

**CHARTER REVIEW COMMISSION
AGENDA**

Charter Review Commission- Wednesday, September 27, 2017 - 4:00 p.m.

City Hall - Second Floor Conference Room, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **NEW BUSINESS**
 - a. Election of Officers
 - b. Prioritization of Issues
 - c. Sunshine Law and Public Records Briefing - City Attorney
 - d. Establishing Future Meeting Schedule
4. **PUBLIC COMMENTS (3 minutes per person)**
5. **ADJOURNMENT**

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

Charter Review Commission

3.a.

Meeting Date: 09/27/2017

Re:

SUBJECT:

Election of Officers

Attachments

17-R17

17-R29 Appointments

RESOLUTION NO. 17-R17

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **ESTABLISHING A LIMITED CHARTER REVIEW COMMISSION**; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the existing Charter became effective on April 24, 1972; and

WHEREAS, since then, there has been no review of the Charter; and

WHEREAS, the City Commission desires to have a Limited Charter Review Commission review provisions of Article XII of the Charter regarding the Fort Pierce Utilities Authority ("Authority"), and propose any amendments or revisions that may be advisable for placement on the general election ballot on November 6, 2018.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. CREATION OF THE CHARTER REVIEW COMMISSION. The City of Fort Pierce, Florida hereby establishes a Limited Charter Review Commission ("CRC").

SECTION 2. CHARGE OF THE LIMITED CHARTER REVIEW COMMISSION.

The City of Fort Pierce CRC shall be charged with the task of undertaking a review of provisions of Article XII, "Fort Pierce Utilities Authority", of the Fort Pierce Charter as set forth in section 3, "Scope of Review," of this Resolution. The CRC shall make recommendations to the City Commission at the conclusion of its deliberations.

The CRC is authorized to make recommendations regarding any and all issues related to the amendment of the provisions of the Charter outlined in section 3 of this Resolution, and the deletion or creation of new provisions relating to the same. The City Commission has chosen not to limit the scope of the CRC's authority with regard to the provisions outlined in section 3 of this Resolution.

The CRC shall prepare its recommendations for amendments, deletions, or new provisions as a single item in a final report ("Final Report") to the City Commission. The CRC shall not issue interim or partial recommendations to the City Commission.

The Final Report of recommendations of the CRC shall be approved by a vote of not less than a majority of the voting members of the CRC.

This Charge shall expire and the CRC shall cease to exist forty-five (45) days after issuance of its final report, unless extended by majority vote of the City Commission.

SECTION 3. SCOPE OF REVIEW. The CRC is directed to render recommendations including but not limited to the following Charter provisions of Article XII, "Fort Pierce Utilities Authority":

- 1) Section 169, relating to the relationship between the Authority and the City;
- 2) Section 176, relating to the enumeration of specific powers and duties, including but not limited to service territory; and
- 3) Section 178, relating to the percentage of revenue paid to the City and/or methodology for calculating amount paid to the City.

SECTION 4. MEMBERSHIP. The CRC shall be composed of seven (7) members: five (5) appointed members, and a first and second alternate member. The City Manager and the Director of Utilities of the Authority, or their designees, shall serve as ex officio members without vote.

All members of the CRC shall either be residents of the City of Fort Pierce or St. Lucie County residents and an FPUA rate payer at the time of their appointment to the CRC and shall remain residents and/or rate payers during the entirety of the CRC's tenure. Any member who experiences a change in status as a resident or rate payer during the tenure of the CRC shall forfeit his or her membership on the CRC and shall be replaced by appointment of the appropriate alternate.

Each member of the City Commission shall appoint one (1) member. Two (2) alternate members shall be appointed by majority vote of the City Commission. The Chairperson shall be appointed by majority vote of the CRC.

If a member of the CRC resigns, the appropriate alternate shall be appointed to replace the resigning member.

Both alternate members shall attend all meetings of the CRC in order to be knowledgeable of the issues in the event that an appointment to the CRC occurs. However, during their tenure as alternates, the alternates shall not be actively involved in the deliberations of the CRC and shall not have any vote on the CRC.

The City Attorney or his designee shall be legal counsel to the CRC and attend meetings when requested by the Chairperson.

SECTION 5. TIMELINE. The following timeline shall apply to proceedings of the CRC:

- 1) The City Commission will appoint members to the CRC by September 5, 2017.
- 2) The first meeting of the CRC shall occur on or about September 11, and thereafter the CRC shall set its own meeting schedule.
- 3) No later than six (6) months after its first meeting, the CRC shall issue a Final Report containing its findings and recommendations to the City Commission.
- 4) After issuance of the Final Report, a joint meeting of the City Commission and CRC shall be scheduled to discuss the CRC's findings and recommendations.

SECTION 6. GENERAL PROVISIONS. The CRC is encouraged to undertake and complete its work in a timely fashion, while at the same time taking all necessary steps to ensure that it has conducted a thorough and responsible review of the provisions outlined in section 3 above. The CRC shall meet no less frequently than once each month and shall meet more often at its discretion. The CRC is encouraged to establish meeting times that will allow maximum opportunity for community participation.

All meetings will be scheduled by the CRC in coordination with and noticed by the Office of the City Clerk.

In order to ensure that the work of the CRC remains comprehensive and coordinated, the CRC shall conduct all of its meetings as a committee of the Whole. The CRC shall not establish committees or sub-committees.

A majority of the members of the CRC entitled to vote shall constitute a quorum for the transaction of business. All recommendations from the CRC for either approval or disapproval shall be by majority vote of the members of the board entitled to vote.

SECTION 7. ATTENDANCE. All members of the CRC shall attend all meetings of the CRC. Any member who shall miss more than two meetings consecutively, or more

than three meetings cumulatively, shall be automatically removed from membership on the CRC and shall be replaced by the designated alternate. The designated first and second alternate shall attend all meetings and shall be subject to the provisions of the preceding paragraph.

SECTION 8. PUBLIC INPUT. All meetings of the CRC shall be subject to the requirements of the Florida Government in the Sunshine Law. The CRC shall provide an opportunity for public comment at each of its regularly scheduled meetings and may adopt rules governing such public comment. The CRC shall hold a meeting early in its schedule that will solicit community input prior to initiating its deliberations on the substantive issues of the Charter review. The CRC shall hold a similar meeting to provide public input after it has produced its final version of any Charter amendments, prior to submitting its Final Report to the City Commission.

SECTION 9. CONDUCT OF MEETINGS. The CRC shall use the Roberts Rules of Order for Small Boards and Committees for the conduct of its business. The rules should be sufficient to allow for the efficient and effective conduct of its business but not so restrictive or complex as to hamper the free flow of opinion, or to prevent the open expression and examination of positions on issues under consideration.

SECTION 10. EXPERT WITNESSES, STAFFING AND CLERICAL SUPPORT.
The CRC is encouraged to solicit participation at its meeting from expert witnesses qualified by specialized knowledge, skill, experience, training, and/or education in matters that will assist the CRC in its charge, including but not limited to municipal government generally, or specifically, the history and creation of the relevant Charter provisions, and/or the organizational and financial relationship between the Authority and the City.

If recommended by the CRC, and contingent upon approval of the City Commission or its designee, the City will retain a consultant to provide technical assistance and guidance to the CRC in its review and deliberations and provide principal assistance with drafting any proposed revisions to the Charter. The City Clerk shall provide public notice and keep minutes of all CRC meetings and shall provide all clerical support. The City Manager's staff will provide additional clerical support to the work of the CRC as needed.

SECTION 11. FINAL REPORT. The CRC shall issue a Final Report containing its findings and recommendations to the City Commission at any time but no later than six (6) months after the first meeting of the CRC.

The Final Report shall include, but not be limited to, (1) the substance of any recommendations of proposed amendments, revisions, or repeals to the Charter, (2) the policy reasons for each recommendation, (3) estimated budget impacts for each recommendation, (4) the impacts of each recommendation on existing City laws, practices, and procedures, and (5) proposed ballot language for each recommendation.

Section 12. COMPLIANCE WITH APPLICABLE LAWS. The CRC, its members, and all of its proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, F.S. Ch. 286, the Florida Public Records Law, F.S. Ch. 119, and the Florida Code of Ethics, F.S. Ch. 112, and all other applicable local or state statutes, ordinances, or rules.

SECTION 13. EFFECTIVE DATE. This resolution shall take effect immediately upon its adoption.

IN WITNESS WHEREOF, this Resolution has been duly adopted this 7th day of August, 2017.

Linda Hudson
Mayor Commissioner

ATTEST:

Linda W. Cox, City Clerk

Approved as to Form
And Correctness:

James M. Messer, Esq.
City Attorney

RESOLUTION NO. 17-R29

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, **CERTIFYING THE APPOINTMENT OF MEMBERS TO THE CHARTER REVIEW COMMISSION;** PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED By the City Commission of the City of Fort Pierce, Florida, that the following be and are hereby appointed by the City Commission to serve as members of the Charter Review Commission established via Resolution No. 17-R17:

<u>Name</u>	<u>Appointed by:</u>
Gloria Johnson	Commissioner Alexander
Frank Fee, III	Commissioner Johnson
Eddie Becht	Commissioner Perona
Darrell Drummond	Commissioner Sessions
Ben Bryan, Jr.	Mayor Hudson
Harold Smyth	Alternate #1
Bob Burdge	Alternate #2

BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption.

IN WITNESS WHEREOF, this Resolution has been duly adopted this 5th day of September, 2017.

LINDA HUDSON, MAYOR COMMISSIONER

ATTEST:

LINDA W. COX, CITY CLERK

(CITY SEAL)

APPROVED AS TO FORM
AND CORRECTNESS:

JAMES MESSER, CITY ATTORNEY

Charter Review Commission

3.b.

Meeting Date: 09/27/2017

Re:

SUBJECT:

Prioritization of Issues

Attachments

Charter Provisions

Establishing Ordinance F399

Sec. 169. - Created; powers, duties, responsibilities generally; definitions.

- (a) There is hereby created and made a part of the government of the City of Fort Pierce a utilities authority to be known and designated as Fort Pierce Utilities Authority, City of Fort Pierce, Florida, which shall be responsible for the development, production, purchase and distribution of all electricity, gas, water, sanitary sewer collection and disposal, and such other utility services as may be designated by resolution by the city commission. The authority shall have exclusive jurisdiction, control and management of the utilities of the city and all of its operations and facilities. The authority shall have all the powers and duties possessed by the city to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems. The authority shall operate as a separate unit of the city government; and except as otherwise provided in this article, the authority shall be free from the jurisdiction, direction, and control of other city officers and of the city commission. The authority may sue or be sued in its own name. All damage claims arising from the operations of the authority and the utilities shall be the responsibility of and be liquidated by the authority from the appropriate funds of the utility systems.
- (b) For the purposes of this article, unless otherwise designated or the context requires, the word "authority" shall mean the Fort Pierce Utilities Authority, the word "member" shall mean a member of the Fort Pierce Utilities Authority, and the word "city" shall mean the City of Fort Pierce.

(Ord. No. F-399, § 1, 4-24-72)

Sec. 176. - Enumeration of specific powers and duties.

The authority in the efficient and economical operation of the city utilities, both inside and outside the city limits, shall have the following powers and duties.

- (1) To sell its products and services to public and private corporations and to other consumers; construct plants, transmission lines and other facilities and purchase real estate in the name of the city and to enter into all contracts, leases, and agreements in furtherance hereof. Franchises may be purchased with the approval of the city commission.
- (2) The utilities authority shall have power to supply water, electricity, gas, and sewer service for domestic and other purposes to individuals or corporations outside of the city, and to charge and collect reasonable rates, prices and compensation therefor, including the costs or any part thereof for extension of said services as determined by the utilities authority, and upon such terms as may be imposed by the utilities authority, and the utilities authority may charge a different rate but not a lesser rate for such consumers than is charged for a like class of customers within the corporate limits of the city. No extension of facilities or services outside the city limits for any of the utilities, including those utilities now under the contract of the utilities authority, shall be valid unless approved by the city commission. Any extension of facilities or services shall be based on a finding of the city commission that the extension of the facilities or services is in the best interests of the

city, and a surplus of the capacity of the facilities or system to be extended exists and present facilities and services and future expansions within the city limits of the City of Fort Pierce will not be impaired.

- (3) The authority may contract with any public or private corporation or any individual, both inside and outside the city limits, for the joint use of poles and other property belonging either to the city or to the other contracting party or jointly to both parties; and with the approval of the city commission for the joint acquisition of real property and franchises and the joint financing, construction, and operation of plants, transmission lines, and other facilities, whereby any property acquired may become the property of either or both the city and the other contracting party.
- (4) The authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the city whenever public necessity or convenience requires inside and outside the city limits in the manner provided by law.
- (5) The authority may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley, waterway, or other public way, in the operations of the utilities but shall, in all cases and subject to the applicable general regulations of the city, cause the surface of the public way to be restored to its usual condition.
- (6) The authority shall fix rates to be charged for gas, electricity, water, sanitary sewer, and other utilities services sold and services rendered. Provided, however, said utilities authority shall submit any rate changes or any changes in the formula by which rates are determined to the city commission. If a four-fifths ($4/5$) majority vote of the city commission does not disapprove of the proposed rate changes within thirty (30) days of the date of submission of said change or changes in the formula to the city commission, the rates or the formulas by which the rates are determined shall be deemed approved and shall become effective.

If a four-fifths ($4/5$) majority vote of the city commission disapproves any rate change or any change in the formulas by which the rates are determined within thirty (30) days, said rates shall not become effective and the previous rates or the formulas by which the rates were determined which were previously established shall remain in effect. If any rate changes or any changes in the formulas by which the rates are determined are not approved by the city commission, the city commission shall state the reasons for said disapproval. The city commission may by majority vote waive the thirty-day period for disapproval and approve same by a majority vote. Any rate adjustment resulting from fuel adjustment changes made in accordance with a previously approved formula will not have to be submitted to the city commission.

Rates shall be uniform for all consumers within the same class, but different rate schedules may be applied to different classes of consumers as determined by the authority. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation, capital outlay, all bond interest and redemption costs, and payments authorized by this article. The authority may require deposits as security for the payment of charges for utility services and may provide for the return of deposits when satisfactory consumer credit has been established.

- (7) No money shall be drawn from the funds of the utilities nor shall any obligation for the expenditure of money be incurred except as authorized by the authority. No claim against the authority shall be paid unless evidenced by a voucher approved by the utilities director or by some other employee to be designated by him.
- (8) The authority shall have the right, power and authority by resolution to issue and sell revenue bonds or certificates in such amounts as shall be deemed necessary to finance all or part of the costs of acquisition, construction, repairs, replacements, improvements, additions and extensions of the city's utilities and equipment required therefor. All of such revenue bonds or certificates issued by the authority shall be obligations of the City of Fort Pierce; provided, however, the authority shall have no power to pledge the full faith and credit of the city and nothing set forth herein shall be so construed. No referendum or freeholders' election shall be required as a condition precedent to the issuance of such revenue bonds or certificates. The bonds, or revenue certificates, shall be dated, shall bear interest, at such rate or rates not exceeding that established by state law, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the authority, and may be redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds or certificates. The authority shall determine the form of bonds, or certificates, including any interest coupons to be attached thereto, and the manner of execution, and shall fix the denomination or denominations, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The resolution authorizing the issuance of the bond, or certificates, shall contain such provisions relating to the use of the proceeds from their sale and for the protection and security of holders thereof, including their rights and remedies, and the rights, powers, privileges, duties and obligations of the authority with respect to the same, as shall be determined by the authority. In case any officer whose signature or facsimile of whose signature shall appear on any bonds, certificates or coupons shall cease to be such officer before the delivery of such bonds, or certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds, or certificates, issued under the provisions of this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code-Investment Securities Law of the State of Florida. The bonds, or certificates, may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law. All revenue bonds, or certificates, issued hereunder shall be advertised for sale on sealed bids, which advertisement shall be published once a week for two (2) weeks, the first publication to be made at least fifteen (15) days preceding the date advertised for the reception of bids, in a newspaper published in the City of Fort Pierce and also in a financial

paper designated by resolution. The authority may reject any and all bids. If the revenue bonds, or certificates, are not sold pursuant to such advertisement and public bidding, they may be sold by the authority at a private sale by negotiation or may be readvertised in the same manner for public sale. In the event of a private sale by negotiation, the authority may sell said certificates or notes upon the best terms offered therefor. Revenue bonds, or certificates, issued under the provisions of this act shall be payable from the revenues derived from the operation of the city's utilities or services under the supervision, operation and control of the authority and from any other funds legally available therefor. The authority is authorized to provide by resolution for the issuance of refunding revenue bonds, or certificates for the purpose of refunding any revenue bonds, or certificates heretofore issued by the City of Fort Pierce then outstanding or issued under the provisions of this article; providing, however, that any such refunding obligation shall only refund outstanding bonds and interest and redemption premiums therein at a lower net average interest cost rate; and to issue notes in the anticipation of the receipt of the proceeds of the sale of any such bonds, or certificates. The authority, with the consent of the city commission, may pledge the proceeds of utilities service[s] taxes, cigarette taxes, or franchise taxes (as defined in Chapter [section] 159.02, Florida Statutes 1969) or any other excise taxes or other funds which such authority is authorized to levy and collect or will have available, as additional security for the payment of the principal and interest on any revenue bonds or certificates issued hereunder, or for services for such debt services.

State Law reference— Neither credit nor taxing power pledged under Revenue Bond Act, F.S. § 159.04.

- (9) The authority may borrow money for periods not to exceed two (2) years and may issue negotiable notes, payable from the revenues of the utilities or a division thereof, as evidence of the loans, with the approval of the city commission. The action of the authority may be by resolutions which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption and public sale shall not be required.
- (10) The authority may authorize reasonable expenditures to advertise and otherwise promote the use of the utility services and to acquaint the public with the operations, programs, and planned expansion of the utilities.
- (11) The authority may invest idle funds in banks or savings institutions when qualified as city depositories, provided such investments are secured by direct obligations of the United States Treasury, or may invest idle funds in direct obligations of United States Treasury. The authority may also invest such idle funds in investments secured by indirect obligations of the United States of America.
- (12) The authority [shall], in addition to the reports and accounting it may otherwise be required by law to make, promptly after the close of the fiscal year, furnish the city commission its annual report which shall include the following statements as of the end of the preceding fiscal year: A balance sheet showing the financial condition of the utilities and each separate division, prepared as nearly as practical according to generally accepted public utility accounting principles; a

statement of operations for each division of the utilities; and any additional supporting statements or schedules deemed necessary and desirable by the city commission to make a clear and informative presentation of the financial position of the utilities. The reports shall be kept on file in the city clerk's office and shall be open to public inspection. The funds and accounts of the utilities shall be audited annually by a certified public accountant appointed by the city commission. The authority shall also annually prepare and adopt a budget for the ensuing year and furnish a copy to the city commission at least forty-five (45) days prior to the beginning of the next fiscal year.

If a four-fifths (4/5) vote of the city commission does not disapprove of any line item expenditures in said budget, or any amendments thereto within thirty (30) days of the date of submission to said city commission, said budget or any amendments thereto shall be deemed approved as submitted. The city commission may not increase any amounts in the proposed budget or amendments thereto, but may reduce by a four-fifths (4/5) vote of the city commission any line item in said budget or amendments thereto. The city commission may by majority vote waive the thirty-day period for disapproval and approve said budget, or any amendment thereto, by majority vote. Any expenditures disapproved shall not be authorized. No amendments to the utilities authority budget shall be authorized unless submitted to the city commission as set out herein.

Nothing contained herein shall be construed to prevent adoption of necessary and reasonable procedures for providing for emergency repairs and/or restoration or maintenance of services.

The fiscal year of the authority shall be the same as the City of Fort Pierce. The annual budget shall contain an amount anticipated to be transferred to the general fund of the city.

(Ord. No. F-399, § 8, 4-24-72; Ord. No. G-297, §§ 6, 8, 10, 9-20-76)

State Law reference— Powers of city as to public works, F.S. § 180.02.

Sec. 178. - Authorization to manage and operate financial affairs.

- (a) The utilities authority shall, except as specifically provided in Section 176 of this Chapter [Charter], have the exclusive power and authority to manage and conduct its financial affairs in accordance with generally accepted accounting principals applied to municipal utilities systems and the provisions of resolutions authorizing its revenue bonds and other obligations outstanding as of the effective date of the ordinance.
- (b) All revenues derived from the utilities after paying the necessary costs and expenses shall be applied to the payment of interest on and principal of bonds, revenue certificates, loans, and other obligations from monies borrowed, both senior and subordinate lien and to the sinking fund for the redemption thereof as required by law and ordinances under which said bonds were issued. The utilities authority shall set up reserve accounts and comply with all other provisions required by any revenue bonds and other obligations issued prior to [October 4, 1994,] the effective date of this ordinance [section].
- (c)

The utilities authority shall pay to the City of Fort Pierce each year a sum equal to six (6) per cent of the gross revenues as hereinafter defined, derived from the operation of the utilities for the preceding fiscal year, unless the city commission, by majority vote, agrees to accept a lesser percentage. This sum shall be paid on or before sixty (60) days after approval and acceptance of the audit for such fiscal year by the city commission.

- (d) (i) *Gross revenue* means all the income derived from retail sales of electricity, gas, and wastewater disposal; wholesale and retail sales of water; gains on sales of assets, interest, rents, royalties, dividends, and management fees.
- (ii) Where a power cost adjustment or purchase gas adjustment is utilized, "gross income" shall mean the amount billed based upon the applicable rate without a debit or credit for the cost adjustment.
- (e) All revenue bonds and other obligations or, other evidences of debt issued by the utilities authority subsequent to [October 4, 1994,] the effective date of this ordinance [section] shall comply with the provisions of Article XII. The utilities authority may issue revenue bonds, or other obligations or evidence of debt, varying from the requirements of this article, if said issue and terms are approved by majority vote of the city commission.
- (f) All other provisions not in conflict herewith of Article XII remain in full force and effect.

(Ord. No. F-399, § 10, 4-24-72; Ord. No. J-117, § 3, 8-15-94)

ORDINANCE NO. F-399

AN ORDINANCE AMENDING SECTION 14(33) OF THE CITY CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, (CHAPTER 57-1331, LAWS OF FLORIDA, AS AMENDED) CREATING AND ESTABLISHING THE FORT PIERCE UTILITIES AUTHORITY, CHANGING THE NAME AND DESIGNATION OF SAID AUTHORITY TO FORT PIERCE UTILITIES AUTHORITY IN LIEU OF FORT PIERCE UTILITIES COMMISSION, PRESCRIBING ITS POWERS, DUTIES AND AUTHORITY; PROVIDING THE MANNER, NUMBER AND TERMS, METHOD OF APPOINTMENT AND QUALIFICATIONS OF MEMBERS; PROVIDING THAT EMPLOYEE PENSION PLANS SHALL NOT BE AFFECTED; PROVIDING FOR A REFERENDUM; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, that:

SECTION 1. There is hereby created and made a part of the government of the City of Fort Pierce a utilities authority to be known and designated as "Fort Pierce Utilities Authority", City of Fort Pierce, Florida, which shall be responsible for the development, production, purchase and distribution of all electricity, gas, water, sanitary sewer collection and disposal, and such other utility services as may be designated by resolution by the City Commission. The Authority shall have exclusive jurisdiction, control and management of the utilities of the City and all its operations and facilities. The Authority shall have all the powers and duties possessed by the City to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems. The Authority shall operate as a separate unit of the City government; and except as otherwise provided in this Ordinance, the Authority shall be free from the jurisdiction, direction, and control of other City officers and of the City Commission. The Authority may sue or be sued in its own name. All damage claims arising from the operations of the Authority and the utilities shall be the responsibility of and be liquidated by the Authority from the appropriate funds of the utility systems. For the purposes of this Ordinance, unless otherwise designated or the context requires, the word "Authority" shall mean the Fort Pierce Utilities Authority, the word "member" shall mean a member of the Fort Pierce Utilities Authority, and the word "City" shall mean the City of Fort Pierce.

SECTION 2. The Authority shall consist of five (5) members, one of whom shall be the Mayor. In the discretion of the City Commission, the City Manager may serve as an ex officio member without vote, and whose term shall be set by the City Commission.

(1) The City Commission shall, within fifteen (15) days upon this Ordinance becoming law, elect by a majority vote, four (4) citizens with such qualifications as are provided for herein, one of whom shall serve for one (1) year, one of whom shall serve for two (2) years, and one of whom shall serve for three (3) years, one of whom shall serve for four (4) years, each of such terms to commence the first day of each new fiscal year. Thereafter, the term of office of each member shall be for four (4) years, but each elected member shall hold such office until his successor has qualified and been elected and furthermore, the said Authority shall, by a majority vote, nominate, and the City Commission elect all new members of the Authority; however, no member shall vote to nominate his successor. No member shall serve more than two (2) consecutive terms.

(2) Any vacancy in the Authority shall be filled for the unexpired term in the same manner as provided for appointment after the initial appointments. No vacancy in the Authority shall impair the right of the remaining members to exercise all the powers of the Authority. Any member may be removed from office by the City Commission for malfeasance, misfeasance or nonfeasance in office, or upon conviction of a felony.

(3) No person shall be a member unless he shall be a qualified elector of the City. No person who holds any other public office or who is an employee of the City Government or who has any business relationship with the Authority other than as a consumer shall be a member, except the Mayor and the ex officio member. A member ceasing to possess any of these qualifications shall be removed from his office forthwith by the City Commission.

(4) Each member shall be paid Twenty Dollars (\$20.00) per meeting actually attended; provided that no member shall receive more than Five Hundred Dollars (\$500.00) in any one calendar year. Members may be reimbursed for travel expenses and other expenses incurred in carrying out their duties.

(5) The authority by majority vote shall elect from among its members a chairman, who shall preside over the meetings of the Authority, a vice-chairman who shall act for the chairman during his absence, and a secretary. An election of officers of the Authority shall be held at the first regular meeting at which all members are present following the appointment of a new member for a full term, but not later than the fourth meeting following the appointment. The Authority shall adopt rules for the conduct of its meetings. No action shall be taken by the Authority except by the affirmative vote of at least three (3) members. Three (3) members shall constitute a quorum. The Authority shall meet at least once each month. All meetings shall be open to the public and minutes shall be kept of all meetings, copies of such minutes shall be furnished members of the City Commission within seven (7) days of such meeting. Special meetings may be called upon six (6) hours written notice thereof by the chairman or any three (3) members.

(6) All contracts shall be executed by the chairman or vice-chairman and secretary. All other instruments in writing necessary to be signed by the Authority shall be executed by the chairman or vice-chairman and secretary, or by such officer, agent or employee of the Authority as it may designate.

SECTION 3. The Authority may establish separate divisions for the electric, water, and other utility operations, respectively. Separate accounts shall be kept for each division and as may be found practical by the Authority in accordance with the uniform systems of accounts for sanitary sewer, gas, electricity, water and other utilities, as promulgated by the Public Utilities Commission of the State of Florida or the Federal Power Commission and according to generally accepted public utility accounting principles. Each division may be operated independently of the others, except insofar as the Authority determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated among the divisions by the Authority.

SECTION 4. The Authority shall have the power to appoint a utilities director to be responsible to the Authority and who shall serve at its pleasure. There shall be such other officers and employees as may be provided by the Authority. The officers shall be appointed or removed by the utilities director subject to confirmation by the Authority. The employees shall be appointed and removed by the utilities director. The Authority shall fix the salary of the utilities director and shall have, but may delegate to the utilities director, the power to fix the salaries of all other officers and employees of the Authority. The Authority shall also have the power to employ or appoint engineers, accountants, lawyers, and such other personnel as may be required for the operation and management of the utilities and to fix their compensation. Department heads shall be appointed by the Director subject to the approval of the Authority.

SECTION 5. The Authority may require surety bonds for any of the officers and employees in such amounts as the Authority deems necessary. The premiums for the bonds shall be paid in the same manner as any other operating expense.

SECTION 6. The Authority shall not have power to create or regulate a pension or retirement system, but shall utilize the existing City pension and retirement plans for its employees and shall make contribution to the cost of pension and retirement plans as may be, from time to time, required which cost shall be paid in the same manner as any other operating expense.

SECTION 7. The Authority may, in order to promote the efficient and economical operation of the utilities, with the approval of the City Commission, combine the operations of the utilities with other city operations, including, but not limited to, the following:

(1) Any officer or employee of the City at the time this act becomes effective, or who is appointed or employed thereafter, may serve as an officer or employee of the Authority, or in a dual or joint capacity, but in no event shall receive more than one salary as may be fixed by the Authority or by the City Commission, except the Mayor-Commissioner.

(2) Life, accident and health insurance plans for City employees may be utilized by the Authority for its officers and employees.

(3) Accounting, billing or any other operations or functions may be combined or operated jointly.

SECTION 8. The Authority in the efficient and economical operation of the city utilities, both inside and outside the city limits, shall have the following powers and duties.

(1) To sell its products and services to public and private corporations and to other consumers; construct plants, transmission lines and other facilities and purchase real estate in the name of the City and to enter into all contracts, leases, and agreements in furtherance hereof. Franchises may be purchased with the approval of the City Commission.

(2) The Authority may adopt regulations governing extensions of services both inside and outside the city limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory. The Authority may provide for the form of refunds where advances by the persons benefitted are necessary to make extensions compensatory. Any such regulations promulgated shall recognize existing contracts, agreements or understandings.

(3) The Authority may contract with any public or private corporation or any individual, both inside and outside the City limits, for the joint use of poles and other property belonging either to the City or to the other contracting party or jointly to both parties; and with the approval of the City Commission for the joint acquisition of real property and franchises and the joint financing, construction, and operation of plants, transmission lines, and other facilities, whereby any property acquired may become the property of either or both the City and the other contracting party.

(4) The Authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the City whenever public necessity or convenience requires inside and outside the city limits in the manner provided by law.

(5) The Authority may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley, waterway, or other public way, in the operations of the utilities but shall in all cases and subject to the applicable general regulations of the City, cause the surface of the public way to be restored to its usual condition.

(6) The Authority shall fix rates to be charged for gas, electricity, water, sanitary sewer, and other utilities services sold and services rendered. Rates shall be uniform for all consumers within the same class; but different rate schedules may be applied to different classes of consumers as determined by the Authority. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation, capital outlay, all bond interest and redemption

costs, and payments authorized by this Ordinance. The Authority may require deposits as security for the payment of charges for utility services and may provide for the return of the deposits when satisfactory consumer credit has been established.

(7) No money shall be drawn from the funds of the utilities nor shall any obligation for the expenditure of money be incurred except as authorized by the Authority. No claim against the Authority shall be paid unless evidenced by a voucher approved by the utilities director or by some other employee to be designated by him.

(8) The Authority shall have the right, power and authority by resolution to issue and sell revenue bonds or certificates in such amounts as shall be deemed necessary to finance all or part of the costs of acquisition, construction, repairs, replacements, improvements, additions and extensions of the city's utilities and equipment required therefor. All of such revenue bonds or certificates issued by the Authority shall be obligations of the City of Fort Pierce provided, however, the Authority shall have no power to pledge the full faith and credit of the City and nothing set forth herein shall be so construed. No referendum or freeholders election shall be required as a condition precedent to the issuance of such revenue bonds or certificates. The bonds, or revenue certificates, shall be dated, shall bear interest at such rate or rates not exceeding that established by state law, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds or certificates. The Authority shall determine the form of bonds, or certificates, including any interest coupons to be attached thereto, and the manner of execution, and shall fix the denomination or denominations, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The resolution authorizing the issuance of the bond, or certificates, shall contain such provisions relating to the use of the proceeds from their sale and for the protection and security of holders thereof, including their rights and remedies, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, as shall be determined by the Authority. In case any officer whose signature or facsimile of whose signature shall appear on any bonds, certificates or coupons shall cease to be such officer before the delivery of such bonds, or certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds, or certificates, issued under the provisions of this Ordinance shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code-Investment Securities Law of the State of Florida. The bonds, or certificates, may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law. All revenue bonds, or certificates, issued hereunder shall be advertised for sale on sealed bids, which advertisement shall be published once a week for two (2) weeks, the first publication to be made at least fifteen (15) days preceding the date advertised for the reception of bids, in a newspaper published in the City of Fort Pierce and also in a financial paper designated by resolution. The Authority may reject any and all bids. If the revenue bonds, or certificates, are not sold pursuant to such advertisement and public bidding, they may be sold by the Authority at a private sale by negotiation or may be readvertised in the same manner for public sale. In the event of a private sale by negotiation, the Authority may sell said certificates or notes upon the best terms offered therefor. Revenue bonds, or certificates, issued under the provisions of this act shall be payable from the revenues derived from the operation of the City's utilities or services under the supervision, operation and control of the Authority and from any other funds legally available therefor. The Authority is authorized to provide by resolution for the issuance of refunding revenue bonds, or

certificates for the purpose of refunding any revenue bonds, or certificates heretofore issued by the City of Fort Pierce then outstanding or issued under the provisions of this Ordinance, providing, however, that any such refunding obligation shall only refund outstanding bonds and interest and redemption premiums therein at a lower net average interest cost rate; and to issue notes in anticipation of the receipt of the proceeds of the sale of any such bonds, or certificates. The Authority, with the consent of the City Commission, may pledge the proceeds of utilities service taxes, cigarette taxes, or franchise taxes (as defined in Chapter 159.02, Florida Statutes 1969) or any other excise taxes or other funds which such Authority is authorized to levy and collect or will have available, as additional security for the payment of the principle and interest on any revenue bonds or certificates issued hereunder, or for services for such debt services.

(9) The Authority may borrow money for periods not to exceed two (2) years and may issue negotiable notes, payable from the revenues of the utilities or a division thereof, as evidence of the loans, with the approval of the City Commission. The action of the Authority may be by resolutions which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption and public sale shall not be required.

(10) The Authority may authorize reasonable expenditures to advertise and otherwise promote the use of the utility services and to acquaint the public with the operations, programs, and planned expansion of the utilities.

(11) The Authority may invest idle funds in banks or savings institutions when qualified as city depositories, provided such investments are secured by direct obligations of the United States Treasury, or may invest idle funds in direct obligations of United States Treasury. The Authority may also invest such idle funds in investments secured by indirect obligations of the United States of America.

(12) The Authority, in addition to the reports and accounting it may otherwise be required by law to make, promptly after the close of the fiscal year, furnish the City Commission, its annual report which shall include the following statements as of the end of the preceding fiscal year; a balance sheet showing the financial condition of the utilities and each separate division, prepared as nearly as practical according to generally accepted public utility accounting principles; a statement of operations for each division of the utilities; and any additional supporting statements or schedules deemed necessary and desirable by the City Commission to make a clear and informative presentation of the financial position of the utilities. The reports shall be kept on file in the City Clerk's office and shall be open to public inspection. The funds and accounts of the utilities shall be audited annually by a certified public accountant appointed by the City Commission. The Authority shall also annually prepare and adopt a budget for the ensuing year and furnish a copy to the City Commission at least forty-five (45) days prior to the beginning of the next fiscal year. The fiscal year of the Authority shall be the same as the City of Fort Pierce. The annual budget shall contain an amount anticipated to be transferred to the general fund of the City.

SECTION 9. Contracts and obligations relating to the utility systems of the City incurred prior to the taking effect of this Ordinance shall be binding upon the Authority insofar as they apply to the Authority.

SECTION 10. The Authority shall have the exclusive power and authority to manage and operate its financial affairs in accordance with the provisions of existing revenue certificate ordinances and the provisions of Section 140 of the present City Charter of the City of Fort Pierce, except that transfers of net revenues by the Authority to the City may be made monthly to the City Commission at the option of the City Commission.

SECTION 11. Contracts for services, construction, materials, supplies, equipment, or machinery where the cost, value or amount

exceeds five thousand (\$5,000.00) dollars, shall not be entered into or purchases made without competitive bidding and advertisement by a notice published at least once a week for two (2) consecutive weeks before the award of any contract in a newspaper having a general circulation in the City. Bids shall not be required to purchase patented and manufactured products offered for sale in a noncompetitive market or when the product can be obtained only from a sole source of supply, or where services cannot be contracted for upon the basis of competitive bidding. The provisions of this section shall not apply to any contract or agreement between the Authority and any engineers, architects, accountants, attorneys, or for other professional services; or to agents, or investment bankers, relating to financing herein authorized; or to contracts of a continuing nature where an extension thereof without bids shall be in the best interest of the Authority.

SECTION 12. All employees of the City of Fort Pierce on the effective date of this Ordinance who shall be under the supervision of the Authority shall continue without any loss of right or benefits as employees under the pension plans and civil service merit system of the City existing on the effective date of this Ordinance or hereafter.

SECTION 13. The powers and authority granted in this Ordinance to issue and sell revenue bonds or certificates shall not be deemed exclusive and the Authority may issue revenue bonds and certificates and may exercise any of the powers granted to the City under general laws of the State of Florida for the development, production, purchase and distribution of electricity, gas, water, sanitary sewer collection and disposal, and other utility services, with the approval of the City Commission, when the same is not inconsistent with the provisions of this Ordinance.

SECTION 14. Any revenue bonds, certificates or other obligations issued pursuant to this chapter shall be and constitute legal investments for bonds, savings banks, trustees, executors, administrators and all other fiduciaries for all state, municipal and public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal or other public funds notwithstanding the provisions of any other law or laws to the contrary.

SECTION 15. If any section, subsection, sentence, clause or provisions of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 16. All laws or parts of laws in conflict herewith are repealed.

SECTION 17. Section 14(33) of the City Charter of the City of Fort Pierce (Chapter 57-1331, Laws of Florida, as amended) is hereby amended to delete the name "Fort Pierce Utilities Commission" from said section and to substitute in lieu thereof the name "Fort Pierce Utilities Authority."

SECTION 18. This Ordinance shall become effective only upon approval by a majority vote of the qualified electors of the City voting in a referendum election to be held in the City of Fort Pierce, Florida, on the thirtieth (30th) day of May, 1972. The determination of the election results by the City Commission of the City of Fort Pierce shall be conclusive.

In the event such election is not held as authorized and provided this Ordinance is void.

SECTION 19. This Ordinance shall take effect thirty (30) days after approval thereof by the electors as provided for in Section 18 hereof.

ATTEST:


CITY CLERK


MAYOR COMMISSIONER

(CITY SEAL)

STATE OF FLORIDA)
ST. LUCIE COUNTY) ss

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. F-399 was duly introduced, read and passed on first reading by title only by the City Commission of the City of Fort Pierce, Florida, on April 17, 1972; copy of said Ordinance was posted in the City Hall and copies were made available at the office of the City Clerk to the public upon request during the time between the first and second readings of the Ordinance; and was duly read and passed on second and final reading by title only on April 24, 1972, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 25th day of April A.D., 1972.

Dennis B. Summerlin
MAYOR COMMISSIONER

R. L. James
CITY CLERK

(CITY SEAL)

EXCERPT FROM THE MINUTES OF A MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN COMPLIANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, AT 12:00 NOON, WEDNESDAY, MAY 31, 1972, IN THE CITY HALL CONFERENCE ROOM, 315 AVENUE "A", FORT PIERCE, FLORIDA.

Those present: Mayor Summerlin, Commissioners Lait and Padrick; City Manager Davis, City Attorney Brown and City Clerk James.
Those excused: Commissioners Caynon and Forbes. Also present: Supervisor of Elections Brooks.

Mayor Summerlin called the meeting to order.

CERTIFICATE OF THE BOARD OF CITY CANVASSERS
FORT PIERCE SPECIAL ELECTION HELD ON
THE 30TH DAY OF MAY, 1972

STATE OF FLORIDA)
ST. LUCIE COUNTY)

We, the undersigned, R. C. James, City Clerk, James P. Brooks, Supervisor of Elections, and Dennis B. Summerlin, Mayor-Commissioner of the Board of City Commissioners of said City, constituting the Board of City Canvassers of Elections in and for said City, do hereby certify that we met at the City Hall Conference Room on the 31st day of May, 1972, as shown by the returns on file in the office of said City Clerk and Supervisor of Elections, respectively, and we do hereby certify solely, exclusively and entirely from said returns that the whole number of votes cast

DO YOU FAVOR THE CREATION OF A UTILITIES
AUTHORITY OF THE CITY OF FORT PIERCE,
FLORIDA AS PROVIDED FOR IN ORDINANCE
NUMBER F-399

FOR THE ORDINANCE	1,367 votes
AGAINST THE ORDINANCE	466 votes
TOTAL VOTES CAST	1,834 votes

/s/ R. C. James,
City Clerk

/s/ James P. Brooks,
Supervisor of Elections

/s/ Dennis B. Summerlin,
Mayor Commissionr

Board of City Canvassers of
City of Fort Pierce, Florida

Motion was made by Commissioner Lait, seconded by Commissioner Padrick and unanimously carried that the results of the special election held on May 30, 1972 be certified as read by Supervisor of Elections James P. Brooks.

STATE OF FLORIDA
ST. LUCIE COUNTY
CITY OF FORT PIERCE

This is to certify that this is a true and correct copy of the records on file in this office.


CITY CLERK

DATE: October 2, 1985

(CITY SEAL)

Charter Review Commission

3.c.

Meeting Date: 09/27/2017

Re:

SUBJECT:

Sunshine Law and Public Records Briefing - City Attorney

Attachments

Sunshine Guide 2017

FLORIDA COMMISSION ON ETHICS



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

2017

State of Florida
COMMISSION ON ETHICS

Matthew F. Carlucci, *Chair*
Jacksonville

Michelle Anchors, *Vice Chair*
Ft. Walton Beach

Daniel Brady, PH.D.
Miami Shores

Matthew J. Carson
Tallahassee

Michael Cox
Trinity

Tom Freeman
DeBary

Guy W. Norris
Lake City

Kimberly Bonder Rezanka
Viera

Stanley Weston
Jacksonville

Virindia Doss
Executive Director
P.O. Drawer 15709
Tallahassee, FL 32317-5709
www.ethics.state.fl.us
(850) 488-7864*

*Please direct all requests for information to this number.

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I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

II. ROLE OF THE COMMISSION ON ETHICS

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use by Supervisors of Elections and the Commission in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

III. THE ETHICS LAWS

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.]

A. PROHIBITED ACTIONS OR CONDUCT

1. *Solicitation and Acceptance of Gifts*

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec.112.3148, Fla. Stat.]

However, effective in 2006 and notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than \$100 that formerly were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and

employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, effective May 1, 2013, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. Unauthorized Compensation

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. Misuse of Public Position

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. Disclosure or Use of Certain Information

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

5. Solicitation or Acceptance of Honoraria

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to \$5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or

FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

B. PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS

1. Doing Business With One's Agency

(a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

(b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. Conflicting Employment or Contractual Relationship

(a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]

(b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]

(c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. Exemptions—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

(a) When the business is rotated among all qualified suppliers in a city or county.

(b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

(c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.

(d) When an emergency purchase must be made to protect the public health, safety, or welfare.

(e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.

(f) When the aggregate of any such transactions does not exceed \$500 in a calendar year.

(g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.

(h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).

(i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. Additional Exemptions

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.] A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from conflicts of interest arising from assets placed in the trust.

5. Lobbying State Agencies By Legislators

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. Employees Holding Office

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

7. Professional and Occupational Licensing Board Members

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

8. Contractual Services: Prohibited Employment

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

9. Local Government Attorneys

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

10. Dual Public Employment

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES

1. Anti-Nepotism Law

A public official is prohibited from seeking for a relative any appointment, employment, promotion or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute "jurisdiction or control" for the purposes of this prohibition. This

provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

2. Additional Restrictions

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS

1. Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. Lobbying by Former State Employees

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

(a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.

(b) Persons serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. Additional Restrictions on Former State Employees

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec. 112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

4. Lobbying by Former Local Government Officers and Employees

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

E. VOTING CONFLICTS OF INTEREST

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible,

it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

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

F. DISCLOSURES

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. *FORM 1 - Limited Financial Disclosure*

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

- 1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.
- 3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, and the local boards of trustees and presidents of state universities.

LOCAL OFFICERS include:

- 1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.

- 3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
- 4) Persons holding any of these positions in local government: mayor; county or city manager; chief administrative employee or finance director of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$20,000 for the local governmental unit.
- 5) Members of governing boards of charter schools operated by a city or other public entity.
- 6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

- 1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
- 2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.
- 3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.
- 4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.
- 5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.
- 6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$20,000.

7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When to File:

CANDIDATES for elected local office must file FORM 1 together with and at the same time they file their qualifying papers.

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

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

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

2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's

agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

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

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

4. *FORM 6 - Full and Public Disclosure*

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of the city council and candidates for these offices in Jacksonville; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); and members of the Florida Housing Finance Corporation Board and the Florida Prepaid College Board; and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Incumbent officials must file FORM 6 annually by July 1 with the Commission on Ethics. CANDIDATES must file with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. *FORM 6F - Final Form 6 Full and Public Disclosure*

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. *FORM 9 - Quarterly Gift Disclosure*

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more than \$100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. *FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses*

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than \$100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year, with the officer's or employee's FORM 1 or FORM 6. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. *FORM 30 - Donor's Quarterly Gift Disclosure*

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than \$100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee; a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between \$25 and \$100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

IV. AVAILABILITY OF FORMS

LOCAL OFFICERS and EMPLOYEES who must file FORM 1 annually will be sent the form by mail from the Supervisor of Elections in the county in which they permanently reside not later than JUNE 1 of each

year. Newly elected and appointed officials or employees should contact the heads of their agencies for copies of the form or download it from www.ethics.state.fl.us, as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

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

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

V. PENALTIES

A. Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

B. Penalties for Candidates

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed \$10,000, and triple the value of a gift received from a political committee.

C. Penalties for Former Officers and Employees

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

D. Penalties for Lobbyists and Others

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to \$5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift

or honorarium or fail to comply with the gift reporting requirements for gifts worth between \$25 and \$100, may be penalized by a fine of not more than \$5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined \$50 per day per principal for each day the report is late, up to a maximum fine of \$5,000 per report.

E. Felony Convictions: Forfeiture of Retirement Benefits

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

F. Automatic Penalties for Failure to File Annual Disclosure

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25 for each day late the form is filed after September 1, up to a maximum penalty of \$1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

VI. ADVISORY OPINIONS

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

A. Who Can Request an Opinion

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

B. How to Request an Opinion

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

C. How to Obtain Published Opinions

All of the Commission's opinions are available for viewing or download at its website:
www.ethics.state.fl.us.

VII. COMPLAINTS

A. Citizen Involvement

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at www.ethics.state.fl.us. The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

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

B. Referrals

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

C. Confidentiality

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. How the Complaint Process Works

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

E. Dismissal of Complaints At Any Stage of Disposition

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

F. Statute of Limitations

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

VIII. EXECUTIVE BRANCH LOBBYING

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at www.floridalobbyist.gov. Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration
Room G-68, Claude Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1425
Phone: 850/922-4987

IX. WHISTLE-BLOWER'S ACT

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

X. ADDITIONAL INFORMATION

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at www.ethics.state.fl.us.

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

XI. TRAINING

Constitutional officers and elected municipal officers are required to receive a total of four hours training, per calendar year, in the area of ethics, public records, and open meetings. The Commission on Ethics does not track compliance or certify providers.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff. A comprehensive online training course addressing Florida's Code of Ethics, as well as Sunshine Law, and Public Records Act is available via a link on the Commission's homepage.