

CHAPTER XXIII

Public Ethics

I. INTRODUCTION:

Part III of Chapter 112, Florida Statutes, sets out the Ethics Code for Public Employees. The legislative declarations of intent are set out in Fla. Stat. § 112.311 (2003) beginning with the following:

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

Pursuant to Fla. Stat. §112.322(3) (2003), the Commission on Ethics has the authority to render written opinions regarding the interpretation of the Ethics Code. Opinions of the Commission on Ethics are available on their website at <http://www.ethics.state.fl.us/>.

Due to space limitations, Fla. Stat. §112.312 (2003), setting out the definitions, is not reprinted here. Please refer to this Statute for the general definitions pertaining to the Ethics Code.

II. STANDARDS OF CONDUCT FOR PUBLIC OFFICERS, EMPLOYEES OF AGENCIES AND LOCAL GOVERNMENT ATTORNEYS

Fla. Stat. §112.313 (2003)

(1) Definition.--As used in this section, unless the context otherwise requires, the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) Solicitation or acceptance of gifts.--No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) Doing business with one's agency.--No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or

services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) Unauthorized compensation.--No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) Salary and expenses.--No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) Misuse of public position.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with Section 104.31.

** In *Kinzer v. State of Florida Commission on Ethics*, 654 So.2d 1007 (Fla. Dist. Ct. App. 3d 1995), the Third District explained:

One of the key terms in subsection 112.313(6) is the word "corruptly." It is defined by statute as follows: " 'Corruptly' means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his public duties." *Id.* § 112.312(7). "The statutory definition of 'corruptly' in section 112.312(7) not only requires that the conduct complained of be done with a wrongful intent, it also requires that the 'act or omission' be 'inconsistent with the proper performance of [the public servant's] public duties.'" *Blackburn v. State Comm'n on Ethics*, 589 So.2d 431, 436 (Fla. 1st DCA 1991); *see also Tenney v. State Comm'n on*

Ethics, 395 So.2d 1244, 1246 (Fla.2d DCA 1981). *Kinzer v. State of Florida Commission on Ethics*, 654 So.2d 1007 (Fla. 3d Dist. App. 1995)

** Because Section 112.313(6) contains an intent element, the Commission on Ethics generally does not render advisory opinions concluding that an official's conduct did or did not constitute a violation of this provision. See Fla. Comm. on Ethics, Op. 94-01 (1994), where a city commission inquired whether its vote to pay for a children's book authored by the mayor violated Section 112.313(6) where the book also contained pictures of the city commissioners and information about the city. The advisory opinion process depends on the facts as set forth by the person requesting the opinion, and the Commission does not use it as a means to undertake an investigation that might reveal additional factors which bear on the question of intent. Fla. Comm. On Ethics, Op. 99-03 (1999).

(7) Conflicting employment or contractual relationship.--

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to Chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This Subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

** A conflict would be created if library personnel privately performed paid research for patrons where the county library provided similar services but for a fee payable to the county library system. Past opinions recognized that for a public employee to benefit privately from a situation in which her agency could participate officially suggests the possibility of, or potentiality for, an employee diverting agency-related business to herself for private gain. These concerns epitomize the prohibitions of the second part of Section 112.313(7) (a). Fla. Comm. on Ethics, Op. 90-75 (1990).

** In Fla. Comm. on Ethics, Op. 78-93 (1993), the Commission on Ethics concluded that a prohibited conflict of interest would be created where a city police officer owned a pawn shop, since the police department regulated pawn shops. In Fla. Comm. on Ethics, Op. 85-1 (1985) and Fla. Comm. on Ethics, Op. 88-76 (1976), the Commission on Ethics recognized that a prohibited conflict of interest would be created where game and fish commission officers provided security services to private landowners and hunting clubs within the geographical area they were assigned to, since the officers had an affirmative duty to check their employer and the employer's guests and associates to determine whether they had the appropriate licenses and permits and whether they were otherwise in compliance with applicable hunting laws. These two opinions also provided the rationale for finding a conflict in Fla. Comm. on Ethics, Op. 95-3 (1995), where a Marine Patrol officer's ownership of a marina and campground was found to be a conflict under the second part of Section 112.313(7) (a), Florida Statutes.

(8) Disclosure or use of certain information.--No public officer, employee of an agency, or local government attorney shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) Postemployment restrictions; standards of conduct for legislators and legislative employees.--

THIS SUBSECTION PROHIBITS MEMBERS OF THE LEGISLATURE, APPOINTED STATE OFFICERS, AND CERTAIN DESIGNATED PUBLIC EMPLOYEES (AT THE STATE LEVEL) FROM REPRESENTING ANOTHER PERSON OR ENTITY FOR COMPENSATION DURING THE TERM OF OFFICE AND FOR A PERIOD OF TWO YEARS AFTER LEAVING OFFICE. PLEASE SEE THE REMAINDER OF SUBSECTION (9) (a) AND (b) FOR SPECIFIC LANGUAGE.

(10) Employees holding office.--

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

** Tenured school teacher, who, after taking personal leave of absence without pay, was reelected to position on school board was not employee of school board, in that she performed no teaching services, received no compensation, and was not under control of board, even though her continuing contract as tenured teacher created expectancy of future employment; thus, teacher was

not in violation of statute prohibiting employee of state agency or political subdivision of state from holding office as member of governing board which is his or her employer. *Wright v. State of Florida, Commission on Ethics*, 389 So.2d 662 (Fla. Dist. Ct. App. 1st 1980)

** Purpose of statute prohibiting employee of state agency or political subdivision of state from holding office as member of governing board which is his or her employer is to prevent public employee or officer from holding two positions of employment or office at same time when such positions are in conflict; however, statute does not purport to prevent school teacher, on leave of absence without pay, from serving as member of school board. *Id.*

(11) Professional and occupational licensing board members.--No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) Exemption--The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;
2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Department of State, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to Section 1004.22 or Section 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) 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) 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 and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and
2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) County and municipal ordinances and special district and school district resolutions regulating former officers or employees.--The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of

employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

BE SURE TO CHECK LOCAL ORDINANCES FOR LOCAL REGULATIONS REGARDING POST EMPLOYMENT REPRESENTATION LIMITATIONS.

(14) Lobbying by former local officers; prohibition.--A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the governing body of which the person was an officer for a period of 2 years after vacating that office.

(15) Additional exemption.--No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under Section 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

- (a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;
- (b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and
- (c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in Section 112.3143.

(16) Local government attorneys.--

(a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

III. RESTRICTION ON EMPLOYMENT OF RELATIVES

Fla. Stat. §112.3135 (2003)

(1) In this section, unless the context otherwise requires:

(a) "Agency" means:

1. A state agency, except an institution under the jurisdiction of the Division of Universities of the Department of Education;
2. An office, agency, or other establishment in the legislative branch;
3. An office, agency, or other establishment in the judicial branch;
4. A county;
5. A city; and
6. Any other political subdivision of the state, except a district school board or community college district.

(b) "Collegial body" means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) "Public official" means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) "Relative," for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2)(a) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency

in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b) Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

State's amended anti-nepotism law did not apply to appointments to boards other than those with land planning or zoning responsibilities in municipalities with less than 35,000 population, and, thus, law would apply to town with population of approximately 4,000 people. *Kinzer v. State of Florida Commission on Ethics*, 654 So.2d 1007 (Fla. Dist. Ct. App. 3d 1995).

Under amended anti-nepotism law, which applied to town with population under 35,000 people, there was no impropriety in member of town commission voting on his wife's appointment to unpaid advisory board. *Id.*

The town council may not appoint the wife of the mayor or a council member to the position of maintenance supervisor even if the related member abstains from voting on such an appointment. The town council may appoint as maintenance supervisor the brother of the town clerk who is not a member of the council. The town council may employ as maintenance supervisor the husband of a secretary in the town clerk's office. Fla. Atty. Gen. Op. 80-70 (July 28, 1980).

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in Section 252.34(3), of individuals whose employment would be otherwise prohibited by this section.

(4) Legislators' relatives may be employed as pages or messengers during legislative sessions.

IV. VOTING CONFLICTS

Fla. Stat. §112.3143 (2003)

(1) As used in this section:

(a) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(b) "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(2) No state public officer is prohibited from voting in an official capacity on any matter. However, any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(3)(a) 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; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in Section 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to Section 163.356 or Section 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

** **"Special Private Gain"** A commissioner of an airport authority is subject to Section 112.3143, Florida Statutes, regarding measures concerning development (road realignment project and greenway project) affecting the quadrant of the authority's airport that fronts his neighborhood. The size of the class of residences affected, including the commissioner's, is such that the effect on the commissioner would be special. However, measures concerning development in the airport's other three quadrants would not subject the commissioner to Section 112.3143. Fla. Comm. on Ethics, Op. 99-12 (1999).

A City Commission member who has divested himself of all ownership in previously owned billboards, but retained an ownership interest in the land on which the billboards are located, is prohibited by Section 112.3143(3)(a), Florida Statutes, from voting to alter, negate, or amend the City's billboard ordinance. His vote in favor of amending, altering, or negating the ordinance would inure to his special private gain by permitting the properties' current lessee to continue to lease the properties and/or by removing his potential liability for code violation sanctions for the billboards remaining on his properties after the amortization period imposed by the ordinance has expired. Once the billboard structures are removed, no voting conflict of interest exists if the City Commissioner votes to amend, alter, or negate the ordinance, because any gain to him as a result

of his vote would not be a special gain due to the size of the class of people potentially affected in the same way by a change in the ordinance. Fla. Comm. on Ethics, Op. 97-16 (1997).

**** “remote or speculative” County** commissioners were not prohibited from voting on a resolution opposing regulations for the pulp and paper industry being proposed by the U. S. Environmental Protection Agency where they are employed by a paper mill which may be adversely affected by the regulations or where the spouse of one commissioner owns a logging business that contracts with a lumber company which supplies pulpwood to the mill. Under Section 112.3143(3), Florida Statutes, the measure would not inure to the commissioners' special private gain, to the private gain of their principal (the mill), or to the private gain of the spouse. The effect of the commission's resolution on EPA's final regulations and how those regulations will impact the local mill are too remote and speculative to find a special private gain under the circumstances. Fla. Comm. on Ethics, Op. 94-18 (1994).

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

(5) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

V. FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS

Fla. Stat. §112.3144 (2003)

(1) An officer who is required by Section 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics.

(2) A person who is required, pursuant to Section 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall not be required to file a statement of financial interests pursuant to Section 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part, except that a candidate for office shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(3) For purposes of full and public disclosure under Section 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as "household goods and personal effects":

- (a) Jewelry;
- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

(4) Forms for compliance with the full and public disclosure requirements of Section 8, Art. II of the State Constitution shall be created by the Commission on Ethics.

PLEASE REFER TO THE REMINDER OF SUBSECTION (4) FOR DETAILS REGARDING NOTICE OF DISCLOSURE DEADLINES, DELINQUENCIES, THE ASSESSMENT OF FINES, AND APPEALS.

(5) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under Section 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure

and may designate a person to be responsible for the notification requirements of this subsection.

(6) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

VI. DISCLOSURE OF FINANCIAL INTERESTS AND CLIENTS REPRESENTED BEFORE AGENCIES

Fla. Stat. §112.3145 (2003)

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) "Local officer" means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:

a. The governing body of the political subdivision, if appointed;

b. An expressway authority or transportation authority established by general law;

c. A community college or junior college district board of trustees;

d. A board having the power to enforce local code provisions;

e. A planning or zoning board, board of adjustment, board of appeals, 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 such other groups who only have the power to make recommendations to planning or zoning boards;

f. A pension board or retirement board having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or

g. 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.

3. Any person holding one or more of the following positions: mayor; county or city manager; chief administrative employee of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building code 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; district school superintendent; community college president; district medical examiner; or purchasing agent having the authority to make any purchase exceeding the threshold amount provided for in Section 287.017 for CATEGORY ONE, on behalf of any political subdivision of the state or any entity thereof.

PLEASE REFER TO THE REMAINDER OF SUBSECTION (1)(b) FOR PROVISIONS RELATING TO STATE EMPLOYEES AND OFFICERS.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers.

(b) Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or Section 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) State officers and specified state employees shall file their statements of financial interests with the Commission on Ethics. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure, in which case the statement shall be marked "not applicable."

PLEASE REFER TO SUBSECTION (3)(A) AND (B) FOR SPECIFIC DETAILS REGARDING DISCLOSURE REQUIREMENTS. THE FORMS, ALONG WITH INSTRUCTIONS, CAN BE FOUND AT THE COMMISSION ON ETHICS' WEBSITE AT <http://www.ethics.state.fl.us/>.

(4) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(5) Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to Section 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to Section 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

(6) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

PLEASE REFER TO THE REMAINDER OF SUBSECTION (6)(a) THROUGH (i) FOR SPECIFIC DETAILS REGARDING TIMELINES, DEADLINES FOR FILING, FINES AND APPEAL PROCEDURES.

(7)(a) The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(8) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(9) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

VII. REPORTING AND PROHIBITED RECEIPT OF GIFTS BY INDIVIDUALS FILING FULL OR LIMITED PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AND BY PROCUREMENT EMPLOYEES

Fla. Stat. §112.3148 (2003)

(1) The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a relative.

(2) As used in this section:

(a) "Immediate family" means any parent, spouse, child, or sibling.

(b)1. "Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to Section 11.045.

**** Many local governments have ordinances regarding Lobbyists – be sure to check within your jurisdiction for any local definition of “lobbyist”.**

(c) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to Section 8, Art. II of the State Constitution or Section 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(e) "Procurement employee" means any employee of an officer, department, board, commission, or council of the executive branch or judicial branch of state government who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in Section 287.012, if the cost of such services or commodities exceeds \$1,000 in any year.

(3) A reporting individual or procurement employee is prohibited from soliciting any gift from a political committee or committee of continuous existence, as defined in Section 106.011, or from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or the partner, firm, employer, or principal of such lobbyist, where

such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.

(4) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a political committee or committee of continuous existence, as defined in Section 106.011, or from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

** A legal defense fund may be established to assist a State legislator with the payment of his legal expenses, but contributions to the fund would be considered "gifts" for purposes of Section 112.3148, Florida Statutes. The fund would be prohibited by Section 112.3148(4), Florida Statutes, from accepting contributions in excess of \$100 from political committees, individuals who lobby the Legislature and their partners, firms, employers, or principals. Contributions made to it by others who are not included in the group of prohibited donors could be accepted, and those contributions that exceed \$100 would have to be reported on the legislator's CE Form 9 pursuant to Section 112.3148(8), Florida Statutes. Fla. Comm. on Ethics, Op. 98-08 (1998).

** Although the complimentary use of vacation villas for 56 days during the relocation to the county from another state of the county's newly hired Convention and Visitors Bureau Executive Director was valued at over \$100 (See Section 112.3148(7)(a), Florida Statutes), it was not given by a lobbyist or principal of a lobbyist of the Convention and Visitors Bureau, the Executive Director's agency. Therefore, under Section 112.3148(4), Florida Statutes, the gift was not prohibited. Furthermore, even if it were given by a lobbyist, Section 112.3148(4) also requires that the gift be "knowingly" accepted from a lobbyist. Under the circumstances presented, the executive director, not knowing about the company's proposal to the tourist development council, did not knowingly accept a gift valued at over \$100 from a lobbyist or principal of a lobbyist. Therefore, the gift would not have been prohibited. If the value of the gifts exceeded \$100, the executive director was required to report them on his CE Form 9 on the last day of the calendar quarter following the quarter during which he received the gift. Fla. Comm. on Ethics, Op. 96-021 (1996).

** Consistent with Fla. Comm. on Ethics, Op. 95-36 (1995), a legislator received a gift with a value in excess of \$100, where he accepted two tickets to an NBA playoff game, given to him by a county chairman. Although the tickets, which provided seating in the county's skybox at the municipal arena, were provided without cost to the county or its chairman, their valuation is controlled by the principles contained in Section 112.3148(7), Florida Statutes, and Rule 34-13.500, Florida Administrative Code. Specifically, the tickets are valued based on the cost of admission to persons with similar tickets. Therefore, Section 112.3148(4) prohibited the legislator from "knowingly" accepting a gift with a value in excess of \$100 from the principal of lobbyists who lobby the Florida Legislature. However, under the circumstances, it cannot be concluded that such a gift was "knowingly" accepted. Fla. Comm. on Ethics, Op. 96-02 (1996).

(5)(a) A political committee or a committee of continuous existence, as defined in Section 106.011; a lobbyist who lobbies a reporting individual's or procurement

employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of \$100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift which the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter, for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Division of Legislative Information Services in the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, when a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6)(a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to Section 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to Section 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

(c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of \$100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to such statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either Section 8, Art. II of the State Constitution or Section 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics.

(7)(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift.

(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(c) If the actual gift value attributable to individual participants at an event cannot be determined, the total costs shall be prorated among all invited persons, whether or not they are reporting individuals or procurement employees.

(d) Transportation shall be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses shall be considered a single gift. Transportation provided in a private conveyance shall be given the same value as transportation provided in a comparable commercial conveyance.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in Section 112.061(6)(a), less the meal allowance rate provided in Section 112.061(6)(b).

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(g) Membership dues paid to the same organization during any 12-month period shall be considered a single gift.

(h) Entrance fees, admission fees, or tickets shall be valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater.

(i) Except as otherwise specified in this section, a gift shall be valued on a per occurrence basis.

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis among all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the items provided divided by the number of persons invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

(k) The value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution, if the gift is provided by the charitable organization.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics on the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or Section 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.
2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.

(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.

(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.

(e) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.

(9) A person, other than a lobbyist regulated under Section 11.045, who violates the provisions of subsection (5) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(10) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.