

Governor Signs Priority Legislation Amending Florida's Ethics Regulation & Campaign Finance Laws

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Without waiting for the last days of the 2013 Legislative Session, the Florida House and Senate sent two bills to Governor Rick Scott concerning changes to Florida's Campaign Finance laws and its Code of Ethics for Public Officers. Most involved amendments to Chapters 120 and 112, Florida Statutes. The bills were passed more than a week before the end of the legislative session, forcing the Governor to respond quickly. He signed them into law on May 1.

Campaign Finance Changes: CS/CS/CS/HB 569

A third committee version of House Bill 569, which was a priority of Florida's Speaker of the House, passed the House and Senate on April 24 by votes of, respectively, 79-34 and 37-2. Changes to the Florida Election Code include:

- Raising political contribution limits from \$500 to \$3,000 for statewide offices (and Florida Supreme Court retention contributions) and to \$1,000 for other offices. The prior \$500 limit on contributions to political committees is removed, resulting in no limit on contributions to those entities.
- Deleting a prior \$100 contribution limit placed on those under 18 years old.
- A quick phase-out of Florida's Committees of Continuous Existence (CCEs). CCEs were groups certified to make political contributions by the State under F.S. 106.04, now repealed, but required to operate based on a written charter or bylaws, with a portion of their funds drawn from dues. These dues were collected regularly from CCEs' members. Current CCEs must stop collecting contributions on August 1. Certification of current CCEs will be revoked on September 30.
- Enabling current CCEs to transfer all of their funds to a political committee.
- Maintaining one facet of CCEs – uniform contributions from the same person – but limiting the contribution to an aggregate of \$250 per year, allowing only aggregate contributions to political committees.
- Selecting a member of a political party's executive committee is now considered an "election" and is subject to campaign finance regulation.
- Amending reporting requirements for candidates to require more reports. Statewide candidates will now have to file weekly reports beginning 60 days before an election, and daily reports shortly before an election. Other candidates and political committees must now file bi-weekly reports and others on additional reporting days.
- Permitting elected officials to transfer more of their remaining funds from campaigns to "office accounts" for travel and other expenses, including hiring an attorney or CPA to assist with financial disclosure forms.
- Directing the Division of Elections to prepare a proposal for statewide electronic filing of all campaign finance reports.

Some of these provisions, especially those related to CCEs, will be phased in immediately. The remainder of the act becomes effective on November 1, 2013.

Ethics Reform: CS/SB 2

The Committee Substitute for Senate Bill 2, which was a priority of the Senate President, flew through the Senate and passed unanimously on March 5. In the House, the vote was 117-0 on April 24. The bill includes many changes to Florida's Code of Ethics for Public Officers and Employees, Part III of Chapter 112, Florida Statutes. Changes to the law include:

- Clarifying the circumstances in which a public elected official or candidate can also work for government. Under CS/SB 2, a person who has qualified as a candidate or who has been elected to public office can only accept public employment with the state or any of its political subdivisions if certain criteria are met. These criteria include: the position was not created for the individual, it was publicly advertised, all applicants go through the same application and hiring process, and the candidate or elected official meets or exceeds the required qualification for the position in question. This new provision

does not, however, change any of the other existing prohibitions on public employment, so the applicability of this provision will be dependent on the nature of the position sought.

- Broadening the two-year prohibition on lobbying after serving as an elected official. This provision impacts former members of the Legislature and now requires that a former member not serve as a lobbyist for compensation before the executive branch.
- Requiring four hours of annual ethics training for the Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.
- Setting up provisions for qualified blind trusts. The bill creates a new statutory section, s. 112.31425, which sets out the mechanics of setting up a qualified blind trust for a public officer and makes a specific finding that if a public officer creates a trust and does not control the interests held by the trust, then the public officer's action will not be deemed to have been influenced, or even appear to have been influenced, by private considerations related to that trust. The trust cannot be managed by a family member, other public officer, person appointed by or hired by the public officer, or a business associate. The creation of a qualified blind trust involves a public process including filing notice of the trust's existence with the Commission on Ethics.
- Clarifying the voting conflicts provisions for elected officials. The bill amends s. 112.3143 to include new definitions for "principal by whom retained" and "special private gain or loss." The bill then prohibits state public officer from voting on matters that inure to their special private gain or loss.
- Allowing public officers to correct their financial disclosure statements and barring action on an "immaterial, inconsequential, or de minimis error or omission" by the Commission on Ethics.
- Requiring that the Commission on Ethics submit a proposal on electronic financial disclosure reports, and providing that all disclosure reports filed since 2012 be placed online in a searchable database.
- Allowing for ethics fines to be taken out of a public official's salary, and authorizing the Commission on Ethics to hire a collection agency.
- Amending the definitions relating to voting conflicts and the process for dealing with voting conflict situations.
- Adding officeholders to the list of those who must publically disclose their finances, including community redevelopment agency board members and local finance directors.
- Barring political committees from giving gifts to procurement employees or their families.

This bill became effective upon becoming a law.

If you have questions regarding this alert, please feel free to contact us.