

**FINANCIAL DISCLOSURE AND
VOTING CONFLICTS OF
INTEREST**

Persons Required to File Full and Public Disclosure

- The following officers and candidates have been specified by Article II, Section 8, Florida Constitution, to file full and public disclosure:
 - (1) All elected constitutional officers and all candidates for elected constitutional offices, which include the Governor; the Lieutenant Governor; the members of the Cabinet; the members of the Legislature; the Justices of the Supreme Court; the Judges of the District Courts of Appeal, Circuit Courts and County Courts; State Attorneys; Public Defenders; Clerks of the Circuit Courts; Sheriffs; County Tax Collectors, Property Appraisers and Supervisors of Elections; County Commissioners; all elective offices in a chartered county government, the duties of which office consist of performing the duties of any of the above constitutional offices; Superintendents of Schools if elected; and members of District School Boards.

- (2) Each person holding statewide elective office who is not elected to one of the offices listed above in Rule 34-8.003(1).
- (3) Such other public officers, candidates, and employees as are required by law to file full and public disclosure.

Disclosure of Sources and Amounts of Income

- The Commission shall prescribe as part of CE Form 6 provisions for the disclosure of sources and amounts of income and for the disclosure of secondary sources of income as required by Article II, Section 8(a) and (h) of the Florida Constitution.

- (1) The form for disclosure of income sources shall provide for the disclosure of the name and address of each source of income which exceeds \$1,000 received by the officer or candidate or by any person for the officer's or candidate's benefit and use during the previous tax year. The form also shall provide for disclosure of the amount of income received from each source and shall provide for the officer's or candidate's oath verifying the information contained in the completed form.

- (2) A "secondary source of income" shall mean any one customer, client or other source of income which provides in excess of 10% of the total income of a business entity, as shown on that business entity's most recently filed income tax return, during the previous tax year in which a person subject to full and public disclosure of financial interests own in excess of five percent (5%) of the business entity's total assets or capital stock and from which such person derived in excess of \$1,000 income during the previous tax year.

- (3) The form for disclosure of secondary sources of income shall provide for the officer's or candidate's oath verifying the information contained in the completed form.
- The method of determining one's income for purposes of disclosure under this chapter shall be in accordance with this rule.

Income Valuation

- (1) A reporting official choosing to file his most recent federal income tax return shall prepare such return pursuant to the Internal Revenue Code of 1954, Title 26, United States Code, as amended.
- (2) Reporting officials choosing to file a sworn statement disclosing all sources and amounts of income in excess of \$1,000 shall follow federal income tax principles pursuant to the Internal Revenue Code of 1954, Title 26, United States Code, as amended.

Choosing to File Copy of Income Tax Return

- (1) A reporting official who chooses to file a copy of his or her most recent income tax return with the CE Form 6 shall include copies of all schedules and forms that were included with or attached to the official's return when it was filed with the I.R.S. If the reporting official transmitted his or her Federal income tax return using IRS e-file and was not required to submit copies of Forms W-2, 1099-R, and other forms showing sources of income, these documents must still be submitted to the Commission if the filer elects to file a copy of his or her Federal income tax return with their CE Form 6.

- (2) If a reporting official has filed a copy of his or her most recent federal income tax return with the Commission on Ethics in lieu of disclosing his or her sources of income pursuant to this chapter and that return is amended voluntarily, adjusted through I.R.S. examination or altered in any other way, the official shall file with the Commission a copy of such amended, adjusted or altered return following its filing with the I.R.S., using the form prescribed in Rule 34-8.009, F.A.C.

Final Filing Using the CE Form 6F

- (1) Each person who is required to file full and public disclosure of financial interests shall, within 60 days of leaving his or her public position, file with the Commission a final disclosure statement covering the period between January 1 of the year in which the person leaves and his or her last day in the position, unless he or she takes another position within that 60-day period which requires full and public disclosure.
- (2) If the due date prescribed for a final filing falls on a Saturday, Sunday, or legal holiday designated in Section 110.117, F.S., then the due date shall be extended to the next day which is not a Saturday, Sunday, or legal holiday designated in Section 110.117, F.S.

Amended Filing Using the CE Form 6X

- (1) A person may amend his or her full and public disclosure of financial interests to add to or modify the information reported on the form as originally filed at any time after filing the disclosure form. The amended filing shall be filed with the same office where the original form was filed and shall be on the form prescribed by the Commission, CE Form 6X – Amendment to Full and Public Disclosure of Financial Interests.
- (2) If the amendment is the subject of a complaint filed against the reporting person, the Commission shall consider the timing of the amendment as a mitigating factor, as provided in Section 112.3144, F.S.

Penalties for Late Filing

- (1) Upon determining that a CE Form 6 has been filed after the due date or that the maximum fine has accrued, Commission staff shall send a notice by U.S. Mail notifying the delinquent person of the failure to timely file, of the amount of the payment due for the accrued fine, and of the person's right to appeal or dispute the fine as provided in Rule 34-8.015.

- (2) The fine shall be \$25 per day for each late day, up to a maximum of \$1,500. Commission staff shall determine the amount of the fine due based upon the earliest of the following:
 - (a) When the CE Form 6 is actually received by the Commission;
 - (b) When the CE Form 6 is postmarked;
 - (c) When the certificate of mailing is dated; or
 - (d) When the receipt from an established courier company is dated.

- (3) The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the Commission as provided in Rule 34-8.015. Commission staff shall deposit all fine monies into the General Revenue Fund.
- (4) Fines which are not waived pursuant to Rule 34-8.015, F.A.C., by final order of the Commission and which remain unpaid more than 60 days after the notice of payment due is transmitted or which remain unpaid more than 60 days after the Commission renders a final order on the appeal will be referred to the Department of Banking and Finance for collection.

Appeal of Statutory Fines: Hearings, Unusual Circumstances

- (1) A person who chooses to appeal or dispute a fine imposed in accordance with Section 112.3144, Florida Statutes, shall file with the Commission a notice of appeal within 30 days of the date the notice of payment due is transmitted, setting out with specificity the unusual circumstances surrounding the failure to file by the due date. The notice of appeal may be accompanied by any documentation or evidence supporting the claim, but must be received by the Commission no later than 30 days after the date the notice of payment due is transmitted.

- (2) Failure to timely file a notice of appeal as described herein shall constitute a waiver of any such entitlement. A final order of waiver shall be promptly entered by the chair of the Commission without the necessity of any further action being taken by the Commission.

- (3) A person who seeks a hearing before the Commission shall include in the notice of appeal a separate request for hearing. If no request for hearing is included in the notice of appeal, the Commission's determination shall be based on the notice and any supporting information and shall be final agency action. If a separate request for hearing is included in the notice, notice of hearing shall be provided and the Commission's determination after hearing shall be final agency action. Failure to appear in accordance with the notice of hearing shall constitute a waiver of such entitlement, and the Commission shall dispose of the case on the written record before it.

- (4) "Unusual circumstances" means uncommon, rare or sudden events over which the reporting individual had no control and which directly result in the failure to act in accordance with the filing requirements. Circumstances which allow for time in which to take those steps necessary to assure compliance with the filing requirements shall be deemed not to constitute unusual circumstances.

VOTING CONFLICTS OF INTEREST

- "Principal by whom retained" means an individual or entity, other than an agency as defined in s. 112.312(2), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one's client, employer, or the parent, subsidiary, or sibling organization of one's client or employer.

- "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.
- "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

- "Special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:
 1. The size of the class affected by the vote.
 2. The nature of the interests involved.
 3. The degree to which the interests of all members of the class are affected by the vote.

- 4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class. The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

- No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.

- Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.
- Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

- A county commissioner is not presented with a voting conflict under Section 112.3143(3)(a), Florida Statutes, regarding votes/measures of the county commission concerning a proposed county judicial complex to be located near properties owned by her and her husband's companies. Under the circumstances, any gain or loss to the commissioner or her husband is "remote and speculative" or is not "special."

- A city commission member is prohibited by Section 112.3143, Florida Statutes, from voting on a proposed ordinance prohibiting billboards, where the commission member owns several billboards within the city. Under the circumstances presented, the measure would inure to the commissioner's special private gain, and he would be required to disclose the nature of his interest, abstain from voting, and file a voting conflict memorandum.

- No voting conflict of interest would be created, were a Mayor to vote on matters relating to the de-annexation from the Town's boundaries part of a subdivision where he resides. Under the circumstances, the number of lots in the subdivision that could be de-annexed from the Town is significant-108 lots (85 homes)-and their de-annexation would affect all of them in a proportionally equal manner such that there is no special private gain or loss to the Mayor as a result.