

The Florida Senate
HOUSE MESSAGE SUMMARY

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BILL: CS/SB 2

INTRODUCER: Rules Committee, Ethics and Elections Committee, Senator Latvala and others

SUBJECT: Ethics

DATE: April 24, 2013

I. Amendments Contained in Message:

House Amendment 1—005347 (body with title)
House Amendment 2—138921 (Technical; body)

II. Summary of Amendments Contained in Message:

House Amendment 1 refines the prohibition in Bill Section 3 concerning lobbying activities by former members of the Legislature. Specifically, it amends s. 112.313(9), F.S., to prohibit a former member from acting as a lobbyist for compensation before an executive branch agency, agency official, or employee for a period of two years after vacation of office.

This amendment also makes several changes to Bill Section 5 which creates s. 112.31425, F.S., concerning qualified blind trusts. First, it clarifies that a public officer may make a request for a distribution from the trust so long as the officer does not specify what source or assets within the trust the distribution must be made from. Next, it provides that the only people or entities who can serve as trustee are: a bank, trust company, institutional fiduciary, an attorney, a certified public accountant, a broker, or investment adviser. However, it provides that certain relatives and other acquaintances may not serve as the trustee or manager of the trust. Additionally, the amendment provides that all assets of the trust must be free of any restrictions with respect to transfer or sale and cannot contain assets that transfer or sale is improbable or impractical without the officer's knowledge. The amendment also requires the trustee to certify that the trust meets all requirements. In lieu of the certification, an officer may file a copy of the trust agreement with the Commission on Ethics. Finally, the amendment also requires the officer to file a complete list of assets placed in the trust with the Commission on Ethics. The officer would only be required to disclose assets that the officer would have to disclose on his or her annual financial disclosure form.

The amendment makes several changes to the voting conflicts provisions in Bill Section 6 (amending s. 112.3143, F.S.). Specifically, it refines the definitions of "principal by whom retained" and "special private gain or loss." The change to the definition of "principal by whom retained" clarifies that an agency is not a principal. Also, the amendment clarifies that the term "principal by whom retained" includes a corporate sibling of a company that retains a public officer. The term "special private gain or loss" is refined to require consideration of the degree of uncertainty at the time of the vote that there would be an economic benefit or harm to the officer,

his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered. The amendment provides a list of some of the factors to be considered in determining whether it is a special private gain or loss, including: the size of the class affected; the nature of the interests; the degree to which affected members of the class are affected; and, the degree that the officer, relative, business, associate, or principal receives a greater benefit or harm than other members of the class.

The amendment refines the methods provided in newly created s. 112.31455, F.S. (amending Bill Section 10), that the Commission on Ethics may use to collect unpaid automatic fines for failure to timely file financial disclosure. It removes the authority for the Commission on Ethics to obtain a lien on property and the exemption relating to liens on a single motor vehicle valued under \$10,000.

The amendment removes references to committees of continuous existence in Bill Section 13. That Bill Section prohibits certain "gifts" from political committees in newly created s. 112.31485, F.S.

Finally, the amendment refines Bill Section 17 concerning the complaint process in s. 112.324, F.S. The amendment gives the Commission discretion to determine whether to dismiss a complaint alleging a violation of the Code of Ethics, other than the financial disclosure provisions, which is a de minimis violation attributable to inadvertent or unintentional error.

House Amendment 2 is a technical amendment which replaces an omitted reference to a paragraph in a directory clause.