



# **ETHICS MASTER CLASS**

## **Key Requirements of the State Code of Ethics Applicable to Public Pension Trustees**

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# ETHICS REGULATION IN FLORIDA

## Article II, Section 8

- Creates constitutional guarantees concerning ethics in government
- Creates Commission on Ethics
- Amended in 2018!

## Part III, Chapter 112, F.S.

- Protects against conflicts of interest.
- Establishes standards of conduct for public officers and employees on state and local levels of government.
- Promotes public's confidence in public officials and government.

# FLORIDA COMMISSION ON ETHICS

- Nine member appointed board that is politically balanced.
- Primarily interpret and administer Art. II, s. 8, Fla. Const., and Part III, Chapter 112, F.S., via the issuance of advisory opinions and the investigation of ethics complaints/referrals.
- Oversees the filing of financial disclosure.



# PERSONS SUBJECT TO THE CODE OF ETHICS

- ALL public officers—both state and local elected and appointed (including public pension trustees)
- ALL public employees (state and local)
- Local government attorneys
- Candidates for public office
- Miscellaneous others

# COMPLAINTS!

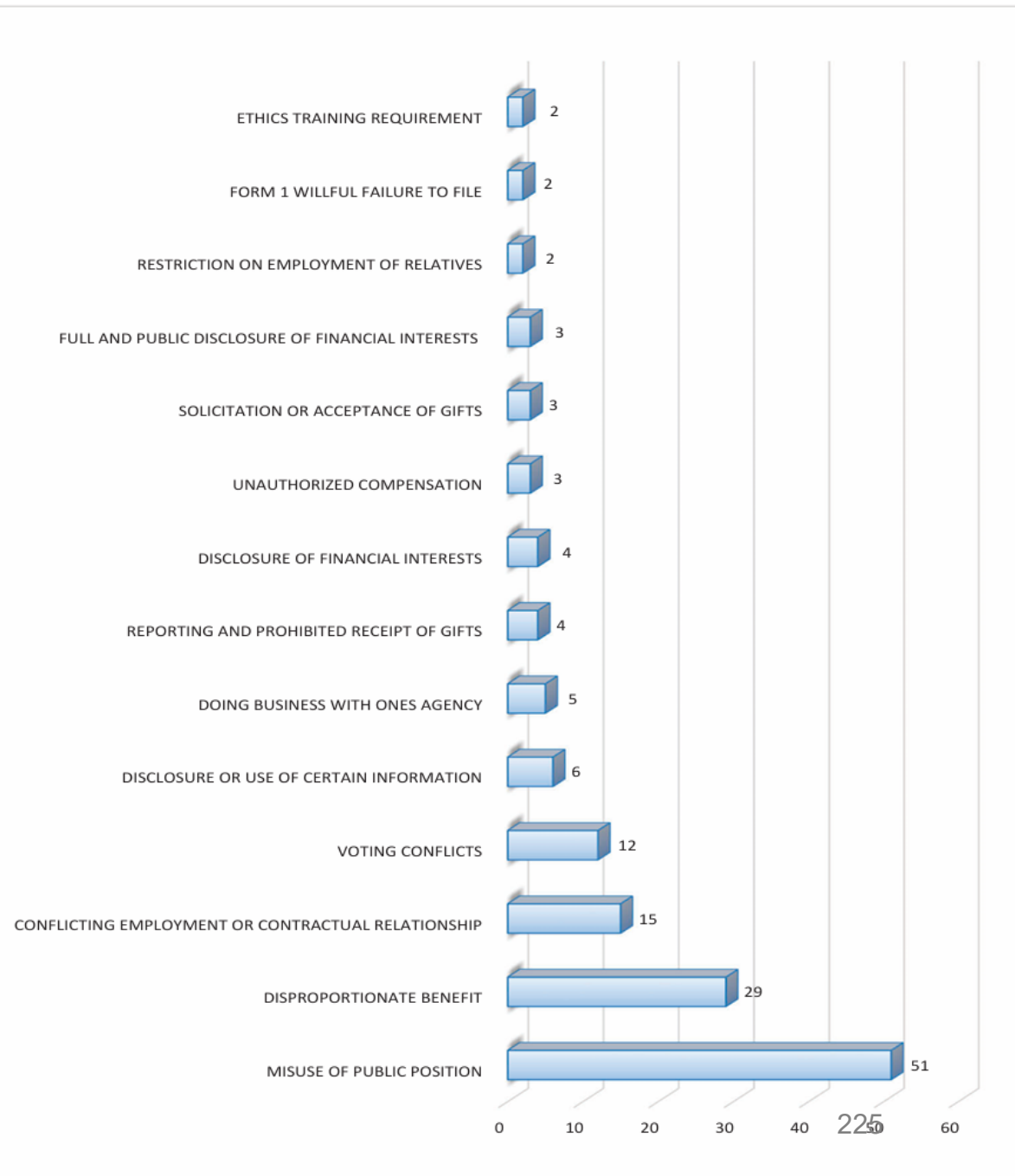
- May be filed by ANYONE possessing “personal knowledge or information other than hearsay.”
- Must be filed on a notarized, sworn “Form 50”
- Confidential during investigation/review
- Cannot be initiated by Commission\*
- 5-year statute of limitations. s. 112.3231, F.S.
- Since 2013 Commission also receives referrals from statutorily designated agencies

# ETHICS COMPLAINTS BY THE NUMBERS

- On average the Commission receives 250 ethics complaints and referrals a year.
- In **2023 the Commission received 292 complaints** and referrals.
  - 32.2% filed against elected municipal officials.
  - 23.6% filed against county elected officials
  - **6% filed against appointed officials**
  - 23.9% filed against state, county, and city employees
- Approximately 60% of complaints investigated annually.

# Ethics Complaints By The Numbers

## 2023 Complaint Allegations



# 2024 CHANGES TO ETHICS COMPLIANT PROCESS

- Creates statutory timeframes for steps of the State ethics investigatory process. If signed into law the bill's provisions related to investigations conducted by the Commission take effect October 1, 2024. SB 7014
- Additional portions of the bill, which become effective upon becoming a law:
  - Impose a “personal knowledge or information other than hearsay” requirement on all ethics complaints
  - Commission members are limited to two terms
  - Creates an exception for attorney/public servants required to file financial disclosure via Form 1 or Form 6 enabling them to complete Secondary Sources of Income disclosure section by writing "Legal Client" in the disclosure fields without providing any further information.
  - Requires all local political subdivisions, including local ethics commissions, to:
    - Require that ethics complaints must be written and signed under oath or affirmation;
    - Require that ethics complaint must be based upon “personal knowledge or information other than hearsay”;
    - Prohibit self-initiation of ethics complaints; and
    - Authorize recovery of costs and attorney fees by Respondents only



# WE WILL COVER

## Key Ethics Laws Applicable to Pension Trustees

- Gifts, Bribes, & Unauthorized Compensation
- Conflicts of Interest
- Voting Conflict
- Misuse of public office/information

## NEW Ethics Law Requirements

- New changes in financial disclosure requirements and process
- Prohibited Disproportionate Benefit

# REQUIREMENTS IN FINANCIAL DISCLOSURE



# WHO FILES FINANCIAL DISCLOSURE?

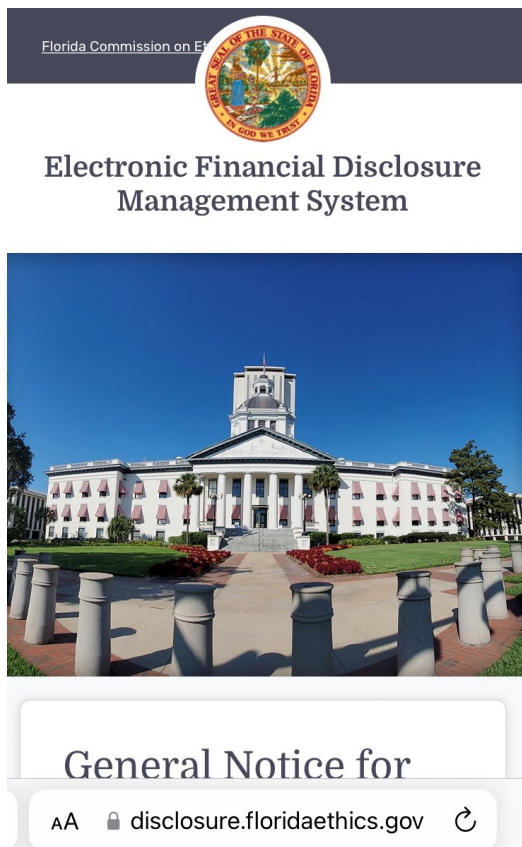
## Form 6 Full & Public Disclosure of Financial Interests (5,000 +filers)

- All constitutional officers
- Art. II, s. 8(a), Fla. Const.
- Section 112.3144, F.S.

## Form 1 Statement of Financial Interests (35,000+ filers)

- Local Officers  
(including all pension trustees)
- State Officers
- Specified State Employees
- Section 112.3145, F.S.

# NEW ELECTRONIC FINANCIAL DISCLOSURE MANAGEMENT SYSTEM



- Launched on January 1, 2022.
- Enables the **electronic creation, submission, and publication** of financial disclosures.
- ALL Form 1 filers are now required to **electronically** create and file disclosures
- <https://disclosure.floridaethics.gov>

# EFDMS PROCESS & RESOURCES FOR FILERS

## EFDMS Process

- EFDMS walks filers through each section of disclosure via Q & A process
- Affords more options for financial disclosure creation
- Filers may attach documents as needed
- Include full copies of tax returns in satisfaction of Income section

## EFDMS Resources

- EFDMS provides filers with pop-outs during process and FAQs
- Beginning soon the COE will offer additional financial disclosure tutorials
- Full instructions for each form available
- Filers may check the Commission's website at [www.ethics.state.fl.us](http://www.ethics.state.fl.us) to determine if form received

# KEY FORM 1 DISCLOSURE FACTS

- Initially due within 30 days of appointment or election
- Forms are due annually by **July 1** every year
- **After Sept. 1**, fines of \$25/day for up to 60 days (\$1,500)
- Failure to file financial disclosure in any calendar year can result in removal from public office/employment if willful.
- The only manner of calculating reportable interests is the **Dollar Value Threshold** method
- **Dollar Value Threshold:**
  - Disclose primary sources of income over \$2,500
  - Secondary sources > \$5,000
  - Liabilities over \$10,000
  - Real property in Fla.
  - Intangible personal property over \$10,000

# REDACTION REQUEST FOR PERSONAL INFO

## Florida Commission on Ethics Public Records Exemption Request

Florida law provides that an agency shall treat social security numbers, bank account numbers, and debit, charge, and credit card numbers as automatically exempt from public disclosure. In addition, Florida law allows eligible persons to submit a written and notarized request that a non-employing agency maintain as exempt from public disclosure certain identification and/or location information contained in records within the agency's custody.

The person entitled to the additional exemptions must submit a written and notarized request directly to this agency to maintain the exemption to the records in our custody. § 119.071(4)(d)3., F.S. You are not required to use this form; however doing so will help us keep your information confidential. Please return this completed form or a written and notarized request to: Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317.

If you or your spouse qualify; or if you are the child of someone who qualifies; you are eligible to receive additional public records exemptions. Please check the box for any of the following that apply:

### Active or Former:

- ☐ Sworn or civilian law enforcement personnel, including correctional and correctional probation officers.
- ☐ Department of Children and Families personnel whose duties include investigating criminal activities.
- ☐ Department of Health personnel whose duties are to support the investigation of child abuse or neglect.
- ☐ Department of Revenue or local government personnel whose responsibilities include revenue collection and enforcement or child support enforcement.

### Current or Active:

- ☐ General magistrate, special magistrate, judge of compensation claims, administrative law judge of the Division of Administrative Hearings, or child support enforcement hearing officer.
- ☐ County Tax Collector.
- ☐ Child protection team members.

### Current or Former:

- ☐ Department of Financial Services nonsworn investigative personnel whose duties include investigating criminal activities, workers' compensation coverage requirements and compliance, or state regulatory requirement violations.
- ☐ Supreme Court Justice, or judge of district court of appeal, circuit court, or county court.
- ☐ State attorney, assistant state attorney, statewide prosecutor, or assistant statewide prosecutor.
- ☐ Public defender, assistant public defender, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel.
- ☐ Human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager of any local government agency or water management district whose duties include hiring/firing employees, labor contract negotiation, administration, or other personnel-related duties.
- ☐ Code Enforcement Officer.
- ☐ Guardian ad litem, as defined in s. 39.820, F.S.
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- ☐ Juvenile probation officer, juvenile probation supervisor, detention superintendent, assistant detention superintendent, juvenile justice detention officers I and II, juvenile justice detention officer supervisor, juvenile justice residential officer, juvenile justice

residential officer supervisors I and II, juvenile justice counselor, juvenile justice counselor supervisor, human services counselor administrator, senior human services counselor administrator, rehabilitation therapist, or social services counselor of the Department of Juvenile Justice.

- ☐ Department of Business and Professional Regulation investigator or inspector.
- ☐ Department of Health personnel involved in determining or adjudicating eligibility for social security disability benefits, investigating or prosecuting complaints filed against health care practitioners, or inspecting health care practitioners or health care facilities licensed by the Department of Health.
- ☐ Impaired practitioner consultant retained by an agency, or employees of such a consultant.
- ☐ Certified emergency medical technician or paramedic.
- ☐ Personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating activities that could lead to criminal prosecution or administrative discipline.
- ☐ U.S. Attorney or Assistant U.S. Attorney, U.S. Courts of Appeal judge, U.S. district judge, or U.S. magistrate.\*
- ☐ Victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence (if applicable, must attach official verification that crime occurred; exemption applies only to individual victim of specified crime, not to the spouse or child of the victim).\*\*
- ☐ Certified firefighter.
- ☐ Nonsworn investigative personnel of the Office of Financial Regulation whose duties include investigating fraud, theft, criminal activities related to fraud or theft, and violations of state regulatory requirements.
- ☐ Child Advocacy Center Directors, managers, supervisors, and clinical employees.
- ☐ County addiction treatment facility directors, managers, supervisors, nurses, and clinical employees.
- ☐ Public guardians, and those employees of public guardians with fiduciary responsibilities.
- ☐ Staff and domestic violence advocates of domestic violence centers certified by the Department of Children and Families under Chapter 39, F.S.

☐ Yes, I qualify

☐ Yes, my spouse qualifies

☐ Yes, my parent qualifies

Printed Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

The residence address(es) you wish us to maintain as confidential \_\_\_\_\_

## 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.

SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE \_\_\_\_\_

## STATE OF FLORIDA COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of  
☐ physical presence or ☐ online notarization, 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 \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

\*-- If this category is selected, person also certifies, by signing this form, that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public.

\*\* -- Exemption valid for 5 years from date of request.



# GIFTS, BRIBES & UNAUTHORIZED COMPENSATION!





# ANTI-BRIBERY ETHICS REQUIREMENTS

## Prohibited Solicitation or Acceptance of Things of Value s. 112.313(2)

- Prohibits all public officers, public employees, local government attorneys, and candidates from asking for or accepting *anything of value* based upon an understanding that their vote, official action, or judgment would be influenced.

## Unauthorized Compensation s. 112.313(4), F.S.

- Prohibits all public officers, public employees, and local government attorneys, or their spouse or minor child, from accepting *anything of value* when the official knows, or under the circumstances should know, that it was given to influence a vote or other official action.

# GHOST CANDIDATE EXAMPLE



In re Alexis Pedro Rodríguez

Complaint No. 20-225, Final Order No. 21-031.

- In a 2020 tight Senate race involving then-incumbent candidate Sen. José Javier Rodríguez, the Respondent agreed to accept \$44,000 in exchange for changing his party affiliation, falsifying information on his financial disclosure filing as a candidate, and running as a no-party affiliation candidate.
- Fined \$20,000 and public censure and reprimand.

# ADVISORY OPINIONS APPLYING 112.313(2) & (4), F.S.

- CEO 21-1:** Finding that a police officer's acceptance of an offer from a landlord of reduced rent in exchange for off duty work at complex would not violate s. 112.313(2) or (4), F.S.
- CEO 14-26:** Finding that a City Council member's acceptance of a chamber of commerce designation of the councilmember's business as an "endorsed vendor" did not violate s. 112.313(2) and (4), F.S.
- CEO 80-27:** Finding that s. 112.313(4) would be violated where a university employee received a "meal card" which could be used for unlimited free meals from a food service company contracting with the university.

# ADDITIONAL GIFTS RESTRICTIONS APPLICABLE TO REPORTING INDIVIDUALS

- The traditional Gifts Law — s. 112.3148, F.S.
- Gifts from political committees — s. 112.31485, F.S.
- Honoraria Law — s. 112.3149, F.S.
- See also* Locality-Specific Restrictions Imposed by City or County

# THE GIFTS LAW

s. 112.3148, F.S.



- X Cannot solicit gifts from lobbyists, employers of lobbyists, and vendors of your agency.
- X Cannot accept gifts worth more than \$100 from lobbyists, principal/employers of lobbyists, vendors, certain others.
- ✓ Must report gifts worth more than \$100 received from non-restricted sources on Form 9
- ✓ May accept gifts of any value from relatives!
- ✓ Restricted donor giving gift valued at \$25 to \$100 must report the gift on Form 30 quarterly

# DEFINITION OF “GIFT”

## Definition of “gift” Includes:

- Tangible or intangible personal property
- Food or beverages
- Transportation
- Real property and use of real property
- Flowers and floral arrangements
- Entrance fees and tickets
- Preferential rates
- Membership dues
- Any other similar service or thing having an attributable value**

## Definition of “gift” does NOT Include:

- Salary/benefits/expenses associated with **private** "employment, business, or service as an officer or director of a corporation or organization"
- Campaign contributions
- Honorarium and honorarium event related expenses
- Awards in recognition of donee's "public, civic, charitable, or professional service"
- The use of public facility/property for public purpose
- And more!

# RESTRICTED DONORS: WHO ARE “LOBBYISTS” AND “VENDORS”?

## PAID TO PERSUADE

- “Lobbyist”: Anyone who, for compensation, is seeking or has sought in the last 12 months to influence the governmental decisions of a RIPE or his or her agency. s. 112.3148(2)(b), F.S.
- “Vendor”: A business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services. s. 112.3148(2)(f), F.S.

# ANTI-SOLICITATION RESTRICTION

s. 112.3148(3), F.S.

- A RIPE cannot solicit a gift, of **any** value, from a “lobbyist” who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a “vendor,” or certain others, *if* the gift is for the personal benefit of the RIPE, another RIPE, or immediate family of either.
- Limited exception for charitable solicitations—CEO 91-52 and CEO 95-25. *But see* CEO 23-5.



# PROHIBITION OF ACCEPTANCE:

s. 112.3148(4), F.S.

A RIPE cannot accept, directly or indirectly, a gift from a lobbyist who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a vendor, or political committee IF valued at **over \$100**.

- Reporting an impermissible gift will not cure its unacceptability.

# GIFTS FROM NON-RESTRICTED SOURCES

- Applies only to RIPEs
- Gifts from “relatives” of any amount can be accepted. s. 112.3148(1), F.S.
  - No reporting requirement
- Gifts from friends in community of any amount can be accepted BUT
  - Have to report if over \$100 on a Form 9
  - CEO 16-01 – Do not accept gift of over \$100 if friend is a lobbyist/vendor!

## **CASE STUDY INVOLVING GIFTS & BRIBES**

You are a pension board trustee. During a meeting of the board an acquaintance who is a partner in an actuarial firm providing services to the board via contract, offers you two tickets to the big game! During your conversation, he asks if you could help with the renewal of his firm's contract in light of these free tickets. What ethics issues does this raise, if any?

**CONFLICTS  
OF  
INTEREST**  
s. 112.313, F.S.

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**Doing Business with  
One's Own Agency**

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**&**

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**Conflicting  
Employment and  
Contractual  
Relationships**

# WHAT IS A CONFLICT OF INTEREST?

“Conflict” or “Conflict of Interest” means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

s. 112.312(8), F.S.



# CONFLICTS OF INTEREST

## Doing Business with One's Own Agency

- Cannot do business with a company in which you or your spouse or child are an officer/director, or own a material interest (of more than 5%)
- Cannot sell realty, goods, or services to your own agency

## Conflicting Employment & Contractual Relationship

- Cannot have an employment or contractual relationship with any businesses that is doing business with your agency/board
- Nor can you have employment or contractual relationships that causes a frequently recurring conflict with public duties

# EXEMPTIONS

- **Grandfathering**—Contracts entered into prior to qualification for elective office, **appointment to public office**, or beginning public employment are **automatically exempted**. *See* CEO 96-30 and CEO 09-1.
- Exemptions in s. 112.313(12), F.S.
  - Waiver of conflict by appointing board
  - Sole source of supply
  - Sealed competitive bid
  - Sales of less than \$500 in any calendar year
  - And more!
- Additional exemption in s. 112.313(16), F.S. *See* CEO 91-55.

# CONFLICTS OF INTEREST CASE STUDY

You are a Sunshine City Pension Board Trustee. In your private capacity you own a company, ABC Actuarial, that provides actuarial services throughout Florida. The Board needs an actuarial services provider. During a Board meeting you state that there is no need to undertake a competitive bidding process for these services as your company should be selected immediately. Thereafter, the Board votes to approve a contract with ABC Actuarial, and you abstain from the vote. What ethics issues does this scenario raise, if any?



# VOTING CONFLICT

s. 112.3143, F.S.

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- Memorandum of Voting Conflict (Form 8B)
- Applies only to members of collegial bodies



# IDENTIFYING & APPLYING VOTING CONFLICTS LAW

s. 112.3143, F.S.

Measure would result in a special  
(economic) private gain or loss TO YOU  
personally . . .

OR

Which you know would result in a  
**special private gain or loss** to:

- A relative
- A business associate
- A principal/employer by whom you are retained or the parent or subsidiary of your principal/employer

# WHAT TO DO:

s. 112.3143, F.S.

## Appointed Public Officers:

1. Publicly disclose conflict;
2. Abstain from voting; AND
3. File a memorandum (CE Form 8B) prior to vote or within 15 days.

Also, disclose conflict before participating in any discussion

# LAWS PERTAINING TO PROHIBITED CONDUCT



# MISUSE OF PUBLIC POSITION

s. 112.313(6), F.S.

All public officers, public employees, and local government attorneys are prohibited from **corruptly** using or attempting to use their public position or resources to secure a **special benefit, privilege, or exemption** for themselves or others.



# NEW PROHIBITED DISPROPORTIONATE BENEFIT

- Article II, Section 8 of the Florida Constitution.
- Effective **Dec. 31, 2020.**
- Rule 34-18.001, Florida Administrative Code.
- CEO 19-23 and CEO 21-1.
- Prohibits all public officers and employees from **abusing** their position in order to obtain a **disproportionate benefit** for:
  - Themselves
  - Spouse or Children
  - Employer
  - Any business entity with whom they contract or serve as officer, partner, director, **or** own an interest.

# MISUSE OF PUBLIC INFORMATION

s. 112.313(8), F.S.

- Applies to current and former public officers and employees.
- Prohibits using info gleaned in public capacity and not available to public for their personal benefit or for the benefit of persons or entities connected to them in a private capacity.

# PENALTIES

- Section 112.317, F.S., provides non-criminal penalties for current and former public officers and public employees, candidates for public office, and others.
  - Impeachment,
  - Removal/suspension from public office or employment,
  - Public censure and reprimand,
  - Forfeiture of up to one third of public salary,
  - Civil penalties \$20,000 per violation (as of May 11, 2023),
  - Restitution of pecuniary benefits received because of the violation.



# Forfeiture of Retirement Benefits

- Any public officer or employee who is convicted of a felony involving a **breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan** in such manner as may be provided by law.
- Art. II, s. 8(d), Fla. Const.
- **FORFEITURE.**—Any public officer or employee who is **convicted of a specified offense** committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination. s. 112.3173(3), F.S.

# Specified Offenses

s. 112.3173(1)(e), F.S.



- Embezzlement of public funds
- Theft by a public officer/employee from his/her public agency
- Bribery
- Felonies involving sexual battery or lewd acts against minors
- Committing of any felony by a public officer or employee who, willfully and with intent to defraud the public/public agency for which the public officer or employee acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person . . .