



**CIVIL SERVICE COMMISSION
MEETING AGENDA**
Wednesday, March 29, 2023 at 2:00 PM
Commission Chambers - 300 Municipal Drive

Meetings will be televised on Spectrum Channel 640 and YouTube Streamed on the City's Website.

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

Public participation is encouraged. If you are addressing the Civil Service Commission, step to the podium and state your name and address for the record. Please limit your comments to three (3) minutes and do not include any topic that is on the agenda.

Public comment on agenda items will be allowed when they come up.

4. APPROVAL OF MINUTES

A. 2023-02-15, Civil Service Commission Meeting Minutes

5. OLD BUSINESS

A. Civil Service Commission Roles and Responsibilities

B. Proposed Ordinance 2023-06, Revisions to Code of Ordinances, Division 4 - Civil Service Commission

C. Proposed Ordinance 2023-07, Whistleblower Ordinance

6. NEW BUSINESS

7. NEXT MEETING

8. ADJOURNMENT

One or more Elected or Appointed Officials may be in attendance.

Any person who decides to appeal any decision of the Civil Service Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure

that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the minutes to be transcribed verbatim; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. 286.26; any person with a disability requiring reasonable accommodation to participate in this meeting should call Linda Portal, Community Development Director at 727-391-9951, ext. 255 or fax a written request to 727-399-1131.



MINUTES
CIVIL SERVICE COMMISSION
MEETING
FEBRUARY 15, 2023
11:00 A.M.

The City of Madeira Beach Civil Service Commission meeting was held at 11:00 a.m. on February 15, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Gene Embler, Chair
 Cristina Ponte, Vice Chair
 Judithanne McLauchlan
 Paul Tilka
 Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT:

CITY STAFF PRESENT: Lara Hooley, Executive Assistant to City Clerk
 Sean Lilly, HR Director
 Thomas Trask, City Attorney
 Megan Powers, Executive Assistant to City Manager

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 11:01 a.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll.

3. PUBLIC COMMENT

There were no members of the public present at the meeting.

4. ADOPTION OF MINUTES

A. Approval of Meeting Minutes: 2022-11-30, Civil Service Commission

Vice Chair Ponte motioned to approve the meeting minutes for November 30, 2022. Judithanne McLauchlan seconded the motion.

ROLL CALL:

Cristina Ponte “YES”

Judithanne McLauchlan	“YES”
Paul Tilka	“YES”
Gene Embler	“YES”

The motion carried 4-0.

5. NEW BUSINESS

A. “Draft” Employee Personnel Policies and Procedures Handbook

ARTICLE X. DISCIPLINARY ACTION

• Section 1001. GENERAL PROVISIONS.

Chair Embler said the first sentence in paragraph three was duplicated in the fifth paragraph. Human Resources Director Sean Lilly said that would be fixed. Chair Embler asked for a legal opinion on the wording of the first sentence in the fifth paragraph. Director Lilly said the intent of the language was to mitigate circumstances. Vice Chair Ponte said the language in the Lawyer’s version in Section 11.C.6. was good and asked staff to consider it.

Chair Embler asked if the intent of paragraph nine was not to allow the supervisor to handle written warnings, only the department director, and that supervisors can only give verbal warnings. Director Lilly said supervisors only have the authority to give verbal warnings, but if it goes to a higher level, the department director gets involved. If the written warning is justified, then the written warning would be discussed with the Human Resources and the City Manager. Vice Chair Ponte asked if the supervisor could write an email about the infraction. Director Lilly said they could. A written warning is an official written warning letter that gets placed in the employee’s personnel file. Vice Chair Ponte asked staff to consider adding the language from the attorney’s version in 11.C.5.

Vice Chair Ponte said she did not see anything in the policy that dealt with employee complaints. Director Lilly said appeals were used for termination. Vice Chair Ponte asked staff to review the policy for a section on how to handle employee complaints similar to Section 12 in the attorney’s version. Director Lilly said they changed the section's name to Appeals because grievance is collective bargaining, and the City does have a collective bargaining contract.

Mr. Tilka asked where the whistleblower ordinance would be addressed in the new document. Vice Chair Ponte did not think it would be addressed in the new document. Mr. Tilka asked if ethics complaints would come before the Civil Service Commission. The City Attorney said they would not. The Ethics Commission for the State of Florida would handle the complaint process. Chair Embler asked what the role of the Civil Service Commission would be when they finished the handbook. Mr. Tilka asked if an ethics complaint that came back negatively should come before them. Chair Embler suggested they table that question until their next meeting.

The City Attorney asked if they had seen the draft whistleblower ordinance. City Clerk Clara VanBlargan said they saw the original ordinance but not since it was separated into two ordinances,

one for Civil Service Commission and the other for whistleblower. After she gets both ordinances from the attorney, she will send them to the Civil Service Commission. The City Attorney suggested they put the discussion on an upcoming agenda for discussion.

- **Section 1002. GROUP I OFFENSES.**

Director Lilly said as the offenses get worse, the discipline gets stronger. Vice Chair Ponte thought it made sense but suggested making the supporting language clearer. Anything with just cause should allow them to use their discretion to assign the right level of offense. Director Lilly said there is a catch-all phrase in each level of offense.

Chair Embler asked for a grammar correction in Item 16; remove the period after policy and change “Which” to “which.”

- **Section 1005. GROUP II OFFENSES.**

Chair Embler suggested they define what an item of value means by assigning a dollar amount. Vice Chair Ponte suggested stating, “as defined in the Code of Ethics, Section 1203”

Chair Embler asked where the use of company time to use social media or personal emails was defined. Theft of company time and company equipment should be addressed. Vice Chair Ponte said it was addressed in Section 1214 but agreed it should be included in the offenses. It was covered in the attorney’s version. The City Attorney said it was covered in Section 1002, Item 5, Wasting time. Vice Chair Ponte suggested adding a more explicit item that includes improper use of City equipment.

ARTICLE XI. SEPARATIONS

- **Section 1101. RESIGNATION.**

Chair Embler asked what the initial intent of paragraph three was and why it was stricken. Vice Chair Ponte said she could not find anything on discharge and recommended using the language in 11.D.2. of the attorney’s version. Director Lilly said Article X addressed disciplinary action and discharge.

Vice Chair Ponte asked the City Attorney if they should include name-clearing hearings in the policy. The City Attorney said he would highly recommend it. It should be included. Vice Chair Ponte asked staff to refer to Section 11.D.2.H. of the attorney’s version to see what should be included with discharges in the policy. Director Lilly agreed.

ARTICLE XII. MISCELLANEOUS POLICIES AND PROVISIONS

- **Section 1201. HARASSMENT POLICY.**

Chair Embler said age was not included in harassment in paragraph three. Vice Chair Ponte said Section 13 of the attorney’s version was more inclusive and recommended using the same

language. The City Attorney read an email from Attorney Eschenfelder saying he hoped the City would adopt his version of the illegal harassment policy versus sex harassment language, which was light on investigation process detail. Director Lilly agreed to review it.

- **Section 1202. FLORIDA CLEAN INDOOR AIR ACT.**

Chair Embler asked how smoking breaks were handled for employees that smoked and if people complained because an employee that smoked would take more breaks than a non-smoking employee. Director Lilly said he had not run into that yet.

- **Section 1203. CODE OF ETHICS.**

Vice Chair Ponte said she liked the attorney's version; it was more elaborate. She asked the City Attorney if what was in the policy was adequate or if it should be more defined. The City Attorney said Attorney Eschenfelder thought it should be defined and recommended it be added to the policy. Vice Chair Ponte suggested adding more detail on the Code of Ethics and the training rather than adding all the attorney's language. Chair Embler agreed and said they could refer to the Florida Statutes.

Vice Chair Ponte asked what the requirement was for ethics training. The City Clerk said ethics training was available every quarter. If the personnel manual refers to ethics, everyone should have something in their personnel file that they took the class. The state also required ethics training. The consensus was to add the statute and reference the required training. Ms. McLauchlan said the section on ethics in the disciplinary section did not have a dollar amount, but Section 1203 did. The document needed to be able to stay the same over time, so referencing the Code of Ethics and training would keep it simple.

- **Section 1204. ARRESTS.**

Vice Chair Ponte asked the City Attorney if it was appropriate to request an arrest report the next workday or should they allow for three days as stated in the attorney's version. The City Attorney said the problem was that sometimes people do not get arraigned immediately and may not have the opportunity to respond. Vice Chair Ponte asked if there was a risk leaving it the way it was written. The City Attorney said there was no legal risk. If an employee takes more than a day, it may not result in disciplinary action. The consensus was to leave the language the way it was if taking more than a day did not result in disciplinary action.

- **Section 1205. ATTENDANCE.**

Chair Embler questioned the language in the last paragraph. Should they allow an employee to return to work after unauthorized absences for three consecutive workdays. She thought no show, no call for three days should be considered a voluntary resignation. Director Lilly said he gives the benefit of the doubt until he needs to act on it. Chair Embler understood the leniency but wanted to make sure there was consistency.

Vice Chair Ponte said the case Mr. Tilka referenced at a previous meeting caused an issue, and she wanted to make sure they were protecting themselves. She requested the other members look at it.

Vice Chair Ponte asked whether voicemail and email notifications were accepted forms of notification for an absence. Director Lilly said they were allowed.

- **Section 1206. BORROWING CITY EQUIPMENT.**

Ms. McLauchlan asked if there should be clarification of what personal use is. Chair Embler said she did not think it needed to be expanded on. Vice Chair Ponte thought it would be better to add a little more information and clarity.

Vice Chair Ponte asked if review of electronic communication, scavenging, and recycling was addressed in the current policy. She recommended staff review the language in Section 25.C. of the attorney's version.

- **Section 1209. REIMBURSEMENT FOR TRAVEL EXPENSES.**

Chair Embler said there was conflicting language in Item a. and Item c and asked what the City's policy was for travel expenses. She did not think receipts were necessary for per diem. Megan Powers, Executive Assistant to the City Manager, explained how the City handled reimbursement.

Chair Embler asked how mileage was reimbursed. They could not put a specific rate in the policy because it was subject to change. Director Lilly said they use the number the IRS comes out with every year. Chair Embler recommended stating, "either in the travel policy or in the document, that reimbursement would be based on the current IRS amount.

Ms. McLauchlan suggested changing the word "performed" to the word "made" in the first sentence in Item b.

- **Section 1210. DRUG-FREE WORKPLACE AND SUBSTANCE ABUSE PREVENTION PROGRAM.**

Director Lilly said it was being worked on.

- **Section 1211. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION PROGRAM.**

Chair Embler asked why the City would not want to evaluate the performance of its management as it relates to affirmative action. Director Lilly said it was not a requirement to have an affirmative action plan. They would need to have a federal contract over \$50,000 to have one.

Ms. McLauchlan suggested adding sections regarding civil rights and non-discrimination into one section instead of in Miscellaneous. Anything related to harassment should all be in the same place.

Vice Chair Ponte said Director Lilly would work on changing the article title. She recommended it be placed earlier in the document.

- **Section 1212. DONATION OF SICK OR ANNUAL LEAVE.**

Ms. McLauchlan said the section was stricken. Section 1212 is now named “Employees Giving Back.” Employees can use eight hours of paid time off each year to volunteer in the community.

- **Section 1213. THE PINELLAS COUNTY SCHOOL PARTNERSHIP.**

Chair Embler said the section related to donating time specifically towards mentoring and tutoring. She asked if they wanted to keep Section 1213 or Section 1212. Ms. McLauchlan said they both required department head approval. Chair Embler asked if they were approved to do the school partnership, could they still do the eight volunteer hours. Director Lilly said he did not know.

Ms. Ponte asked if it would be better to put the two specific programs in a separate policy outside the personnel policy. Ms. Powers said the previous City Manager was a mentor for the Madeira Beach Fundamental School, and she did not know how far back the partnership went. The program was once a week during the school year, and the student did a Zoom call at lunch with the City Manager. Ms. Powers said she would have to check with the City Manager if an employee could do both.

Ms. McLauchlan said she thought it should stay in the personnel policy because it talked about authorized time off and provided documentation. It would be a significant time commitment by an employee. Ms. Ponte agreed.

- **Section 1214. EMAIL.**

Chair Embler said the section referred to City emails. She suggested replacing the word “discouraged” with “prohibited” in line ten under Social Media Policy. The consensus was to make the change, and staff agreed. Director Lilly said City cell phones should be included.

Ms. McLauchlan asked if it would be worth stating that City emails are public records as a reminder to employees.

Ms. Ponte suggested adding that a post could be asked to be removed if an employee misrepresents the City in the social media policy. She asked the City Attorney if it would fit within the legal regulations. The City Attorney did not know and made a note for Attorney Eschenfelder to address it.

- **Section 1215. VIOLENCE IN THE WORKPLACE.**

Ms. McLauchlan asked if the City could prohibit guns in the workplace regardless of what the state did. The City Attorney said there are certain Statutes already in place that deal with guns in City facilities and is preempted by the state. Ms. Ponte suggested they use the language in Section 23 of the attorney’s version. The City Attorney agreed, and staff would review.

6. OLD BUSINESS

There was no Old Business.

7. NEXT MEETING

Director Lilly said the next step would be to put the changes into an updated document. He would like payroll to review it. Chair Embler suggested Director Lilly and Attorney Eschenfelder review it together before the final review by them.

Ms. McLauchlan asked about the proposed changes to the Civil Service Commission. The City Attorney said it came to them as one ordinance and has been split into two ordinances. The first part, the role of the Civil Service Commission, was ready to move forward. He was waiting for Attorney Eschenfelder's comments on the whistleblower part. Both parts could be before the Board of Commissioners for first reading as early as April. A copy of both would be sent to them with a copy of the Board of Commissioner's meeting schedule. The City Clerk reminded that a new commission will be seated, and the document would go to them in a workshop meeting before going to first reading.

The consensus given:

1. Hold a meeting on the last Wednesday in March to discuss the roles and responsibilities of the Civil Service Commission.
2. Have the personnel policy document ready to send to the Civil Service Commission in April and hold a meeting in May for final review and changes.

8. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 12:49 p.m.

ATTEST:

Gene Embler, Chair

Clara VanBlargan, City Clerk/Secretary Ex-Officio

- A. *Merit principal.* All appointments and promotions of City employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- B. *Civil Service Commission; Membership.* There shall be a Civil Service Commission of the City of Madeira Beach, Florida, which Commission shall be composed of five citizens of said City. The Civil Service Commission shall be appointed by the Board of Commissioners of the City of Madeira Beach, Florida. The term of office for each member shall be three years and shall be staggered so that not more than two terms expire within any one year. Three Commissioners shall constitute a quorum. Members of the Civil Service Commission shall hold no remunerative office or employment under the City of Madeira Beach, Florida. The Board of Commissioners of the City of Madeira Beach, Florida, shall have the authority to remove for cause any and/or all Civil Service Commissioners.
- C. *Personnel Rules.* The Civil Service Commission shall prepare personnel rules. When concurred by the City Manager, the rules shall be proposed to the Board of Commissioners, and the Board of Commissioners may by Ordinance adopt them with or without amendment. These rules shall include, but are not limited to:
 - 1. The classification of all classified City positions, based upon the duties, authority and responsibility of each position, with adequate provisions for classification of any position whenever warranted by circumstances;
 - 2. A pay plan for all classified City positions;
 - 3. Methods for determining the merits and fitness of candidates for appointment or promotions;
 - 4. The policies and procedures regulating reduction in force, demotion, suspension and removal of employees;
 - 5. The hours of work, attendance regulation and provisions for sick and vacation leave;
 - 6. Grievance procedures, including procedures for the hearing of grievances by the Civil Service Commission, which may render advisory opinions based on its findings to the City Manager with a copy to the aggrieved employee. In this respect the Civil Service Commission shall have the power to issue subpoenas to compel attendance by witnesses and to administer oaths;
 - 7. Other practices and procedures necessary to the administration of the City personnel system;
 - 8. In connection with the aforementioned personnel rules, the Civil Service Commission shall inquire into the implementation of such personnel rules as considered necessary to ensure compliance therewith.
- D.

Duties and powers of the Civil Service Commission. All duties, powers, reservations of power, and functions for the Civil Service Commission may be provided for by Ordinance duly passed by the Board of Commissioners of the City of Madeira Beach, Florida.

- E. *Powers to collectively bargain recognized.* Nothing contained in this Charter shall limit the power of the Board of Commissioners of the City of Madeira Beach, Florida, acting through its Manager from entering into collective bargaining negotiations with any officers, employees, or group of employees for the purpose of establishing by contract conditions of employment, rules or compensation of said officers, employees, or groups of employees. For the purposes of this Charter, ARTICLE I, Section 6, of the Constitution of the State of Florida is specifically recognized.

(Ord. No. 446, 1-28-1975; Ord. No. 664, 8-14-1984/11-7-1984; Ord. No. 2018-09, § 1(Exh. A), 8-20-2018)

Footnotes:

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Charter reference— *Civil service commission, § 6.6.***Cross reference**— *Personnel, ch. 50.*

Sec. 2-126. - Intent.

- (a) The intent of this division is to create a civil service commission in order to review, prepare, and recommend rules for the city's personnel policies and procedures with regard to classified employees.
- (b) The civil service commission shall hear grievance for classified employees who believe they have a grievance arising from their employment and render recommendations as provided in the Charter § 6.6C.6.
- (c) The civil service commission members also recommend cost of living increases and employee pay adjustments to the board of commissioners for consideration.

(Code 1983, § 2-502)

Sec. 2-127. - Organization.

- (a) The civil service commission membership and appointment shall be as provided in Charter § 6.6B. The term of each person appointed shall be staggered so that not more than two terms expire within any one year. Any civil service commission member may be reappointed by the board of commissioners. Appointments to fill vacancies shall be for the unexpired term of office.
- (b) Members of the civil service commission shall be residents of the city at the time of their appointment and throughout the term of office. Any member who is no longer a resident of the city shall be automatically removed, and that vacancy filled as provided in this division.
- (c) Members of the civil service commission shall be suspended or removed for cause upon the filing of written charges by the mayor. The written charges shall be served by hand delivery or certified mail upon the member being charged. The member being charged shall have 15 days to appeal the charges to the board of commissioners. If the charges are appealed, the member of the civil service commission being charged shall be afforded a prompt public hearing on the matter. The member shall be retained, suspended or be removed by majority vote of the board of commissioners.
- (d)

The failure of any member of the civil service commission to attend two of three successive meetings without cause and without prior approval of the chairman, the civil service commission shall then declare the member's seat vacant and the board of commissioners shall promptly fill such vacancy. The failure of any individual civil service commission member to attend four meetings of the civil service commission in any contiguous 12-month period shall be cause for removal.

- (e) Appointments shall be made, consistent with the Charter on the basis of demonstrated experience or interest in the subject matter.
- (f) The members of the civil service commission shall, in November of each year, elect a chairman and a vice-chairman from among its members who shall be voting members.
- (g) Members of the civil service commission shall meet quarterly, and when grievances are filed. Any other meetings will be at the behest of staff, in collaboration with the chair of the civil service board.
 - (1) The city manager shall coordinate with the civil service commission chairperson and the human resources coordinator to choose and set meeting dates and time before a meeting is noticed; and
 - (2) The city manager and the chairperson of the civil service commission shall coordinate and agree on all agenda items prior to the civil service commission meetings.
 - (3) Human resources staff or the city manager's designee shall serve as staff person(s) for the civil service commission and attend meetings of the civil service board.
 - (4) The city attorney or an employment lawyer for the city may attend civil service commission meetings as may be necessary or desired.
 - (5) As set forth in the Charter, the civil service commission is an advisory board that makes non-binding advisory recommendation to the city manager.
- (h) Civil service commission members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by board of commissioners or as otherwise provided by law.

(Code 1983, § 2-503; Ord. No. 1028, § 2, 8-24-04; Ord. No. 1075, § 1, 4-25-06; Ord. No. 2019-03, § 1, 3-19-19)

Charter reference— Civil service commission membership, § 6.6B.

Sec. 2-128. - Conduct a meeting/hearing.

- (a) *Notification.* When and at such time a meeting is scheduled the city administration shall post a notice of the time and place when the civil service commission shall meet and the topics on their agenda.
- (b) *Meetings/public hearing.* At the hearing of the civil service commission any interested person may be heard upon the subject matter.

- (c) *Recommendations.* The civil service commission, by majority vote, shall conclude recommendations.
- (d) *Written records.* Minutes shall be kept of all meetings and hearings by the civil service commission, and all hearings shall be open to the public. The board of commissioners shall provide clerical and administrative personnel as may be reasonably required by the civil service commission for the proper performance of its duties. The written record shall include the vote of each member of the civil service commission upon each question, or if absent or failing to vote, indicating such fact. The minutes of all proceedings, decisions and/or recommendations of the civil service commission shall be made public record on file in the office of the city clerk.

(Code 1983, § 2-504)

Sec. 2-129. - Powers.

The civil service commission shall have the power to establish rules and regulations for its own operation not inconsistent with the provisions of this Code.

(Code 1983, § 2-505)

Secs. 2-130—2-150. - Reserved.

ORDINANCE 2023-06

AN ORDINANCE OF MADEIRA BEACH, FLORIDA, AMENDING DIVISION 4 (CIVIL SERVICE COMMISSION) OF ARTICLE III (BOARDS, COMMITTEES, COMMISSIONS) OF CHAPTER 2 (ADMINISTRATION) OF THE CODE OF ORDINANCES RELATED TO THE DUTIES AND OPERATION OF THE CIVIL SERVICE COMMISSION; AND PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Division 4 of Article III of Chapter 2 of the City of Madeira Beach Code of Ordinances provides for certain procedures related to the operation of the City's Civil Service Commission; and

WHEREAS, Section 5.7(C) of the City Charter provides that the Madeira Beach Civil Service Commission is responsible for the preparation of the City's personnel rules and that, once such proposed rules are concurred with by the City Manager, the same shall be proposed to the Board of Commissioners for consideration, which may adopt same with or without amendment by ordinance; and

WHEREAS, Section 5.7(D) of the City Charter provides that the Board of Commissioners may provide for the duties and powers of the Civil Service Commission by ordinance; and

WHEREAS, the Board of Commissioners has received recommendations from the City Attorney regarding revising the current substantive and procedural operations of the Civil Service Commission to reflect the intent of the City and to ensure prevailing caselaw and statutory law regarding the function of such bodies is adequately addressed; and

WHEREAS, the City Attorney has reviewed best practices and has recommended the provisions contained in this Ordinance to provide the policy specificity the Board of Commissioners desires; and

WHEREAS, the Board of Commissioners finds that it is in the best interests of the City to adopt the policy provisions set forth in this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Board of City Commissioners of City of Madeira Beach, Florida, that:

SECTION 1. Division 4 (Civil Service Commission) of Article III (Boards, Committees, Commissions) of Chapter 2 (Administration) of the City of Madeira Beach Code of Ordinances is hereby amended as follows:

DIVISION 4. - CIVIL SERVICE COMMISSION

Sec. 2-126. - Intent; appellate jurisdiction.

- (a) The intent of this division is to provide for the scope of authority of the civil service commission and to establish procedural and organizational rules related to its exercise of that authority~~create a civil service commission in order to review, prepare, and recommend rules for the city's personnel policies and procedures with regard to classified employees.~~
- (b) The civil service commission shall preside over appeals of disciplinary terminations of regular, non-probationary~~hear grievance for classified employees, but shall not consider appeals of disciplinary actions against employees who are classified as at-will, or who are otherwise made ineligible by the city's adopted personnel policy to file such appeals who believe they have a grievance arising from their employment and render recommendations as provided in the Charter § 6.6C.6.~~ In performing this role, the jurisdiction of the civil service commission is to interpret the city's personnel policy and any other relevant city policies, and to ultimately find if the city had factual and legal just cause to impose the discipline. In reaching its decision, the civil service commission sits in an appellate advisory capacity. The civil service commission does not have jurisdiction over, and may not rule upon, or make findings about, any allegations of a violation of a county, state or federal law. Employees seeking to assert such violations should do so by way of the appropriate statutory procedures.
- (c) ~~The civil service commission members also recommend cost of living increases and employee pay adjustments to the board of commissioners for consideration.~~

Sec. 2-127. - Appointment and membership~~Organization.~~

- (a) In addition to any charter provisions concerning the appointment and membership of t~~The civil service commission, unless doing so would result in the inability to have a fully-appointed commission, t-membership and appointment shall be as provided in Charter § 6.6B.~~ The term of each person appointed to the commission shall be staggered so that not more than two terms expire within any one year. Any civil service commission member may be reappointed by the board of commissioners. Appointments to fill vacancies shall be for the unexpired term of office.
- (b) Members of the civil service commission shall be residents of the city at the time of their appointment and throughout the term of office. Any member who is no longer a resident of the city shall be automatically removed, and that vacancy filled as provided in this division.
- (c) Members of the civil service commission may be~~shall be suspended or removed for cause upon the filing of written charges by the mayor. The written charges shall be served by hand delivery or certified mail upon the member being charged. The member being charged shall have 15 days to appeal the charges to the board of commissioners. If the~~

~~charges are appealed, the member of the civil service commission being charged shall be afforded a prompt public hearing on the matter. The member shall be retained, suspended or be removed by majority vote of the board of commissioners.~~

- (d) The failure of any member of the civil service commission to attend two of three successive meetings without cause and without prior approval of the commission chairman shall result in; the member's seat becoming vacant and the city clerk, serving as ex officio secretary to the civil service commission, shall report then declare the member's seat vacancy to and the board of commissioners, which shall promptly fill such vacancy. The failure of any individual civil service commission member to attend four meetings of the civil service commission in any contiguous 12-month period shall be cause for removal.
- (e) Appointments shall be made, consistent with the Charter on the basis of demonstrated experience or interest in the subject matter.
- (f) The members of the civil service commission shall, in November of each year, elect a ~~chairman~~ and a vice-chairman from among its members who shall be voting members. The chair, and in his or her absence the vice-chair, shall preside over meetings and hearings and shall, subject to the will of the entire commission, make rulings on points of order and procedure, and in quasi-judicial hearings shall rule on motions and objections.
- (g) Members of the civil service commission shall schedule in advance quarterly meetings. However, if the chair, in consultation with the city manager, determines that there are no agenda items requiring a scheduled meeting, the chair is authorized to cancel the scheduled meeting, and to instruct the city clerk, acting as ex officio secretary, to notify the members of the cancellation. In addition to its scheduled quarterly meetings, the civil service commission shall promptly schedule hearings on employee post-termination appeals. and when grievances are filed. Any other unscheduled meetings may be requested by the city manager or his or her designee to discuss personnel matters which cannot wait until the next regularly-scheduled meeting will be at the behest of staff, in collaboration with the chair of the civil service board.
- ~~(g)~~(h) The city manager shall coordinate with the civil service commission chairperson and the human resources coordinator to choose and set meeting dates and time before a meeting is noticed; ~~and.~~
- ~~(h)~~(i) Pursuant to the city charter, the city clerk shall serve as the civil service commission's ex officio secretary. In that role, the clerk shall ensure board meetings are noticed and minutes are recorded and maintained so as to ensure compliance with the state's sunshine law. The clerk shall also provide civil service members with electronic copies of agenda materials and keep and maintain the official records of the commission. The clerk shall also serve as the hearing clerk for any quasi-judicial post-termination appeal hearings and in that role shall swear in all witnesses and keep the official record of the hearing, including all exhibits admitted or proffered into evidence. The City Clerk shall also utilize a court reporter for quasi-judicial post-termination appeal hearings.

(i)(j) (2)The city manager and the chairperson of the civil service commission shall coordinate and agree on all agenda items prior to the civil service commission meetings, except that the civil service commission cannot refuse to promptly set for hearing a timely-filed post-termination appeal.

(k)(k) (3)Human resources staff or such other staff as may be designated by the city manager's designee shall serve as staff person(s) for the civil service commission and shall attend all meetings of the civil service commissionboard. In this role, the assigned staff person(s) shall assist the civil service commission by providing it with information, reports, historical data, surveys, or such other information or materials as the civil service commission may reasonably request to assist it in performing its duties of advising on possible policy changes, providing advice and recommendations on policy implementation, and making recommendations related to compensation and classification plans, to the extent these matters are within the scope of the civil service commission's duties as set forth in the city charter.

(l)(l) The city attorney shall be the primary legal advisor to the civil service commission on all matters of municipal law. However, in the event the civil service commission may require specialized labor or employment counsel of a nature the city attorney is not able to provide, the city may, within established budgets, provide additional specialized counsel. Prior to each civil service commission meeting, the city manager and commission chair shall confer on the agenda and determine if the city attorney's attendance would or an employment lawyer for the city may attend civil service commission meetings as may be necessary or desired, and if so, shall request the city attorney's presence.

(m)(4)Notwithstanding the foregoing, if, in the sole judgment of the city manager, the nature and complexity of the appeal requires that an assistant city attorney to assist the disciplining director in the prosecution of the appeal hearing by presenting arguments and evidence and calling and questioning witnesses, the city attorney shall ensure such attorney is assigned to that role. In no circumstances may the attorney assigned to be the civil service commission's neutral legal advisor also serve as the attorney presenting the disciplining director's case and making argument before the commission.

(n)(n) (5)As set forth in the Charter, the civil service commission is an advisory board that makes non-binding advisory recommendations to the city manager. In its quasi-judicial role hearing post-termination appeals, the civil service commission will make written findings of fact and conclusions as to the application of those facts to the city's policies. The written recommended order may be rendered by the civil service commission immediately upon the conclusion of a hearing or, if adequate time is required to draft a suitable order, may be rendered at a subsequent meeting to occur in a reasonable time after the conclusion of the hearing.

(o)(o) Civil service commission members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by board of commissioners or as otherwise provided by law.

Sec. 2-128. - Procedural matters~~Conduct a meeting/hearing.~~

- (a) The city clerk, serving as ex officio secretary to the civil service commission, shall ensure all notices of Notification. When and at such time a meeting is scheduled the city administration shall post a notice of the time and place when the civil service commission are posted in a manner compliant with the state's sunshine law shall meet and the topics on their agenda.
- (b) Meetings and /public hearings. At all regular meetings the hearing of the civil service commission, the chair shall afford any interested person the ability to address the commission on any matter to be voted upon by the commission prior to the vote being taken may be heard upon the subject matter. In addition, the civil service commission may, in its adopted rules of procedure, afford time on its agenda for any city employee or citizen to address the commission on any matter within the commission's duties and responsibilities. However, when the civil service commission is sitting in its quasi-judicial capacity during post-termination appeal hearings, it shall not afford such opportunity for comments, but rather shall only base its findings and conclusions on the documents and testimony admitted into evidence during the hearing, and any arguments the parties or their attorneys may make.
- (c) Recommendations. The civil service commission, by majority vote, may make shall conclude recommendations to the city on any matter within the scope of its jurisdiction. Such recommendations may take the form of motions recorded in the minutes, adoption of a written report, or for quasi-judicial appeals, adoption of a written recommended order.
- (d) Written records. Minutes shall be kept of all meetings and hearings by the civil service commission, and all hearings shall be open to the public. Pursuant to the city charter, the city clerk shall serve as the ex officio secretary of the civil service commission, and shall perform the duties associated with that role, as set forth in the city code, including the maintenance of the commission's official record. The board of commissioners shall provide clerical and administrative personnel as may be reasonably required by the civil service commission for the proper performance of its duties. The official written record shall include the vote of each member of the civil service commission upon each question, or if absent or failing to vote, indicating such fact. The minutes of all proceedings, decisions and/or recommendations of the civil service commission shall be made public record on file in the office of the city clerk. The City Clerk shall also utilize a court reporter for quasi-judicial post-termination appeal hearings.
- (d)(e) The civil service commission may adopt such procedural rules to regulate the conduct of its meetings as may be deemed to be necessary and desirable. In developing such rules, the civil service commission shall consult with the city attorney to ensure they comply with the state's sunshine and records laws and, to the extent that they will govern the commission's quasi-judicial post-termination hearings, to ensure they comply with applicable due process standards. Notwithstanding the foregoing, the civil service commission's procedural rules may not place any specific duty or assignment upon any

city official or employee and may not be inconsistent with any provision of the city charter or code, or state law.

Sec. 2-129. - Non-appellate pPowers and duties.

- (a) The civil service commission, in consultation with the city manager, is charged with the on-going development of the city's classification and pay plans. This includes periodic studies relating to equitable classification categories and pay ranges. ~~shall have the power to establish rules and regulations for its own operation not inconsistent with the provisions of this Code.~~
- (b) The civil service commission, working with the city manager and relevant human resources staff, will periodically examine, by use of staff, consultants, and such other resources available, market conditions and comparative wage data for relevant public and private sector employers, and based upon the results of this examination, will make a written recommendation to the city manager concerning wage adjustments.
- (c) The civil service commission, working with the city manager and relevant human resources staff, is charged with developing recommended classifications and pay plans (subject to budgets approved by the board of commissioners) as the city's business needs and operating experience dictate.

SECTION 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

SECTION 3. For purposes of codification of any existing section of the Madeira Beach City Code herein amended, words **underlined** represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

SECTION 4. The Codifier shall codify the substantive amendments to the Madeira Beach City Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

SECTION 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2023.

John B. Hendricks, Mayor

ATTEST:

Clara VanBlargan, City Clerk

PASSED ON FIRST READING:

PASSED ON SECOND READING:

ORDINANCE 2023-07

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, BY CREATING NEW ARTICLES I, GENERAL PROVISIONS; AND II, WHISTLEBLOWER PROVISIONS, OF CHAPTER 50 (PERSONNEL) OF THE CODE OF ORDINANCES TO PROVIDE FOR GENERAL EMPLOYMENT MATTERS INCLUDING A PROCESS FOR INVESTIGATING EMPLOYEE COMPLAINTS AGAINST THE CITY MANAGER AND TO ESTABLISH AN ADMINISTRATIVE PROCEDURE FOR EMPLOYEES AND OTHER PERSONS TO REPORT INSTANCES OF ILLEGALITY, MISMANAGEMENT, MALFEASANCE, WASTE OR FRAUD ON THE PART OF CITY EMPLOYEES, AGENTS OR CONTRACTORS; PROVIDING A PROCEDURE FOR INVESTIGATING SUCH ALLEGATIONS; PROVIDING FOR NON-RETALIATION FOR PERSONS WHO REPORT SUCH INSTANCES; PROVIDING A MANNER FOR ALLEGING RETALIATION TO SEEK REDRESS; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the current City Code does not properly address situations wherein an employment-related complaint is brought against the City Manager other than the procedure for removing the city manager from office as provided in City Charter, Section 5.4, A.; and

WHEREAS, the current City Code does not provide for an avenue by which City employees or vendors may bring to the City's attention allegations of illegality, mismanagement, malfeasance, waste or fraud on the part of City employees or City vendors; and

WHEREAS, Florida Statute § 112.3187, entitled the "Whistle-blower's Act," provides certain protections to persons who disclose information regarding illegal or malfeasant conduct on the part of government employees, agents or contractors; and

WHEREAS, subsection (8)(b) of the Act provides for the establishment, by local ordinance, of an administrative procedure to permit disclosure and protect those persons making disclosure from retaliation; and

WHEREAS, the Act provides that where a local government adopts a local ordinance establishing such administrative procedures, that it will have an opportunity to address complaints locally rather than having a complainant proceed directly to court; and

WHEREAS, the Board of Commissioners finds that addressing these matters in the Code of Ordinances will help ensure that the City's employees will have sufficiently detailed methods

to raise such issues, and that standardized procedures are in place for the City to address any such issues; and

WHEREAS, the City Attorney has reviewed best practices and has recommended the provisions contained in this Ordinance to provide the policy specificity the Board of Commissioners desires; and

WHEREAS, the Board of Commissioners finds that it is in the best interests of the City to adopt the policy provisions set forth in this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Board of City Commissioners of City of Madeira Beach, Florida, that:

SECTION 1. A new Article I of Chapter 50 (Personnel), entitled General Provisions, is hereby created as follows:

Article I – General Provisions

Sec. 50-1. – Policy and procedures on file with the city clerk.

The Board of Commissioners will adopt a personnel policy and procedures manual from time to time by ordinance ~~are not printed in this Code, which shall be codified in the Code of Ordinances and kept but are on file in the city clerk's office.~~

Sec. 50-2. Complaints against the city manager.

- (a) Notwithstanding any personnel policy or code provision to the contrary, any employee of the city who desires to make a personnel-related complaint (other than a whistleblower complaint addressed in article II of this chapter) against the city manager shall communicate that complaint in writing directly to the city's mayor. In the event any such complaint is directed to the city manager, the city attorney, the city's human resources staff, or any other managerial official of the city, that official shall refrain from taking any action regarding the complaint but shall instead immediately convey the complaint to the mayor.
- (b) Upon receiving such complaint, the mayor will confer with the city attorney to obtain such counsel as the mayor deems necessary. The mayor shall then ensure that the complaint is investigated without the involvement in any way of the city manager, except that the city manager will be required to fully cooperate with any investigatory efforts made, including being interviewed regarding the complaint.
- (c) The mayor may either investigate the complaint him or herself or, if the nature of the complaint is factually complex or may involve the violation of state or federal employment laws, the mayor may assign the city attorney to perform the investigation or may use budgeted city funds to retain a qualified third party individual or firm to conduct the investigation.

(a)(d) Once the complaint has been investigated, a written report summarizing the complaint, the investigation's findings, and making any recommendations as to the resolution of the complaint shall be provided by the mayor to the city manager and the members of the board of commissioners. The board of commissioners shall have the ultimate authority as to what, if any actions shall be taken to address the complaint. At the meeting where the board of commissioners considers the investigatory report, the city manager shall be afforded the opportunity to address the commission, in person or in writing, providing any such additional information or argument as the city manager may desire to make.

(e) Nothing herein shall be interpreted as prohibiting an employee from filing administrative charges with any state or federal agency with jurisdiction to receive the employee's complaint.

(b)(f) The term "personnel-related complaint" as used in this section shall mean any complaint alleging that the city manager him or herself has directly engaged in unlawful discrimination or unlawful retaliation towards the employee, or has directly violated the employee's constitutional rights. The city manager's mere review and upholding of a disciplinary decision shall not be the basis of a personnel-related complaint unless the complaining employee alleges that the city manager's decision to uphold the decision was an act of unlawful discrimination or unlawful retaliation against the employee, or a violation the employee's constitutional rights.

SECTION 2. A new Article II of Chapter 50 (Personnel) of the Madeira Beach City Code, entitled Whistle-blower Provisions, is hereby created as follows:

Article II – Whistleblower Provisions

Sec. 50-20. Procedure for disclosing certain information.

(a) An employee, independent contractor working for the city, or employee of an independent contractor working for the city, who has information concerning the following categories is required to disclose that information to the city manager or, if the allegation is against the manager, then to the city attorney (both of whom are designated as the appropriate local officials for receiving whistleblower disclosures per Florida Statute § 112.3187(6)):

(1) Any violation or suspected violation of any federal, state, or local law, rule or regulation committed by an employee or agent of the city or independent contractor of the city, which creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(2) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of

duty committed by an employee or agent of the city or independent contractor of the city.

- (b) Pursuant to Florida Statutes § 112.3187(7), to receive statutory whistleblower protection, the information must be disclosed on the employee's, contractor's or employee of a contractor's own initiative, be in writing, and be signed by the employee or person making the disclosure.

Sec. 50-21. Procedure for investigating disclosures.

- (a) Once a disclosure has been made, the city manager shall confer with the mayor to determine whether any investigation is warranted and, if so, an appropriate course of investigation of the disclosure, in light of the specifics of the disclosure, the laws and regulations which may apply, the complexity or sophistication of the matters involved in the disclosure, whether criminal violations may be present, and any other relevant factors. Should the city manager be the subject of a disclosure, then the city attorney shall confer with the mayor on a proper course of action.
- (b) The level of formality and documentation of any investigation of disclosures made may vary depending on the nature and severity of the disclosure. In any event, the members of the board of commissioners shall be kept updated as appropriate on the progress of any investigation to the extent allowed by applicable confidentiality laws and records exemptions.
- (c) Once a determination has been made with respect to how any investigation will proceed, such investigation will be conducted in an expeditious manner. The city manager or city attorney, as the case may be, shall make any criminal or regulatory referrals, recommend modified policies to the board of commissioners, or take any other actions which are deemed necessary as a result of the investigation. Criminal or regulatory referrals may be made even before the investigation is concluded if doing so will prevent or reduce a substantial and specific danger to the public's health, safety, or welfare, will avoid the expiration of any criminal statute of limitations, or where the severity of any criminal allegation is such that a law enforcement referral must promptly be made.
- (d) Notwithstanding any of the foregoing, while the city manager may determine that it is in the city's best interests to defer an internal investigation pending resolution of any external criminal or regulatory referral, the city reserves the right to make its own independent determination as to any whistleblower disclosure with respect to the application of the city's own contractual agreements, codes and policies.

Sec. 50-22. Retaliation prohibited.

Neither the city manager, nor an independent contractor of the city, nor any managerial personnel working under either, shall dismiss, discipline, or take any other adverse employment action against any of their respective employees because such employee(s) disclosed, in good faith,

information categorized in § 50-20. Neither the city manager, nor any managerial personnel working under the city manager, shall take any adverse regulatory or contractual action that affects the rights or interests of an independent contractor or employee of an independent contractor for having disclosed, in good faith, information categorized in § 50-20.

Sec. 5-23. Persons protected.

- (a) Pursuant to Florida Statutes § 112.3187(7), any employee, independent contractor working for the city, or employee of an independent contractor working for the city-who discloses information on his or her own initiative and in the manner prescribed in § 50-20(b), is protected from retaliation based on such disclosure.
- (b) Any employee, independent contractor working for the city, or employee of an independent contractor working for the city who is requested to participate in any investigation or hearing concerning a disclosure made pursuant to § 50-20 is also protected from retaliation based on such participation.
- (c) Any person who refuses to participate in any retaliatory actions prohibited by § 50-22 is protected from retaliation for such refusal.
- (d) No person is afforded the protections provided in this article where such person:
 - (1) Knowingly submits an untruthful claim or report;
 - (2) Commits or intentionally participates in committing the violation or suspected violation for which protection from retaliation is being sought;
 - (3) Violates any personnel rule or policy in connection with or related to the subject of the disclosure; or
 - (4) Violates any contractual or regulatory provision applicable to city contracts which are the subject of or related to the disclosure.
- (e) Nothing herein precludes city from taking any personnel, contractual, or other action against any employee, or other person which is predicated upon grounds other than, and would have been taken absent, the employee's or person's disclosure of information under § 50-20.
- (f) The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system, a county sheriff, or a municipal police department after release therefrom, with respect to circumstances that occurred during any period of incarceration.

Sec. 50-24. Procedure for reviewing complaint of retaliation.

- (a) Any complaint of retaliation prohibited under § 50-23 must be filed with human resources or the city manager within 60 days after the alleged retaliatory action. Such complaint must be submitted in writing, setting forth the facts which constitute the alleged retaliation. Once a retaliation complaint has been received, the city manager shall transmit the complaint, along with all other documentation relevant to the complaint, to the city's civil service commission. Upon hearing the complaint, the civil service commission must make findings of fact and a conclusion as to whether prohibited retaliation has occurred. These findings and conclusions shall be reduced to writing and a copy shall be provided to the complaining party.
- (b) If it is determined that retaliation has occurred, the city manager shall take such actions as would remedy the effects thereof, including reinstatement of the city employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief; reinstatement of the employee's full fringe benefits and seniority rights, as appropriate; compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action. The city manager is authorized to promulgate any forms or procedures, not inconsistent with these provisions, to facilitate the complaint review process.
- (c) Notwithstanding the foregoing, any city employee who is a member of a collective bargaining agreement may elect to pursue any remedy available pursuant to such agreement, however, such employee may not pursue both remedies.

Sec. 50-25. Confidentiality of information.

- (a) Pursuant to Florida Statutes § 112.3188(1), the name or identity of any individual who makes a disclosure in good faith of the kind of information set forth in § 50-20, and in the manner set forth in § 50-21, may not be disclosed, without the written consent of the individual, to anyone other than the appropriate local officials designated in § 50-20(a) and such of their staff as are necessary to investigate the disclosure.
- (b) However, such disclosure is permitted if the designated appropriate local official determines that the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare, or to prevent the imminent commission of a crime, or where the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.
- (c) The foregoing confidentiality and record exemption is applicable so long as the investigation is active, as that term is defined in Florida Statutes § 112.3188(2)(c)(1).
- (d) Pursuant to Florida Statutes § 112.3188(2)(b)-(c), all information received pursuant to § 50-20 by a the city's designated appropriate local officials, or information produced or derived from fact-finding or investigations conducted pursuant to § 50-21, is confidential and exempt from public records disclosure. However, such information may be disclosed

by the designated appropriate local official if it is determined that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare, or to prevent the imminent commission of a crime based on the disclosed information.

- (e) Pursuant to Florida Statutes § 112.3188(2)(c)(4), any person who willfully and knowingly discloses information or records made confidential under subsection (a) above commits a misdemeanor of the first degree.

SECTION 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

SECTION 4. For purposes of codification of any existing section of the Madeira Beach City Code herein amended, words **underlined** represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

SECTION 5. The Codifier shall codify the substantive amendments to the Madeira Beach City Code contained in Sections 1 and 2 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

SECTION 6. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA, THIS _____ day of _____, 2023.

John B. Hendricks, Mayor

ATTEST:

Clara VanBlargan, MMC, MSM, City Clerk

PASSED ON FIRST READING: _____

PUBLISHED: _____

PASSED ON SECOND READING: _____

2021 Florida Statutes (Including 2021B Session)

<u>Title X</u> PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	<u>Chapter 112</u> PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS <u>Entire Chapter</u>	SECTION 3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.
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112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief. —

- (1) **SHORT TITLE.**—Sections [112.3187-112.31895](#) may be cited as the “Whistle-blower’s Act.”
- (2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public’s health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.
- (3) **DEFINITIONS.**—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:
- (a) “Agency” means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.
- (b) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.
- (c) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.
- (d) “Independent contractor” means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.
- (e) “Gross mismanagement” means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.
- (4) **ACTIONS PROHIBITED.**—
- (a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.
- (b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person’s disclosure of information under this section.
- (c) The provisions of this subsection shall not be applicable when an employee or person discloses information known by the employee or person to be false.
- (5) **NATURE OF INFORMATION DISCLOSED.**—The information disclosed under this section must include:
- (a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety, or welfare.
- (b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(6) TO WHOM INFORMATION DISCLOSED.—The information disclosed under this section must be disclosed any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or the employee designated as agency inspector general under s. [112.3189](#)(1) or inspectors general under s. [20.055](#), the Florida Commission on Human Relations, and the whistle-blower's hotline created under s. [112.3189](#). However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. [447.203](#)(9) or other appropriate local official.

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. [112.3189](#)(1), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. [112.3187-112.31895](#) applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. [112.3187-112.31895](#) is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term “state agency” is defined in s. [216.011](#), who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. [112.31895](#). Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. [112.31895](#) or bring a civil action within 180 days after receipt of the notice.

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. [120.65](#) to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term “local governmental authority” includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by this section.

(9) RELIEF.—In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations, as applicable under s. [112.31895](#), determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

(10) DEFENSES.—It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections [112.3187](#)-[112.31895](#) do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. [447.401](#) also applies to whistle-blower actions.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 86-233; s. 1, ch. 91-285; s. 12, ch. 92-316; s. 1, ch. 93-57; s. 702, ch. 95-147; s. 1, ch. 95-153; s. 15, ch. 96-410; s. 20, ch. 99-333; s. 2, ch. 2002-400.

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The 2022 Florida Statutes (including Special Session A)

[Title X](#)
[Chapter 112](#)
[View Entire Chapter](#)
 PUBLIC OFFICERS, EMPLOYEES, AND PUBLIC OFFICERS AND EMPLOYEES: GENERAL RECORDS PROVISIONS

112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.—

(1) The name or identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general, a local chief executive officer, or other appropriate local official information that alleges that an employee or agent of an agency or independent contractor:

- (a) Has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or
- (b) Has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty

may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, unless the Chief Inspector General, internal auditor, agency inspector general, local chief executive officer, or other appropriate local official determines that: the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

(2)(a) Except as specifically authorized by s. 112.3189, all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Florida Commission on Human Relations or the Department of Law Enforcement is confidential and exempt from s. 119.07(1) if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b), and an investigation is active.

(b) All information received by a local chief executive officer or appropriate local official or information produced or derived from fact-finding or investigations conducted pursuant to the administrative procedure established by ordinance by a local government as authorized by s. 112.3187(8)(b) is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b) and an investigation is active.

(c) Information deemed confidential under this section may be disclosed by the Chief Inspector General, agency inspector general, local chief executive officer, or other appropriate local official receiving the information if the recipient determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

1. An investigation is active under this section if:

- a. It is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future; or

b. All or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information as defined in s. [119.011](#).

2. Notwithstanding sub-subparagraph 1.a., an investigation ceases to be active when:

a. The written report required under s. [112.3189\(9\)](#) has been sent by the Chief Inspector General to the recipients named in s. [112.3189\(9\)](#);

b. It is determined that an investigation is not necessary under s. [112.3189\(5\)](#); or

c. A final decision has been rendered by the local government or by the Division of Administrative Hearings pursuant to s. [112.3187\(8\)\(b\)](#).

3. Notwithstanding paragraphs (a), (b), and this paragraph, information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under chapter 119 retain their confidentiality or exemption.

4. Any person who willfully and knowingly discloses information or records made confidential under this subsection commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.—s. 6, ch. 90-247; s. 1, ch. 91-150; s. 3, ch. 91-285; s. 2, ch. 93-57; s. 1, ch. 95-136; s. 2, ch. 95-153; s. 1, ch. 95-166; ss. 36, 37, ch. 96-406; s. 21, ch. 99-333.

¹**Note.**—As amended by s. 1, ch. 95-166, s. 2, ch. 95-153, and s. 36, ch. 96-406; this version of paragraph (2)(a) was also amended by s. 21, ch. 99-333. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, “Statutory Construction.” This section was also amended by s. 1, ch. 95-136, and s. 37, ch. 96-406, and that version reads:

112.3188 Confidentiality of information given to the Chief Inspector General and agency inspectors general.—

(1) The identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general information that alleges that an employee or agent of an agency or independent contractor has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public’s health, safety, or welfare or has committed or is suspected of having committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to anyone other than a member of the Chief Inspector General’s or agency inspector general’s staff without the written consent of the individual, unless the Chief Inspector General or agency inspector general determines that:

(a) The disclosure of the individual’s identity is necessary to prevent a substantial and specific danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime, provided that such information is disclosed only to persons who are in a position to prevent the danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime;

(b) The disclosure of the individual’s identity is unavoidable and absolutely necessary during the course of the inquiry or investigation; or

(c) The disclosure of the individual’s identity is authorized as a result of the individual consenting in writing to attach general comments signed by such individual to the final report required pursuant to s. [112.3189\(6\)\(b\)](#).

(2)(a) Except as specifically authorized by s. [112.3189](#) and except as provided in subsection (1), all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Department of Legal Affairs, the Office of the Public Counsel, or the Department of Law Enforcement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution for an initial period of not more than 30 days during which time a determination is made whether an investigation is required pursuant to s. [112.3189\(5\)\(a\)](#) and, if an investigation is determined to be required, until the investigation is closed or ceases to be active. For the purposes of this subsection, an investigation is active while such investigation is being conducted with a reasonable good faith belief that it may lead to the filing of administrative, civil, or criminal charges. An investigation does not cease to be active so long as the Chief Inspector General or the agency inspector general is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Chief Inspector General or agency inspector general or other administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information as defined in s. [119.011](#), and except as otherwise provided in this section, all information obtained pursuant to this subsection shall become available to the public when the investigation is closed or ceases to be active. An investigation is closed or ceases to be active when the final report required pursuant to s. [112.3189\(9\)](#) has been sent by the Chief Inspector General to the recipients specified in s. [112.3189\(9\)](#) (c).

(b) Information deemed confidential under this subsection may be disclosed by the Chief Inspector General or agency inspector general receiving the information if the Chief Inspector General or agency inspector general determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime, and such information may be disclosed only to persons who are in a position to prevent the danger to the public’s health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

(3) Information or records obtained under this section which are otherwise confidential under law or exempt from disclosure shall retain their confidentiality or exemption.

(4) Any person who willfully and knowingly discloses information or records made confidential under this section commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

2021 Florida Statutes (Including 2021B Session)

<p><u>Title X</u></p> <p>PUBLIC OFFICERS, EMPLOYEES, AND RECORDS</p>	<p><u>Chapter 112</u></p> <p>PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS</p> <p><u>Entire Chapter</u></p>	<p>SECTION 31895</p> <p>Investigative procedures in response to prohibited personnel actions.</p>
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112.31895 Investigative procedures in response to prohibited personnel actions. —

(1) COMPLAINT. —

(a) If a disclosure under s. [112.3187](#) includes or results in alleged retaliation by an employer, the employee or former employee of, or applicant for employment with, a state agency, as defined in s. [216.011](#), that is so affected may file a complaint alleging a prohibited personnel action, which complaint must be made by filing a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations, no later than 60 days after the prohibited personnel action.

(b) Within 5 working days after receiving a complaint under this section, the office or officer receiving the complaint shall acknowledge receipt of the complaint and provide copies of the complaint and any other preliminary information available concerning the disclosure of information under s. [112.3187](#) to each of the other parties named in paragraph (a), which parties shall each acknowledge receipt of such copies to the complainant.

(2) FACT FINDING. —The Florida Commission on Human Relations shall:

(a) Receive any allegation of a personnel action prohibited by s. [112.3187](#), including a proposed or potential action, and conduct informal fact finding regarding any allegation under this section, to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel action under s. [112.3187](#) has occurred, is occurring, or is to be taken.

(b) Within 180 days after receiving the complaint, provide the agency head and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION. —

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term “state agency” is defined in s. [216.011](#).

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. [112.3187](#).

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. [112.3187-112.31895](#).

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. [112.3187](#), the Florida Commission on Human Relations shall review the information and determine whether temporary reinstatement is appropriate under s. [112.3187](#)(9)(f). If the Florida Commission on Human Relations so determines, it shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. [112.3187](#), pending the issuance of the final order on the complaint.

(c) The Florida Commission on Human Relations shall notify a complainant of the status of the investigation and any action taken at such times as the commission considers appropriate.

(d) If the Florida Commission on Human Relations is unable to conciliate a complaint within 35 days after providing the agency head and complainant with the fact-finding report, the Florida Commission on Human Relations shall terminate the investigation. Upon termination of any investigation, the Florida Commission on Human Relations shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.

(e)1. The Florida Commission on Human Relations may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Florida Commission on Human Relations may request that such stay be extended for appropriate periods of time.

2. If, in connection with any investigation, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Florida Commission on Human Relations shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Chief Financial Officer. The Florida Commission on Human Relations may include in the report recommendations for corrective action to be taken.

3. If, after 35 days, the agency does not implement the recommended action, the Florida Commission on Human Relations shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Florida Commission on Human Relations finds, in consultation with the individual subject to the prohibited action, that the agency has implemented the corrective action, the commission shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

(f) If the Florida Commission on Human Relations finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, the commission shall terminate the investigation.

(g)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Florida Commission on Human Relations shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings. The Florida Commission on Human Relations shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(h) If, in connection with any investigation under this section, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the commission may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the commission a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(i) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term “state agency” is defined in s. [216.011](#), for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Florida Commission on Human Relations.

(j) The Florida Commission on Human Relations may also petition for an award of reasonable attorney’s fees and expenses from a state agency, as the term “state agency” is defined in s. [216.011](#), pursuant to s. [112.3187](#)(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 21 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. [112.3187](#) and [447.503](#)(4) and (5).

(b) Judicial review of any final order of the commission shall be as provided in s. [120.68](#).

History.—s. 14, ch. 92-316; s. 4, ch. 93-57; s. 703, ch. 95-147; s. 22, ch. 99-333; s. 130, ch. 2003-261; s. 7, ch. 2020-153.

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