

PUBLIC OFFICERS AND EMPLOYEES ETHICS ACT AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES; MODIFYING PROVISIONS GOVERNING ETHICS; OUTLINING PROHIBITIONS ON DONATIONS, PAYMENTS, OR SERVICES TO GOVERNMENT AGENCIES; MODIFYING PENALTIES; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

67-16-12, as last amended by Chapter 147, Laws of Utah 1989

ENACTS:

67-16-5.3, Utah Code Annotated 1953

67-16-5.6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **67-16-5.3** is enacted to read:

67-16-5.3. Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) It is an offense for a public officer, public employee, or legislator, under circumstances not amounting to a violation of Section 63-56-72 or 76-8-105, to demand from any person as a condition of granting any application or request for a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) made voluntarily by the applicant; or

(iv) a condition of a consent decree, settlement agreement, or other binding instrument

entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.

(b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:

- (i) identify that a donation has been made;
- (ii) describe the donation;
- (iii) certify, in writing, that the donation was voluntary; and
- (iv) place that information in its files.

Section 2. Section **67-16-5.6** is enacted to read:

67-16-5.6. Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) It is an offense for any person, under circumstances not amounting to a violation of Section 76-8-103, to donate or offer to donate personal property, money, or services to any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

- (i) otherwise expressly required by statute, ordinance, or agency rule;
- (ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;
- (iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or
- (iv) made without condition.

(b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.

(c) The agency receiving the donation shall place the signed written statement in its files.

Section 3. Section **67-16-12** is amended to read:

67-16-12. Penalties for violation -- Removal from office or dismissal from employment.

In addition to any penalty contained in any other provision of law[⁷]:

(1) any public officer or public employee who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be dismissed from employment or removed from office as provided by law, rule, or policy within the agency; and

(2) any public officer, public employee, or person who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be punished as follows:

~~[(1)]~~ (a) as a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;

~~[(2)]~~ (b) as a felony of the third degree if:

~~[(a)]~~ (i) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or

~~[(b)]~~ (ii) the public officer or public employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;

~~[(3)]~~ (c) as a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or

~~[(4)]~~ (d) as a class B misdemeanor if the value of the compensation or assistance was \$100 or less.