

**Constitution Revision Commission
General Provisions Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: CS/P 39

Relating to: GENERAL PROVISIONS, Ethics in government; JUDICIARY, Ethics in the judiciary
Prohibited activities; SCHEDULE, creates new section

Introducer(s): Ethics and Elections Committee and Commissioner Gaetz and others

Article/Section affected:

Date: January 29, 2018

	REFERENCE	ACTION
1.	<u>EE</u>	<u>Fav/CS</u>
2.	<u>GP</u>	<u>Pre-meeting</u>

I. SUMMARY:

Proposal #39:

- Amends Section 8 of Article II of the State Constitution to:
 - Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before the legislature or any state government body or state agency except judicial tribunals for six years following vacation of office.
 - Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation during term of office before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.
 - Prohibit state appointed officers from personally representing another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position.
 - Prohibit state appointed officers during service from personally representing another person or entity for compensation before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.
 - Prohibit county officers pursuant to Article VIII or a county charter, school board members, superintendent of schools, elected municipal officers, or elected special district officers in special districts with ad valorem taxing authority from personally representing

- another person or entity for compensation before his or her former agency or governing body for a period of six years following vacation of office, or before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state during his or her term of office.
- Does not prohibit any public officer or public employee from representing his or her agency before any other governmental entities in the normal course of his or her duties.
 - Specifies that the Florida Code of Ethics prescribed by law shall, at a minimum, prohibit public officers or public employees from abusing their public position to obtain a disproportionate benefit for themselves; or to obtain a disproportionate benefit for their spouse, their children, their employer, or any other business entity with whom they do business or in which they own an interest. Also specifies that the Florida Commission on Ethics shall define disproportionate benefit and prescribe the requisite intent, if any, required for finding a violation of such prohibition, and shall prescribe appropriate financial penalties for such violations.
 - Amends Section 13 of Article V of the State Constitution to prohibit a justice or judge from personally representing another person for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal, for a period of six years following vacation of office.
 - Creates a new section in Article XII of the State Constitution, providing that the prohibitions on personal representation for compensation of another person or entity before specified governmental bodies by certain public officers and employees, and the creation of this section, shall take effect January 1, 2020.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Ethics in Government – General

Ethics in government covers a broad range of concepts regarding the appropriate behavior of elected officials and public employees. The National Conference on State Legislatures (NCSL) lists governmental ethics under the following broad categories:

- Conflict of Interest
- Financial Disclosure
- Gift Restrictions
- Lobbyist Regulation
- Oversight/Ethics Commissions and Committees
- Staff Ethics

Conflict of Interest – General

NCSL provides the following information under Conflict of Interest Definitions:

“Whether it be in state constitution, statute or rule, all states address the potential of conflicts of interests for legislators. Definitions usually specify that a legislator may not have a personal or private interest or gain in a financial way by votes and in their legislative duties. States differ on how to handle the conflict.” NCSL also provides a table listing the conflict of interest provisions for each state.

Conflict of Interest – Revolving Door Prohibitions - General

NCSL lists a category under Conflict of Interest as “Revolving Door Prohibitions: Rules Against Legislators Lobbying State Government After They Leave Office.” Under this category, the following information is provided:

“At least 34 states have enacted a “cooling-off period” before a former legislator can come back to work at the legislature as a lobbyist. Also known as revolving door laws, statutes range from Maryland, where the ban is until the conclusion of the next regular session, to eight states— Alabama, Colorado, Florida, Iowa, Kentucky, Louisiana, Montana, and New York— that ban former legislators for two years...In Minnesota, the ban only applies to House members, not those in the Senate, and exists in chamber rule. Ohio formerly had a one year ban, but the law was overturned by a federal district court in 2010. New Mexico and Wisconsin exempt legislators and certain legislative staff from their laws. Statutes in Kansas, Mississippi and Oklahoma restrict former legislators from certain contracting with government opportunities.”

Per House staff analysis of 2018 House Bill 5, while no state currently has a post-service lobbying ban longer than two years, House Bill 213 was filed in the Missouri House of Representatives during the 2017 Regular Legislative Session to extend Missouri’s lobbying ban applicable to former legislators and appointed state officers from six months to five years following vacation of office.

Ethics in Government – Florida

Florida Commission on Ethics

Florida’s Constitution and state law provide that the Florida Commission on Ethics (Commission) is the independent body charged with receiving and investigating sworn complaints involving Florida’s constitutional ethics provisions, as well as any other violation of Florida’s Code of Ethics for Public Officers and Employees. While the Commission receives and investigates sworn complaints, the Commission does not have the authority to impose punishment for an ethics violation. Instead, whenever the Commission finds probable cause exists that an ethics violation has occurred, the commission is required to submit its findings, along with a recommended penalty, to the statutorily designated official who may impose punishment. The Commission must make such submission to the Senate President or Speaker of the House, whichever is applicable, in any case concerning a former legislator who is alleged to have violated a

provision applicable to former legislators or whose alleged conduct occurred while a member of the Legislature. In the case of a former statewide elected officer, the commission is required to make such submission to the Governor.

Florida State Constitution – Conflict of Interest

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Subsection (c) of this section reads:

“Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.”

Subsection (h) of this section reads:

“This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.”

Florida State Constitution – Conflict of Interest - Revolving Door Prohibition

Subsection (e) of Section 8 of Article II of Florida’s State Constitution reads:

“No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.”

Florida State Law – Conflict of Interest Provisions

Codified in state law as Part III of Chapter 112, Florida Statutes, is the Code of Ethics for Public Officers and Employees. Section 112.312(8), Florida Statutes, provides the following definition:

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

Per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees (Guide), Section 112.3143, Florida Statutes, provides for the following:

- 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 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.

Also per the Guide, Section 112.313(6), Florida Statutes, and Section 112.313(7), Florida Statutes, provide for the following:

- 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.
- 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. 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. 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.

Florida State Law – Conflict of Interest - Revolving Door Prohibition

Codified in state law as Part III of Chapter 112, Florida Statutes, is the Code of Ethics for Public Officers and Employees. Specifically, per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, Section 112.313(9), Florida Statutes provides for the following:

- 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.

- 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.
- 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. These employees include the following:
 - 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.
 - 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.
- The 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 and retired by July 1, 1991. It does apply to OPS employees.

Per the 2018 Florida Commission on Ethics Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, Section 112.313(13) and Section 112.313(14), Florida Statutes provide for the following:

- 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.

Under current law, a serving public officer who violates any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Impeachment.
- Removal from office.
- Suspension from office.
- Public censure and reprimand.
- Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
- A civil penalty not to exceed \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Under current law, a former public officer who violates any of Florida's constitutional ethics provisions or a provision of the Code may be subject to one or more of the following civil penalties:

- Public censure and reprimand.
- Civil penalty up to \$10,000.
- Restitution of any pecuniary benefits received because of the violation committed.

Rules of the Florida House of Representatives (2016 – 2018)

House Rule 15 is entitled "ETHICS AND CONDUCT OF MEMBERS." Rule 15.3(a) reads:

- A member may neither solicit nor accept anything that reasonably may be construed to improperly influence the member's official act, decision, or vote.

Rule 15.4(c) reads:

- (A member shall) Not directly or indirectly receive or agree to receive any compensation for any services rendered or to be rendered either by the member or any other person when such activity is in substantial conflict with the duties of a member of the House.

Rule 15.5 reads:

- A member may not corruptly use or attempt to use the member's official position or any property or resource which may be within the member's trust in a manner contrary to the trust or authority placed in the member, either by the public or by other members, for the purpose of securing a special privilege, benefit, or exemption for the member or for others. A member may not solicit or accept an employment

offer or investment advice arising out of legislative activities or political activities engaged in while he or she is a member of, or candidate for, the House. A member may not enter into any investment, joint venture, or other profitmaking relationship with or advised by a lobbyist or principal, except that a member may buy or sell listed, publicly traded securities of a principal unless in violation of Rule 15.6. For purposes of this rule, "investment, joint venture, or other profitmaking relationship" does not include an employment relationship or professional partnership or similar venture engaging the professional services of the member.

Per House staff analysis of 2018 House Bill 5, during the 2016 Organization Session the Florida House of Representatives also adopted Rule 17.1(g), which prohibits a lobbyist who was a member of the Legislature at any time after November 8, 2016, from lobbying the House of Representatives for a period of six years following vacation of office as a member of the Legislature.

Rules of the Florida Senate (2016-2018)

Within Rule 1, Part Four is entitled "Legislative Conduct and Ethics" and covers Rules 1.35 through 1.43. Rule 1.36 reads:

- A Senator shall not accept anything that will improperly influence his or her official act, decision, or vote.

Rule 1.38 reads:

- A Senator shall not use his or her influence as a Senator in any issue that involves substantial conflict between his or her personal interest and his or her duties in the public interest.

Rule 1.39 reads:

- (1) Abstention on matters of special private gain or loss.—A Senator may not vote on any matter that the Senator knows would inure to the special private gain or loss of the Senator. The Senator must disclose the nature of the interest in the matter from which the Senator is required to abstain.
(2) Disclosure on matters of special private gain or loss to family or principals.—When voting on any matter that the Senator knows would inure to the special private gain or loss of:
 1. Any principal by whom the Senator or the Senator's spouse, parent, or child is retained or employed;
 2. Any parent organization or subsidiary of a corporate principal by which the Senator is retained or employed; or
 3. An immediate family member or business associate of the Senator, the Senator must disclose the nature of the interest of such person in the outcome of the vote.(b) For the purpose of this Rule, the term:
 1. "Immediate family member" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

2. “Business associate” means any person or entity engaged in or carrying on a business enterprise with the Senator as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property.

2017 Florida Legislative Session

During the 2017 Session of the Florida Legislature, the House of Representatives submitted for consideration proposed changes to both the Florida Constitution and Florida law to strengthen public officer and employee conduct regarding solicitation and negotiation of conflicting and potentially conflicting income producing relationships, and to broaden and lengthen the existing prohibitions on personal representation for compensation:

- House Bill (HB) 7083 was an omnibus ethics reform bill that among other changes contained the following provisions:
 - Prohibited public officers and employees from soliciting an employment or contractual relationship from entities with whom they are prohibited from entering into conflicting employment and contractual relationships.
 - Imposed the following restrictions on statewide elected officers and legislators:
 - Prohibited solicitation of employment or investment advice arising out of official duties.
 - Prohibited solicitation and acceptance of investment advice or profitmaking arrangements (other than employment) from lobbyists or lobbyists' employers or principals.

HB 7083 passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

- House Joint Resolution (HJR) 7001 would have amended the Florida Constitution to prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office. This would have applied to individuals who were members of the Legislature or who were statewide elected officers at any time after November 8, 2016. HJR 7001 passed the House on March 30, 2017 by a vote of 108-4, but was not considered in the Senate.
- HB 7003 would have codified the constitutional change made by HJR 7001 in state law (although the ban would have remained two years for appointed state officers.) HB 7003 passed the House on March 10, 2017 by a vote of 110-3, but was not considered in the Senate.

2018 Florida Legislative Committee Meetings

During the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration HB 7007, an omnibus ethics reform bill which contains ethics provisions similar to last year’s HB 7083. HB 7007 passed the House Public

Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of January 29, 2018 is available for assignment to other committees or to the calendar of bills available for consideration by the full House. As of January 29, 2018 there is no similar companion bill filed in the Senate.

Also during the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration HB 5, which would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before any state government body or state agency except judicial tribunals for six years following vacation of office (the ban would remain two years for appointed state officers.) HB 5 passed the House by a vote of 96-5 on January 12, 2018. Senate Bill (SB) 1330 has been filed as companion legislation, but as of January 29, 2018 has yet to be scheduled for consideration in a Senate committee.

Article V

Article V of the Florida State Constitution covers the Judiciary. Section 13 of Article V currently reads:

“Prohibited activities.—All justices and judges shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party.”

B. EFFECT OF PROPOSED CHANGES:

Article II

CS/Proposal #39 amends subsection (e) of Section 8 of Article II of the State Constitution, replacing the current constitutional prohibition on legislators and statewide elected officers personally representing another person or entity for compensation before **their former government body or agency** for **two years** following vacation of office with a new prohibition. The proposed language prohibits legislators and statewide elected officers from personally representing another person or entity for compensation before **the legislature or any state government body or state agency other than judicial tribunals** for **six years** following vacation of office.

CS/Proposal #39 also replaces the current constitutional prohibition against **legislators** personally representing another person or entity for compensation during their term of office before **any state agency** other than judicial tribunals with a new prohibition. The proposed language prohibits **legislators and statewide elected officers** from personally representing another person or entity for compensation during term of office before **any federal agency; the**

legislature, any state government body or agency other than judicial tribunals; or any political subdivision of the state.

CS/Proposal #39 also constitutionally establishes several new provisions prohibiting public officials from personally representing another person or entity for compensation:

- A person who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position.
- A person who is serving as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.
- A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation before his or her former agency or governing body for a period of six years following vacation of office.
- A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state during his or her term of office.

With regards to all the changes made to this subsection of Section 8 of Article II, CS/Proposal #39 clarifies that no public officer or public employee would be prohibited from representing his or her agency before any other governmental entities in the normal course of his or her duties.

With all the changes incorporated, this proposal would amend Subsection (e) of Section 8 of Article II of the Florida State Constitution to read:

“(e)(1) A member of the legislature or a statewide elected officer may not personally represent another person or entity for compensation before the legislature or any state government body or agency, other than judicial tribunals, for a period of six years following vacation of office. A member of the legislature or a statewide elected officer may not personally represent another person or entity for compensation during term of office before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(2) A person who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position. A person who is serving as a secretary, executive director, or other agency head of a department of the executive branch of state government, may not personally represent another person or entity for compensation before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state.

(3) A county officer pursuant to Article VIII or a county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority, may not personally represent another person or entity for compensation:

a. Before his or her former agency or governing body for a period of six years following vacation of office.

b. Before any federal agency; the legislature; any state government body or agency, other than judicial tribunals; or any political subdivision of the state during his or her term of office.

(4) This subsection does not prohibit any public officer or public employee from representing his or her agency before any other governmental entities in the normal course of his or her duties.

(5) Similar restrictions on other public officers and employees may be established by law.”

Finally, CS/Proposal #39 also amends subsection (g) of Section 8 of Article II of the State Constitution, deleting the existing language and replacing it with language specifying that the Florida Code of Ethics shall at a minimum prohibit public officers or public employees from abusing their public position to obtain a disproportionate benefit for themselves, or to obtain a disproportionate benefit for their spouse, their children, their employer, or any other business entity with whom they do business or in which they own an interest. The language also specifies that the Florida Commission on Ethics shall define disproportionate benefit and prescribe the requisite intent, if any, required for finding a violation of such prohibition, and shall prescribe appropriate financial penalties for violations.

Article V

CS/Proposal #39 constitutionally establishes a new provision prohibiting a justice or judge from personally representing another person for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal, for a period of six years following vacation of office. As amended by this proposal, Section 13 of Article V reads:

“Ethics in the judiciary.—All justices and judges shall devote full time to their judicial duties. A justice or judge may not engage in the practice of law or hold office in any political party. A justice or judge may not personally represent another person for compensation before the legislative, executive, or judicial branches of state government,

other than practicing law before a judicial tribunal, for a period of six years following vacation of office.”

Article XII

The proposal also creates a new section in Article XII of the State Constitution to read:

“Personal representation prohibitions for specified public officers and employees.—The amendments to Section 8 of Article II and Section 13 of Article V, which establish certain prohibitions on the personal representation for compensation of another person or entity before specified governmental bodies by certain public officers and employees, and the creation of this section, shall take effect January 1, 2020.”

Florida Commission on Ethics Analysis

The Florida Commission on Ethics held a meeting on December 8, 2017, and included on the agenda for this meeting was Item IX, Constitution Revision Proposals. Included in the meeting materials for this item was a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo was Constitution Revision Commission (CRC) request, and it provides information on each of the CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#39), the memo states:

“This proposal incorporates changes similar to those in Proposal 19, and in addition, prohibits members of the Legislature and statewide elected officers – during their term of office – from representing persons or entities for compensation before federal agencies, the Legislature, state government bodies or agencies other than judicial tribunals, and political subdivisions.

This proposal would prohibit a secretary, executive director, or head of an executive branch agency from representations for compensation before the Legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or the official’s own former department, for six years after leaving employment.

The proposal would also impose an in-office/employment ban which would prohibit the secretary, executive director, or agency head from representations for compensation, other than in the course of their duties, before federal agencies, the Legislature, state government bodies or agencies other than judicial tribunals, and political subdivisions. Current law does not speak to these kinds of activities, although if they were in conflict with the official’s public duties, they could potentially be addressed through application of the conflicts of interest law in Section 112.313(7).

The proposal also places a six-year restriction on county officials, including a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority. The restriction would (be) on representations for compensation before their own former agency or governing body... The proposal also creates an in-office/employment ban, which would prohibit

such officials, during their terms in office, from representations for compensation before any federal agency, the Legislature, any state government body or agency other than judicial tribunals, or any political subdivision, except in the representation of their own government entity. Again, current law does not specifically speak to such activities, but in particular circumstances, they could fall within the ambit of Section 112.313(7).

The proposal also makes a change to Article V to place a six year limit on former judges representing persons or entities for compensation before the legislative, executive, or judicial branches of state government, other than practicing law before a judicial tribunal.”

C. FISCAL IMPACT:

To the extent that the change made by this proposal resulted in greater or fewer reported ethics complaints than is currently the case, there could be an indeterminate fiscal impact based on the related change in the workload of the Florida Commission on Ethics. There may be an indeterminate negative fiscal impact to legislators and other public officers who would be affected by the changes made by this proposal. This could be offset by an indeterminate positive fiscal impact for those personally representing another person or entity for compensation before a government body or agency who in essence replace those who are prohibited from doing so under this proposal.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

The amended proposal deletes the existing language of subsection (g) of Section 8 of Article II of the Florida State Constitution, replacing it with language specifying that the Florida Code of Ethics shall at a minimum prohibit public officers or public employees from abusing their public position to obtain a disproportionate benefit for themselves, or to obtain a disproportionate benefit for their spouse, their children, their employer, or any other business entity with whom they do business or in which they own an interest. The added language also specifies that the Florida Commission on Ethics shall define disproportionate benefit and prescribe the requisite intent, if any, required for finding a violation of such prohibition, and shall prescribe appropriate financial penalties for violations.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.