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"A Public Office is a Public Trust"

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MEMORANDUM

TO: **Commission Members**

FROM: **Kerrie Stillman, Executive Director**

SUBJECT: **Discussion of Legislative Plan and Recommendations for 2027**

DATE: **July 16, 2026**

The Commission is statutorily required to make recommendations for legislation, and it does that in its Annual Report. The 2027 session will begin in March, but work on legislation begins earlier, so it is time to begin your discussion of your approach and development of your recommendations. I expect it will take a couple of meetings before you finalize your recommendations and priorities.

As a part of your discussion and consideration of legislative recommendations for 2027, it is important that in addition to deciding *what* you want to recommend, you decide on the approach you want to take, specifically:

1) Whether to actively lobby any of the recommendations, and if so, establishing your priorities. The Commission is not required to do anything more than make recommendations, but has, in most years, actively engaged in the legislative process.

2) Whether to have a Member serve as legislative liaison and what authority to give him or her. Any lobbying effort is greatly enhanced by having a Member serve as legislative liaison. It is very meaningful to members of the House and Senate when they hear from Commission members, rather than just staff.

Of course, you are free to add to or subtract from this list, as you see fit. If you have questions about any items in this memorandum or there are other issues you would like staff to research prior to the Commission meeting, please let me know.

I appreciate your interest in this process and look forward to your discussion and guidance.

Remainder of Legislative Recommendations from 2026 that were Introduced but did not Pass the Legislature

1. Whistle Blower 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. Last year, there were two bills on this topic: SB 92 and HB 139. However, neither of these bills made it to the finish line. SB 92 made it through its committee stops but died on the Second Reading Calendar. HB 139 also made it through its committee stops but died on the Second Reading Calendar.

2. First-Time Fine Waiver for Financial Disclosure

Pursuant to Section 112.3215(5)(d)4., Florida Statutes, a fine is not assessed against a lobbying firm *the first time* any reports for which the lobbying firm is responsible are not timely filed. We believe a similar provision regarding fines for those who have failed to timely file their financial disclosure forms should be introduced, with the caveat that this first-time fine waiver is only applicable if the reporting individual filed his or her form prior to accruing the maximum $1,500 fine, and only if the reporting individual has not previously accrued a $1,500 fine. This would increase efficiency by reducing the number of fine appeals Commission staff have to process. It would also comport with the Commission's ultimate goal of achieving a filing by all filers. Last year, there were two bills on this topic: SB 1622 and HB 1369. SB 1622 passed the Senate and died in House Messages. HB 1369 was referred to three Committees but was not heard by any.

3. Public Records Exemptions

The Commission and its staff engage in adversarial proceedings against Respondents to ethics complaints. These proceedings can result in harsh penalties for Respondents, up to and including removal from their public positions, and fines of up to $20,000. Aside from this, Commission staff sometimes receive hostile communications from members of the public, as well as ethics Complainants who are upset about the outcome of complaints they have filed. Because of this, we believe Commission Members, as well as Commission staff, should receive a public records exemption for information such as their home addresses and phone numbers, similar to other public records exemptions available to other public officers and employees. Last year, SB 1546 was filed in the Senate, which would have created records exemptions for current and former Commissioners and staff (as well as their spouses and children). The bill was referred to three Committees but was not heard by any.

4. Form 10

Currently, the law says that the Form 10 must be filed with an individual's CE Form 1 or CE Form 6. However, now that the Commission uses our electronic filing system for Form 1 and Form 6, language regarding the filing location for the Form 10 should be updated because it is not an electronic form. *Your staff recommends this as a necessary change.* There were two bills filed last year related to this recommendation: HB 6011 and SB 964.

Both bills made it through all Committee stops. SB 964 was substituted for HB 6011 and laid on the table. These bills started out almost identical, but HB 6011 was later amended. The Senate amended HB 6011 to bring back percentage-based comparative value thresholds for financial disclosure. The House refused to concur and requested the Senate to recede. The Senate refused to recede and requested the House to concur. The Bill ultimately died in returning Messages in the House.

Staff Recommendations from 2026 that were not Filed in the Legislature

1. Technical Changes

    a. Financial Disclosure Appellate Deadlines

Currently, the law states that the Commission must *receive* a financial disclosure fine appeal within 30 days of the filer receiving notice of his or her appellate rights. However, given that a filer cannot control how long it takes for a piece of mail to arrive at the Commission's office after he or she sends it, staff recommends the law should be amended to consider a mailed appeal timely if the *postmark* date is within the 30-day appellate deadline.

Sample language:

112.3145(8)(f)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~~ mailed or transmitted to the commission within 30 days after the notice of payment due is transmitted. In such a case, the reporting person 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. Requests sent via U.S. Mail or a commercial delivery service are considered timely if the postmark date is within the 30-day timeframe.

    b. 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 any Form 6 office are required to complete a Form 6 disclosure.

Sample language:

112.3144(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)~~ a person required to file full and public disclosure of financial interests 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.

c. Ethics Training

Certain public officers are required by law to complete annual ethics training. The statute makes clear that each elected local officer of an independent special district, and each person who is appointed to fill a vacancy for an unexpired term of such elected office, must complete the annual training. However, in the context of elected *municipal officers*, the statute does not have a similar provision for those who are appointed to fill a vacancy for an unexpired term of an elected office. For purposes of consistency, staff recommends the same language related to those who are appointed to elected offices of independent special districts should be included for those who are appointed to elected municipal offices.

Sample language:

112.3142(b) All elected municipal officers, and each person who is appointed to fill a vacancy for an unexpired term of such elective office, must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This 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.

Other Recommendations to Consider

1. Policy/Substantive Items

a. Personal Knowledge or Information Other than Hearsay

In the 2024 Legislative Session, Senate Bill 7014 was introduced and ultimately signed into law by the Governor. This bill, among other things, created a requirement that the Commission may only investigate ethics complaints that are based on personal knowledge or information other than hearsay. There are many different types of documents that constitute hearsay, or contain hearsay within hearsay, but do not always qualify for the hearsay exceptions found in Chapter 90. Examples include investigative reports, accounting reports, audit reports, and law enforcement reports. As a result, Commission staff often cannot investigate complaints that are solely based on information contained within documents such as these. Staff suggests the Commission consider recommending an exception to the personal knowledge or information other than hearsay requirement that would allow documents such as these be allowed to form the basis of an ethics investigation.

Complaints received through the referral process, however, are not subject to the personal knowledge or information other than hearsay standard. Another option would be to increase the types of agencies/persons who may refer a matter to the Commission.

Sample language:

PERSONAL KNOWLEDGE OR INFORMATION OTHER THAN HEARSAY

112.324(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:
(a) Upon a written complaint executed on a form prescribed by the commission which is based upon personal knowledge<u>, information within investigative, accounting, or audit reports created or commissioned by any public agency of the State or its political subdivisions, information within reports by law enforcement officers or agencies,</u> or information other than hearsay and signed under oath or affirmation by any person.

ENHANCED REFERRALS

112.324(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:
* * *
(b) Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, a state attorney, or a United States Attorney, <u>or from the agency head or Inspector General of an agency of the State or from the agency head or governing body of any political subdivision, where the named respondent is a current or former public officer or employee of that agency and the referral concerns their service to that State agency or that political subdivision.</u>

b. <u>Executive Branch Lobbyist Registration Audits- Intent Requirement</u>

Pursuant to Section 11.40, Florida Statutes, the Joint Legislative Auditing Committee (JLAC) conducts random audits on a random sample of the quarterly compensation reports for the previous calendar year for 3% of all legislative branch lobbying firms and 3% of all executive branch lobbying firms. All audit reports of executive branch lobbying firms are then delivered to the Commission on Ethics.

Pursuant to Section 112.3215(8)(c), Florida Statutes, the commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a random audit of lobbying reports indicating that the entity or individual has *intentionally* failed to disclose any material fact or has *knowingly* submitted false information in any report required by this section or by rules adopted pursuant to this section.

As such, when the Commission receives the audit reports of the randomly selected executive branch lobbying firms, it can only act on those reports if the auditor makes a finding that any errors or omissions on the compensation reports were intentional or done with knowledge. In the end, it is almost impossible for the auditor to find that any errors were intentional or made with knowledge. Staff suggests the Commission consider a recommendation amending the intent requirement tied to these random audits, so that action can be more easily taken on material errors.

2. Glitches/Technical Fixes

a. "Repay" language in Chapter 2026-66, L.O.F.

In the last Legislative Session, HB 905 passed and was signed into law by the Governor. Relevant to this recommendation, the bill amended Section 112.313(2) (the prohibition against accepting bribes) to state:

> A public officer, an employee of an agency, a local government attorney, or a candidate for nomination or election found to have violated this subsection by soliciting or accepting anything of value from a person or an entity representing or acting on behalf of a designated foreign terrorist organization or foreign country of concern or any of its subdivisions must, in addition to any criminal or civil penalty involved, repay double the value of any pecuniary benefit received as a result of the violation committed.

Reading the new language literally, the statute seems to suggest that the new enhanced penalty for violating Section 112.313(2) by soliciting or accepting something of value from the enumerated persons or entities in the statute is to *repay* those persons or entities double the value of the pecuniary benefit received. This language creates an unclear requirement that staff suggests could be remedied by a statutory change clarifying the recipient of the repayment penalty.

b. Treatment of Universities under Section 112.31455

Section 112.31455 governs collection methods for unpaid automatic financial disclosure fines. The statute, in relevant part, currently states:

> (1) Before referring any unpaid fine accrued pursuant to s. 112.3144(8) or s. 112.3145(8) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, district school board, or special district of the total amount of any fine owed to the commission by such individual.
> (a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, district school board, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

> (b) The Chief Financial Officer or the governing body of the county, municipality, district school board, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

As it currently stands, it does not appear that the Commission may direct public universities to withhold salary-related payments from those university employees who have not paid their financial disclosure fines, as public universities are not any of the entities enumerated in the statute. Staff suggests that the Commission recommend amending the statute to expressly include the governing bodies of public universities.