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HB 7003

2022 Legislature

1  
 2 An act relating to implementation of the  
 3 constitutional prohibition against lobbying by a  
 4 former justice or judge; creating s. 112.3123, F.S.;  
 5 providing definitions for the purpose of implementing  
 6 the constitutional prohibition against lobbying by a  
 7 former justice or judge; creating s. 112.3124, F.S.;  
 8 providing applicability; providing for administration;  
 9 requiring the Commission on Ethics to report certain  
 10 findings and recommendations to the Governor;  
 11 providing penalties for a violation of the  
 12 constitutional prohibition against lobbying by a  
 13 former justice or judge; authorizing collection of  
 14 such penalties by specified entities; providing an  
 15 effective date.

16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18

19 Section 1. Section 112.3123, Florida Statutes, is created  
 20 to read:

21 112.3123 Definitions.—As used in this section and for  
 22 purposes of implementing s. 13(b), Art. V of the State  
 23 Constitution, the term:

24 (1) "Administrative action" means any process or decision  
 25 regulated by chapter 120 or, for agencies of the executive

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26 branch of state government not subject to chapter 120, any  
 27 action or a decision on a license, permit, waiver of regulation,  
 28 or any other administrative procedure or procedure governed by  
 29 existing law, rule, or regulation, except on an issue of  
 30 procurement.

31 (2) "Compensation" means a payment, distribution, loan,  
 32 advance, reimbursement, deposit, salary, fee, retainer, or  
 33 anything of value provided or owed to a recipient, directly or  
 34 indirectly, from any source for lobbying activity.

35 (3) "Governmental entity" means an officer or agency of  
 36 the executive or legislative branches of state government.

37 (4) "Issue of appropriation" means a legislative decision  
 38 to expend or approve an expenditure of public funds, including  
 39 decisions that are delegated to an administrator.

40 (5) "Issue of policy" means a change in a law or a  
 41 decision, plan, or course of action designed to influence or  
 42 determine the subsequent decisions or actions of a governmental  
 43 entity, to sell or otherwise divest public property, or to  
 44 regulate conduct. The term does not include a decision or  
 45 determination of any rights, duties, or obligations made on a  
 46 case-by-case basis.

47 (6) "Issue of procurement" means a proposal to purchase or  
 48 acquire property, an interest in property, or services by a  
 49 governmental entity.

50 (7) "Legislative action" means introduction, sponsorship,

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51 testimony, debate, voting, or any other official action on a  
 52 measure, resolution, amendment, nomination, appointment, report,  
 53 or other matter.

54 (8) (a) "Lobby" means to influence or attempt to influence  
 55 an action or decision through oral, written, or electronic  
 56 communication and, with respect to:

57 1. The executive branch of state government, is limited to  
 58 influencing decisions, other than administrative action, that  
 59 are vested in or delegated to an agency or officer thereof.

60 2. The legislative branch of state government, is limited  
 61 to influencing a procurement decision or any legislative action  
 62 or nonaction by either the Senate or the House of  
 63 Representatives, or any committee or office thereof.

64 (b) The term "lobby" does not mean any of the following:

65 1. Providing or seeking to provide confidential  
 66 information to be used for law enforcement purposes.

67 2. Appearing as a witness to provide information at the  
 68 written request of the chair of a legislative body or committee,  
 69 including a legislative delegation meeting.

70 3. Appearing or offering written testimony under oath as  
 71 an expert witness in any proceeding for any purpose related to  
 72 the proceeding and communications related to such testimony.

73 (9) (a) "Lobby for compensation" means being employed or  
 74 contracting for compensation for the purpose of lobbying, and  
 75 includes being principally employed for governmental affairs to

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76 | lobby on behalf of a person or public entity.

77 |       (b) The term "lobby for compensation" does not include any  
 78 | of the following:

79 |       1. A public officer carrying out the duties of his or her  
 80 | public office.

81 |       2. A public or private employee, including an officer of a  
 82 | private business, nonprofit entity, or any public entity acting  
 83 | in the normal course of his or her duties, unless he or she is  
 84 | principally employed for governmental affairs.

85 |       3. Advice or services to a governmental entity pursuant to  
 86 | a contractual obligation with the governmental entity.

87 |       4. Representation of a person on a legal claim cognizable  
 88 | in a court of law, in an administrative proceeding, or in front  
 89 | of an adjudicatory body, including representation during  
 90 | prelitigation offers, demands, and negotiations, but excluding  
 91 | representation on a claim bill pending in the Legislature.

92 |       5. Representation of a person in any proceeding on a  
 93 | complaint or other allegation that could lead to discipline or  
 94 | other adverse action against the person.

95 |       6. Representation of a person with respect to a subpoena  
 96 | or other legal process.

97 |       (10) "Principally employed for governmental affairs" means  
 98 | that the principal or most significant responsibilities of the  
 99 | employee is to oversee the employer's various relationships with  
 100 | governmental entities or representing the employer in its

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101 contacts with governmental entities.

102 Section 2. Section 112.3124, Florida Statutes, is created  
103 to read:

104 112.3124 Enforcement and penalties for constitutional  
105 prohibition against lobbying by a former justice or judge.-

106 (1) Section 13(b), Art. V of the State Constitution  
107 applies to justices or judges who vacate their judicial position  
108 on or after December 31, 2022.

109 (2) For purposes of administrative enforcement, a  
110 violation of s. 13(b) Art. V of the State Constitution is deemed  
111 a violation of this part.

112 (3) If the commission finds that there has been a  
113 violation of s. 13(b), Art. V of the State Constitution, the  
114 commission must report its findings and recommendations for  
115 appropriate action to the Governor who has the power to invoke  
116 any of the penalties under subsection (4).

117 (4) A violation of s. 13(b), Art. V of the State  
118 Constitution may be punished by one or more of the following:

119 (a) Public censure and reprimand.

120 (b) A civil penalty not to exceed \$10,000.

121 (c) Forfeiture of any pecuniary benefits received for  
122 conduct that violates this section. The amount of the pecuniary  
123 benefits must be paid to the General Revenue Fund.

124 (5) The Attorney General and Chief Financial Officer are  
125 independently authorized to collect any penalty imposed under

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126 | this section.

127 |       Section 3. This act shall take effect December 31, 2022.