

*Annual Report
to the
Florida Legislature
For Calendar Year 2011*



*By the
State of Florida
Commission on Ethics*

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Message from the Chair

“**A** public office is a public trust.” These words of the Florida Constitution are more relevant now than ever before. The Commission on Ethics is the entity which serves as the guardian of the public trust, and it strives to do so with fairness, impartiality, and professionalism. Commission members, all of whom are volunteers from different parts of the state, have many professional and personal demands on their time. Yet, they commit themselves to the many hours of work required to ensure that each person that comes before them is afforded the objectivity, courtesy, and due process they deserve. I am proud of the devotion and sacrifice of my fellow Commissioners, past and present, who are, and have been, motivated to do their part to make Florida a state of which we can all be proud.

While the public’s attention often focuses on the complaints reviewed by the Commission, it is equally important that the citizens of this state not overlook a simple truth; that is, that the overwhelming majority of Florida’s public officers and employees serve ethically, selflessly and with resolute dedication to their office. Of course, in a day and age where the salacious details of those who stumble is quick to make headlines, and public service is often the subject of scorn and ridicule, throughout Florida, many still hear the call to serve. These good and faithful servants understand full well what one of the greatest Floridians – LeRoy Collins - meant when he said: “For our house of government to be bright and clear and good and clean, everyone should carry his own light – and do his own part.”

To help and support Florida’s public servants, the Commission offers the invaluable resource of the formal opinion process, through which public officials are able to inquire about the impact of the ethics laws on their own proposed conduct, and receive a thorough and considered response. Even in the face of budget cuts, the Commission has also maintained its commitment to education and training by sending its dedicated staff to all corners of the state to speak at seminars and workshops.

The last, but by no means least important of the Commission's responsibilities is our statutory duty to make recommendations to the Florida Legislature for changes that would strengthen or otherwise improve the ethics laws. We welcome the opportunity to continue our work with the Legislature to build on the solid foundation with which we have been provided by those on whose shoulders we stand.

I encourage you to thoughtfully review each of the proposals contained in this Annual Report, many of which have been offered in previous years. But I must point out one area in critical need of redress. This is the issue of public officers and employees who have received automatic fines for failure to timely file their annual financial disclosure. The Commission and its staff make exhaustive attempts to collect these fines prior to their being referred—as the law requires—to private collection agencies. But in cases where the agency is unable to collect the fine and the statute of limitations expires, the Commission is left with no means by which to enforce payment. This year, the Commission has proposed that the law be changed to allow us to record our final orders in these cases as a lien, so that these individuals would have to pay their debt to the taxpayers before selling real property. I fervently hope that the Legislature will see fit to adopt this proposal.

On behalf of my colleagues on the Commission and our staff, I thank you for your continued confidence in our work.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert J. Sniffen', written in a cursive style.

Robert J. Sniffen
Chairman

2011 Commission Members

ROBERT J. SNIFFEN, *Chair*

Tallahassee - Attorney (D)
Term expires June 2012
Reappointed by Senate President Atwater

SUSAN HOROVITZ MAURER, *Vice-Chair*

Ft. Lauderdale - Attorney (D)
Term expires June 2013
Reappointed by Governor Scott

MORGAN R. BENTLEY

Sarasota - Attorney (D)
Term expires June 2012
Appointed by Speaker of the House Cretul

I. MARTIN FORD

Vero Beach - Retired (R)
Term expires June 2013
Reappointed by Governor Scott

JEAN M. LARSEN

Port St. Lucie - Substance Abuse Treatment Executive (R)
Term expires June 2012
Reappointed by Senate President Atwater


LINDA M. ROBISON

Pompano Beach - Attorney (R)
Term expires June 2013
Reappointed by Governor Scott

EDWIN SCALES, III

Key West - Attorney (R)
Term expires June 2012
Appointed by Speaker of the House Cannon

Introduction & History

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 2011.

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 37,686 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

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.

Virindia Doss, Executive Director

C. Christopher Anderson, III, General Counsel and Deputy Executive Director

Legal Section

Under the supervision of the Executive Director and the 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 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

Julia Cobb Costas, Assistant General Counsel

Wayne L. Rubinas, Assistant General Counsel

Betsy Daley, Attorney

Millie Fulford, Executive Secretary

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

E. Clay Mason, Investigator

Kaye B. Starling, Complaint Coordinator

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 37,686 reporting officials and employees were notified of their filing requirements in 2011 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 Tucker, Executive Secretary

Operations and Communications

Under the supervision of the Executive Director, this section provides information regarding Commission practices and procedures to other states, the press, and the public. This staff member also assists with the agency budget and legislative lobbying, oversees office efficiency initiatives, conducts training, and responds to general information inquiries about the Commission and the ethics laws.

Operations and Communications Staff

Kerrie J. Stillman, Director of Operations and Communications

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

Lynn Blais, Assistant to the Executive Director

Frances Craft, Office Manager

Marie-Line London, Clerk (half-time)

Emily Stone, Clerk (half-time)

Fiscal Report

The following chart reflects revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 2011.

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS For The Fiscal Year Ending June 30, 2011 (Amounts in dollars)

	<u>Budget</u>	<u>Actual</u>	<u>Variance- Favorable (Unfavorable)</u>
REVENUES:			
Released General Revenue Appropriations	2,445,150	2,445,150	0
Fines*	0	52,903	52,903
Miscellaneous Receipts	0	321	321
Total Revenues	2,445,150	2,498,374	53,224
EXPENDITURES:			
Salaries and Related Benefits	1,692,592	1,616,502	76,090
Other Personal Services	309,829	271,124	38,705
Expenses	262,713	250,884	11,829
Operating Capital Outlay	0	0	0
Ethics Commission Lump Sum	0	0	0
Transfer to Administrative Hearings	76,982	76,982	0
Risk management insurance	3,034	3,034	0
Legislative Carryforward**	375,443	0	375,443
Nonoperating***	100,000	125	99,875
Total Expenditures	2,820,593	2,218,651	601,942
Excess (Deficiency) of Revenues and other Financing Sources Over Expenditures	(375,443)	279,723	655,166
Budgetary Funds Balances June 30, 2011		279,723	
Adjustment for Fines		(52,903)	
Adjustment for Nonoperating		(99,875)	
Adjustment for Carryforward Expenditures		0	
Adjusted Budgetary Fund Balances, June 30, 2011		126,945	

EXECUTIVE BRANCH LOBBYIST REGISTRATION SUMMARY

FEES REVENUES: \$ 187,265
FINES: \$ 6,600

* Fines are recorded as Collection to General Revenue and are not a Revenue in the State's 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.

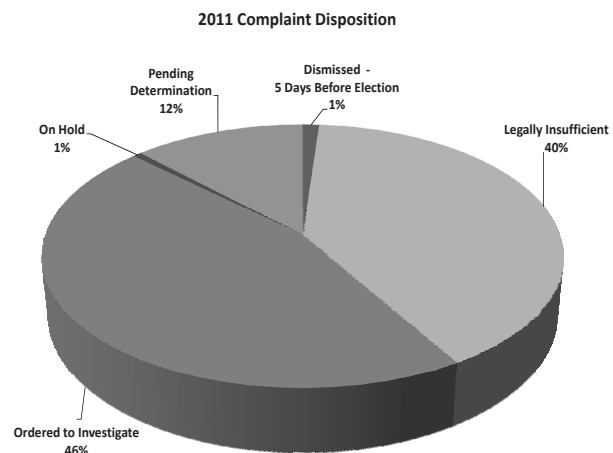
Complaints

Statistical Summary of Complaints Filed January 1, 2011 through December 31, 2011

Total number of complaints filed in 2011..... 169

POSITION	NUMBER OF COMPLAINTS	PERCENT OF TOTAL
State Elected Officers	10	6%
State Appointed Officers	3	2%
State Employees	7	4%
District Elected Officers	18	11%
District Appointed Officers	1	0.5%
District Employees	2	0.5%
County Elected Officers	22	13%
County Appointed Officers	2	1%
County Employees	9	5%
Municipal Elected Officers	64	38%
Municipal Appointed Officers	15	9%
Municipal Employees	15	9%
Candidates	1	1%
TOTAL	169	100%

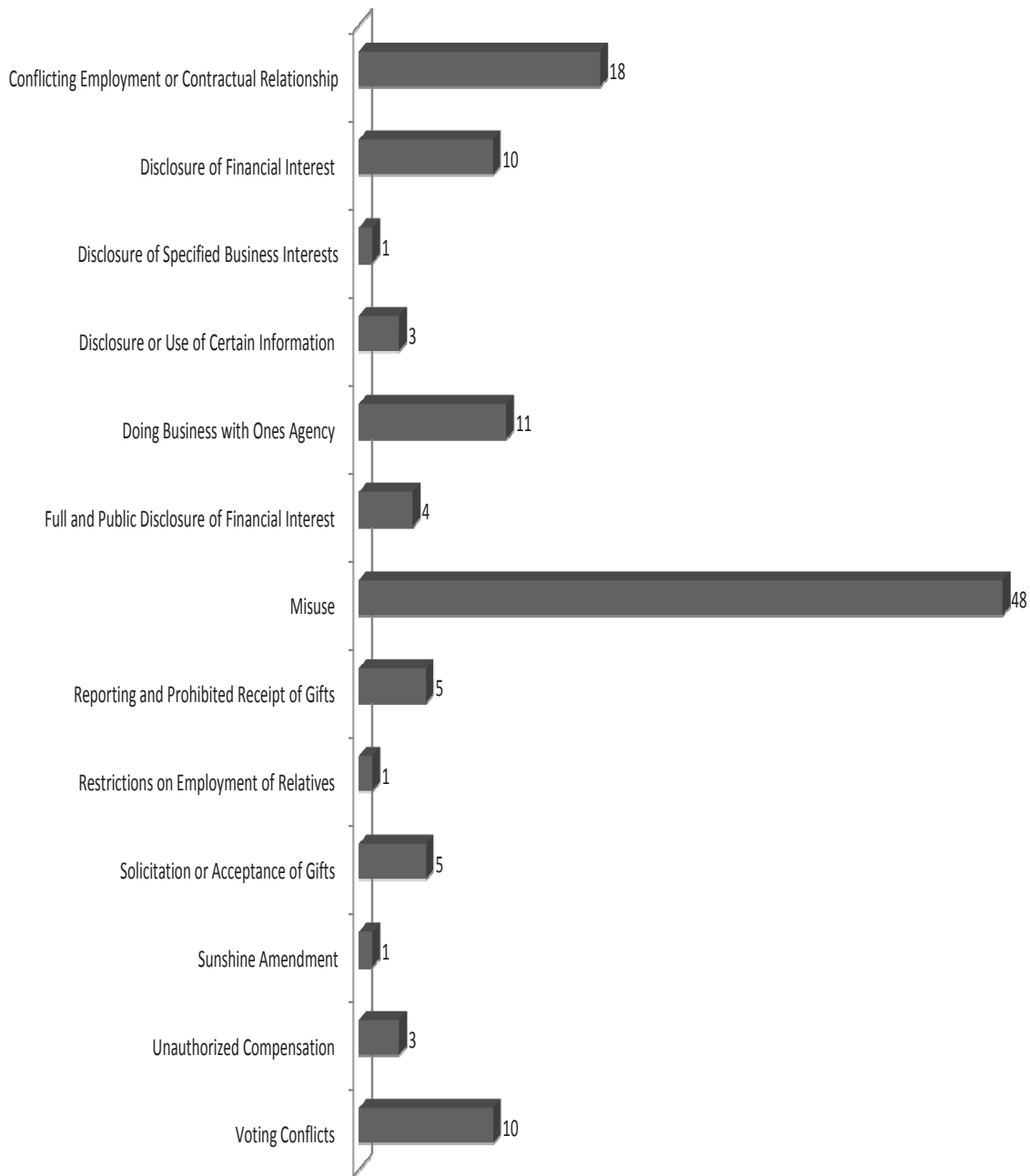
Of the 169 complaints received in 2011, 68 were dismissed for lack of legal sufficiency; 2 were dismissed because they were received within 5 days of an election; 77 were ordered to be investigated; 21 were pending legal sufficiency determination at the end of the year; and 1 was on hold for criminal investigation.



Allegations

Of the 169 complaints received in 2011, the Commission's Executive Director ordered an investigation of 77 complaints as of December 31, 2011. A breakdown of the allegations made in complaints found sufficient for investigation is illustrated below.

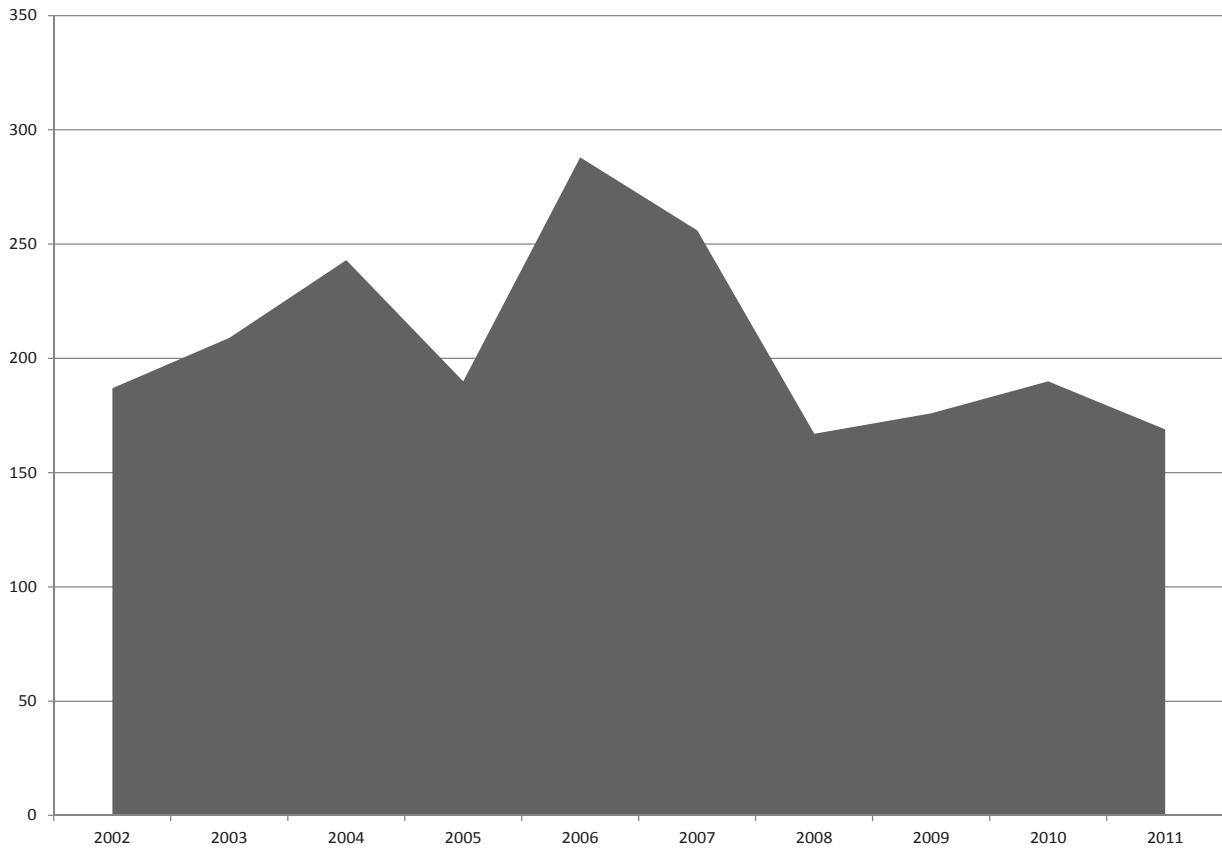
2011 Complaint Allegations



Ten Year History of Complaints

2011.....	169
2010.....	190
2009.....	176
2008	167
2007.....	256
2006.....	288
2005.....	190
2004.....	243
2003.....	209
2002.....	187

Complaint History



Actions Taken on Complaints in 2011

In addition to handling the 169 new complaints received in 2011, 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 2011 on all active complaints.

Dismissed for lack of legal sufficiency.....	80
Probable cause hearings held.....	80
No probable cause - dismissed.....	61
Probable cause - pending public hearing or stipulation	15
Probable cause - no further action taken.....	4
Request for withdrawal of complaint.....	2
Request granted.....	0
Request denied.....	2
Public hearings at Division of Administrative Hearings	5
Violation.....	0
No violation.....	5
Stipulated settlement agreements.....	15
Violation.....	14
No violation.....	1
Costs and attorney's fees petitions	5
Insufficient petition - dismissed.....	3
Hearing at Divison of Administrative Hearings.....	2
Motions to Dismiss	4
Motion granted.....	4
Motion denied.....	0
Final Order Upon Mandate	1

TOTAL NUMBER OF ACTIONS TAKEN ON COMPLAINTS . . . 192

Executive Branch Lobbyist Registration

The Commission is charged with administering the Executive Branch Lobby Registration Act and oversees the registration and compensation report filings of executive branch lobbyists. Jackie McLemore serves as the Registrar, with Ann Shockley 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 the firm is 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.”

2011 Summary of Activity

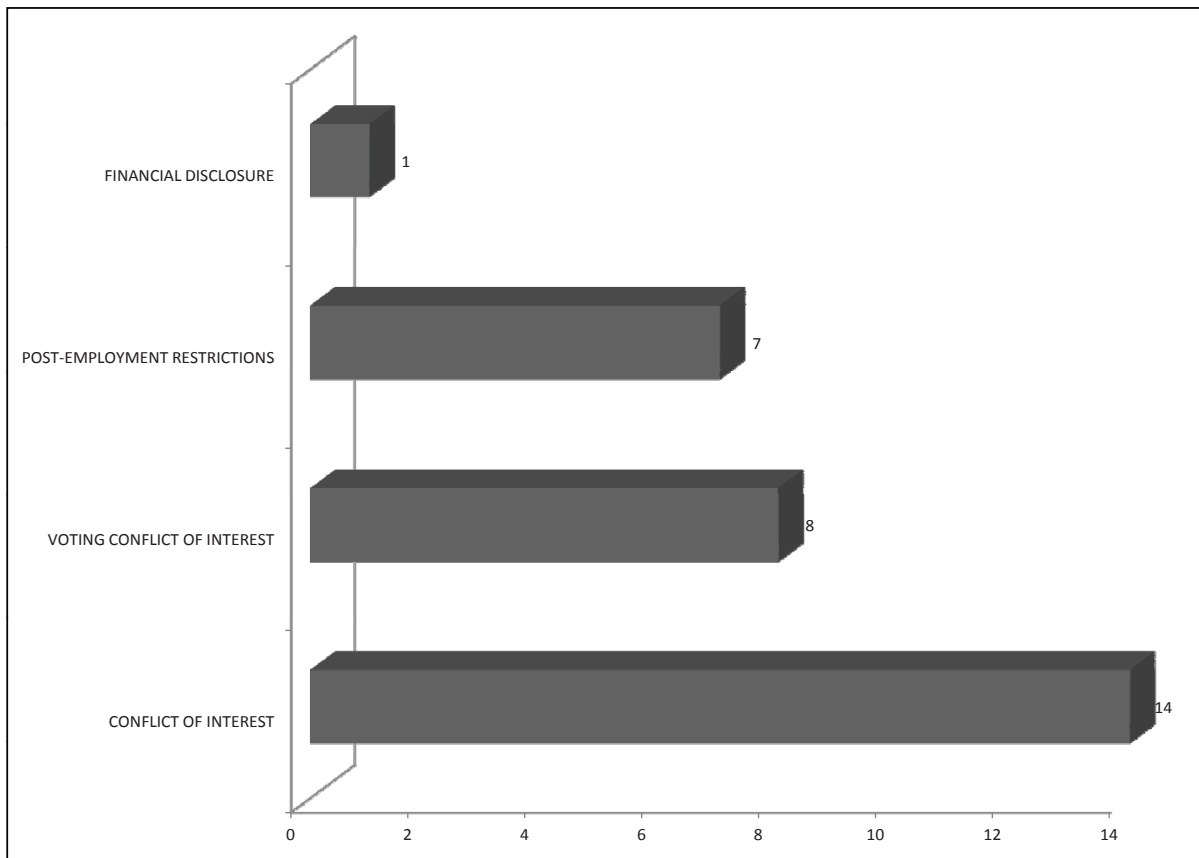
Total number of registered executive branch lobbyists.....	1,634
Total number of executive branch lobbying firms	396
Total number of principals represented by the lobbyists.....	7,935
Percent increase in number of principals from 2010 to 2011.....	8.88%
Total number of firms delinquent in filing their compensation reports	
January - March 2011	21
March - May 2011	26
July - September 2011.....	15
<i>(Filing deadline for fourth period is February 2012)</i>	
Total number of firms assessed a fine in 2011	
First quarter 2011.....	7
Second quarter 2011	9
Third quarter 2011	5
Number of appeals considered by the Commission in 2011.....	1

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 2011, the Commission on Ethics issued 24 advisory opinions, bringing the total issued since 1974 to 2,490.

Twelve of the opinions rendered in 2011 were in response to requests by local officers, employees, or local government attorneys, and another twelve 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 2011. 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 2011:

Speaking Engagements

- Department of Financial Services
- Florida A & M University
- Florida Bar's City, County and Local Government Section
- Association of Government Accountants Statewide Conference
- Monroe County State Attorney's Sunshine Seminar
- County Commissioner's Certification Program
- Leon County's Honest Services Workshop
- Askew School of Public Administration and Policy
- Florida Bar Administrative Law Section's State and Federal Administrative Practice Certification Review Course
- The Florida Bar's 2011 Board Certification Exam Review Course
- Local Police and Firefighter pension plan trustees
- Florida School Board Attorneys Association
- Continuing Education Workshop for Property Appraisers
- Annual Florida Association of County Attorneys Seminar
- Florida Tax Collectors and Staff
- Association of General Counsels
- Southwood Shared Resource Center
- 37th Annual Public Employment Labor Relations Forum
- Northwood Shared Resource Center
- Broward District School Board and Personnel of the School District

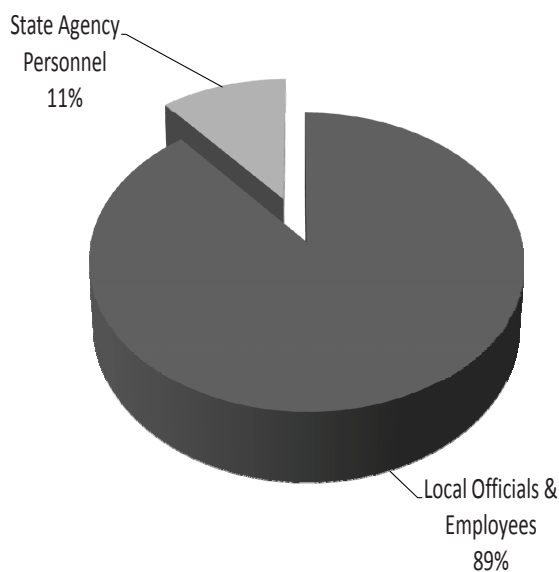
- Florida Association of Governmental Fleet Administrators
- Tallahassee Barristers Association
- Regional Ethics Summit sponsored by the League of Cities - Live Oak
- Palm Beach County School District Advisory Board
- Judicial Nominating Commission
- Regional Ethics Summit sponsored by the League of Cities - Orlando
- Council for Governmental Ethics Laws (COGEL)
- Palm Beach County Planning Congress' 5th Annual Ethics Seminar

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 or by visiting: www.iog.learnsomething.com.

Online Training Registration 2011



In 2011, 1189 individuals registered for the online training course, with 1130 completing the training by the end of the year. Of the registrants, 89 percent were local officials and employees, 11 percent were state agency personnel. 18 percent of the registrants were members of the Florida Bar. A total of 3,161 public officers and employees have completed the course since its inception in 2002.

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, 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.

Only those persons with more 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, 2011, 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

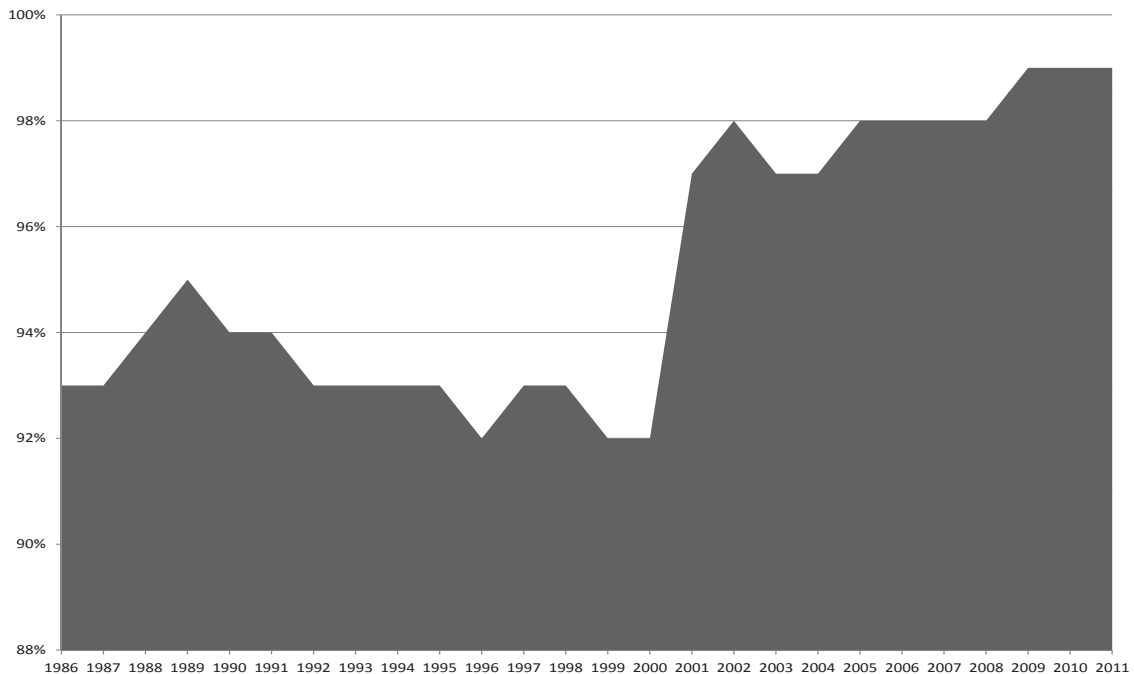
There was 99% overall compliance with the annual reporting requirement in 2011. On the local level, 31 counties reported 100% compliance in 2011. The following table reflects on a county-by-county basis the number of officials and employees subject to disclosure, the number delinquent as of September 1, 2011 and the percentages of compliance. Also provided is a chart which outlines filing compliance from 1985 to present.

Financial Disclosure Compliance Figures				
County	Timely Filers	Delinquent Filers	Total Filers	2011 Compliance Rate
Alachua	303	0	303	100%
Baker	53	0	53	100%
Bay	271	2	273	99%
Bradford	70	0	70	100%
Brevard	939	11	950	99%
Broward	2,178	20	2,198	99%
Calhoun	35	0	35	100%
Charlotte	166	0	166	100%
Citrus	114	2	116	98%
Clay	214	2	216	99%
Collier	344	4	348	99%
Columbia	95	0	95	100%
Miami-Dade	2,067	69	2,136	97%
Desoto	55	1	56	98%
Dixie	36	0	36	100%
Duval	326	0	326	100%
Escambia	136	2	138	99%
Flagler	173	0	173	100%
Franklin	76	1	77	99%
Gadsden	117	3	120	98%
Gilchrist	44	0	44	100%
Glades	34	0	34	100%
Gulf	62	0	62	100%
Hamilton	65	0	65	100%
Hardee	64	1	65	98%
Hendry	102	0	102	100%
Hernando	96	1	97	99%
Highlands	158	4	162	98%
Hillsborough	1,202	17	1,219	99%
Holmes	57	0	57	100%
Indian River	246	0	246	100%
Jackson	186	2	188	99%
Jefferson	44	0	44	100%
Lafayette	21	0	21	100%
Lake	474	3	477	99%
Lee	1,021	13	1,034	99%
Leon	188	4	192	98%
Levy	131	2	133	98%

Financial Disclosure Compliance Figures				
County	Timely Filers	Delinquent Filers	Total Filers	2011 Compliance Rate
Liberty	16	0	16	100%
Madison	84	1	85	99%
Manatee	489	5	494	99%
Marion	237	2	239	99%
Martin	182	4	186	98%
Monroe	198	1	199	99%
Nassau	138	1	139	99%
Okaloosa	335	7	342	98%
Okeechobee	81	0	81	100%
Orange	862	5	867	99%
Osceola	237	0	237	100%
Palm Beach	1406	28	1434	98%
Pasco	328	1	329	99%
Pinellas	1184	3	1187	99%
Polk	639	15	654	98%
Putnam	144	0	144	100%
Saint Johns	271	0	271	100%
Saint Lucie	220	5	225	98%
Santa Rosa	156	0	156	100%
Sarasota	392	6	398	98%
Seminole	439	0	439	100%
Sumter	158	0	158	100%
Suwannee	64	0	64	100%
Taylor	65	0	65	100%
Union	37	0	37	100%
Volusia	616	5	621	99%
Wakulla	38	0	38	100%
Walton	114	1	115	99%
Washington	73	0	73	100%
TOTAL-FORM 1 LOCAL	21166	254	21420	99%
TOTAL-JUDGES (SENIOR)	156	0	156	100%
TOTAL-JUDGES (ACTIVE)	1012	0	1012	100%
TOTAL-FORM 6 (NOT JUDGES)	1435	5	1440	99%
TOTAL-FORM 1 STATE	13556	102	13658	99%
OVERALL TOTAL	37325	361	37686	99%

FINANCIAL DISCLOSURE FILING COMPLIANCE (1986 - 2011)			
Year	# of Individuals Required to File	# of Form 1 & 6 Delinquent Filers	Overall Compliance Rate
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%
2010	36,961	340	99%
2011	37,686	361	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 21,420 individuals required to file, 254 were delinquent as of September 1, 2011.
- 31 counties reported 100% compliance in 2011.

Summary of State Level Form 1 Compliance

- The Form 1 compliance rate was 99%. As in the previous year, disclosure staff sent 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 and continues to be quite successful.
- Of the 13,658 individuals required to file, 102 were delinquent as of September 1, 2011.

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 5 delinquencies out of a total of 1,440 individuals (excluding judges) required to file Form 6.

Summary of 2011 Overall Compliance

- As of September 1, 2011, out of the 37,686 individuals required to file disclosure, there were only 361 (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 directly transmitted to private collection agencies for collection.

The following reflects the Commission’s actions taken on appeals of assessed fines at its eight regularly scheduled meetings held during calendar year 2011. (The fines for late filings in 2011 are not assessed until December of 2011).

Financial Disclosure Appeals 2011 Actions of Commission on Ethics				
COMMISSION MEETING	WAIVED	DENIED	COLLECTION ORDERS APPROVED	UNCOLLECTIBLE WRITE-OFFS
February 4, 2011	25	2		
April 1, 2011	8	1	82	
May 13, 2011	9	3		
June 17, 2011	19	7		167
July 29, 2011	29	8	51	154
September 9, 2011	2	2		459
October 21, 2011	14	4		40
December 2, 2011	47	3		3

2012 Legislative Recommendations

Payment of Fines

- A small but significant number of public officers and employees fail to pay the automatic fines they have incurred for failure to timely file financial disclosure. Those cases are referred to private collection agencies, but if the agencies fail to collect before the expiration of the statute of limitations (usually four years) the Commission is left with no ability to recover the fines. The Commission recommends that it be allowed to record its final orders as a lien on real property as a means of inducing these officials to pay their fines.

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 recovery of fees by respondents against complaints, is to overturn the 1st District Court of Appeal’s decision in *Brown v. State*, Comm’n on Ethics 969 So.2d 553 (Fla. 1st DCA 2007), and to make the standard the same as that applied to media publications regarding public figures, as the Commission had construed the law prior to the Brown Case.

Financial Disclosure

- The Commission has received several inquiries about why certain State and local government officers and 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

- "Procurement employee," as defined for purposes of the gift law, 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 more than \$100 to the officers and employees of that agency.

Voting Conflicts Law

- There have been instances 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 in which 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.

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, and cannot personally participate in the matter, to use staff members to influence the outcome of that matter. The Commission recommends that be prohibited.

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 dealt with 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.

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.

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 the official might be influenced or is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.