

**The Constitution Revision Commission**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ETHICS AND ELECTIONS**  
**Commissioner Coxe, Chair**  
**Commissioner Kruppenbacher, Vice Chair**

**MEETING DATE:** Wednesday, December 13, 2017  
**TIME:** 8:00 a.m.—12:00 noon  
**PLACE:** 110 Senate Office Building, Tallahassee, Florida

**MEMBERS:** Commissioner Coxe, Chair; Commissioner Kruppenbacher, Vice Chair; Commissioners Gaetz, Heuchan, Joyner, Newsome, Plymale, Schifino, and Smith

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>P 56</b> Kruppenbacher	SUFFRAGE AND ELECTIONS, Prohibition on expenditure of public funds for campaign spending; Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections.  EE 11/29/2017 Temporarily Postponed EE 11/30/2017 EE 12/13/2017 Amendment Adopted - Temporarily Postponed FT	Amendment Adopted - Temporarily Postponed
2	<b>P 98</b> Kruppenbacher	GENERAL PROVISIONS, Ethics in government; Section 8 of Article II of the State Constitution to prohibit members of the Legislature from taking action on certain matters of the state and its political subdivisions which will directly inure to the legislator's benefit or to the benefit of the legislator's immediate family.  EE 12/13/2017 Temporarily Postponed GP	Temporarily Postponed
3	<b>P 52</b> Newsome	GENERAL PROVISIONS, Ethics in government; Section 8 of Article II of the State Constitution to prohibit elected public officers, candidates for elected public office, and the immediate family members thereof, from self-dealing and participating in certain financial transactions with governmental entities, the officer's or candidate's campaign, or certain political organizations under specified circumstances.  EE 12/13/2017 Temporarily Postponed GP	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Ethics and Elections

Wednesday, December 13, 2017, 8:00 a.m.—12:00 noon

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>P 13</b> Timmann	<p>LOCAL GOVERNMENT, Counties; Schedule to Article VIII; Sections 1 and 6 of Article VIII of the State Constitution to remove authority for a county charter or a special law to provide for choosing specified county officers in a manner other than election and to prohibit a county charter from abolishing specified county officers, transferring duties of a county officer to another officer or office, establishing the length of terms of county officers, or establishing any manner of selection of county officers other than by election.</p> <p>LO 11/01/2017 Favorable            EE 11/29/2017 Temporarily Postponed            EE 11/30/2017            EE 12/13/2017 Favorable</p>	Favorable Yeas 6 Nays 1
5	<b>P 19</b> Rouson	<p>GENERAL PROVISIONS, Ethics in government; SCHEDULE, creates new section; Section 8 of Article II and create a new section in Article XII of the State 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 and to provide that the prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.</p> <p>EE 12/13/2017 Temporarily Postponed</p>	Temporarily Postponed
6	<b>P 39</b> Gaetz	<p>GENERAL PROVISIONS, Ethics in government; JUDICIARY, Ethics in the judiciary Prohibited activities; SCHEDULE, creates new section; Section 8 of Article II and Section 13 of Article V and create a new section in Article XII of the State Constitution to establish certain restrictions for specified public officers and employees regarding the personal representation for compensation of another person or entity before certain government bodies.</p> <p>EE 12/13/2017 Temporarily Postponed            GP</p>	Temporarily Postponed

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 56

Relating to: SUFFRAGE AND ELECTIONS, Prohibition on expenditure of public funds for campaign spending

Introducer(s): Commissioner Kruppenbacher

Article/Section affected: Article VI, Section 7

Date: November 22, 2017

	REFERENCE	ACTION
1.	<u>EE</u>	<u>Pre-meeting</u>
2.	<u>FT</u>	<u></u>

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**I. SUMMARY:**

Amends Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

**Public Campaign Financing Systems – General**

A public campaign financing system is one where government funds are provided to candidates running for elected offices to help fund their campaigns. The funds are provided if candidates adhere to the system's established requirements.

According to the National Conference on State Legislatures, 13 states – Arizona, Connecticut, Florida, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, Rhode Island, Vermont, and West Virginia - provide some form of public financing option for campaigns. Each of these plans require the candidate to accept public money for his or her campaign in exchange for a promise to limit both how much the candidate spends on the election and how much they receive in donations from any one group or individual. In most cases, these systems provide funding only to certain types of candidates, for example those running for Governor.

## **Public Campaign Financing Systems – Types**

The two main types of programs states offer for public financing of elections are the clean elections programs, offered in states such as Maine and Arizona, and programs that provide a candidate with matching funds for each qualifying contribution they receive. The “clean election states” offer full funding for the campaign, and the matching funds programs provide a candidate with a portion of the funds needed to run the campaign.

### Clean Elections Programs

In the clean elections programs offered in Arizona, Connecticut, Maine and New Mexico, candidates are encouraged to collect small contributions from a number of individuals (depending on the position sought) to demonstrate that he or she has enough public support to warrant public funding of his or her campaign. In return, the commission established for the program gives the candidate a sum of money equal to the expenditure limit set for the election.

As an example of a clean elections program, a candidate for state office in Arizona must raise \$5 contributions from at least 200 people in order to qualify for the program. In return, the state provides the candidate with public money in an amount equal to the expenditure limit. In the 2014 election, the expenditure limit for gubernatorial candidates was \$1,130,424, and the limit for legislative positions was \$22,880. Arizona Governor Doug Ducey, who declined participation in the clean elections program, raised \$2.4 million for his 2014 campaign, more than double the amount authorized for the program’s participants.

The program is funded through a 10 percent surcharge on all civil penalties and criminal fees, civil penalties paid by the candidates, and the qualifying contributions the candidate raised.

### Matching Funds Programs

The other type of public financing program, offered in states such as Florida and Hawaii, provide matching funds for candidates up to a certain amount. In Hawaii, candidates are encouraged to limit their contributions and expenditures to an amount set by the legislature. For the 2014 election, the expenditure limit for the general election was \$1,597,208. The candidate who participates in the matching funds program is eligible to receive 10 percent of this limit in public funds, or \$159,721. A candidate must first receive \$100,000 in qualifying contributions during the primary season for the state to provide a matching \$100,000 during the general election. The candidate can then raise an additional \$59,721 in qualifying contributions that the state will match, for a total of \$319,442. The candidate can then raise additional money from other sources, like PACs, parties, or individuals, to reach the expenditure limit of \$1,597,208.

For example, Hawaii governor David Ige received \$105,164.73 in public funds for his 2014 gubernatorial campaign, and spent the maximum of \$1,597,208 during the general election. His challenger, Duke Aiona, who elected to not participate in the public financing program, spent \$1,532,306.65 on his unsuccessful election. Mr. Aiona, like all

candidates, had to comply with the state's contribution limits, but did not have to worry about collecting the smaller qualifying contributions from many different sources.

The program is funded through a tax return checkoff, whereby citizens choose whether they want to contribute three dollars from their tax burden to the Hawaii Election Campaign Fund.

### **Florida's Public Campaign Financing System**

#### 1986 Florida Election Campaign Financing Act

The Florida Election Campaign Financing Act was enacted in 1986. Effective July 1, 1987, this law established a procedure for partial public funding of campaigns for statewide office (governor/lieutenant governor and cabinet officers) for candidates who voluntarily limit campaign expenditures. Resources for this system were provided through the Election Campaign Financing Trust Fund, which was funded by fines assessed for late filed campaign treasurer reports, the one percent election assessment for municipal candidates, and the three percent filing fee for all other candidates. This trust fund expired by law on November 4, 1996; since then, distribution of public campaign financing to participating candidates has been from the state General Revenue Fund.

#### 1998 Amendment to the Constitution

At the time the Florida Constitution Revision Commission met in 1998, a number of legal challenges had been made to the Florida Elections Campaign Financing Act, with existing sentiment in some quarters that the law be repealed. Others were of the opinion that the state campaign financing system be expanded, and initial proposals before the 1998 Constitution Revision Commission would have increased spending limits and extended public funding to elections for legislators. In the end, the 1998 Commission's recommendation simply maintained the status quo by requiring the retention of the existing campaign financing act or a similar general law that provides public funds to those statewide candidates who limit their campaign expenditures.

The 1998 Constitution Revision Commission voted to place Proposition 11 on the ballot for the November 1998 general election. Among several election-related changes, Proposition 11 proposed adding a new Section 7 to Article VI of the Florida State Constitution that included the following language:

“Campaign spending limits and funding of campaigns for elective state-wide office.--It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.”

Proposition 11 was approved and placed into the Constitution by the voters of Florida, with 64.1 percent voting in favor.

### 2010 Proposed Amendment to the Constitution

In 2009, the Florida Legislature voted 80-34 and the Florida Senate voted 29-11 to place a constitutional amendment - House Joint Resolution (HJR) 81 - on the 2010 general election ballot. HJR 81 repealed Section 7 of Article VI of the Florida State Constitution, thus removing the language added in 1998. HJR 81 was supported by a majority of those voting on the amendment – 52.5 percent. However, Florida’s Constitution then (and now) required amendments to receive 60 percent of the vote to pass, so HJR 81 was not adopted.

### Operation and Administration of Florida’s Public Campaign Financing System

Florida’s public campaign financing system is administered by the Florida Department of State’s Division of Elections (Division.) The program can be summarized as follows:

- Participating statewide candidates must have opposition.
- Candidates must submit an irrevocable statement to abide by overall expenditure limits as well as contribution limits on personal (\$25,000) and party (\$250,000) funds
- Only personal contributions of \$250 or less from state residents are eligible for matching; corporate and political committee contributions are not eligible for matching.
- Participating candidates must raise an initial threshold amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices.) Contributions received from the candidate, political parties or non-Florida residents are not counted towards meeting the threshold amount.
- Contributions received after September 1 of the calendar year preceding the election are eligible for matching; contributions prior to September 1 can be counted towards meeting the threshold amount but are not matched.
- The threshold amounts are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched with \$250 from the state.
- Distribution of public financing begins on the 32<sup>nd</sup> day prior to the primary election and every seven days thereafter; the last distribution occurs one week after the general election.

Participating candidates must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division audits the submissions and makes payment to the candidate.

Participating candidates must abide by campaign expenditure limits that are based on the total number of Florida registered voters as of June 30<sup>th</sup> of each odd numbered year. For Governor/Lt. Governor races, the expenditure limit is \$2 for each registered voter; for Cabinet races, the limit is \$1 for each registered voter. According to the Division, the total number of Florida registered voters as of June 30, 2017 was 13,545,731. Therefore, candidates for Governor in the 2018 election cycle that want to accept public financing would be limited to approximately \$27.1 million in campaign expenditures, and

candidates for Cabinet offices that want to accept public financing would be limited to approximately \$13.5 million in campaign expenditures.

Distribution Amounts from Florida’s Public Campaign Financing System

From 1994 through 2016, distribution of funds through Florida’s public campaign financing system have been as follows:

**1994**

- Governor (5 Candidates): \$8.8 million
- Cabinet (6 Offices, 13 Candidates): \$4.1 million

**1998**

- Governor (1 Candidate): \$1.1 million
- Cabinet (6 Offices, 13 Candidates): \$3.5 million

**2000**

- Cabinet (2 Offices, 4 Candidates): \$1.6 million

**2002**

- Governor (3 Candidates): \$3.0 million
- Cabinet (2 Offices, 7 Candidates): \$2.2 million

**2006**

- Governor (4 Candidates): \$7.4 million
- Cabinet (3 Offices, 6 Candidates): \$3.7 million

**2010**

- Governor (1 Candidate): \$1.8 million
- Cabinet (3 Offices, 9 Candidates): \$4.3 million

**2014**

- Governor (2 Candidates): \$2.8 million
- Cabinet (3 Offices, 5 Candidates): \$1.6 million

**TOTAL 1994-2014: \$46 million**

**Distributions to Governor Candidates**

- Low (1998): \$1.1 million
- High (1994): \$8.8 million
- Average: \$4.2 million

**Distributions to Cabinet Candidates**

- Low (2000): \$1.6 million
- High (2010): \$4.3 million
- Average: \$3.0 million

**B. EFFECT OF PROPOSED CHANGES:**

This proposal amends Section 7 of Article VI of the State Constitution by deleting existing language and inserting new language. The proposal removes the following language from Section 7:

“...limits and funding of campaigns for elective state-wide office.—It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.”

The proposal also adds language, with the final result being that the revised Section 7 of Article VI would read as follows:

“SECTION 7. Prohibition on expenditure of public funds for campaign spending.—Public funds may not be expended on any campaign for a state or local election.”

**C. FISCAL IMPACT:**

Passage of the amendment would require elimination of the existing Florida public campaign financing system. Based on distributions from 1994 through 2014, the state General Revenue Fund could save somewhere between \$2.7 million and \$13.1 million every four years when the Governor and Cabinet are up for election, with a likely savings in the range of \$4-\$6 million.

**III. Additional Information:****A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.



By Commissioner Kruppenbacher

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A proposal to amend

Section 7 of Article VI of the State Constitution to remove the requirement that a method of public financing for campaigns for statewide office be established by law and to prohibit the expenditure of any public funds on campaigns for state or local elections.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 7 of Article VI of the State Constitution is amended to read:

ARTICLE VI  
SUFFRAGE AND ELECTIONS

SECTION 7. Prohibition on expenditure of public funds for campaign spending. ~~Public funds may not be expended on any campaign for a state or local election, limits and funding of campaigns for elective state wide office. It is the policy of this state to provide for state wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.~~



348922

CRC ACTION

Commissioner .  
Comm: FAV .  
12/13/2017 .  
. .  
. .  
. .

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The Committee on Ethics and Elections (Kruppenbacher)  
recommended the following:

**CRC Amendment (with title amendment)**

Delete line 18

and insert:

campaign for a state election. ~~limits and funding of~~

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 6

and insert:

any public funds on campaigns for state



348922

11



**THE  
CAMPAIGN FINANCE INSTITUTE**

**CFI**

— THE  
CAMPAIGN  
FINANCE  
INSTITUTE  
—

# **CITIZEN FUNDING FOR ELECTIONS**

What do we know?  
What are the effects?  
What are the options?

Michael J. Malbin

202.969.8890

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## EXECUTIVE SUMMARY

Political campaigns have always been financed disproportionately by people with above average incomes. You have to have at least some discretionary money before you can give it away. But the balance has tilted almost beyond recognition since the Supreme Court's 2010 decision in *Citizens United v. Federal Election Commission*. Consider these facts: Ronald Reagan received nearly half of his presidential campaign contributions in 1980 (47%) and 1984 (46%) from hundreds of thousands of contributions of \$200 or less (CFI, 2003). In contrast, half of the money during the first six months of the 2016 campaign came from only 474 donors who gave \$100,000 or more to the presidential campaign committees and their post-*Citizens United* single-candidate Super PACs. (Thirty-one percent came from only 56 donors who gave \$1 million or more). The balance of forces in federal election campaigns has shifted markedly, and this shift is beginning to work its way into state and local elections.

As a result, a number of jurisdictions have been looking recently to rebalance the incentives through new (or updated) citizen funding programs or tax credits to enhance the role of small donors. (See the footnote for a list.<sup>1</sup>) When looking at these new programs and proposals, it is striking how common impulses have led to such a variety of policy ideas – and an even wider set of justifications and expectations about what the new programs are meant to accomplish. Some want to drive money out of politics; some to increase competition; some to bring a different type of politician into office; and some to enhance participation. In light of this policy ferment, this report seeks to lay out for policy makers what is known and not yet known about whether citizen funding and other incentive programs have accomplished or are likely to accomplish their stated goals. The focus will be on programs for candidates. There is a strong case to be made for similar programs for political parties, but that will not be the focus here. It is not an advocacy document for the general public. Neither will this report settle the arguments among those who debate whether the objectives are worth their financial cost, which will normally be modest.<sup>2</sup> Rather, this report is written for those who are seriously considering citizen funding programs or tax credits, whether they lean pro or con, as a first step toward evaluating the claimed benefits of the programs along with the potential risks. It is a guide to what is known (or can be inferred) from scholarly research about what the various forms of incentive programs have accomplished and might accomplish, along with what they might not or will not.

<sup>1</sup> The following list covers 2013-2015: Los Angeles' newly revised matching fund program was put into effect in 2013. Montgomery County (Maryland) adopted a new system in 2014. Minnesota reinstated its political contribution refund program in 2013. Tallahassee (Florida) adopted political contribution tax credits in 2014. Seattle's voters in 2015 approved a ballot initiative to enact the country first voucher program, to be used for partial public financing for local office. Maine voters decided by initiative in 2015 to revise its full public funding program. Chicago's voters in 2015 overwhelmingly approved a referendum advising its city council to enact a new system. The New York State Senate failed to pass public financing in 2014 by only two votes (after it passed the Assembly) but the issue may well revive there. Significant movements are also under way in California, New Mexico and Hawaii. And while federal enactment is not likely soon, new ideas have been put forward in Congress that undoubtedly will be on the discussion agendas for states and localities.

<sup>2</sup> Financial costs will vary with a program's details and therefore cannot be included in a report meant to apply broadly. Generally speaking these will be very low as a percentage of government spending or tax breaks. For example, the officially estimated cost of a small donor matching fund program in New York State was about \$56 million per year. The state's annual budget for 2015-16 is \$142 billion. (New York State, 2013 and 2015.)



To preview the conclusions:

- It is obvious – certainly in the new world of independent spending – that citizen funding programs cannot squeeze private money out of politics (p. 12).
- However, a properly designed program can increase the proportional importance of small donors to candidates and increase participation by an economically and demographically more representative cadre of campaign supporters (pp. 21-26). Candidates may choose to depend on large donors if they wish, but a well-structured program can make it possible for a candidate to choose otherwise. In the most effective programs, substantial percentages of the candidates make this choice and participate (pp. 10-12).
- Interestingly, these results probably do not occur because small donors react spontaneously and directly to matching funds or tax credits (p. 22). Instead, the research suggests (but is not yet conclusive) that the incentives work by affecting candidates (or political parties and other intermediary actors). The small donors are worth more (both financially and as volunteers – see p. 28), so the candidates and others are willing to spend more time and resources to mobilize them.
- Whether increasing small donors will favor political polarization will depend on a program's details, but small donors generally are not more polarized than other individual donors (p. 27).
- Citizen funding may also affect other aspects of a candidate's behavior – from deciding to run (p. 18), to how they conduct campaigns (p. 20). However, the research here is not fully settled.
- The findings are similarly mixed with respect to electoral competition (pp. 16-18). Public money seems to help when competition is defined one way (focusing on whether races are uncontested or whether candidates run), but not if defined differently (with a focus on the margins of victory in competitive races, or the defeat of incumbents).
- Research on the post-election effects in government finds more of an impact on agenda-setting than end-stage roll call votes (p. 29).
- Policy-makers need to be aware that answers often depend upon the precise questions asked.
- Finally, and very importantly from a policy-maker's perspective, the research shows clearly that a program's *fine-grained details can make a huge difference in outcomes* (pp. 30-31). For supporters of citizen funding or tax incentives, this means that passing a program that carries a good-sounding label will not be enough to accomplish their goals. Neither will it be enough to focus only on what their supporters think they can "sell". Selling may be a necessary condition for accomplishing goals, but not a sufficient condition. The politics of persuasion is not policy analysis. A program that works will be based on the best available evidence – including the best practices for implementation after a bill becomes law.

CONSTITUTION REVISION COMMISSION

8:05

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/13/17  
Meeting Date

56  
Proposal Number (if applicable)

\*Topic Public Campaign Financing

Amendment Barcode (if applicable)

\*Name Brad Ashwell

Address 1536 Chulivere  
Street

Phone 850-294-1008

Tallahassee FL 32301  
City State Zip

Email bradashwell@gmail.com

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Common Cause Florida

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

CONSTITUTION REVISION COMMISSION

8:05

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/13/17  
Meeting Date

56  
Proposal Number (if applicable)

\*Topic Public financing

Amendment Barcode (if applicable)

\*Name Ben Wilcox

Address 1719 Old Fort Dr.  
Street

Phone \_\_\_\_\_

Tallahassee FL 3230  
City State Zip

Email \_\_\_\_\_

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Integrity Florida

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required



CONSTITUTION REVISION COMMISSION

8:19

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12-13-17

Meeting Date

P 56

Proposal Number (if applicable)

\*Topic \_\_\_\_\_

Amendment Barcode (if applicable)

\*Name Tom Wells

Address 502 NE 6<sup>th</sup> ~~St~~ Ave

Phone 352-514-5467

Street Gainesville State FL Zip 32601

Email tbwells@gmail.com

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? \_\_\_\_\_

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

8,34

12-13-17

Meeting Date

56

Proposal Number (if applicable)

\*Topic SUFFRAGE & Elections

Amendment Barcode (if applicable)

\*Name Stephanie Owens

Address 2507 CALLAWAY Rd Ste 102 A

Phone 850-224-2545

Street

TALLAHASSEE FL 32303

Email SOWENSROC@aol.com

City

State

Zip

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? LEAGUE of WOMEN Voters, FLORIDA

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 98

Relating to: GENERAL PROVISIONS, Ethics in government

Introducer(s): Commissioner Kruppenbacher

Article/Section affected:

Date: December 6, 2017

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

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**I. SUMMARY:**

Proposal #98 amends Section 8 of Article II of the State Constitution to prohibit members of the Legislature from attempting to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.

**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.

### **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 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.

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.

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.

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:
  - (a) 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 Florida law to strengthen public officer and employee conduct regarding solicitation and negotiation of conflicting and potentially conflicting income producing relationships. 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.

#### 2018 Florida Legislative Committee Meetings

During committee meetings leading up to 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 December 5, 2017 is available for assignment to other committees or to the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

## **B. EFFECT OF PROPOSED CHANGES:**

Proposal #98 would add a new subsection to Section 8 of Article II of the Florida State Constitution to read:

“A member of the legislature may not attempt to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.”

#### Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#98), the memo states:

“This proposal would prohibit members of the Legislature from attempting to influence, involving themselves in, or voting on any legislation directly inuring to the member's benefit or that of the member's immediate family. Pursuant to Section 112.3143, state public officers, including legislators, must abstain on measures that would inure to their



own special private gain or loss. They may vote, but must disclose a voting conflict of interest, if the measure would inure to the special private gain or loss of a relative, principal by whom they are retained or the corporate parent or subsidiary thereof, or business associate.

This proposal would also prohibit members of the Legislature from attempting to influence or involving themselves in, any business of the state or its political subdivisions which would inure to the benefit of the member or the member's immediate family. To this is addressed in current law at all, it would be through the application of the conflicts law in Section 112.313(7) or the misuse of position provision in Section 112.313(6)."

**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 the legislators and members of their immediate families who would be impacted by the change made by this proposal.

**III. Additional Information:**

**A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Kruppenbacher

kruppenbf-00097-17

201798\_\_

A proposal to amend

Section 8 of Article II of the State Constitution to prohibit members of the Legislature from taking action on certain matters of the state and its political subdivisions which will directly inure to the legislator's benefit or to the benefit of the legislator's immediate family.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II  
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) 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.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) A member of the legislature may not attempt to influence, involve themselves in, or vote on any legislation or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.

(f) 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.

(g) ~~(f)~~ There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(h) ~~(g)~~ A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(i) ~~(h)~~ 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.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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62 (j)~~(i)~~ Schedule—On the effective date of this amendment and  
63 until changed by law:

64 (1) Full and public disclosure of financial interests shall  
65 mean filing with the custodian of state records by July 1 of  
66 each year a sworn statement showing net worth and identifying  
67 each asset and liability in excess of \$1,000 and its value  
68 together with one of the following:

69 a. A copy of the person's most recent federal income tax  
70 return; or

71 b. A sworn statement which identifies each separate source  
72 and amount of income which exceeds \$1,000. The forms for such  
73 source disclosure and the rules under which they are to be filed  
74 shall be prescribed by the independent commission established in  
75 subsection (g) ~~(f)~~, and such rules shall include disclosure of  
76 secondary sources of income.

77 (2) Persons holding statewide elective offices shall also  
78 file disclosure of their financial interests pursuant to  
79 paragraph (1) ~~subsection (i)(1)~~.

80 (3) The independent commission provided for in subsection  
81 (g) ~~(f)~~ shall mean the Florida Commission on Ethics.

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 52

Relating to: GENERAL PROVISIONS, Ethics in government

Introducer(s): Commissioner Newsome

Article/Section affected:

Date: December 6, 2017

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

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**I. SUMMARY:**

Proposal #52 amends Section 8 of Article II of the State Constitution to prohibit elected public officers and candidates for public office, and the immediate family members of such officers and candidates, from engaging directly or indirectly in any commercial or financial transactions with such officer's or candidate's campaign or any political organization for which the officer or candidate has solicited contributions. It also prohibits elected public officers and candidates for public office, and the immediate family members of such officers and candidates, from agreeing to or engaging in any commercial or financial transaction with a public entity including the state, a political subdivision of the state, or any entity established, directed, managed, or operated by the state or a political subdivision, unless such transaction is fully disclosed ten days before any offer or acceptance by the public entity and no condition of confidentiality is imposed.

**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.

#### **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 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, Section 112.313(7), Florida Statutes, provides for the following:

- 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.

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.

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.

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:
  - (a) 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 Florida law to strengthen public officer and employee conduct regarding solicitation and negotiation of conflicting and potentially conflicting income producing relationships. 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.
- Requires certain disclosures of prohibited solicitations.
- 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.
  - Requires immediate disclosure of either new employment or an increase in compensation from certain employers.

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

#### 2018 Florida Legislative Committee Meetings

During committee meetings leading up to 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 December 5, 2017 is available for assignment to other committees or to the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.



**B. EFFECT OF PROPOSED CHANGES:**

Proposal #52 would add two new subsections to Section 8 of Article II of the Florida State Constitution to read:

“Elected public officers and candidates for public office, and the immediate family members of such officers and candidates, may not engage directly or indirectly in any commercial or financial transactions with such officer’s or candidate’s campaign or any political organization for which the officer or candidate has solicited contributions. This subsection does not apply to contributions and loans to the officer’s or candidate’s campaign, and reimbursements of itemized expenditures paid to third parties, if disclosed in accordance with applicable campaign finance laws. Definitions, exceptions, and penalties for violations may be prescribed by law. Unless other penalties are prescribed, any violation must be investigated and punished as a violation of the code of ethics for public officers and employees.

Elected public officers and candidates for public office, and the immediate family members of such officers and candidates, may not agree to or engage in any commercial or financial transaction with a public entity including the state, a political subdivision of the state, or any entity established, directed, managed, or operated by the state or a political subdivision, unless such transaction is fully disclosed ten days before any offer or acceptance by the public entity and no condition of confidentiality is imposed. Any agreement in violation of this subsection is void. This subsection does not apply to the sale of goods and services offered to the public on a non-exclusive basis. Definitions, exceptions, additional restrictions, and penalties for violations may be prescribed by law.”

Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#52), the memo states:

“This proposal would bar elected public officers and candidates, and their immediate family members, from engaging directly or indirectly in any commercial or financial transactions with such officer’s or candidates campaign or any political organization for which the officer or candidate has solicited contributions. It also prohibits elected public officers and candidates for public office, and their immediate family members from agreeing to or engaging in any commercial or financial transaction with a public entity including the state, a political subdivision of the state, or any entity established, directed, managed, or operated by the state or a political subdivision, unless such transaction is fully disclosed ten days before any offer or acceptance by the public entity and no condition of confidentiality is imposed. An exception is made for the sale of goods and services offered to the public on a non-exclusive basis. Nothing in the Code of Ethics

specifically addresses such conduct...To the extent the activities are those of a public officer or employee (rather than a candidate not in any office) conduct of this nature could potentially implicate Section 112.313(7) to the extent it creates a conflict of interest.”

**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 the legislators and members of their immediate families who would be impacted by the change made by this proposal.

**III. Additional Information:**

**A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Newsome

newsomer-00078-17

201752\_\_

A proposal to amend

Section 8 of Article II of the State Constitution to prohibit elected public officers, candidates for elected public office, and the immediate family members thereof, from self-dealing and participating in certain financial transactions with governmental entities, the officer's or candidate's campaign, or certain political organizations under specified circumstances.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II  
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Elected public officers and candidates for public office, and the immediate family members of such officers and candidates, may not engage directly or indirectly in any commercial or financial transactions with such officer's or candidate's campaign or any political organization for which the

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officer or candidate has solicited contributions. This subsection does not apply to contributions and loans to the officer's or candidate's campaign, and reimbursements of itemized expenditures paid to third parties, if disclosed in accordance with applicable campaign finance laws. Definitions, exceptions, and penalties for violations may be prescribed by law. Unless other penalties are prescribed, any violation must be investigated and punished as a violation of the code of ethics for public officers and employees.

(d) Elected public officers and candidates for public office, and the immediate family members of such officers and candidates, may not agree to or engage in any commercial or financial transaction with a public entity including the state, a political subdivision of the state, or any entity established, directed, managed, or operated by the state or a political subdivision, unless such transaction is fully disclosed ten days before any offer or acceptance by the public entity and no condition of confidentiality is imposed. Any agreement in violation of this subsection is void. This subsection does not apply to the sale of goods and services offered to the public on a non-exclusive basis. Definitions, exceptions, additional restrictions, and penalties for violations may be prescribed by law.

~~(e)~~ 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.

~~(f)~~ Any public officer or employee who is convicted of a

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62 felony involving a breach of public trust shall be subject to  
63 forfeiture of rights and privileges under a public retirement  
64 system or pension plan in such manner as may be provided by law.

65 (g) ~~(e)~~ No member of the legislature or statewide elected  
66 officer shall personally represent another person or entity for  
67 compensation before the government body or agency of which the  
68 individual was an officer or member for a period of two years  
69 following vacation of office. No member of the legislature shall  
70 personally represent another person or entity for compensation  
71 during term of office before any state agency other than  
72 judicial tribunals. Similar restrictions on other public  
73 officers and employees may be established by law.

74 (h) ~~(f)~~ There shall be an independent commission to conduct  
75 investigations and make public reports on all complaints  
76 concerning breach of public trust by public officers or  
77 employees not within the jurisdiction of the judicial  
78 qualifications commission.

79 (i) ~~(g)~~ A code of ethics for all state employees and  
80 nonjudicial officers prohibiting conflict between public duty  
81 and private interests shall be prescribed by law.

82 (l) ~~(h)~~ This section shall not be construed to limit  
83 disclosures and prohibitions which may be established by law to  
84 preserve the public trust and avoid conflicts between public  
85 duties and private interests.

86 (m) ~~(i)~~ Schedule—On the effective date of this amendment and  
87 until changed by law:

88 (1) Full and public disclosure of financial interests shall  
89 mean filing with the custodian of state records by July 1 of  
90 each year a sworn statement showing net worth and identifying

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91 each asset and liability in excess of \$1,000 and its value  
92 together with one of the following:

93 a. A copy of the person's most recent federal income tax  
94 return; or

95 b. A sworn statement which identifies each separate source  
96 and amount of income which exceeds \$1,000. The forms for such  
97 source disclosure and the rules under which they are to be filed  
98 shall be prescribed by the independent commission established in  
99 subsection (h) ~~(f)~~, and such rules shall include disclosure of  
100 secondary sources of income.

101 (2) Persons holding statewide elective offices shall also  
102 file disclosure of their financial interests pursuant to  
103 paragraph (1) ~~subsection (i)(1)~~.

104 (3) The independent commission provided for in subsection  
105 (h) ~~(f)~~ shall mean the Florida Commission on Ethics.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 13

Relating to: LOCAL GOVERNMENT, Counties; Schedule to Article VIII

Introducer(s): Commissioner Timmann and others

Article/Section affected:

Date: November 21, 2017

	REFERENCE	ACTION
1.	<u>LO</u>	<b>Favorable</b>
2.	<u>EE</u>	<b>Pre-meeting</b>

---

**I. SUMMARY:**

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county. Additionally, the proposal will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers. The proposal would take effect January 5, 2021, but would govern the elections for county constitutional officers for the 2020 election cycle.

The 1885 Florida Constitution initially provided that county constitutional officers are to be elected and that their duties be established in Florida statute. However, through amendments, in particular the enshrinement of home rule authority in the 1968 Florida Constitution, with the authorization of county charters, the method of selection and duties of some county constitutional officers in some counties changed. The proposal revises sections 1 and 6 of Article VIII to return to having all constitutionally prescribed county officers elected by voters of that county.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

The Florida Constitution calls for the state to be divided into political subdivisions called counties. Specifically, Article VIII of the Florida Constitution provides for two types of counties: charter counties and non-charter counties.

### Non-Charter Counties

If a county does not operate under a charter, the county has only such power of self-government as is provided by general or special law. If the Legislature has authorized a non-charter county to govern a particular area, the board of county commissioners may enact county ordinances not inconsistent with general or special law. Currently, there are 47 non-charter counties in Florida.

### Charter Counties

Pursuant to either general or special law, a county charter may be adopted, amended, or repealed by approval of the electors of the county in a special election. If a county operates under a charter, the county has all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. Therefore, even if the Legislature has not specifically authorized a charter county to govern a particular area, the Florida Constitution grants the board of county commissioners broad authority to enact county ordinances not inconsistent with general law. Currently, there are 20 charter counties in Florida.

### County Officers under the Florida Constitution

The Florida Constitution creates five specific county officers: Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court (collectively, the five constitutional offices/officers). The Clerk of the Circuit Court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These officers have prescribed duties provided for in general law.

All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.

The five constitutional offices may only be altered pursuant to authority prescribed by the terms of a county charter. Specifically, Article VIII, Section 1(d) authorizes a county charter to abolish one or all of the constitutional county offices; transfer the powers to another department of the county government; or provide for a different manner of selecting a county officer. Further, Article VIII, Section 1(d) authorizes a county charter to transfer the Clerk of the Circuit Court's duties as ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds to another department of county government.

Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred their duties to another county office. The eight counties that have altered the duties of a constitutional officer, or have abolished the office and reassigned

duties through their charter are: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

#### Brevard County

Brevard County “expressly preserved” the offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court as departments of county government, rather than constitutional offices. The county reiterated the ability to transfer or add to the powers of each of the county officers. The county has transferred the powers of the Clerk of Circuit Court as auditor, and custodian of county funds to the county manager. Each officer remains elected for a four year term.

#### Miami-Dade County

Miami-Dade County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser, transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers. The duties of the Sheriff were transferred to the police department, the director of which is appointed by the mayor. The duties of the tax collector were transferred to the department of finance, the director of which is jointly appointed by the mayor and the clerk of court. The county Property Appraiser, although not retained as a constitutional office, remains an elected position. The duties of the Supervisor of Elections were transferred to the elections department, the director of which is appointed by the mayor. The Clerk of the Circuit Court remains a constitutional, elected officer with some changes in duties. Although the clerk is still the clerk of the county commission, the clerk’s financial recorder and custodian duties were transferred to the department of financial services, and the clerk’s auditing duties were transferred to the commission auditor.

#### Volusia County

Volusia County established its charter by special law in 1970, and the voters of Volusia County subsequently approved it in a special countywide election the same year. Volusia County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser. The county transferred these offices’ powers to new charter offices. The duties of the Sheriff were transferred to and divided between the department of public safety and the department of corrections. The duties of the Tax Collector were transferred to the department of finance. The duties of the Property Appraiser were transferred to the department of property appraisal. The duties of the Supervisor of Elections were transferred to the department of elections. The Sheriff, Property Appraiser, and Supervisor of Elections are elected directors of their respective offices. The Tax Collector is appointed by the county manager and confirmed by the county council. The Clerk of the Circuit Court remains a constitutionally elected officer except that the clerk’s constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.

### Broward County

Broward County has not altered the constitutionally elected offices and duties of the Sheriff, Property Appraiser, and Supervisor of Elections. However, the office of the Tax Collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county administrator. Though the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission were transferred to the county administrator.

### Clay County

Clay County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. Although the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.

### Duval County

Duval County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer but the clerk's duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.

### Orange County

In 2016, Orange County abolished the constitutionally elected offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, Clerk of the Circuit Court as well as the county Comptroller and reinstated the offices as elected officials. The 2016 charter amendments provide, however, that each new charter office shall have all rights and privileges of the corresponding constitutional offices. Two separate lawsuits are pending as to whether the county can make constitutional officers term limited and subject to non-partisan elections through their county charter provisions.

### Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer, but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.



**B. EFFECT OF PROPOSED CHANGES:**

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers.

If adopted by the Constitution Revision Commission, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election (November 6, 2018). If approved by the voters, the amendment takes effect on January 5, 2021. As a result, affected charter counties will have around 18 months to revise their charters and ordinances to conform to this amendment for the 2020 general elections.

If adopted, the proposal would have no impact on non-charter counties and those charter counties that retained the constitutional offices without any changes to its selection or authority.

From the 2020 general election cycle forward, all county, whether charter or non-charter, constitutional officers must be elected with fixed four year terms, and their offices cannot be abolished, or their duties transferred to another office or officer.

If approved during the 2018 general election, the following counties will be required to revise their charter to conform to the change before the 2020 general election; Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

**C. FISCAL IMPACT:**

The fiscal impact is indeterminate. The impact will be confined to the charter counties who have altered their constitutional officers. The proposal would require the affected counties to expend funds to (a) provide for election of appointed constitutional officers, and (b) reorganize their governments to accommodate the officer's office and responsibilities. The effect will be heavily dependent on the reorganization efforts at the county level and could vary greatly by county.

**III. Additional Information:****A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

Line 44 “Notwithstanding subsection 6(e)...” The word “notwithstanding” may create ambiguity; therefore, “notwithstanding” is construed to communicate that this amendment supersedes subsection 6(e).

**D. Related Issues:**

None.

By Commissioner Timmann

timmannc-00018B-17

201713\_\_

1 A proposal to amend  
 2 Sections 1 and 6 of Article VIII of the State  
 3 Constitution to remove authority for a county charter  
 4 or a special law to provide for choosing specified  
 5 county officers in a manner other than election and to  
 6 prohibit a county charter from abolishing specified  
 7 county officers, transferring duties of a county  
 8 officer to another officer or office, establishing the  
 9 length of terms of county officers, or establishing  
 10 any manner of selection of county officers other than  
 11 by election.

13 Be It Proposed by the Constitution Revision Commission of  
 14 Florida:

16 Sections 1 and 6 of Article VIII of the State Constitution  
 17 are amended to read:

18 ARTICLE VIII  
 19 LOCAL GOVERNMENT

20 SECTION 1. Counties.-

21 (a) POLITICAL SUBDIVISIONS. The state shall be divided by  
 22 law into political subdivisions called counties. Counties may be  
 23 created, abolished or changed by law, with provision for payment  
 24 or apportionment of the public debt.

25 (b) COUNTY FUNDS. The care, custody and method of  
 26 disbursing county funds shall be provided by general law.

27 (c) GOVERNMENT. Pursuant to general or special law, a  
 28 county government may be established by charter which shall be  
 29 adopted, amended or repealed only upon vote of the electors of  
 30 the county in a special election called for that purpose.

31 (d) COUNTY OFFICERS. There shall be elected by the electors  
 32 of each county, for terms of four years, a sheriff, a tax

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201713\_\_

33 collector, a property appraiser, a supervisor of elections, and  
 34 a clerk of the circuit court, ~~except, when provided by county~~  
 35 ~~charter or special law approved by vote of the electors of the~~  
 36 ~~county, any county officer may be chosen in another manner~~  
 37 ~~therein specified, or any county office may be abolished when~~  
 38 ~~all the duties of the office prescribed by general law are~~  
 39 ~~transferred to another office. Unless~~ When not otherwise  
 40 provided by ~~county charter or~~ special law approved by vote of  
 41 the electors or pursuant to Article V, section 16, the clerk of  
 42 the circuit court shall be ex officio clerk of the board of  
 43 county commissioners, auditor, recorder and custodian of all  
 44 county funds. Notwithstanding subsection 6(e) of this article, a  
 45 county charter may not abolish the office of a sheriff, a tax  
 46 collector, a property appraiser, a supervisor of elections, or a  
 47 clerk of the circuit court; transfer the duties of those  
 48 officers to another officer or office; establish the length of  
 49 the term of office; or establish any manner of selection other  
 50 than by election by the electors of the county.

51 (e) COMMISSIONERS. Except when otherwise provided by county  
 52 charter, the governing body of each county shall be a board of  
 53 county commissioners composed of five or seven members serving  
 54 staggered terms of four years. After each decennial census the  
 55 board of county commissioners shall divide the county into  
 56 districts of contiguous territory as nearly equal in population  
 57 as practicable. One commissioner residing in each district shall  
 58 be elected as provided by law.

59 (f) NON-CHARTER GOVERNMENT. Counties not operating under  
 60 county charters shall have such power of self-government as is  
 61 provided by general or special law. The board of county

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62 commissioners of a county not operating under a charter may  
 63 enact, in a manner prescribed by general law, county ordinances  
 64 not inconsistent with general or special law, but an ordinance  
 65 in conflict with a municipal ordinance shall not be effective  
 66 within the municipality to the extent of such conflict.

67 (g) CHARTER GOVERNMENT. Counties operating under county  
 68 charters shall have all powers of local self-government not  
 69 inconsistent with general law, or with special law approved by  
 70 vote of the electors. The governing body of a county operating  
 71 under a charter may enact county ordinances not inconsistent  
 72 with general law. The charter shall provide which shall prevail  
 73 in the event of conflict between county and municipal  
 74 ordinances.

75 (h) TAXES; LIMITATION. Property situate within  
 76 municipalities shall not be subject to taxation for services  
 77 rendered by the county exclusively for the benefit of the  
 78 property or residents in unincorporated areas.

79 (i) COUNTY ORDINANCES. Each county ordinance shall be filed  
 80 with the custodian of state records and shall become effective  
 81 at such time thereafter as is provided by general law.

82 (j) VIOLATION OF ORDINANCES. Persons violating county  
 83 ordinances shall be prosecuted and punished as provided by law.

84 (k) COUNTY SEAT. In every county there shall be a county  
 85 seat at which shall be located the principal offices and  
 86 permanent records of all county officers. The county seat may  
 87 not be moved except as provided by general law. Branch offices  
 88 for the conduct of county business may be established elsewhere  
 89 in the county by resolution of the governing body of the county  
 90 in the manner prescribed by law. No instrument shall be deemed

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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91 recorded until filed at the county seat, or a branch office  
 92 designated by the governing body of the county for the recording  
 93 of instruments, according to law.

## SECTION 6. Schedule to Article VIII.—

94 (a) This article shall replace all of Article VIII of the  
 95 Constitution of 1885, as amended, except those sections  
 96 expressly retained and made a part of this article by reference.

97 (b) COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS. The  
 98 status of the following items as they exist on the date this  
 99 article becomes effective is recognized and shall be continued  
 100 until changed in accordance with law: the counties of the state;  
 101 their status with respect to the legality of the sale of  
 102 intoxicating liquors, wines and beers; the method of selection  
 103 of county officers; the performance of municipal functions by  
 104 county officers; the county seats; and the municipalities and  
 105 special districts of the state, their powers, jurisdiction and  
 106 government.

107 (c) OFFICERS TO CONTINUE IN OFFICE. Every person holding  
 108 office when this article becomes effective shall continue in  
 109 office for the remainder of the term if that office is not  
 110 abolished. If the office is abolished the incumbent shall be  
 111 paid adequate compensation, to be fixed by law, for the loss of  
 112 emoluments for the remainder of the term.

113 (d) ORDINANCES. Local laws relating only to unincorporated  
 114 areas of a county on the effective date of this article may be  
 115 amended or repealed by county ordinance.

116 (e) CONSOLIDATION AND HOME RULE. Article VIII, Sections 9,  
 117 10, 11 and 24, of the Constitution of 1885, as amended, shall  
 118 remain in full force and effect as to each county affected, as  
 119

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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120 if this article had not been adopted, until that county shall  
121 expressly adopt a charter or home rule plan pursuant to this  
122 article. All provisions of the Metropolitan Dade County Home  
123 Rule Charter, heretofore or hereafter adopted by the electors of  
124 Dade County pursuant to Article VIII, Section 11, of the  
125 Constitution of 1885, as amended, shall be valid, and any  
126 amendments to such charter shall be valid; provided that the  
127 said provisions of such charter and the said amendments thereto  
128 are authorized under said Article VIII, Section 11, of the  
129 Constitution of 1885, as amended.

130 (f) DADE COUNTY; POWERS CONFERRED UPON MUNICIPALITIES. To  
131 the extent not inconsistent with the powers of existing  
132 municipalities or general law, the Metropolitan Government of  
133 Dade County may exercise all the powers conferred now or  
134 hereafter by general law upon municipalities.

135 (g) SELECTION AND DUTIES OF COUNTY OFFICERS.—The amendment  
136 to Section 1 of this article, relating to the selection and  
137 duties of county officers, shall take effect January 5, 2021,  
138 but shall govern with respect to the qualifying for and the  
139 holding of the primary and general elections for county  
140 constitutional officers in 2020.

141 ~~(h) (g)~~ DELETION OF OBSOLETE SCHEDULE ITEMS. The legislature  
142 shall have power, by joint resolution, to delete from this  
143 article any subsection of this Section 6, including this  
144 subsection, when all events to which the subsection to be  
145 deleted is or could become applicable have occurred. A  
146 legislative determination of fact made as a basis for  
147 application of this subsection shall be subject to judicial  
148 review.





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# FLORIDA SHERIFFS ASSOCIATION

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December 12, 2017

Commissioner Don Gaetz  
Constitution Revision Commission  
The Capitol, 400 South Monroe Street  
Tallahassee, Florida 32399

Dear Commissioner Gaetz:

The Florida Sheriffs Association is one of the largest and most successful law enforcement associations in the nation. Our mission is to unify Florida sheriffs in purpose and voice for the protection of Florida's citizens and visitors. We believe that Proposal 13 serves that purpose by ensuring that all constitutional officers are elected and accountable to the people they serve. In one county a sheriff is not elected, and in another county they do not report directly to the citizens they serve because a county charter abolished their office. As a sheriff, I know that independence and accountability are necessary to perform our duties in such a way that ensures the public's trust and the integrity of the Office of Sheriff.

Proposal 13 will address these issues in several counties, but it also has statewide impact. There are currently 20 counties that have adopted a charter form of government. In the future, any of those charters could abolish the Office of Sheriff or any other constitutional office. Proposal 13 would prevent that from happening. In addition, any of the other 47 counties could one day adopt a charter form of government. Proposal 13 would not impact those 47 counties from making that decision. Rather, it sets a basic parameter that precludes a county from abolishing the Office of Sheriff, or any of the other four constitutional officers, or relegating any of these constitutional officers into an appointed position.

It is important to note that Proposal 13 does not mandate how charter counties must act or govern themselves. It will however protect the community's ability to determine who will serve as the officials that have the most direct effect on their lives. In charter counties where constitutional officers have been abolished or their duties have been reassigned, the public does not have a voice at the ballot box. This proposal would simply return to voters the ability to

determine who will serve as their sheriff, clerk of court, property appraiser, tax collector and supervisor of elections.

Let's let the voters decide who they would like to represent them. We would greatly appreciate your support on Proposal 13.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Adkinson Jr." The signature is written in a cursive style with a prominent initial 'M'.

Sheriff Michael Adkinson  
Walton County Sheriff's Office  
President, Florida Sheriffs Association



December 12, 2017

**Via E-Mail**

Don.Gaetz@flcra.gov

The Honorable Don Gaetz  
Constitution Revision Commissioner  
The Capitol  
402 South Monroe Street  
Tallahassee, Florida 32399

RE: Proposal 13

Dear Commissioner Gaetz:

The Florida Tax Collectors Association is a model at the national level of similarly situated organizations. Our mantra is to empower and protect Florida's citizens in the delivery of state services at the local level. As an example of these state services provided at the local level, did you know that Tax Collectors are responsible for collecting over \$21 billion in local tax revenue? Or did you know that those Tax Collector offices across the state which have not been abolished account for 28 million vehicle and vessel transactions in the state of Florida?

We believe that Proposal 13 furthers our ability to provide these vital state services at the local level in an accountable manner. Proposal 13 guarantees that all Florida voters will have the ability to elect their local Tax Collector, Sheriff, Property Appraiser, Supervisor of Elections and Clerk of the Court. Proposal 13 will safeguard Florida by securing the link of accountability between these independent offices created by the state-constitution and Florida's citizens.

Some Florida counties have abolished the office of tax collector decades ago. As a result, in these counties, Tax Collectors are not elected and do not report directly to the citizens. In these counties where the individual or department responsible for statutory Tax Collector duties reports to a mayor or a board of county commissioners, there is at the very least the appearance of undue influence between these local governments that levy and impose ad valorem taxes and the county-controlled individual or department that is ultimately responsible to collect the tax. In addition, the Florida Legislature has not authorized these counties to provide the vital state services of Driver License issuance, renewal, etc.



Many other counties have adopted charters and some have even attempted to abolish the office of Tax Collector. Proposal 13 prevents that from happening without adversely impacting a county's ability to adopt a charter.

Moreover, Proposal 13 does absolutely nothing to adversely impact home rule. Home rule concerns a county government's ability to govern itself on purely local matters so long as not running afoul of state statute. We support home rule. The concept of home rule was designed to alleviate the need for county commissions to continuously return to the Legislature for special laws in order to have the authority to enact local ordinances not contemplated in state law. Proposal 13 does nothing to change a county commission's ability to govern itself on matters of purely local government concern. It does not impact home rule.

What we are talking about is the protection of the delivery of state services at the local level. Home rule cannot, by its own definition, run counter to state law. Proposal 13 insulates a Tax Collector's ability to deliver accountable state services at the local level as an independently-elected official without even the appearance of undue influence.

This proposal is straightforward in that it protects the citizens' right to vote for their independent state-constitution officers. We would greatly appreciate your support on Proposal 13.

Sincerely,



Sharon W. Jordan  
Tax Collector in and for Suwannee County  
President, Florida Tax Collectors Association

SWJ/

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 19

Relating to: GENERAL PROVISIONS, Ethics in government; SCHEDULE, creates new section

Introducer(s): Commissioner Rouson

Article/Section affected:

Date: December 5, 2017

	REFERENCE	ACTION
1.	<u>EE</u>	<u>Pre-meeting</u>

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**I. SUMMARY:**

Proposal #19 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 any state government body or state agency except judicial tribunals for six years following vacation of office. It also creates a new section in Article XII of the State Constitution, providing that this prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.

**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 – 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 - Revolving Door Prohibition

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Within this section, subsection (e) reads as follows:

“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 - 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.

Under current law, a former public officer who violates this or 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)

Per House staff analysis of 2018 House Bill 5, during the 2016 Organization Session the Florida House of Representatives 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.

#### 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 broaden and lengthen the existing prohibitions on personal representation for compensation:

- 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. HJR7001 passed the House on March 30, 2017 by a vote of 108-4, but was not considered in the Senate.
- House Bill (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.
- HB 7083 was an omnibus ethics reform bill that contained the provisions in HB 7003; it passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

### 2018 Florida Legislative Committee Meetings

During committee meetings leading up to the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration proposed changes to Florida law that would broaden and lengthen the existing prohibitions on personal representation for compensation:

- HB 5 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 Public Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of December 5, 2017 is on the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

## **B. EFFECT OF PROPOSED CHANGES:**

### Article II

Proposal #19 would replace 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. Effective November 6, 2018, the proposed language would prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before **any state government body or state agency other than judicial tribunals** for **six years** following vacation of office. Specifically, this proposal would amend Subsection (e) of Section 8 of Article II of the Florida State Constitution to read:

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

### Article XII

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

“State officers post-service personal representation prohibitions.—The amendment to Section 8 of Article II prohibiting legislators and statewide elected officers from providing personal representation for compensation before any state government body or state agency for six years following vacation of office is applicable only to those

individuals who were members of the legislature or who were statewide elected officers at any time after November 6, 2018.

Florida Commission on Ethics Analysis

The Florida Commission on Ethics has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four CRC proposals to amend the ethics provisions of the Florida Constitution. Regarding the changes made by this proposal (#19), the memo states:

“This proposal would: 1) expand the language in the Constitution from “the government body or agency of which the individual was an officer or member” to “any state government body or state agency” 2) extend the prohibition to six years, and 3) include an exemption which does not exist in the current language for representation before judicial tribunals.”

**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 statewide elected officers who would be impacted by the change 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 state government body or state agency who in essence replace those who are prohibited under this proposal.

**III. Additional Information:**

**A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Rouson

rousond-00041A-17

201719\_\_

A proposal to amend

Section 8 of Article II and create a new section in Article XII of the State 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 and to provide that the prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II  
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) 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

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) A ~~No~~ member of the legislature or a statewide elected officer ~~may not shall~~ personally represent another person or entity for compensation before any state ~~the~~ government body or state agency other than judicial tribunals ~~of which the individual was an officer or member~~ for a period of six ~~two~~ years following vacation of office. A ~~No~~ member of the legislature ~~may not 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.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) 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.

(i) Schedule—On the effective date of this amendment and

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



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62 until changed by law:

63 (1) Full and public disclosure of financial interests shall  
64 mean filing with the custodian of state records by July 1 of  
65 each year a sworn statement showing net worth and identifying  
66 each asset and liability in excess of \$1,000 and its value  
67 together with one of the following:

68 a. A copy of the person's most recent federal income tax  
69 return; or

70 b. A sworn statement which identifies each separate source  
71 and amount of income which exceeds \$1,000. The forms for such  
72 source disclosure and the rules under which they are to be filed  
73 shall be prescribed by the independent commission established in  
74 subsection (f), and such rules shall include disclosure of  
75 secondary sources of income.

76 (2) Persons holding statewide elective offices shall also  
77 file disclosure of their financial interests pursuant to  
78 subsection (i) (1).

79 (3) The independent commission provided for in subsection  
80 (f) shall mean the Florida Commission on Ethics.

81  
82 A new section is added to Article XII of the State  
83 Constitution to read:

84 ARTICLE XII

85 SCHEDULE

86 State officers post-service personal representation  
87 prohibitions.—The amendment to Section 8 of Article II  
88 prohibiting legislators and statewide elected officers from  
89 providing personal representation for compensation before any  
90 state government body or state agency for six years following

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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91 vacation of office is applicable only to those individuals who  
92 were members of the legislature or who were statewide elected  
93 officers at any time after November 6, 2018.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**Constitution Revision Commission  
Ethics and Elections Committee  
Proposal Analysis**

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

Proposal #: P 39

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

Introducer(s): Commissioner Gaetz

Article/Section affected:

Date: December 5, 2017

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

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**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.
  - Amends Section 13 of Article 5 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 – 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 - Revolving Door Prohibition

Article II of Florida’s State Constitution is entitled General Provisions, and Section 8 of this Article is entitled Ethics in Government. Within this section, subsection (e) reads as follows:

“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 - 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)

Per House staff analysis of 2018 House Bill 5, during the 2016 Organization Session the Florida House of Representatives 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.

#### 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 broaden and lengthen the existing prohibitions on personal representation for compensation:

- 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. HJR7001 passed the House on March 30, 2017 by a vote of 108-4, but was not considered in the Senate.

- House Bill (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.
- HB 7083 was an omnibus ethics reform bill that contained the provisions in HB 7003; it passed the House on April 20, 2017 by a vote of 118-1 but was not considered in the Senate.

#### 2018 Florida Legislative Committee Meetings

During committee meetings leading up to the 2018 Session of the Florida Legislature, the House of Representatives has submitted for consideration proposed changes to Florida law that would broaden and lengthen the existing prohibitions on personal representation for compensation:

- HB 5 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 Public Integrity and Ethics Committee on November 7, 2017 by a vote of 18-0, and as of December 5, 2017 is on the calendar of bills available for consideration by the full House. As of December 5, 2017 there is no similar companion bill filed in the Senate.

#### 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

Proposal #39 would replace 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 would 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 other than judicial tribunals** for **six years** following vacation of office.

Proposal #39 would also replace the current constitutional prohibition against **legislators** personally representing another person or entity for compensation during term of office before **any state agency** other than judicial tribunals with a new prohibition. The proposed language would 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**.

Proposal #39 would also constitutionally establish 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.

Finally, with regards to all the changes made to this subsection of Section 8 of Article II, 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.”

#### Article V

Proposal #39 would constitutionally establish 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 would read:

“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 would also create 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 has scheduled a meeting for December 8, 2017. Included on the agenda for this meeting is Item IX, Constitution Revision Proposals. Included in the meeting materials for this item is a memo dated November 20, 2017 to Commission Members from the Executive Director. The subject of the memo is Constitution Revision Commission (CRC) request, and it provides information on each of the current four 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 statewide elected officers who would be impacted by the change 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 state government body or state agency who in essence replace those who are prohibited under this proposal.

**III. Additional Information:**

**A. Statement of Changes:**

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

None.

**B. Amendments:**

None.

**C. Technical Deficiencies:**

None.

**D. Related Issues:**

None.

By Commissioner Gaetz

gaetzd-00043A-17

201739\_\_

A proposal to amend

Section 8 of Article II and Section 13 of Article V and create a new section in Article XII of the State Constitution to establish certain restrictions for specified public officers and employees regarding the personal representation for compensation of another person or entity before certain government bodies.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 8 of Article II of the State Constitution is amended to read:

ARTICLE II  
GENERAL PROVISIONS

SECTION 8. Ethics in government.—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) 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.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to

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forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) (1) A ~~no~~ member of the legislature or a statewide elected officer ~~may not shall~~ personally represent another person or entity for compensation before the legislature or any state government body or agency, other than judicial tribunals, of which the individual was an officer or member for a period of six ~~two~~ years following vacation of office. A ~~no~~ member of the legislature or a statewide elected officer may not ~~shall~~ 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

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62 elected municipal officer, or an elected special district  
 63 officer in a special district with ad valorem taxing authority,  
 64 may not personally represent another person or entity for  
 65 compensation:

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

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

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

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

78 (f) There shall be an independent commission to conduct  
 79 investigations and make public reports on all complaints  
 80 concerning breach of public trust by public officers or  
 81 employees not within the jurisdiction of the judicial  
 82 qualifications commission.

83 (g) A code of ethics for all state employees and  
 84 nonjudicial officers prohibiting conflict between public duty  
 85 and private interests shall be prescribed by law.

86 (h) This section shall not be construed to limit  
 87 disclosures and prohibitions which may be established by law to  
 88 preserve the public trust and avoid conflicts between public  
 89 duties and private interests.

90 (i) Schedule—On the effective date of this amendment and

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91 until changed by law:

92 (1) Full and public disclosure of financial interests shall  
 93 mean filing with the custodian of state records by July 1 of  
 94 each year a sworn statement showing net worth and identifying  
 95 each asset and liability in excess of \$1,000 and its value  
 96 together with one of the following:

97 a. A copy of the person's most recent federal income tax  
 98 return; or

99 b. A sworn statement which identifies each separate source  
 100 and amount of income which exceeds \$1,000. The forms for such  
 101 source disclosure and the rules under which they are to be filed  
 102 shall be prescribed by the independent commission established in  
 103 subsection (f), and such rules shall include disclosure of  
 104 secondary sources of income.

105 (2) Persons holding statewide elective offices shall also  
 106 file disclosure of their financial interests pursuant to  
 107 subsection (i) (1).

108 (3) The independent commission provided for in subsection  
 109 (f) shall mean the Florida Commission on Ethics.

110  
 111 Section 13 of Article V of the State Constitution is  
 112 amended to read:

## ARTICLE V

## JUDICIARY

115 SECTION 13. Ethics in the judiciary ~~Prohibited activities.~~  
 116 All justices and judges shall devote full time to their judicial  
 117 duties. A justice or judge may ~~They shall~~ not engage in the  
 118 practice of law or hold office in any political party. A justice  
 119 or judge may not personally represent another person for

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120 compensation before the legislative, executive, or judicial  
121 branches of state government, other than practicing law before a  
122 judicial tribunal, for a period of six years following vacation  
123 of office.

124  
125 A new section is added to Article XII of the State  
126 Constitution to read:

127 ARTICLE XII  
128 SCHEDULE

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

PROPOSAL 39: GENERAL PROVISIONS, Ethics in government

	OLD Prohibition While in Office Current Law	NEW Prohibition While in Office Under P39	OLD Prohibition After Holding Office Current Law	NEW Prohibition After Holding Office Under P39
Legislators	<ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> </ul>	<ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> <li>• Local</li> <li>• Federal</li> </ul>	<p>TWO YEARS</p> <ul style="list-style-type: none"> <li>• Legislature</li> <li>• State*</li> </ul>	<p>SIX YEARS</p> <ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> </ul>
Statewide Elected Officer	<ul style="list-style-type: none"> <li>• Own agency*</li> </ul>	<ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> <li>• Local</li> <li>• Federal</li> </ul>	<p>TWO YEARS</p> <ul style="list-style-type: none"> <li>• Own agency</li> </ul>	<p>SIX YEARS</p> <ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> </ul>
Agency Heads	<ul style="list-style-type: none"> <li>• Own agency*</li> </ul>	<ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> <li>• Local</li> <li>• Federal</li> </ul>	<p>TWO YEARS</p> <ul style="list-style-type: none"> <li>• Own agency*</li> </ul>	<p>SIX YEARS</p> <ul style="list-style-type: none"> <li>• Legislature</li> <li>• Certain State Offices**</li> </ul>
County Officers, School Board Members, Superintendents of Schools, Elected Municipal Officers, and Elected Members of a Special District with ad valorem taxing authority	<ul style="list-style-type: none"> <li>• Own agency*</li> </ul>	<ul style="list-style-type: none"> <li>• Legislature</li> <li>• State</li> <li>• Local</li> <li>• Federal</li> </ul>	No Ban	<p>SIX YEARS</p> <ul style="list-style-type: none"> <li>• Own agency</li> </ul>

\* This prohibition currently only exists by statute

\*\* 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

**Side-by-Side Comparison: Ethics Proposals Before the 2018 Constitution Revision Commission**

P19 by Commissioner Rouson	P39 by Commissioner Gaetz	P52 by Commissioner Newsome	P98 by Commissioner Kruppenbacher
<p>Prohibits 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 6 years following vacation of office.</p> <p>Provides that this prohibition applies to individuals who were members of the Legislature or who were statewide elected officers at any time after November 6, 2018.</p>	<p>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 except judicial tribunals for 6 years following vacation of office.</p> <p>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.</p> <p>Prohibits those who served as a secretary, executive director, or other agency head of a department of the executive branch of state government, 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 6 years following vacation of his or her position.</p> <p>Prohibits those serving as a secretary, executive director, or other agency head of a department of the executive branch of state government 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.</p> <p>Prohibits 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 6 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.</p> <p>Prohibits 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 6 years following vacation of office.</p> <p>Provides 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.</p>	<p>Prohibits elected public officers and candidates for public office, and the immediate family members of such officers and candidates, from engaging directly or indirectly in any commercial or financial transactions with such officer's or candidate's campaign or any political organization for which the officer or candidate has solicited contributions. Does not apply to contributions and loans to the officer's or candidate's campaign, and reimbursements of itemized expenditures paid to third parties, if disclosed in accordance with applicable campaign finance laws. Definitions, exceptions, and penalties for violations may be prescribed by law. Unless other penalties are prescribed, any violation must be investigated and punished as a violation of the code of ethics for public officers and employees.</p> <p>Prohibits elected public officers and candidates for public office, and the immediate family members of such officers and candidates, from agreeing to or engaging in any commercial or financial transaction with a public entity including the state, a political subdivision of the state, or any entity established, directed, managed, or operated by the state or a political subdivision, unless such transaction is fully disclosed 10 days before any offer or acceptance by the public entity and no condition of confidentiality is imposed. Any agreement in violation of this subsection is void. Does not apply to the sale of goods and services offered to the public on a non-exclusive basis. Definitions, exceptions, additional restrictions, and penalties for violations may be prescribed by law.</p>	<p>Prohibits a member of the legislature from attempting to influence, involve themselves in, vote on any legislation, or attempt to influence or involve themselves in any business of the state or its political subdivisions which will directly inure to his or her benefit or to the benefit of his or her immediate family.</p>



CONSTITUTION REVISION COMMISSION

8:05

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/13/17  
Meeting Date

39  
Proposal Number (if applicable)

\*Topic Ethics

Amendment Barcode (if applicable)

\*Name Brad Ashwell

Address 1536 Chul: Nene  
Street

Phone 850-294-1008

Tallahassee FL 32301  
City State Zip

Email bradashwell@gmail.com

\*Speaking:  For  Against  Information Only

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Are you representing someone other than yourself?  Yes  No

If yes, who? Common Cause FL

Are you a registered lobbyist?  Yes  No

Are you an elected official or judge?  Yes  No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

\*Required

CONSTITUTION REVISION COMMISSION

8:05

APPEARANCE RECORD

(Deliver completed form to Commission staff)

12/13 Meeting Date

39 Proposal Number (if applicable)

\*Topic Ethics

Amendment Barcode (if applicable)

\*Name Ben Wilcox

Address 1719 Old Fort Street

Phone

City Tallahassee State FL Zip 32301

Email

\*Speaking: [X] For [ ] Against [ ] Information Only

Waive Speaking: [X] Support [ ] Against (The Chair will read this information into the record.)

Are you representing someone other than yourself? [X] Yes [ ] No

If yes, who? Integrity Florida

Are you a registered lobbyist? [X] Yes [ ] No

Are you an elected official or judge? [ ] Yes [X] No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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