

*Annual Report  
to the  
Florida Legislature  
for Calendar Year 2009*



*By the  
State of Florida  
Commission on Ethics*

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# *Message from the Chair*

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Over the last year, a series of high-profile scandals have rocked the state from the Panhandle to Miami. Government ethics and the integrity of our public officials have been front-page news, suddenly the topic of newspaper editorials and public debate.

Right now, Floridians are paying attention to these issues at an unprecedented level, and they are angry. They are skeptical that anyone is protecting the public trust. Each time the public perceives that a public official has gotten away with misconduct, the resulting growth in apathy, cynicism, and anger erode the very foundations of our democracy.

It is essential that we take steps to toughen our state's ethics laws and enhance the ability of the Commission to enforce them.

While Florida's constitution mandates the creation of an ethics commission, it's up to the Legislature to decide how it's structured, what process it follows, and what laws it enforces. Only the Legislature can take the actions necessary to strengthen the people's faith in their government.

The legislative recommendations you will find in this report are the result of several years of experience, study, research, and debate by the members and staff of the Commission.

While all of the recommendations are important, I would like to highlight those I believe would make the greatest impact.

## ***Limited Investigative Authority***

Under the current law, the Commission is under no circumstances able to open an investigation until a citizen files a sworn complaint. And because of a recent court decision making it easier to force citizen complainants to pay attorneys fees, fewer citizens are choosing to bear this risk and file complaints.

We've suggested giving the Commission the ability to open an investigation without a citizen complaint in two limited circumstances: if certain officials (the governor, the

CFO, Florida Department of Law Enforcement, and a few others) refer the case, or if reliable information has been widely and publicly disseminated. In both cases, a super-majority of the Commission would have to vote to open the investigation. Because the Commission is required by statute to have members of both political parties, requiring a super-majority vote means members of both parties would have to support opening an investigation. The existence of the investigation would remain confidential until after the Commission votes on probable cause.

### ***Increased Fines***

Currently, the maximum fine allowed by statute is \$10,000. The Commission has to reserve the maximum fine for the most egregious violators and therefore typically hands out fines in the \$1000 to \$4000 range. The public and media scoff at these fines as a slap on the wrist, just the cost of doing business. The Commission has proposed an increase in the maximum fine (up to \$100,000) both to serve as a greater deterrent and to enable it to impose fines that really fit the severity of the offense.

### ***Voting Conflicts***

Currently, if a vote on a specific measure would cause a local official, his family or employer to incur a gain or loss, the official has to abstain from the vote. But they are permitted to influence the process and lobby other officials without disclosing their conflict until the moment of the vote. The Commission has suggested that an official with a conflict should not be able to participate in the process in any way, and staff should be prohibited from acting on their behalf as well.

On behalf of my colleagues on the Commission and our dedicated staff, I urge the Legislature to give serious attention to all of these proposals.

Thank you for your continued confidence in our work.

Sincerely,

A handwritten signature in black ink that reads "Cheryl Forchilli". The signature is written in a cursive, flowing style.

Cheryl Forchilli  
Chairman

# *2009 Commission Members*

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**CHERYL FORCHILLI, *Chair***

Tampa - Attorney (D)  
Term expires June 2010  
Appointed by Governor Crist

**ROY ROGERS, *Vice-Chair***

Lighthouse Point - Business Executive (I)  
Term expires June 2011  
Appointed by Governor Crist

**LINDA A. CONAHAN**

Boca Raton - Attorney (R)  
Term expired June 2009  
Appointed by Governor Crist

**LARRY R. HANDFIELD**

Miami - Attorney (D)  
Term expired June 2009  
Appointed by Governor Crist

**FRANK KRUPPENBACHER**

Orlando - Attorney (R)  
Term expires June 2010  
Appointed by Speaker of the House Rubio

**JEAN LARSEN**

Port St. Lucie - Staffing Services Executive (R)  
Term expires June 2010  
Appointed by Senate President Pruitt

**MICHAEL D. JOBLOVE**

Cooper City - Attorney (D)  
Term expires June 2010  
Appointed by Speaker of the House Rubio

**ALBERT P. MASSEY, III**


Ft. Lauderdale - Attorney (R)  
Term expired June 2009  
Reappointed by Governor Crist

**ROBERT J. SNIFFEN**

Tallahassee - Attorney (D)  
Term expires June 2010  
Appointed by Senate President Pruitt

# *Introduction & History*

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ection 112.322 (8), Florida Statutes, requires the Florida Commission on Ethics to “submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.” This report has been provided to the Legislature on an annual basis since 1974. The publication of this document is intended to inform the Legislature and the public of the Commission’s work during the calendar year 2009.

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of her people to protect the public trust against abuse. In 1967, the Legislature enacted “a code of ethics setting forth standards of conduct to be observed by state officers and employees in the performance of their official duties.” Chapter 67-469, Laws of Florida, declared it to be the policy of the Legislature that no state officer or employee, or member or employee of the Legislature, should have any direct or indirect business or professional interest that would “conflict with the proper discharge of his duties in the public interest.” The code was amended to be applicable to officers and employees of political subdivisions of the state in 1969 (Chapter 69-335, Laws of Florida). Five years later, the Florida Commission on Ethics was statutorily created by Chapter 74-176, Laws of Florida (now Part III, Chapter 112, Florida Statutes), to “serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state....”

In late 1975 and 1976, Governor Reubin Askew led an initiative petition drive to amend the Constitution to provide more stringent requirements relating to ethics in government and to require certain public officials and candidates to file full and public disclosure of their financial interests and their campaign finances. The voters in Florida overwhelmingly approved this measure in the 1976 General Election, and the “Sunshine Amendment,” Article II, Section 8, Florida Constitution, became part of the Constitution on January 4, 1977. The Amendment declares: “A public office is a public trust. The

people shall have the right to secure and sustain that trust against abuse.” The Constitution provides for investigations of complaints concerning breaches of the public trust and provides that the Florida Commission on Ethics be the independent commission to conduct these investigations.

The “Code of Ethics for Public Officers and Employees” adopted by the Legislature is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people in their government. The Code is intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service. Criminal penalties which initially applied to violations of the Code were eliminated in 1974 in favor of administrative enforcement.

Duties statutorily assigned to the Commission on Ethics include investigating sworn complaints alleging violations of the ethics laws, making penalty recommendations for violations, maintaining a financial disclosure notification system totaling 37,077 reporting officials and employees this past year, and issuing advisory opinions regarding Part III of Chapter 112, Florida Statutes, and Article II, Section 8, Florida Constitution. The Commission also is charged with administering the Executive Branch Lobby Registration System and Trust Fund which provides for registration of all cabinet and executive agency lobbyists.

# Organization

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The Commission on Ethics is an appointive body consisting of nine members, none of whom may hold any public employment or be employed to lobby state or local government. Five of the members are appointed by the Governor and confirmed by the Senate. No more than three of the Governor's appointees may be of the same political party, and one must be a former city or county official. The Speaker of the House of Representatives and the President of the Senate each make two appointments to the Commission on Ethics. The two appointments must be persons with different political party affiliations. The appointees of the President and Speaker are not subject to Senate confirmation. Any member of the Commission on Ethics may be removed for cause by a majority vote of the Governor, the President of the Senate, the Speaker of the House, and the Chief Justice of the Florida Supreme Court.

Members of the Commission on Ethics serve two-year terms and may not serve more than two full terms in succession. A chairman and vice-chairman are selected by the members for one-year terms. Members of the Commission do not receive a salary but do receive reimbursement for travel and per diem expenses while on official Commission business.

## *Ethics Commission Staff*

Legal, investigative, and administrative functions of the Commission are performed by staff, consisting of 22 full-time equivalent positions.

Philip Claypool, Executive Director and General Counsel

Virindia Doss, Deputy Executive Director and Assistant General Counsel

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## *Legal Section*

Under the supervision of the Executive Director/General Counsel, the legal section drafts opinions, orders, rules, and proposed legislation for consideration by the Commission, teaches, and responds to inquires about the ethics laws. In addition, the legal staff represents the Commission in litigation.

Legal Services are provided both by staff and by the current Assistant Attorneys General Diane L. Guillemette and Melody Hadley who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

### *Legal Staff*

C. Christopher Anderson, III, Chief Assistant General Counsel

Julia Cobb Costas, Assistant General Counsel

Dan Carlton, Attorney

Millie Fulford, Executive Secretary

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## *Investigative Section*

The investigative staff, also supervised by the Executive Director, conducts investigations of violations of the ethics laws and writes narrative investigative reports. The Complaint Coordinator serves as the liaison between the Commission and the Complainant and Respondent and, as the official Clerk of the Commission, is responsible for maintaining the complaint tracking system and files.

### *Investigative Staff*

Robert G. Malone, Senior Investigator

A. Keith Powell, Senior Investigator

Tom W. Reaves, Investigator

Harry B. Jackson, Investigator

K. Travis Wade, Investigator

Ronald D. Moalli, Investigator

Kaye B. Starling, Complaint Coordinator

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## *Financial Disclosure Section*

The Program Administrator, under the supervision of the Executive Director, responds to questions about the disclosure laws and compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure. These 37,077 reporting officials and employees were notified of their filing requirements in 2009 by the Commission on Ethics and by the Supervisors of Elections.

### *Financial Disclosure Staff*

Shirley A. Taylor, Program Administrator

Kimberly Holmes, Program Specialist

Connie Evans, Executive Secretary

Saralynn Brown, Executive Secretary

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## *Public Information Section*

Under the supervision of the Executive Director, the public information section provides information regarding Commission practices and procedures to other states, the press, and the public. This staff member also responds to general information inquiries about the Commission and the ethics laws.

### *Public Information Staff*

Kerrie J. Stillman, Public Information Officer

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## *Administrative and Clerical Section*

Under the supervision of the Executive Director, the administrative section provides administrative and clerical support services to the Commissioners and staff.

### *Administrative and Clerical Staff*

Nancy Griffin, Assistant to the Executive Director

Frances Craft, Office Manager

Dianne Wilson, Receptionist

Derrick Cooper, Clerk (half-time)

Andy McKendree, Clerk (half-time)

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# Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2009.

## BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2009 (Amounts in dollars)

	<u>Budget</u>	<u>Actual</u>	<u>Variance - Favorable (Unfavorable)</u>
<b>REVENUES:</b>			
Released General Revenue Appropriations	2,411,216	2,411,216	0
Fines*	0	82,757	82,757
Miscellaneous Receipts	0	363	363
<b>Total Revenues</b>	<b>2,411,216</b>	<b>2,494,336</b>	<b>83,120</b>
<b>EXPENDITURES:</b>			
Salaries and Related Benefits	1,670,276	1,668,648	1,628
Other Personal Services	321,830	321,146	684
Expenses	256,199	244,179	12,020
Operating Capital Outlay	0		0
Ethics Commission Lump Sum	0		0
Transfers to Administrative Hearings	60,050	60,050	0
Risk management insurance	2,861	2,861	0
Legislative Carryforward**	351,621	16,198	335,123
Nonoperating***	100,000	175	99,825
<b>Total Expenditures</b>	<b>2,762,837</b>	<b>2,313,557</b>	<b>449,280</b>
Excess (Deficiency) of Revenues and other Financing Sources Over Expenditures	(351,621)	180,779	532,400
<b>Budgetary Fund Balances June 30, 2009</b>		<b>180,779</b>	
Adjustment for Fines		(82,757)	
Adjustment for Nonoperating		(99,825)	
Adjustment for Carryforward Expenditures		16,498	
<b>Adjusted Budgetary Fund Balances, June 30, 2009</b>		<b>14,695</b>	

## EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 197,675  
FINES: \$ 3,350

\* Fines are recorded as Collection to General Revenue and are not a Revenue in the States Accounting System and are not an available resource to the fund.

\*\* Legislative Carryforward is prior years unspent budget carried forward to the current year. It is treated as current appropriations.

\*\*\* Nonoperating Budget is budget set to refund Fines and is not an available resource to the fund.

# Operations

The major operational functions of the Commission on Ethics are the investigation of complaints, management of the Executive Branch Lobbyist Registration Act, issuance of advisory opinions, provision of public information and education, and financial disclosure administration. The information below is offered to provide a profile of the Commission's workload.

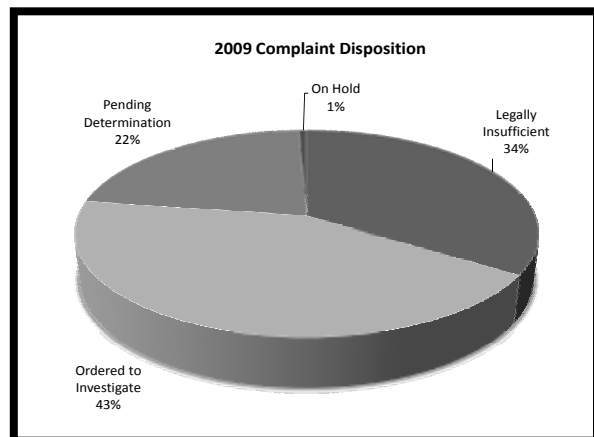
## Complaints

### Statistical Summary of Complaints Filed January 1, 2009 through December 31, 2009

Total number of complaints filed in 2009 ..... 176

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected Officers	11	6%
State Appointed Officers	5	3%
State Employees	30	17%
State Candidates	0	0%
District Elected Officers	8	4%
District Appointed Officers	2	1%
District Employees	3	2%
District Candidates	0	0%
County Elected Officers	19	11%
County Appointed Officers	5	3%
County Employees	18	10%
County Candidates	0	0%
Municipal Elected Officers	50	28%
Municipal Appointed Officers	5	3%
Municipal Employees	19	11%
Municipal Candidates	0	0%
Other	1	1%
<b>TOTAL</b>	<b>176</b>	<b>100%</b>

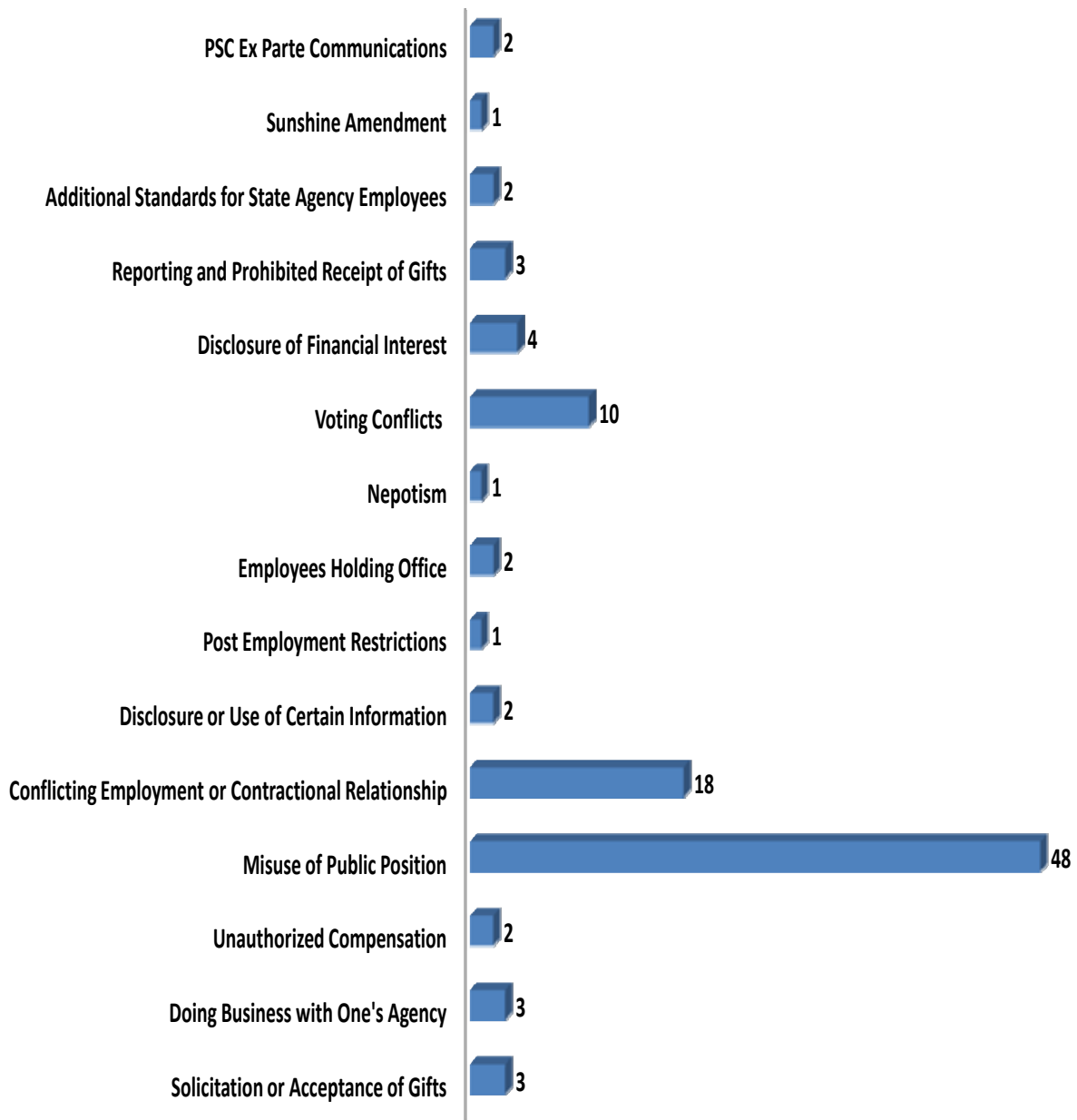
Of the 176 complaints received in 2009, 60 were dismissed for lack of legal sufficiency; 76 were ordered to be investigated; 39 were pending legal sufficiency determination at the end of the year; and 1 was on hold for criminal investigation.



## *Allegations*

Of the 176 complaints received in 2009, the Commission's Executive Director ordered an investigation of 76 complaints as of December 31, 2009. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below.

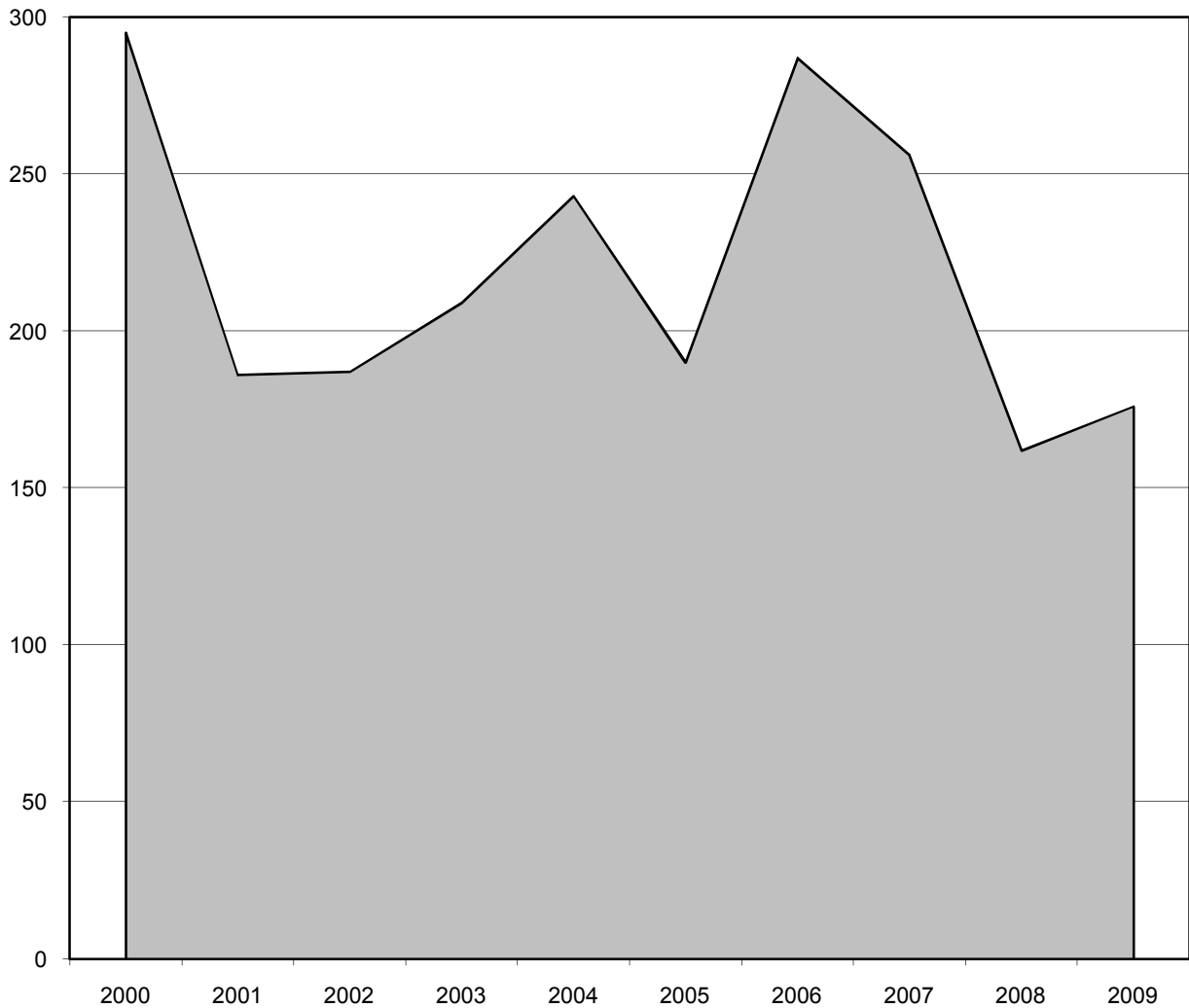
### **2009 Complaint Allegations**



Ten Year History of Complaints

2009.....	176
2008 .....	167
2007.....	256
2006 .....	288
2005 .....	190
2004.....	243
2003.....	209
2002.....	187
2001 .....	186
2000 .....	295

*Complaint History*



## Actions Taken on Complaints in 2009

In addition to handling the 176 new complaints received in 2009, the Commission also took action during its eight regularly-scheduled Commission meetings on complaints filed in previous years. The following is a summary of action taken in 2009 on all active complaints.

Dismissed for lack of legal sufficiency.....	66
Probable cause hearings held.....	66
No probable cause - dismissed.....	52
Probable cause - pending public hearing or stipulation .....	12
Probable cause - no further action taken.....	2
Request for withdrawal of complaint - granted.....	2
Public hearings at Division of Administrative Hearings .....	6
Violation.....	3
No violation .....	3
Stipulated settlement agreements.....	8
Violation.....	8
No violation.....	0
Costs and attorney's fees petitions .....	3
Insufficient petition - dismissed.....	1
Hearing at Divison of Administrative Hearings - dismissed.....	1
Fees Awarded Upon DCA mandate.....	1
<b>TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS . . . .</b>	<b>151</b>

## *Executive Branch Lobbyist Registration*

The Commission is charged with administration of the Executive Branch Lobby Registration Act and oversees the registration and compensation report filings of executive branch lobbyists. Lou Ellen Derden serves as the Registrar, with Khamar Hussaini serving as a part-time administrative assistant.

Executive branch lobbying firms are required to electronically file quarterly compensation reports disclosing compensation received from their principals. Penalties for failure to file these quarterly reports by the deadline are automatic and accrue at \$50 for each day late, with a maximum penalty of \$5,000.

Each lobbying firm is entitled to receive a one-time fine waiver if the report is filed within 30 days after being notified of the failure to file. Otherwise, the lobbying firm is assessed a fine at the time the delinquent report is filed. If an appeal is filed within 30 days after the lobbying firm is noticed of the assessed fine, the Commission has the authority to waive the assessed fines in whole or in part for good cause, based on “unusual circumstances.”

### *2009 Summary of Activity*

Total number of registered executive branch lobbyists.....	1,616
Total number of executive branch lobbying firms .....	408
Total number of principals represented by the lobbyists.....	7,783
Percent increase in number of principals from 2008 to 2009.....	1.06%
Total number of firms <b>delinquent</b> in filing their compensation reports	
January - March 2009 .....	17
March - May 2009 .....	11
July - September 2009 .....	20
<i>(Filing deadline for fourth period is February 2009)</i>	
Total number of firms <b>assessed a fine</b> in 2009	
First quarter 2009 .....	7
Second quarter 2009 .....	7
Third quarter 2009.....	9
Number of appeals considered by the Commission in 2009.....	3

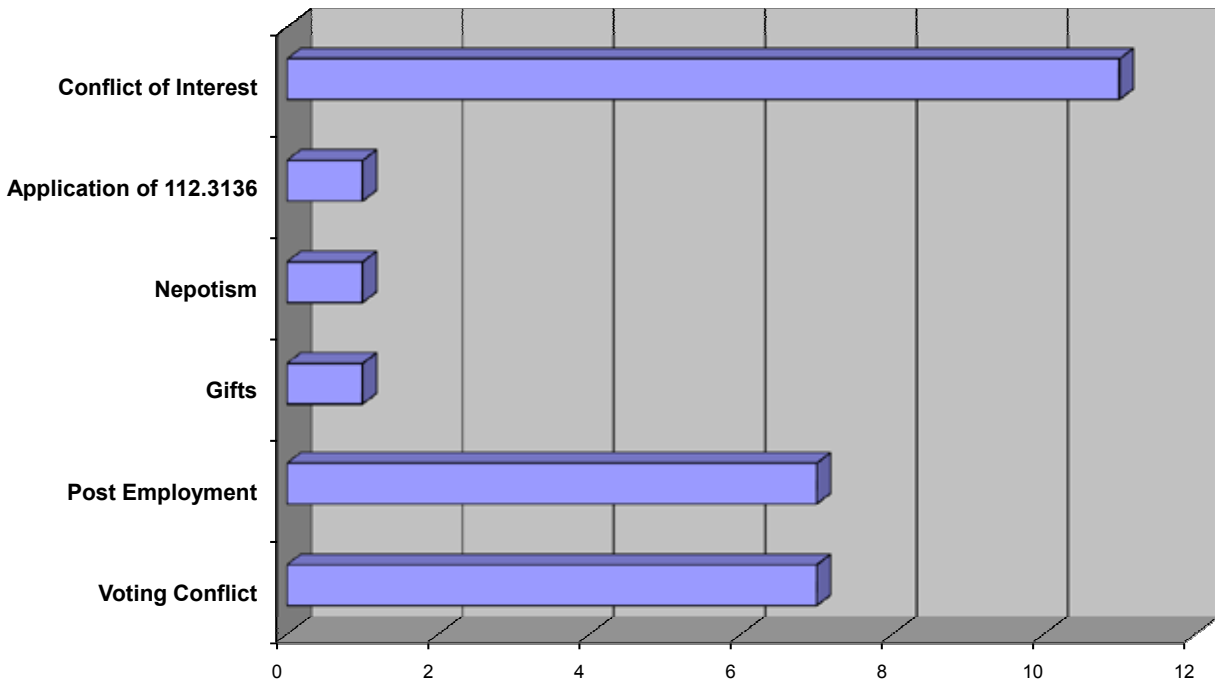


## *Advisory Opinions*

The Commission issues advisory opinions to public officers, candidates, and public employees who are in doubt about the applicability of the standards of conduct or disclosure laws to themselves or to anyone they have the power to hire or terminate. During 2009, the Commission on Ethics issued 23 advisory opinions, bringing the total issued since 1974 to 2,441.

Sixteen of the opinions rendered in 2009 were in response to requests by local officers, employees, or local government attorneys, and another seven opinions were issued regarding state level officers or employees.

The bar graph illustrates the number of instances in which a provision of the ethics code was addressed in a formal opinion of the Commission in 2009. A number of opinions addressed more than one aspect of the ethics laws.



All Commission advisory opinions, from 1974 to present, can be accessed and researched without cost on our website: <http://www.ethics.state.fl.us>.

## *Education*

A vital part of the Commission's mission is to educate public officers and employees regarding the standards of conduct and financial disclosure requirements of the Code of Ethics. Whenever possible, as personnel and resources are available, the Commission staff conducts training for public officials throughout the state. Commission staff presented educational programs to the following groups and organizations during 2009:

### *Speaking Engagements*

- Newly Elected Clerk of Courts at the Florida Association of Court Clerks'
- Tallahassee Rotary Club
- Tax Collectors
- Division of Administrative Hearings' annual seminar for Administrative Law Judges and Judges of Compensation Claims
- Local Government Section of the Florida Bar
- 2009 Mid-Winter Conference of the Property Appraisers' Association
- City officials and employees in Bushnell
- New Sheriff's Academy
- Florida Energy and Climate Change Commission
- Texas Young Lawyer's Southeast Regional Mock Trial Tournaments
- Southeast Evaluation Association Annual Conference
- Seminar on the Ethics Laws - Local Government Section of the Florida Bar
- City, County, and Local Government Law Certification Review Course
- Attorney's of the Orlando City Attorney's Office
- 30th Annual Police Officers' and Firefighters' Pension Trustees School Program
- Association of Counties County Commissioners Continuing Education
- Division of Emergency Management Employees
- St. Johns County Officials and Employees
- Florida Government Bar Association
- Florida Association of County Attorney's Conference
- Department of Financial Services Attorneys

- Florida Public Pension Trustees Association’s 25th Annual Conference
- Local Chapter of the National Institute of Government Purchasers in Niceville
- Duties & Responsibilities of a Tax Collector in Florida
- Florida Association of Professional Lobbyists
- Public Service Commission Legal Staff
- 17th Annual Purchasing Conference, Reverse Trade Show, and Products Exposition
- Florida Association of Counties Trust Educational Conference
- Florida Bar CLE: The New Electronic Era in Public Records & Government in the Sunshine
- Human Resources Consultants with the Department of Management Services
- City of Coral Gables’ Boards and Committees Seminar
- Gainesville City Attorney’s and The Alachua County Attorney’s Offices
- 41st Annual Police Officers’ and Firefighters’ Pension Trustees Conference
- The Council on Governmental Ethics Laws

### *Publications*

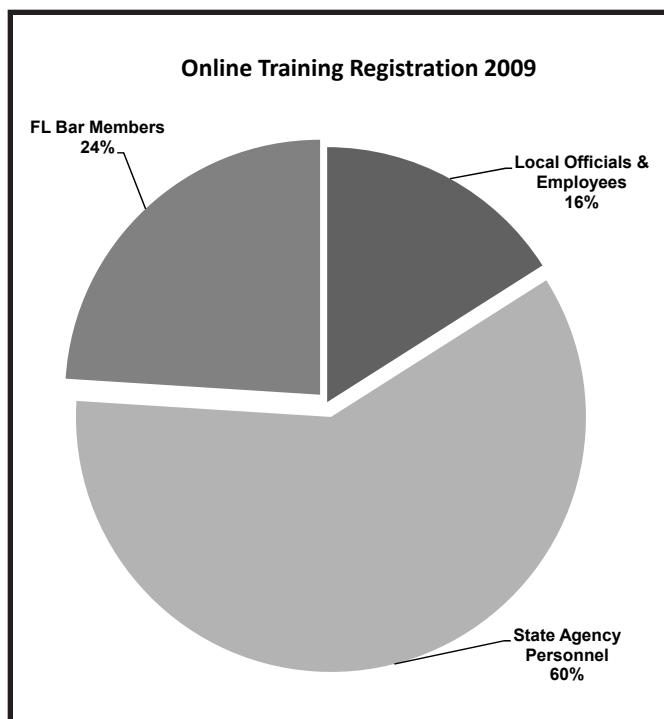
Members of the Commission’s staff wrote articles printed in the following publications:

- Spring 2009 The Council on Governmental Ethics Laws *Guardian*
- Fall 2009 Florida Bar’s *The Voice*

## Online Training

In Section 13 of Chapter 2000-243, Laws of Florida, the Florida Legislature directed the Commission on Ethics to develop a plan for implementation of a study course on the Code of Ethics, public records, and public meeting laws.

Faced with the challenge of reaching as many people as possible with meaningful training, the Ethics Commission sought the advice of The John Scott Dailey Florida Institute of Government at Florida State University concerning how best to develop such a comprehensive course. The Institute proposed that it contract through the University with a private company to develop an Internet-based study. Staff of the Ethics Commission and Attorney General's office provided the company with guidance and written materials on the pertinent subject areas. The resulting course contains interactive elements, "Frequently Asked Questions," as well as testing for review purposes and tracking. It has the added advantage of being easily amended when changes in the law occur. The course is currently available for a small fee via the Commission's website [www.ethics.state.fl.us](http://www.ethics.state.fl.us) or by visiting: [www.iog.learnsomething.com](http://www.iog.learnsomething.com).



In 2009, 78 individuals registered for the online training course, with 42 completing the training by the end of the year.\* Of the registrants, 16 percent were local officials and employees, 60 percent were state agency personnel, and 24 percent of the registrants were members of the Florida Bar. A total of 1663 public officers and employees have completed the course since its inception in 2002.

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\* In addition, 143 people registered for an abbreviated version of the ethics course offered as a part of the Governor's ethics training.

## *Financial Disclosure*

The Florida Commission on Ethics is required by statute to compile an annual mailing list of elected and appointed officials and employees subject to filing annual financial disclosure.

Section 112.3144(3), Florida Statutes, applies to persons subject to the annual filing of full and public disclosure under Section 8, Article II of the State Constitution, or other state law. These individuals file Commission on Ethics Form 6, Full and Public Disclosure of Financial Interests.

Section 112.3145(6), Florida Statutes, applies to local officers, state officers, and specified state employees subject to the annual filing of a more limited statement of financial interests. These individuals file Commission on Ethics Form 1, Statement of Financial Interests.

The deadline for filing disclosure is July 1 of each year. A grace period is provided until September 1st of each year. The Commission on Ethics and Supervisors of Elections are required to certify after that time the names and positions held by persons who fail to file by the end of the grace period.

Because of recent changes in the financial disclosure laws, only those with the most meaningful positions are required to file annual disclosure. Those who did not file their annual disclosure form (either Form 6 or Form 1) by September 1, 2009, were subject to automatic fines of \$25 for each late day, up to a maximum of \$1,500. Modeled after the automatic fine system in place for campaign finance reports, the law allows the Ethics Commission to hear appeals and to waive fines under limited circumstances. Information on the following pages reflects compliance rates and disposition of appeals.

## *Compliance*

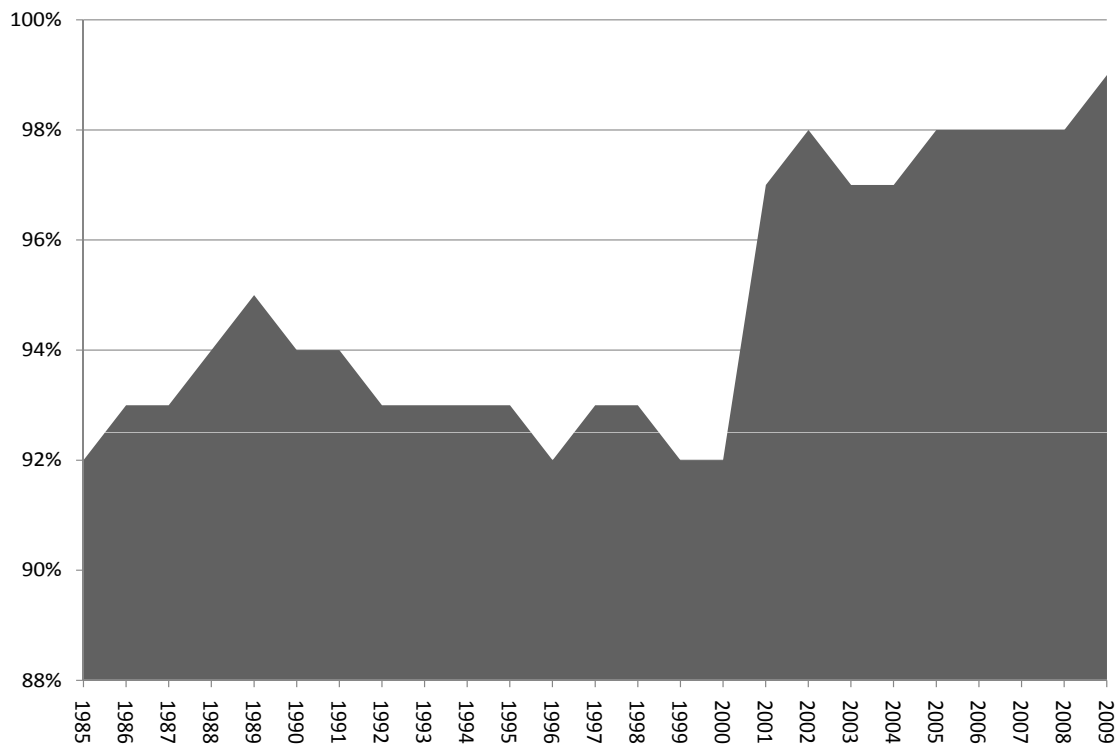
There was 99% overall compliance with the annual reporting requirement in 2009. On the local level, 35 counties reported 100% compliance in 2009. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent as of September 1, 2009 and the percentages of compliance. Also listed is a chart which outlines filing compliance from 1985 to present.

<b>Financial Disclosure Compliance Figures</b>				
<b>County</b>	<b>Timely Filers</b>	<b>Delinquent Filers</b>	<b>Total Filers</b>	<b>2009 Compliance</b>
Alachua	299	7	306	98%
Baker	50	0	50	100%
Bay	268	0	268	100%
Bradford	76	0	76	100%
Brevard	960	9	969	99%
Broward	2,122	30	2,152	99%
Calhoun	32	0	32	100%
Charlotte	175	0	175	100%
Citrus	118	1	119	99%
Clay	211	1	212	100%
Collier	331	5	336	99%
Columbia	92	0	92	100%
Miami-Dade	1,567	48	1,615	97%
Desoto	57	0	57	100%
Dixie	37	1	38	97%
Duval	341	2	343	99%
Escambia	145	3	148	98%
Flagler	183	3	186	98%
Franklin	75	1	76	99%
Gadsden	128	0	128	100%
Gilchrist	51	0	51	100%
Glades	40	0	40	100%
Gulf	60	0	60	100%
Hamilton	63	0	63	100%
Hardee	70	1	71	99%
Hendry	92	0	92	100%
Hernando	115	1	116	99%
Highlands	160	1	161	99%
Hillsborough	1,470	18	1,488	99%
Holmes	63	0	63	100%
Indian River	256	1	257	100%
Jackson	182	1	183	99%
Jefferson	37	0	37	100%
Lafayette	20	0	20	100%
Lake	470	8	478	98%
Lee	982	18	1,000	98%
Leon	180	3	183	98%
Levy	127	8	135	94%
Liberty	15	0	15	100%
Madison	82	0	82	100%

<b>Financial Disclosure Compliance Figures</b>				
<b>County</b>	<b>Timely Filers</b>	<b>Delinquent Filers</b>	<b>Total Filers</b>	<b>2009 Compliance</b>
Manatee	474	4	478	99%
Marion	225	0	225	100%
Martin	178	2	180	99%
Monroe	203	0	203	100%
Nassau	134	1	135	99%
Okaloosa	328	9	337	97%
Okeechobee	81	0	81	100%
Orange	739	0	739	100%
Osceola	236	1	237	100%
Palm Beach	1,442	41	1,483	97%
Pasco	319	2	321	99%
Pinellas	1,209	4	1,213	100%
Polk	648	10	658	98%
Putnam	153	2	155	99%
Saint Johns	253	0	253	100%
Saint Lucie	214	1	215	100%
Santa Rosa	165	0	165	100%
Sarasota	373	5	378	99%
Seminole	414	1	415	100%
Sumter	152	0	152	100%
Suwannee	68	0	68	100%
Taylor	63	0	63	100%
Union	37	0	37	100%
Volusia	615	6	621	99%
Wakulla	41	0	41	100%
Walton	118	3	121	98%
Washington	73	1	74	99%
<b>TOTAL-Form 1 Local</b>	<b>20,757</b>	<b>264</b>	<b>21,021</b>	<b>99%</b>
<b>TOTAL-Form 1 State</b>	<b>13,406</b>	<b>78</b>	<b>13,484</b>	<b>99%</b>
<b>TOTAL-Form 6 (Not Judges)</b>	<b>1,411</b>	<b>11</b>	<b>1,422</b>	<b>99%</b>
<b>TOTAL-Judges (Active)</b>	<b>1,011</b>	<b>0</b>	<b>1,011</b>	<b>100%</b>
<b>TOTAL-Judges (Senior)</b>	<b>139</b>	<b>0</b>	<b>139</b>	<b>100%</b>
<b>OVERALL TOTAL</b>	<b>36,724</b>	<b>353</b>	<b>37,077</b>	<b>99%</b>

FINANCIAL DISCLOSURE FILING COMPLIANCE (1985 - 2009)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
1985	27,758	1,136	92%
1986	29,384	2,126	93%
1987	29,631	2,183	93%
1988	30,559	1,794	94%
1989	33,541	1,815	95%
1990	34,828	2,091	94%
1991	35,845	2,120	94%
1992	37,631	2,564	93%
1993	37,863	2,576	93%
1994	38,711	2,810	93%
1995	39,165	2,791	93%
1996	40,529	3,188	92%
1997	41,345	3,030	93%
1998	41,996	3,116	93%
1999	42,185	3,278	92%
2000	40,471	3,368	92%
2001	30,025	1,043	97%
2002	27,206	911	98%
2003	34,298	878	97%
2004	35,984	1,124	97%
2005	36,504	723	98%
2006	35,725	724	98%
2007	35,659	691	98%
2008	36,092	767	98%
2009	37,077	353	99%

### Financial Disclosure Compliance History





### **Summary of Local Level Form 1 Compliance**

- Total compliance rate for Form 1 Statement of Financial Interests was 99%.
- Of the 21,021 individuals required to file, 264 were delinquent as of September 1, 2009.
- 35 counties reported 100% compliance in 2009. This is a significant increase from 26 in 2008.

### **Summary of State Level Form 1 Compliance**

- The Form 1 compliance rate was 99% which reflects a 1% increase over previous years' compliance rate. This increase is attributable to a mailout by disclosure staff of reminder postcards to delinquent filers immediately prior to the start of the statutory fining period. The postcard reminder is an additional reminder not required by statute.
- Of the 13,484 individuals required to file, only 78 were delinquent as of September 1, 2009.

### **Summary of Full Disclosure (Form 6) Compliance**

- Form 6 Full and Public Disclosure of Financial Interests compliance rate for elected constitutional officers and employees was 99%.
- There were only 11 delinquencies out of a total of 1,422 individuals required to file Form 6 (excluding judges).

### **Summary of 2008 Overall Compliance**

- As of September 1, 2009, out of the 37,077 individuals required to file disclosure, there were only 353 (less than 1%) officers and employees who failed to do so.

## *Financial Disclosure Fine Appeals*

Individuals who were delinquent in filing the annual financial disclosure form, (those who did not file by the end of the September 1 grace period provided by law), are fined \$25 per day for each date late, up to a statutory maximum of \$1,500.

Individuals may opt to pay the assessed fine or may appeal the assessed fine. Under the law, the Commission has the authority to waive or reduce an assessed fine if an appeal is filed reflecting that “unusual circumstances” caused the failure to file the form on time.

For fines where there is no appeal and no payment, an order is rendered and the cases are transmitted to the Florida Department of Financial Services for collection.

The following reflects the Commission’s actions taken on appeals at its eight regularly scheduled meetings held in 2009 on assessed fines during calendar year 2008. (The fines for late filings in 2009 are not assessed until December of 2009).

<b>Financial Disclosure Appeals</b>				
<b>2009 Actions of Commission on Ethics</b>				
<b>COMMISSION MEETING</b>	<b>WAIVED</b>	<b>DENIED</b>	<b>COLLECTION ORDERS APPROVED</b>	<b>UNCOLLECTIBLE WRITE-OFFS</b>
January 23, 2009	33	3		3
March 6, 2009	25	1		
April 24, 2009	32	10	138	3
June 12, 2009	73	15		9
July 24, 2009	26	3	66	
September 11, 2009	11	7		
October 23, 2009	76	9		
December 4, 2009	34	4		

# 2010 Legislative Recommendations

## Investigations

- Give the Commission limited authority to investigate situations without having to receive a complaint, and allow the Commission to investigate a situation when referred by the Governor, the Chief Financial Officer, a State Attorney, FDLE, or the Statewide Prosecutor. This authority could be limited, for example, by allowing it to investigate a situation only if it has received reliable and publicly disseminated information indicating a violation of the ethics laws and only when an extraordinary majority of the Commission agree to investigate.

## Increase Penalties & Change Standard for Awarding Attorney's Fees against Complainants

- If the consensus is that the ethics laws lack “teeth,” then one approach would be to increase the range of penalties that could be assessed. The Commission recommends increasing the maximum civil penalty from \$10,000 to \$100,000, but any amount that seems sufficiently severe would be appropriate. Another recommendation regarding penalties would be to overturn the 1st District Court of Appeal’s decision in the Brown v. State, Comm’n on Ethics [969 So.2d 553 (Fla. 1st DCA 2007)] case, and to set the standard the same as applies to media publications regarding public figures, as the Commission previously had construed the law.

## Change the Burden of Proof

- Another way to make the ethics laws more enforceable would be to change the burden of proving a violation from “clear and convincing evidence” to a “preponderance of the evidence.” The preponderance standard was used by the Commission from 1974 until the 1st District Court of Appeal ruled in 1997 that it should be the “clear and convincing” standard [Latham v. Florida Comm’n on Ethics, 694 So. 2d 83 (Fla. 1st DCA 1997)].

## Financial Disclosure

- The Commission has received several inquiries about why certain State and local government officers/employees are not required to file financial disclosure. Also, many filers do not specify the method of valuing financial interests (filers have the choice of picking either percentage thresholds or dollar thresholds). Therefore, the Commission recommends that

the financial disclosure law cover board members of local community redevelopment agencies and local government finance directors, and mandate specifying which disclosure thresholds are being used.

Also, all candidates for state and county offices now qualify before the July 1st deadline for financial disclosure. Previously, they qualified a week or two after July 1st, and so the law allows a candidate who also is an incumbent to file a copy of the financial disclosure form that had already been filed (with the Commission or with the Supervisor of Elections) as part of the qualifying papers. Candidates who have filed their disclosure forms when qualifying ought to be allowed to file a copy of that form as their annual financial disclosure filing.

In opinion CEO 08-09 the Commission concluded that Assistant Regional Counsel/Criminal Conflict were not required to file financial disclosure, even though they are similar to the assistant public defenders who are required to file now. There is no reason why they should not be treated the same as the public defenders and assistant public defenders.

In 2009 the Legislature amended Section 348.003, F.S., to require members of expressway authorities, transportation authorities, bridge authorities, and toll authorities created pursuant to legislative enactment to file full disclosure, rather than limited disclosure under Section 112.3145, F.S. Therefore, Section 112.3145 should be amended to delete references to these bodies.

#### Executive Branch Lobbying Law

- The provisions of the Executive Branch Lobbying Law (Sec. 112.3215, F.S.) regarding procedures and penalties for violations do not parallel those provided in the Legislative Lobbying Law (Sec. 11.045, F.S.). This appears to have been an oversight which, in the Commission's view, should be corrected.

#### Gift Law

- Recently, the Commission considered the question of who is a "procurement employee," as defined for purposes of the gift law. This is a broad category of State employees that are identifiable based only on their particular activities. It would help agencies and these employees if the statute gave a more precise definition of who is a "procurement employee" and for how long.

Also, in some instances a vendor currently doing business with an agency is not the principal of a lobbyist within the past 12 months, even though all would agree that the vendor should not be providing honoraria or gifts worth over \$100 to the officers and employees of that agency.

Finally, the law should specify that contributions to federal campaigns are excluded from the definition of “gift” in 112.312. The Commission dismissed a complaint alleging that federal campaign contributions were prohibited gifts, in *In re Bill Posey*, Complaint No. 08-091, but the law should clearly state this.

### Voting Conflicts Law

- There have been several recently publicized situations involving local officials participating in discussions and attempting to influence agency decisions even though they had a voting conflict that precluded them from voting on the matter. One of these officials was convicted of criminal activity arising out of this conduct. In addition, the Commission has reviewed a situation where the official voted on a matter that benefited the corporate “sibling” of his employer. The law regarding voting conflicts should be tightened to cover those kinds of situations and to prohibit local officials from making any attempt to influence a decision in which they have a conflict.

Also, the voting conflict standard for appointed State officials (as opposed to elected State officials) should be changed to mirror the standard for local officials. This means that appointed State officials would be required to abstain from voting on matters where they have a conflict of interest, whereas now they are not prohibited from voting, and would be prohibited from making any attempt to influence a decision in which they have a conflict.

Finally, the Commission believes that the law should prohibit an official who has a conflict that requires him or her to abstain from a vote from making any attempt to influence staff about the matter.

## Blind Trusts

- The ethics laws of many states, as well as the U.S. government, allow a public official to place private financial interests that may pose a conflict of interest with public duties into a “blind trust.” This kind of trust is intended to remove temptation from the official and reduce even the appearance that public decisions are based on the official’s private interests, by limiting the official’s ability to control investments that may involve conflicting interests and limiting the official’s ability to even know how his interests may be affected by public policy decisions.

The Ethics Commission’s recommendation is to cover the Governor, Lieutenant Governor, and each Cabinet member, although the law easily could be amended to include other public officers and employees. The recommendations provide that the public official’s economic interests in the trust will not give rise to either a prohibited conflict of interest or a voting conflict of interest, under the Code of Ethics, thereby protecting the official from unwarranted accusations. They would prohibit the official from exercising any control over the trust, except for general directions regarding investment goals, requests for distributions, and directions for dealing with assets which might pose a conflict of interest. In addition, they would prohibit the official from learning about the trust’s investments, except to the limited extent necessary for personal tax returns. The recommendations describe how interests in a blind trust would be reported on the official’s financial disclosure statements, limit who can serve as a trustee, prohibit the trustee from investing trust assets in businesses which the trustee knows are regulated by or doing significant business with the official’s public agency, and provide for full disclosure if the blind trust is terminated. Finally, they would require that the blind trust must be approved by the Ethics Commission.

## Anti-Nepotism Law

- The Commission has reviewed a situation where a public official’s relative was appointed to a position by the board on which the official served, with the official abstaining from voting. The law should make it clear that the non-voting relative will be held responsible under these circumstances.

## Prohibit Staff Members from Acting on Behalf of an Official Who Has a Conflict

- The Commission believes that there is a problem under the current law that may allow a public official who has a conflict in a matter, but who cannot personally participate in the matter, to use staff members to influence the outcome of that matter. The Commission recommends that this should be prohibited by amending Section 112.3143, Florida Statutes, which is known as the voting conflict law.

## Appearance of Impropriety Standard

- Despite the specific, good standards that have been enacted by the Legislature, the Commission is concerned that too many members of the public believe that public officials act more out of consideration of personal gain than for the public welfare. In part, this is because of a number of situations where public officials may not have violated an existing standard, but the public believes that there has been, at least, the appearance of impropriety. The Commission is wary of enacting a standard that is too vague to be applied fairly, but notes that there currently are a number of ethical standards that apply to lawyers, judges, and even members of the Public Service Commission that address actions that give the appearance of impropriety.

Attempting to address the problem of appearance of impropriety with more specificity, the Commission suggests that it is possible to create an ethical standard that prohibits knowingly acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy the official's favor in the performance of official duties, or that the official is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person