id.* ¶ 35 (stating that the change from Form 1 to Form 6 applies to all elected municipal officials, “without regard to the municipality’s population, revenue, annual budget, or any elected municipal compensation amount, if any”); *id.* ¶ 58 (alleging that, “[a]lthough Plaintiffs recognize the government’s interest in preventing conflicts of interest, deterring corruption, and increasing public confidence in government, Fla. Stat. § 112.3144, as amended by SB 744, and the application of Form 6 to elected municipal officials are not *narrowly tailored* to achieve these interests.” (emphasis added))].

Lastly, the Amended Complaint is comprised of sufficient allegations to enable the Court to find SB 774 was not necessary in light of “less intrusive alternatives.” [See D.E. 9 ¶¶ 5, 7 (maintaining that the change from Form 1 to Form 6 was not necessary in light of other alternatives such as Form 1 and forms used by the federal government and other states that are “less restrictive, alternative means of accomplishing the same governmental interests”)].

Accordingly, even if the Court were to adopt the “exacting scrutiny” standard, it should nevertheless deny the Motion to Dismiss because the Amended Complaint contains more than sufficient allegations to satisfy the “exacting scrutiny” standard. As previously noted, alleging the

incorrect legal theory is not grounds for dismissal. *Johnson*, 574 U.S. at 11; Wright & Miller, at § 1357. Thus, the Court should deny the Motion to Dismiss.⁷

CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that the Court deny the Motion to Dismiss.

Dated this 15th day of April, 2024.

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⁷ In the Motion to Dismiss, Defendants do not assert whether they are seeking dismissal with prejudice or without prejudice. [See D.E. 9 at 3, 10]. Notwithstanding, in the event the Court is inclined to dismiss Plaintiffs' Amended Complaint, the dismissal should be without prejudice as Defendants' bases for dismissal can be cured through an amended pleading. That is, Defendants, rather than arguing that Plaintiffs cannot prevail under any state of facts, contend that Plaintiffs' purported pleading defects fail to plausibly allege a claim upon relief which could be granted. *Compare Plante v. Gonzalez*, 437 F. Supp. 536, 538 (N.D. Fla. 1977) (dismissing a claim with prejudice where plaintiffs could not "prevail under any state of facts which could be proved in support of their claim"), *with Hirsch v. Fortegra Fin. Corp.*, 2018 WL 4760801, at *2 n.3 (M.D. Fla. June 26, 2018) (recommending dismissal without prejudice where the apparent pleading defects are curable), *report and recommendation adopted*, 2018 WL 4759895 (July 30, 2018).

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official
of the Town of Briny Breezes, et al.,

Plaintiffs,

v.

Case No.: 1:24-CV-20604

ASHLEY LUKIS, in her official capacity
As Chair of the Florida Commission
on Ethics, et al.

Defendants.

_____ /

**DEFENDANTS' SUPPLEMENTAL PRELIMINARY INJUNCTION
BRIEFING**

Pursuant to this Court's request at the April 22, 2024 hearing on Plaintiffs' Preliminary Injunction Motion, Defendants submit this supplemental briefing.

I. Plaintiffs' Suit Does Not Implicate the First Amendment

Obtaining employment necessarily requires disclosing some personal factual information, and government employment is no exception. Yet under Plaintiffs' novel First Amendment theory, anytime a government employer demands personal factual information, it constitutes content-based compelled speech and must survive strict scrutiny. Unsurprisingly, no support exists for Plaintiffs' unprecedented view. While Plaintiffs frame their claim in terms of compelled disclosure under the First

Amendment, the Complaint itself makes clear that what they are complaining about is that the Form 6 disclosures require them to reveal information that they would rather keep private. *See e.g.* DE 1 at ¶ 44 (“Form 6 is a highly intrusive and extreme level of required, public financial disclosure, mandating the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government.”); ¶¶ 45, 46 (contrasting the personal financial information required by Forms 1 and 6).

Laws requiring public officials to disclose personal financial information are not new. Yet despite their prevalence, plaintiffs are unable to point to a single case in which any court has concluded that such laws violate the First Amendment. In fact, binding precedent says the opposite. In *Plante v. Gonzalez*, the former Fifth Circuit¹ rejected the application of heightened scrutiny under the First Amendment to the Florida Sunshine Amendment’s extensive financial-disclosure requirements. 575 F.2d 1119, 1132–33 (5th Cir. 1978). There, the court concluded that required “disclosure of assets, debts, and sources of income, each to be identified and valued” did not facially “implicate first amendment freedoms.” *Id.* While the court left open the possibility that “rigorous application” of the disclosure requirements “might

¹ Fifth Circuit decisions issued prior to October 1, 1981, are binding on district courts in the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981).

implicate first amendment freedoms” if it forced public officials to reveal “memberships, associations, and beliefs” more than “tangentially,” *id.*, Plaintiffs do not make such an allegation here. Plaintiffs claim instead that the law is subject to strict scrutiny under the First Amendment simply because it requires disclosure—the position the court in *Plante* rejected.² Applying *Plante*, plaintiffs are not entitled to preliminary injunctive relief.

II. Exacting Scrutiny

Even if heightened scrutiny did apply, the standard is at most exacting scrutiny. Exacting scrutiny first “requires a substantial relation between the disclosure requirement and a sufficiently important governmental interest.” *John Doe No. 1 v. Reed*, 561 U.S. 186, 196 (2010) (quotation and citation omitted). To withstand exacting scrutiny the law is subject to a balancing test where “the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *Id.* (quotation and citation omitted).

In analyzing a First Amendment challenge, this Court need not constrain itself to explicit factual allegations by the Legislature. *See, e.g., Burson v. Freeman*, 504 U.S. 191, 211 (1992). While the law at issue in *Burson*, a Tennessee statute carving

² The *Plante* court also noted that “subjecting financial disclosure laws to the same scrutiny accorded laws impinging on autonomy rights, such as marriage, contraception, and abortion, would draw into question many common forms of regulation, involving disclosure to the public and disclosure to government bodies. *Plante*, 575 F.2d at 1134.

out an election-day zone around polling places disallowing display or distribution of campaign materials, was judged against the higher bar of strict scrutiny, it remains informative in the instant case as well. In *Burson* the court relied on “history, a substantial consensus, and simple common sense” to find the state sufficiently showed that the law was necessary to serve their compelling state interests. *Burson*, 504 U.S. at 210. Although SB 774 is subject only to exacting scrutiny, the Court should still look to *Burson* in finding that it can rely fully on the long history that culminated in SB 774, i.e., the history of development, passage, and implementation of the Sunshine Amendment, in concluding not only that SB 774 serves multiple important state interests, but also that SB 774 is substantially related to those same interests.

The Southern District, while considering the use of *Burson* in evaluation of a First Amendment challenge to a restriction on lobbying by government officials, has previously noted that “a demonstrated history of lobbying restrictions would constitute evidence that such laws are effective in addressing the problem of corruption.” *Garcia v. Stillman*, 661 F.Supp.3d 1168, 1183 (S.D. Fla. 2023). In the same manner, a demonstrated history of financial disclosure laws constitutes evidence that such laws are effective in addressing the State’s interests of preventing corruption, bolstering public confidence in government, promoting voter knowledge, and positively shaping the political community of Florida. Particularly

so where, as in the instant case, the demonstrated history is not just of financial disclosure regulations generally, but specifically of financial disclosure of the exact same material and in the exact same form as is now required of Plaintiffs.

Thankfully, like the rare case that was *Burson*, this case is unique as well. SB 774 represents a measured expansion of long-existing financial disclosure requirements introduced with the Sunshine Amendment by popular vote of the people of Florida. Additionally, Florida by no means stands alone in determining financial disclosure to be a necessary element of functioning government.³ Indeed, SB 774 cannot even be said to be the first time municipal officials have been targeted by and found to be properly subject specifically to public disclosure of net worth.⁴ The ample and precise historical comparator of the long-time operation of the exact same disclosure requirements makes this case the quintessential case for reliance on “common sense.” *Burson*, 504 U.S. at 211.

³ See generally, e.g., *Validity and Construction of Orders and Enactments Requiring Public Officers and Employees, or Candidates for Office, to Disclose Financial Condition, Interests, or Relationships* (1983), 22 A.L.R. 4th 237 (collecting and discussing cases which have considered the myriad financial disclosure requirements for various public officers throughout the United States prior to 1983).

⁴ See, e.g., *Lehrhaupt v. Flynn*, 140 N.J.Super. 250 (N.J. Super. Ct. App. 1976) (upholding ordinance subjecting designated municipal officials to make full financial disclosures of assets, liabilities, and net worth that would then become public records).

III. Governmental Interests

Plaintiffs pay short shrift to the multiplicity of government interests served by Form 6's disclosure requirements when they attempt to focus exclusively on the prevention of conflicts of interest. DE 18, at 6-7. In reality SB 774 is supported by multiple additional governmental interests that are comparably weighty and informed by the history of the Sunshine Amendment that SB 774 expanded.⁵

The direct connection between SB 774 and the Sunshine Amendment is undeniable. DE 19, at ¶¶ 3-6. As a result, the state interests that underlaid the Sunshine Amendment are the same state interests that support SB 774. That the benefits of the Sunshine Amendment have so achieved ubiquity in Florida political life that the legislature does not waste time rehashing them fully in staff analyses, committee, or floor debate should not dissuade this Court from the commonsense conclusion that an expansion of a financial disclosure law is supported by the same interests as the original law that is being expanded.

Every governmental interest evident from the history of the Sunshine Amendment continues to underly also the anticipated legislative expansions of the Sunshine Amendment. Exhibit 1 at 10 ("It is possible that the legislature, in

⁵ Attached to this filing are the Second Declaration of Kerrie Stillman as well as Exhibit 1 to that declaration, "History of Article II, Section 8, Florida Constitution". Defendants will refer to Exhibit 1 to Ms. Stillman's declaration throughout this filing as "Exhibit 1". All citations to pages within Exhibit 1 will be referenced to by the pagination at the bottom of the document.

accordance with the Amendment, may actually broaden and strengthen its application. The Sunshine Amendment is not viewed by its supporters as being beyond improvement. It is hoped it will be a foundation for further efforts to promote ethics in government in the years ahead.”).

To the extent the Court worries that the governmental interests that underlaid the Sunshine Amendment are somehow rendered inapplicable to SB 774 because Plaintiffs do not occupy the exact same offices as those historically covered by the Sunshine Amendment, it is helpful to consider the actual nature of Plaintiffs’ government positions in comparison to those who have historically, constitutionally been required to file a Form 6.⁶ Like the constitutional elected officers in the Sunshine Amendment, Plaintiffs are elected officials. Like the elected constitutional officers, Plaintiffs are entrusted with the responsibility to make policy on behalf of the constituents they serve. Like the elected constitutional officers, Plaintiffs wield the purse strings within their jurisdictions, and can direct spending of funds collected from the citizens of the municipality they control. Neither the scale of Plaintiffs’ salaries, the number of hours they work, nor the size of the constituency they serve

⁶ See § 166.021(1), Fla. Stat. (“municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.”); § 166.021(3) (“[t]he Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act” (and providing four exceptions)).

has any effect on the essential reality that the offices they sought and now hold bear all the same traditional responsibilities of government as those which have required filing of a Form 6 since long-prior to SB 774. The governmental interests supporting Form 6 financial disclosures for Plaintiffs target those traditional responsibilities of government that are common between Plaintiffs and prior, constitutional Form 6 filers.

With respect to the relative weight underlying the important government interests that support SB 774, the Sunshine Amendment's history is again informative. SB 774 does not and was not intended to stand alone. It may be properly considered an expansion of the Sunshine Amendment which was anticipated and expected from the origin of that Amendment. *See* Art. II, § 8(a); Ex. 1 at 7. Accordingly, the circumstances of the passage of the Sunshine Amendment are instructive here. The Sunshine Amendment was the result of an initiative petition originated by Governor Askew. *Williams v. Smith*, 360 So.2d 417, 418-19 (Fla. 1978) (discussing the Sunshine Amendment and "the Governor who caused the amendment to be drafted and the petitions prepared."). It was put to a popular vote before the people of Florida, the same people served by the proffered interests underlying the amendment. The people of Florida responded by overwhelmingly approving the Sunshine Amendment with 79.3% of the vote (1,765,626 Floridians). *Plante v. Gonzalez*, 575 F.2d 1119, 1122 (5th Cir. 1978). In the same vein, it should

be noted that another recent proposed constitutional amendment that received comparable levels of support was also a government ethics amendment that applied to elected municipal officers. *Garcia v. Stillman*, 661 F.Supp.3d 1168, 1174-75 (S.D. Fla. 2023) (“[O]n November 6, 2018, [] 78.9% of Floridians voted in favor of a ballot initiative entitled Lobbying and Abuse of Office by Public Officers.”). The tremendous expression of support from the people of Florida at the ballot box for full and public financial disclosures is the best evidence possible for the strength and significance of the governmental interests served by the Sunshine Amendment, and by extension SB 774. The people of Florida know best how to secure their own trust, in weighing the governmental interests this Court should not ignore more than 1.7 million Floridians stepping onto the scale.

1. Bolstering of public confidence in government officials

The first important governmental interest in the Form 6 financial disclosure requirements is the bolstering of public confidence in government officials by transparency. The bolstering of public confidence in government officials persists separately and independently of the interest in actually preventing conflicts of interest or fraud. *See Plante v. Gonzalez*, 575 F.2d 1119, 1134 (5th Cir. 1978) (Finding Sunshine Amendment financial disclosures were related to and significantly promoted a specific interest in boosting public confidence in

government because, “[d]isclosure may not completely remove this doubt. It should help, however. And more effective methods are not obvious”).

The importance of this governmental interest with respect to SB 774 originates inevitably from the history of the Sunshine Amendment. “The question is not whether the public officials are honest. The question is whether the people believe they are honest and whether the people believe their officials are representing the public interest. The Sunshine Amendment can provide the reassurances that the people need and the times demand.” Exhibit 1 at 11. That the Sunshine Amendment’s financial disclosure laws would actually bolster the public’s trust in government is supported by that same public’s widespread support for it. The will of the people of Florida expressed in the voting booth is certainly entitled to as much if not more significance in the context of a constitutional amendment than the legislative record when reviewing a state statute.

2. Promotion of Voter Knowledge

The Second important governmental interest advanced by SB 774 has been characterized as the public’s “right to know”. *Plante*, 575 F.2d at 1134-35. Form 6 financial disclosures are necessary for an informed electorate “because it makes voters better able to judge their elected officials and candidates for those positions.” *Id.* at 1135. As the court in *Plante* noted, “[a]ll of the officials covered by [] [SB 774] are elected. It is relevant to the voters to know what financial interests the

candidates have.” *Id.* This important governmental interest plainly hinges on the elected nature of the official. Because Plaintiffs are also elected officials invested with legislative authority within city limits,⁷ this governmental interest applies with full and equal force as would support the same financial disclosures for elected constitutional officers that have long been the standard in Florida. “This educational feature of the [SB 774] serves one of the most legitimate state interests: it improves the electoral process. That goal... can be met in no other way.” *Id.* at 1137. In light of the history of the Sunshine Amendment, plain common sense militates in favor of a weighty governmental interest in a fully informed electorate in the instant case as well.

3. The State’s interest in its political community

The Supreme Court has long recognized a state’s interest “in limiting participation in [] government to those who are within the basic conception of a political community. [The Court] recognize, too, the State’s broad power to define its political community.” *Sugarman v. Dougall*, 413 U.S. 634, 642-43 (1973). SB 774 operates, as an extension of the Sunshine Amendment, to define Florida’s political community as transparent, trustworthy, and ethics focused.

⁷ See *supra*, footnote 6.

Again, this governmental interest is derived from the history of the Sunshine Amendment. Governor Askew did not anticipate that the Sunshine Amendment would be an immediate panacea to all of Floridian's concerns regarding their government, rather he recognized that "a constitution must be a statement of broad principle[.]" *Williams v. Smith*, 360 So.2d 417, 419 (Fla. 1978) (quoting Governor Askew's address to the joint session of the Florida Legislature on April 5, 1977). Governor Askew, and all the Floridians who supported the Sunshine Amendment, further understood that the Sunshine Amendment "will be a foundation for further efforts to promote ethics in government in the years ahead." Exhibit 1 at 10.

That full and public financial disclosures did meaningfully shift the political community of Florida is evidenced by the very law Plaintiffs now challenge. While the Sunshine Amendment had to be passed by the initiative process because the statutory disclosure law already in existence was insufficient, Exhibit 1 at 6 & 8, SB 774 extended the Sunshine Amendment via an act of the Legislature. Plainly, Governor Askew foresaw that once the Sunshine Amendment passed, "[p]olitical reality and political responsibility will combine to compel the Legislature to substantially implement the Amendment as adopted. It is possible that the Legislature, in accordance with the Amendment, may actually broaden and strengthen its application." Exhibit 1 at 10. This governmental interest now fully supports SB 774 as Florida attempts to maintain steam and continue to define and

refine its political community to be, from the ground up, transparent and ethics focused.

4. Deterrence of Corruption and Conflicts

Protecting public offices against abuse is plainly an important government interest, Plaintiffs agree. DE 18, at 7. Full and public financial disclosure has long been understood to “discourage corruption” in Florida by its mere existence. *Plante*, 575 F.2d at 1135. “The interest in an honest administration is so strong that even small advances are important.” *Id.* SB 774 represents just such a small and targeted advance. Just as the disclosures in *Plante* would at least discourage some corruption, so too will the same disclosures when applied to Plaintiffs.

As already thoroughly discussed in Defendants’ prior briefing, DE 15 & 16, municipal elected officials make up a substantial portion of reports made to the Commission on Ethics every year to the point that the commission and the legislature independently developed the idea that individuals occupying offices like those of Plaintiffs should be subject to the full and public disclosure required by the Sunshine Amendment. DE 17-1, at 156:7-21. This is exactly the operation of the Sunshine Amendment Governor Askew anticipated when he predicted that “the Legislature will respect the expressed desires of the vast majority of Florida voters and move in good faith, to further extend the Amendment.” *Williams*, 360 So.2d at 419 (quoting Governor Askew’s address to the joint session of the Legislature on April 5, 1977,

as “[p]erhaps the most obvious expression of framers’ intent[.]”). That the Commission on Ethics independently reached the same conclusion as the legislature only further solidifies the commonsense conclusion that for all the same reasons the Form 6 financial disclosures applied to many other elected government officials, they should also apply to Plaintiffs.

IV. Balancing

The essential decision remaining for the Court is a determination of whether “the strength of the governmental interest must reflect the seriousness of the actual burden on First Amendment rights.” *John Doe No. 1*, 561 U.S. at 196. In the instant case SB 774 is supported by multiple substantial governmental interests. Form 6 financial disclosures plainly have a demonstrated history in Florida as to “constitute evidence that such laws are effective in addressing the problem of corruption.” *Garcia*, 661 F.Supp.3d at 1183 (citing *Burson v. Freeman*, 504 U.S. 191 (1992)).

The long history of Form 6 financial disclosures in Florida and the history of the development and passage of the Sunshine Amendment that preceded it sufficiently support all of the State’s proffered governmental interests. That history demonstrates not only why the Sunshine Amendment’s financial disclosure requirements are constitutional with respect to the myriad public officials it has applied to over almost fifty years of Sunshine in Florida, but also with respect to the new expansion to Plaintiffs by SB 774. This Court has before it the perfect

comparator to SB 774 in the historical application of the Sunshine Amendment's exact same disclosure requirements to other government officials. The Court can see that the anticipated benefits of the Sunshine Amendment came to pass.

Further, the Court can see that the old fears that have been used to argue against financial disclosures since Governor Askew first put the Sunshine Amendment forward simply have not come to pass. Although opponents of full and public financial disclosure have long raised anxieties about kidnapping and blackmail, Exhibit 1 at 11, the State is not aware of a single instance in which a Form 6 filer was subject to a kidnapping or attempted kidnapping, been blackmailed, or been a victim of identity theft as a result of the filing of a Form 6 in all of its history, nor have Plaintiffs brought any such instances to the attention of the Court. Although opponents to the Sunshine Amendment suggested it would discourage people from participating in government, Exhibit 1 at 9, the State of Florida has managed to continue to find candidates willing to comport to the expectations of their constituents. The Legislature has not undermined or retreated from the Form 6 requirements as was worried about. Exhibit 1 at 10. Rather, the historical record reflects that the full and public financial disclosure facilitated by Form 6 has operated in Florida for nearly half a century.

After well over four decades of observing the Sunshine Amendment's successful operation, the Legislature and the Commission on Ethics both came to

the commonsense conclusion that a targeted expansion was in order. That expansion was targeted at Plaintiffs for the same reasons the original, successful Sunshine Amendment has remained targeted at the officials it has been, it works. Notably as well, the weighty government interests of this case are weighed against Plaintiffs' "actual burden" on their First Amendment Rights. *John Doe No.*, 561 U.S. at 196. As argued in the first section of this briefing, it is unclear that Plaintiffs' First Amendment Rights have been burdened at all. Even were this Court to find some burden to Plaintiffs' First Amendment Rights, this is the rare case where "history, a substantial consensus, and simply common sense," *Burson*, 504 U.S. at 211, are sufficient for this Court to find that the proffered governmental interests reflect and overcome any actual burdens on Plaintiffs' First Amendment rights.

V. Conclusion

Whether SB 774 survives exacting scrutiny or does not need to be subjected to it at all, SB 774 is supported by multiple important governmental interests related to the disclosure requirements. History, consensus, and simple common sense all favor SB 774's limited expansion of the Sunshine Amendment over any actual burdens on Plaintiffs' First Amendment rights. Because SB 774 passes muster under exacting scrutiny, Plaintiffs cannot establish a likelihood of success on the merits as is required to obtain a preliminary injunction. As a result, this Court should deny Plaintiffs' request for a preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of May 2024 a copy of this document was filed electronically through the CM/ECF system and furnished by email to all counsel of record.

/s/ Noah T. Sjostrom

Noah T. Sjostrom

**UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, elected official of the
Town of Briny Breezes, *et al.*,

Plaintiffs,
vs.

Case No. 1:24-cv-20604-MD

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics, *et al.*,

Defendants.

**PLAINTIFFS' REPLY TO DEFENDANTS'
"SUPPLEMENTAL PRELIMINARY INJUNCTION BRIEFING"**

Plaintiffs reply to Defendants' "Supplemental Preliminary Injunction Briefing" [D.E. 34] ("Supplemental Brief"), as follows:

INTRODUCTION

The most important part of the Supplemental Brief is not what it says but rather what it does not say. Although the Court gave Defendants one last opportunity to provide proof of expert research, studies or empirical evidence that was in the legislative record to support SB 774's requirement that elected municipal officials file Form 6 rather than Form 1, Defendants *absolutely failed to point to any such evidence in the legislative record*. That is not surprising because no such evidence exists (in the legislative record or elsewhere). Instead, Defendants attempt to rely on an inapplicable exception to the legislative record requirement (which, even if it applied, would not be satisfied in this case), and a new unsupported legal theory that is contradicted by all of the cases previously cited by both Plaintiffs and Defendants.

THE HEARING ON THE MOTION FOR A PRELIMINARY INJUNCTION

On April 22, 2024, following a round of comprehensive briefing, the Court conducted a two-and-half-hour evidentiary hearing to decide whether to grant Plaintiffs' request for a preliminary injunction to enjoin Defendants from enforcing the portion of SB 774 that requires municipal elected officials and candidates to file a Form 6 rather than Form 1 financial disclosure. [D.E. 10, 27]. At the outset, the Court, recognizing that SB 774 compels non-commercial, content-

based speech, expressed that it was unsure whether the law at issue should be subject to strict scrutiny (as suggested by Plaintiffs) or the slightly lower exacting scrutiny (as urged by Defendants). The Court, however, observed that it need not decide this issue if Defendants cannot satisfy exacting scrutiny. In that vein, the Court devoted the rest of the hearing to arguments pertaining to the question of whether Defendants can satisfy either standard of scrutiny. That is because under either standard the government must show, through evidence in the legislative record, that the law is narrowly tailored and that the Florida Legislature considered lesser restrictive alternatives.

After the parties had concluded their arguments, the Court remarked that it was inclined to enter a preliminary injunction in Plaintiffs' favor. Nonetheless, the Court, *sua sponte*, permitted Defendants one last opportunity to submit to the Court a supplemental brief limited to: (a) identifying expert reports, studies or empirical evidence in the legislative record showing that, for municipal elected officials, the Form 1 disclosure was insufficient, the Form 6 disclosure would be more effective, SB 774 was narrowly tailored and the Legislature had considered less restrictive alternatives (namely, whether the additional disclosures of amounts of net worth, income, assets and liabilities were each justified), and (b) providing legal support for the proposition that a law can satisfy exacting or strict scrutiny without the existence of expert reports, studies, or empirical evidence in the legislative record.¹

ARGUMENT

I. Defendants Failed to Identify Any Evidence in the Legislative Record.

As expected, Plaintiffs were unable to identify any expert reports, studies, or empirical evidence in the legislative record that showed that (i) Form 1 disclosures for elected municipal

¹ In the Supplemental Brief, Defendants went far beyond the limited issues permitted by the Court, including raising new arguments (that contradict the position taken by Defendants prior to and at the hearing) and producing new evidence that was not introduced at the evidentiary hearing (and was *not* part of the legislative record). A supplemental brief filed after a preliminary injunction hearing is treated similarly to a reply brief in that unprompted arguments and issues not raised in the original briefing and raised for the first time in a supplemental brief are considered waived. *ADT LLC v. Vision Sec., LLC*, 2014 WL 11512866, at *2 n.2 (S.D. Fla. Mar. 12, 2014) (citing *Herring v. Dep't of Corrs.*, 397 F.3d 1338, 1342 (11th Cir. 2005)); accord *United States v. Clark*, 265 F. App'x 846, 849 (11th Cir. 2008) ("Issues not raised in a party's initial brief are deemed waived, although raised in supplemental briefs."). Plaintiffs object to these new arguments and evidence and request that the Court disregard them; in an abundance of caution, though, Plaintiffs will respond to them.

officials had been insufficient, (ii) the Form 6 disclosure would be more effective, (iii) SB 774 was narrowly tailored, or (iv) the Legislature had considered less restrictive alternatives (namely, whether the additional disclosures of amounts of net worth, income, assets, and liabilities were each justified). This barren legislative record fails both exacting and strict scrutiny.

II. Under Either Strict or Exacting Scrutiny, the Government Must Justify the Challenged Law with Evidence in the Legislative Record.

In prior filings [D.E. 10 and 18] and at the hearing, Plaintiffs cited numerous cases that set forth the well-established rule that to pass any level of heightened constitutional scrutiny, the government must identify evidence *in the legislative record* supporting the enactment of the challenged law. *See, e.g., United States v. Playboy Ent. Grp., Inc.*, 529 U.S. 803, 822 (2000) (“No support for the restriction can be found in the near barren legislative record relevant to this provision. ... [T]he Government must present more than anecdote and supposition. The question is whether an actual problem has been proved in this case. We agree that the Government has failed to establish a pervasive, nationwide problem justifying its nationwide daytime speech ban.”); *Edenfield v. Fane*, 507 U.S. 761, 771 (1993) (invalidating law because no studies or evidence existed in legislative record and stating that “burden not satisfied by mere speculation or conjecture”); *Sable Commc’ns of Cali., Inc. v. FCC*, 492 U.S. 115, 129–30 (1989) (“[A]side from conclusory statements during the debates by proponents of the bill, ... the congressional record presented to us contains no evidence as to how effective or ineffective the ... regulations were or might prove to be.”); *see also Buehrle v. City of Key West*, 813 F.3d 973, 978–79 (11th Cir. 2015) (stating, in the context of a content-neutral regulation of free speech, that “a municipality cannot get away with shoddy data or reasoning” and instead “must rely on at least some pre-enactment evidence that the regulation would serve its asserted interests”); *Messina v. City of Fort Lauderdale*, 546 F. Supp. 3d 1227, 1251 (S.D. Fla. 2021) (Altman, J.) (“[M]ore problematic[] is the lack of any evidence to justify the law. As we’ve suggested, that evidentiary lacuna seems to confirm the Plaintiffs’ view that the City operated off of assumptions and didn’t (as the Supreme Court requires) “seriously [endeavor] to address the problem with less intrusive tools readily available to it.”); *Agudath Israel of Am. v. Cuomo*, 983 F.3d 620, 633 (2d Cir. 2020) (holding the government’s demonstration of the least restrictive means prong of narrow tailoring “must be genuine, not hypothesized or invented *post hoc* in response to litigation”) (quoting *United States v. Virginia*, 518 U.S. 515, 533 (1996)).

In the Supplemental Brief, Defendants do not even mention these cases or try to distinguish them. Instead, Defendants cite *Burson v. Freeman*, 504 U.S. 191, 211 (1992), for the proposition that a court need not look exclusively to the substance of the evidence set forth in the legislative record but may also rely upon other indicia, such as history, consensus, and common sense. [D.E. 34 at 4].² Defendants’ reliance on *Burson* is misplaced.

In *Burson*, the plaintiff challenged a long-standing Tennessee statute that prohibited solicitation of votes and distribution of campaign material within 100 feet of the entrance to a polling place. The Court, in a plurality opinion,³ recognized that the interest at stake—the right to vote—is “of the essence of a democratic society” and that no “right is more precious in a free country.” *Id.* at 199. The Court then underwent a comprehensive analysis detailing the long history of the right to vote freely in the United States and of the long-established and common use of restricted zones around polling places throughout the country. *Id.* at 200–07. In fact, the Court noted that “all 50 states” have such restrictions. *Id.* at 206. Accordingly, the *Burson* Court created a limited exception to the requirement that evidence supporting a law be in the legislative record where a law impairs the exercise of a First Amendment right that threatens to interfere with the act of voting itself:

This modified ‘burden of proof’ does not apply to all cases in which there is a conflict between First Amendment rights and a State’s election process – instead it applies only when the First Amendment right threatens to interfere with the act of voting itself, *i.e.*, cases involving voter confusion from overcrowded ballots, like *Munro*, or cases such as this one, in which the challenged activity physically interferes with electors attempting to cast their ballots.

² Notably, this is the third instance in which Defendants have relied upon a plurality opinion of the Supreme Court without alerting the Court to that plurality status. [See D.E. 15 at 6–7, 9 (placing a heavy reliance on the Supreme Court’s plurality decision in *Americans for Prosperity Found. v. Bonta*, 141 S. Ct. 2373 (2021), without characterizing the decision as a plurality opinion); D.E. 16 at 3, 5 (same)]. This is important because this Court is “not bound by a plurality opinion.” *United States v. Gonzalez-Lauzan*, 437 F.3d 1128, 1139 n.8 (11th Cir. 2006); *see also Foster v. Bd. of Sch. Commr’s of Mobile*, 872 F.2d 1563, 1569 n. 8 (11th Cir.1989) (“A plurality opinion is not binding on this Court, and we are compelled to follow both our prior precedent, as well as prior Supreme Court precedent....”).

³ Justice Blackmun wrote the plurality opinion that Chief Justice Rehnquist and Justices White and Kennedy joined. Justice Kennedy filed a concurring opinion. Justice Scalia filed an opinion concurring in the judgment. Justice Stevens wrote the dissent, which was joined by Justices O’Connor and Souter. Justice Thomas took no part in the decision.

Id. at 209 n.11.⁴

The Court created this narrow exception to the legislative record requirement in that limited situation because of certain factors not remotely at issue here: the paramount importance of the right to vote freely, *id.* at 199; all 50 States curb access to the areas in or around polling places, *id.* at 206; the majority of the restricted zone laws “were adopted originally in the 1890s, long before States engaged in extensive legislative hearings on election regulations,” *id.* at 208; the difficulty in isolating the exact effect of these laws on voter intimidation and election fraud, *id.* at 208-09; and the potential damage that would be done to a State’s political system before the legislature could take corrective action, *id.* at 209. Thus, in that very limited situation, the Court found that *Burson* constituted the “rare case” where strict scrutiny was met without evidence in the legislative record because of the long history of restricted zone laws, a substantial consensus, and common sense. *Id.* at 211.

Illustrative of the narrow application of the *Burson* standard is this Court’s decision in *CBS Broadcasting, Inc. v. Cobb*, 470 F. Supp. 2d 1365 (S.D. Fla. 2006) (Huck, J.). There, Judge Huck granted plaintiffs’ motion for preliminary injunction—which was then converted into a permanent injunction—finding that a state statute that prohibited the solicitation of voters inside a polling place or within 100 feet of the entrance to any polling place was unconstitutional as applied to plaintiffs’ news-gathering and exit-polling activities. *Id.* at 1366. In so ruling, the Court rejected defendants’ argument that *Burson* compelled upholding the statute, stating:

Burson does not save Section 102.031(4)(a) from its constitutionally impermissible status. There, the goal was to protect the voter against inappropriate “electioneering” as the voter was entering the polling station. Exit polling does not implicate the same voting-integrity concerns as electioneering. . . . [T]he Plaintiffs’ exit polling is accomplished “unobtrusively” and voters complete the written interviews completely voluntarily. Importantly, voters are only approached after they have voted. Although [the Supervisor of Elections] has made generalized assertions that numerous soliciting activities, including exit polling, contribute to a broader negative “cumulative effect,” he provides no direct or specific evidence that exit polling itself has led to any negative consequences for voters. At best, [the Supervisor of Elections] merely implies, but does not directly state, that exit polling

⁴ In cases involving laws that have a less direct effect on the act of voting, itself, the modified “burden of proof” would not apply. *Burson*, 504 U.S. at 209 n.11 (“Thus, for example, States must come forward with more specific findings to support regulations directed at intangible ‘influence,’ such as the ban on election-day editorials struck down in *Mills v. Alabama*, 384 U.S. 214, 86 S.Ct. 134, 16 L.Ed.2d 484 (1966).”).

may have an adverse effect on voters. The Court draws no such inference. The Court would expect that if [the Secretary of State] had any real, direct evidence to support her contention that exit polling adversely affects the voting process, she would have presented it in an unequivocal way. Indeed, the undisputed evidence specifically directed at exit polling suggests that the contrary is actually true. In a review of voter complaints, Mr. Workman found not one reference to exit pollers causing problems. Likewise, Mr. Workman's declaration shows that voter participation has been continually increasing. Thus, it appears that the Defendants' concerns are less problematic than [the Supervisor of Elections] suggests. . . . [The Secretary of State] suggests that the submission of such "hard evidence" is not necessary under the modified strict scrutiny standard established in *Burson*. This argument goes too far. Although [the Secretary of State] is correct that the *Burson* Court sought to permit states to respond to potential deficiencies in the electoral process with foresight rather than reactively, the Court imposed two important limitations: (1) the response must be reasonable and not significantly impinge on constitutionally protected rights; and (2) the modified burden of proof only applies "when the First Amendment right threatens to interfere with the act of voting itself." *Burson*, 504 U.S. at 214. In cases like this where the First Amendment right does not interfere with the "act of voting itself," the State must come forward with more specific evidence to support regulations directed at intangible influence. *Id.*

Id. at 1369–71. Accordingly, because SB 774 clearly is not categorized as an electioneering statute, the narrow *Burson* exception does not apply here.

III. Unlike Restricted Polling Place Zone Laws, there is No Established History of Requiring Municipal Elected Officials to Disclose the Amounts of Their Net Worth, Income, Assets, and Liabilities in Florida or Anywhere Else in the Nation.

Even if the *Burson* exception applied (which it clearly does not), there is no long history in Florida or anywhere else in the country of requiring municipal elected officials to disclose the amounts of their net worth, income, assets, and liabilities. In fact, the opposite is true.

In connection with the Supplemental Brief, Defendants submitted another affidavit and a 132-page compilation of historical documents entitled "History of Article II, Section 8, Florida constitution" (the "History Supplement"). That history, however, establishes that elected municipal officials were purposefully *not* included in the "full and public disclosure" requirement in the original constitutional amendment. And it is undisputed that, for the past 50 years, elected municipal officials have completed the Form 1 limited disclosure rather than the Form 6 full disclosure.

The History Supplement shows that in 1975 Governor Reuben Askew spearheaded an initiative campaign to amend the Florida Constitution to add a provision related to ethics called

the “Sunshine Amendment.” Included in the amendment was “full and public financial disclosure.” “Governor Askew and other supporters of the Amendment felt it should apply primarily to elected constitutional officers in the State.” [D.E. 34-2 at 13]. In fact, in the back-up materials, the advocates specifically recognized that elected municipal officials may be different than constitutional offices in that some were for small cities who donated their time without compensation. *Id.* Thus, the proponents purposefully did not include elected municipal officials in the group of officials who would make full and public financial disclosure under the proposed constitutional amendment: “Whether these people [elected municipal officials] should disclose, and who among them should disclose, is a legitimate matter for legislative debate once the Amendment is passed by the people.” *Id.*; *see also id.* at 18 (answering question “Why not include all local officers in the Sunshine Amendment,” the proponents stated that “the Amendment, however, is intended to cover those with the greatest amount of public power”).

The amendment passed in 1976 and the following year, the State Legislature enacted a bill to apply the same full and public disclosure to elected municipal officials. ***But Governor Askew, the main proponent of the constitutional amendment and financial disclosure, vetoed the bill.*** *Plante v. Gonzalez*, 575 F.2d 1119, 1123 n.5 (5th Cir. 1978). Thus, for *almost 50 years*, elected municipal officials have completed Form 1, which does not require that they disclose the amount of their net worth, income, assets, and liabilities. Therefore, no historical record in Florida supports the need or efficacy of such additional financial disclosures by municipal elected officials, and Plaintiffs merely seek to maintain that long-standing status quo (filing Form 1, not Form 6, financial disclosures).

Unlike the restricted zones near polling places in *Burson*, there exists no long national history of requiring elected municipal officials to disclose the amounts of their net worth, income, assets, and liabilities.⁵ Although “all 50 States” have restricted areas around polling places,

⁵ Defendants also cite *Garcia v. Stillman*, 661 F. Supp. 3d 1168, 1183 (S.D. Fla. 2023) (Bloom, J.), a case where Judge Bloom, reviewing the history of lobbying restrictions in Florida and the legislative record (including the reports and studies presented to the Constitutional Revision Commission which encompassed a study showing that all but six states had laws prohibiting such lobbying), found that the lobbying restriction contained in the Florida Constitution violated the First Amendment and entered a preliminary injunction. *Id.* at 1184. Although such reports and studies did exist, Judge Bloom, after reviewing the transcripts, concluded that there was “minimal empirical evidence or legislative findings that the Lobbying Restrictions are necessary or adequate to address *quid pro quo* corruption.” *Id.* Remarkably, the history in the legislative record in *Garcia*

Defendants did not find a single State that requires such extensive disclosures from municipal elected officials. Instead, Defendants had to go back nearly 50 years to find one township in New Jersey that had done so. [D.E. 34 at 5 n.4 (citing *Lehrhaupt v. Flynn*, 140 N.J. Super. 250 (1976))].⁶ There, the Township of Madison imposed upon itself the requirement that its elected officials “file annual reports making full financial disclosure of assets, liabilities and net worth.” *Lehrhaupt*, 140 N.J. Super. at 255. This was necessary “as an innovative measure in the wake of charges, indictments and convictions of officials of Madison Township for criminal offenses of bribery and extortion related to their public duties.” *Id.* at 258. Interestingly, Madison Township (which is now named the Township of Old Bridge⁷) no longer requires disclosures of amounts of net worth, income, assets, and liabilities, and instead now requires disclosures similar to Form 1. *See* Section 145-5(A), Code of Township of Old Bridge, <https://ecode360.com/6940025#6940074> (last accessed May 3, 2024). Similarly, the State of New Jersey also does not require that elected municipal officials disclose the amounts of their net worth, assets, income, or liabilities, but rather requires disclosures that are even less inclusive than Florida’s Form 1. *See* https://www.nj.gov/dca/divisions/dlgs/resources/fds_docs/FDS%20Sample-DIAGONAL.pdf (last accessed on May 3, 2024). In short, there is simply no history of requiring disclosure of amounts of net worth, income, assets, and liabilities in Florida or elsewhere in the country, and certainly not a sufficient one to prove that such disclosures, through “common sense,” are necessary and more effective at protecting against the abuse of the public trust than those contained in Form 1.

that was ruled insufficient *was far more extensive* than here (where there is no support whatsoever in the legislative record).

⁶ Defendants also cite an article from A.L.R. that appears to be a compilation of many older, pre-*Riley* cases regarding financial disclosures. [D.E. 34 at 3 n.3]. Interestingly, a word search of that document shows that the only case description that even mentioned “net worth” was *Lehrhaupt*. In addition, there were no other case descriptions where the local officials were required to state the “amount” of income, assets, or liability. That is because other states simply do not require such disclosure, requiring, instead, disclosures similar to Form 1 (sources of income and identification of assets, but not amounts).

⁷ The township “was called Madison Township until 1975 when the name was changed by referendum to the Township of Old Bridge.” *See* Old Bridge Township: History, <https://www.oldbridge.com/page/history> (last visited on May 3, 2024).

IV. Applicable Level of Constitutional Scrutiny.

Prior to the filing of the Supplemental Brief, the parties did not dispute that SB 774 was subject to First Amendment constitutional scrutiny, the only disagreement being the level of scrutiny (“strict scrutiny” versus “exacting scrutiny”). Defendants repeatedly conceded that the law, which unquestionably compels content-based speech, is subject to First Amendment scrutiny. *See* Response to Motion for Preliminary Injunction [D.E. 16 at 2 (“the correct standard is exacting scrutiny”); *id.* at 4 (“It is well-settled that ‘First Amendment challenges to disclosure requirements’ are subject to ‘exacting scrutiny.’”); *id.* at 5 (“the Supreme Court has repeatedly held disclosure requirements are subject to exacting scrutiny, not strict scrutiny”)]; Motion to Dismiss [D.E. 15 at 3 (“[T]he Supreme Court has made it abundantly clear that exacting scrutiny – not strict scrutiny – applies to compelled speech challenges concerning disclosure requirements.”); *id.* at 6 (“It is well-settled that ‘First Amendment challenges to disclosure requirements’ are subject to ‘exacting scrutiny.’”)].

Thus, in filings in this case (and at the April 22, 2024 hearing), Defendants repeatedly conceded that Plaintiffs’ suit implicates the First Amendment and has cited numerous cases acknowledging the applicability of the First Amendment (and application of “exacting scrutiny”). Yet now, with no support whatsoever, Defendants pivot and remarkably assert for the first time (and as their first point in the Supplemental Brief) that “Plaintiffs’ suit does not implicate the First Amendment.” [D.E. 34 at 1]. This is, at the very least, rather odd given that all of the cases cited by Plaintiffs (calling for strict scrutiny) and Defendants (calling for exacting scrutiny) show that the First Amendment is implicated when the government compels speech (although they disagree as to the applicable level of scrutiny).

The only case cited in support of this odd argument is *Plante*, a 46-year-old decision in which the financial disclosure requirement in the Florida Constitution (which, as noted above, did not include municipal elected officials), was challenged under the federal “right to privacy, derived from the shadows of the Bill of Rights and made applicable to Florida through the fourteenth amendment.” 575 F.2d at 1123. *No claim was brought for compelled, content-based speech under the First Amendment.*⁸

⁸ *Plante*, along with nearly all of the cases compiled in the A.L.R. article cited by Defendants, predated the 1988 Supreme Court decision in *Riley*. [See D.E. 34 at n.3 (relying upon cases “prior to 1983”). In the 25 years since *Riley*, the Supreme Court has greatly expanded First Amendment

As to the federal privacy claim, the Fifth Circuit ruled that “[f]inancial privacy is not within the autonomy branch of the right to privacy,” and thus “the senators cannot bring their complaint within this branch of the right to privacy.” *Id.* at 1132 (emphasis added). Thus, the only strand to the right to privacy under which the senators could proceed was the “right to confidentiality.” *Id.* The court then rejected the application of “exacting scrutiny” applicable to claims for violation of the right to association because “memberships and associations were revealed, if at all, only tangentially.” *Id.* The court, therefore, determined that “the balancing standard seems appropriate.” *Id.* at 1134. The court then applied the balancing test and concluded it was satisfied. The *Plante* decision has no bearing on this case because it did not consider a claim of compelled, content-based speech and applied a far less stringent standard than strict scrutiny (or even exacting scrutiny).⁹

Defendants assert that laws requiring financial disclosure are not new and that Plaintiffs are not able to point to any case in which a court has concluded that such laws violate the First Amendment. That is simply untrue. Plaintiffs and Defendants have each provided the Court with

protection, particularly in connection with compelled speech. *See NIFLA*, 585 U.S. at 766–775 (applying strict scrutiny to a state law requiring pregnancy-related clinics to disseminate notice stating existence of publicly funded family planning services and stating whether the clinic was licensed violated First Amendment free speech rights and proclaiming that, “[b]y compelling individuals to speak a particular message, such notices alte[r] the content of [their] speech.” (second and third alterations in original) (quotations omitted)); *Janus v. AFSCME*, 585 U.S. 878, 925 (2018) (invalidating a state statute that compelled speech without deciding whether exacting scrutiny or strict scrutiny applied and stating that “[o]ur later cases involving compelled speech and association have also employed exacting scrutiny, if not a more demanding standard”); *303 Creative LLC v. Elenis*, 600 U.S. 570, 586, 588–90 (2023) (holding that a business owner’s First Amendment right to free speech would be violated if the State compelled her to provide website and graphic design services that would cut against her religious beliefs and stating that the First Amendment is offended “just the same” when the government seeks to compel “a person to speak its message when he would prefer to remain silent or to force an individual to include other ideas with his own speech that he would prefer not to include”); *see also Reed v. Town of Gilbert*, 576 U.S. 155, 165–68 (2015) (formulating a two-step test in determining whether a speech regulation is content-based or content-neutral). Thus, the applicability of compelled speech protection was not raised in the pre-*Riley* challenges like *Plante*.

⁹ Defendants’ attempt to analogize a Form 6 financial disclosure to the submission of a job application for a low-level government position misses the mark. Of course, a job application requires disclosure of limited personal information (like name, address, prior employment), but would not generally require the disclosure of the amount of a job applicant’s net worth, income, assets, and liabilities, and would certainly not involve the posting of such information onto the Internet for the world to see.

numerous cases where disclosure requirements have been struck down based on the First Amendment. *See, e.g., Nat'l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018) (“*NIFLA*”) (invalidating law that required pregnancy centers to disclose existence of publicly funded family planning services); *Riley v. Nat'l Fed'n of the Blind of N. Carolina, Inc.*, 487 U.S. 781 (1988) (invalidating law requiring charities to disclose percent of contributions actually turned over to charity); *Am. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373 (2021) (invalidating law that required charities to disclose names and addresses of major donors over \$500); *NAACP v. State of Ala. ex rel. Patterson*, 357 U.S. 449 (1958) (Alabama’s state court order requiring NAACP to disclose records, including names and addresses of all members and agents, was a violation of the NAACP’s members’ First Amendment right to freely associate). Moreover, as discussed *supra*, the breadth of Florida’s Form 6 (requiring filers to disclose the precise amount of net worth, income, assets, and liabilities) is highly uncommon and exceptionally intrusive, and Defendants could not point to any other State that requires such intrusive disclosures (and there certainly were none mentioned in the legislative record).

V. Defendants Have Not Satisfied Either Exacting or Strict Scrutiny.

Defendants spend the last eleven pages of the Supplemental Brief trying to justify why elected municipal officials should be required to disclose the exact amount of their net worth, income, assets, and liabilities, rather than continue to make the more limited disclosures (of sources of income and identification of assets and liabilities) that have worked for the past 50 years. No expert research, studies, or empirical evidence is presented at all, but rather the simple *post hoc*, conclusory “common sense” types of arguments rejected as insufficient in the Supreme Court’s decisions *Edenfield*, *Playboy Entertainment*, *Sable Communications*, and *United States v. Virginia*, as well as by the court of appeals’ decisions in *Buerhle* and *Agudath Israel* and the district court’s decision in *Messina*, *supra* at 3.

A. Defendants’ “Common Sense” Arguments are Contrary to the Evidence.

Defendants’ “common sense” positions are merely *post hoc* unsupported attempted justifications and are contrary to the evidence. The representative of the Commission on Ethics conceded that the amount of net worth, income, assets, and liabilities are not elements of any ethics violations. [D.E. 17-1 at 95–99]. She also conceded that no analysis had ever been done correlating ethics complaints with net worth or income. *Id.* at 92:9–93:1 (answering in the negative to the question of whether the Commission has “done any analysis or empirical studies that

compare the amount of net worth on a Form 6 with the amount of people who are found have ethics violations”). The only empirical evidence in the Court’s record—which was not in the legislative record—contradicts Defendants’ position. Defendants initially claimed that there was a “steady, upward trend” of the number of ethics complaints overall and against elected municipal officials. [D.E. 16 at 7]. The true numbers, however, showed that was not correct:

<u>Year</u>	<u>Total Complaints</u>	<u>Municipal Complaints</u>
2022 ¹⁰	223	53
2021 ¹¹	238	72
2020 ¹²	243	62
2019 ¹³	231	84
2018 ¹⁴	211	68

Moreover, the numbers for 2022 further showed that although State and County elected officials filed Form 6, the percentage of them that had complaints filed against them were 5.83% and 5.29%, respectively. In contrast, for municipal elected officials filing Form 1, the percentage that had complaints filed against them was 2.41%.

2022

<u>Category</u>	<u>Complaints</u> ¹⁵	<u>Total Filed</u> ¹⁶	<u>Percent</u>
State Elected	12	206	5.83%
County Elected	36	681	5.29%
Municipal Elected	53	2200	2.41%

Thus, contrary to Defendants’ “common sense” arguments, the empirical evidence in the record suggests that Form 1 has been more effective as to municipal elected officials than Form 6 has been for State and County Elected Officials.

¹⁰ [D.E. 17-2 at 193 (2022 Annual Report, at 9)].

¹¹ [D.E. 17-2 at 164 (2021 Annual Report, at 9)].

¹² [D.E. 17-2 at 135 (2020 Annual Report, at 10)].

¹³ [D.E. 17-2 at 105 (2019 Annual Report, at 9)].

¹⁴ [D.E. 17-2 at 76 (2018 Annual Report, at 9)].

¹⁵ [D.E. 17-2 at 193 (2022 Annual Report, at 9)].

¹⁶ [D.E. 25 ¶¶ 10–12].

B. Defendants' Attempts to Restate Their Governmental Interests Are Unavailing.

In the Supplemental Brief, Defendants have attempted to restate the government interest served by requiring that municipal elected officials complete Form 6 rather than Form 1, ignoring the clear interest stated in the Florida Constitution, which is to protect against the abuse of the public trust. The text of Article II, Section 8 of the Florida Constitution (which was added through the Sunshine Amendment in 1976) explicitly says: “A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right: (a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.” *Id.* In their deposition testimony, Defendants, in fact, confirmed that “the overriding mission of the [Commission on Ethics] is to protect against the abuse of the public trust.” [D.E. 17-1 at 14:7–14]. Accordingly, Form 6 “is intended to assure the right against abuse of the public trust.” *Id.* at 15:18–22; *see also id.* at 44:4–8 (acknowledging that “the reason that public officers are required to publicly disclose their financial interest is to avoid conflicts of interest”); *see also* § 112.3144(11)(c), Fla. Stat. Plaintiffs have already agreed that protecting against the abuse of public trust is both an important and compelling interest. [D.E. 10 at 14].

For First Amendment scrutiny, government must articulate the governmental interest with specificity (here, protection from abuse of the public trust), rather than make abstract statements. *Complete Angler, LLC v. City of Clearwater*, 607 F. Supp. 2d 1326, 1334 (M.D. Fla. 2009); *see also Awad v. Ziriak*, 670 F.3d 1111, 1130 (10th Cir. 2012). In the Supplemental Brief, Defendants attempt to define the alleged governmental interest in such a way as to be so abstract that any additional disclosure would serve the interest.

The first interest discussed by Defendants is “bolstering of public confidence in government officials.” [D.E. 34 at 9]. Bolstering of public confidence may be the result of protecting against the abuse of public trust; it is not a governmental interest in and of itself. The “bolstering of public confidence” is also very abstract and difficult to quantify. Even if it were the applicable interest, Defendants certainly presented no evidence (in the legislative record or otherwise) that public confidence is higher in State and County elected officials (who have for the past 50 years completed Form 6) than in municipal elected officials (who have completed Form 1). There is also no evidence suggesting that, for example, the disclosure of the amount of an official’s net worth, or the value of a specific out-of-state municipal bond that an official owns,

creates more or less confidence in the government. Even if the amorphous “bolstering of public confidence” was, in and of itself, a compelling or sufficiently important interest, there is still no evidence here that the change from Form 1 to Form 6 was necessary, would increase public confidence, or was narrowly tailored.

The second interest discussed by Defendants is “promotion of voter knowledge.” [D.E. 34 at 10]. Again, this is a very abstract and amorphous concept. The public’s “right to know” begs the question: “to know what?” The obvious answer is that the public should know things that are relevant to protecting against the abuse of public trust. The “right to know” cannot simply mean that any level of disclosure is automatically constitutional simply because the more the public knows, the better. In addition, there would still need to be some expert research, studies or empirical evidence in the legislative record showing that each of the items that are to be disclosed (amount of net worth, income, assets and liabilities) are things that the public needs to know.

The third interest discussed by Defendants is “the state’s interest in its political community.” *Id.* at 11. This too is a very abstract and amorphous concept. There certainly is no evidence in the record (legislative or otherwise) that the filing of Form 1 rather than Form 6 by municipal elected officials has damaged the “political community” of the State, or that Form 6 filers are somehow members of the “transparent, trustworthy, and ethics focused” community but Form 1 filers are not. Again, this is merely a *post hoc* argument with no support in the form of expert research, studies or empirical evidence in the legislative record.

The fourth and final interest discussed by Defendants is “deterrence of corruption and conflicts.” *Id.* at 13. This is essentially equivalent to protecting against the abuse of the public trust. But, again, Defendants just assume, with no evidence, that Form 1 is not sufficiently deterring corruption and conflicts, that Form 6 would be better at deterrence, and that the specific additional disclosures (amount of net worth, income, assets and liabilities) are each necessary for such deterrence (in order to be narrowly tailored). There is no expert research, studies or empirical evidence supporting these conclusions in the legislative record (or anywhere in the record). In fact, as noted above, the only empirical evidence suggested to the contrary—the Form 6 State and County elected official filers have a higher percentage of ethics complaints against them than the Form 1 municipal elected official filers—does not advance Defendants’ position. *See supra* at 11.

The final argument raised by Defendants is that there should be some sort of balancing test, like that used under a rational basis test. That is simply not the standard by which laws compelling

content-based speech are measured. *United States v. Stevens*, 559 U.S. 460, 470 (2010) (observing the First Amendment does not contemplate such “ad hoc balancing of relative social costs and benefits”). Rather, the government has the burden of establishing, through the legislative record, that it can satisfy a high level of scrutiny (either strict or exacting). Here, Defendants have failed to show through the legislative record (or otherwise) that requiring municipal elected officials to disclose the exact amount of their net worth and income, the value of every asset over \$1000, and the amount of every liability over \$1000 meets exacting or strict scrutiny.

CONCLUSION

For the reasons stated above and set forth in the Expedited Motion for Preliminary Injunction (the “Motion”) [D.E. 10], Plaintiffs respectfully request that the Court grant the Motion and enjoin Defendants from enforcing the portion of SB 774 that requires municipal elected officials and candidates to file a Form 6 rather than a Form 1. It bears repeating that Plaintiffs are not seeking to avoid all financial disclosure. Rather, Plaintiffs seek to restore the status quo that has existed for decades, under which they file Form 1 disclosures. For practical reasons, Plaintiffs believe that the injunction should apply to all municipal elected officials and candidates statewide (since all are equally injured and would have standing).¹⁷ Alternatively, if the Court determines that the injunction should be limited to the named plaintiffs, Plaintiffs respectfully suggest that the Court have it also apply to any additional plaintiffs that the Court allows to join as plaintiffs up to a certain date (possibly, June 30 since the Form 6 filing deadline is July 1).

Dated this 6th day of May, 2024.

¹⁷ In *Garcia*, the district court had dismissed the claims of all but one of the plaintiffs because they were not “lobbyists” and thus did not have standing. 661 F. Supp. 3d at 1176–1179. Thus, when the district court enjoined enforcement statewide, that injunction applied to many local elected officials who did not have standing. *Id.* at 1186. That is not the situation here; the over 2,000 municipal elected officials and candidates who are not named plaintiffs in this action will be equally damaged when they are compelled to speak against their will and disclose personal financial information. [D.E. 25 ¶ 12].

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:24-CV-20604

PRESIDENT OF TOWN COUNCIL
ELIZABETH A. LOPER, ALDERMAN KEITH
J. BLACK, ALDERMAN KATHLEEN M.
GROSS, ALDERMAN WILLIAM BIRCH, and
ALDERMAN JEFFERY M. DUNCAN, elected
officials of the Town of Briny Breezes, Florida;

COUNCILMEMBER WALTER FAJET,
COUNCILMEMBER JACKY BRAVO, and
COUNCILMEMBER JORGE SANTIN, elected
officials of Miami Springs, Florida;

COMMISSIONER PATRICIA PETRONE and
COMMISSIONER SANDRA JOHNSON,
elected officials of Lighthouse Point, Florida;

MAYOR DANIELLE H. MOORE,
PRESIDENT OF TOWN COUNCIL
MARGARET A. ZEIDMAN, COUNCIL
MEMBER EDWARD A. COONEY, COUNCIL
MEMBER LEWIS CRAMPTON, COUNCIL
MEMBER JULIE ARASKOG, COUNCIL
MEMBER BRIDGET MORAN, and
PRESIDENT OF TOWN COUNCIL BOBBIE
LINDSAY, elected officials of the Town of Palm
Beach, Florida;

MAYOR BRENT LATHAM, VICE MAYOR
RICHARD CHERVONY, and
COMMISSIONER ANDY ROTONDARO,
elected officials of North Bay Village, Florida;

MAYOR GLENN SINGER, VICE MAYOR
BERNARD EINSTEIN, COUNCIL MEMBER
JUDY LUSSKIN, COUNCIL MEMBER
JAIME MENDAL and COUNCIL MEMBER
KENNETH BERNSTEIN, elected officials of
the Town of Golden Beach, Florida;

MAYOR BERNARD KLEPACH and
COUNCIL MEMBER IRWIN TAUBER,
elected officials of Indian Creek, Florida;

MAYOR JEFFREY P. FREIMARK, VICE-MAYOR SETH E. SALVER, COUNCILMAN DAVID ALBAUM, COUNCILMAN DAVID WOLF, and COUNCILMAN BUZZY SKLAR, elected officials of the Village of Bal Harbour, Florida;

MAYOR MARGARET BROWN, COMMISSIONER MARY MOLINA-MACFIE, COMMISSIONER CHRIS EDDY, COMMISSIONER HENRY MEAD, and COMMISSIONER BYRON L. JAFFE, elected officials of the City of Weston, Florida;

MAYOR SHELLY PETROLIA, VICE-MAYOR RYAN BOYLSTON, DEPUTY VICE-MAYOR ROB LONG, COMMISSIONER ADAM FRANKEL, COMMISSIONER ANGELA BURNS, MAYOR THOMAS CARNEY, and COMMISSIONER THOMAS MARKETT, elected officials of the City of Delray Beach, Florida;

MAYOR JOSEPH AYOUB, COMMISSIONER ANDY STEINGOLD, COMMISSIONER CARLOS DIAZ, COMMISSIONER NANCY J. BESORE, COMMISSIONER CLIFF MERZ, and COMMISSIONER JACOB BURNETT¹, elected officials of the City of Safety Harbor, Florida;

COMMISSIONER JEREMY KATZMAN, an elected official of Cooper City, Florida;

MAYOR SCOTT J. BROOK, VICE-MAYOR SHAWN CERRA, COMMISSIONER JOSHUA SIMMONS, COMMISSIONER JOY CARTER, and COMMISSIONER NANCY METAYER BOWEN, elected officials of the City of Coral Springs, Florida;

¹ Pursuant to Fed.R.Civ.P. 15(a)(2), the Defendants have provided written consent to adding Safety Harbor Commissioner Jacob Burnett as a party plaintiff.

VICE-CHAIR ERIK BRECHNITZ, an elected official of the City of Marco Island, Florida;

VICE MAYOR ARLENE R. SCHWARTZ, COMMISSIONER ANTONIO V. ARSERIO, COMMISSIONER JOANNE SIMONE, and COMMISSIONER ANTHONY N. CAGGIANO, elected officials of the City of Margate, Florida;

MAYOR ROBERT T. WAGNER, COUNCIL MEMBER JOHN STEPHENS III, COUNCIL MEMBER TORY CJ GEILE, COUNCIL MEMBER JAMES B. BAGBY, and COUNCIL MEMBER TERESA HEBERT, elected officials of the City of Destin, Florida;

MAYOR KENNETH R. THURSTON, COMMISSIONER MELISSA P. DUNN, and COMMISSIONER SARAI "RAY" MARTIN, elected officials of the City of Lauderhill, Florida,

MAYOR BILL GANZ, VICE-MAYOR BERNIE PARNES, COMMISSIONER BEN PRESTON, and COMMISSIONER MICHAEL HUDAK, elected officials of the City of Deerfield Beach, Florida;

VICE-MAYOR PAUL A. KRUSS, COMMISSIONER RACHEL FRIEDLAND, COMMISSIONER MICHAEL STERN, COMMISSIONER AMIT BLOOM, COMMISSIONER LINDA MARKS, and MAYOR HOWARD WEINBERG, elected officials of the City of Aventura, Florida;

MAYOR MICHAEL NAPOLEONE, COUNCILWOMAN TANYA SISKIND, COUNCILMAN JOHN T. MCGOVERN, COUNCILMAN MICHAEL DRAHOS, COUNCILWOMAN AMANDA SILVESTRI, COUNCILWOMAN MARIA ANTUÑA, elected officials of the Village of Wellington;

COMMISSIONER KATHRYN ABBOTT,
elected official Village of Pinecrest;

MAYOR FRED CLEVELAND, VICE MAYOR
VALLI J. PERRINE, COMMISSIONER
RANDY HARTMAN and COMMISSIONER
JASON MCGUIRK, elected officials of the City
of New Smyrna Beach, Florida;

MAYOR CHARLES EDWARD DODD, VICE
MAYOR KELLY DIXON, COUNCIL
MEMBER FREDERICK B. JONES, COUNCIL
MEMBER BOB MCPARTLAN, AND
COUNCIL MEMBER CHRISTOPHER NUNN,
elected officials of the City of Sebastian, Florida,

COUNCIL MEMBER MARK LARUSSO and
COUNCIL MEMBER TIM THOMAS, elected
officials of the City of Melbourne, Florida;

VICE MAYOR FORTUNA SMUKLER, elected
official of the City of North Miami Beach,
Florida;

MAYOR STEVEN LOSNER and COUNCIL
MEMBER ERICA G. AVILA, elected officials
of the City of Homestead, Florida;

MAYOR MICHAEL J. RYAN, DEPUTY
MAYOR JOSEPH A. SCUOTTO, ASSISTANT
DEPUTY MAYOR NEIL C. KERCH,
COMMISSIONER JACQUELINE A.
GUZMAN, and COMMISSIONER MARK A.
DOUGLAS, elected officials of the City of
Sunrise, Florida;

MAYOR MARK MCDERMOTT, DEPUTY
MAYOR STUART M. GLASS, COUNCIL
MEMBER LOREN STRAND, COUNCIL
MEMBER BRETT J. MILLER and COUNCIL
MEMBER DOUG WRIGHT, elected officials of
the Town of Indialantic, Florida;

VICE MAYOR MICHAEL CALLAHAN,
COUNCIL MEMBER ROBERT DUNCAN,
COUNCIL MEMBER SUZY LORD, and

MAYOR TIM MEERBOTT, elected officials of the Town of Cutler Bay, Florida;

MAYOR SCOTT NICKLE, DEPUTY MAYOR FRANK GUERTIN, COUNCIL MEMBER SHAUNA HUME, COUNCIL MEMBER HAMILTON BOONE, COUNCIL MEMBER ADAM DYER, elected officials of the City of Indian Harbour Beach, Florida;

MAYOR GEORGE BURCH, VICE MAYOR JESSE VALINSKY, CONCIL MEMBERS JEROME CHARLES, COUNCIL MEMBER NEIL J. CANTOR and COUNCIL MEMBER SANDRA HARRIS, elected officials of the Village of Miami Shores, Florida;

MAYOR JOSE “PEPE” DIAZ, COMMISSIONER IDANIA LLANIO, COMMISSIONER SAUL DIAZ, COMMISSIONER ISIDRO C. RUIZ, COMMISSIONER JOSE MARTI, COMMISSIONER MARCUS VILLANUEVA, COMMISSIONER REINALDO REY JR, and COMMISSIONER IAN VALLECILLO, elected officials of the City of Sweetwater, Florida;

VICE MAYOR LORI LEWELLEN, COMMISSIONER TAMARA JAMES and COMMISSIONER MARCO A. SALVINO, SR., elected officials of the City of Dania Beach, Florida;

MAYOR SAMUEL PENNANT, VICE MAYOR STEVEN GLENN, COMMISSIONER MARY RICHARDSON, COMMISSIONER WILLIE QUARLES and COMMISSIONER BERTRAM GODDARD, elected officials of the Town of Dundee, Florida;

MAYOR NANCY Z. DALEY, VICE MAYOR MAC FULLER, COMMISSIONER CHARLES LAKE, COMMISSIONER BRENT EDEN and COMMISSIONER JACK DEARMIN, elected officials of the City of Lake Alfred, Florida;

MAYOR H. L. "ROY" TYLER, VICE MAYOR OMAR ARROYO, COMMISSIONER MORRIS WEST, COMMISSIONER ANNE HUFFMAN and COMMISSIONER VERNEL SMITH, elected officials of the City of Haines City, Florida;

MAYOR RICHARD WALKER, VICE MAYOR JORDAN ISROW and COMMISSIONER KENNETH CUTLER, and COMMISSIONER SIMEON BRIER, elected officials of the City of Parkland, Florida;

COUNCILMEMBER JENNIFER ANDREU, elected official of the City of Plantation, Florida,

COUNCILMEMBER KEM E. MASON, elected official of the Town of Lantana, Florida;

COMMISSIONER DAVID SUAREZ, COMMISSIONER LAURA DOMINGUEZ, COMMISSIONER JOSEPH MAGAZINE and COMMISSIONER KRISTEN ROSEN GONZALES, and COMMISSIONER ALEX J. FERNANDEZ, elected officials of the City of Miami Beach, Florida, and

COMMISSIONER RANDY STRAUSS, elected official of the Town of Lauderdale-By-The-Sea, Florida,

COUNCILMEMBER BRETT MOSS, elected official of the Village of Key Biscayne,

MAYOR SUZY WILSON, COMMISSIONER RANDY BILLINGS, elected officials of the City of Eagle Lake,

MAYOR JAMES MICHAEL O'BRIEN, COUNCILMEMBER AMANDA N. DAVID, COUNCILMEMBER ANTHONY J. DAVIT, COUNCILMEMBER BRANDI SLOSS HAINES, and COUNCILMEMBER LOREN R. WILLIAMS, elected officials of the Town of Windermere,

MAYOR NATHANIEL J. BIRDSOY, JR.,
MAYOR PRO TEM WILLIAM BRIAN
YATES, COMMISSIONER BRADLEY T.
DANTZLER, COMMISSIONER L. TRACY
MERCER, COMMISSIONER CLIFTON E.
DOLLISON, elected officials of the City of
Winter Haven,

Plaintiffs,

vs.

ASHLEY LUKIS, in her official capacity as
Chair of the Florida Commission on Ethics;
MICHELLE ANCHORS, in her official capacity
as Vice Chair of the Florida Commission on
Ethics; WILLIAM P. CERVONE, in his official
capacity as a Member of the Florida Commission
on Ethics; TINA DESCOVICH, in her official
capacity as Member of the Florida Commission
on Ethics; FREDDIE FIGGERS, in his official
capacity as a Member of the Florida Commission
on Ethics; LUIS M. FUSTE, in his official
capacity as a Member of the Florida Commission
on Ethics; and WENGAY M. NEWTON, SR., in
his official capacity as a Member of the Florida
Commission on Ethics,

Defendants.

SECOND AMENDED COMPLAINT²

Plaintiffs bring this action against Defendants for declaratory and injunctive relief, and state as follows:

OVERVIEW

1. This is an action by a large number of Florida elected municipal officials challenging a recently enacted law (“SB 774”) that on or before July 1, 2024 compels elected

² The only changes from the original complaint are the addition of municipal elected officials as plaintiffs in the title and in paragraph 13.

municipal officials in office as of January 1, 2024 to utter very specific statements, in writing and available to the public at large through the Internet, regarding the elected officials' personal finances, including, among other things, stating the exact amount of their net worth and income, the total dollar value of their household goods, and the precise value of every asset and amount of every liability in excess of \$1,000. An elected municipal official's failure to make these public statements will result in significant fines, civil penalties, and even potential removal from office.

2. SB 774 amended, among other statutes, Fla. Stat. § 112.3144, and renders elected municipal officials in office as of January 1, 2024, and municipal candidates subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j).

3. Prior to the enactment of SB 774, elected municipal officials and municipal candidates were required to provide financial disclosures via a document called "Form 1" pursuant to Fla. Stat. § 112.3145, but were not subject to the requirements of Fla. Const., art. II, § 8(j). However, Florida Statute sections 112.3144 and 99.061, as amended by SB 774 in 2023, respectively make *all* elected municipal officers and municipal candidates subject to the filing requirements of "Form 6," which demands much more intrusive financial disclosures as outlined in the Florida Constitution and section 112.3144. A copy of Form 1 is attached as Exhibit A, and a copy of Form 6 is attached as Exhibit B.

4. Forcing municipal elected officials and municipal candidates to publicly make such statements impairs their right to be free of government-compelled, content-based, non-commercial speech, in violation of the First Amendment to the United States Constitution.

5. Rather than being the least restrictive, narrowly tailored means of accomplishing a compelling state interest, these new, financial disclosure requirements imposed on elected municipal officials and municipal candidates through SB 744 are the most restrictive means

available – stricter and more onerous than required of federal elected officials (including the President of the United States) and of elected officials in other states throughout the country.

6. The additional, financial information statements required to be made by Form 6 (*e.g.*, the disclosure of exact net worth, exact income and precise values of household goods and other assets and liabilities), as compared to Form 1, have little, if any, bearing on an elected official's municipal service, does not prevent or even ameliorate conflicts of interest or public corruption, and does not increase public confidence in government.

7. Form 1 is a less restrictive, alternative means of accomplishing the same governmental interests, as would be the less onerous disclosure forms used by the federal government or any of the other states in the United States.

8. Indeed, municipal elected officials and candidates operated under the requirements of Form 1 for decades, and nothing in the Legislature's enactment of the new Form 6 requirement reflected that Form 1 was insufficient and necessitated a change.

9. As such, this action seeks an order (i) declaring the 2023 amendments to Fla. Stat. § 112.3144 related to elected municipal officials and any penalties arising therefrom, including those in Fla. Stat. § 112.317, are unconstitutional under the First Amendment of the United States Constitution, and (ii) enjoining Defendants from enforcing the disclosure requirements.

JURISDICTION AND VENUE

10. The Court has subject matter jurisdiction over this case pursuant to this Court's federal question jurisdiction, 28 U.S.C. § 1331, as this case arises under the First Amendment to the United States Constitution, as made applicable to the States by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

11. This case seeks declaratory and injunctive relief, pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, Federal Rule of Civil Procedure 57, and 42 U.S.C. § 1983.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), as two of the Defendants (Freddie Figgers and Luis M. Fuste) reside in this District (and all are residents of this State), the majority of the plaintiffs reside and serve as elected officials in the District, and a substantial part of the events giving rise to the claim herein occurred in this District.

THE PARTIES

A. Plaintiffs

13. Plaintiffs in this action consist of the following current, elected officials of Florida municipalities:

- a. Town of Briny Breezes President of Town Council Elizabeth A. Loper;
- b. Town of Briny Breezes Alderman Keith J. Black;
- c. Town of Briny Breezes Alderman Kathleen M. Gross;
- d. Town of Briny Breezes Alderman William Birch;
- e. City of Miami Springs Councilmember Walter Fajet;
- f. City of Miami Springs Councilmember Jacky Bravo;
- g. City of Lighthouse Point Commissioner Patricia Petrone;
- h. City of Lighthouse Point Commissioner Sandra Johnson;
- i. Town of Palm Beach Mayor Danielle H. Moore;
- j. Town of Palm Beach President of Town Council Margaret A. Zeidman;
- k. Town of Palm Beach Council Member Edward A. Cooney;
- l. Town of Palm Beach Council Member Lewis Crampton;

- m. Town of Palm Beach Council Member Julie Araskog;
- n. Town of Palm Beach President of Town Counsel Bobbie Lindsay;
- o. North Bay Village Mayor Brent Latham;
- p. North Bay Village Vice Mayor Richard Chervony;
- q. North Bay Village Commissioner Andy Rotondaro;
- r. Golden Beach Mayor Glenn Singer;
- s. Golden Beach Vice Mayor Bernard Einstein;
- t. Council Member Judy Lusskin;
- u. Council Member Jaime Mendal
- v. Council Member Kenneth Bernstein;
- w. Indian Creek Mayor Bernard Klepach;
- x. Indian Creek Council Member Irwin Tauber;
- y. Village of Bal Harbour Mayor Jeffrey P. Freimark;
- z. Village of Bal Harbour Vice-Mayor Seth E. Salver;
- aa. Village of Bal Harbour Councilman David Albaum;
- bb. Village of Bal Harbour Councilman David Wolf;
- cc. City of Weston Mayor Margaret Brown;
- dd. City of Weston Commissioner Mary Molina-Macfie;
- ee. City of Weston Commissioner Chris Eddy;
- ff. City of Weston Commissioner Henry Mead;
- gg. City of Weston Commissioner Byron L. Jaffe;
- hh. City of Delray Beach Mayor Shelly Petrolia;
- ii. City of Delray Beach Vice Mayor Ryan Boylston;
- jj. City of Delray Beach Deputy Vice-Mayor Rob Long;

- kk. City of Delray Beach Commissioner Adam Frankel;
- ll. City of Delray Beach Commissioner Angela Burns;
- mm. City of Safety Harbor Mayor Joseph Ayoub;
- nn. City of Safety Harbor Commissioner Andy Steingold;
- oo. City of Safety Harbor Commissioner Carlos Diaz;
- pp. City of Safety Harbor Commissioner Nancy J. Besore;
- qq. City of Safety Harbor Commissioner Cliff Merz;
- rr. Cooper City Commissioner Jeremy Katzman;
- ss. City of Coral Springs Mayor Scott J. Brook;
- tt. City of Coral Springs Vice Mayor Shawn Cerra;
- uu. City of Coral Springs Commissioner Joshua Simmons;
- vv. City of Coral Springs Commissioner Joy Carter;
- ww. City of Coral Springs Commissioner Nancy Metayer Bowen;
- xx. City of Marco Island Vice-Chair Erik Brechnitz;
- yy. City of Margate Vice-Mayor Arlene Schwartz;
- zz. City of Margate Commissioner Antonio V. Arserio;
- aaa. City of Margate Commissioner Joanne Simone;
- bbb. City of Margate Commissioner Anthony N. Caggiano;
- ccc. City of Destin Mayor Robert T. Wagner;
- ddd. City of Destin Council Member John Stephens III;
- eee. City of Destin Council Member Tory CJ Geile;
- fff. City of Destin Council Member James B. Bagby;
- ggg. City of Destin Council Member Teresa Hebert;
- hhh. City of Lauderhill Mayor Kenneth R. Thurston;

- iii. City of Lauderhill Commissioner Melissa P. Dunn;
- jjj. City of Lauderhill Commissioner Sarai “Ray” Martin;
- kkk. City of Deerfield Beach Mayor Bill Ganz;
- lll. City of Deerfield Beach Vice-Mayor Bernie Parness;
- mmm. City of Deerfield Beach Commissioner Ben Preston;
- nnn. City of Deerfield Beach Commissioner Michael Hudak;
- ooo. City of Aventura Vice-Mayor Paul A. Kruss;
- ppp. City of Aventura Commissioner Rachel Friedland;
- qqq. City of Aventura Commissioner Michael Stern;
- rrr. Village of Wellington Mayor Michael Napoleone;
- sss. Village of Wellington Councilwoman Tanya Siskind;
- ttt. Village of Wellington Councilwoman John T. McGovern;
- uuu. Village of Wellington Councilwoman Michael Drahos;
- vvv. Village of Pinecrest Commissioner Kathryn Abbott;
- www. City of New Smyrna Beach Mayor Fred Cleveland;
- xxx. City of New Smyrna Beach Vice Mayor Valli J. Perrine;
- yyy. City of New Smyrna Beach Commissioner Randy Hartman
- zzz. City of New Smyrna Beach Commissioner Jason McGuirk;
- aaaa. City of Sebastian Mayor Charles Edward Dodd;
- bbbb. City of Sebastian Vice Mayor Kelly Dixon;
- cccc. City of Sebastian Council Member Frederick B. Jones;
- dddd. City of Sebastian Council Member Bob McPartlan;
- eeee. City of Sebastian Council Member Christopher Nunn;
- ffff. City of Melbourne Council Member Mark LaRusso;

gggg. City of Melbourne Council Member Tim Thomas;

hhhh. City of North Miami Beach Vice Mayor Fortuna Smukler;

iiii. City of Homestead Mayor Steven Losner;

jjjj. City of Homestead Council Member Erica G. Avila;

kkkk. City of Sunrise Mayor Michael J. Ryan;

llll. City of Sunrise Deputy Mayor Joseph A. Scuotto;

mmmm. City of Sunrise Assistant Deputy Mayor Neil C. Kerch;

nnnn. City of Sunrise Commissioner Jacqueline A. Guzman;

oooo. City of Sunrise Commissioner Mark A. Douglas;

pppp. Town of Indialantic Mayor Mark McDermott;

qqqq. Town of Indialantic Deputy Mayor Stuart M. Glass;

rrrr. Town of Indialantic Council Member Loren Strand;

ssss. Town of Indialantic Council Member Brett J. Miller;

tttt. Town of Indialantic Council Member Doug Wright;

uuuu. Town of Cutler Bay Vice Mayor Michael Callahan;

vvvv. Town of Cutler Bay Council Member Robert Duncan;

www. Town of Cutler Bay Council Member Suzy Lord;

xxxx. City of Indian Harbour Beach Mayor Scott Nickle;

yyyy. City of Indian Harbour Beach Deputy Mayor Frank Guertin;

zzzz. City of Indian Harbour Beach Council Member Shauna Hume;

aaaaa. City of Indian Harbour Beach Council Member Hamilton Boone;

bbbbb. City of Indian Harbour Beach Council Member Adam Dyer;

ccccc. Village of Miami Shores Mayor George Burch;

dddd. Village of Miami Shores Vice Mayor Jesse Valinsky;

eeee. Village of Miami Shores Council Member Jerome Charles;

ffff. Village of Miami Shores Council Member Neil J. Cantor;

gggg. Village of Miami Shores Council Member Sandra Harris;

hhhh. City of Sweetwater Mayor Jose “Pepe” Diaz;

iiii. City of Sweetwater Commissioner Idania Llanio;

jjjj. City of Sweetwater Commissioner Saul Diaz;

kkkk. City of Sweetwater Commissioner Isidro C. Ruiz;

llll. City of Sweetwater Commissioner Jose Marti;

mmmm. City of Sweetwater Commissioner Marcus Villanueva;

nnnn. City of Sweetwater Commissioner Reinaldo Rey, Jr;

oooo. City of Dania Beach Vice Mayor Lori Lewellen;

pppp. City of Dania Beach Commissioner Tamara James;

qqqq. City of Dania Beach Commissioner Marco A. Salvino, Sr.;

rrrr. Town of Dundee Mayor Samuel Pennant;

ssss. Town of Dundee Vice Mayor Steven Glenn;

tttt. Town of Dundee Commissioner Mary Richardson;

uuuu. Town of Dundee Commissioner Willie Quarles;

vvvv. Town of Dundee Commissioner Bertram Goddard;

www. City of Lake Alfred Mayor Nancy Z. Daley;

xxxx. City of Lake Alfred Vice Mayor Mac Fuller;

yyyy. City of Lake Alfred Commissioner Charles Lake;

zzzz. City of Lake Alfred Commissioner Brent Eden;

aaaa. City of Lake Alfred Commissioner Jack Dearmin;

bbbb. City of Haines City Mayor H.L. “Roy” Tyler;

cccccc. City of Haines City Vice Mayor Omar Arroyo;

dddddd. City of Haines City Commissioner Morris West;

eeeeee. City of Haines City Commissioner Anne Huffman;

ffffff. City of Haines City Commissioner Vernel Smith;

gggggg. City of Parkland Mayor Richard Walker;

hhhhhh. City of Parkland Vice Mayor Jordan Isrow;

iiiiii. City of Parkland Commissioner Kenneth Cutler;

jjjjjj. City of Plantation Councilmember Jennifer Andreu;

kkkkkk. Town of Lantana Councilmember Kem E. Mason;

llllll. City of Miami Beach Commissioner David Suarez;

mmmmmm. City of Miami Beach Commissioner Laura Dominguez;

nnnnnn. City of Miami Beach Commissioner Joseph Magazine;

oooooo. City of Miami Beach Commissioner Kristein Rosen Gonzales;

pppppp. Town of Lauderdale-By-The-Sea Commissioner Randy Strauss;

qqqqqq. Town of Briny Breezes Alderman Jeffery M. Duncan;

rrrrrr. City of Miami Springs Councilmember Jorge Santin;

ssssss. Town of Palm Beach Council Member Bridget Moran;

tttttt. Village of Bal Harbour Councilman Buzzy Sklar;

uuuuuu. City of Delray Beach Mayor Thomas Carney;

vvvvvv. City of Delray Beach Commissioner Thomas Markert;

wwwwww. City of Eagle Lake Mayor Suzy Wilson;

xxxxxx. City of Eagle Lake Commissioner Randy Billings;

yyyyyy. Town of Cutler Bay Mayor Tim Meerbott;

zzzzzz. City of Sweetwater Commissioner Ian Vallecillo;
aaaaaaa. Town of Windermere Mayor James Michael O'Brien;
bbbbbbb. Town of Windermere Council Member Amanda N. David;
ccccccc. Town of Windermere Council Member Anthony J. Davit;
ddddddd. Town of Windermere Council Member Brandi Sloss Haines;
eeeeeee. Town of Windermere Council Member Loren R. Williams;
ffffff. City of Parkland Commissioner Simeon Brier;
ggggggg. City of Winter Haven Mayor Nathaniel J. Birdsong, Jr.;
hhhhhhh. City of Winter Haven Mayor Pro Tem William Brian Yates;
iiiiiii. City of Winter Haven Commissioner Bradley T. Dantzler;
jjjjjjj. City of Winter Haven Commissioner L. Tracy Mercer;
kkkkkkk. City of Winter Haven Commissioner Clifton E. Dollison;
lllllll. City of Miami Beach Commissioner Alex J. Fernandez;
mmmmmmm. City of Aventura Commissioner Amit Bloom;
nnnnnnn. City of Aventura Commissioner Linda Marks;
ooooooo. City of Aventura Mayor Howard Weinberg;
ppppppp. Village of Key Biscayne Council Member Brett Moss;
qqqqqqq. Village of Wellington Council Member Amanda Silvestri; and
rrrrrrr. Village of Wellington Council Member Maria Antuña.
sssssss. City of Safety Harbor Commissioner Jacob Burnett

14. Plaintiffs are each duly elected or appointed officials of incorporated municipalities existing under the laws of the State of Florida and are currently in office.

15. As a result of the passage of SB 774, as of January 1, 2024, each, individual Plaintiff is subject to the financial disclosure requirements of Fla. Const., art. II, § 8(j) and Fla. Stat. § 112.3144, and are further subject to the fines, penalties and other enforcement mechanisms outlined in Fla. Stat. §§ 112.317 and 112.324.

16. Each Plaintiff is, therefore, required to file the requisite Form 6 (rather than the prior Form 1) on or before July 1, 2024.

17. The failure of any municipal elected official, including each Plaintiff, to make the compelled statements subjects him or her to a daily fine of \$25 per day up to a maximum of \$1,500 and, following an investigation and public hearing, a potential civil penalty of up to \$20,000 and, among other things, a potential recommendation of removal from office. *See* Fla. Stat. §§ 112.3144(8)(f), 112.324(4), and 112.317.

18. Plaintiffs now face prior to the imminent deadline of July 1, 2024, the obligation to engage in non-commercial, content-based speech requirement to publicly disclose, against their will, the financial information required in Form 6, or face fines or other penalties.

19. Throughout Florida, more than 100 municipal elected officials resigned rather than agree to engage in such unwanted speech.

20. Plaintiffs strongly desire to continue to serve the public and have therefore not yet resigned, but instead have chosen to challenge the new compelled speech requirement.

21. Accordingly, Plaintiffs have each suffered a concrete and particularized injury-in-fact that is actual or imminent.

B. Defendants

22. Defendant, Ashley Lukis (“Lukis”) is the Chair and a member of the Florida Commission on Ethics (“Commission”), a commission existing pursuant to Fla. Const., Art. II, § 8(h)(1) and Fla. Stat. § 112.320. Lukis is sued in her official capacity as Chair of the Commission.

23. Defendant, Michelle Anchors (“Anchors”) is the Vice Chair and a member of the Commission. Anchors is sued in her official capacity as Vice Chair of the Commission.

24. Defendant, William P. Cervone (“Cervone”) is a member of the Commission. Cervone is sued in his official capacity as member of the Commission.

25. Defendant Tina Descovich (“Descovich”) is a member of the Commission. Descovich is sued in her official capacity as member of the Commission.

26. Defendant, Freddie Figgers (“Figgers”) is a member of the Commission. Figgers is sued in his official capacity as member of the Commission and is a resident of this District.

27. Defendant, Luis Fuste (“Fuste”) is a member of the Commission. Fuste is sued in his official capacity as member of the Commission and is a resident of this District.

28. Defendant, Wengay M. Newton, Sr. (“Newton”) is a member of the Commission. Newton is sued in his official capacity as member of the Commission.

29. Lukis, Anchors, Cervone, Descovich, Figgers, Fuste, and Newton, collectively, comprise the Commission.

30. “The Agency Head is the entire Commission, which is responsible for final agency action.” *See* Statement of Organization and Operation of the Commission on Ethics, <https://www.ethics.state.fl.us/Documents/Ethics/statement%20of%20org.pdf?cp=2024127> (last accessed February 12, 2024).

31. The Commission, through each Defendant, is charged with implementing and enforcing the State’s financial disclosure laws, including, among many other things, the receipt of Form 6 disclosures, training regarding Form 6, investigating alleged violations regarding Form 6 filings, imposing fines for failure to file Form 6, holding enforcement hearings regarding failure to file Form 6, making recommendations of removal from office for failure to file Form 6, and

rendering legally binding advisory opinions regarding Form 6. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

32. The Commission is also required to identify every person required to file Form 6, provide notification of said requirement to each person subject to these disclosures, and ensure compliance with the disclosure requirements by each person subject thereto. *See* Fla. Const., Art. II, § 8(g); Fla. Stat. §§ 112.3144, 112.317, 112.320.

33. In addition, the Commission's 2022 Annual Report (as well as previous annual reports) expressly requested that the Legislature enact legislation to require that elected municipal officials complete Form 6, rather than Form 1, leading to the enactment of SB 774. *See* Annual Report to the Florida Legislature for Calendar Year 2022, pg. 23, <https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202425>

(last accessed February 12, 2024).

34. The only justification given by the Commission for its recommendation was:

Elected municipal officials are very important and administer vast amounts of public resources. For these, and other reasons, their disclosure should be on par with that of county officials and others who file Form 6, rather than Form 1. The Commission believes the enhanced disclosure should be applied to all elected municipal officials regardless of the population or revenue of the municipality.

35. Nowhere in its report did the Commission conclude that there has been an increase in the need to oppose corruption or conflicts of interest at the municipal level or that Form 1 in any way was insufficient to the task of guarding against those governmental ills. In short, the Commission justified its recommendation merely by noting that municipal officials should have to disclose the same information others already disclose, without regard to the municipality's population, revenue, annual budget, or any elected municipal compensation amount, if any.

36. All acts alleged herein by Defendants and their agents, servants, employees, or persons acting on their behalf were done and are continuing to be done under color of state law.

37. Plaintiffs bring this action against the state officers (namely, the members of the Commission) who have the responsibility to enforce the Form 6 requirement against municipal elected officials (including Plaintiffs) and seek only prospective equitable relief to end the continuing violations of the First Amendment to the United States Constitution.

BACKGROUND

A. History of Ethical Standards in Florida

38. Beginning in the late 1960s, the Florida Legislature has enacted numerous laws regulating ethical conduct for Florida's elected officials, including laws related to the solicitation or acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure of certain information, doing business with one's agency, conflicting employment, lobbying restrictions, dual public employment, anti-nepotism, conflicts of interest, and financial disclosure. *See generally* Fla. Stat., Chapter 112.

39. The interests that the financial disclosures are intended to serve are stated by the Commission: "Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government." *See* Florida Commission on Ethics, Financial Disclosure Information, www.ethics.state.fl.us/FinancialDisclosure/Index.aspx, last accessed February 12, 2024.

40. In 1976, the Florida Constitution was amended to require that all elected, state constitutional officers annually file a full and public disclosure of their financial interests, which is done through the state-adopted Form 6, requiring the disclosure of highly personal financial information. *See* Fla. Const. Art. II, § 8; Fla. Stat. § 112.3144; Exh. B.

41. The Form 6 requirement did not apply to elected municipal officials or candidates for municipal office prior to January 1, 2024.

B. The Change from Form 1 to Form 6 for Elected Municipal Officials

42. Instead, prior to January 1, 2024, elected municipal officials were required to make a more limited financial disclosure that nevertheless provides sufficient information to satisfy the interests of preventing conflicts of interest and public corruption and increasing public confidence in government. *See* Fla. Stat. § 112.3145. The elected municipal officials' financial disclosure was done through the state-adopted Form 1. Exh. A.

43. In the 2023 legislative session, the Florida Legislature duly enacted (and the Governor signed) SB 774, which was codified at Laws of Florida 2023-09, and which amended (in relevant part) Fla. Stat. § 112.3144, to change the financial disclosure requirements to require, as of January 1, 2024, that all elected municipal mayors and elected members of municipal governing boards (and candidates for such offices) file a Form 6 financial disclosure, rather than the previously required Form 1. *See* Fla. S.B. 774; Fla. Stat. §§ 99.061, 112.3144 (2023).

C. Comparison of Form 6 to Form 1

44. Form 6 is a highly intrusive and extreme level of required, public financial disclosure, mandating the disclosure of private financial information unrelated to any official duties and unnecessary to satisfy the interest of preventing conflicts of interest and public corruption or increasing public confidence in government. *See* Exh. B.

45. Specifically, Form 6 requires that the official disclose:

(a) the official's exact net worth, to the penny, (b) the exact aggregate value of all household goods and personal effects, (c) the precise value of every other asset individually valued at over \$1,000 (including a description of the asset), (d) the exact outstanding amount of all liabilities in excess of \$1,000, including the name and address of the creditor, (e) every primary source of income that exceeded \$1,000 during the year, including the name and address of the source of income and the precise amount of income, (f) every secondary source of income in excess of \$1,000 from any business of which the official owns more than 5%, including the name of the business entity, the major sources of business income (namely, any that account for 10% or more of the business's revenue), and the address and principal

business activity or source, and (g) any interest in certain specified types of businesses.

See Exh. B.

46. In contrast, Form 1 requires that the official disclose:

(a) the name, address and principal business active for every primary sources of income in excess of \$2,500 (but not the amount), (b) every secondary source of income in excess of \$5,000 from any business of which the official owns more than 5%, including the name of the business entity, the major source of business income (any that account for 10% or more of the business's revenue), and the address and principal business activity or source, (c) a description of all real property (but not the value) of which the official had more than a 5% ownership interest, (d) a description (but not the value) of intangible property owned by the official and valued at more than \$10,000, (e) the name and address of each creditor to whom the official owed more than \$10,000 (but not the amount owed), and (f) any interest in certain specified types of businesses.

See Exh. A.

47. The information in Form 1 and Form 6 of each filer is made publicly available through the Commission's website.

COUNT I

COMPELLED, CONTENT-BASED SPEECH IN VIOLATION OF THE FIRST AMENDMENT OF THE U.S. CONSTITUTION, PURSUANT TO 42 U.S.C. § 1983

48. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1 through 47, as if fully set forth herein.

49. The First Amendment to the United States Constitution, as applied to the States by the Fourteenth Amendment, prohibits the government, including Defendants, from abridging Plaintiffs' freedom of speech though government-compelled speech.

50. The First Amendment's speech rights include the right to speak freely, the right to refrain from speaking at all, and the right not to speak certain words or messages.

51. The statements required by Fla. Stat. § 112.3144, through Form 6, constitute non-commercial, compelled speech from Plaintiffs in violation of the First Amendment.

52. Specifically, Fla. Stat. § 112.3144 unconstitutionally compels Plaintiffs to make invasive, public disclosures about their personal finances through Form 6.

53. The required disclosures of Fla. Stat. § 112.3144, through Form 6, are content-based speech because they compel individuals to speak a particular message. Compelled speech is no less compelled and no less speech because it is required to be in writing.

54. For example, among many other things, on July 1, 2024, each Plaintiff will be forced to say the words: “My Net Worth as of December 31, 2023 was \$_____.” *See* Exh. B at 1.

55. Plaintiffs would not otherwise engage in such non-commercial, content-based speech (namely, publicly disclosing to the public their exact net worth, income, asset values and other personal financial information required in Form 6) but for the requirements of Fla. Stat. § 112.3144 and the threat of fines, penalties and other enforcement mechanisms set forth in Fla. Stat. § 112.317.

56. The compelled speech in Form 6, as required by Fla. Stat. § 112.3144, is readily reviewable (now and for many years to come) by the public on the Internet, and the information in each filed Form 6 is clearly and readily associated with the individual filer (i.e., via the name of each individual Plaintiff).

57. Because the compelled speech is effectuated through state statute, the constitutional deprivation at issue here is caused by official policy of the state and under color of state law.

58. Although Plaintiffs recognize the government’s interest in preventing conflicts of interest, deterring corruption, and increasing public confidence in government, Fla. Stat. §

112.3144, as amended by SB 744, and the application of Form 6 to elected municipal officials are not narrowly tailored to achieve these interests.

59. Requiring Plaintiffs to make the additional, compelled speech required by Form 6 (as opposed to the statements previously required through Form 1) are not the least restrictive means to accomplish any compelling government purpose.

60. Accordingly, an actual controversy exists between Plaintiffs and Defendants, each of whom have adverse legal interests of sufficient immediacy to warrant the issuance of a declaratory judgment and injunctive relief.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in their favor:

A. Declaring, pursuant to 28 U.S.C. § 2201, 42 U.S.C. § 1983, and Rule 57, Fed. R. Civ P., that Fla. Stat. § 112.3144 (2023) compels Plaintiffs to engage in content-based, non-commercial speech in violation of the First Amendment of the United States Constitution and is, therefore, unconstitutional;

B. Enjoining, pursuant to 28 U.S.C. § 2202, Defendants from enforcing Fla. Stat. § 112.3144 (including the imposition of any fines, penalties or other enforcement) against Plaintiffs, arising from the failure of any Plaintiffs to file a Form 6 while subject to such requirements;

C. Awarding Plaintiffs their costs and expenses (including attorneys' fees) incurred in bringing in this action, pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1920, and other applicable law; and

D. Granting such other relief as this Court deems just and proper.

Dated this 17th day of May, 2024.

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Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 24-20604-CIV-DAMIAN

ELIZABETH A. LOPER, *et al.*,

Plaintiffs,

vs.

ASHLEY LUKIS, *et al.*,

Defendants.

_____/

**ORDER ON PLAINTIFFS' EXPEDITED
MOTION FOR PRELIMINARY INJUNCTION [ECF NO. 10]**

THIS CAUSE is before the Court on Plaintiffs' Expedited Motion for Preliminary Injunction and Incorporated Memorandum of Law, filed March 22, 2024 [ECF No. 10 (the "Motion" or "Motion for Preliminary Injunction")].

THE COURT has reviewed the Motion, the Response and Reply thereto [ECF Nos. 16, 18], the supplemental briefs [ECF Nos. 34, 35], the pertinent portions of the record, and the relevant legal authorities and is otherwise fully advised in the premises. The Court also heard from the parties' counsel at an evidentiary hearing held on April 22, 2024. [ECF No. 27].

Plaintiffs seek a preliminary injunction enjoining enforcement of Florida's Senate Bill 774 ("SB 774") on grounds the law impermissibly compels content-based, non-commercial speech in violation of the First Amendment of the United States Constitution. After conducting a hearing and careful review of the record, and for the reasons set forth below, the Court concludes that entry of a preliminary injunction is warranted.

FACTUAL BACKGROUND¹

A. Financial Disclosure in Florida and Enactment of SB 774

In 1976, the Florida Constitution was amended to require certain public officials and candidates to file full and public disclosures of their financial interests. *See* Art. II, § 8, Fla. Const.; § 112.3144, Fla. Stat. The 1976 Amendment, titled the “Sunshine Amendment,” states: “[P]ublic office is a public trust. The people shall have the right to secure and sustain that trust against abuse.” Art. II, § 8, Fla. Const. The Sunshine Amendment mandates that “[a]ll elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.” *Id.* at § 8(a).

Since the 1970s, the Florida Commission on Ethics (hereinafter, the “COE”) has required certain public officials to file the form known as “Form 6” to satisfy the disclosure requirements of the Sunshine Amendment. *See* § 112.3144(8) (“Forms or fields of information for compliance with the full and public disclosure requirements of [Section 8, Article II] of the State Constitution must be prescribed by the [COE].”). Form 6, which must be filed annually, requires these certain elected public officials and candidates to state: (1) their net worth; (2) the amount of the aggregate value of household goods and personal effect(s); (3) descriptions and amount of assets and liabilities over \$1,000; and (4) every source of income,

¹ The parties’ filed a Joint Witness and Exhibit List and Stipulations of Fact [ECF No. 19] and Supplemental Stipulations of Fact [ECF No. 25]. The parties, however, conventionally filed the exhibits for the Court’s consideration at the evidentiary hearing on April 22, 2024. *See* ECF No. 27. Therefore, citations to the conventionally filed exhibits are referenced herein as “Ex. __ at [page number]” (*e.g.*, Ex. J1 at 2). Where possible, the Court also cites materials readily available to the public.

including name and address of the source, in excess of \$1,000. *See generally* Ex. J2; *see also* Fla. Admin. Code R. 34-8.002 (2024).

Prior to January 1, 2024, the Form 6 requirement did not apply to elected municipal officials or candidates for municipal office. *See* § 112.3145, Fla. Stat. (2022). Instead, municipal officials and candidates were required to comply with the disclosure requirements of Form 1, which is less comprehensive than Form 6. Form 1 requires these individuals to disclose: (1) major sources but not amounts of income over \$2,500; (2) intangible personal property valued over \$10,000 and real property; and (3) liabilities over \$10,000. *See generally* Ex. J1; *see also* Fla. Admin. Code R. 34-8.202 (2023).

During its 2023 session, the Florida Legislature passed, and the Governor later signed into law, SB 774, which amended Sections 112.3144 and 112.3145, Florida Statutes. *See* Ch. 2023-49, Laws of Fla. As of January 1, 2024, SB 774 applies to mayors and other elected members of the governing bodies of municipalities. § 112.3144(1)(d), Fla. Stat. (2023). The law requires that these municipal officials file Form 6 by July 1, 2024. §112.3145(2)(b), Fla. Stat. (2023). Any official who fails to comply with this requirement will be subject, after a 60-day grace period, to fines of \$25 a day up to \$1,500. § 112.3144(8)(f), Fla. Stat. (2023). After an investigation and public hearing, the noncompliant official could be subject to a civil penalty of up to \$20,000 and, among other things, a recommendation of removal from office. *See* §§ 112.317, 112.324(4), Fla. Stat. (2023).

Plaintiffs challenge SB 774 on the grounds the requirement that they now complete the Form 6 financial disclosures is government-compelled content-based speech that infringes on their rights to free speech under the First Amendment of the United States Constitution.

Analysis of Plaintiffs' First Amendment challenge requires a review of the legislative record leading to the enactment of the law.

B. The Legislative Record.

1. Senate Committee Staff Analyses.

Prior to its passage, SB 774 was considered and reviewed by two Florida Senate Standing Committees: the Committee on Ethics and Elections and the Committee on Rules. Both Committees prepared staff analysis reports (the "Analyses" or "Committee Analyses"). *See generally* Exs. J10(c), J11(b).² The Analyses from the two Committees are substantively the same. The Committees' Analyses summarize the history of the COE and the Code of Ethics for Public Officers and Employees, and both explain the effects of the proposed changes in implementing SB 774. However, neither Committee Analysis explains the reasoning behind nor justification for the change to the requirement that municipal elected officials and candidates must now file Form 6, as opposed to the previously required Form 1. A review of the Committees' Analyses reveals that neither includes empirical data nor evidence suggesting that either Committee investigated, studied, or solicited reports on the need for municipal elected officials to comply with the more comprehensive requirement of Form 6. Nor does either Analysis demonstrate that the Committees considered alternative, less burdensome means that would have addressed the interests at stake or the purpose or intent of SB 774.

² *See also* Fla. S. Comm. on Ethics & Elections on SB 774 (2023) Post-Meeting Staff Analysis (Mar. 15, 2023), <https://www.flsenate.gov/Session/Bill/2023/774/Analyses/2023s00774.rc.PDF>; Fla. S. Comm. on Rules on SB 774 (2023) Post-Meeting Staff Analysis (Mar. 30, 2024), <https://www.flsenate.gov/Session/Bill/2023/774/Analyses/2023s00774.rc.PDF>.

2. House Committee Staff Analyses.

Meanwhile, in the Florida House of Representatives, SB 774 underwent three analyses by two Subcommittees and one Committee: the Local Administration, Federal Affairs & Special Districts Subcommittee; the Ethics, Elections & Open Government Subcommittee, and the State Affairs Committee.³ *See generally* Exs. J12–J14. Like the Senate Committees’ Analyses, the House Analyses detail the requirements SB 774 places on elected municipal officials.⁴ Also like the Senate Committees’ Analyses, the House Analyses are devoid of reasoning and similarly lack data or other reports underpinning the need, reasoning, or justification for the change in disclosure requirements for municipal elected officials from Form 1 to Form 6. And, like the Senate Committee Analyses, there is no indication in the House Analyses that the legislative entities considered alternative, less intrusive means that would have addressed the interests, purpose, or intent of SB 774 insofar as the change to the disclosure requirements for municipal officials is concerned.

3. COE 2022 & 2023 Annual Reports.

Both Senate Committee Analyses contain an identical footnote that cites to a 2022 Annual Report by the COE and states that “[e]nhanced financial disclosure for local elected officials” was, among others, a recommendation to the Florida Legislature. *See* Exs. J10(c) at

³ *See also* Fla. H.R. Subcomm. on Local Administration, Federal Affairs & Special Districts for HB 37 (2023) Post-Meeting Staff Analysis (Mar. 15, 2023), <https://www.flsenate.gov/Session/Bill/2023/37/Analyses/h0037b.LFS.PDF>; Fla. H.R. Subcomm. on Ethics, Elections & Open Government for HB 37 (2023) Post-Meeting Staff Analysis (Apr. 11, 2023), <https://www.flsenate.gov/Session/Bill/2023/37/Analyses/h0037c.SAC.PDF>; Fla. H.R. Comm. on State Affairs for HB 37 (2023) Post-Meeting Staff Analysis (May 15, 2023), <https://www.flsenate.gov/Session/Bill/2023/37/Analyses/h0037z1.EEG.PDF>.

⁴ The State Affairs Committee conducted its analysis after the bill was signed into law.

10; J11(b) at 10. Like all of the legislative Committee and Subcommittee Analyses discussed above, the 2022 Annual Report does not identify any empirical data or evidence suggesting that the COE investigated, studied, or solicited reports to justify the change to or need for the Form 6 disclosure requirements for these municipal officials, nor does it indicate whether other less intrusive means for addressing their concerns were considered. *See generally* Ex. J7; *see also* ECF No. 16-1.

The COE's 2023 Annual Report adds little, indicating only that there has been a "steady, upward trend" in the number of ethical complaints against elected officials, including municipal officials, received by the COE since 2017. *See* Ex. J24; *see also* ECF No. 16-3 at 13. It does not, however, indicate that any analysis was done that led to the conclusion that more comprehensive financial disclosures are needed or will address that trend, much less that the information required by Form 6 is necessary or relevant to the issue of the steady, upward trend in the number of ethical complaints.

4. Senate Committee On Ethics And Elections March 2023 Meeting.

During a March 14, 2023, meeting of the Senate Committee on Ethics and Elections, Senator Jason Brodeur, the bill's sponsor, stated that the bill would conform the financial disclosure requirements of municipal elected officials and candidates to the financial disclosure requirements of elected state constitutional officers. *See* Ex. J17 at 2:5–11.⁵ Senator Brodeur went on to state that "in municipalities where there are five folks who decide millions of dollars in budgets[,] *it is probably better* for the public to have a full financial transparency."

⁵ A video recording of the March 14, 2023, Committee proceeding is also publicly viewable. *See generally* Fla. S. Comm. on Ethics & Elections, recording of proceedings (Mar. 14, 2023, 4:00 PM), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202303141600&Redirect=true (last visited May 16, 2024).

Id. at 2:13–16 (emphasis added). A Committee member then asked Senator Brodeur what prompted the change, to which Senator Brodeur responded that the more detailed financial disclosure requirement had been requested by the COE for “many years.” *Id.* at 6:15–21. Senator Brodeur also reiterated that in municipalities, a few individuals make multi-million-dollar decisions and that voters, in turn, deserve to know “when there would be some kind of collusion and/or some kind of improper incentive.” *Id.* at 7:17–20. When asked if he felt that Form 6’s disclosure requirements could deter individuals from running, Senator Brodeur responded that “it could, but if you have somebody who’s not willing to make that available, do you really want them in public office?” *Id.* at 9:23–25.

During the same meeting, Kerrie Stillman, the Executive Director of the COE, stated that, despite discussions in prior sessions of imposing a fluctuating standard on officials who should abide by Form 6, the Commission nonetheless adopted the standard for all municipal elected officials and candidates. *Id.* at 16:1–5. According to Stillman, the requirement furthers transparency, and, as Stillman explained, citizens who live in smaller communities are entitled to no less transparency than those in larger communities as neither is immune to corruption. *Id.* at 16:6–13. Stillman also pointed out that the new requirement helps avoid conflicts of interest. *Id.* at 16:14–16. Notably, a Committee member asked Ms. Stillman the purpose behind letting local officials file Form 1 over the years, and Ms. Stillman responded that she did not know the specific history behind Form 1. *Id.* at 18:6–12. The bill was voted out of the Ethics and Elections Committee and transferred to the Rules Committee. *See CS/CS/SB* *774* *Bill* *History*, <https://www.flsenate.gov/Session/Bill/2023/774/?Tab=BillHistory> (last visited May 20, 2024) [hereinafter, *SB 774 Bill History*].

5. Senate Rules Committee March 2023 Meeting.

On March 30, 2023, the Rules Committee held a meeting in which the bill was discussed. *See generally* Ex. J18.⁶ As he did in the March 14 meeting, Senator Brodeur spoke about the requirements of SB 774 and described the differences between the Form 1 and Form 6 requirements. *Id.* at 3:2–8, 5:22–25, 6:1–10. Once more, Senator Brodeur reiterated the imbalance between the number of individuals making impactful decisions in municipal government versus the greater number of individuals involved in making those decisions at the state level. *Id.* at 6:12–25, 7:1. A Committee member asked if Senator Brodeur would consider amending the bill to exempt officials from towns with populations under certain amounts. *Id.* at 8:10–13, 20–21. Senator Brodeur responded that he would not, underscoring the need for transparency at any level of state and local governance. *Id.* at 8:23–25, 9:1–3. Ms. Stillman also appeared at the meeting and again emphasized that the bill would further public transparency, increase public trust in government, and help identify potential conflicts of interest. *Id.* at 15:13–19. The bill was voted out of the Rules Committee. *See SB 774 Bill History.*

6. Senate Floor Debate In April 2023.

During the Senate floor debate held on April 11, 2023, a Senator expressed concern that the bill would have a chilling effect on people running for local office. Ex. J19(a) at 7:1–10. Senator Brodeur pointed out that the Form 6 disclosure requirements had already been in place for a number of state officials and at varying levels of government and that despite the disclosure requirement, individuals still ran for local office. *Id.* at 7:23–25, 8:1–6. There was

⁶ *See also* Fla. S. Comm. on Rules, recording of proceedings (Mar. 30, 2023, 8:30 AM), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202303300830&Redirect=true (last visited May 19, 2024).

further debate on SB 774 the next day. This time, a different Senator remarked about the bill's potentially chilling effect, and Senator Brodeur responded that the COE had been working on the measure for a long time and again opined that the law would not discourage people from running. Ex. J19(b) at 2:17–25, 3:10–15.⁷ He did not offer any empirical data or studies to support his opinion. SB 774 passed in the Florida Senate by a vote of 35 to 5. *See SB 774 Bill History*.

7. House of Representatives Floor Debate in April 2023.

The bill proceeded to the Florida House of Representatives, which held its first reading of the bill on April 20, 2023, without discussion. *See id.* Although the bill's House sponsor recognized during the bill's second reading on April 25, 2023, that the requirements of Form 6 may be “too intrusive,” he went on to state that the “bill simply seeks to have the local elected official do the Form 6 the same as we do.” Ex. J20 at 7:1–8.⁸ SB 774 moved on to a third reading in the House on April 26, 2023. *See SB 774 Bill History*. It passed in the House by a vote of 113 to 2. *Id.*

8. The Enactment Of SB 774.

On May 11, 2023, the Governor signed SB 774 into law. [ECF No. 19 at 4]. Between the enactment of SB 774 and its effective date of January 1, 2024, approximately 125 municipal elected officials resigned. *Id.* at 5. As it presently stands, municipal elected officials

⁷ *See also* Fla. S. Floor Debate (April 12, 2023, 3:00 PM), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304121500&Redirect=true (last visited May 19, 2024).

⁸ *See also* Fla. H. Floor Debate (April 25, 2023, 10:00 AM), <https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=8900> (last visited May 19, 2024).

and candidates must comply with SB 774 by submitting Form 6 by July 1, 2024. § 112.3145(2)(b), Fla. Stat. (2023). They will be subject to penalties sixty (60) days later if they fail to comply. *See* § 112.3144(8)(f), Fla. Stat. (2023).

PROCEDURAL HISTORY

A. The Complaint.

On February 15, 2024, Plaintiffs, then consisting of more than 150 elected officials of municipalities existing under the laws of the State of Florida, filed a Complaint against Defendants, members of the COE charged with implementing and enforcing Florida's financial disclosure laws. *See generally* ECF No. 1 ("Complaint"). The Complaint asserts a single claim for violation of 42 U.S.C. § 1983 on grounds SB 774 compels content-based, non-commercial speech in violation of the First Amendment of the United States Constitution. *See generally id.*

Plaintiffs filed a First Amended Complaint on March 22, 2024. [ECF No. 9]. On April 17 and May 7, 2024, Plaintiffs moved for leave to further amend the First Amended Complaint by interlineation to include additional municipal elected officials, and the Court granted the Motions on April 19 and May 13, 2024. *See* ECF Nos. 24, 26, 36, 37. Plaintiffs filed a Second Amended Complaint on May 17, 2024, which is the operative complaint. [ECF No. 38 ("Second Amended Complaint")]. Every iteration of Plaintiffs' Complaints asserts the same solitary claim; the only changes since the original Complaint have been the inclusion of additional municipal elected officials as named plaintiffs. These additions brought the total number of plaintiffs to well over 170 elected officials of municipalities as of the signing of this Order.

B. The Motion For Preliminary Injunction.

1. The Motion.

On March 22, 2024, Plaintiffs filed the Motion for Preliminary Injunction now before the Court. [ECF No. 10]. In the Motion for Preliminary Injunction, Plaintiffs assert there is a substantial likelihood of success on the merits of their claim because SB 774 compels content-based speech and is, therefore, subject to strict scrutiny review. Plaintiffs further argue the law is not narrowly tailored nor the least restrictive means to serve compelling government interests. Specifically, while acknowledging that protecting against conflicts of interest and deterring corruption are compelling government interests, Plaintiffs argue that SB 774 is not narrowly tailored to achieve these interests. Plaintiffs contend the legislative record is devoid of empirical examples, expert studies, or analyses evincing that other alternative and less restrictive means were seriously considered. *See generally* Mot. at 14–19. Plaintiffs thus allege SB 774 violates the First Amendment and causes irreparable injury. *See* Mot. at 19.

Citing *Otto v. City of Boca Raton*, 981 F.3d 854, 870 (11th Cir. 2020), Plaintiffs argue that “[i]t is clear that neither the government nor the public has any legitimate interest in enforcing an unconstitutional [law].” Mot. at 19. Noting the numerous recent resignations of municipal officials since SB 774’s enactment, Plaintiffs also allege there “is a strong public interest in ensuring that the continuing existence and enforcement of SB 774 not unreasonably or unnecessarily deter governmental service.” Mot. at 19–20. Plaintiffs also argue the First Amendment violation is a *per se* irreparable injury. *Id.* at 19.

Finally, Plaintiffs posit they should not be required to post an injunction bond because “public interest litigation is a recognized exception to the bond requirement.” Mot. at 20

(quoting *Vigue v. Shoar*, No. 3:19-CV-186-J-32JBT, 2019 WL 1993551, at *3 (M.D. Fla. May 6, 2019)).

2. Defendants' Response.

In their Response to the Motion for Preliminary Injunction, Defendants do not challenge nor disagree with whether SB 774 implicates the First Amendment. Instead, Defendants insist Plaintiffs' First Amendment challenge is not subject to strict scrutiny review but is subject to the less rigorous level of "exacting scrutiny," which requires a substantial relation between the law and the compelling government interests, as opposed to a showing that the law is the least restrictive means of addressing the compelling government interests. *See Resp.* at 3–6. Defendants then argue that Plaintiffs have not established a substantial likelihood of success because they failed to argue a lack of substantial relation between the financial disclosure requirements of Form 6 and the government interests at stake. *Id.*

Citing the 2023 Annual Report's finding that there has been a "steady, upward trend" of the number of ethical complaints, Defendants argue that a substantial relation exists between the Form 6 requirements and compelling government interests. Defendants aver that the COE recommended imposing the Form 6 requirements on municipal elected officials and candidates based on these trends as "a narrowly tailored means of deterring corruption and conflicts of interest, bolstering the public's confidence in Florida officials, and educating the public." *Id.* at 8 (citing ECF No. 16-4 ¶ 9).

Defendants also assert that Plaintiffs have failed to allege a substantial threat of irreparable injury, based on the July 1, 2024, deadline, pointing to the 60-day grace period the officials have within which to file Form 6 before penalties are imposed. *Resp.* at 12 (citing § 112.3144(8)(c), Fla. Sta. (2023)). Defendants further contend that the issuance of a

preliminary injunction would disrupt the status *quo* because approximately 127 elected municipal officials have already filed Form 6. According to Defendants, requiring municipal officials to file the less-comprehensive Form 1 from now on would confuse the public and frustrate the compelling government interests that Form 6 is meant to address. Resp. at 12–13. Finally, Defendants disagree with Plaintiffs regarding the bond requirement and argue that a bond should be required if an injunction is ordered.

3. Plaintiffs' Reply.

In their Reply in Support of the Motion for Preliminary Injunction [ECF No. 18], Plaintiffs argue that although courts have referred to the “exacting scrutiny” standard in compelled, content-based non-commercial speech cases, the substantive analysis in even those cases nonetheless involves a strict scrutiny review. Reply at 2–3. Plaintiffs point out that Defendants do not dispute that Form 6 compels content-based, non-commercial speech and argue that regardless of which standard applies, SB 774 fails under both the strict scrutiny and exacting scrutiny analyses. According to Plaintiffs, even if the law does not have to be the *least restrictive* means to further the governmental interest at stake, the government is still obligated to consider *less intrusive* alternatives, and Defendants have failed to demonstrate *any* relationship between the identified interests of protecting against the abuse of the public trust and the change to or need for the more fulsome financial disclosure requirements mandated by SB 774. Reply at 3, 5–6.

Plaintiffs also challenge the bases proffered by Defendants in support of the need for Form 6. Specifically, Plaintiffs point to the record referred to by Defendants as the “steady, upward trend” in the number of ethics complaints and contend that the record actually reveals that, in the five years prior to SB 774’s enactment, the total number of complaints has been in

the same range each year and that the number of complaints against municipal elected officials in 2022 was actually lower than in any of the previous four years. Reply 7–8. Plaintiffs also dispute Defendants’ suggestion that the elected municipal officials may be more susceptible to corruption if they are wealthier, noting Defendants offer no analysis or data to support such a claim. *Id.* at 8–9. And, Plaintiffs argue that Defendants have altogether failed to demonstrate a substantial relationship between the interests at stake and the change to the heightened disclosure requirements of Form 6 *vis-a-vis* the previously required disclosure requirements of Form 1. *Id.* at 9.

Finally, Plaintiffs argue that the loss of First Amendment freedoms, even where minimal, constitutes irreparable injury and that the true “status *quo*,” as argued by Defendants, is not the new law as enacted but, rather, the financial disclosure requirement applicable to municipal elected officials in the nearly fifty years prior to SB 774’s enactment. Plaintiffs also assert that Defendants ignore the case law providing that the bond requirement is waived “where the injunction was imposed against the continued enforcement of an unconstitutional law.” *Id.* at 10 (citing *Vigue*, 2019 WL 1993551 at *2–3).

4. *The April 22, 2024, Hearing And Supplemental Briefs.*

The undersigned held a hearing on April 22, 2024, to address the Motion for Preliminary Injunction and take evidence. [ECF No. 27]. Defendants did not offer any additional evidence, studies, or data at the hearing. At the conclusion of the hearing, the Court directed Defendants to file supplemental briefing regarding the specific evidence in the legislative record that Defendants purport establishes a relationship between Form 6’s additional financial disclosure requirements and the compelling government interests at stake. Defendants filed that briefing on May 1, 2024 [ECF No. 34 (the “Supplemental Brief”)], and

Plaintiffs filed a Response to the Supplemental Brief on May 6, 2024 [ECF No. 35 (the “Supplemental Response”)].

In their Supplemental Brief, Defendants argue, for the first time, that SB 774 does not implicate the First Amendment and that heightened scrutiny of the law is not warranted. Supp. Brief at 1–2. Defendants then persist in their previous contention that if the law does raise First Amendment concerns warranting heightened scrutiny, then, at most, exacting scrutiny applies. *Id.* at 3.

Defendants now argue that the Court should consider “history, [] substantial consensus, and simple common sense” to find that the State has sufficiently shown that the law is necessary to serve compelling state interests. *Id.* at 4 (citing *Burson v. Freeman*, 504 U.S. 191, 211 (1992)). According to Defendants, a “demonstrated history of financial disclosure laws” is evidence that such laws are effective in addressing the State of Florida’s interest in preventing corruption, bolstering public confidence in government, promoting voter knowledge, and positively shaping the political community. *Id.* at 4.

Notably, although the Court’s directive with regard to the Supplemental Brief was for Defendants to provide studies, data, reports, or empirical evidence supporting the need for the heightened disclosure requirements of SB 774, the Supplemental Brief includes none. Apparently conceding there is no evidence in the record to support the purported need for the change from Form 1 to Form 6, Defendants point to the multiple government interests at stake and claim that because the interests underlying SB 774 are the same as those underlying the original Sunshine Amendment, the legislature did not need to “waste time” rehashing those interests in Staff Analyses, Committees, or floor debates. *Id.* at 6. Thus, Defendants contend they relied on and the Court should consider the circumstances underlying the

passage of the Sunshine Amendment as the research, studies, and empirical evidence that support their claim that SB 774 was narrowly tailored to meet the interests at stake. *Id.* at 8–9.

In their Supplemental Response, Plaintiffs point out that Defendants failed to identify evidence in the legislative record to demonstrate that SB 774 was necessary, reasonably tailored, or substantially related to the identified government interests. *See* Supp. Resp. at 2–3. Plaintiffs then argue, as before, that Defendants have failed to establish a need for the change from the Form 1 to the Form 6 disclosure requirement. *Id.* at 3–4. That is, although the identified government interests justify the disclosure requirements presently in place (Form 1), Defendants have not identified a need for additional disclosure requirements based on evidence, data, or studies. Plaintiffs also argue that the Supreme Court’s determination that it may rely on history in *Burson* does not apply here. And, even if the *Burson* exception does apply, history does not support or justify the need for the imposition of the added requirements of Form 6 from municipal officials over and above the Form 1 requirements previously in place. *Id.* at 4–8. Plaintiffs otherwise contend that Defendants’ restatements of the governmental interests at stake are unavailing. *Id.* at 13.

The Court has carefully considered all of the parties’ memoranda, authority, and supporting evidence.

LEGAL STANDARD APPLICABLE TO PRELIMINARY INJUNCTIONS

To obtain a preliminary injunction, a party must demonstrate “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest.” *Schiavo ex. rel*

Schindler v. Schiavo, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam) (citations omitted). “[T]he third and fourth factors ‘merge when, as here, the [g]overnment is the opposing party.’” *Messina v. City of Fort Lauderdale, Fla.*, 546 F. Supp. 3d 1227, 1237 (S.D. Fla. 2021) (Altman, J.) (second alteration in original) (internal quotation marks omitted) (quoting *Gonzalez v. Governor of Georgia*, 978 F.3d 1266, 1271 (11th Cir. 2020)).

“A preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly establishes the ‘burden of persuasion’ as to the four requisites.” *All Care Nursing Serv., Inc. v. Bethesda Mem’l Hosp., Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989) (quoting *United States v. Jefferson County*, 720 F.2d 1511, 1519 (11th Cir. 1983)). “[W]here facts are bitterly contested and credibility determinations must be made to decide whether injunctive relief should issue,” district courts must hold an evidentiary hearing on the propriety of injunctive relief. *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1312 (11th Cir. 1998 (citing *All Care Nursing Serv.*, 887 F.2d at 1538)). At that hearing, the court sits as factfinder. *See Four Seasons Hotels And Resorts, B.V. v. Consorcio Barr, S.A.*, 320 F.3d 1205, 1211 (11th Cir. 2003) (“Where conflicting factual information places in serious dispute issues central to a party’s claims and much depends upon the accurate presentation of numerous facts, the trial court errs in not holding an evidentiary hearing to resolve these hotly contested issues.” (cleaned up) (citation and quotation marks omitted)).

ANALYSIS

A. The Likelihood Of Success On The Merits.

Plaintiffs contend they are likely to succeed on the merits on the ground that SB 774’s requirement that certain individuals file Form 6, as applied to Plaintiffs, is compelled, content-based, non-commercial speech in violation of the First Amendment because Defendants have

failed to show that SB 774's requirement that Plaintiffs file Form 6, as opposed to the previously required and less comprehensive Form 1, is the least restrictive means of addressing the government interests at stake. And, even if Defendants are only required to demonstrate a substantial relationship between SB 774's Form 6 requirement and the government interests, they have failed to do that as well. As set out above, Defendants now contend that the law does not implicate the First Amendment and that even if it did, Plaintiffs have not demonstrated a likelihood that they will succeed in establishing a First Amendment violation because Defendants have shown a substantial relation between the law and the government interests at stake.

In assessing whether the law likely violates the First Amendment, the Court must initially consider whether it triggers First Amendment scrutiny in the first place—*i.e.*, whether it regulates “speech” within the meaning of the Amendment at all. *See Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 6 F.4th 1247, 1254 (11th Cir. 2021). In other words, the Court must determine whether the compelled disclosure of detailed financial information by candidates for elected office is First-Amendment-protected activity. If it is, then the Court must proceed to determine what level of scrutiny applies and whether the law's provisions survive that scrutiny. *See Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale (“FLFNB II”)*, 11 F.4th 1266, 1291 (11th Cir. 2021).

1. Whether SB 774 Implicates The First Amendment.

The First Amendment to the United States Constitution, applicable to the states through the Fourteenth Amendment, prescribes that “Congress shall make no law . . . abridging the freedom of speech.” U.S. Const. amend. I. One of the most basic principles of the freedom of speech is that “[t]he Free Speech Clause of the First Amendment constrains

governmental actors and protects private actors.” *NetChoice, LLC v. Att’y Gen., Fla.*, 34 F.4th 1196, 1203 (11th Cir. 2022)⁹ (quoting *Manhattan Cmty. Access Corp. v. Halleck*, 587 U.S. 802, 804 (2019)). It is well established that this protection “includes both the right to speak freely and the right to refrain from speaking at all.” *McClendon v. Long*, 22 F.4th 1330, 1336 (11th Cir. 2022) (quoting *Wooley v. Maynard*, 430 U.S. 705, 714 (1977)). Thus, a statute compelling speech, as with a statute forbidding speech, falls within the purview of the First Amendment. *See Wooley*, 430 U.S. at 714 (“The right to speak and the right to refrain from speaking are complementary components of the broader concept of ‘individual freedom of mind.’”); *see also VoteAmerica v. Raffensperger*, 609 F. Supp. 3d 1341, 1359 (N.D. Ga. 2022) (observing that “courts focus[] in part on the fact that the compelled messages altered the content of the plaintiffs’ speech and forced them to convey a message that they would not otherwise communicate”).

The Supreme Court has held that the creation and dissemination of information are speech within the meaning of the First Amendment. *See Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011) (“[I]f the acts of ‘disclosing’ and ‘publishing’ information do not constitute speech, it is hard to imagine what does fall within that category, as distinct from the category of expressive conduct” (citing *Bartnicki v. Vopper*, 532 U.S. 514, 527 (2001))); *see also Rubin v. Coors Brewing Co.*, 514 U.S. 476, 481 (1995) (“information on beer labels” is speech); *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 759 (1985) (credit report is “speech”). As the *Sorrell* Court explained, “Facts, after all, are the beginning point for much of the speech

⁹ *Cert. granted in part sub nom. Moody v. NetChoice, LLC*, 144 S. Ct. 478 (2023), and *cert. denied sub nom. NetChoice, LLC v. Moody*, 144 S. Ct. 69 (2023).

that is most essential to advance human knowledge and to conduct human affairs.” 564 U.S. at 570.

Although they originally agreed that the challenged law is subject to First Amendment scrutiny, in their Supplemental Brief, Defendants contend that there is no legal authority supporting Plaintiffs’ claim that SB 774 implicates the First Amendment. Supp. Brief at 1. Defendants’ new contention is not well taken for several reasons. First, they likely waived that argument by failing to raise it in their initial Memorandum and then failing to seek leave of Court to inject it into the Supplemental Brief.¹⁰ Second, by asserting this new theory, Defendants are directly contradicting their own positions, arguments, and authority relied on in their Response to the Motion for Preliminary Injunction, in which they argue that Plaintiffs’ claims are subject to exacting scrutiny review because they are challenging disclosures under the First Amendment and never once suggest the challenged law does not fall within the First Amendment. *See generally* Response. Third, they, at best, ignore Plaintiffs’ Motion (and, at worst, misrepresent what it says) when stating that Plaintiffs offer no authority for the claim that the compelled disclosure of financial information at issue here implicates First Amendment scrutiny. Plaintiffs’ Motion cites ample authority to support that view. It is Defendants who rely on no authority in support of the contrary view, save for a 1978 decision from the former Fifth Circuit that does not address the question of whether compelled disclosure of information is subject to First Amendment protection and that predates a long line of Supreme Court and Eleventh Circuit precedent holding that it does. *See, e.g.*, Supp. Brief at 2–3 (citing *Plante v. Gonzalez*, 575 F.2d 1119 (5th Cir. 1978)).

¹⁰ *See In re Egidì*, 571 F.3d 1156, 1163 (11th Cir. 2009) (“Arguments not properly presented in a party’s initial brief or raised for the first time in the reply brief are deemed waived.”).

In any event, based on the authority set forth above, this Court finds that where, as here, a law compels disclosure of financial information the speakers would not otherwise have disclosed, the law burdens speech and does fall within the purview of the First Amendment. Thus, the Court next considers what level of scrutiny applies.

2. Whether Strict Scrutiny Or Exacting Scrutiny Applies.

The level of scrutiny the Court must impose in evaluating the constitutionality of a law that compels speech typically depends on whether the law is content-based or content neutral. “[A] content-neutral regulation of expressive conduct is subject to intermediate scrutiny, while a regulation based on the content of the expression must withstand the additional rigors of strict scrutiny.” *NetChoice*, 34 F.4th at 1223 (quoting *FLFNB II*, 11 F.4th at 1291; and citing *Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 643–44, 662 (1994)).

To determine whether a law is content-based, courts consider whether the law “suppress[es], disadvantage[s], or impose[s] differential burdens upon speech because of its content,” *Turner*, 512 U.S. at 642—*i.e.*, if it “applies to particular speech because of the topic discussed or the idea or message expressed,” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). A law can be content-based either because it draws “facial distinctions . . . defining regulated speech by particular subject matter” or because, though facially neutral, it “cannot be justified without reference to the content of the regulated speech.” *Id.* at 163–64 (internal quotation marks omitted) (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989)). In *Riley v. Nat’l Federation of the Blind*, 487 U.S. 781, 795 (1988), the Supreme Court held, “Mandating speech that a speaker would not otherwise make necessarily alters the content of the speech. We therefore consider the [disclosure requirement] as a content-based regulation of speech.”

Importantly, “[l]aws that are *content neutral* are . . . subject to lesser scrutiny” than strict scrutiny. *Reed*, 576 U.S. at 172.

As in *Riley*, the Court finds that SB 774, which mandates speech (the disclosure of information) the speakers would not otherwise make, alters the content of their speech and is, therefore, a content-based government regulation of speech subject to higher scrutiny than content-neutral speech.

Content-based compelled speech regulations are, ordinarily, subject to a standard of scrutiny more demanding than rational basis and intermediate scrutiny. As Defendants point out, there is a substantial body of Supreme Court precedent dictating that disclaimer and disclosure requirements are subject to exacting scrutiny. Notably, a review of cases applying the strict scrutiny and exacting scrutiny standards reveals that a content-based regulation compelling speech that fails to pass constitutional muster under exacting scrutiny necessarily fails strict scrutiny. *See, e.g., Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 622 (2021) (Alito and Gorsuch, J. concurring). Because the parties dispute the applicable level of scrutiny, the Court briefly discusses the two levels of scrutiny at issue below.

Strict scrutiny, which has historically been applied to the analysis of laws compelling content-based speech, “requires the Government to prove that the [regulation] furthers a compelling interest and is narrowly tailored to achieve that interest.” *Reed*, 576 U.S. at 171. However, as noted above, the Supreme Court has enunciated a different standard in cases involving compelled disclosures of information. For example, in *Citizens United v. Federal Election Commission*, 558 U.S. 310, 366–67 (2010), the Supreme Court expressed that disclaimer and disclosure requirements should be subject to exacting scrutiny, “which requires a ‘substantial relation’ between the disclosure requirement and a ‘sufficiently

important’ governmental interest.” (quoting *Buckley v. Valeo*, 424 U.S. 1, 64, 66 (1976)). In *Janus v. American Federation of State, County, & Municipal Employees, Council 31*, 585 U.S. 878, 894 (2018), the Court applied the exacting scrutiny standard in the context of compelled subsidization of private speech. As the Court explained, “Under ‘exacting’ scrutiny, . . . a compelled subsidy must ‘serve a compelling state interest that cannot be achieved through’” significantly less restrictive means. *Id.* at 894 (quoting *Knox v. Serv. Emps. Int’l Union, Loc. 1000*, 567 U.S. 298, 310 (2012)). In doing so, the Court pointed out that this standard is “a less demanding test than the ‘strict’ scrutiny.” *Id.* More recently, however, the Court recognized in *Americans for Prosperity Foundation v. Bonta*, that “while exacting scrutiny does not require that disclosure regimes be the least restrictive means of achieving their ends, it *does* require that they be narrowly tailored to the government’s asserted interest.” 594 U.S. at 608 (emphasis added).

While there does not appear to be any binding precedent dictating the correct standard to apply in the specific circumstances presented in this case, the undersigned finds that the circumstances presented here fall within the body of cases in which the Supreme Court has consistently applied the exacting scrutiny standard—that is, cases involving the compelled disclosure of information. Nevertheless, because the Court finds that the law at issue here satisfies neither standard, this Court need not decide which one applies. The exacting scrutiny test is the less burdensome of the tests, and, as Justices Alito and Gorsuch observed in their concurring opinion in *Bonta*, if the law fails to pass muster under the exacting scrutiny test, it necessarily fails under strict scrutiny. *Id.* at 622. Therefore, this Court will apply exacting scrutiny to the analysis of SB 774.

Importantly, to satisfy exacting scrutiny, the government must “demonstrate its need . . . in light of any less intrusive alternatives” and is not “free to enforce any disclosure regime that furthers its interests.” *Id.* at 613. Further, “the Supreme Court has held that a governmental entity bears the evidentiary burden of demonstrating that it ‘seriously undertook to address the problem with less intrusive tools readily available to it.’” *Messina*, 546 F. Supp. at 1251 (quoting *McCullen v. Coakley*, 573 U.S. 464, 494 (2014)). In other words, the government cannot demonstrate it seriously undertook to address the compelling interest by way of less intrusive means without first *considering* those less intrusive means. The government can satisfy this burden by pointing to the legislative record where it undertook the consideration of less intrusive means—*i.e.*, by pointing to evidence that “it investigated, studied, or even solicited reports on the issue.” *Messina*, 546 F. Supp. 3d at 1251.

Applying the exacting scrutiny standard, this Court thus considers whether SB 774 is substantially related to a compelling state interest, which, as discussed above, requires the State to demonstrate that it considered whether there were less intrusive means available to achieve those state interests.

3. Whether Plaintiffs Have Demonstrated A Substantial Likelihood of Success On The Merits Of Their Claim That SB 774 Fails Exacting Scrutiny.

The Court now turns to the question of whether Plaintiffs have clearly established a substantial likelihood of success on their claim that SB 774 does not survive exacting scrutiny.

a. Compelling Government Interests.

Initially, the Court notes that, as discussed above, the parties agree that SB 774’s goals of deterring corruption, increasing transparency and public trust in government, and avoiding conflicts of interest all constitute compelling state interests. The Court agrees that these interests constitute compelling interests, and, in fact, these interests justified the need for the

Sunshine Amendment nearly fifty years ago. While these interests remain no less compelling now, it is not clear from the record before the Court that these interests compel a change to increased disclosure requirements for Plaintiffs. In any event, this Court is satisfied that compelling government interests are at stake.

b. Consideration Of Less Intrusive Alternatives To Address The Government Interests At Stake.

The next part of the exacting scrutiny inquiry is the determination of whether Defendants have demonstrated that they seriously undertook to address the compelling government interests advanced by SB 774's Form 6 disclosure requirement by less intrusive means. Phrased differently, the Court considers whether Defendants have justified the need for SB 774's new, more comprehensive Form 6 disclosure requirements for municipal elected officials and candidates and have even considered whether the use of the less intrusive Form 1 requirement previously in place (or any other less burdensome requirement) is inadequate. To prevail here, Defendants need to point to where in the legislative record it is evident that the State seriously undertook consideration of less intrusive alternatives. *See Sable Commc'ns of California, Inc. v. F.C.C.*, 492 U.S. 115, 129 (1989) (the legislative record must include sufficient findings to justify the court's conclusion that there are no acceptable less restrictive means to achieve the compelling government interests at stake). After a thorough and careful consideration of the record, this Court concludes that Defendants have failed to establish that the State seriously undertook the consideration of less intrusive means to address the identified interests.

Defendants have not demonstrated the need for SB 774's heightened disclosure requirements for municipal elected officials and candidates by showing, for example, that the disclosure requirements previously in place (Form 1) were not adequate. This conclusion is

borne out by the absence of any evidence, data, or studies in the legislative record indicating that Form 1's disclosure requirements were inadequate to address the compelling interests at stake here (deterring corruption and conflicts of interest, bolstering public confidence in state government, and educating the public). At the April 22 evidentiary hearing, the Court expressly directed Defendants to supplement the Court record with evidence that the State considered other means to address the identified issues. In their Supplemental Brief, Defendants provide no such evidence.

So too, this Court's review of the various Committee meeting notes and Analyses and transcripts of hearings and debates in the Florida Senate and House of Representatives revealed none. The Analyses, while detailed and thorough, lack any evidence of a justification or reason for the change from Form 1 to Form 6 and lack any evidence that a less intrusive alternative was seriously considered. To the contrary, it is not at all clear from the legislative record that anyone had determined that Form 1 was not adequately addressing the State interests or, if it was not, that anyone gave any serious consideration to whether a less intrusive alternative to Form 6 might address the State's concerns.

The legislative record reveals that the justifications behind SB 774's enactment are that it conforms the financial disclosure requirements of municipal elected officials and candidates to the disclosure requirements of elected state constitutional officers and that the more rigorous disclosure requirements have been requested by the COE for "many years." Ex. J17 at 2:5–11, 6:15–21; *see also* Ex. J19(b) at 2:17–25, 3:10–15. What it does not show is that the law was necessary or substantially related to the interests at stake. And, although raised, less intrusive alternatives were summarily, and without explanation, shot down in favor of SB 774's brightline standard for *all* municipal elected officials and candidates. *See* Ex. J17 at 16:1–

5; Ex. J18 at 8:10–13, 20–21, 8:23–25, 9:1–3. As Plaintiffs correctly point out, the COE’s Annual Reports are also devoid of empirical data or evidence suggesting that the COE investigated, studied, or solicited reports regarding the need for the Form 6 disclosure requirements for these municipal officials. Even if it were true that complaints against public officials are on the rise, this does not serve as evidence that SB 774’s comprehensive disclosure requirements are substantially related to those complaints or that a less burdensome measure could not be used to address these concerns.

Thus, this Court is not satisfied that Defendants have identified any part of the record that demonstrates that they seriously undertook to address the compelling government interests advanced by SB 774’s Form 6 disclosure requirement by less intrusive means.

c. History, Substantial Consensus, and Common Sense.

Defendants rely on the *Burson* opinion for the proposition that “history, [] substantial consensus, and simple common sense,” 504 U.S. at 211, sufficiently demonstrate that SB 774 is necessary to serve legitimate and substantial state interests. Defendants’ reliance on *Burson* is misplaced. The issue before this Court is not whether the State of Florida is justified in requiring public officials to comply with financial disclosure requirements. Plaintiffs do not dispute that it is. Indeed, history, substantial consensus, and common sense all dictate that financial disclosure requirements for public officials are justified and necessary. Florida’s Sunshine Amendment has been in place since 1976, and Plaintiffs are not suggesting that the law is not warranted or justified. This Court finds, therefore, that *Burson* does not excuse the State from justifying the changes put in place by SB 774.

Instead, the issue now before this Court is whether the change effected by SB 774, requiring municipal officials to file Form 6 after more than forty years of filing Form 1, is

substantially related to the compelling interests identified by the State. The record before this Court does not demonstrate that any change to the disclosure requirements for municipal officials is necessary at all, much less that the highly intrusive level of change effected by SB 774 was necessary when less alternative means were not even considered. *See Bonta*, 594 U.S. at 609 (quoting *Shelton v. Tucker*, 364 U.S. 479, 488 (1960)). As stated above, Defendants have not demonstrated a relationship between the interest of protecting against the abuse of the public trust and SB 774's fulsome financial disclosure requirements, and history does not support or justify the need for requiring municipal elected officials and candidates to comply with the Form 6 requirements when Form 1, a less intrusive method, is available and has not been shown to be ineffective or inadequate.

Accordingly, for the reasons stated above, the undersigned finds that Plaintiffs have demonstrated a reasonable likelihood that they will succeed on the merits of their claim.

B. Whether Plaintiffs Will Suffer Irreparable Harm.

Defendants contend that Plaintiffs fail to demonstrate a substantial threat of irreparable injury because SB 774 provides for a 60-day grace period to file Form 6 before penalties are imposed. In so arguing, Defendants ignore precedent, cited by Plaintiffs, holding that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1271–72 (11th Cir. 2006) (quoting *Elrod v. Burs*, 427 U.S. 347, 373 (1976)).

Based on this precedent, this Court finds that because SB 774's Form 6 disclosure requirements on municipal elected officials and candidates likely unconstitutionally compels content-based speech, continued enforcement, for even minimal periods of time, constitutes a *per se* irreparable injury. The Court also finds unpersuasive Defendant's argument that the

grace period before penalties are imposed somehow means Plaintiffs are not harmed by the law in light of the fact they are already required to comply with the law. As Defendants point out, at least 127 officials have already done so. In fact, the record shows that the law has already had a chilling effect on officials in municipal office, as evidenced by the approximately 125 resignations between the enactment of SB 774 and its effective date. *See* ECF No. 19 at 5.

Therefore, this Court finds that Plaintiffs have demonstrated that they will suffer irreparable harm if an injunction is not granted.

C. Whether The Threatened Injury Outweighs The Potential Harm From An Injunction And Whether An Injunction Serves The Public Interest.

As stated above, when the government opposes the issuance of a preliminary injunction, the third and fourth requisites for injunctive relief merge. *See Otto*, 981 F.3d at 870; *see also Messina*, 546 F. Supp. 3d at 1254. Thus, “a temporary infringement of First Amendment rights ‘constitutes a serious and substantial injury,’ whereas ‘the public, when the state is a party asserting harm, has no interest in enforcing an unconstitutional law.’” *Messina*, 546 F. Supp. 3d at 1253–54 (quoting *Scott v. Roberts*, 612 F.3d 1279, 1297 (11th Cir. 2010)). The Court agrees with Plaintiffs that, in light of the recent resignations of numerous municipal officials affected by SB 774, it is crucial to prioritize the public interest by ensuring that SB 774’s ongoing existence and enforcement not unnecessarily discourage more people from serving in government roles. Defendants offer little to rebut the showing of irreparable harm from the enforcement of SB 774. Their argument that an injunction will upset the status *quo* is unavailing, as Plaintiffs contend, because the status *quo* is the forty years preceding the enactment of SB 774 rather than the five months since it went into effect.

Accordingly, Plaintiffs have also met the third and fourth requirements for injunctive relief. The Court finds Plaintiffs have clearly established their burden of persuasion as to the four requisites for injunctive relief.

D. The Appropriate Scope Of The Injunction.

Having determined that an injunction is warranted, the Court next considers the appropriate scope of the injunction. Although Defendants argue that Plaintiffs' Motion for Preliminary Injunction should be denied altogether, they contend, in the alternative, that "[i]njunctive relief should be limited in scope to the extent necessary to protect the interests of the parties." Resp. at 13 (quoting *Keener v. Convergys Corp.*, 342 F.3d 1264, 1269 (11th Cir. 2003); and citing *Thomas v. Bryant*, 614 F.3d 1288, 1317–18 (11th Cir. 2010)). Defendants also point to the decision in *Garcia v. Executive Director, Florida Commission on Ethics*, No. 23-12663, ECF No. 36 (11th Cir. Nov. 30, 2023), in which the Eleventh Circuit recently stayed enforcement of a preliminary injunction order because the district court did not explain the need to extend the preliminary injunction beyond the single plaintiff in that case.

In their Reply, Plaintiffs respond that the injunction should apply statewide because SB 774 compels all municipal officials throughout the State to file a Form 6 and the unconstitutionality of the law is not dependent on facts unique to Plaintiffs. Reply at 11 n.8 (citing *Rodgers v. Bryant*, 942 F.3d 451, 457–58 (8th Cir. 2019)).

Initially, this Court observes that *Keener* is not determinative of the issue before it, at least insofar as Defendants rely on it to prevent a statewide injunction. In *Keener*, the Eleventh Circuit reversed the district court's injunction only to the extent it applied nationwide but affirmed the injunction to the extent it applied statewide. See 342 F.3d at 1269. Likewise, the *Garcia* decision offers little support for Defendants because in that case, there was only one

Plaintiff and, as the Eleventh Circuit pointed out, the district court did not explain why the injunction should apply statewide. *Garcia*, No. 23-12663, ECF No. 36 at 2–3.

“Crafting a preliminary injunction is an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents.” *Trump v. Int’l Refugee Assist. Project*, 582 U.S. 571, 579 (2017). This Court is mindful of the “national conversation taking place in both the legal academy and the judiciary concerning the propriety of courts using universal injunctions as a matter of preliminary relief,” recognized by my colleague in the Southern District of Florida in weighing the propriety of a statewide preliminary injunction. See *Farmworker Ass’n of Fla., Inc. v. Moody*, No. 23-CV-22655 (S.D. Fla. May 22, 2024), ECF No. 101 at 1 (Altman, J.) (quoting *Walls v. Sanders*, No. 4:24-CV-00270-LPR, 2024 WL 2127044, at *22 (E.D. Ark. May 7, 2024)).

Under the circumstances presented in the instant case, this Court finds that statewide injunctive relief is warranted. As Plaintiffs point out, the law requires compliance by all municipal officials throughout the State, regardless of their specific circumstances. Moreover, a preliminary injunction limited only to the Plaintiffs who have joined this case so far would engender needless follow-on litigation. Because the injunction is not based on facts limited to Plaintiffs’ circumstances, all of the other municipal officials subject to this law will be able to file near-identical suits to obtain the same relief. See, e.g., *Koe v. Noggle*, 688 F. Supp. 3d 1321 (N.D. Ga. 2023) (refusing to grant an injunction only as to the plaintiffs because, “if a plaintiffs-only injunction issued, follow-on suits by similarly situated non-plaintiffs based on this [c]ourt’s order could create needless and ‘repetitious’ litigation,” and because “affording [p]laintiffs complete relief without a facial injunction would be, at best, very burdensome for [p]laintiffs and the [c]ourt [and,] [a]t worst, . . . practically unworkable”). This reality is readily

apparent from the fact that Plaintiffs have already amended the Complaint in this case three times to add additional plaintiffs. And, as noted above, Defendants offer no persuasive authority for why statewide application of the injunction is not appropriate in this case.

For the reasons set forth above, this Court finds that statewide application of the injunction is appropriate.

E. Whether Plaintiffs Must Post an Injunction Bond.

Plaintiffs submit that they should not be required to post an injunction bond because “public interest litigation is a recognized exception to the bond requirement.” Mot. at 20 (quoting *Vigue*, 2019 WL 1993551 at *3). Defendants offer no contrary authority. The Court agrees that “public-interest litigation [constitutes] an area in which the courts have recognized an exception to the Rule 65 security requirement.” *City of Atlanta v. Metro. Atlanta Rapid Transit Auth.*, 636 F.2d 1084, 1094 (5th Cir. 1981). Therefore, under the circumstances presented here, the bond requirement should and will be waived.

CONCLUSION

In sum, a review of the record reflects that the State enacted SB 774 without giving serious consideration to whether the government interests at stake could be addressed through less burdensome alternative means. It is not apparent from the record that a change from the Form 1 requirement to the Form 6 requirement was necessary nor that SB 774 is substantially related to the State’s identified interests.

For the reasons set forth herein, the Court finds that Plaintiffs have satisfied their burden of establishing a reasonable likelihood of success on the merits of their claim that SB 774, as applied to them, impermissibly compels content-based speech in violation of the First

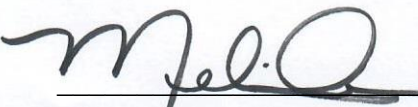
Amendment. Therefore, Plaintiffs are entitled to an injunction enjoining enforcement of SB 774.

Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

1. Plaintiffs' Expedited Motion for Preliminary Injunction [ECF No. 10] is **GRANTED**.
2. SB 774 is **PRELIMINARILY ENJOINED**.
3. The posting of a bond is not required for enforcement of the relief herein.
4. Defendants must take no steps to enforce SB 774 unless otherwise ordered. This preliminary injunction binds Defendants and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with them—who receive actual notice of this injunction by personal service or otherwise.

DONE AND ORDERED in the Southern District of Florida, this 10th day of June, 2024.



MELISSA DAMIAN
UNITED STATES DISTRICT JUDGE

CC: All Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-20604-CIV-DAMIAN

ELIZABETH A. LOPER, *et al.*,

Plaintiffs,
vs.

ASHLEY LUKIS, *et al.*,

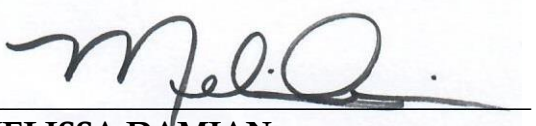
Defendants.
_____ /

ORDER ON MOTION TO DISMISS [ECF NO. 15]

THIS CAUSE is before the Court following a Case Management Conference held on August 22, 2024, at which the parties appeared before the Court through counsel. [ECF No. 44]. During the Conference, Defendants moved *Ore Tenus* to withdraw their Motion to Dismiss [ECF No. 15], filed April 1, 2024. Being fully advised, and for the reasons stated and further detailed on the record during the Conference, it is hereby

ORDERED AND ADJUDGED that the *Ore Tenus* Motion is **GRANTED**. Defendants' Motion to Dismiss [ECF No. 15] is hereby **WITHDRAWN** and **TERMINATED**.

DONE AND ORDERED in the Southern District of Florida, this 26th day of August, 2024.



MELISSA DAMIAN
UNITED STATES DISTRICT JUDGE

CC: Counsel of Record