



Office of the Manatee County Attorney

Presents:

Local Government Law Seminar

May 26, 2015

Bradenton, Florida



THE FLORIDA BAR

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April 22, 2015

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Patricia Nolan
1112 Manatee Ave W, Suite 969
Bradenton, FL 34205

Reference Number: 1502595N
Title: Local Government Law Seminar
Level: Basic
Approval Period: 05/26/2015 - 11/26/2016

CLE Credits

General	4.0
Ethics	1.0

Certification Credits

Please provide the attendees the above reference number so they may go online to www.floridabar.org to report their completion of this program.

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The Manatee County Attorney's Office
Presents
The Fourth Annual
Local Government Law Seminar

May 26, 2015
1:00 p.m. to 5:00 p.m.

Manatee County Administration Building
County Commission Chambers – 1st Floor
1112 Manatee Avenue West

Seminar Program

Welcome and Introduction..... 1:00 p.m. - 1:10 p.m.
 Mitchell O. Palmer, County Attorney

Government-in-the-Sunshine..... 1:10 p.m. - 2:00 p.m.
 Maureen S. Sikora, Assistant County Attorney

Public Records Law for Elected and Appointed Officials2:00 p.m. - 2:50 p.m.
 Robert M. Eschenfelder, Assistant County Attorney

Break2:50 p.m. - 3:00 p.m.

Basic Land Use Law for Elected Officials3:00 p.m. - 3:50 p.m.
 William E. Clague, Assistant County Attorney
 Sarah A. Schenk, Assistant County Attorney

Break3:50 p.m. - 4:00 p.m.

Ethics for Elected and Appointed Officials4:00 p.m. - 4:50 p.m.
 Mitchell O. Palmer, County Attorney
 Robert M. Eschenfelder, Assistant County Attorney

Closing Comments4:50 p.m. - 5:00 p.m.
 Mitchell O. Palmer, County Attorney

**SPEAKER INFORMATION
MANATEE COUNTY ATTORNEY'S OFFICE**

MITCHELL O. PALMER, COUNTY ATTORNEY: B.S. in Business Management, Florida State University. J.D., Cumberland School of Law of Samford University. Admitted to the Florida Bar, 1982. Also admitted to the U.S. District Court, Middle District of Florida and the U.S. Court of Appeals, Eleventh Circuit. Twenty-eight years of experience in the representation of local government entities, including twelve years in private law practice. Board Certified in Construction Law. "AV" (Preeminent) rated by Martindale-Hubbell. Commenced service as the County Attorney in April of 2012.

MAUREEN S. SIKORA, ASSISTANT COUNTY ATTORNEY: B.S., University of Florida. J.D., Florida State University College of Law. Admitted to the Florida Bar, 1982. Previously served as Attorney for the City of Port Orange in Volusia County. Joined the County Attorney's Office in 1999. Board Certified in City, County, and Local Government Law.

ROBERT M. ESCHENFELDER, ASSISTANT COUNTY ATTORNEY: B.S. in Finance and Political Science, University of South Florida. J.D., St. Thomas University School of Law. Admitted to the Florida Bar, 1994. Also admitted to practice before the United States Court of Appeals for the Eleventh Circuit, the United States District Court of the Middle District of Florida, and the Bar of the United States Supreme Court. Previously served as Assistant City Attorney for the City of St. Petersburg. Joined the County Attorney's Office in 2000.

WILLIAM E. CLAGUE, ASSISTANT COUNTY ATTORNEY: B.S. in English and Journalism, University of South Florida. J.D., Florida State University College of Law. Admitted to the Florida Bar, 1996. Previously served as Assistant County Attorney in Orange County and entered private practice before joining the County Attorney's Office in 2003.

SARAH A. SCHENK, ASSISTANT COUNTY ATTORNEY: B.A., State University of New York at Stony Brook. J.D. (cum laude), Stetson University College of Law. Admitted to the Florida Bar, 1984. Also admitted to the U.S. District Court, Middle District of Florida. Past Florida Supreme Court Certified Civil Trial Mediator. Previously served as Assistant City Attorney for the City of Sarasota while in private practice. Board Certified in City, County and Local Government Law. "BV" (Distinguished) rated by Martindale-Hubbell. Joined County Attorney's Office in 2005.

GOVERNMENT-IN-THE-SUNSHINE LAW

GOVERNMENT-IN-THE-SUNSHINE LAW

OPEN MEETINGS

I. SCOPE

Article I, Section 24, Florida Constitution, which was approved by Florida voters in 1992 and became effective July 1, 1993, recognizes a constitutional right of access to meetings of collegial bodies in the State of Florida. The constitution requires almost all meetings of public bodies in the state, except those of the Legislature and the courts, to be noticed and open. (The Legislature and the courts are addressed by other sections of the Constitution.)

Further, the Florida Government-in-the-Sunshine Law, as set forth primarily in Section 286.011, Florida Statutes, provides statutory access by the public to governmental proceedings at the state and local levels. Section 286.011, Florida Statutes, contains three basic requirements:

- A. Meetings of public boards or commissions must be open to the public;
- B. Reasonable notice of such meetings must be given; and
- C. Minutes of the meetings must be taken and promptly recorded and open to public inspection.

The purpose of the open meetings law has been stated as follows:

To prevent at non-public meetings the crystallization of secret decisions to a point just short of ceremonial acceptance. . . . The statute should be construed so as to frustrate all evasive devices. Town of Palm Beach v. Gradison, 296 So. 2d 473, 477 (Fla. 1974).

Florida courts have broadly construed the Sunshine Law to effect its remedial and protective purposes. See, Wood v. Marston, 442 So. 2d 934 (Fla. 1983); Canney v. Board of Public Instruction of Alachua County, 278 So. 2d 260 (Fla. 1973).

II. ENTITIES/AGENCIES

Section 286.011(1), Florida Statutes, provides as follows:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, . . . , at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

The courts have stated that it was the intent of the Legislature for the Sunshine Law to apply to "every board or commission of the state, or of any county or political subdivision over which it has dominion or control." Times Publishing Company v. Williams, 222 So. 2d 470, 473 (Fla. 2d DCA 1969), overruled in part, Neu v. Miami Herald Publishing Company, 462 So. 2d 821 (Fla. 1985). "All governmental entities in Florida are subject to the requirements of the Sunshine Law unless specifically exempted." Sarasota Citizens for Responsible Government v. City of Sarasota, 48 So. 3d 755, 762 (Fla. 2010).

A. Board of County Commissioners

Upon giving due public notice, regular and special meetings of the board may be held at any appropriate public place in the county. Sec. 125.001, Fla. Stat. Actions of the board taken at other than a public place in

the county are ineffective. The public notice relating to regular and special meetings must be given for the public place chosen.

The legislative and governing body of the county has the power to carry on county government and to adopt rules of procedure, select officers, and set the time and place of official meetings. Sec. 125.01(1)(a), Fla. Stat. No express authority is provided for the members of a local board to hold meetings by conference call or telephone hookup. Op. Atty. Gen. Fla. 10-34 (2010) determined that a city may not adopt an ordinance allowing the members of a city board to appear by electronic means for the purpose of constituting a quorum. However, if a quorum of a local board is physically present at the public meeting site, the board may permit a member with health problems to attend through the use of a speaker telephone that allows the absent member to participate in debate, to be heard by other members and the public, and to hear discussions taking place during the meeting. Op. Atty. Gen. Fla. 92-44 (1992) concluded that a dual television communication link with an ill county commissioner might meet the statutory requirement provided that a legal quorum of the commission met at a public place in the county. See also, Op. Atty. Gen. Fla. 94-55 (1994) (out-of-state board of trustee member allowed to participate in museum board meeting).

The Manatee County Board of County Commissioners has adopted rules governing the conduct of its meetings in Resolution R-15-031. These rules should be consulted when conducting and appearing at board meetings.

B. Other Public Agencies

Advisory boards whose duties and powers are limited to making recommendations to the Board of County Commissioners are also subject to the Sunshine Law, even if the advisory board's decisions and opinions are not binding on the county. Town of Palm Beach v. Gradison, supra. The nature of the act being performed by the board, not its makeup or proximity to the ultimate decision, is the key factor in determining whether the law applies to the advisory board. Wood v. Marston, supra. Members of such advisory groups are governed by the same requirements as members of elected boards: meetings must be open to the public; notice must be provided; and minutes must be kept.

Meetings held by any board, committee or agency elected or appointed under the authority of the Board of County Commissioners, including members-elect or members-designate, must comply with Section 286.011, Florida Statutes. The dispositive question is whether there has been a delegation of the county's governmental or legislative function or the commission's decision-making power. Sarasota Citizens for Responsible Government v. City of Sarasota, supra. If so, a Sunshine Law meeting is required.

The following advisory boards have been found to be covered by the open meetings law:

1. Ad hoc committee appointed by the mayor to meet with the chamber of commerce to discuss proposed transfer of city property. Op. Atty. Gen. Fla. 87-42 (1987).
2. Land selection committee composed entirely of staff appointed by a water management district to evaluate projects for acquisition. Op. Atty. Gen. Fla. 86-51 (1986).
3. Citizens advisory committee of the metropolitan planning organization. Op. Atty. Gen. Fla. 82-35 (1982).
4. Central Florida Commission on the Status of Women appointed to make recommendations to several county commissions. Op. Atty. Gen. Fla. 76-193 (1976).
5. Commission established by county ordinance to make recommendations on criminal justice issues. Op. Atty. Gen. Fla. 93-41 (1993).
6. County personnel council created to hear appeals of disciplinary actions. Op. Atty. Gen. Fla. 77-132 (1977).

7. Civil service board for county sheriff's office. Op. Atty. Gen. Fla. 80-27 (1980).
8. Ad hoc committee appointed by the mayor to make recommendations concerning legislation. Op. Atty. Gen. Fla. 85-76 (1985).
9. Citizen advisory committee appointed by the city council to make recommendations regarding city government and city services. Op. Atty. Gen. Fla. 98-13 (1998).
10. Citizen planning committee appointed by the city council to assist in revision of zoning ordinances. Town of Palm Beach v. Gradison, supra.
11. Site plan review committee created by the county commission to serve in an advisory capacity to the county manager. Lyon v. Lake County, 765 So. 2d 785 (Fla. 5th DCA 2000).
12. Political forum attended by two or more county commissioners who discuss among themselves issues on which foreseeable action may be taken by the commission could be considered a Sunshine Law meeting. Op. Atty. Gen. Fla. 94-62 (1994). But see, Op. Atty. Gen. Fla. 92-5 (1992) (different result where meeting included one incumbent and one non-incumbent person for political office who had not been elected).

A limited exception to Section 286.011, Florida Statutes, exists for advisory committees established solely for fact-finding or information-gathering purposes with no power to make recommendations. For example, a committee appointed to report on employee working conditions was not subject to the Sunshine Law. Bennett v. Warden, 333 So. 2d. 97 (Fla. 2nd DCA 1976); see also, Sarasota Citizens for Responsible Government v. City of Sarasota, supra. The fact-finding exception is restricted to advisory committees, and does not apply to boards that have the ultimate decision-making authority. Finch v. Seminole County School Board, 995 So. 2d 1068 (Fla 5th DCA 2008). The court in the Finch case held that the school board could not take a fact-finding bus tour even though board members were separated from each other by several rows of seats, did not discuss their preferences or opinions, and took no vote during the trip.

C. Private Organizations

As a general rule, private organizations are not subject to the requirements of Section 286.011, Florida Statutes, unless such organization has been created by a public entity, has been delegated the authority to perform some governmental function, or plays an integral part in the decision-making process of a public entity. Op. Atty. Gen. Fla. 07-27 (2007). The Sunshine Law ordinarily does not apply to meetings of a homeowners association board of directors or a mobile home park board of directors.

Private corporations and organizations may be bound by the Sunshine Law, although such a finding requires more than receipt of funds from a governmental agency or provision of services to a governmental agency. The determination involves whether the private entity was established by law or a public agency and whether the private entity is acting on behalf of a governmental agency in the performance of public duties. A board or commission created by a public agency or entity is subject to Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 00-08 (2000). For instance, an architectural review committee of a homeowners association which, pursuant to county ordinance, reviews and approves applications for building permits must follow the requirements of Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 99-53 (1999). The Sunshine Law also applies to a property owners association when acting on behalf of a municipal service taxing unit. Op. Atty. Gen. Fla. 07-44 (2007).

In determining which private entities may be covered by Section 286.011, Florida Statutes, the courts have held that the Legislature intended to bind "every board or commission of the state, or of any county or political subdivision over which it has dominion and control." Times Publishing Company v. Williams, supra at 473. The Attorney General's Office has advised that a not-for-profit corporation created by a city redevelopment agency to assist in the implementation of the city's redevelopment plan must comply with the Sunshine Law.

Op. Atty. Gen. Fla. 97-17 (1997). Accord, Keesler v. Community Maritime Park Associates, Inc., 32 So. 3d 659 (Fla. 1st DCA 2010), review denied, 47 So. 3d 1289 (Fla. 2010). Similarly, a nonprofit corporation created by a county to act as a county instrumentality and for its benefit in financing and administering governmental programs is subject to the law. Op. Atty. Gen. Fla. 94-34 (1994).

Another test to determine whether the open meetings laws apply to a private entity focuses on whether the private entity is merely providing services or "is standing in the shoes of the public agency." Op. Atty. Gen. Fla. 98-21 (1998). The Attorney General's Office has concluded that a not-for-profit corporation that contracted with a city to carry out affordable housing responsibilities and also reviewed and screened applicant files is an agency for purposes of the Sunshine Law. Op. Atty. Gen. Fla. 08-66 (2008). A nonprofit organization specifically established to contract with a county for operation of a public golf course on property acquired with public funds is also covered by the law. Op. Atty. Gen. Fla. 02-53 (2002). In addition, a direct-support organization created as a private nonprofit corporation for the purpose of assisting a public museum is required to follow Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 92-53 (1992). If a county commission dissolves its cultural affairs council and designates a nonprofit organization to fulfill that responsibility for the county, the organization would be bound by the Sunshine Law because the nonprofit entity would be providing services in place of the county council and would receive public funding formerly provided to the council for the same purpose. Op. Atty. Gen. Fla. 98-49 (1998). The Sunshine Law applies to a private organization when there has been a delegation of the public agency's authority to conduct public business, such as a private entity implementing the county's economic development strategic plan, Op. Atty. Gen. Fla. 10-30 (2010), or a task force considering downtown redevelopment issues, Op. Atty. Gen. Fla. 85-55 (1985).

D. Staff

Meetings of staff of boards and commissions covered by the Sunshine Law are generally not subject to Section 286.011, Florida Statutes. School Board of Duval County v. Florida Publishing Company, 670 So. 2d 99 (Fla. 1st DCA 1996). The court in Sarasota Citizens for Responsible Government v. City of Sarasota, supra, held that discussions among the deputy county administrator, staff and consultants in negotiating with a baseball team did not violate the Sunshine Law based on the informational role of the negotiating team. However, if a staff member is appointed to a committee which is delegated authority to make recommendations to or act on behalf of a board or official, the Sunshine Law applies to the committee. When public officials delegate their decision-making authority to a committee of staff members, those individuals no longer function as staff but "stand in the shoes of such public officials" as far as the Sunshine Law is concerned. Evergreen the Tree Treasurers of Charlotte County, Inc. v. Charlotte County Board of County Commissioners, 810 So. 2d 526, 531-532 (Fla. 2d DCA 2002).

Wood v. Marston, supra, held that a committee composed of staff created for the purpose of screening applications and making recommendations for the position of law school dean must comply with Section 286.011, Florida Statutes, because the committee performed a policy-based, decision-making function delegated to it by the president of the university. See also, Dascott v. Palm Beach County, 877 So. 2d 8 (Fla. 4th DCA 2004) (meeting of pre-termination conference panel established pursuant to county ordinance and delegated authority for employee discipline is subject to Sunshine Law). The Attorney General's Office has found the Sunshine Law applicable to a three-member panel appointed by the city manager to hold post-termination hearings, Op. Atty. Gen. Fla. 07-54 (2007), an employee advisory committee authorized to make recommendations to the governing board, Op. Atty. Gen. Fla. 96-32 (1996), and a staff grievance committee created to make nonbinding recommendations to the county administrator regarding disposition of employee grievances, Op. Atty. Gen. Fla. 84-70 (1984).

In Silver Express Co. v. District Board of Lower Tribunal Trustees, 691 So. 2d 1099 (Fla. 3d DCA 1997), the court decided that a committee comprised of staff and one outside person created by a college purchasing director to assist and advise in evaluating contract proposals was subject to the Sunshine Law. According to the court, the committee's job involved weeding through the various proposals, determining which were acceptable, and ranking them. This function brought the committee within the scope of Section 286.011, Florida Statutes, because "governmental advisory committees which have offered up structured recommendations . . . which eliminate opportunities for alternative choices by the final authority, or which rank

applications for the final authority – have been determined to be agencies governed by the Sunshine Law." 691 So. 2d at 1101. A similar conclusion was reached in Op. Atty. Gen. Fla. 05-06 (2005) concerning a city development review committee consisting of several city officials and representatives of various city departments to review and approve development applications.

III. MEETINGS/COMMUNICATIONS

The Sunshine Law applies to any gathering of two or more members of the same public board or commission to discuss a matter on which foreseeable action will be taken by that board or commission. Sarasota Citizens for Responsible Government v. City of Sarasota, *supra*; Hough v. Stembridge, 278 So. 2d 288 (Fla. 3d DCA 1973). There is no requirement that a quorum of the board be present. The law extends to discussions and deliberations as well as formal action by a board or commission. Any gathering is covered, regardless of whether the meeting is formal or informal, or designated as a workshop, conference session, quasi-judicial hearing, or executive session. This includes an organizational session of a board. Ruff v. School Board of Collier County, 426 So. 2d 1015 (Fla. 2d DCA 1983).

Discussions not related to matters on which foreseeable action will be taken are not subject to the open meetings law. For example, discussions between two board members regarding how the Tampa Bay Buccaneers played are not covered by the Sunshine Law. However, the law would apply to discussions on county financing of a new stadium for the Tampa Bay Buccaneers, especially if the board could be expected in the foreseeable future to act on the matter.

A. Types of Communication

Under Section 286.011, Florida Statutes, members of a board or commission may not take action or engage in private discussions by written correspondence, e-mails or other electronic communications. The open meetings law does not prohibit a city commissioner from sending documents to other members of the commission on matters coming before the commission for official action, as long as there is no response from or interaction among the commissioners prior to the public meeting. Op. Atty. Gen. Fla. 07-35 (2007). In such cases, the records are subject to disclosure under the Public Records Act and are not being used as a substitute for action at a public meeting because there is no interaction among commissioners prior to the meeting. Op. Atty. Gen. Fla. 89-23 (1989).

However, if a report is circulated among board members for comments and comments are provided to other members, such interaction must occur in compliance with the Sunshine Law. Op. Atty. Gen. Fla. 90-3 (1990). Use of computers by members of a public board or commission to communicate among themselves on issues pending before the board would also constitute a violation of the Sunshine Law. Op. Atty. Gen. Fla. 89-39 (1989). While a city commissioner may use a website blog or message board to post a comment about city business, any subsequent postings by other commissioners on the subject of the initial blog may be construed as a response which is subject to the Sunshine Law. Op. Atty. Gen. Fla. 08-07 (2008). Members of a city board or commission may not engage on the city's Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action. Op. Atty. Gen. Fla. 09-19 (2009). In addition, Op. Atty. Gen. Fla. 01-21 (2001) expressed concern about board members distributing their own position papers on the same subject to other members outside of a duly noticed meeting.

Section 286.011, Florida Statutes, prohibits members of a public board or commission from discussing by telephone matters which foreseeable will come before that board or commission for action. But see, Op. Atty. Gen. Fla. 98-28 (1998) (authorizing a board to use electronic media technology to allow a member of the board who is absent to attend the meeting). If a quorum of the local board is physically present, the participation of an absent member by telephone conference or other interactive electronic technology is permissible when the absence is due to extraordinary circumstances such as illness. Op. Atty. Gen. Fla. 03-41 (2003).

The Attorney General's Office has advised that local boards may use electronic media technology such as video conferencing and digital audio to conduct informal discussions and workshops over the Internet,

provided that proper notice is given and interactive access is afforded to members of the public. Op. Atty. Gen. Fla. 01-66 (2001). However, the use of electronic media technology does not satisfy quorum requirements necessary for official action to be taken by local boards. Op. Atty. Gen. Fla. 06-20 (2006). Furthermore, using an electronic bulletin board to discuss matters over an extended period of days or weeks, which does not permit the public to participate on line, violates the Sunshine Law by circumventing the notice and access provisions of the statute. Op. Atty. Gen. Fla. 02-32 (2002).

B. Members of Boards

Although the open meetings law does not normally encompass an individual member of a public board or commission or public officials who are not commission members, situations may arise where a board delegates its decision-making power to a single member or a non-member is used as a liaison among board members. In such circumstances, compliance with Section 286.011, Florida Statutes, is mandatory. For example, when a board member gathers information or acts as a fact-finder, the law does not apply. Op. Atty. Gen. Fla. 95-06 (1995). If a member of a public board is authorized to explore various contract proposals which are reported back to the governing body for consideration, the discussions between the board member and the individual are not subject to the Sunshine Law. Op. Atty. Gen. Fla. 93-78 (1993).

By contrast, if a board member has been delegated the authority to reject certain options from consideration by the entire board, the board member is performing a decision-making function that must be conducted in accordance with Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 95-06 (1995). In Leach-Wells v. City of Bradenton, 734 So. 2d 1168 (Fla. 2d DCA 1999), the city clerk tallied the results of evaluations by committee members charged with reviewing proposals and ranked the results. The court held that the short-listing constituted formal action that was required to be taken at a public meeting. The delegation of decision-making authority extends to actions such as negotiating the terms of a lease, Op. Atty. Gen. Fla. 84-54 (1984), or conducting a hearing or investigatory proceeding, Op. Atty. Gen. Fla. 75-41 (1975), on behalf of the board.

Generally, discussions between a member of a board and staff or other non-member are not subject to the Sunshine Law, provided that the staff or non-member is not being used as liaison or conduit among board members. See, Blackford v. School Board of Orange County, 375 So. 2d 578 (Fla. 5th DCA 1979). Op. Atty. Gen. Fla. 74-47 (1974) advised that a city manager may meet with individual members of a city council, but may not act as a liaison by circulating information and thoughts of council members. In Sarasota Citizens for Responsible Government v. City of Sarasota, *supra*, the court found no violation of the law where staff members met privately with individual commissioners in preparation for a public hearing on a memorandum of understanding because the meetings were informational briefings regarding the contents of the document and there was no evidence that staff communicated any statements from one commissioner to another.

However, the court in the Blackford case ruled that a series of meetings between staff and board members held in rapid-fire succession to avoid public airing of a controversial problem amounted to a de facto meeting of the school board in violation of Section 286.011, Florida Statutes. Administrators and department heads should refrain from contacting members of a board to ascertain their position or vote on a matter that will foreseeably be considered by the board. See, Op. Atty. Gen. Fla. 89-23 (1989).

The Sunshine Law does not apply to meetings between members of different boards, as long as one or more of the members has not been delegated authority to speak or act on behalf of that member's board. Rowe v. Pinellas Sports Authority, 461 So. 2d 72 (Fla. 1984). If an individual board member has been delegated authority to act for the board, any meeting the member has would be subject to the law. Op. Atty. Gen. Fla. 87-34 (1987) approved a private meeting between an individual city council member and a member of the municipal planning and zoning board to discuss a recommendation made by the board, provided no delegation of authority has been made and neither member was acting as a liaison.

County commissioners who are members of a regional planning council may take part in council meetings and express their opinions without violating the Sunshine Law. Op. Atty. Gen. Fla. 07-13 (2007). However, they should not discuss or debate such issues either as commissioners or as council members outside a public meeting. City commissioners are not prohibited from attending other city board meetings and commenting on

agenda items that may subsequently come before the commission for final action, but they may not discuss those issues among themselves. Op. Atty. Gen. Fla. 00-68 (2000).

Section 286.011, Florida Statutes, includes meetings with or attended by any person elected to a board or commission, but who has not yet taken office. Thus, Sunshine Law requirements apply to discussions between members and members-elect and among members-elect of boards and commissions. See, Hough v. Stembridge, supra. Exceptions to this rule exist for a retiring member and a member-elect who will not serve together on the same board or council, Op. Atty. Gen. Fla. 93-04 (1993), and for candidates for office, unless the candidate is an incumbent seeking reelection, Op. Atty. Gen. Fla. 92-05 (1992).

Candidates' night forums sponsored by private civic clubs during which county commissioners express their positions on matters that may foreseeably come before the county are not governed by the open meetings law, as long as the commissioners avoid discussing these issues among themselves. Op. Atty. Gen. Fla. 94-62 (1994). This opinion cautioned public officials to avoid situations in which private political or community forums are used to circumvent the statutory requirements.

There is no Sunshine Law prohibition against members of the same public board or commission serving and participating in private organizations or meeting socially, as long as they do not discuss among themselves public board matters without satisfying Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 92-79 (1992); Op. Atty. Gen. Fla. 72-158 (1972). An Attorney General opinion advised that if a matter does come before the private organization which might be considered by the public board or commission, then one or both public members should excuse themselves from the private meeting. Alternatively, the meeting of the private organization should be conducted in compliance with the Sunshine Law. Op. Atty. Gen. Fla. 83-70 (1983). If a board member cannot determine whether a meeting is subject to Section 286.011, Florida Statutes, the member should either leave the meeting or ensure that the meeting complies with the law. See, Town of Palm Beach v. Gradison, supra.

IV. EXEMPTIONS

A. Litigation Discussions

Meetings attended by any board or commission of any county, municipal corporation, or political subdivision, the chief administrator or executive officer of the governmental entity, and the entity's attorney to discuss pending litigation to which the entity is a party before a court or administrative agency, provided that the following conditions are met:

1. The attorney must advise the entity at a public meeting that the attorney desires advice concerning the litigation;
2. The subject matter of the meeting must be confined to settlement negotiations or strategy sessions relating to litigation expenditures;
3. The entire session must be recorded by a certified court reporter;
4. The court reporter's notes must be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting;
5. The entity must provide reasonable public notice of the attorney-client session and the names of persons attending the session;
6. The session must commence at an open meeting during which the chair must announce the commencement and estimated length of the attorney-client session;
7. At the conclusion of the session, the entity must reconvene the public meeting and the chair must announce the termination of the attorney-client session; and

8. The transcript must be made part of the public record upon conclusion of the litigation or administrative proceeding.

Sec. 286.011(8), Fla. Stat.

B. Collective Bargaining Discussions

All discussions between the chief executive officer of a public employer and the legislative body relative to collective bargaining. Sec. 447.605(1), Fla. Stat. Note that no exemption exists for negotiation meetings between the chief executive officer and the bargaining agent. Sec. 447.605(2), Fla. Stat.

C. Risk Management Meetings

Meetings and proceedings conducted pursuant to a risk management program administered by the state, its agencies or subdivisions relating to the evaluation of claims or offers of compromise of claims filed with the program. Sec. 768.28(16)(c), Fla. Stat.

D. Competitive Solicitation Negotiations

Any portion of a team meeting to discuss negotiation strategies, to conduct negotiations with a vendor, or at which a vendor makes an oral presentation or answers questions pursuant to a competitive solicitation, defined to include sealed bids, proposals or replies in accordance with a competitive process, regardless of the method of procurement, subject to the following requirements:

1. A complete record must be made of any exempt meeting;
2. The recording and any records presented at the exempt meeting are exempt until notice of the intended decision or 30 days after opening the bids, proposals or final replies, whichever occurs earlier; and
3. If all bids, proposals or replies are rejected and notice of intent to reissue a competitive solicitation is provided, the recording and any records presented at the exempt meeting remain exempt until notice of an intended decision concerning the reissued competitive solicitation or withdrawal of the reissued competitive solicitation, not to exceed 12 months after the initial notice rejecting all bids, proposals or replies.

Sec. 286.0113(2), Fla. Stat.

E. Criminal Justice Commission Discussions

Any portion of a criminal justice commission meeting when members discuss active criminal intelligence information or active criminal investigative information, provided that the commission members publicly disclose at the meeting the fact that such matters are being discussed. Sec. 286.01141, Fla. Stat.

V. PROCEDURAL REQUIREMENTS

A. Notice

Section 286.011, Florida Statutes, requires that reasonable notice must be given of all public meetings. In Op. Atty. Gen. Fla. 90-56 (1990), the Attorney General suggested the following guidelines for notice:

1. The notice should contain the time and place of the meeting and an agenda or subject matter summation.

2. The notice should be prominently placed in an area set aside for that purpose, such as the County Administration Building.
3. Notice of regular meetings should be provided at least seven days prior to the meeting.
4. Emergency sessions should be afforded the most appropriate and effective notice under the circumstances.
5. Special meetings should have at least 24 to 72 hours reasonable notice to the public.
6. Press releases, faxes, e-mails and/or phone calls to newspapers and other media are encouraged.
7. Advertising in local newspapers of general circulation is appropriate.
8. Notice is required for meetings of board members even though a quorum is not present.
9. If a meeting is adjourned and reconvened later to complete the business, the second meeting should also be noticed.
10. Notice requirements imposed by other statutes, charters and codes must be strictly followed.

Use of the agency's website and e-mails for notices of public meetings are also encouraged. Op. Atty. Gen. Fla. 00-08 (2000). Section 286.0105, Florida Statutes, imposes additional requirements for notices of public hearings where a public board or commission acts in a quasi-judicial capacity or takes official action on matters that affect individual rights of citizens, as opposed to the rights of the public at large. Op. Atty. Gen. Fla. 81-06 (1981).

Manatee County provides written public notice posted in the County Administration Building. Notices are also posted electronically on the County website, run on the government access cable channel, and e-mailed or faxed to the media and various public officials. Other types of notices are also provided for public hearings through publication of advertisements in the local newspaper, posting signs, and mailing letters to individuals or groups affected by the issue.

B. Location

Section 286.011(6), Florida Statutes, prohibits boards or commissions from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status, or which operates in a manner that unreasonably restricts public access. Section 286.26, Florida Statutes, requires accessibility of public meetings to physically handicapped persons. Luncheon meetings to conduct board or commission business should be avoided. Such meetings may discourage attendance and participation by the public. Furthermore, discussions at such meetings may violate the openness requirement of the law if the members of the board or commission cannot be heard beyond the table at which they are seated. Op. Atty. Gen. Fla. 71-159 (1971).

For meetings held outside the county, "[t]he interests of the public in having a reasonable opportunity to attend a Board Workshop must be balanced against the Board's need to conduct a workshop at a site beyond the county's boundaries." Rhea v. School Board of Alachua County, 636 So. 2d 1383, 1385 (Fla. 1st DCA 1994). The greater the distance, the heavier the burden upon the board to establish the need for meeting in such location. In addition, Section 125.001, Florida Statutes, requires meetings of the board of county commissioners to be held at any appropriate place in the county.

The Sunshine Law does not prohibit members of an advisory board from conducting inspection trips, but all requirements of Section 286.011, Florida Statutes, must be met – advance notice must be given, the public must be afforded an opportunity to attend, and minutes must be promptly recorded. Op. Atty. Gen. Fla. 76-

141 (1976). Members of the board must avoid discussions with each other regarding matters that may come before the board for official action. Bigelow v. Howze, 291 So. 2d 645 (Fla. 2d DCA 1974). The exception to the Sunshine Law for fact-finding missions applies only to advisory committees and not to boards with ultimate decision-making authority. Finch v. Seminole County School Board, supra.

For meetings where a large turnout of the public is expected, the board or commission should schedule the meetings at facilities which can accommodate the anticipated turnout. In addition, the use of video technology, such as a television screen outside the meeting room, may be appropriate.

Every oral communication uttered by members of a board or commission at a public meeting is entitled to be heard by the public. A violation of the Sunshine Law may occur if board members discuss issues before the board in a manner not audible to persons attending the board meeting. See, Op. Atty. Gen. Fla. 71-159 (1971).

C. Rules

Reasonable rules and policies to insure orderly conduct and behavior at public meetings may be adopted by the board or commission. Citizens may use nondisruptive devices to tape record and video tape board and council meetings. Op. Atty. Gen. Fla. 77-122 (1977); Op. Atty. Gen. Fla. 91-28 (1991).

Prior to the enactment of Section 286.0114, Florida Statutes, the courts ruled that the Sunshine Law provided a right to attend public meetings, but did not give the public the right to speak at such meetings. Keesler v. Community Maritime Park Associates, Inc., supra. Certain exceptions exist for public hearings, such as adoption of ordinances and rezonings. In response to the court cases, the Florida Legislature enacted Section 286.0114, Florida Statutes, which requires a board or commission to provide members of the public with a reasonable opportunity to be heard on a proposition before the board or commission. The opportunity to be heard does not have to occur at the same meeting when the board or commission takes official action on the item, but must take place within reasonable proximity in time to such meeting. This section allows boards and commissions to adopt policies or rules on providing testimony and establishes criteria for such policies (time limits for speakers, procedures for designating a representative of a group or faction, forms to indicate a speaker's position, and specified period of time for public comment). Exemptions from the opportunity for hearing include emergency situations, ministerial acts, meetings exempt from the Sunshine Law, or acting in a quasi-judicial function with respect to the individual rights of a person. The public participation statute provides for payment of attorney's fees in any action to enforce the opportunity to be heard but does not void any action taken by a board or commission in violation of the provisions. The rules adopted by Resolution R-15-031 establish time limits for speakers to address the Manatee County Board of County Commissioners with maximum time limits per agenda item and per speaker.

A board may not use secret ballots to elect the chairman and other officers of the board, Op. Atty. Gen. Fla. 72-326 (1972), or to take action concerning a public employee, Op. Atty. Gen. Fla. 73-264 (1973). The use of predetermined numbers or codes at public meetings to avoid identifying either the vote of board members or the items voted on violates Section 286.011, Florida Statutes. Op. Atty. Gen. Fla. 77-48 (1977). Once a vote is taken, the public agency may not withhold the final decision from the public for any period of time. Op. Atty. Gen. Fla. 73-344 (1973).

D. Minutes

Section 286.011(2), Florida Statutes, provides that "[t]he minutes of a meeting of any such board or commission . . . shall be promptly recorded and such records shall be open to public inspection." However, the minutes of public meetings need not be verbatim transcripts, but can be merely a brief summary or series of brief notes or memoranda reflecting the events of the meeting. Op. Atty. Gen. Fla. 82-47 (1982).

VI. CONSEQUENCES/PENALTIES

Any member of a board or commission who knowingly violates the Sunshine Law is guilty of a misdemeanor of

the second degree. Sec. 286.011(3)(b), Fla. Stat. A second degree misdemeanor is punishable by a fine up to \$500 and/or a term of imprisonment not to exceed 60 days. Secs. 775.082(4)(b) and 775.083(1)(e), Fla. Stat. The criminal penalties apply to members of advisory councils as well as members of elected and appointed boards. Op. Atty. Gen. Fla. 01-84 (2001).

Section 286.011(3)(a), Florida Statutes, provides that any public officer who violates the Sunshine Law is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500. If a nonprofit corporation is subject to the open meetings law, its board of directors becomes public officers for purposes of the statute. Op. Atty. Gen. Fla. 98-21 (1998).

The Governor may suspend an elected or appointed public officer who is indicted or informed against for any misdemeanor arising out of official duties. Sec. 112.52, Fla. Stat. If the officer is found guilty or pleads nolo contendere, the person may be removed from office by the Governor.

Section 286.011(4), Florida Statutes, requires the court to assess reasonable attorney's fees against a board or commission found in violation of the Sunshine Law. Attorney's fees may be assessed against individual members of the board or commission, unless the board or commission sought and took the advice of its attorney. Sec. 286.011(4), Fla. Stat. The statute also authorizes an award of attorney's fees if the board or commission appeals any court order finding a violation of the Sunshine Law and the order is affirmed on appeal. Sec. 286.011(5), Fla. Stat.

The courts have held that any action taken in violation of the law is void ab initio. See, Blackford v. School Board of Orange County, supra. However, Sunshine Law violations can be cured by taking independent, final action at a public meeting held in compliance with Section 286.011, Florida Statutes. See, Monroe County v. Pigeon Key Historical Park, Inc., 647 So.2d 857 (Fla. 3d DCA 1994). Such final action must not merely perfunctorily ratify or ceremoniously accept the decisions made at the prior secret meeting. Tolar v. School Board of Liberty County, 398 So. 2d 427 (Fla. 1981). Since an audit committee's statutorily prescribed function to create a request for proposals may not be delegated to a subordinate entity, the Attorney General advised that the committee could not ratify a defective request for proposals which was created and issued by the county's financial officer. Op. Atty. Gen. Fla. 12-31 (2012).

The only remedies available pursuant to the Sunshine Law are a declaration of the wrongful action as void and reasonable attorney's fees. Dascott v. Palm Beach County, 988 So. 2d 47 (Fla. 4th DCA 2008), review denied, 6 So. 3d 51 (Fla. 2009). The court in this case ruled that an employee who prevailed in a lawsuit alleging that the termination violated the Sunshine Law may not recover the equitable relief of back pay because money damages are not a remedy provided for under the law.

Circuit courts have jurisdiction to issue injunctions upon application of any citizen of the state. Sec. 286.011(2), Fla. Stat. The burden of proof necessary for a citizen to prevail in such a case is less than normally required in an injunction proceeding. In Sunshine Law cases, a showing that the law has been violated constitutes irreparable public injury. Town of Palm Beach v. Gradison, supra.

Declaratory relief allows the court to rule on the meaning of the law or determine the rights of the parties to the action. Declaratory relief sought by a public board or commission regarding access to its meetings has not been viewed favorably by the courts. See, Askew v. City of Ocala, 348 So. 2d 308 (Fla. 1977).



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Former senator loses appeal over Sunshine Law violation

Freedom of Information | Feature | October 13, 2004

News Media Update FLORIDA Freedom of Information

Former senator loses appeal over Sunshine Law violation

- *An appellate court upheld the conviction and jail sentence for an Escambia county commissioner and former state Senate president who violated open meetings law by meeting in secret with other commissioners.*

Oct. 13, 2004 -- A former Florida Senate president's conviction and 60-day jail sentence for violating Florida's Sunshine Law as a county commissioner was upheld Thursday by a three-judge panel of the 1st District Court of Appeal. W.D. Childers, convicted by a jury in 2002 after he discussed public business in private with a fellow Escambia County commissioner, has already served 38 days of his sentence, the *St. Petersburg Times* reported.

Florida's Sunshine Law requires that meetings between two or more members of the same elected or appointed board or commission be held in public with notice given and minutes taken.

A grand jury indicted all but one of the county commissioners on charges of violating the Sunshine Law, said Assistant State Attorney Bobby Elmore.

Elmore said the appellate panel's unwritten decision could indicate that the issue is over.

"I can't read the minds of the District Court," he said. "I have to assume they would consider any new approach taken in a rehearing. It simply appears to me the fact they didn't [write an opinion] pretty well indicates that it's laid to rest."

Childers' attorney, Richard Lubin of West Palm Beach, said his client, who served in the Florida Legislature for 30 years, is not in jail and hopes not to have to return to jail.

"I just signed my motion for a rehearing," Lubin said. "This case has a long history. It has to do with a public official

charged with violating a Sunshine Law and the question of if can you express opinion to other officials if there isn't an opinion issued back."

The revelation of a Sunshine Law violation came as a result of a criminal investigation by the state attorney's office into corruption allegations on the Escambia Board of County Commissioners, Elmore said.

"As that investigation went forward, the violations of the Sunshine Law surfaced," he said.

"In all likelihood, our office will try to get [the judge] to set a hearing to send [Childers] to the sheriff's office to serve out the rest of his sentence," he added. "I found it very interesting in the appeal that the First Amendment Foundation filed an amicus brief, and I thought it was a very good brief. It all turned out about as I expected it would."

The First Amendment Foundation works to ensure free speech and open government in Florida.

(Childers v. Florida) -- CB

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Commissioner charged with alleged Sunshine Law violation

By TOM McLAUGHLIN | Daily News

Published: Thursday, March 12, 2015 at 16:36 PM.

Santa Rosa County Commissioner Bob Cole's January conversation with a fellow member of Milton's Downtown Redevelopment Advisory Board could prove expensive.

State Attorney Bill Eddins has determined that a discussion between Cole and Elba Robertson constituted a non-criminal violation of Florida's Sunshine Law.

Cole is scheduled to appear in Santa Rosa County Court June 5 to answer the charge. He faces a maximum penalty of a \$500 fine.

DOCUMENT: Read the charging document.

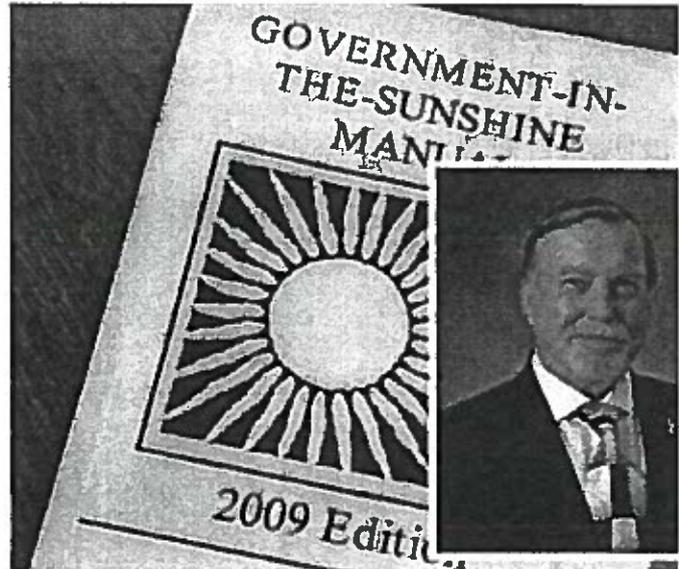
Robertson, a non-elected volunteer member of the board, was not charged, Eddins said.

She did consent to resign her position on the Advisory Board and "agreed not to serve on any Sunshine Boards without additional training in the law," according to a news release from Eddins' office.

Cole, who could not be reached for comment Thursday, has always acknowledged discussing a board nomination with another sitting board member prior to the Jan. 15 meeting.

He has consistently contended he did nothing wrong.

Eddins said his office determined the discussion between Cole and Robertson involved a topic "we could reasonably believe would come back to the board at their board meeting."



The discussion took place in a public place, Eddins said. At least one fellow commissioner overheard it and made mention of it after the Advisory Board meeting was under way.

Contact Daily News Staff Writer Tom McLaughlin at 850-315-4435 or tmclaughlin@nwfdailynews.com. Follow him on Twitter @TomMnwfdn.

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Sarasota settles Sunshine suit for \$10,000

By *Jessie Van Berkel*

Published: Saturday, October 20, 2012 at 6:15 p.m.

What started as the mayor's idea for a children's interactive art project ended last week — not with small bronze sculptures along Main Street, but with \$10,000 in legal bills for the city.

The city paid the unforeseen cost to settle a lawsuit that stemmed from the creation of a Public Art Steering Committee in June 2011. The committee was supposed to lead the \$55,000 art project and members met several times over the past year.

But the city did not give advance public notice of those meetings, a violation of state laws that are supposed to ensure that taxpayers have a chance to participate in decisions to spend their money.

Activists sued the city over the violation, one of several recent lawsuits alleging Sunshine Law violations in and around City Hall. The \$10,000 settlement over the art project comes after the city and its insurers paid more than \$90,000 to settle another suit involving Sunshine Law violations during a police officer's disciplinary hearing in 2010.

Yet another Sunshine lawsuit is pending. It was filed last month by paralegal Michael Barfield against Sarasota's Downtown Improvement District advisory board claiming the volunteer board members deleted emails related to city business.

In response to the lawsuits, the city plans to hold refresher sessions over the next couple of weeks on the state's Government-in-the-Sunshine Law and email usage for commissioners and advisory board members.

The Public Art Steering Committee's violation during talks about the Main Street art project was inadvertent, City Attorney Robert Fournier said.

When the steering committee was created, Sarasota already had an appointed Public Art Committee, charged with reviewing art proposals and advising the city. But that group did not get any say in the Main Street project, according to the lawsuit filed by Public Art Committee member George Haborak, who did not like the project.

Haborak sued after city commissioners approved the project plans in June.

The lawsuit was settled last week, when the city agreed to halt the arts project and pay about \$7,000 in legal bills for Haborak's attorney, Andrea Mogensen.

Two volunteers on the steering committee, Virginia Hoffman and city planner Clifford Smith, were individually named in the lawsuit.

"I do not believe either of them individually have done anything in violation of the Sunshine Law," Fournier said. It was the city, not the individual volunteers, that failed to follow the correct process, he said.

The city also covered the legal fees for Hoffman, who hired an outside attorney for more than \$3,000.

The plan for the bronze sculptures is at a standstill. The city has agreed to drop the project for now, but commissioners can try it again if they go back through the approval process and comply with the Sunshine Law this time, according to the terms of the settlement.

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Sarasota admits to Sunshine Law violation

By Ian Cummings

Published: Friday, November 15, 2013 at 5:15 p.m.

Admitting to a Sunshine Law violation and agreeing to pay more than \$17,000 in attorneys fees, the city has settled its most recent open-government lawsuit.

The deal was finished Thursday after weeks of negotiation with Citizens for Sunshine, a local government watchdog that sued Sarasota last month over a meeting on homelessness between city officials and a group of downtown merchants.



A lawsuit accused Sarasota city commissioners Susan Chapman, left, and Suzanne Atwell of violating Florida's Government-in-the-Sunshine Law and wanted fines to come out of their pockets.

According to the settlement, the city violated the state's open-meetings law by failing to give public notice of the Oct. 10 meeting, which two city commissioners attended. City officials had accepted the invitation of a local business group to attend the meeting and "build a coalition to support our homeless efforts." The quote, attributed to City Manager Tom Barwin in the complaint filed later that month, pointed to city business that will likely come before the City Commission soon.

Negotiations over the past two weeks were complicated by the fact that the two commissioners who attended the meeting, Susan Chapman and Suzanne Atwell, were named individually in the suit. The case is still ongoing because, while the city and Atwell have each reached settlements with Citizens for Sunshine, Chapman has not and may fight the case in court. Chapman has said she did not break the law, and is represented by Tampa attorney Richard Harrison, whose \$365 per hour fees will likely be paid by the city.

Atwell's agreement with Citizens for Sunshine, signed last week, obligates her to attend the city's next Government-in-the-Sunshine Law training and pay a \$500 donation to support homelessness efforts among veterans. She has declined to comment on the lawsuit since it was filed on Oct. 18.

On Monday, City Attorney Bob Fournier will explain to the City Commission the total cost of the lawsuit, which he has estimated at about \$50,000 depending on how long the case goes on. The city will owe about \$17,680 to attorneys for Citizens for Sunshine, in addition to paying the City Attorney's Office and, most likely, the two private attorneys who have represented Chapman and Atwell.

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MARCH 25, 2015

Shores mayor, councilman charged with Sunshine Law violations ⁴

by Mark Schumann • Indian River Shores

MARK SCHUMANN

See also: Sunshine Law questions raised with State Attorney's Office

Brian Barefoot

Richard Haverland

According to Assistant State Attorney Christopher Taylor, Indian River Shores Mayor Brian Barefoot and recently re-elected councilman Dick Haverland were served with a civil summons today for allegedly violating Florida's open government laws.

Barefoot and Haverland, both charged with non-criminal infractions of the Sunshine Law punishable by a fine not to exceed \$500, are to be arraigned April 21, 2015 at 8:30 a.m.

Between July 19 and July 21 of last year, Barefoot and Haverland exchanged a series of emails discussing how the Town arrived at its claim that Shores residents are being overcharged by Vero Electric some \$2 million a year.

The email exchange in which the two members of the Shores Town Council discuss public business in violation of the Sunshine Law was first reported by *InsideVero* on August 7. (The *Press Journal* and the island weekly, *Vero Beach* 32963, have over the past seven months chosen not to report on what Taylor described as a "risky email practice/pattern by members of the Indian River Shores Town Government.")

In a March 19 memorandum to State Attorney Bruce Colton, Taylor wrote, "The email exchange between Haverland and Barefoot dated July 19-21, 2014 (see attached "F"), is evidence that the two councilmen violated the Sunshine Law."

Taylor continued, "The public had a right to hear and discuss the information exchanged

between Haverland and Barefoot. The July 21, 2014, email (see attached "H") to Schumann in which Haverland states that "I am not at liberty to discuss the source of the number (\$2 million rate differential)" is evidence that Haverland may have believed his email exchange with Barefoot was a violation of the Sunshine Law. Likewise, Barefoot's revelation of the email exchange at the August 29, 2014 regular meeting is evidence that Barefoot may have believed that the email exchange was a violation of the Sunshine Law and that a full discussion concerning the \$2 million evaluation at a public meeting was needed."

On August 7, *InsideVero* also reported that Haverland urged Town Manager, Robbie Stabe, to schedule a special call meeting on hiring an attorney at "an extremely inconvenient time – say 7 or 7:30 a.m."

"My guess is no one will come," Haverland added.

Stabe did not follow Haverland's advice. "If Haverland's intentions were implemented," Taylor wrote, "a violation of the Sunshine Law would have occurred."

Taylor added, "Haverland's intention to exclude members of the public from a public meeting may not have been illegal under existing law, but is none the less troubling."

Taylor also expressed concern over the Town's regular practices for handling email correspondence. "A review of several of these emails reveal that individuals such as the Town Clerk, Town Manager, Town Attorney and staff members have a practice of emailing all five members of the IRSTC (as a group) relating information and/or asking for feed-back on issues. This practice could easily result in a discussion of Township business between members of the IRSTC."

Below is the full text of Taylor's memo to Colton:

MEMORANDUM

TO: Bruce H. Colton

FROM: Christopher Taylor

RE: Indian River Shores

DATE: March 19, 2015

Mark Schumann of Inside Vero.com submitted a complaint with this office alleging possible Sunshine Law violations by members of the Indian River Shores Town Council (IRSTC). Mr. Schumann makes reference to email correspondence in the rendition of the facts of his complaint. This office investigated Schumann's allegations and will present our findings in this memorandum.

In his first allegation, Schumann references two emails written by Councilman Haverland. On

March 6, 2014, Haverland wrote that two Indian River Shore residents, John McCord and Bill Grealis, had been in regular contact "re. the FPL status." (see attached "A"). Schumann believes this indicates that McCord and Grealis had been in regular contact with representatives of FPL concerning the franchise agreement between Indian River Shores Township (IRST) and the City of Vero Beach Electrical Utility (VBEU) on behalf of the IRSTC. On April 7, 2014, Harverland wrote to McCord and Grealis that "I know you two are driving the process." (see attached "B") Schumann believes that this indicates that McCord and Grealis were acting on behalf of IRST in vetting possible candidates in search of a law firm to represent the Town in its then contemplated lawsuit against Vero Beach. Schumann opines that Grealis and McCord were acting as agents of the IRSTC, yet the Town has refused to provide copies of their correspondence with each other and with FPL representatives on this matter. He believes this may be a violation of the Sunshine Law and the Public Records law.

Investigation reveals that both McCord and Grealis have extensive prior experience in the electric utility business. McCord's previous employment history includes owning several companies who specifically assisted industrial clients with the purchase of energy at a greatly reduced rate. Another company McCord owned would provide consulting services for industrial companies who wanted to purchase energy on the open market. Grealis' previous employment history includes being an attorney in the Washington, D.C. area. Grealis assisted in the merger of two electric companies and subsequently became the President of Cincinnati Gas and Electric which was bought out by Cinergy and then Duke Electric Company. Grealis has over twelve years of experience in the utility business.

After investigation, it was determined that neither McCord nor Grealis conducted an independent search for an outside law firm to be hired by IRST. As a resident of IRST Grealis spoke at regular meetings of IRSTC concerning the utility issue and the need for the Town to hire outside counsel that specialized in this area of the law. During the April 24, 2014 meeting of the IRSTC, Robbie Stabe, Town Manager, was tasked to research, select and sign a letter of engagement for outside counsel. Stabe set up phone conferences with a number of firms that specialized in utility issues. Because of his prior work experience, Grealis was asked by Stabe to sit in for a phone conference with the firm Holland and Knight. Also present for the phone conference was Town Attorney Chester Clem. Stabe and Clem wanted someone knowledgeable in the utility field present so that informed, intelligent questions could be asked concerning Holland and Knights qualifications. McCord and Grealis also attended a meeting with Stabe, Clem and Bruce May (attorney for Holland and Knight) for the same reason. During the May 22, 2014, meeting of the IRSTC, it was announced that Stabe had chosen Holland and Knight, that the firm was analyzing IRST's options and would contact Stabe when ready to discuss these options with IRST. Neither McCord nor Grealis were appointed to any fact finding committee, empowered or given any authority to select or appoint outside counsel for IRST.

In Sarasota Citizens for Responsible Government v. City of Sarasota, 48 So.3d 755 (Fla. 2010), the Florida Supreme Court stated that individuals consulted by deputy county administrator while negotiating a memorandum of understanding with a baseball team served an informational role and therefore did not constitute an "advisory committee" subject to requirements of Sunshine Law. More specifically the Court stated:

Because the individuals consulted by Bullock served an informational role, the so-called negotiations team did not constitute an advisory committee subject to the requirements of the Sunshine Law. As explained above, only advisory committees acting pursuant to a delegation of decision-making authority by the governmental entity are subject to the open meetings requirement of section 286.011. Advisory committees functioning as fact-finders or information gatherers are not subject to section 286.011. See Lyon, 765 So.2d at 789; Cape Publ'ns, Inc. v. City of Palm Bay, 473 So.2d 222 (Fla. 5th DCA 1985); Bennett v. Warden, 333 So.2d 97 (Fla. 2d DCA 1976). This is not a situation where Bullock and the individuals he consulted made joint decisions. Dascott v. Palm Beach County, 877 So.2d 8 (Fla. 4th DCA 2004). Instead, these individuals were simply providing advice and information, which does not make the negotiations team a board or commission subject to the Sunshine Law. See, e.g., McDougall v. Culver, 3 So.3d 391, 393 (Fla. 2d DCA 2009) (“[T]he senior officials provided only a recommendation to the Sheriff but they did not deliberate with him nor did they have decision-making authority. Therefore, we conclude that the use of the memoranda did not violate the Sunshine Law.”); Jordan v. Jenne, 938 So.2d 526, 530 (Fla. 4th DCA 2006) (“Because the [group] provided only a mere recommendation to the inspector general and did not deliberate with the inspector general, the ultimate authority on termination, we conclude that the [group] does not exercise decision-making authority so as to constitute a ‘board’ or ‘commission’ within the meaning of section 286.011, and as a result, its meetings are not subject to the Sunshine Act.”).

Because McCord and Grealis served informational roles and were not acting pursuant to a delegation of decision making authority, no Sunshine Law violation occurred. Please see all reports and recordings of interviews for further detail.

Schumann’s second allegation also involves Grealis and McCord and their contacts with FPL as expressed in the March 6, 2014, email (see attached “A”). Investigation does not support Schumann’s allegation that the March 6, 2014 email indicates McCord and Grealis had been in regular contact with representatives of FPL concerning the franchise agreement between IRST and the City of Vero Beach Electrical Utility (VBEU) on behalf of theIRSTC. The email itself indicates that it was Haverland’s belief that McCord and Grealis had been in contact with each other “re. the FPL status.” In the past, Grealis had represented IRST on the City of Vero Beach Utility Commission. After his duties on that commission were completed, he still held an interest in the potential sale of Vero’s utility to FPL and how that would affect IRST. In May, 2014, McCord and Grealis accompanied Stabe to a meeting with Amy Brunjes (representative of FPL). Grealis stated that he would also take the opportunity to talk with Brunjes whenever she was in Indian River County speaking to the local governmental boards. Investigation does not reveal that McCord or Grealis were acting as “agents” of theIRSTC in their communications with FPL. Please see all reports and recordings of interviews for further detail.

In Schumann’s third complaint he alleges that an April 7, 2014 email (see attached “B”), indicates that a meeting was planned on April 8, 2014 between two councilmen, Haverland and Cadden. A closer look at the email shows that only McCord, Grealis and Cadden planned to meet together. Investigation shows that McCord, Grealis and Cadden did meet together and that Haverland was not present.

Schumann next alleges that an email exchange dated March 28-29, 2014 (see attached “C”),

appears to be a violation of the Sunshine Law. On March 27, 2014, a regular meeting of the IRSTC was held. At that meeting Brunjes spoke to the IRSTC in support of the sale of the City of Vero's electric to FPL. IRSTC during the meeting also engaged in a lengthy discussion concerning the Towns options, consulting with a specialized engineering firm, hiring an outside attorney and other topics. (see minutes and recording of March 27, 2014 regular IRSTC meeting) On March 28, 2014, Janet Begley wrote a news article covering the meeting. On the same date, Laura Aldrich (Town Clerk) attached the news article to an email to councilmembers commenting "Like Heather, I don't recall bonds being mentioned. Otherwise, I thought it was a well written article." On the same date, Brian Barefoot (Town Councilman) replied "Tom C (referring to Councilman Cadden) mentioned it in passing and unless u [sic] were paying close attention u [sic] would miss it." On March 29, 2014, Tom Slater (Town Councilman) replied to Barefoot, copying other parties, that "Tom C did mention it and John McCord mention [sic] it in the context that we could sue FMPA and others regarding anti-trust [sic] and limiting their ability to be in the bond market as a very powerful pressure point to get them to the table and cooperate OR [sic] we could actually sue them. John is an expert at this type of action and using it to the benefit of the groups who want independence in their power supply decisions."

The March 28-29, 2014 email represents a risky email practice/pattern by members of the Indian River Shores Town Government. Numerous emails were collected from IRST pursuant to this investigation. A review of several of these emails reveal that individuals such as the Town Clerk, Town Manager, Town Attorney and staff members have a practice of emailing all five members of the IRSTC (as a group) relating information and/or asking for feed-back on issues. This practice could easily result in a discussion of Township business between members of the IRSTC. This is what appears to have happened in the March 28-29, 2014 email exchange.

Although the email exchange appears to violate the Sunshine Law, proof problems exist that tend not to support a prosecution in this instance. The context of the email indicates that Barefoot was responding to the email from Aldrich who is not a member of the IRSTC. In regards to Slater, the email shows that he was responding directly to what Barefoot had stated to Aldrich. The email exchange does not show a clear "discussion" of a subject, outside of a properly noticed meeting, concerning an issue that could come before the IRSTC for formal action. See Florida Statute 286.011. Therefore, because the evidence does not show a clear violation of the Sunshine Law, a prosecution will not be pursued.

Schumann in his fifth complaint references an email dated April 24, 2014 (see attached "D"), in which Haverland states "Looks like Weick (Town Councilman Gerry Weick) wasn't in the loop." Schumann is apparently alleging that members of the Council, other than Weick, had discussions outside the Sunshine concerning the hiring of outside counsel for IRST. The minutes of regular meetings of the IRSTC, prior to April 24, 2015, show that the hiring of outside counsel was discussed (see all reports for further detail). Investigation did not reveal evidence of discussions between councilmen outside of the Sunshine in regards to this issue.

In his sixth complaint, Schumann includes an email from Haverland to Stabe dated April 14, 2014 (see attached "E"), in which Haverland encouraged Stabe to schedule a public meeting

for "an extremely inconvenient time, say 7 or 7:30 am" so that members of the public would not notice or likely attend. Haverland also advised Stabe to to be "very unspecific as to agenda item." In that way, Haverland wrote, "I think it would have a good chance to escape notice."

Investigation reveals that Stabe did not follow Haverland's advice/direction and that the April 24, 2014 meeting occurred at its regular time. Haverland's intention to exclude members of the public from a public meeting may not have been illegal under existing law, but is none the less troubling. The Sunshine Law should be construed so as to frustrate all evasive devices. Wood v. Marston, 442 So.2d 934, 938 (Fla.1983). This is especially true even when a board member does not wish the public to know of a particular action because he believes it is ultimately in their best interests. In the spirit of the Sunshine Law a board should be sensitive to the community's concerns that it be allowed advanced notice and, therefore, meaningful participation on controversial issues coming before that board. See AGO 03-53. The Sunshine Law mandates that members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. Herrin v. City of Deltona, 38 F.L.W. D1767 (Fla. 5th DCA August 16, 2013). If Haverland's intentions were implemented, a violation of the Sunshine Law would have occurred.

Finally, Schumann alleges that an email exchange between Haverland and Barefoot on July 19-21, 2014 (see attached "F"), violated the Sunshine Law. At the July 18, 2014 regular meeting of the IRSTC, Bruce May, outside legal counsel for IRST and partner with the law firm Holland and Knight addressed the Council and presented his evaluation of the legal options available to protect the Town's residents regarding electric rates charged by the City of Vero Beach. To facilitate the analysis May hired a consultant, Mr. Terry Deason, a utility rate expert and the former Chairman of the Board of the Public Service Commission. May stated that research shows that Town residents collectively are paying \$2 million more per year under Vero's utility than if they were under electric service by FPL. At the end of the meeting, IRSTC voted to authorize legal counsel to file a lawsuit against the City of Vero Beach structured around the causes of action May outlined. IRSTC also voted to initiate intergovernmental conflict resolution procedures with the City of Vero Beach that would involve mandatory conference and mediation procedures set forth in Florida's Governmental Conflict Resolution Act. On this same day, after the meeting, an email exchange began between Schumann and Haverland. This exchange is the first group of emails that need to be considered in addressing this issue and are dated July 18-19, 2014. (see attached "G"). Schumann, at one point criticizes IRSTC for initiating a lawsuit against the City of Vero Beach by stating "If nothing else, the filing of this lawsuit proves the Town of Indian River Shores has money to burn." Haverland defends the actions of the Town and the money authorized to be paid to Holland and Knight by stating that IRST residents would save \$2 million per year forever. The email exchange continued from July 18, 2014, to July 19, 2014, the content of which centered on the \$2 million figure and how that figure was arrived at. The last email in this exchange is July 19, 2014 at 12:31pm. On July 19, 2014, at 12:56 pm, Haverland sends an email to Barefoot asking the source of the \$2 million figure. This email exchange between Haverland and Barefoot continues until July 21, 2014, which shows the two councilmen discussing the \$2 million figure and how it was arrived at. (see attached "F"). Haverland initiates the exchange by asking Barefoot "Do you know what the source of the \$2 million difference was?" Barefoot responds by stating "I do not. In his original draft remarks he had \$3 million but I asked him to reduce it to \$2 myn [sic]

because I don't want us accused of exaggerating." Investigation reveals that prior to May's presentation at the July 18, 2014 regular meeting of the IRSTC, Barefoot met with May and Deason and discussed the issue of overpayment to Vero's utility. May and Deason told Barefoot that the overpayment was as much as \$3 million. Barefoot wanted to err on the side of caution and asked that May quote a \$2 million figure during his presentation to IRSTC. The email exchange continues with Haverland informing Barefoot that Schumann in an Inside Vero news article is claiming that the \$2 million figure "is suspect." Barefoot replies that "The analysis was done by our expert, the past Chairman of the PUC, who claims the number is in excess of \$3 myn [sic] due to the size of the home etc. vs [sic] other parts of the county. All the detail should come out during the mediation process." Haverland responds "Great. The more Mark Schumann is wrong, the less credibility he will have. He has a pretty close following, including Winger and Graves." This last exchange between Haverland and Barefoot is dated July 21, 2014, at 2:51 pm. On July 21, 2014, at 3:06 pm, Haverland sends an email to Schumann stating "I am not at liberty to disclose the source of the number (see attached "H"). Based on information I was made privy to, I believe the number is, if anything, an understatement. This figure's derivation will be made clear to everyone in the mediation process." In an interview pursuant to this investigation Barefoot stated that in hindsight, he believes that he should not have responded to Haverland's email, even though the question was regarding an issue previously brought before the IRSTC.

Sometime after July 21, 2014, Schumann made a public records request with IRST and received a printout of the email exchange between Haverland and Barefoot dated July 19-21, 2014 (see attached "F"). Subsequently, Schumann wrote a news article publishing the email exchange asserting that Haverland and Barefoot may have violated the Sunshine Law. During the August 29, 2014 regular meeting of the IRSTC, Barefoot, pursuant to the agenda item "Update on Conflict Resolution Process (Bruce May)" addressed the news article written by Schumann, the email exchange between Schumann and Haverland, and the email exchange between himself and Haverland. (see attached "I" the Minutes of the August 29, 2014 regular meeting of the IRSTC). Barefoot explained that the email exchanges involved the subject of the \$2 million rate differential and how it was calculated. Barefoot stated, that in an abundance of caution, he wanted to make the Council and the public aware of the email communications so that the Council and the public could have the opportunity to discuss the reporter's question, and the facts relating to that question, during the open and public meeting. Barefoot then asked if May would explain to the Council and for the record, how this \$2 million differential was calculated. May then addressed the IRSTC and stated that the \$2 million rate differential was developed by Deason. May stated that he believed that Deason's estimate was conservative.

The email exchange between Haverland and Barefoot dated July 19-21, 2014 (see attached "F"), is evidence that the two councilmen violated the Sunshine Law. It is clear that the \$2 million rate differential calculation is the basis and central feature of IRSTC's lawsuit against the City of Vero Beach, as well as the conflict resolution process. The lawsuit or conflict/mediation process is a subject that could come before the board for official action. Barefoot admits in the email that the differential rate calculation would be introduced during the mediation process in great detail. The fact that May and Deason originally calculated a \$3 million differential was never discussed at a public meeting, but it was discussed by Haverland and Barefoot. The fact

that Barefoot asked that the \$3 million differential be lowered to \$2 million was not discussed at a public meeting, but it was discussed by Haverland and Barefoot. The reasons why Barefoot asked May and Deason to lower the evaluation to \$2 million was never discussed at public meeting, but it was discussed by Haverland and Barefoot. The public had right to hear and discuss the information exchanged between Haverland and Barefoot. The July 21, 2014, email (see attached "H") to Schumann in which Haverland states that "I am not at liberty to discuss the source of the number (\$2 million rate differential)" is evidence that Haverland may have believed his email exchange with Barefoot was a violation of the Sunshine Law. Likewise, Barefoot's revelation of the email exchange at the August 29, 2014 regular meeting is evidence that Barefoot, may have believed that the email exchange was a violation of the Sunshine Law and that a full discussion concerning the \$2 million evaluation at a public meeting was needed.

The Sunshine Law applies to any gathering of two or more members of the same board to discuss some matter which will *foreseeably* [emphasis added] come before that board for action. Florida Statute 286.011. It has been stated that the application of the Sunshine Law is not limited to meetings at which final, formal actions are taken. See AGO 2001-20. Rather, it applies to any gathering where members deal with some matter on which foreseeable action will be taken by the board. See Board of Public Instruction of Broward County v. Doran, 224 So. 2d 693 (Fla. 1969). Florida courts have recognized that it is the *entire* [emphasis added] decision-making process that is covered by the Government in the Sunshine Law, not merely meetings at which a final vote is taken. Canney v. Board of Public Instruction of Alachua County, 278 So. 2d 260 (Fla. 1973).

In Times Publishing Company v. Williams, 222 So. 2d 470, 473 (Fla. 2d DCA 1969), disapproved in part on other grounds, the Court states that in enacting a new statute declaring that all meetings of any board or commission at which official acts are to be taken must be public meetings, it is the entire decision-making process that Legislature intends to be affected by statute. Further, since every step in the decision-making process, including the decision itself, is the necessary preliminary to formal action, each such step constitutes an "official act" and an indispensable requisite to "formal action" within meaning of statute. Florida Statute 286.011. Similarly, in Neu v. Miami Herald Publishing Company, 462 So. 2d 821 (Fla. 1985), the Court stated:

Petitioners' broadest argument, and the one most fervently pressed, is that this Court's decisions in Doran and Berns have effectively strangled the political process in Florida and forced political bodies and officials to evade the Sunshine Law, as interpreted, in order to make the political process function. On this point, petitioners' arguments go beyond the issue here of consultations with attorneys on pending litigation to ask that we recede completely from Doran and Berns. Essentially, petitioners would have us read section 286.011 narrowly and hold that it applies only to the climatic meetings where official actions and acts are approved by the governing body. We have recently articulated why we will not adopt such a reading in Wood v. Marston, 442 So.2d 934 (Fla.1983), and will not repeat the reasons here. One can argue and reargue whether the broad reading of the Sunshine Law in Doran and its progeny is politically wise. The fact remains that Doran was rendered fifteen years ago and placed the legislature and all concerned on notice of our broad reading of section 286.011... Every step in the decision-making process, including the decision itself, is a necessary preliminary to formal action. It follows that each such step constitutes an 'official act,' an indispensable requisite to 'formal action,'*

within the meaning of the act.

March 25: Obituaries

Ray of Hope: Sacred work

4 comments

Burke Brendan says:

MARCH 25, 2015 AT 12:27 PM

Great investigative work ! Glad to see some jounalistic honesty in this town !

John E Church says:

MARCH 25, 2015 AT 1:16 PM

Who can believe anything these two will say in the future? A wider net may catch more fish.

John Wester says:

MARCH 25, 2015 AT 2:19 PM

S U R P R I S E!!!!!!!!!!!!!!

Bea Gardner says:

MARCH 25, 2015 AT 9:24 PM

It's about time...but this will not stop the conversation out of the sunshine. They will now just stop e-mailing and find other ways of communicating with each other besides the internet. What a bunch of arrogant fools.

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Shores officials fined for Sunshine law violation

BY: Dan Garcia, Special to Treasure Coast Newspapers

POSTED: 1:21 PM, Apr 21, 2015

UPDATED: 3:59 PM, Apr 21, 2015

TAG: indian river county (/topic/indian+river+county) | shaping our future (/topic/shaping+our+future) | indian river shores (/topic/indian+river+shores) | tcp (/topic/tcp)

VERO BEACH — The mayor of Indian River Shores and a town councilman were fined \$200 each on Tuesday and ordered to study an educational program about the Florida Government-in-the-Sunshine law after they pleaded no contest to discussing town business by email.

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Ex-cop says DeFuniak council violated Sunshine Law

By TOM McLAUGHLIN | Daily News

Published: Thursday, April 16, 2015 at 15:32 PM.

A former DeFuniak Springs police captain has filed a civil lawsuit claiming City Council members met in violation of the Sunshine Law to plot his firing.

David Krika says he was fired in 2012 after he pointed out “anomalies” — including evidence of Sunshine Law violations — in a city manager candidate’s application process.

Krika’s attorney, Stephen Webster, said what he has seen of City Council members flaunting open-meeting laws boggles the mind.

“It’s so brazen. There just doesn’t seem to be any respect for the law,” Webster said. “It’s not right. It’s just not right.”

The first alleged Sunshine Law violation cited in the lawsuit occurred Sept. 10, 2012, when the council convened to act on DeFuniak Springs City Marshal Mark Weeks’ recommendation that Krika be fired.

At that meeting, Councilman Mac Work, responding to a city resident’s inquiry as to why the council would vote on a police chief’s personnel move, answered, “We are concurring with his recommendation.”

“Unfortunately,” the lawsuit states, “Councilman Work notified the audience of the council’s decision prior to the official vote being taken.”

It claims “several witnesses” saw council members discussing the firing before the meeting convened.

The Sunshine Law bars elected members of a government body from discussing issues they could be asked to vote on when they are outside a publicly noticed meeting.

Santa Rosa County Commissioner Bob Cole recently was sanctioned for having a conversation with a fellow member of a civic improvement board. Cole's conversation took place just prior to a meeting being called to order.

Work, who lost his City Council seat in a Tuesday election, denied ever violating the Sunshine Law in 15 years of public service.

"I'm not worried about that lawsuit. I'm not guilty of anything," Work said.

DeFuniak Springs City Attorney Clayton Adkinson, who had not looked at the lawsuit in depth, said: "I don't understand what he (Krika) is trying to do. He's saying someone made one comment and that suggested the council had met in secret."

The reason the council was even considering Krika's termination, the lawsuit alleges, is that City Marshal Weeks had decided to fire him for taking evidence of suspicious city activity to the FBI.

It says Krika was assigned to do a background check on a city manager candidate.

"The council violated the Sunshine Act by having private discussions regarding (the candidate's) candidacy for the position of city manager," the lawsuit says.

The candidate ultimately withdrew his name from consideration for the city manager's job.

The suit also hints at widespread corruption in Walton County.

Webster said his suspicions of local government in Walton County run so deep he chose to file a civil suit and face a judge trial rather than seek criminal sanctions for the alleged Sunshine Law violations.

"I don't have much faith in anybody over there," he said.

DeFuniak Springs council members Ron Kelley and Kermit Wright, both of whom were elected in 2011 and won re-election Tuesday, denied ever being party to Sunshine Law violations.

“The Sunshine Law is a communist plot straight out of Stalin. I don’t like it or anything that restricts free speech. It’s against everything I stand for,” Wright said. “I hate it, but I’m not going to jail for it. It’s a law I despise, but I have to honor it.”

Wright said he has gone so far as to remove the telephone numbers of fellow council members from his phone. He said he purposely sits in his truck on meeting nights until just before they start to avoid contact with anyone beforehand.

The Krika lawsuit requests that a judge order the city to desist from “engaging in any further actions which violate the Sunshine Act.” It also requests that Krika’s attorney fees be paid along with “all other relief deemed equitable.”

Adkinson said he will turn the lawsuit over to counsel for the Florida League of Cities.

Contact Daily News Staff Writer Tom McLaughlin at 850-315-4435 or tmclaughlin@nwfdailynews.com. Follow him on Twitter @TomMnwfdn.

Caryville caught up in Sunshine Law violation

By JENNIFER RICH

Published: Friday, March 6, 2015 at 18:13 PM.

CARYVILLE — Caryville Town Council gathered for an emergency meeting Tuesday that was called to impose an immediate cease to excavation of land controlled by the town.

A premature decision by council chairman Henry Chambers created a problem with multiple layers when he hired a timber company on the town's behalf without the council's backing in a manner that did not follow proper legal protocol.

"The Sunshine Law has been broken," said council member Nora Curry. Florida's Sunshine Law exists to ensure open government and that all dealings stay transparent among boards, commissions and other governing bodies in state and local agencies.

A chain of events that left the council at odds began to align last month, when Chambers requested a quote from Sapp's Land & Excavation on what the company would pay the town for merchantable wood.

On Feb. 5, Chambers met with company Vice President Jeremy Sapp to convey the town's need to have tree debris removed after another logging company partially cleared parcels of land. Sapp proposed a figure, and Chambers said he would run the information by the council in the next meeting, which was set for Feb 10.

In that meeting less, the topic of hiring a company to chip and haul away the debris came up for discussion. Chambers shared he'd looked into some options and had a company in mind that would pay the town \$50 per ton.

This quote intrigued council members, but no motions were made to put the project up for bid or to hire a specific company.

Despite not having an official vote from the Town Council, on Feb. 25, Chambers signed a general timber sales agreement giving timber rights to Sapp's Land & Excavating, Inc. on 316 acres of specified tracts of land. The company moved in heavy equipment the following day and had cleared away about 25 acres when council member Timothy Hanes was alarmed to learn the work was already in progress.

"Hundred-year-old oaks are being cut out there," Hanes said. "Our grandkids are not going to see them."

Hanes's biggest concern was some of the town's more historical and environmentally beneficial trees were being cut when the council's prior discussion clearly specified that no more trees would come down.

His second point of contention was with decimal placement in the pay rate on the contract. Instead of \$50 a ton as Chambers mentioned in last month's meeting, the chairman signed an agreement for the timber company to compensate the town at rate of 50 cents per ton.

"I made a mistake," Chambers said.

Hanes and Curry agreed with this statement and had other questions for the chairman.

"Where did you get the authority to go into this contract with these people on your own?" Curry asked.

Chambers asked Curry to refer to the previous meeting's minutes in which discussion about the council's desire to have the work completed as discussed. Town clerk Jewette Tadlock had not completed the minutes, leaving Curry to point out another error in the city's operation.

"We discussed it and were going to get bids on it. This contract we entered into here hasn't been brought before the board. What we discussed was for somebody to come in and clean up what was on the ground. No standing timber would be cut," Hanes said.

Council members went back and forth for several minutes about what they'd previously agreed on for the scope of work to be completed.

"Well anyway, what have they done wrong cutting the wood?" Chambers said.

Hanes said newly planted pines and long-standing trees had been cut and he wanted to see the work to stop immediately before more hardwood was lost.

Chambers maintained what had been cut down was scrap. Hanes disagreed, pointing out that he'd seen the trees go down that were too wide for the chipper.

Hanes made a motion to have Sapp stop the cutting, and it was seconded by Curry. Chambers and council member Ransom Works voted for the work to continue. Since one in the five member council, James Taylor, was missing at Tuesday's meeting, the vote was split.

After the stalemate vote and a bit of silence, Hanes asked Works how he felt.

"I'm really not in this right here. I expect to do the right thing, but seeing so much controversy going on in Caryville now, I can understand the town trying to get money," Works said. "And I see what Mr. Chambers was trying to do to keep the revenue coming in, but I understand where the rest of the town is coming from."

Works pointed out land bought by the Federal Emergency Management Agency after the town flooded in 1994 was returned to the town for its use with certain stipulations, one of them being the land would be kept clear.

Sapp interjected to clear up questions about the work in progress.

"What we're doing will take it from a site that's unusable to a site that can be sprayed

and planted and turned back into something that's going to generate revenue for the city in 10 to 12 years," he said.

Sapp said the company used best management practices outlined by the Northwest Florida Water Management District to prevent stripping of topsoil that could end up in Choctawhatchee River.

Curry was still concerned with who was going to clean up debris after Sapp's company was finished, since he specified any remaining treatment the property needed in the form of herbicides or removing barriers to replanting was not his company's responsibility.

After over an hour of discussion among the council and contractor, a motion was passed to have Sapp continue work. The contract was amended to include special provisions in which oak trees larger than twenty inches in diameter at chest height shall remain and 30 acres of planted pines specified shall remain uncut.

Hanes made a final suggestion to the council that they change the policy on how many council member signatures would be required to employ a contract on the town's behalf in the future.

Sapp tried to shed light on how much revenue the project would generate for the town. He said the current work load is yielding \$14 per truck load and the town stood to profit about \$1,400 a week for a month of projected work, depending on weather and other issues.

Sapp said the only forest product he knows of going for \$50 is pine telephone poles.

Chambers was relatively quiet throughout the meeting as his constituents expressed dissent over his impulsive decision to hire the company without a bidding process or a public council vote and his blatant disregard for Sunshine Law's requirement for such actions to occur in a transparent manner.

The amendment was made to the existing contract and signed off by Sapp, Curry and Hanes.

By the end of Tuesday, Sapp shook hands with Hanes as he handed over a roll of fluorescent tape for the town to mark any trees they'd like preserved as land clearing goes on.

"We need to be looking at the future, not the here and now payday," Hanes said. "I understand the town needs money, but we don't need it that bad."

EDITOR'S NOTE: In addition to apparently violating the Florida Sunshine Laws by moving forward with the contract, the Town of Caryville, which is currently without a town attorney, appears to also be in violation of the law by failing to give the public or The Washington County News proper notice of the called meeting. The Florida Sunshine Law (section 286.011 of Florida Statutes) mandates that all government meetings at which official business or acts of Council are to take place are subject to Florida Sunshine Law requirements, including that "reasonable advance notice" be

given, not less than 24 hours. The News was notified by a chance call from Councilman David Hanes, just an hour prior to the called meeting. Look for an editorial on this issue by News Editor Carol Kent Wyatt in the March 11 edition of the Washington County News. The town's actions could be subject to a court challenge. If proven to be in violation, those actions could be overturned, resulting in considerable cost in time and legal expenses to taxpayers.

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DVI will have 'cure meeting' to fix Sunshine Law issues with hiring of executive director

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Tuesday, April 14 11:13 AM EDT

By Max Marbut, Staff Writer

Downtown Vision Inc.'s selection committee will meet next week to again choose an executive director, this time at a public meeting.

Last week, Jacob Gordon from Camden, N.J., was selected by the committee to replace Terry Lorince.

However, the choice was discussed by committee members during telephone conversations and the decision was not made in a public meeting.

Both violate the state's Sunshine Laws that require those conversations and decisions occur in public, as reported Friday by the Daily Record. The violations made the committee's choice voidable.

The group will convene April 22 in a publicly noticed, open meeting to reconsider candidates and re-select the organization's next chief executive.

Board Chair Debbie Buckland said Monday she is calling for the properly noticed "cure meeting," which will give the public the opportunity to witness and participate in the selection process.

Asked why the meeting will be scheduled seven days after the notice instead of only 24 hours as required by the Sunshine Law, "We want to make sure the public has plenty of time to attend (the meeting)," she said.

Buckland also said city staff will conduct Sunshine Law training for DVI's board members, all of whom are volunteers. The training probably will occur at the regularly scheduled board meeting May 27.

Alexis Lambert, director of the city Office of Public Accountability, will present an overview of Sunshine Law



Debbie Buckland, chair of DVI's board, said members will receive training in Sunshine Law requirements.

requirements.

The presentation will address topics such as notice requirements, making meeting minutes available to the public and "what and when and where discussions may take place," she said.

It's a 15-20 minute presentation, followed by questions.

"Different boards have different questions," said Lambert, who is an attorney. "Each board has its own needs."

Buckland said she and the committee members did not realize they weren't adhering to open government laws when they made the decision regarding the new executive director.

"Whatever violations we committed were certainly not intentional," said Buckland. "We're going to have a cure meeting and put this behind us."

Between the committee's April 1 meeting with four finalists and April 9, when the announcement was made that Gordon had been hired, there were no public meetings of the committee or the board.

Committee Chair Pat McElhane said last week he had discussed the final candidates with committee members, including via telephone conversations, between the two public meetings.

Florida law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.

The remedy, according to the 2015 Sunshine Law manual published and distributed to the public by the state Attorney General's Office, is for the committee to reconvene in a public meeting to consider the candidates and vote again to select a new executive director.

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State Attorney investigating Cooper City officials for possible Sunshine Law violation

By **Brian Ballou**
South Florida Sun-Sentinel

APRIL 7, 2015, 7:33 PM | COOPER CITY

The State Attorney's Office is wrapping up an investigation into whether some Cooper City officials violated the state's Sunshine Law during a 2012 meeting, according to an office spokesman.

The investigation is expected to conclude within several days. Spokesman Ron Ishoy would not comment on specifics.

But according to City Commissioner John Sims, the investigation focuses on an April 12, 2012, meeting in the city manager's office in which commissioners, city staff and representatives of the Optimist Club of Cooper City were present.

Sims said he wasn't at the meeting because he didn't know about it. He said the meeting wasn't advertised in the customary manner — on the city's website calendar and on an electronic sign at City Hall. Sims said he usually receives emails from city staff about upcoming meetings, but didn't receive one in this instance while all other commissioners were notified by email.

Email records of the meeting listed basic details: 10 people attended, including former Mayor Debby Eisinger, three commissioners, city staff and members of the Optimist Club. They discussed issues regarding playing field maintenance and preparation.

Sims said he didn't find out about the meeting until seven months later when a supporter, Skip Klauber, showed him emails he had received as part of a public records request for unrelated documents. Klauber, a retiree and local activist, subsequently contacted the State Attorney's Office.

Eisinger said the meeting adhered to the Sunshine law.

"All meetings were properly advertised, there was absolutely no wrongdoing," she said.

On Jan. 8, 2014, David Wolpin, with the city attorney's office, told Sims in a letter, "I believe the 2012 meeting complied with each of the requirements of the Sunshine Law." He said public notice was posted on a bulletin board at City Hall, that the city manager kept minutes, and that the meeting was open to the public.

The inquiry marks the second time in nine years that Cooper City officials have been scrutinized for possible violations of Florida's open meetings law. In 2006 the Florida Department of Law Enforcement investigated five Cooper City commissioners in connection with an Aug. 22, 2006, gathering at a bar, but concluded the officials did not violate the law by discussing city issues privately.

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FROM AROUND THE WEB

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Cooper City officials cleared in public meeting inquiry

By Brian Ballou
South Florida Sun-Sentinel

APRIL 28, 2015, 7:55 PM | COOPER CITY

A meeting three years ago between city officials and members of the Optimist Club of Cooper City didn't violate Florida's open meetings law, the State Attorney's Office has determined after a 14-month investigation.

The results of the investigation were released Monday and immediately denounced by Cooper City Commissioner John Sims. He said city officials, including then-mayor Debby Eisinger, conducted a "behind the scenes" meeting on important city business without properly informing the public. Sims said he found out two years later that the meeting had occurred.

"They methodically and deliberately kept this from the public and myself, in my opinion," Sims said.

Assistant State Attorney Timothy Donnelly stated that the city, by posting a notice at City Hall, did meet the requirements of the Sunshine Law, albeit minimally.

"As an aside, while posting a notice in City Hall may not be the best means of announcing a commission meeting, it does technically comport with the Sunshine Law," he stated.

Four commissioners did receive email reminders prior to the April 2012 meeting, as did the city attorney and members of the Optimist Club of Cooper City, a non-profit organization that runs at least eight sports leagues in the city. Sims did not receive an email notification. Ten people attended the meeting.

Donnelly said that while email notifications of meetings to city officials aren't required under the law, they "appear to be a much more [efficient] means of informing the commissioners of a meeting."

Commission secretary Carol Adams was interviewed during the investigation about whether she was instructed to leave Sims' name off the emails. She told investigators she could not remember whether Eisenger told her to leave off Sims.

The investigation was sparked by retiree and local activist Skip Klauber, who after requesting public records from City Hall on an unrelated matter, noticed a string of emails in the files he received that referred to the April 2012 meeting. The Broward State Attorney's Office started investigating on Feb. 21, 2014.

The city has had a longstanding agreement with the Optimist Club, spelled out in a resolution that has been amended by the commission several times, the latest on July 30, 2012. Prior to that date, the city received money from the club mostly through sports league participation fees charged to non-residents.

The newly amended resolution allows the club to keep those funds to pay for costs related to running the program.

Sims said he did not know that the fee agreement had been modified when he voted in favor of the resolution, because "they hashed it out at the April meeting and I wasn't there."

Commissoner John Curran said he attended that meeting but there was no discussion of the fee structure at that time.

The investigation also found that the resolution was legally passed.

"The money that now goes to The Optimists, as opposed to the city, is not a crime," Donnelly said.

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Today's Temp 79°f

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Scott, Cabinet face lawsuit alleging Sunshine Law violations in Bailey ouster

Posted: February 5, 2015 - 12:38am

By TIA MITCHELL

tia.mitchell@jacksonville.com

TALLAHASSEE — The abrupt resignation of the chief of Florida's crime-fighting agency prompted media and open government advocates to file a lawsuit accusing Gov. Rick Scott and the Cabinet of violating state Sunshine Laws.

The Florida Society of Newspaper Editors (FSN), the Associated Press, Citizens for Sunshine and a St. Petersburg lawyer teamed up Wednesday to ask a Leon County court to rule that Scott's ouster of Florida Department of Law Enforcement Commissioner Gerald Bailey subverted open meeting laws.

"The Governor violated the Sunshine Law by using conduits to engage in polling, discussions, communications and other exchanges with other members of the Cabinet regarding his unilateral decision to force the resignation of the FDLE Commissioner and appoint a replacement without any notice to the public, without any opportunity for the public to attend, and without any minutes being taken," the lawsuit said.

"The Times-Union has joined the lawsuit as plaintiffs, along with the Associated Press and the Florida Society of News Editors and open-government advocates," said Frank Denton, the newspaper's editor and president of FSN.

The lawsuit argues that aides for Scott, Attorney General Pam Bondi, Chief Financial Officer Jeff Atwater and Agriculture Commissioner Adam Putnam acted with delegated authority to communicate on their bosses' behalf knowing the matter would come up for a vote at a public Cabinet meeting. The plaintiffs asked the court not only to declare Sunshine Laws were broken but to prohibit the future practice of using Cabinet aides to act as conduits to the governor's office.

One plaintiffs, attorney Matthew Weidner, previously sent a complaint letter to Tallahassee State Attorney Willie Meggs last week asking him to investigate whether Scott and the Cabinet broke open meeting laws. Meggs declined to act, citing a lack of hard evidence.

The First Amendment Foundation of Florida took the separate action Wednesday of supporting previous statements by Bondi that transparency issues surrounding Bailey's resignation deserved greater attention.

"You have called for an outside investigation and expressed your own concern that this state's Sunshine Laws might have been violated in the handle of the FDLE issues," President Barbara Petersen wrote Wednesday. "The Foundation supports the appointment of an independent state attorney from outside Leon County to investigate this matter, to consider whether criminal charges should be brought and to issue a written report with findings."

Various statements from Scott and the Cabinet members since Bailey's ouster have only created additional uncertainty about what happened behind the scenes, Peterson wrote.

"While the officers have stated they were blind-sided by Mr. Bailey's ouster, the Governor, in one of his few media interviews on the issue, seemed to concede that the law was violated," she said.

None of this may have ever come to light if Bailey had not complained to the Tampa Bay Times/Miami Herald Tallahassee Bureau after his replacement was approved at the Jan. 13 Cabinet meeting. He told the papers that the governor misled Cabinet members into believing he resigned voluntarily, and he later outlined why his relationship with the governor's staff had diminished, especially while Scott was campaigning.

for a second term.

All three Cabinet members have said they now believe Bailey was treated unfairly and want to establish better procedures for the future when the governor wants to replace agency heads who also have Cabinet oversight. Scott has already said he wants to replace at least three more people: Insurance Commissioner Kevin McCarty, Office of Financial Regulation Commissioner Drew Breakspear and Department of Revenue executive director Marshall Stranburg.

Scott and the Cabinet are in Tampa on Thursday for a regularly scheduled meeting where picking up the pieces of the Bailey fallout is at the top of their agenda.

They will start the morning with ceremonial duties at the Florida State Fair, including flipping a switch to turn on the lights of the midway and sampling produce and other "Fresh from Florida." The business meeting begins at 9 a.m. where they will begin discussing a new process for how they will evaluate agency heads and fill vacancies when they arise.

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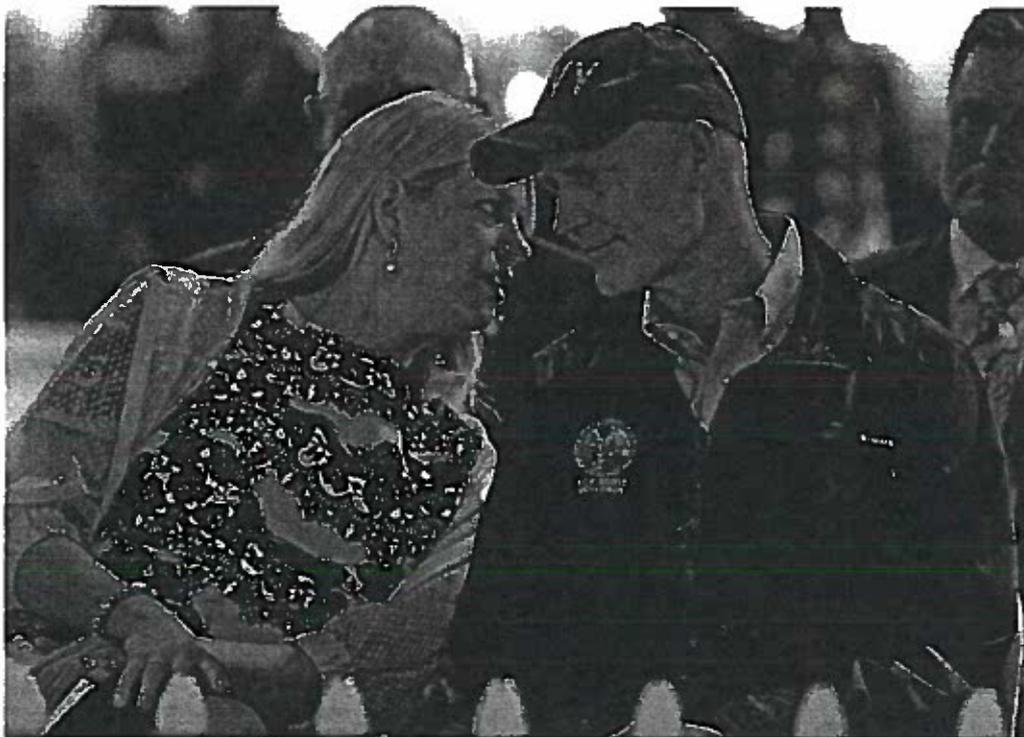


CHANGING THE CURRENT.

Opinion Staff

Did Rick Scott and the Florida Cabinet violate the Sunshine Law?

© February 10, 2015 | Filed in: Florida, Politics, Scandals, Uncategorized.



Florida Gov. Rick Scott, right, talks to Attorney General Pam Bondi before speaking to a group of veterans at the Florida State Fair, Thursday, Feb. 5, 2015, in Tampa, Fla. Scott said Thursday in a statement at a meeting of the governor and Cabinet, that he mishandled the ouster of Gerald Bailey, the head of Floridas main law enforcement agency. (AP Photo/Chris O'Meara)

"It has been a longstanding convention for Governor's staff to provide information to cabinet staff."

That bland bureaucrat-speak, emailed to media by Scott's press office on Jan. 28, was supposed to expound on Scott's argument that it wasn't a Sunshine Law violation for the governor to use go-betweens to secretly remove

Did Rick Scott and the Florida Cabinet violate the Sunshine Law?

that unpleasant public discussions can be avoided, right?

A new lawsuit alleges it is.

Instead of excusing Scott's behavior, the bland "longstanding convention" excuse triggered something else: It has motivated Florida's news organizations to fight in court for the public's right to know what their government officials are doing.

On Feb. 3, a coalition including the Florida Society of Newspaper Editors (of which the Palm Beach Post is a member), the Associated Press, Citizens for Sunshine, Inc., and attorney Matthew Weidner jointly filed suit in Leon County Circuit Court against Scott and the Cabinet.

Article 1, Section 24 of the Florida Constitution reads in part, "All meetings of any collegial public body of the executive branch of state government or of any collegial public body...at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public."

The lawsuit alleges Scott forced the resignation and selected a replacement of the state's top police officer, Gerald Bailey, without notice to the public, without an opportunity for the public to attend, and without taking minutes.

Further, the lawsuit seeks an injunction against further violations, citing the "longstanding convention" email as evidence that back-room deals have been happening regularly at the Cabinet, and must be stopped.

What do you think? Did Scott and the Cabinet violate the state's Sunshine Law?

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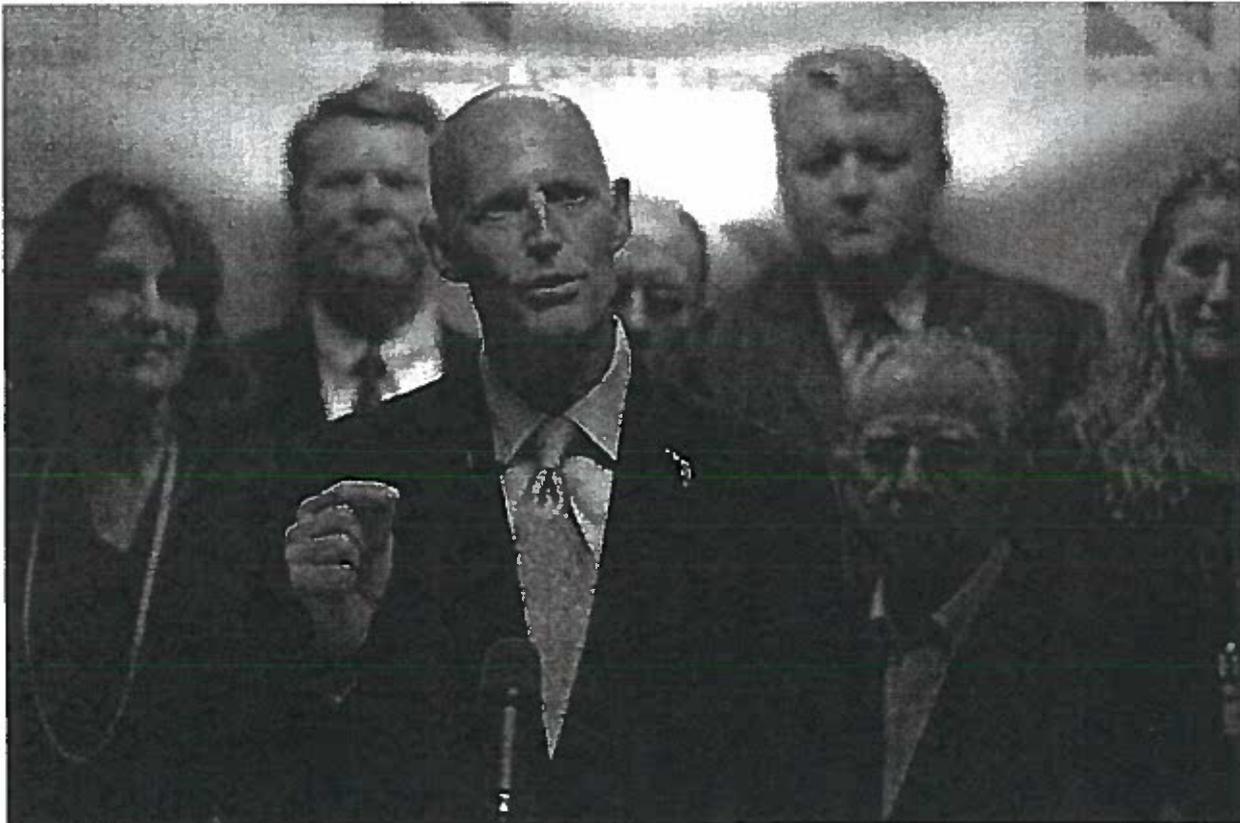
Bradenton Herald

Gov. Rick Scott hires law firm to handle Sunshine violation claims

By MICHAEL AUSLEN

Herald/Times Tallahassee Bureau March 31, 2015

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Florida Gov. Rick Scott speaks at a news conference at Norris Sports Group on Friday, March 27, 2015, in Naples, Fla. Florida's unemployment rate is dropping slightly. New numbers released Friday show that the state's unemployment rate for February was 5.6 percent. That's a drop of 0.1

percent from January. Scott announced the new jobs numbers during his visit to the sports marketing company. DAVID ALBERS NAPLES DAILY NEWS

TALLAHASSEE -- Accused of Sunshine Law open meeting violations, Gov. Rick Scott and Cabinet members Tuesday hired a law firm to represent them — an action that in itself should have been handled more openly, some lawyers said.

In a nine-minute meeting, the four statewide officials voted to spend up to \$50,000 of tax dollars with the Tallahassee law firm Shutts & Bowen and attorney Daniel Nordby, who also represents the Republican Party of Florida.

Nordby will represent the Cabinet, the fifth named defendant in a lawsuit filed by more than a dozen Florida news outlets following the forced ouster of a top state law enforcement official. He was recommended by Attorney General Pam Bondi, a Cabinet member who collected applications from five firms and settled on Nordby after consulting with her staff.

"Proposals were collected and posted online for the public and Cabinet to review, and the Governor and Cabinet made the decision to hire the counsel in an open and public meeting," Pat Gleason, special counsel to Bondi's office and an expert in Sunshine Law, said in a statement. "Furthermore the Attorney General's review of the proposals was consistent with all applicable case law and attorney general opinions."

Open government experts and legal opinions by prior state attorneys general say that when a collegial body subject to the Sunshine Law such as the Cabinet delegates decision-making authority to a single member, that process itself must be done publicly.

Bondi said she reviewed law firm applications with her staff before deciding on a recommendation. Her staff said no violation occurred because Bondi recommended Nordby on her own.

"My office lawyers know this work. They know it well," she said in the Cabinet meeting. "They've reviewed with me the submissions we've received because this is what they do."

Barbara Petersen, executive director of the First Amendment Foundation, an open government watchdog group, said Tuesday's action underscores a weakness in Florida's Sunshine Law.

She said it's a mystery whether Bondi acted alone in recommending Nordby, which would be legal, or relied on her staff's input, which should have been done publicly.

"To a certain extent, we have to take their word for it, because we have no proof to the contrary," Petersen said.

Florida's Government in the Sunshine Manual, considered the bible on the subject, says: "If a board has delegated its decision making authority to a single individual ... the Sunshine Law may apply."

"We are concerned with the process by which this decision was made, especially because it is within the context of litigation regarding Sunshine Law transparency," said Andrea Flynn Mogensen, the Sarasota lawyer who represents the news outlets in the case of Weidner v. Scott.

Scott and the Cabinet members — Bondi, Chief Financial Officer Jeff Atwater and Agriculture Commissioner Adam Putnam — already have hired lawyers to represent them individually in the lawsuit. The costs to taxpayers for those contracts could total hundreds of thousands of dollars.

Bondi's office wouldn't identify the staff members who reviewed the lawyers' applications. Her office did not

respond to a public records request for any relevant documents.

Bondi's predecessors have repeatedly issued advisory opinions stating that the Sunshine Law may apply whenever one member of a collegial body is given decision-making authority.

In a 1990 case, Attorney General Bob Butterworth said the Sunshine Law applied in a case in which the Sunrise City Council delegated one of its members to negotiate some terms of a city garbage contract.

In that opinion, Butterworth wrote: "The delegation by a public body of its authority to act in the formulation, preparation, and promulgation of plans ... on which the entire body itself may foreseeably act, will subject the person or persons to whom such authority is delegated to the Sunshine Law."

St. Petersburg lawyer Matt Weidner and the state's major news organizations, including the Tampa Bay Times and Miami Herald, sued Scott and the Cabinet in February. The suit alleges they used aides as private and illegal "conduits" to carry out the firing of Commissioner Gerald Bailey of the Florida Department of Law Enforcement.

The Cabinet hired Shutts & Bowen at a discounted rate of \$275 per hour. Bondi cited the cost, among the lowest of the five proposals, as well as Nordby's experience with other state agencies and the expertise of his law partner, Jason Gonzalez, who also has worked at the highest levels of state government.

Nordby and Gonzalez have longstanding ties to top Florida Republicans. In February, newly elected party Chairman Blaise Ingoglia named Nordby general counsel to the state GOP, and he held the same job from 2012-14 in the Republican-controlled state House.

Last year, Nordby, a University of Florida Levin College of Law graduate, represented the House in legal battles over proposed redistricting plans. He also was general counsel to Secretary of State Ken Detzner and handled dozens of election law and campaign finance cases.

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October 2014: Judge Karen Cole ruled State Attorney Angela Corey's office violated Florida's Public Records Law by refusing to accept cash and debit cards for records requests, according to The Florida Times-Union.

July 2014: The Port St. Lucie City Council voted against paying for Councilman Ron Bowen's defense against allegations that he violated Florida's Sunshine Law. Bowen's attorneys negotiated a plea deal with the state attorney's office that substituted the criminal charge with a civil charge if Bowen accepted responsibility for breaking the law. Bowen paid a \$300 fine and \$50 in court fees. He accepted responsibility for miscommunication but said he never intentionally violated the law.

July 2014: A grand jury issued three more indictments in the Orlando-Orange County Expressway Authority investigation according to the Orlando Sentinel.

June 2014: The Florida Department of Business and Professional Regulation (DBPR) lost a public records suit against a Collier county couple, according to the Tallahassee Democrat. Chief Circuit Judge Charles Francis ruled that DBPR did not provide records as required under Florida's Public Records Law. DBPR was ordered to pay \$6720 to the couple for expenses they incurred.

January 2014: The city of Sarasota settled its lawsuit with Citizens for Sunshine, Inc. The city admitted violating Florida's Open Meetings Law and agreed to pay attorney's fees to the government watchdog group.

January 2014: The city of Lakeland has spent over \$220,000 in legal fees during a grand jury's investigation regarding the Lakeland Police Department's public records policy, according to the Ledger (Lakeland).

January 2014: Orange County officials accused of violating Florida's Public Records Law have agreed to enter settlement discussions in a pending civil lawsuit according to the Orlando Sentinel. Each party will pay their own attorney's fees but the county will pay mediation fees. The settlement stipulates that the county will pay \$90,000



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December 2013: The city of Venice settled a lawsuit claiming a violation of a previously settled lawsuit. After signing the agreement, the city held training sessions for council members on the Sunshine law but didn't admit that it violated the law. The city will pay \$2607 in legal fees to Citizens for Sunshine's attorney.

October 2013: State Attorney Jeff Ashton determined that Mayor Teresa Jacobs and four Orange county commissioners violated the Public Records Law when they deleted text messages about government decisions, according to the Orlando Sentinel. The state attorney did not file criminal charges, but imposed a \$500 fine on the officials.

July 2013: The Martin County School Board unanimously approved a \$20,000 settlement to the Sarasota-based nonprofit advocacy group Citizens for Sunshine, ending a lawsuit stemming from an alleged violation of the state's Public Records Law.

July 2013: The City of Sarasota entered into an agreement with Citizens for Sunshine. In the agreement, Citizens for Sunshine dismissed its lawsuit over the selection of a contractor for the \$7.3-million State Street public garage project and the city agreed to provide Sunshine Law training to purchasing department staff, and pay Citizens for Sunshine's attorney's fees and costs. The group also agreed the violation had been cured.

March 2013: The Clay County Commission has agreed to settle a public records lawsuit filed by Joel Chandler. Although the county has not admitted any wrongdoing, the County Manager said they are conducting enhanced training on Florida's public records policies for all county employees.

February 2013: The Polk County School Board settled a public records lawsuit with Lakeland resident Joel Chandler. In the settlement, Chandler agreed to drop the lawsuit as well as several public records requests in exchange for the production of email correspondence. The Board must also pay Chandler's legal fees and reimburse Chandler \$668 for a records search that yielded 21 emails. In addition, the Board will be providing new training for workers involved in public records requests.

January 2013: The city of Sarasota settled a lawsuit filed against them by activists alleging violation of the Sunshine Law. They agreed to pay \$7000 in legal fees and \$3000 to hire an outside attorney to represent one of the committee members individually named in the suit. The city plans to hold refresher sessions on the state's Government-in-the-Sunshine Law and email usage for commissioners and advisory board members.



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SEPTEMBER 2012: Jacksonville Mayor Alvin Brown's office will pay *The Florida Times-Union* \$15,000 to settle a lawsuit over access to public records. *The Times-Union* attorney George Gable said the newspaper incurred \$16,300 in fees and expenses to gain access to the records.

SEPTEMBER 2012: A judge ruled that the city of Valparaiso violated Florida's Sunshine Law on two separate occasions when it conducted a private meeting and failed to provide public notice.

AUGUST 2012: Judge Chris Patterson, of the 14th Judicial Circuit ruled that the city of Vernon had violated the Sunshine Law. *The Washington County News*, a sister paper of *The News Herald* (Panama City) argued that an executive session to update council members of pending litigation was a violation of the Sunshine Law and that the tape of the meeting should become public record.

JUNE 2012: Booker Young Jr., 81, was found guilty of violating the state's Sunshine Law for actions related to a March 16, 2011 Lake Wales Housing Authority Board meeting. He was fined \$67 for the civil violation and ordered to pay \$500 to the State Attorney's Office for investigation and prosecution costs.

MAY 2012: An investigation which began September 2011, ended with each of five Crestview City Council officials being fined \$500 for violating Florida's Sunshine Law. Emails released as part of the investigation indicated that council members had discussed matters through email that were required to be discussed at public meetings.

MARCH 2012: Circuit Judge James H. Daniel ruled that a Duval County activist was entitled to \$1245.00 for expenses he incurred in his lawsuit against the Jacksonville Police and Fire Pension Fund, but said that the fund did not act willfully in breaking the Public Records Law so it would not be liable for his attorney's fees.

MARCH 2012: The Inverness County Board of County Commissioners settled a public records lawsuit out of court for \$1450.00.



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November 2011: The Southeast Volusia County Hospital District recently approved a \$1 million settlement fee to be paid to the Bert Fish Foundation by the hospital's insurance policy. This is a result of the lawsuit filed by the Bert Fish Foundation to stop a merger between public Bert Fish and private nonprofit Adventist Health. The merger was the result of 21 meetings that had been illegally closed to the public.

September 2011: A Duval County activist has prevailed in his public records lawsuit against the Jacksonville Police and Fire Pension Fund. The Fund asked Curtis Lee, Director of the Concerned Taxpayers of Duval County to pay a \$280 so an employee could supervise Lee's inspection of the records for eight hours. Daniel also found the fund should not have asked for \$27.66 per hour for an employee to make copies of the records before copies were even requested. In addition to its own \$160,000 in legal fees the fund might also be responsible for part of Lee's attorneys' fees.

AUGUST 2011: A member of the Florida Keys Mosquito Control District pleaded guilty to a non-criminal violation of the Open Meetings Law. Joan Lord-Papy, a five-term commissioner, will pay \$250 fine along with \$270 in court costs. Lord-Papy was charged after responding to an email from a fellow commissioner discussing interview dates for district director applicants. The original email, sent by Commissioner Jack Bridges, included a warning that other commissioners should not reply to avoid violating the Open Meetings Law.



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**PUBLIC RECORDS LAW FOR
ELECTED AND APPOINTED OFFICIALS**

PUBLIC RECORDS LAW FOR ELECTED AND APPOINTED OFFICIALS 2014

WHAT IS A PUBLIC RECORD?

All.....

Documents Papers Letters Maps Books Tapes
Photographs Films Sound recordings Data processing software.....

.....made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency, which are used to perpetuate, communicate or formalize knowledge.....

.....regardless of whether they are in their final form.....

-unless the Legislature has exempted them.
- Where/when produced not relevant
 - “personal time” vs. “on duty”
 - “on a government computer” vs. “on my personal laptop”
 - “just elected” vs. “already sworn in”
- Record types
 - Traditional paper
 - Electronic/digital records
 - Notes and drafts
 - Records possessed by private entities working for/with government
- Private records, even when produced on public time or machines are not public

CURRENT ISSUES

- Facebook pages
- Twitter
- Texting

WHO IS THE “CUSTODIAN” OF A PUBLIC RECORD?

Public Employees or Officials Using Personal Accounts:

Florida Statute § 119.011(5) defines “Custodian of public records” as:

the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

Once an email or text involving agency business is created using a public official's personal account, the public official becomes the "agency" and is thus personally responsible for complying with the state records retention policies, including the need to establish a method of retaining records per the State's records retention schedule. *Butler v. City of Hallandale Beach*, 68 So.3d 278 (4th DCA 2011)

The individual public official, not the governmental agency, should bear the duty (and thus the expense) of responding to a public records request involving his or her personal accounts. AGO 08-07.

HOW ARE REQUESTS MADE, AND TO WHOM?

- Any way anyone wishes to make them:

E mail Phone Fax Written In person

- Can local governments regulate the request process? **NO!**
 - A local government cannot:
 - ▶ Require a requestor to fill out an application
 - ▶ Require the request be placed in writing
 - ▶ Require the requestor to identify him/herself
 - ▶ Require the requestor to state why the records are wanted
 - ▶ Delay requests for any longer than reasonable given the request
 - ▶ Have automatic delays until affected parties are alerted
- Requests should be made to the custodian of the record
 - Custodian is the elected or appointed officer charged with the responsibility of maintaining the office having public records, or his or her designee
 - Care should be taken to ensure all designees are trained in how to handle public records requests

HOW SHOULD I RESPOND TO REQUESTS?

- Routine vs. Complex
 - Very routine requests are easily delegated
 - Always seek legal help, particularly where exemptions are asserted
- Promptness required
 - Routine delays not permitted
 - Initial response should acknowledge request, set forth time line, and if relevant communicate costs to be paid
 - While not required, written responses help protect against later allegations of non-compliance
 - Employees or other persons impacted by record requests have no legal right to be notified of or present during inspections, and delays pending notification of such persons are not lawful
- Produce vs. comment on
 - Only actual records must be produced
 - The law does not require staff to comment on or analyze records
 - The law does not require staff to produce records or reports which don't exist
- Clarification of vague or expansively-worded requests
 - If a request is too vague, initial response may be to request clarification
 - If initial request is stated very broadly, initial response may review potential expenses, and give opportunity to revise the request
- Assertion of exemptions
 - Exemptions must be asserted in writing and with specificity
 - Legal counsel should be sought to ensure exemptions are correctly asserted
- Supervision when records being inspected
 - Persons inspecting original records should never be left alone with them
 - If inspection period is lengthy, a clerical service charge may be assessed
- Record exists in more than one agency
 - A custodian cannot decline inspection or copying simply because the same record could also be requested by a different agency
 - Just because an exempt record may be shared with another agency for public business reasons, the record does not necessarily lose its exemption, so always check with the other agency before disclosing
- Records held by private person or entity doing business for or with government
 - Such records are still "public records" and should be maintained as such
 - The private person or entity is bound to comply with the Act just as a government must
 - Best practice to make such persons or entities aware of this area when conducting contract negotiations

COSTS OF THE REQUEST

- **Copy charges**
 - Copies of regular sized paper, the charge is 15 cents per page
 - Unusual items such as maps, photos or tapes, actual cost of duplication may be charged
- **Special service charges**
 - A special service charge may be charged where the request requires use of extensive (usually 2 hours) information technology resources or clerical staff
 - The charge assessed for staff time must be at the lowest hourly rate of the employee capable of performing the task, even if that employee is not the actual employee performing the task
 - Estimates of costs should be developed in good faith
- **Payment in advance**
 - Where significant charges will be due, the law permits work on the request to begin "*upon payment*" of the good faith estimate of the charges
 - Unused deposit amounts should be refunded promptly

ELECTRONIC RECORDS AND AUTOMATION ISSUES

- When designing or acquiring electronic record-keeping systems, local governments must consider whether the system can provide data in a common format, such as American Standard Code for Information Exchange
- Local governments can't use proprietary software to diminish the right to inspect and copy records
- Local governments must provide a copy of the record in the medium requested if they maintain the records in that medium
- Electronically stored records are as much a public record as a paper record in a file cabinet
 - Types of electronic records subject to inspection include:

Electronic calendars

Databases

Word processing files

E mail

Internet use history

Government-issued cell phone use history

EXEMPTIONS OF NOTE FOR PUBLIC OFFICIALS

- Risk assessments and security plans
- Audit work papers, notes and draft reports (until audit becomes final)
- Blueprints of public buildings
- Sealed bids (until all bids are opened)
- Booking business records of a public convention center or sports facility
- Business location or expansion plans related to economic development packages
- Whistle blower and discrimination investigation records (until investigation concluded)
- Attorney work product related to litigation
- Social Security Numbers
- Personal contact information for police and code officers, judges, firefighters and HR managers

TRADE SECRETS

Florida Statute § 815.045, entitled *Trade secret information*, provides:

The Legislature finds that it is a public necessity that trade secret information as defined in s. 812.081, and as provided for in s. 815.04(3), be expressly made confidential and exempt from the public records law because it is a felony to disclose such records. Due to the legal uncertainty as to whether a public employee would be protected from a felony conviction if otherwise complying with chapter 119, and with s. 24(a), Art. I of the State Constitution, it is imperative that a public records exemption be created. The Legislature in making disclosure of trade secrets a crime has clearly established the importance attached to trade secret protection. Disclosing trade secrets in an agency's possession would negatively impact the business interests of those providing an agency such trade secrets by damaging them in the marketplace, and those entities and individuals disclosing such trade secrets would hesitate to cooperate with that agency, which would impair the effective and efficient administration of governmental functions. Thus, the public and private harm in disclosing trade secrets significantly outweighs any public benefit derived from disclosure, and the public's ability to scrutinize and monitor agency action is not diminished by nondisclosure of trade secrets.

What is a “Trade Secret”?

Florida Statute § 812.081(1)(c) defines the term expansively:

“Trade secret” means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. “Trade secret” includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

Criminal penalty for revealing:

Florida Statutes §812.081 provides that it is a 3rd degree felony for anyone, including a public official, to copy a trade secret for themselves or another person.

WHEN CAN I DESTROY A PUBLIC RECORD?

Florida law requires all public records to be maintained pursuant to a Records Retention Schedule published by the Department of State, Division of Library Sciences, Information Services Division

- Visit http://dlis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm
- Select Schedule GS1-SL (State and Local Government Agencies)

PENALTIES FOR NON-COMPLIANCE

- Civil suit including payment of requestor's attorney fees
- One year in prison and/or \$1,000 fine
- Removal from office or employment by the Governor
- If an appointed official, removal from office by the local Commission

RECORDS OF PRIVATE CONTRACTORS

119.0701. Contracts; public records (effective July 1, 2013)

(1) For purposes of this section, the term:

(a) “Contractor” means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) “Public agency” means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) In addition to other contract requirements provided by law, each public agency contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

(3) If a contractor does not comply with a public records request, the public agency shall enforce the contract provisions in accordance with the contract.

ADMINISTRATIVE PROCEDURES

It is advisable for every agency subject to the Records Act to adopt usable guidelines for front line staff to review and follow when responding to records requests. Attached as an appendix to this outline is the current version of Manatee County's administrative procedure on staff responses to requests.

2014/2015 LEGISLATIVE UPDATE

Review of 2014 and 2015 legislative sessions and any bills passed related to the Records Act will be provided.

**BASIC LAND USE LAW
FOR ELECTED OFFICIALS**

Land Use Law
Manatee County Attorney's Office Seminar
May 26, 2015

Presented by
William E. Clague, Assistant County Attorney
Sarah A. Schenk, Assistant County Attorney

I. History and Background.

1. Traditional Police Power. The power to regulate land use through zoning restrictions and development codes has been recognized under Florida as a traditional municipal police power. (The police power is distinct from the other traditional local government powers of taxation, contract, administration and employment.)
2. 1885 Constitution. The Florida Constitution of 1885, and the statutory law implementing it, included strict controls on the power of local governments, resulting in courts narrowly construing the scope of local government power. The restrictions in the 1885 Florida Constitution formed the basis of "Dillon's Rule", by which local governments had very narrow authority to regulate the use of private property.
3. 1968 Constitution. The 1968 Florida Constitution incorporated the concept of "Home Rule" authority for local governments, which provides more flexibility, within constitutional and statutory limits. Courts, as a result, began extending greater deference to local governments in decisions to regulate the use of private property. Local governments must exercise their police powers in accordance with "general law", which gives the Legislature and courts the authority to establish rules for how land use is regulated by local governments.
4. Public Interest. In exercising its police power over land use, a local government protects the general interests of the public health, safety and welfare. It does not protect private interests or enforce private rights or obligations. It must maintain consistency in its decisions and treatment of similarly situated individuals and properties.
5. Externalities. A major function of land use regulation is geared toward requiring property owners to internalize their "negative externalities", so that the costs and negative consequences of a particular land use are not unfairly placed upon the general public instead of the individual or property engaged in the use.

II. Legal Principles.

1. Zoning / Police Power. In the 1920s, the U.S. Supreme Court recognized zoning as a constitutional exercise of local government authority, in the case of *Village of*

Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365 (1926). This case upheld the practice of “Euclidean zoning”, whereby local governments establish zoning districts based upon permitted uses within each district (residential, commercial, industrial, etc.), coupled with regulations geared toward preserving community character and preventing public nuisances. Florida, like other U.S. states, began employing this practice (particularly within cities) early in the last century.

2. Community Planning Act. In 1988, the Legislature enacted the Community Planning Act (Part II, Chapter 163, *Florida Statutes*), which mandates that every local government in Florida adopt and maintain a comprehensive plan to guide growth-related decisions. The Community Planning Act contains detailed requirements for the various policies and issues that must be addressed in each comprehensive plan, as well as many provisions of general law that limit local government authority over land use issues.
3. DRI Law. In 1972, the Legislature enacted the first version of Section 380.06, *Florida Statutes*, governing Developments of Regional Impacts. This statute has been amended and reworked numerous times.
4. Snyder Case. In 1993, the Supreme Court of Florida issued its opinion ruling on the case of *Board of County Commissioners of Brevard v. Snyder*, 627 So. 2d 469 (Fla. 1993). The Snyder case held that rezoning decisions, as well as similar decisions that involved the application of zoning and land use codes to individual parcels, must be treated as “quasi-judicial decisions” by local governments.
5. Constitutional Case Law. The federal and Florida constitutions include provisions that prohibit the taking of property with just compensation, and prohibit the deprivation of procedural and substantive due process. These provisions have been construed to give rise to constitutional claims in the land use context, on the basis that a local government may, through the exercise of its land use police powers, violate the property rights of an affected land owner.
6. Statutory Limitations. The U.S. Congress and the Florida Legislature have enacted various laws to provide additional protections against overreach by local governments.

III. Legislative Decisions.

1. Types of Legislative Decisions. Generally, the following will be treated as legislative decisions:
 - a. Amendments to the text of the Land Development Code;

- b. Amendments to the text of the Comprehensive Plan and Map Amendments;
 - c. Street and right-of-way vacations; and
 - d. Governmental-initiated area-wide rezones.
2. Comprehensive Plan. All comprehensive plan amendments are legislative in nature, regardless of whether they amend the text of the comprehensive plan or the future land use map, and regardless of whether they apply throughout a jurisdiction or to only one individual property. The Community Planning Act requires that local governments follow specific procedures for comprehensive plan amendments.
- a. Most amendments must be transmitted to the state Department of Economic Opportunity (DEO) for review and comment, after the local government holds transmittal hearings before its planning commission and governing board. Depending on the nature of the amendment, it may also be subject to review by other state agencies (through DEO) and affected local governments. After receiving comment, the local government may then hold an adoption hearing to adopt the amendment and transmit it to the state.
 - b. “Small scale” map amendments (affecting 10 acres or less) and annual updates to the capital improvements element to a comprehensive may go straight to an adoption hearings before a planning commission and board without state review.
 - c. The Community Planning Act includes procedures that allow for administrative challenges to comprehensive plan amendments as well as judicial challenges. Comprehensive plan amendments do not become legally effective unless and until all challenge periods have expired or all challenges have been fully resolved.
3. Land Development Code. Many land development code amendments are legislative in nature, such as amendments to the text of the code, or map amendments that apply generally to the entire jurisdiction (such as an amendment changing the permitted uses within a categorical zoning district). Specific statutory notice and hearing requirements apply. (Section 125.66, *Florida Statutes*, for counties, and Section 166.041, *Florida Statutes*, for cities.)
- a. All code amendments must be reviewed by the local planning commission for consistency with the comprehensive plan before consideration by the governing board. Once adopted, all code amendments must be codified.

- b. Code amendments become effective in the same manner as other ordinances (upon transmittal to the secretary of state). Code amendments are subject to judicial challenge, but remain effective during the proceedings unless the challenging party obtains an injunction against the local government to prevent enforcement.
4. Standard / Burden of Proof. For legislative matters, the burden of proof is on the party who challenges the governmental action to show that the decision of the government is arbitrary and capricious. Legislative decisions are reviewed under the deferential “fairly debatable” standard of review.
 - a. The fairly debatable standard of review requires approval of a planning action if reasonable persons could differ as to its propriety.
 - b. An ordinance is found to be fairly debatable when for any reason it is open to dispute or controversy on grounds that makes sense or points to a logical deduction that in no way involves constitutional validity. *Martin County v. Yusem*, 690 So.2d 1288, 1295 (Fla. 1997).
5. Consistency with Comprehensive Plan. The Community Planning Act mandates that local governments (a) maintain internal consistency within their comprehensive plans, and (b) implement their comprehensive plans through the adoption of their land development codes. Both comprehensive plan amendments and land development code amendments may be invalidated by the courts on the grounds that they are inconsistent with the existing comprehensive plan.
6. Discrimination. Federal and state law impose additional limitations on the legislative exercise of land use police powers by local governments. The federal Fair Housing Amendments prohibit the adoption of policies (either as comprehensive plan or land development code provisions) that discriminate in the residential real estate markets on the basis of race, color, religion, sex, national origin, family status or disability. The federal Religious Land Use and Institutionalized Persons Act prohibits the adoption of policies that have a discriminatory effect on the development of religious land uses (churches, mosques, temples, etc.). Section 790.33(4), *Florida Statutes*, prohibits the adoption of policies that unduly restrict the development of gun ranges.
7. Issues. Legislative land use decisions can have a wide-reaching effect on properties and individuals, such that they can give rise to controversy and litigation. Some common concerns are:

- a. Balancing the protection of the public health, safety and welfare with the right of individual property owners to make reasonable use of their properties;
- b. Explaining to the public the technicalities of the process and the regulations themselves; and
- c. Reconciling regulations with the overriding legal requirements imposed by statute or decisional case law.

IV. Quasi-Judicial Decisions.

1. Examples. The following are examples of quasi-judicial decisions:
 - a. Site plan approvals;
 - b. Site specific rezoning;
 - c. Developments of Regional-Impact;
 - d. Variances;
 - e. Final subdivision plat approvals or vacations;
 - f. Historic designations and Certificates of Appropriateness;
 - g. Development agreements approved simultaneously with other quasi-judicial matters; and
 - h. Such other decisions as are required to be treated as quasi-judicial matters under applicable law.
2. Standards / Burden of Proof. For quasi-judicial matters, certain additional formalities are applicable. See *Board of County Commissioners of Brevard County v. Snyder*, 672 So.2d 469 (Fla. 1993). For example, if a property owner seeks to rezone property, the owner has the burden of proving that the proposal is consistent with the Comprehensive Plan and complies with all procedural requirements of the zoning ordinance. *Snyder*, 627 So.2d 469, 475. At this point, the burden of proof shifts to the government to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose. *Snyder*, 627 So.2d 469, 476.
3. Procedural Due Process. Quasi-judicial hearings require the parties be given notice of the hearing and an opportunity to be heard. The parties must be able to present evidence, cross-examine witnesses and be informed of all facts upon

which the commission acts in the record. *Jennings v. Dade County*, 589 So.2d 1337 (Fla. 3d DCA 1991) rev. den., 598 So.2d 75 (Fla. 1992). See also *Lee County v. Sunbelt Equities*, 619 So.2d 996 (Fla. 2d DCA 1993).

4. Ex-Parte Communications (Ethics).

- a. Defined as: Communications between a member of the approving authority such as a Planning Commission member, an Historic Preservation Board member, City or County Commission member and another person outside the context of a duly noticed public hearing. The subject matter would have to be related to an upcoming quasi-judicial proceeding. Communication solely between a Board member and staff are not considered ex-parte communications.
- b. Consequences: Once an ex-parte communication is proven to have occurred, a presumption of prejudice arises. Ultimately, if an ex-parte communication is found to have violated another party's due process rights, then a decision of the approving authority may be overturned and the case remanded back to the approving authority for a new hearing. See *Jennings* 589 So.2d 1337 (Fla. 3d DCA 1991) rev. den. 598 So.2d 75 (Fla. 1992).
- c. In the event an ex-parte communication occurs, then the member of the approving authority should disclose at the hearing the date and subject matter of the items discussed at the ex-parte meeting. In the event there is an e-mail or a letter received, then the letter or e-mail should be made available for public review and comment and entered into the public hearing record. Ex-parte communications also include visits to the site of the property proposed to be rezoned. Another example is if an approving authority member receives expert opinions or conducts an investigation, then the existence of the investigation or expert opinion is also required to be a part of the record before final action on the quasi-judicial matter. In theory, the disclosure of such ex-parte communications near the beginning of the public hearing enable persons who have opinions contrary to those expressed in the ex-parte communication to have a reasonable opportunity to refute or respond to the communication at the hearing and thereby rebut the presumption of prejudice.
- d. There is a statutory provision in Section 286.0115, *Florida Statutes* that allows a county or municipality, by ordinance or resolution, to remove the presumption of prejudice from ex-parte communications. This procedure, while not exclusive, provides guidance as to an option for disclosure in the public hearing records. Whether the disclosure is legally sufficient to remove

all presumption of prejudice in an individual case would be determined on a case-by-case basis through adjudication by a court of law.

5. Who are parties?

- a. Party status is determined in part by who is required to receive notice under the requirements of the local code.
- b. A person who will suffer an adverse effect to an interest protected or furthered by the comprehensive plan or zoning code as a result of the quasi-judicial action. The adversely-affected interest may be shared in common with other members of the community at large; and shall exceed in degree the general interest in community good that are shared by all persons. See *Renard v. Dade County*, 261 So.2d 832 (Fla. 1972).

6. Parties may cross examine witnesses.

- a. A component of affording to a party procedural due process is the right to cross-examine witnesses. The Fifth District Court of Appeal held that allowing parties to cross examine witnesses by asking questions through the Chairman sufficiently affords due process to the parties. See *Carillon v. Seminole County*, 45 So.3d 7 (5th DCA 2010).
- b. What are the remedies for failure to provide procedural due process?
 - i. In the event there is a failure to adequately disclose an ex-parte communication and the presumption of prejudice is not rebutted, the complaining party may be found to be entitled to reversal of the Board's decision and a new hearing must be held.
 - ii. In the event a court of law determines that procedural due process was denied the appellant, the case will be remanded back to the approving Board to hold another public hearing.

7. Essential Requirements of Law. Quasi-judicial decisions must adhere to applicable law, particularly the requirements of the local government's codes and comprehensive plan, but also its established standards and practices. Decisions must also follow the anti-discrimination laws cited above, and must respect the constitutional rights of all affected parties.

8. Competent and Substantial Evidence. Quasi-judicial decisions must be supported by competent and substantial evidence in the record, based on the sworn

testimony of witnesses. Only testimony that is relevant to the issues before the decision making body may be relied on for purposes of justifying a decision.

9. Conclusion. The members of advisory boards and boards with final approval authority should review the procedural rules of their respective governing body prior to a public hearing on a quasi-judicial land use matter. The staff of local governments should be aware of the procedural rules guiding their testimony at quasi-judicial hearings. Advisory board and governing board members should consult with their respective attorneys as to specific legal issues that may arise.

V. Voting Conflicts of Interest.

1. Conflicts Defined. The statutory procedure for what steps are necessary in order to abstain from voting due to a conflict of interest does not distinguish between legislative and quasi-judicial decisions. The two types of voting conflicts for elected or appointed officials can be summarized as follows:
 - a. May not vote on a measure which would inure to the officer's "special private gain or loss"
 - Or
 - b. May not vote on a measure which the officer knows would inure to the "special private gain or loss" of a principal, relative, or business associate. Section 112.3143(3)(a), *Florida Statutes*.
2. Special Private Gain Defined. The term "special private gain or loss" is defined in Section 112.3143(1)(d), *Florida Statutes*. The following questions should be considered:
 - a. What is the size of the affected class? Generally, the larger the class of persons affected by the vote, the less likely special private gain or loss exists.
 - b. Is the gain or loss remote and/or speculative? The more remote or speculative, generally the less likely a special private gain or loss.
 - c. Is the matter to be voted on merely a preliminary or procedural measure? A vote on a matter that is preliminary or merely procedural in nature to the later actions that would result in an actual gain or loss generally do not present voting conflicts.

3. **Participation:** Elected officials are not subject to the same limitations as appointed officials on their ability to participate in the discussion prior to the vote, and this applies for both legislative and quasi-judicial matters.
 - a. Elected officials: the voting conflicts law itself does not require full or complete “recusal”.
 - b. Local Officials holding appointive positions must follow detailed guidelines if they do intend to “participate” as defined in Section 112.3143(4) c., *Florida Statutes*. If they do not intend to “participate” in the discussion, they follow the same procedures as elected officials: make the oral declaration, abstain, and follow up with the written form within 15 days. If they do intend to “participate”, they must abstain but must make their disclosure before they participate and follow the process in Section 112.3143(4) F.S. the timing of which can be cumbersome and legal counsel may advise the local officer to abstain.
 - c. Also see Section 286.012, F.S. which permits an elected or appointive official to abstain if there is the appearance of a possible conflict of interest under Section 112.3143, F.S. among other circumstances. However it should be kept in mind that there is a mandatory requirement to vote on a land use application unless there is a conflict of interest as defined in the applicable Florida Statutes.

VI. Traditional Planning Considerations.

1. **Character and Compatibility / Aesthetics.** Most comprehensive plans and codes seek to maintain a pattern of community character and compatibility to ensure orderly development. This requires an analysis of the present conditions of an area, as well as the types of development that may be permitted under the comprehensive plan and code. Expert testimony can have significant influence over these issues.
2. **Public Health, Safety and Welfare.** Comprehensive plans and codes also impose use and design restrictions geared toward minimizing adverse impacts on surrounding areas and adjacent properties. While these concerns are often less subjective than character, compatibility and aesthetics, they still give rise to opinion-driven controversies that often require expert testimony to resolve.
3. **Issues.** Virtually every Florida local government wrestles with traditional planning concerns in most land use decisions. Some common issues are:

- a. While planning decisions often have a subjective or opinion driven element to them, from a legal standpoint it is very important that decision makers operate within the parameters set forth in their comprehensive plans and codes;
- b. Because planning issues are expert driven, it is very important that decision makers receive a thorough and detailed analysis from their expert staff. In order for decision makers to be in a legally defensible position in their decisions, the staff analysis should address all aspects of a proposal, both positive and negative. It should also address any applicable code or comprehensive plan provisions;
- c. In order to be in a legally defensible position, local governments must maintain consistency in their evaluation of development proposals, their application of regulations, and their decisions;
- d. Public expectations often clash with the reality of the land use process, with respect to the private interests asserted by both applicants and nearby property owners. Comprehensive plans and codes protect the general public interest, not the individual interest of a property owner, such that decisions (whether to approve or to deny development) must rest on the criteria and interests spelled out in those comprehensive plans and codes; and
- e. The process often forces decision makers to do a lot of filtering of testimony and information to narrow the focus onto those issues that are relevant for consideration. Land use attorneys put a lot of effort into keeping the reports, dialogue and decisions focused on the relevant issues under the comprehensive plans and codes.

VII. Infrastructure.

1. Needs / Impacts. The creation of new land uses, or the expansion of existing land uses, often generate additional needs for public infrastructure to support those uses (such as roads, schools, law enforcement resources, etc.). The additional needs generated by growth are described as “impacts” upon the infrastructure. The Community Planning Act places strict limitations on the ability of local government to restrict development on the basis of infrastructure impacts. Decisional case law regarding property rights can also pose challenges to local governments in requiring new development to address impacts upon public infrastructure.

2. Concurrency. Concurrency is the conceptual requirement that development take place in conjunction with the expansion or creation of the public infrastructure needed to serve it. The Community Planning Act contains a detailed subsection (§ 163.3180, *Florida Statutes*) governing concurrency regulations, which provides that:
 - a. All local governments *must* require concurrency for water, sewer and solid waste service and drainage. (At one time, road concurrency was also mandatory.)
 - b. Local governments *may* impose concurrency for other forms of infrastructure, so long as they comply with the requirements of the Act.
 - c. For roads and schools, local governments must analyze impacts and available infrastructure in accordance with strict guidelines that limit their ability to treat a proposed development as the cause of a failure of infrastructure.
 - d. For roads and schools, local governments must allow developers to enter into agreements to pay their proportionate fair share of needed infrastructure, rather than prohibiting development.
3. Exactions. An exaction is a condition imposed on a developer that requires a contribution to the government in exchange for the right to develop. Most exactions are imposed as part of a permit approval process (quasi-judicial), but some may be imposed by regulation (legislative). Exactions are often used to require a developer to mitigate infrastructure impacts pursuant to a concurrency management system. The U.S. Supreme Court has ruled that exactions give rise to potential violations of property rights, such that the following principles apply:
 - a. An exaction must be supported by a rational nexus between the property exacted from the developer and the impact of the development; and
 - b. The value of the property exacted must be roughly proportional to the impact the development will cause.
4. Impact Fees. Impact fees are fees charged to development to cover the cost to the government resulting from the infrastructure impacts from the development. Impact fees generally fall into the category of legislative exactions, but are also subject to the following legal standards and practices:
 - a. Like other exactions, impact fees must be supported by a rational nexus between the exaction of the funds and the impacts to infrastructure. This is

achieved through an impact fee study and the restriction of the use of the funds for specific capital improvements;

- b. Like other exactions, impact fees must be roughly proportional to the costs of the infrastructure generated by the development. This is achieved through periodic impact fee studies that are used to adjust fees based upon changes in infrastructure costs;
 - c. The Florida Impact Fee Act (§ 163.3180, *Florida Statutes*) requires that impact fees “be based on the most recent and localized data”, which generally requires studying the fees at least every five years;
 - d. Impact fee programs must include a mechanism to provide developers with credits against the fees for contributions to the government that meet the same general infrastructure needs; and
 - e. Impact fee programs should include a mechanism to individually analyze the impacts from a specific development and adjust the fees if unique aspects of the development provide for substantially different impacts than those assumed in the relevant study.
5. Issues. Infrastructure planning is one of the most challenging areas of land use law for the following reasons:
- a. Most needs are met through capital projects that are not easily reducible to units of growth. Growth related needs are often combined with needs of existing users. Many issues other than growth often drive the funding and timing of capital projects;
 - b. Often the resolution of infrastructure and concurrency issues requires a contractual relationship (through a local development agreement, participation agreement, etc.) between a developer and a local government to address specific improvements, allocate risks and responsibilities between the two parties and memorialize any additional entitlements the developer expects to receive for providing contributions over and above those required to address infrastructure impacts; and
 - c. Sometimes it is difficult to determine the dividing line between developers’ responsibilities and the responsibilities of the public.

VIII. Environmental Impacts.

1. General Police Powers. Land use police powers include the authority to establish and enforce regulations to protect environmental interests and limit environmental impacts. Environmental regulations must protect an identifiable public interest and must be able to withstand technical and scientific scrutiny.
2. Interface with State and Federal Laws. Numerous state and federal laws also apply to environmental issues. Some specific issues have been reserved to the state pursuant to statute (such as permits for pollution control and consumptive use permits for water). For most issues, however, local governments have the authority to establish their own regulations, so long as they are generally consistent with any overlapping state and federal laws, such as:
 - a. Federal Clean Water Act (for wetlands impacts, dredging and mining);
 - b. Federal Clean Air Act (for air pollution impacts);
 - c. Federal Endangered Species Act (for development approvals that impact protected species);
 - d. State Wetlands Protection Act / Uniform Mitigation Assessment Methodolgy (for wetlands impacts); and
 - e. State pollution control laws.

Each of the above laws also has implementing administrative regulations.

3. Standards Driven. Local environmental regulations must be articulated in comprehensive plans and codes. In reviewing local government decisions, courts look for clear and direct standards and supporting expert analysis.
4. Issues. The following specific concerns often arise in environmental controversies during land use proceedings:
 - a. Expert analysis and application of technical standards should determine the outcome, rather than personal opinion or ideology, notwithstanding the passions of the participants;
 - b. The overlapping laws and regulations can often require a complex analysis of the relevant factors and evidence, further constraining the options of decision makers; and
 - c. The analysis is often highly technical, and not easily explained to the public.

IX. Legal Recourse.

1. Direct Legal Challenges (LDC Amendments). An affected party may challenge an adopted land development code amendment on the grounds that it violates an applicable provision of state or federal law by filing a lawsuit.
2. Administrative Appeals (Comprehensive Plan Amendments / DRIs). An affected party may file an administrative appeal objecting to a comprehensive plan amendment (filed with DEO) or a DRI development order (filed with FLUWAC).
3. Mediation and Special Master Proceedings. Several statutory procedures are available to require a local government to engage in some form of mediation of a land use dispute. These include:
 - a. Appointment of a special magistrate pursuant to Section 70.51, *Florida Statutes*, to resolve any dispute over a development order;
 - b. Binding mediation regarding any decision of a local government to deny a request to amend a comprehensive plan pursuant to 163.3181(3), *Florida Statutes*; and
 - c. Alternative dispute resolution regarding a decision to finance a public capital project, pursuant to 163.3181(4), *Florida Statutes*.

In all cases, the decision of the mediator or special magistrate is non-binding, and must go back to the decision maker for ratification in accordance with the applicable land use procedure.

4. Certiorari Appeals. Pursuant to Rule 9.100(j), Florida Rules of Appellate Procedure, an affected party may appeal to circuit court any quasi-judicial decision of a local government. The court's review is limited to determining whether the decision (i) complied with the essential requirements of the law, (ii) afforded the affected party procedural due process, and (iii) was supported by competent and substantial evidence in the record. The court's authority is limited to overturning the decision of the local government and requiring it to reconsider the matter in accordance with the applicable land use procedure.
5. De Novo Challenges. Pursuant to Section 163.3215, *Florida Statutes*, an aggrieved or affected party may file a challenge in circuit court contesting any local government development order (including a denial of development approval) as inconsistent with the comprehensive plan. The court's review is "*de novo*", allowing the court to reconsider the facts and evidence in the record. The

court's authority is limited to overturning the decision of the local government requiring it to reconsider the matter in accordance with the applicable land use procedure, and enjoining the enforcement of the development order.

6. Property Rights Claims. Constitutional and statutory property rights laws provide property owners with several means to file claims against local governments in relation to land use issues. Typically, such actions are filed by applicants who have been denied a development application or subjected to a development order condition that restricts the use of their property or exacts a contribution from them. Such claims can seek both declaratory relief (asking the court to invalidate or bar enforcement of a regulation or decision) and money damages (asking the court to award compensation to the property owner).
 - a. Constitutional Sources. The federal and Florida constitutions include provisions prohibiting local governments from (i) taking property without just compensation and (ii) denying land owners due process. These have been construed to prohibit "regulatory takings" and unconstitutional exactions through the adoption or application of land use regulations. The decisions are fact-driven, requiring each case or situation to be individually analyzed.
 - b. Regulatory Takings / Penn Central. The courts recognize two forms of regulatory takings:
 - (i) Regulations that deprive property owners of all reasonable economically beneficial uses of their property; and
 - (ii) Decisions that overreach and deny a property the reasonable investment backed expectations for use of the property, in light of the public interest served by the regulations that drive the decisions.

Either may result in a taking of property, requiring compensation to the owner.

- c. Exactions / Koontz. Exactions that are not supported by a rational nexus and rough proportionality may also result in a taking of property, requiring compensation to the owner.
- d. Bert J. Harris Act. The Bert J. Harris Act (Section 70.001, *Florida Statutes*) provides an alternative means of making a claim against a local government that an action of the local government has unduly burdened the use of a property. It applies only to quasi-judicial decisions, and requires that the

applicant first go through a pre-litigation negotiation with the local government before filing in circuit court.

X. Legislative Update. During the 2015 legislative session the following two items passed the Senate and House and are of interest from a land use perspective:

1. Developments of Regional Impact: Senate Bill 216 (SB 216): The Legislature eliminated the process for review of large-scale projects known as the development of regional impact (DRI) process for future projects.
 - a. The DRI process was replaced with the procedures currently utilized for amendments to the comprehensive plan known as the State Coordinated Review Process. Thus public hearings at the transmittal stage are required to be held by the Local Planning Agency of the jurisdiction, usually the Planning Commission and by the governing board. The various state agencies submit comments on the proposed large scale project to the DEO (Department of Economic Opportunity) and the governing body. The comments of the specified State agencies are limited in scope to whether the large scale project will adversely impact important state resources and facilities. The adoption public hearing on the DRI development order is then held by the governing body.
 - b. Existing DRI development orders will continue to operate under the terms of Chapter 380, F.S.
 - c. This bill is pending before the Governor at the time these materials were prepared.
 - d. Effective Date: Upon becoming a law.
2. Private Property Rights: House Bill 383 (HB 383) applies to two different types of property rights claims:
 - a. Unconstitutional Conditions: Purports to create a new cause of action in Section 70.45, F.S. consistent with a recent opinion of the U.S. Supreme Court in the *Koontz* case (see Section IX.6. of this outline). Described as “Prohibited Exactions” in HB 383, a process is established for a notice of claim to be submitted by a property owner to a local government regarding an exaction required in writing on or after October 1, 2015 as a final condition of approval for the requested use of real property.

- (i) The right to bring an action under this section may not be waived by the express text in this section.
- (ii) This section does not apply to impact fees adopted under applicable law or non-ad valorem assessments as defined in applicable law.
- (iii) The governmental entity has the burden of proving that the exaction has an essential nexus to a legitimate public purpose and is roughly proportionate to the impacts of the proposed use that it sought to be avoided, minimized or mitigated.
- (iv) The property owner has the burden of proving damages that would result from a “prohibited exaction”.

b. Bert Harris Act Amendments.

- (i) House Bill 383 provides amendments to the definitions of “property owner” and the term “real property”.
- (ii) The timing of a settlement offer is broadened.
- (iii) Provides that actions taken by counties to adopt FEMA flood maps (Flood Insurance Rate Maps) are excluded from the scope of the Bert Harris Act under specified circumstances.
- (iv) H.B. 383 takes effect on October 1, 2015, unless other action is taken by the Governor.

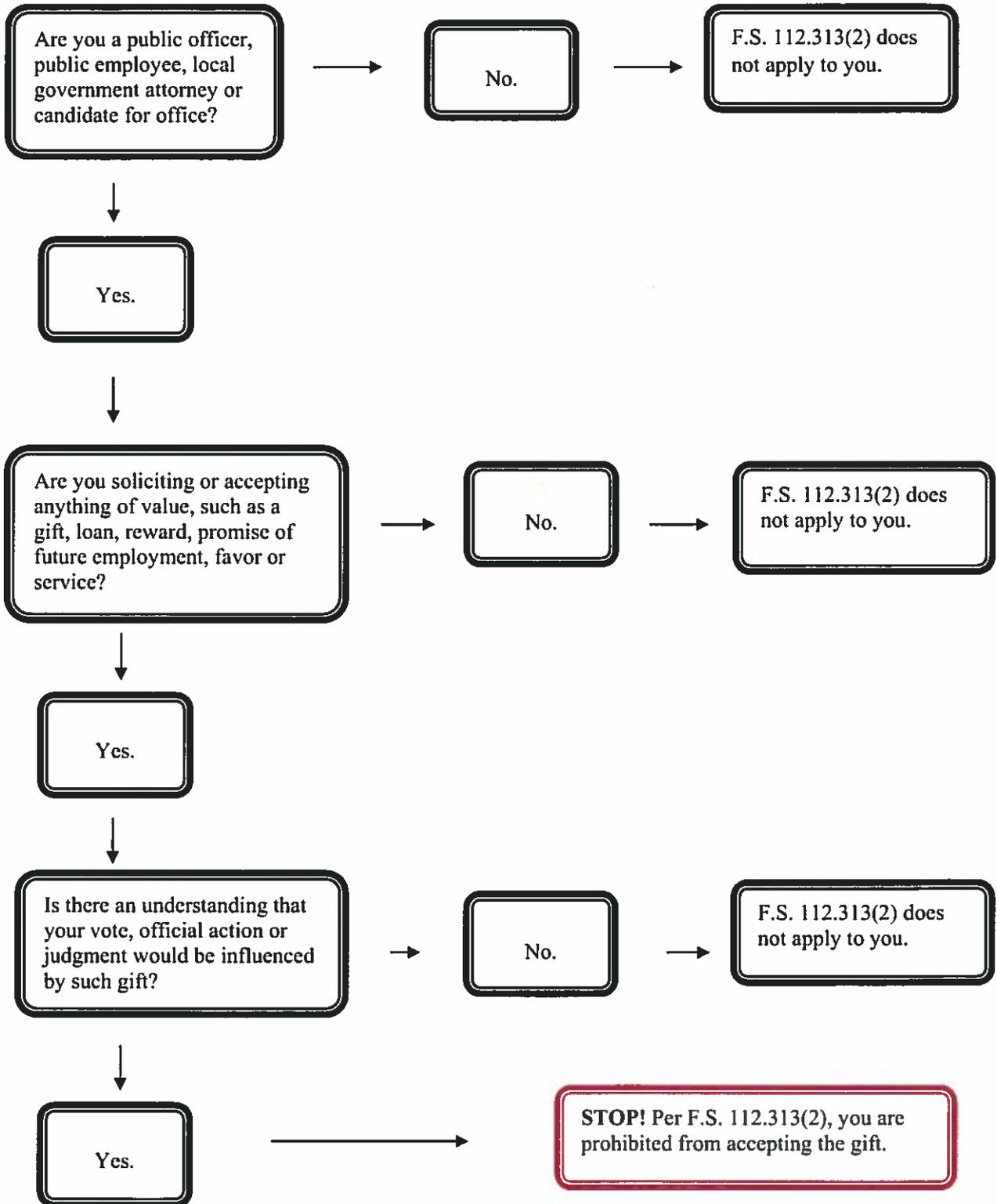
XI. Conclusion.

1. Complexity. Land use policy and decision making falls under a wide range of laws, some statutory, some based in case law. Because of the complexity of the laws and issues, it has developed over time into a specialized area of practice. It requires substantial experience and expertise to recognize the many potential legal issues that can arise during the different processes.
2. Purpose. Land use laws are generally geared toward assuring a formalized process that affords interested parties with the opportunity to assert their interest, while also allowing local governments to exercise their police powers to further the interests of the public. This requires a great deal of balancing, procedurally, policy-wise and in making decisions on development orders.

**ETHICS FOR ELECTED AND
APPOINTED OFFICIALS**

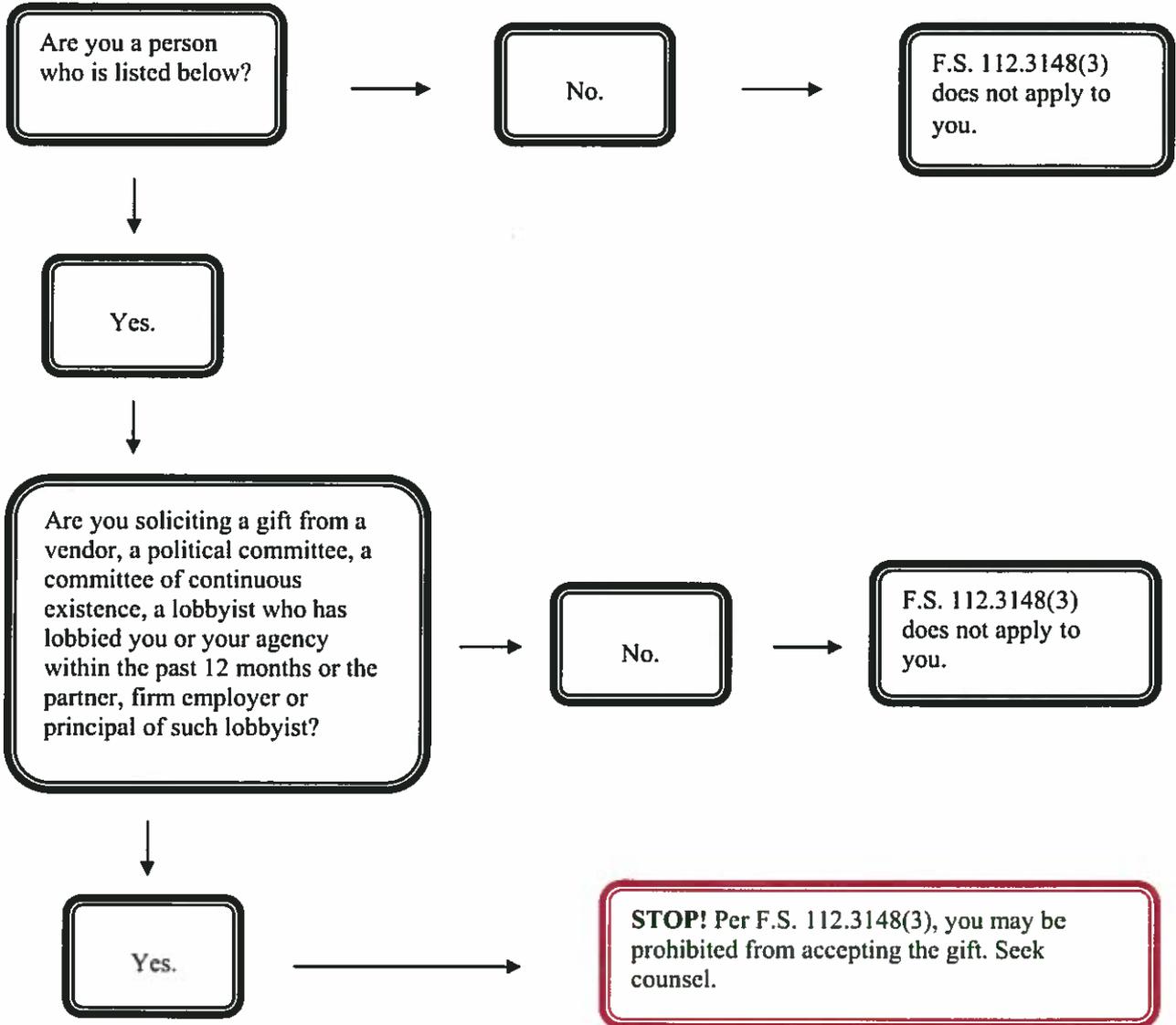
SOLICITATION AND ACCEPTANCE OF GIFTS
May 26, 2015

Flowchart Prepared by: Mitchell O. Palmer, County Attorney



SOLICITATION AND ACCEPTANCE OF GIFTS
May 26, 2015

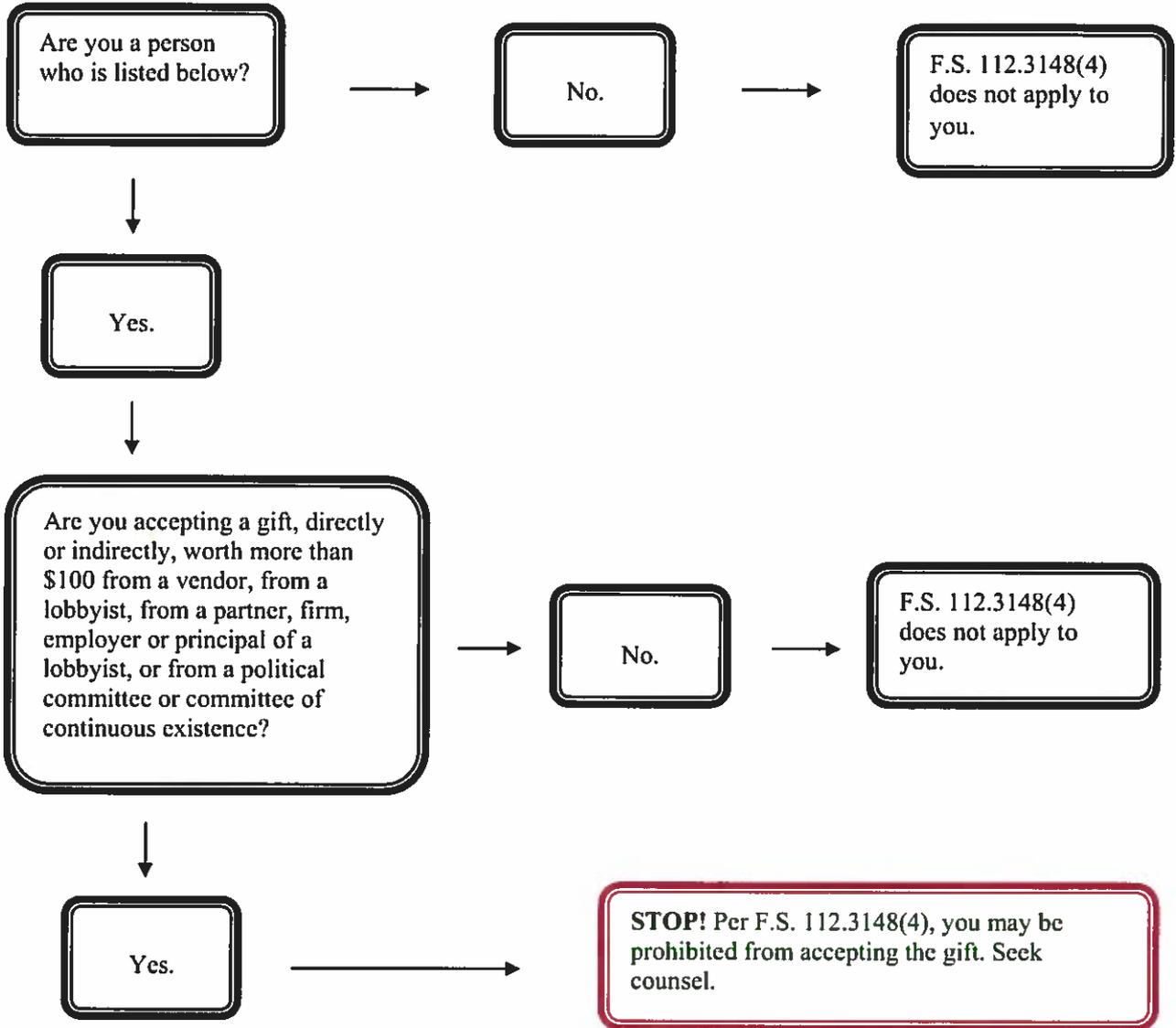
Flowchart Prepared by: Mitchell O. Palmer, County Attorney



Affected persons: County commissioners, city commissioners, school board members, constitutional officers, code enforcement board members, planning commission members, pension board members, mayors, county administrators, city managers, county and city attorneys, building officials, police chiefs fire chiefs, city clerks, school superintendents, candidates and candidates-elect for local office, and purchasing officials for local governments. Note that this not an exhaustive list; see F.S. 112.3145.

SOLICITATION AND ACCEPTANCE OF GIFTS
May 26, 2015

Flowchart Prepared by: Mitchell O. Palmer, County Attorney



Affected persons: County commissioners, city commissioners, school board members, constitutional officers, code enforcement board members, planning commission members, pension board members, mayors, county administrators, city managers, county and city attorneys, building officials, police chiefs, fire chiefs, city clerks, school superintendents, candidates and candidates-elect for local office, and purchasing officials for local governments. Note that this is not an exhaustive list; see F.S. 112.3145.

FLORIDA COMMISSION ON ETHICS



GUIDE to the
SUNSHINE AMENDMENT
and
CODE of ETHICS
for Public Officers and Employees

2015

State of Florida
COMMISSION ON ETHICS

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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, effective in 2006 and 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, effective May 1, 2013, 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. 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.]

5. 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, he or she 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.] A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from conflicts of interest arising from assets placed in the trust.

5. Lobbying State Agencies By Legislators

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. 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.]

7. 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.]

8. *Contractual Services: Prohibited Employment*

A state employee of the executive or judicial branches 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.]

9. *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.]

10. *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, and also 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) Persons 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 SUS or the PSC 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. 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.

4. 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.]

A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from voting conflicts of interest arising from assets placed in the trust.

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 Workforce 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, and the local boards of trustees and presidents of state universities.

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; 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: mayor; 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 \$20,000 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 \$20,000.
- 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 for elected local office must file FORM 1 together with and at the same time they file their qualifying papers.

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:

Each LOCAL OFFICER files FORM 1 with the Supervisor of Elections in the county in which he or she permanently resides.

A STATE OFFICER or SPECIFIED STATE EMPLOYEE files with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

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:

LOCAL OFFICERS file with the Supervisor of Elections of the county in which they permanently reside.

STATE OFFICERS and SPECIFIED STATE EMPLOYEES file with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

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 the city council and candidates for these offices in Jacksonville; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); and members of the Florida Housing Finance Corporation Board and the Florida Prepaid College Board; and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), or toll authorities created pursuant to Ch. 348 or 343, 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:

Incumbent officials must file FORM 6 annually by July 1 with the Commission on Ethics. CANDIDATES must file 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, the South Florida Regional Transportation Authority, and the Technological Research and Development 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

LOCAL OFFICERS and EMPLOYEES who must file FORM 1 annually will be sent the form by mail from the Supervisor of Elections in the county in which they permanently reside not later than JUNE 1 of each year. Newly elected and appointed officials or employees should contact the heads of their agencies for copies of the form or download it from www.ethics.state.fl.us, as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

ELECTED CONSTITUTIONAL OFFICERS, OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file annually FORM 1 or 6 will be sent these forms by mail from the Commission on Ethics by JUNE 1 of each year. Newly elected and appointed officers and employees should contact the heads of their agencies or the Commission on Ethics for copies of the form or download it from www.ethics.state.fl.us, as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

Any person needing one or more of the other forms described here may also obtain them from a Supervisor of Elections or from the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709. They are also available on the Commission's website: www.ethics.state.fl.us.

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.

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 principal 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 obtain a complaint form (FORM 50), by contacting the Commission office at the address or phone number shown on the inside front cover of this booklet, or you can download it from the Commission's website:
www.ethics.state.fl.us.

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: 850/922-4987

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 and elected municipal officers 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.

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. A comprehensive online training course addressing Florida's Code of Ethics, as well as Sunshine Law, and Public Records Act is available via a link on the Commission's homepage.

FORMS[Current Forms](#) | [Previous Years' Forms](#)**Current Forms and Filing Information**

*Link to the forms below for a printable version of current forms. These forms are in Adobe Acrobat format.

If you do not already have the Acrobat Reader installed in your browser, get a free version from [Adobe](#) or visit our [accessibility link](#) for screen reader downloads and/or alternative format options.

Form 1 2014	Statement of Financial Interests for the calendar year 2014. . . . [more information]
Form 1F 2015	Final Statement of Financial Interests for those who leave their public positions in 2015 [more information] Form 1F 2014 is located in Previous Years' Forms
Form 1X	Amendment to Statement of Financial Interests. . . . [more information]
Form 6 2014	Full and Public Disclosure of Financial Interests for the calendar year 2014 [more information]
Form 6A & 6B	JUDGES ONLY -- Canon 6B2, Code of Judicial Conduct, Gift Disclosure Form & Canon 6C, Code of Judicial Conduct, Report of Business Interests
Form 6F 2015	Final Full and Public Disclosure of Financial Interests for those who leave office in 2015 [more information]
Form 6X	Amendment to Full and Public Disclosure of Financial Interests. . . . [more information]
Form 8A	Memorandum of Voting Conflict for State Officers [more information]
Form 8B	Memorandum of Voting Conflict for County, Municipal and other Local Public Officers [more information]
Form 9	Quarterly Gift Disclosure [more information]
Form 10	Annual Disclosure of Gifts from Governmental Entities and Direct-Support Organizations and Honorarium Event Related Expenses [more information]
Form 20	Executive Branch Lobbyist Registration Form [Lobby Registration Office]
Form 30	Donor's Quarterly Gift Disclosure (Gifts between \$25 and \$100) [more information]
Form 40	Certification By Trustee of Qualified Blind Trust. . . . [more information]
Form 2	Quarterly Client Disclosure [more information]
Form 3A	Interest in Competitive Bid for Public Business [more information]
Form 4A	Disclosure of Business Transaction, Relationship, or Interest [more information]
Form 50	Complaint Form [more information]
Guide Order Form	Order the Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees

FORM 1

**STATEMENT OF
FINANCIAL INTERESTS**

2014

Please print or type your name, mailing address, agency name, and position below:

FOR OFFICE USE ONLY:

LAST NAME -- FIRST NAME -- MIDDLE NAME :

MAILING ADDRESS :

CITY : ZIP : COUNTY :

NAME OF AGENCY :

NAME OF OFFICE OR POSITION HELD OR SOUGHT :

You are not limited to the space on the lines on this form. Attach additional sheets, if necessary.

CHECK ONLY IF CANDIDATE OR NEW EMPLOYEE OR APPOINTEE

****** BOTH PARTS OF THIS SECTION MUST BE COMPLETED ******

DISCLOSURE PERIOD:

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR THE PRECEDING TAX YEAR, WHETHER BASED ON A CALENDAR YEAR OR ON A FISCAL YEAR. PLEASE STATE BELOW WHETHER THIS STATEMENT IS FOR THE PRECEDING TAX YEAR ENDING EITHER (must check one):

DECEMBER 31, 2014 OR SPECIFY TAX YEAR IF OTHER THAN THE CALENDAR YEAR: _____

MANNER OF CALCULATING REPORTABLE INTERESTS:

FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING:

COMPARATIVE (PERCENTAGE) THRESHOLDS OR DOLLAR VALUE THRESHOLDS

PART A -- PRIMARY SOURCES OF INCOME [Major sources of income to the reporting person - See instructions]
(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

PART B -- SECONDARY SOURCES OF INCOME
[Major customers, clients, and other sources of income to businesses owned by the reporting person - See instructions]
(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

PART C -- REAL PROPERTY [Land, buildings owned by the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

FILING INSTRUCTIONS for when and where to file this form are located at the bottom of page 2.

INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.

PART D — INTANGIBLE PERSONAL PROPERTY [Stocks, bonds, certificates of deposit, etc. - See instructions]
 (If you have nothing to report, write "none" or "n/a")

TYPE OF INTANGIBLE	BUSINESS ENTITY TO WHICH THE PROPERTY RELATES

PART E — LIABILITIES [Major debts - See instructions]
 (If you have nothing to report, write "none" or "n/a")

NAME OF CREDITOR	ADDRESS OF CREDITOR

PART F — INTERESTS IN SPECIFIED BUSINESSES [Ownership or positions in certain types of businesses - See instructions]
 (If you have nothing to report, write "none" or "n/a")

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2
NAME OF BUSINESS ENTITY		
ADDRESS OF BUSINESS ENTITY		
PRINCIPAL BUSINESS ACTIVITY		
POSITION HELD WITH ENTITY		
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS		
NATURE OF MY OWNERSHIP INTEREST		

IF ANY OF PARTS A THROUGH F ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

SIGNATURE OF FILER:

Signature: _____

Date Signed: _____

CPA or ATTORNEY SIGNATURE ONLY

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:
 I, _____, prepared the CE Form 1 in accordance with Section 112.3145, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

CPA/Attorney Signature: _____

Date Signed: _____

FILING INSTRUCTIONS:

WHAT TO FILE:

After completing all parts of this form, **including signing and dating it**, send back only the first sheet (pages 1 and 2) for filing.

If you have nothing to report in a particular section, you must write "none" or "n/a" in that section(s).

NOTE:

MULTIPLE FILING UNNECESSARY:
 A candidate who previously filed Form 1 because of another public position must at least file a copy of his or her original Form 1 when qualifying. A candidate who files a Form 1 with a qualifying officer is not required to file with the Commission or Supervisor of Elections.

WHERE TO FILE:

If you were mailed the form by the Commission on Ethics or a County Supervisor of Elections for your annual disclosure filing, return the form to that location.

Local officers/employees file with the Supervisor of Elections of the county in which they permanently reside. (If you do not permanently reside in Florida, file with the Supervisor of the county where your agency has its headquarters.)

State officers or specified state employees file with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303.

Candidates file this form together with their qualifying papers.

To determine what category your position falls under, see the "Who Must File" Instructions on page 3.

Facsimiles will not be accepted.

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 for publicly-elected local office must file at the same time they file their qualifying papers.

Thereafter, local officers/employees, state officers, and specified state employees are required to file by July 1st following each calendar year in which they hold their positions.

Finally, at the end of office or employment, each local officer/employee, state officer, and specified state employee is required to file a final disclosure form (Form 1F) within 60 days of leaving office or employment. However, filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if he or she was in their position on December 31, 2014.

NOTICE

Annual Statements of Financial Interests are due July 1. If the annual form is not filed or postmarked by September 1, an automatic fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500. [s. 112.3145, F.S. - applicable to non-judicial officials] Failure to file also can result in removal from public office or employment. [Ch. 2014-183, Laws of Florida]

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.]

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 members of solely advisory bodies, but including judicial nominating commission members; Directors of Enterprise Florida, Scripps Florida Funding Corporation, and Workforce 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; 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, and the local Boards of Trustees and Presidents of state universities.

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; 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; pension or retirement boards empowered to invest pension or retirement funds or determine entitlement to or amount of pensions or other retirement benefits.

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: mayor; 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 \$20,000 for the local governmental unit.

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, Assistant 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 \$20,000.

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.

INSTRUCTIONS FOR COMPLETING FORM 1:

INTRODUCTORY INFORMATION (At Top of Form):

If your name, mailing address, public agency, and position are already printed on the form, you do not need to provide this information unless it should be changed. To change any of this information, write the correct information on the form, and contact your agency's financial disclosure coordinator. Your coordinator is identified in the financial disclosure portal on the Commission on Ethics website: www.ethics.state.fl.us.

NAME OF AGENCY: This should be the name of the governmental unit which you serve or served, by which you are or were employed, or for which you are a candidate.

OFFICE OR POSITION HELD OR SOUGHT: Use the title of the office or position you hold, are seeking, or held during the disclosure period even if you have since left that position. If you are a candidate for office or are a new employee or appointee, check the appropriate box.

PUBLIC RECORD: The disclosure form and everything attached to it is a public record. Your Social Security Number is not required and you should redact it from any documents you file. If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address if you submit a written request for confidentiality. Persons listed in Section 119.071(4)(d), F.S., are encouraged to provide an address other than their home address.

DISCLOSURE PERIOD: The tax year for most individuals is the calendar year (January 1 through December 31). If that is the case for you, then your financial interests should be reported for the calendar year 2014; just check the box and you do not need to add any information in this part of the form. However, if you file your IRS tax return based on a tax year that is not the calendar year, you should specify the dates of your tax year in this portion of the form and check the appropriate box. This is the time frame or "disclosure period" for your report.

MANNER OF CALCULATING REPORTABLE INTEREST

As noted on the form, filers have the option of reporting based on either thresholds that are comparative (usually, based on percentage values) or thresholds that are based on absolute dollar values. The instructions on the following pages specifically describe the different thresholds. Check the box that reflects the choice you have made. You must use the type of threshold you have chosen for each part of the form. In other words, if you choose to report based on absolute dollar value thresholds, you cannot use a percentage threshold on any part of the form.

IF YOU HAVE CHOSEN DOLLAR VALUE THRESHOLDS THE FOLLOWING INSTRUCTIONS APPLY

PART A — PRIMARY SOURCES OF INCOME

[Required by s. 112.3145(3)(a)1 or (b)1, F.S.]

Part A is intended to require the disclosure of your principal sources of income during the disclosure period. You do not have to disclose the amount of income received, and you need not list your public salary from serving in the position(s) which requires you to file this form. 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, but not child support.

Examples:

— If you were employed by a company that manufactures computers and received more than \$2,500, then you should 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, then you should 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, then you should 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, you are required to list only each individual company from which you derived more than \$2,500, rather than aggregating 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), then you should list as a source of income the name of the purchaser, the purchaser's address, and the purchaser's 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 simply 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.

PART B — SECONDARY SOURCES OF INCOME

[Required by s. 112.3145(3)(a)2 or (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 as "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) during the disclosure period 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 thresholds listed above. You should list each tenant of the mall that provided more than 10% of the partnership's gross income, the tenant's address and principal business activity.

PART C — REAL PROPERTY

[Required by s. 112.3145(3)(a)3 or (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 previous tax year in excess of 5% of the property's value. You are not required to list your residences and vacation homes.

Indirect ownership includes situations where you are a beneficiary of a trust that owns the property, as well as situations where you are more than a 5% partner in a partnership or stockholder in a 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 current appraisal.

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.

PART D — INTANGIBLE PERSONAL PROPERTY

[Required by s. 112.3145(3)(a)3 or (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, Deferred Retirement Option Program (DROP) accounts, the Florida Prepaid College Plan, and bank accounts. 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 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).

PART E — LIABILITIES

[Required by s. 112.3145(3)(a)4 or (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 have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

PART F — INTERESTS IN SPECIFIED BUSINESSES

[Required by s. 112.3145(5), 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.

You are required to disclose in this part of the form the fact that you owned during the disclosure period an interest in, or held any of certain positions with, particular types of businesses listed above. 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 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, you must indicate that fact and describe the nature of your interest.

(End of Dollar Value Thresholds Instructions.)

IF YOU HAVE CHOSEN COMPARATIVE (PERCENTAGE) THRESHOLDS THE FOLLOWING INSTRUCTIONS APPLY

PART A — PRIMARY SOURCES OF INCOME

[Required by s. 112.3145(3)(a)1 or (b)1, F.S.]

Part A is intended to require the disclosure of your principal sources of income during the disclosure period. You do not have to disclose the amount of income received, and you need not list your public salary received from serving in the position(s) which requires you to file this form, but this amount should be included when calculating your gross income for the disclosure period. 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 when calculating your gross income and 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 5% of the gross income received by you in your own name or by any other person for your benefit or use during the disclosure period.

"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, but not child support.

Examples:

- If you were employed by a company that manufactures computers and received more than 5% of your gross income (salary, commissions, etc.) from the company, you should 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 5% of your gross income, then you should 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 5% of

your total gross income, then you should 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, you are required to list only each individual company from which you derived more than 5% of your gross income, rather than aggregating all of your investment income.

— If more than 5% of your gross income was gain from the sale of property (not just the selling price), then you should list as a source of income the name of the purchaser, the purchaser's address, and the purchaser's 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 5% of your gross income (or, alternatively, \$2,500) 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.

PART B — SECONDARY SOURCES OF INCOME

[Required by s. 112.3145(3)(a)2 or (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 as a "Primary Source 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 10% of your gross income from that business entity; **and**
- (3) You received more than \$1,500 in gross income 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 10% of your gross income—an amount that was more than \$1,500. 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 thresholds listed above. You should list each tenant of the mall that provided more than 10% of the partnership's gross income, the tenant's address and principal business activity.

PART C — REAL PROPERTY

[Required by s. 112.3145(3)(a)3 or (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 previous tax year in excess of 5% of the property's value. You are not required to list your residences and vacation homes.

Indirect ownership includes situations where you are a beneficiary of a trust that owns the property, as well as situations where you are more than a 5% partner in a partnership or stockholder in a 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 current appraisal.

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.

PART D — INTANGIBLE PERSONAL PROPERTY

[Required by s. 112.3145(3)(a)3 or (b)3, F.S.]

Describe any intangible personal property that, at any time during the disclosure period, was worth more than 10% of your total assets, 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, Deferred Retirement Option Program (DROP) accounts, the Florida Prepaid College Plan, and bank accounts. 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, CD's and savings accounts with the same bank.

Calculations: In order to decide whether the intangible property exceeds 10% of your total assets, you will need to total the fair market value of all of your assets (including real property, intangible property, and tangible personal property such as jewelry, furniture, etc.). When making this calculation, do not subtract any liabilities (debts) that may relate to the property. Multiply the total figure by 10% to arrive at the disclosure threshold. List only the intangibles that exceed this threshold amount. The value of a leased vehicle is the vehicle's present value minus the lease residual (a number which can be found on the lease document). Property that is only jointly owned property should be valued according to the percentage of your joint ownership. Property owned as tenants by the entirety or as joint tenants with right of survivorship should be valued at 100%. None of your calculations or the value of the property have to be disclosed on the form.

Example:

You own 50% of the stock of a small corporation that is worth \$100,000, the estimated fair market value of your home and other property (bank accounts, automobile, furniture, etc.) is \$200,000. As your total assets are worth \$250,000, you must disclose intangibles worth over \$25,000. Since the value of the stock exceeds this threshold, you should list "stock" and the name of the corporation. If your accounts with a particular bank exceed \$25,000, you should list "bank accounts" and bank's name.

PART E — LIABILITIES

[Required by s. 112.3145(3)(a)4 or (b)4, F.S.]

List the name and address of each creditor to whom you owed any amount that, at any time during the disclosure period, exceeded your net worth. You are not required to list the amount of any debt or your net worth. 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 have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

Calculations: In order to decide whether the debt exceeds your net worth, you will need to total all of your liabilities (including promissory notes, mortgages, credit card debts, judgments against you, etc.). The amount of the liability of a vehicle lease is the sum of any past-due payments and all unpaid prospective lease payments. Subtract the sum total of your liabilities from the value of all your assets as calculated above for Part D. This is your "net worth." You must list on the form each creditor to whom your debt exceeded this amount unless it is one of the types of indebtedness listed in the paragraph above (credit card and retail installment accounts, etc.). Joint liabilities with others for which you are "jointly and severally liable," meaning that you may be liable for either your part or the whole of the obligation, should be included in your calculations at 100% of the amount owed.

Examples:

— You owe \$15,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 (with spouse) to a savings and loan for a home mortgage. Your home (owned by you and your spouse) is worth \$80,000 and your other property is worth \$20,000. Since your net worth is \$20,000 (\$100,000 minus \$80,000), you must report only the name and address of the savings and loan.

PART F — INTERESTS IN SPECIFIED BUSINESSES

[Required by s. 112.3145(5), 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.

You are required to disclose in this part of the form the fact that you owned during the disclosure period an interest in, or held any of certain positions with, particular types of businesses listed above. 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 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, you must indicate that fact and describe the nature of your interest.

(End of Percentage Thresholds Instructions.)

Please print or type your name, mailing address, agency name, and position below:

FOR OFFICE USE ONLY:

LAST NAME — FIRST NAME — MIDDLE NAME:

MAILING ADDRESS:

CITY : ZIP : COUNTY :

NAME OF AGENCY :

NAME OF OFFICE OR POSITION HELD OR SOUGHT :

CHECK IF THIS IS A FILING BY A CANDIDATE

PART A -- NET WORTH

Please enter the value of your net worth as of December 31, 2014. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of December 31, 2014 was \$ _____.

PART B -- ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

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 effects (described above) is \$ _____.

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required - see Instructions p.4)

VALUE OF ASSET

PART C -- LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

PART D -- INCOME

You may *EITHER* (1) file a complete copy of your 2014 federal income tax return, including all W2's, schedules, and attachments, *OR* (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000, including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my 2014 federal income tax return and all W2's, schedules, and attachments.
 (If you check this box and attach a copy of your 2014 tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCES OF INCOME (See instructions on page 5):

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--see instructions on page 5]:

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E -- INTERESTS IN SPECIFIED BUSINESSES [Instructions on page 6]

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

PART F - TRAINING

For officers required to complete annual ethics training pursuant to section 112.3142, F.S.

I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA
 COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of

_____, 20__ by _____

 (Signature of Notary Public--State of Florida)

 (Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

 SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

 Type of Identification Produced

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, _____, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

 Signature

 Date

Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

NOTICE

Annual Full and Public Disclosure of Financial Interests is due July 1. If the annual form is not filed or postmarked by September 1, an automatic fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500.

[s. 112.3144, F.S. - applicable to non-judicial officials] Failure to file also can result in removal from public office or employment. [Ch. 2014-183, Laws of Florida]

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

WHAT TO FILE

File only the first sheet (pages 1 and 2). **Facsimiles will not be accepted.** A candidate who has filed Form 6 for 2014 with the Commission, prior to qualifying, may file a copy of that Form 6 at the time of qualifying.

WHERE TO FILE

Officeholders: Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303;

Candidates: The officer before whom they qualify. If a Form 6 is filed with a qualifying officer, it need not also be filed with the Commission.

WHEN TO FILE

Officeholders: No later than July 1, 2015.

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, Circuit Court Judges, County Judges, 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,

Justices of the Supreme Court, Judges of the District Court of Appeals, Judges of Compensation Claims; the Duval County Superintendent of Schools, and members of the Florida Housing Finance Corporation Board, the Florida Prepaid College Board, and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.

INSTRUCTIONS FOR COMPLETING FORM 6:

INTRODUCTORY INFORMATION (At Top of Form):

If your name, mailing address, public agency, and position are already printed on the form, you do not need to provide this information unless it should be changed. To change any of this information, write the correct information on the form, and contact your agency's financial disclosure coordinator. Your coordinator is identified in the financial disclosure portal on the Commission on Ethics website: www.ethics.state.fl.us.

NAME OF AGENCY: The name of the governmental unit which you serve or served, or for which you are a candidate.

OFFICE OR POSITION HELD OR SOUGHT: The title of the office or position you hold, are seeking, or held as of December 31, 2014, even if you have since left that position. If you are a candidate, check the box below your name and address.

PUBLIC RECORD: The disclosure form and everything attached to it is a public record. Your Social Security number is not required and you should redact it from any documents you file. If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address if you submit a written request for confidentiality.

PART A — NET WORTH

[Required by Art. II, s. 8(a)(i)(1), Fla. Const.]

Report your net worth as of December 31, 2014, 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 the liabilities reported in Part C from the assets reported in Part B 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 Part B of this form;
- (2) The value of all assets worth over \$1,000, as reported in Part B, and
- (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of "household goods and personal effects."

To total the amount of your liabilities, add:

- (1) The total amount of each liability you reported in Part C 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).

(CONTINUED on page 4) 

PART B—ASSETS WORTH MORE THAN \$1,000

[Required by Art. II, s. 8(a)(i)(1), 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 in Part A, 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; bank accounts; 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 Part A for your net worth.

— 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 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 appraisal of its 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 in a footnote 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).

PART C—LIABILITIES

[Required by Art. II, s. 8(a)(i)(1), Fla. Const.; s. 112.312(14), 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 in Part A, and list the amount you owe. 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 have signed as being jointly liable or jointly and severally liable, then this 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.

(CONTINUED on page 5) ➔

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.

PART D — INCOME

[Required by Art. II, s. 8(a)(i)(1), Fla. Const.]

As noted on the form, you have the option of either filing a copy of your complete 2014 federal income tax return, including all schedules, W2's and attachments, with Form 6, or completing Part D of the form. If you do not attach your tax return, you must complete Part D.

PRIMARY SOURCES OF INCOME:

List the name of each source of income that provided you with more than \$1,000 of income during 2014, 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, 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.

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, the tenant's address and principal business activity.

(CONTINUED on page 6) ➔

PART E – INTERESTS IN SPECIFIED BUSINESSES

[Required by s. 112.3145(5), 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 2014, 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.

PART F – TRAINING CERTIFICATION

If you are a Constitutional Officer whose term began before March 31 of the year for which you are filing, you are required to complete 4 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.

(End of Instructions.)

OTHER FORMS YOU MAY NEED TO FILE IN ORDER TO COMPLY WITH THE ETHICS LAWS

In addition to filing Form 6, you *may* be required to file one or more of the special purpose forms listed below, depending on your particular position, business activities, or interests. As it is your duty to obtain and file any of the special purpose forms which may be applicable to you, you should carefully read the brief description of each form to determine whether it applies.

Judges (Supreme Court, District Courts of Appeal, Circuit Courts, and County Courts) are required to file Form 6 by the Code of Judicial Conduct, Canon 6, which requires other disclosures as well. The forms listed below are *not* applicable to Judges, unless specifically noted below or if the Judge holds another public position to which these forms would apply.

Form 6F — *Final Full and Public Disclosure of Financial Interests:*

Required of elected constitutional officers, Judges, and others who must file financial disclosure using Form 6; to be filed within 60 days after leaving office or employment. This form is used to report financial interests between January 1st of the last year of office or employment and the last day of office or employment. [s. 112.3144(6), F.S.]

Form 6X — *Amended Full and Public Disclosure of Financial*

Interests: To be used by elected constitutional officers and others who must file financial disclosure using Form 6 to correct mistakes on previously filed Form 6. [s. 112.3144(6), F.S.]

Form 2 — *Quarterly Client Disclosure:*

Required of elected constitutional officers, local officers, state officers, and specified state employees to disclose the names of clients represented for compensation by themselves, or a partner or associate before agencies at the same level of government as they serve. The form should be filed by the end of the calendar quarter (March 31, June 30, Sept. 30, Dec. 31) following the calendar quarter in which a reportable representation was made. [s. 112.3145(4), F.S.]

Form 9 — *Quarterly Gift Disclosure:*

Required of elected constitutional officers and others who must file financial disclosure using Form 1 or 6 (as well as State procurement employees) to report gifts worth more than \$100. The form should be filed by the end of the calendar quarter (March 31, June 30, September 30, or December 31) following the calendar quarter in which the gift was received. [s. 112.3148, F.S.]

Form 3A — *Statement of Interest in Competitive Bid for Public Business*

Form 4A — *Disclosure of Business Transaction, Relationship, or Interest*

Form 8A — *Memorandum of Voting Conflict for State Officers*

Form 8B — *Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers*

Form 10 — *Annual Disclosure of Gifts from Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses*

WHO MUST FILE FORM 6:

Copies of these forms are available from the Supervisor of Elections in your county; from 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; and at the Commission's website: www.ethics.state.fl.us.

Questions about any of these forms 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.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED	NAME OF POLITICAL SUBDIVISION: MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting, *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

_____ Date Filed

_____ Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

