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## **MEMORANDUM**

**TO:** Commission Members

**FROM:** Kerrie Stillman, Executive Director

**SUBJECT:** Consideration of Legislative Plan and Recommendations for 2026

**DATE:** July 10, 2025

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The Commission is statutorily required to make recommendations for legislation, and it does that in its Annual Report. The 2026 session will begin in January, but work on legislation begins earlier, so it is time to begin your discussion of your approach and recommendations.

As a part of your consideration of legislative recommendations for next legislative session, it is important that in addition to deciding *what* you want to recommend, you decide on the approach you want to take, specifically:

- 1) Whether to actively lobby any of the recommendations, and if so, establishing your priorities. The Commission is not required to do anything more than make recommendations, but has, in most years, actively engaged in the legislative process.
- 2) Whether to have a Member serve as legislative liaison and what authority to give him or her. Any lobbying effort is greatly enhanced by having a Member serve as legislative liaison. It is very meaningful to members of the House and Senate when they hear from Commission members, rather than just staff.

Below, I have outlined the Commission's remaining recommendations from last year. I have also outlined ideas raised by Commissioners in our meetings, as well as items from Commission staff. The following ideas are a starting point for your discussion and, of course, you are free to add to or subtract from this list, as you see fit. If you have questions about any of these or there are other issues you would like us to research prior to the Commission meeting, please let me know.

I genuinely appreciate your interest in this process and look forward to your discussion and guidance.

### **Remainder of Legislative Recommendations from Last Year**

#### Gift Acceptance and Disclosure

The gifts law provides that Reporting Individuals and Procurement Employees do not have any restrictions related to accepting gifts from relatives. The law also provides that Reporting Individuals and Procurement Employees do not have to disclose gifts given to them by relatives, irrespective of their monetary value. The term "relative" for purposes of the gifts law is defined in Section 112.312(21), Florida Statutes, and that definition is quite expansive- it even includes step great grandparents, for example. However, foster parents are not currently included in that definition. Given the often-ongoing familial role that foster parents often have in a foster child's life, the Commission has indicated that it would like to include foster parents in the definition of the term relative.

#### Whistle Blower-like Protection for Ethics Complainants

The Commission believes that the threat of adverse employment or personnel actions in retaliation for a person's filing of an ethics complaint discourages the filing of valid complaints. Thus, the Commission seeks the enactment of protections or remedies, akin to those in the "Whistle-blower's Act," Sections 112.3187-112.31895, Florida Statutes, for the benefit of ethics complainants.

### **Other Recommendations to Consider**

#### Personal Knowledge or Information Other than Hearsay

In the 2024 Legislative Session, Senate Bill 7014 was introduced and ultimately signed into law by the Governor. This bill, among other things, created a requirement that the Commission may only investigate ethics complaints that are based on personal knowledge or information other than hearsay. There are many different types of documents that can constitute hearsay, but do not always qualify for a hearsay exception in Chapter 90. Examples relevant to ethics complaints include various public records that, because of their contents, do not always qualify for the "public records and reports" hearsay exception in Chapter 90, namely agency investigative reports, audit reports, police reports, public emails, and more. As a result, Commission staff often cannot investigate complaints that are solely based on information contained within documents such as these. We believe there should be an exception for public records, which would otherwise constitute hearsay, to be able to form the basis of an ethics investigation.

#### Vexatious Ethics Complainants

On occasion, a Complainant will repeatedly file ethics complaints about same person or issue, despite having been informed that the Commission has no jurisdiction over the person and/or

subject matter at issue. We believe that, in the interest of efficiency and allocation of the limited time Commission staff has for complaint review, the Commission should have a process similar to that concerning vexatious litigants in civil courts- whereby someone who repeatedly files complaints such as these be designated as vexatious and may only file a complaint if a licensed attorney does so on his or her behalf.

#### First-Time Fine Waiver for Financial Disclosure

Pursuant to Section 112.3215(5)(d)4., Florida Statutes, a fine is not assessed against a lobbying firm *the first time* any reports for which the lobbying firm is responsible are not timely filed. We believe a similar provision regarding fines for those who have failed to timely file their financial disclosure forms should be introduced, with the caveat that this first-time fine waiver is only applicable if the filer ultimately did file their form (albeit late). This would increase efficiency by reducing the number of fine appeals Commission staff have to process. It would also comport with the Commission's ultimate goal of achieving a filing by the filer at issue.

#### Financial Disclosure Appellate Deadlines

Currently, the law states that the Commission must *receive* a financial disclosure fine appeal within 30 days of the filer receiving notice of his or her appellate rights. However, given that a filer cannot control how long it takes for a piece of mail to arrive at the Commission's office after he or she sends it, we believe the law should be amended to consider a mailed appeal timely if it is *postmarked* within the 30-day appellate deadline.

#### Individuals appointed to fill an elected office

The Commission should consider a recommendation that 112.3144(10) be amended to clarify that individuals appointed to complete the remainder of the term of office for any Form 6 office are required to complete a Form 6 disclosure.

#### Ethics Training

Certain public officers are required by law to complete annual ethics training. The statute makes clear that each elected local officer of an independent special district, and each person who is appointed to fill a vacancy for an unexpired term of such elected office, must complete the annual training. However, in the context elected *municipal officers*, the statute does not have a similar provision for those who are appointed to fill a vacancy for an unexpired term of an elected office. For purposes of consistency, we believe the same language related to those who are appointed to elected offices of independent special districts should be included for those who are appointed to elected municipal offices.

Public Records Exemptions

The Commission and its staff engage in adversarial proceedings against Respondents to ethics complaints. These proceedings can result in harsh penalties for Respondents, up to and including removal from their public positions, and fines of up to \$20,000. Aside from this, Commission staff often receive hostile communications from members of the public, as well as ethics Complainants who are upset about the outcome of complaints they have filed. Because of this, we believe Commission Members, as well as Commission staff, should receive a public records exemption for information such as their home addresses and phone numbers, similar to other public records exemptions available to other public officers and employees.