



**ANNUAL REPORT  
TO THE  
FLORIDA LEGISLATURE  
FOR  
CALENDAR YEAR 1998**

**By the  
STATE OF FLORIDA  
COMMISSION ON ETHICS**

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## **THE CHAIRMAN'S MESSAGE**

As Chairman of the Commission on Ethics, I can report that matters before the Commission have continued to be reviewed and decided with studied and reasoned dispatch. The law in general, and the ethics law in particular, does not always yield a clear-cut path or the “right” answer. Yet, the Commission and able staff strive hard to apply the law in an even-handed manner.

The Commission and staff are acutely aware of their responsibilities to the public and to persons regulated by the law. Our mission is to ensure that the ethics laws are understood and enforced.

During the fall of last year, the Commission and staff worked with legislative leadership and staff to draft proposed changes to the Code of Ethics. Clarification of several statutes has been proposed. Importantly, if adopted, the number of persons who will be required to disclose financial information will be reduced without sacrificing the need to hear from key public officials. A detailed summary of all proposed legislation is provided at the end of this annual report.

The Commission has streamlined its rules to conform with the Uniform Rules which were adopted by the Governor and Cabinet. Unnecessary or obsolete rules have been repealed. Reporting forms have been modified where necessary and adopted by rules.

Further, as part of its public mission, the Commission feels it is vital to educate public officials regarding the Code. In July of last year, the Commission, in conjunction with the Florida Institute of Government, hosted a day and one-half seminar at the Sawgrass Marriott, St. Johns County. Lectures and panel discussions were given by staff and Commissioners. Topics covered in the sessions included a test on the gift laws; an overview & update on legislation, litigation, and rules; guidance for identifying and managing voting conflict issues; and a session on the shades of gray that can be found in misuse of position issues relating to sexual harassment, Internet abuse, and other areas.

During the conference there was plenty of time given to answering questions. Comptroller Robert Milligan and Representative John Thrasher provided inspiring thoughts during our luncheons. The seminar was warmly received by over 150 people which included local and state government employees and public officials. We will offer another seminar in Orlando in June and expect it to be well attended.

I offer a special thanks to Ms. Williams and all of the Commission staff. They are dedicated public

servants. They go about their business in an apolitical fashion and always strive to do the right thing for the public and for the persons who come before the Commission. They do a great job.

In closing, I am sure I speak for the entire Commission and staff when I extend thanks to the Legislature for its continued support of our efforts. The interpretation and enforcement of the Code of Ethics requires the cooperation of many. As they say, the whole is only as good as the sum of its parts and the Legislature has continued to do its part in fine fashion. Best wishes for a successful 1999 session.

Sincerely,

Charles A. Stampelos  
Chairman

**1998 FLORIDA COMMISSION ON ETHICS MEMBERSHIP**

**CHARLES A. STAMPELOS, CHAIR**

Tallahassee - Attorney  
Term expires June 2000  
Appointed by Senate President Jennings (R)

**PETER M. DUNBAR, VICE CHAIR**

Tallahassee - Attorney  
Term expires June 2000  
Appointed by Speaker of the House Webster (R)

**LINDA McKNIGHT BATMAN**

Altamonte Springs - School Teacher (Retired)  
Term expires June 1999  
Appointed by Governor Chiles(R)

**SCOTT W. CLEMONS**

Panama City - Insurance & Structured Settlement Consultant; Attorney  
Term expires June 2000  
Appointed by Speaker of the House Webster (D)

**KENNETH R. HART**

Tallahassee - Attorney  
Term expires June 1999  
Appointed by Governor Chiles (D)

**DAVID H. KRATHEN**

Ft. Lauderdale - Attorney  
Term expires June 1999  
Appointed by Governor Chiles(D)

**HOWARD S. MARKS**

Winter Park - Attorney  
Term expires June 2000  
Appointed by Senate President Jennings (D)

**MARY ALICE PHELAN**

Jacksonville - Business Executive  
Term expires June 1999  
Appointed by Governor Chiles (D)

**PETER PRIETO**

Miami - Attorney  
Term expires June 2000  
Appointed by Governor Chiles (R)

## INTRODUCTION AND HISTORY

Section 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 1998.

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 of 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 also 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 41,996 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 a non-paid, appointive body consisting of nine members, none of whom may hold any public employment. 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 Committees**



During the past year, two standing committees were appointed by Chairman Charles Stampelos and charged with preparing recommendations for Commission approval.

Legislative Committee Committee Chairman Peter Dunbar, Linda Batman, Scott Clemons, and David Krathen

Rules Committee: Committee Chairman Kenneth Hart, Howard Marks, Mary Alice Phelan, and Peter Prieto

### **Ethics Commission Staff**

Legal, investigative, and administrative functions of the Commission are performed by staff, consisting of nineteen full-time equivalent positions and one half-time position as follows:

**Bonnie J. Williams**, Executive Director

**Philip C. Claypool**, Deputy Executive Director  
and General Counsel

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**\* Legal Section \***

Under the supervision of the Deputy Executive Director/General Counsel, the legal section drafts opinions, orders, rules, and proposed legislation for consideration by the Commission and responds to inquiries 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 Virindia Doss and Eric Scott, who have been assigned by the Attorney General to act as full-time Advocates for the Commission.

**Legal Staff**

**C. Christopher Anderson, III**, Attorney

**Julia Cobb Costas**, Attorney

**Peter D. Ostreich**, Attorney

**Mary Barfield**, 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 also responds to general information inquiries about the Commission and the ethics laws.

**Public Information Staff**

**Helen K. Jones**, Public Information and Education

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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 is responsible for maintaining the complaint log and files, as the official Clerk of the Commission.

**Investigative Staff**

**Larry D. Hill**, Senior Investigator

**Harry D. Jackson** , Investigator

**Robert G. Malone**, Investigator

**Wayne V. Maxwell**, Investigator

**A. Keith Powell**, Investigator

**Tom W. Reaves**, Investigator

**Sheri L. Gerety**, Complaint Coordinator

**\* Financial Disclosure Notification Section \***

The Financial Disclosure Coordinator, under the supervision of the Deputy Executive Director, compiles a list of the persons statewide who are required to file either Form 1 or Form 6 financial disclosure. These lists, totaling 41,996 reporting officials and employees for 1998, are provided to the Department of State and the Supervisors of Elections for ~~notification purposes~~. This section also responds to questions about the disclosure laws.

**Financial Disclosure Notification Staff**

**Shirley A. Taylor**, Financial Disclosure Coordinator

**\* 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**

**Tracey L. Maleszewski**, Assistant to the  
Executive Director

**Frances Craft**, Office Manager

**Barbara W. Miller**, Receptionist

**Kimberly Stubbs**, Clerk (half-time)

**Mildred W. Fulford**, Clerk (half-time)

**Nicholas S. Rawls**, Clerk (half-time)

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<b>FISCAL REPORT</b>
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The following is a chart reflecting revenues, expenditures, and changes in fund balances for the fiscal year ending June 30, 1998.

FLORIDA COMMISSION ON ETHICS  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES

BUDGET AND ACTUAL - GENERAL REVENUE FUNDS  
For The Fiscal Year Ending June 30, 1998  
(Amounts in dollars)

	<u>Budget</u>	<u>Actual</u>
<b>REVENUES:</b>		
Released General Revenue		
Appropriations	1,549,721	1,549,721
Miscellaneous Receipts	3,500	5,410
	<hr/>	<hr/>
Total Revenues	1,553,221	1,555,131
	<u>Budget</u>	<u>Actual</u>
<b>EXPENDITURES:</b>		
Salaries and Related Benefits	1,059,625	1,059,485
Other Personal Services	187,296	187,296
Expenses	230,960	232,870
Operating Capital Outlay	39,883	37,714
Transfer to Div.of Admin.Hearings	35,457	35,457
	<hr/>	<hr/>
Total Expenditures	1,553,221	1,552,822
Excess of Revenues over Expenditures		2,309
Budgetary Fund Balances June 30, 1998		2,309

**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 notification. The information below is offered to provide a profile of the Commission's workload.

**Complaints**

Statistical Summary  
of Complaints Filed  
January 1-December 31, 1998

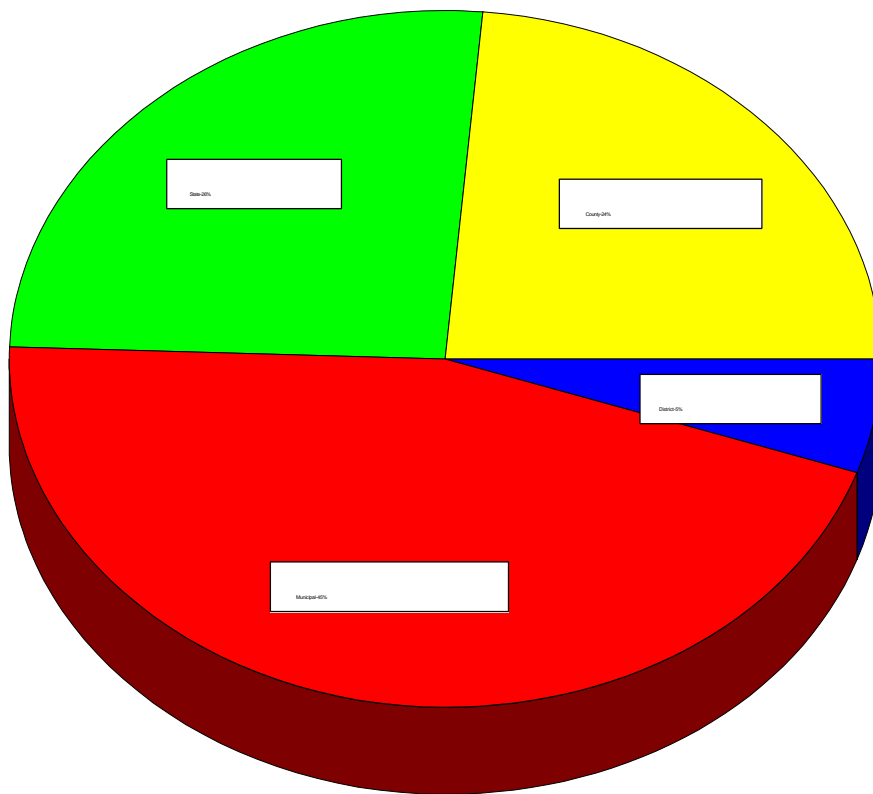
Total number of complaints filed with the Commission in 1998 ..... 210

The 210 complaints filed in Calendar Year 1998 against public officers and employees in Florida are broken down by rounded percentages as follows:

Type of Position	Number of Complaints	Percentage of Total
State Elected Officers	25	12 %
State Appointed Officers	8	4 %
State Employees	21	10 %
District Elected Officers	9	4 %
District Employees	2	1 %
County Elected Officers	33	16 %
County Appointed Officers	7	3 %
County Employees	10	5 %
Municipal Elected Officers	61	29 %
Municipal Appointed Officers	8	4 %
Municipal Employees	26	12%
<b>Total</b>	<b>210</b>	<b>100%</b>

Percentage Breakdown of Complaints

Filed in 1998



A further breakdown of the 210 current or former officers, employees, and candidates against whom complaints were filed in 1998 is as follows:

**State Elected Officers (25)**

9 Members of FL House  
 1 Member of FL Senate  
 4 State Attorneys/  
 Public Defenders  
 11 Statewide Elected Officers

**State Appointed (8)  
 Officers**

7 Marine Fisheries Commission  
 Members  
 1 Other (Commission Member)

**State Employees (21)**

7 Insurance Department  
 Employees  
 7 Other Agency Employees  
 3 Asst. State Attorneys  
 1 Community College President  
 1 University Professor  
 1 Agency Secretary  
 1 Correctional Officer

**County Elected Officers (33)**

22 County Commissioners  
 3 Sheriffs  
 3 School Board Members  
 3 Property Appraisers  
 1 Clerk of Court  
 1 Public Transportation  
 Commissioner

**County Appointed  
 Officers (7)**

5 Airport Authority  
 Board Members  
 1 Planning/Zoning Board  
 Member  
 1 Point of Service Review  
 Committee Member

**County Employees (10)**

3 Administrators/Directors  
 2 Attorneys  
 1 Manager  
 1 Engineer  
 1 Deputy  
 1 Planner  
 1 Deputy Clerk of Circuit Court

**Municipal Elected Officers (61)**

44 Council Members  
 17 Mayors/Vice Mayors

**Municipal Appointed  
 Officers (8)**

8 Town Code Enforcement  
 Officers

**Municipal Employees (26)**

5 City/Town Managers  
 5 City/Town Clerks  
 4 City/Town Attorneys  
 3 Fire Chiefs  
 2 Police Chiefs  
 7 City/Town Employees

**District Elected Officers (9)**

6 Mosquito Control District  
 Commissioners  
 2 Road & Water Control District  
 Supervisors  
 1 Fire District Commissioner

**District Employees (2)**

2 Mosquito Control District  
 Employees



## ALLEGATIONS

The following list is a breakdown of the actions taken on the 210 new complaints filed in 1998: ■ 71 complaints were dismissed for lack of legal sufficiency.

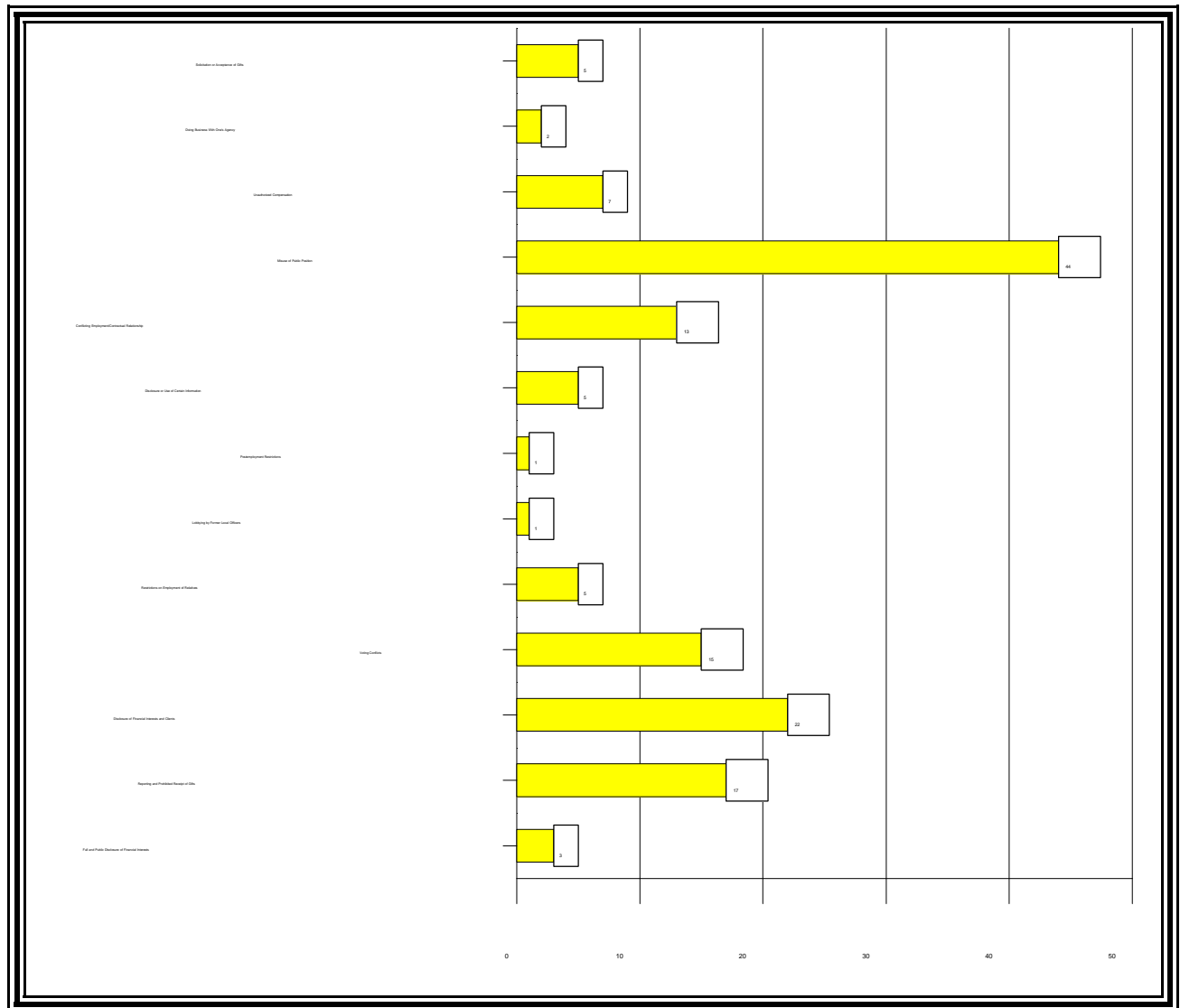
- 35 complaints were pending legal sufficiency determination at the end of the calendar year.
- 104 complaints were found legally sufficient to warrant investigation.

As illustrated below and by the chart on the following page, the charges alleged in the 104 sufficient complaints are:

<u>ETHICS LAW CITED</u>	<u>TITLE OF LAW</u>	<u>NUMBER OF CHARGES</u>
Section 112.313(2), F.S.	Solicitation or Acceptance of Gifts	5
Section 112.313(3), F.S.	Doing Business with One's Agency	2
Section 112.313(4), F.S.	Unauthorized Compensation	7
Section 112.313(6), F.S.	Misuse of Public Position	44
Section 112.313(7), F.S.	Conflicting Employment or Contractual Relationship	13
Section 112.313(8), F.S.	Disclosure or Use of Certain Information	5
Section 112.313(9), F.S.	Postemployment Restrictions	1
Section 112.313(14), F.S.	Lobbying by Former Local Officers	1
Section 112.3135, F.S.	Restriction on Employment of Relatives	5
Section 112.3143, F.S.	Voting Conflicts	15
Section 112.3145, F.S.	Disclosure of Financial Interests and Clients Represented Before Agencies	22
Section 112.3148, F.S.	Reporting and Prohibited Receipt of Gifts	17
Article II, Section 8, Florida Constitution	Full and Public Disclosure of Financial Interests	3

**NOTE:** Several complaints were found legally sufficient under more than one Section of the Code of Ethics.

# Ethical Standards at Issue in the 104 Legally Sufficient Complaints Filed in 1998



## Actions taken on complaints in 1998:

In addition to handling the 210 new complaints received in 1998, the Commission also took action on complaints filed in previous years. The following is a summary of the work completed by the Commission during calendar year 1998.

1. Total complaints dismissed for lack of legal sufficiency .....	84
2. Probable cause hearings held .....	111
A. Dismissed (no probable cause) .....	75
B. Probable cause found (pending public hearing or stipulation) .....	16
C. Probable cause found (no further action) .....	20
3. Violations found after public hearings .....	3
4. No violation found after public hearing .....	2
5. Violations found via stipulated settlement agreements .....	11
6. Costs and Attorney's Fees Petitions awarded .....	2
7. Costs and Attorney's Fees Petitions denied .....	3
<b>TOTAL CASES RESOLVED IN 1998 .....</b>	<b>216</b>

**Executive Branch Lobby Registration**

The Commission is charged with administration of the Executive Branch Lobby Registration Act and oversees the registration and expenditure report filings of executive branch lobbyists.

Executive branch lobbyists are required to file quarterly expenditure reports whether or not reportable expenditures were made during the quarter. Penalties for failure to file these quarterly reports by the deadline date are automatic and accrue at \$50 per report for each day late.

Each lobbyist may receive a one-time fine waiver if he or she files the reports within 20 days after being notified of the failure to file. Otherwise, the lobbyist is assessed a fine at the time he or she files the delinquent report(s).

The Commission has the authority to waive the assessed fines in whole or in part for good cause, based on unusual circumstances, if an appeal is filed within 20 days after the registrant's receipt of the notice of assessed fine. The following is a summary of the activity in the Executive Branch Lobbyist Registration program during 1998:

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Total number of executive branch lobbyist registrants . . . . .	1,165
Total number of principals represented by the registrants . . . . .	2,798

Total number of registrants <b>delinquent</b> in filing their quarterly expenditure reports:	
First Quarter . . . . .	44
Second Quarter . . . . .	40
Third Quarter . . . . .	39
(Fourth Quarter filings due February 15, 1999)	

EXECUTIVE BRANCH LOBBYIST REGISTRATION PROGRAM SUMMARY (Continued)

Total number of registrants <b>assessed a fine in first three quarters of 1998</b> .....	<b>23</b>
First Quarter .....	9
Second Quarter .....	5
Third Quarter .....	9

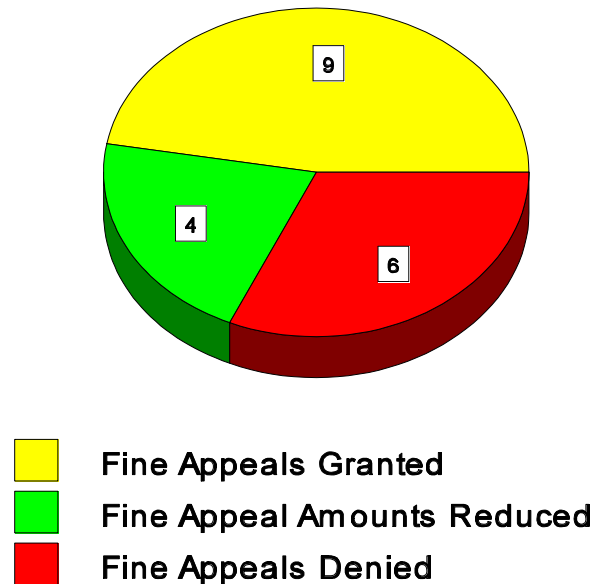
**Number of appeals considered by the Commission in 1998 ('97 & '98 filings) ... 19**

Of the 19 appeals considered by the Commission in 1998, the following action was taken:

Number of Fine Appeals Granted by the Commission .....	9
Number of Fine Appeals Amounts Reduced by the Commission .....	4
Number of Fine Appeals Denied by the Commission .....	6

## Lobbyist Fine Appeals

Considered by Commission in 1998



## Issuance of 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 1998 the Commission on Ethics issued twenty-five (25) advisory opinions, bringing the total issued since 1974 to 2,205.

Twenty-one (21) of the opinions rendered in 1998 were in response to requests by local officers, employees, or local government attorneys, and four (4) of the opinions were issued regarding State level officers or employees.

Of the twenty-five (25) total opinions rendered, conflict of interest questions were addressed in sixteen (16) opinions; voting conflicts in four (4); gift acceptance/disclosure in one (1) and anti-nepotism in four (4). See the chart on following page.

The Commission continues to provide upon request a Digest of Advisory Opinions. Printed volumes of full opinions through 1997 also are available at cost by writing the Commission. Published opinions may be obtained at a cost of \$4.00 per year. The 1998 opinions will be published later this year. Binders for these loose-leaf opinions are available for purchase at a cost of \$4.00 each.

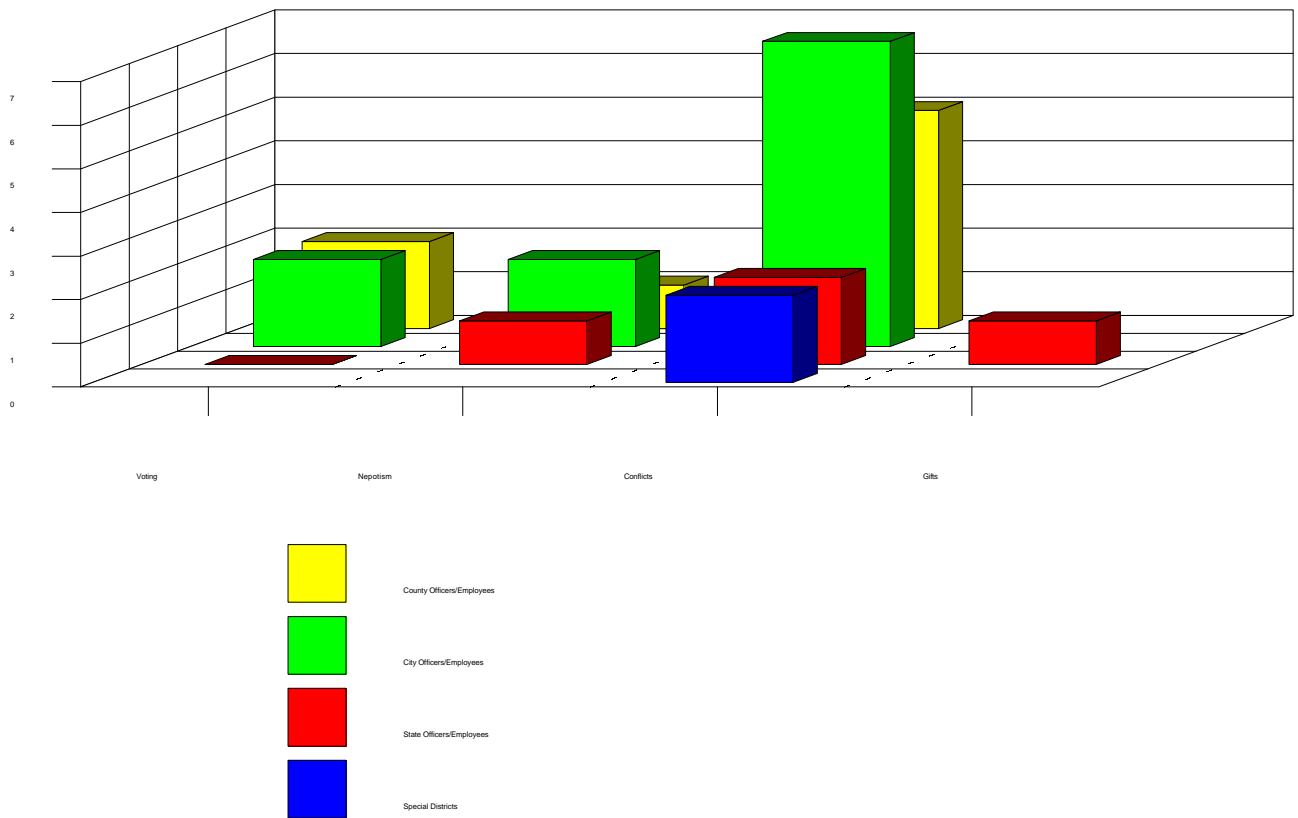
The Commission also provides an annual subscription service for copies of the opinions. Following each Commission meeting, the full text of the opinions, summaries of the opinions, and an updated index of the year's opinions are mailed to each subscriber. The subscription rate for 1999 is \$32.

In addition, copies of advisory opinions are available on disk. An annual subscription for this service is \$15. The index, summaries, and opinions are on a 3.5" diskette in WordPerfect 6.1 format. Commission opinions

also can be accessed via the Commission's web site at [www.ethics.state.fl.us](http://www.ethics.state.fl.us).

### 1998 Advisory Opinions

(Questions Addressed in 25 Opinions Issued)



## 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 annual mailing list of persons subject to disclosure is provided by the Commission on Ethics to the Secretary of State and to the sixty-seven (67) Supervisors of Elections, who give notice of disclosure deadlines and delinquencies.

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

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, 1998, the percentages of compliance, and comparable percentages from the previous year. Also listed is a chart which outlines filing compliance from 1984 to the present.



**FINANCIAL DISCLOSURE**

**COMPLIANCE FIGURES**

<b>COUNTY</b>	<b>NUMBER OF OFFICIALS SUBJECT TO DISCLOSURE</b>	<b>NUMBER OF OFFICIALS DELINQUENT</b>	<b>COMPLIANCE RATE 1998</b>	<b>COMPLIANCE RATE 1997</b>
Alachua	513	68	87%	90%
Baker	72	3	96%	93%
Bay	342	21	94%	93%
Bradford	116	22	81%	83%
Brevard	1048	109	90%	89%
Broward	2808	197	93%	93%
Calhoun	49	0	100%	100%
Charlotte	192	18	91%	91%
Citrus	201	9	96%	94%
Clay	345	34	90%	90%
Collier	342	17	95%	94%
Columbia	103	4	96%	98%
Dade	2306	371	84%	83%
DeSoto	74	6	92%	92%
Dixie	50	0	100%	100%
Duval	637	70	89%	91%
Escambia	379	10	97%	98%
Flagler	132	14	89%	88%
Franklin	120	17	86%	89%
Gadsden	173	19	89%	86%
Gilchrist	74	2	97%	97%
Glades	66	0	100%	100%
Gulf	52	0	100%	100%
Hamilton	88	5	94%	100%
Hardee	96	15	84%	91%
Hendry	157	2	99%	99%

**FINANCIAL DISCLOSURE**

**COMPLIANCE FIGURES**

<b>COUNTY</b>	<b>NUMBER OF OFFICIALS SUBJECT TO DISCLOSURE</b>	<b>NUMBER OF OFFICIALS DELINQUENT</b>	<b>COMPLIANCE RATE 1998</b>	<b>COMPLIANCE RATE 1997</b>
Hernando	201	25	88%	88%
Highlands	246	15	94%	95%
Hillsborough	1262	153	88%	89%
Holmes	98	----	----	98%
Indian River	348	4	99%	99%
Jackson	204	5	98%	98%
Jefferson	69	9	87%	87%
Lafayette	42	1	98%	100%
Lake	640	47	93%	94%
Lee	890	56	94%	91%
Leon	279	67	76%	82%
Levy	182	12	93%	90%
Liberty	29	0	100%	96%
Madison	98	5	95%	99%
Manatee	594	41	93%	97%
Marion	353	39	89%	87%
Martin	248	33	87%	91%
Monroe	247	21	91%	91%
Nassau	153	17	89%	92%
Okaloosa	441	18	96%	96%
Okeechobee	117	3	97%	97%
Orange	1100	134	88%	87%
Osceola	252	24	90%	90%
Palm Beach	2234	275	88%	89%
Pasco	350	24	93%	92%
Pinellas	1440	130	91%	92%

<b>FINANCIAL DISCLOSURE</b>				
<b>COMPLIANCE FIGURES</b>				
<b>COUNTY</b>	<b>NUMBER OF OFFICIALS SUBJECT TO DISCLOSURE</b>	<b>NUMBER OF OFFICIALS DELINQUENT</b>	<b>COMPLIANCE RATE 1998</b>	<b>COMPLIANCE RATE 1997</b>
Polk	1009	99	90%	88%
Putnam	211	24	87%	91%
St. Johns	266	20	92%	96%
St. Lucie	363	37	90%	90%
Santa Rosa	231	13	94%	93%
Sarasota	479	32	93%	92%
Seminole	660	60	91%	90%
Sumter	170	5	97%	97%
Suwannee	134	14	90%	95%
Taylor	91	8	91%	94%
Union	56	3	95%	92%
Volusia	1043	110	89%	92%
Wakulla	71	4	94%	98%
Walton	136	11	92%	91%
Washington	94	2	98%	99%
<b>TOTALS-FORM 1 (LOCAL)</b>	27666	2633	90%	91%
<b>TOTALS-FORM 1 (STATE)</b>	12127	448	96%	96%
<b>TOTALS-FORM 6</b>	2203	35	98%	98%
<b>OVERALL</b>	41,996	3116	93%	93%

### **SUMMARY OF LOCAL LEVEL COMPLIANCE:**

- Total compliance rate for Form 1, Statement of Financial Interests, was 90%.
- Of 27,666 persons required to file, 2,633 were delinquent as of September 1, 1998.
- Five counties reported 100% compliance.

### **SUMMARY OF STATE LEVEL COMPLIANCE:**

- The Form 1 compliance rate at the State level was 96%.
- Of 12,127 persons required to file, 448 were delinquent as of September 1, 1998.

### **SUMMARY OF FULL DISCLOSURE COMPLIANCE:**

- The Form 6, Full and Public Disclosure of Financial Interests compliance was 98%. ■ There were 35 delinquencies out of a total of 2,203 persons required to file.

### **SUMMARY OF OVERALL 1997 FILING COMPLIANCE:**

- As of September 1, 1998, there were 3,116 officers and employees out of 41,996 subject to financial disclosure who had failed to file.
- The overall compliance rate for 1998 was 93%.
- The 1998 total of 41,996 officials required statewide to file disclosure represents an increase of 651 from the 1997 total of 41,345.

### **FINANCIAL DISCLOSURE FILING COMPLIANCE (1984 THROUGH PRESENT)**

YEAR	OFFICIALS REQUIRED TO FILE FORMS 1 AND 6	OFFICIALS <u>DELINQUENT</u> IN FILING FORMS 1 AND 6	OVERALL COMPLIANCE RATE
1984	26,670	2,903	90%
1985	27,758	2,136	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	2,092	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%

**LITIGATION CONCERNING THE SUNSHINE  
AMENDMENT  
AND THE CODE OF ETHICS**

*Braswell v. Florida Commission on Ethics*, 1st District Court of Appeal (Case No. 97-04148). This was an appeal of the Circuit Court’s order dismissing Braswell’s petition for declaratory judgment and injunctive relief. He is a former DEP attorney who challenged the constitutionality of Sec. 112.313(9), Florida Statutes (the two-year post employment restriction against representing clients before one’s former agency). He argued that, as applied to him as an attorney, the statutes’s prohibition against his appearance before DEP for two years infringes on the Supreme Court’s exclusive right to regulate the practice of law. The District Court affirmed the lower court with a ‘Per Curium Affirmed’ decision.

**Holt v. Florida Commission on Ethics**, 2d District Court of Appeal (Case No. 97-03582).

This is an appeal of the Commission's final order in Complaint No. 95-48, in which the Commission found that Holt, a Public Defender, did not misuse her position to have an assistant public defender in her office represent a former client but did violate Sec. 112.313(6) by using her office's cellular phone to call a former client in federal prison. The Court entered an order affirming the Commission's decision without an opinion. Holt now has moved for Rehearing or for Rehearing En Banc.

**Whaley v. Florida Commission on Ethics**, 1st District Court of Appeal (Case No. 97-03892). This was an appeal of the Commission's final order in Complaint No. 95-84, in which the Commission found that Whaley, a member of the Springfield City Commission, violated Sections 112.313(2), and 112.313(6) in his attempts to have a traffic citation issued by a Springfield City Police Officer against his son dismissed. The case was dismissed due to Mr. Whaley's death.

**Latham v. Florida Commission on Ethics**, 1st District Court of Appeal (Case No. 97-04841). After the Division of Administrative Hearings Judge's and the Commission's findings (by clear and convincing evidence) that Latham violated Section 112.313(6), he filed this appeal of the second final order. The 1st DCA affirmed the Commission's decision, with a "Per Curium Affirmed" decision. Mr. Latham's attempt to get the Florida Supreme Court to review the case was turned down by that Court, on its own motion.

**Bill Colon v. State of Florida, et al.**, United States Supreme Court Docket No. 98-5763. The Commission ordered that Colon pay costs and attorney's fees because the complaint he filed against a city commissioner was frivolous and malicious. The Fourth District Court of Appeal affirmed and ordered that Colon also pay appellate attorney's fees. After the Commission decided the amount of appellate fees to be paid, which the District Court affirmed, and following the Fourth District Court of Appeal's denial of a series of motions, Mr. Colon petitioned to the United States Supreme Court for a writ of certiorari, urging that court to intervene. The Supreme Court denied Mr. Colon's petition.

## LEGISLATION

The following is a summary of the changes to the ethics code being proposed by the Commission in the 1999 legislative session.

## **GIFTS:**

- ! If the public official is going to repay the cost of a gift, payment should be made (in whole or part) within 90 days; also, if the consideration in exchange for something is a promise to pay, that promise should be in writing in order to constitute consideration for the gift.
- ! Application of the gift law to candidates should be made clearer. Candidates should be prohibited from soliciting gifts from lobbyists, etc. Winning candidates should be required to report all gifts worth over \$100 received between qualifying to run and taking office.
- ! Gift reporting forms should be filed with the Commission rather than the Secretary of State.
- ! State employees who have purchasing authority should be subject to the gift law's requirements if their purchasing power exceeds \$5,000 per year, not \$1,000 per year.
- ! Gifts should be valued based on their fair market value, rather than the cost to the donor.

## **FULL AND PUBLIC FINANCIAL DISCLOSURE:**

- ! Disclosure forms should be filed with the Commission rather than the Secretary of State.
- ! Liabilities for which one is a guarantor should be reported, as well as liabilities owed to a governmental entity, except for taxes, unless the taxes have been reduced to a judgment.
- ! The names of each business associate (business partner) should be reported, along with basic information describing the business; the definition of "business associates" should include situations where one's interest is through a corporation.
- ! Assets, liabilities, and net worth should be reported by ranges of value, rather than by specific dollar figures.
- ! Automatic fines for late filing should be imposed by law, with fines collected by the Department of Banking and Finance.
- ! Each public officer should file a final disclosure form within 60 days of leaving office.
- ! Procedures should be adopted specifying how disclosure forms can be amended and mitigating the consequences of amending a form.

### **LIMITED FINANCIAL DISCLOSURE REPORTING:**

- ! Forms should be filed with the Commission rather than the Secretary of State.
- ! Liabilities for which one is a guarantor should be reported, as well as liabilities owed to a governmental entity, except for taxes, unless the taxes have been reduced to a judgment.
- ! The names of each business associate (business partner) should be reported, along with basic information describing the business; the definition of “business associates” should include situations where one’s interest is through a corporation.
- ! The persons required to file financial disclosure should be limited to the most significant positions. State and local purchasing agents who are empowered to make a purchase exceeding \$5,000, rather than the current \$1,000 limit, should be required to file. Only certain local appointed boards should be required to file; local governments should have the option to designate other types of appointed boards.
- ! Reporting thresholds should be changed from percentages to dollar values, where possible, to avoid confusion.
- ! Automatic fines for late filing should be imposed by law, with fines collected by the Department of Banking and Finance.
- ! Each reporting individual should file a final disclosure form within 60 days of leaving his or her public position.
- ! Procedures should be adopted specifying how disclosure forms can be amended and mitigating the consequences of amending a form.

### **QUARTERLY CLIENT DISCLOSURE:**

- ! The reporting deadline for this form should be changed to track the gift disclosure deadline.
- ! When the name of one’s client is confidential under the agency’s proceeding, the law should not require the client’s name to be reported.



## **STANDARDS OF CONDUCT:**

- ! An indirect employment or contractual relationship with a business entity or agency doing business with or regulated by one's agency should be prohibited, in addition to the direct relationships that are currently prohibited, in order to foreclose a loophole.
- ! The prohibition against using or disclosing inside information should clearly apply to former officers and employees regarding information gained through one's public position.
- ! The law should clearly reflect who is a "local government attorney" subject to the various provisions of the Code of Ethics.
- ! State employees should not be allowed to leave government and participate in a private capacity in a matter for which they had personal and substantial responsibility while employed with their former agency.
- ! Exemptions to the standards of conduct should be clarified.

## **INVESTIGATIVE PROCEEDINGS:**

- ! The Commission's findings and recommendations should be sent to the appropriate disciplinary authority for the position held at the time of the violation, rather than the position held at the time the Commission concludes that there was a violation.
- ! The Attorney General should be authorized to collect costs and fees if required to go to court to collect a penalty imposed against a violator.
- ! The misdemeanor penalty for breaching the confidentiality of an ethics proceeding should be deleted, as it has been declared unconstitutional.
- ! The Commission should be authorized to seek a judicial grant of immunity for witnesses who refuse to cooperate because of Fifth Amendment considerations.
- ! The Commission should be authorized to investigate a situation "on receipt of evidence deemed sufficient by the Commission."

## **EXECUTIVE BRANCH LOBBYIST REGISTRATION:**

- ! Expenditure reporting should be on a bi-annual basis, as is the case for legislative lobbyists, rather than quarterly.
- ! The fine for late filing should be changed from \$50 per day to \$25, with a \$1,500 cap on fines; the time to appeal should begin on the date the notice is transmitted rather than on the date received; and unpaid fines should be collected by the Department of Banking and Finance.

**OTHER ISSUES:**

- ! Witness tampering in ethics proceedings should be a crime.
- ! The Commission should be allowed to obtain confidential information from the Department of Revenue when investigating matters relating to that Department, so long as it protects the confidentiality of that information.
- ! Certain provisions of Chapter 839, Fla. Stat., should be repealed, as they have been superceded by provisions in the Code of Ethics.
- ! Judges of Compensation Claims should file the same gift reports as Article V judges.
- ! Adequate funding will have to be provided to allow the Commission to receive and keep track of disclosure forms and to manage the automatic fines for late filings.