

Part 13

Municipal Officers' and Employees' Ethics Act

10-3-1301 Short title.

This part is known as the "Municipal Officers' and Employees' Ethics Act."

Amended by Chapter 147, 1989 General Session

10-3-1302 Purpose.

The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

Amended by Chapter 438, 2024 General Session

10-3-1303 Definitions.

As used in this part:

- (1)
 - (a) "Appointed officer" means an individual appointed to:
 - (i) a statutory office or position; or
 - (ii) a position of employment with a city or with a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.
 - (b) "Appointed officer" includes an individual serving on a special, regular, or full-time committee, agency, or board, regardless of whether the individual is compensated for the individual's services.
 - (c) "Appointed officer" does not include an elected officer.
- (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.
- (3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to a person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (5) "Elected officer" means:
 - (a) an individual elected or appointed to fill a vacancy in the office of mayor, commissioner, or council member; or
 - (b) an individual who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.
- (6) "Improper disclosure" means the disclosure of private, controlled, or protected information to a person who does not have both the right and the need to receive the information.
- (7) "Municipal employee" means an individual who is employed on a full or part-time basis by a municipality or by a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

- (8) "Officer" means an appointed officer or an elected officer.
- (9) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, or another applicable provision of law.
- (10) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Amended by Chapter 443, 2024 General Session

10-3-1303.5 Statutory construction.

The definition of appointed officer in Section 10-3-1303 does not have the effect of making an appointed individual or employee an officer of the municipality.

Enacted by Chapter 443, 2024 General Session

10-3-1304 Use of office for personal benefit prohibited.

- (1) As used in this section, "economic benefit tantamount to a gift" includes:
 - (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; or
 - (b) compensation received for a private service rendered at a rate substantially exceeding the fair market value of the service.
- (2) Except as provided in Subsection (4), it is an offense for an officer or municipal employee to:
 - (a) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or municipal employee's official position or in the course of official duties in order to further substantially the officer's or municipal employee's personal economic interest or to secure special privileges or exemptions for the officer or municipal employee or for others;
 - (b) use or attempt to use the officer's or municipal employee's official position to:
 - (i) further substantially the officer's or municipal employee's personal economic interest; or
 - (ii) secure special privileges for the officer or municipal employee or for others; or
 - (c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or municipal employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:
 - (i) would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
 - (ii) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.
- (3) Subsection (2)(c) does not apply to:
 - (a) an occasional nonpecuniary gift having a value of less than \$50;
 - (b) an award publicly presented in recognition of public services;
 - (c) any bona fide loan made in the ordinary course of business; or
 - (d) a political campaign contribution.
- (4) This section does not apply to an officer or municipal employee who engages in conduct that constitutes a violation of this section to the extent that the officer or municipal employee is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 443, 2024 General Session

10-3-1305 Compensation for assistance in transaction involving municipality -- Public disclosure and filing required.

- (1) As used in this section, "municipal body" means any public board, commission, committee, or other public group organized to make public policy decisions or to advise persons who make public policy decisions.
- (2) Except as provided in Subsection (9), it is an offense for an officer who is a member of a municipal body to receive or agree to receive compensation for assisting a person or business entity in a transaction involving the municipality of which the officer is elected or appointed unless the officer:
 - (a) files with the mayor a sworn statement disclosing the information described in Subsection (8);
 - (b) discloses the information described in Subsection (8) in an open meeting to the members of the municipal body of which the officer is a member immediately before the discussion; and
 - (c) for an officer who is an elected officer, files the sworn statement described in Subsection (2) (a) with the city recorder or town clerk.
- (3) It is an offense for an appointed officer who is not a member of a municipal body or a municipal employee to receive or agree to receive compensation for assisting a person or business entity in a transaction involving the municipality by which the appointed officer or municipal employee is employed unless the appointed officer or employee:
 - (a) files with the mayor a sworn statement disclosing the information described in Subsection (8); and
 - (b) discloses the information described in Subsection (8) to:
 - (i) the appointed officer's or municipal employee's immediate supervisor; and
 - (ii) any other municipal officer or employee who may rely on the appointed officer's or municipal employee's representations in evaluating or approving the transaction.
- (4)
 - (a) An officer or municipal employee shall file the sworn statement described in Subsection (2)(a) or (3)(a), as applicable, on or before the earlier of:
 - (i) 10 days before the date on which the officer or municipal employee and the person or business entity being assisted enter into an agreement; or
 - (ii) 10 days before the date on which the officer or municipal employee receives compensation.
- (5) In accordance with Subsection (2)(c), an elected officer shall file the sworn statement with the city recorder or town clerk on or before the earlier of the deadlines described in Subsections (4) (a)(i) and (ii).
- (6) A municipal recorder or town clerk who receives a sworn statement described in Subsection (2) (a) shall:
 - (a) post a copy of the sworn statement on the municipality's website; and
 - (b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.
- (7) The sworn statements described in this section are public information and shall be available for examination by the public.
- (8) The sworn statement and public disclosure described in Subsections (2) and (3) shall contain:
 - (a) the name and address of the officer or municipal employee;
 - (b) the name and address of the person or business entity being or to be assisted or in which the officer or municipal employee has a substantial interest; and
 - (c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

- (9) This section does not apply to an officer who is a member of a municipal body and who engages in conduct that constitutes a violation of this section to the extent that the officer is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 443, 2024 General Session

10-3-1306 Interest in business entity regulated by municipality -- Disclosure statement required.

- (1) An officer under this part, or a municipal employee, who is an officer, director, agent, or employee or the owner of a substantial interest in a business entity that is subject to the regulation of the municipality in which the officer or municipal employee is elected, appointed, or employed, shall disclose the position held and the nature and value of the officer's or employee's interest:
- (a) upon first becoming appointed, elected, or employed by the municipality; and
 - (b) when the officer's or municipal employee's position in the business entity changes significantly or when the value of the officer's or municipal employee's interest in the entity significantly increases above the officer's or municipal employee's most recent disclosure.
- (2) An officer or municipal employee shall make the disclosure described in Subsection (1) in a sworn statement filed with:
- (a) the mayor; and
 - (b) for an officer who is an elected officer, the city recorder or town clerk.
- (3) The mayor shall:
- (a) report the substance of the sworn statement described in Subsection (2) to the members of the governing body; or
 - (b) provide a copy of the sworn statement to the members of the governing body no later than 30 days after the date on which the mayor receives the statement.
- (4) The municipal recorder or town clerk who receives the sworn statement described in Subsection (2) shall:
- (a) post a copy of the sworn statement on the municipality's website; and
 - (b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.
- (5)
- (a) This section does not apply to an instance where the value of the interest does not exceed \$5,000.
 - (b) A life insurance policy or an annuity may not be considered in determining the value of the interest.

Amended by Chapter 443, 2024 General Session

10-3-1307 Interest in business entity doing business with municipality -- Disclosure.

- (1) An officer under this part, or municipal employee, who is an officer, director, agent, employee, or owner of a substantial interest in a business entity that does or anticipates doing business with the municipality in which the officer or municipal employee is appointed, elected, or employed, shall:
- (a) publicly disclose the conflict of interest to the members of the body of which the officer is a member or by which the municipal employee is employed, immediately before any discussion by the municipal body concerning matters relating to the business entity, the nature of the officer's or municipal employee's interest in the business entity; and

- (b) for an officer who is an elected officer, file a sworn statement describing the conflict of interest with the city recorder or town clerk.
- (2) The public disclosure described in Subsection (1)(a) shall be entered in the minutes of the meeting.
- (3) A city recorder or town clerk who receives the sworn statement described in Subsection (1)(b) shall:
 - (a) post a copy of the sworn statement on the municipality's website; and
 - (b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.
- (4) Disclosure by a municipal employee under this section is satisfied if the municipal employee makes the disclosure in the manner described in Section 10-3-1305 or Section 10-3-1306.

Amended by Chapter 443, 2024 General Session

10-3-1308 Investment creating conflict of interest with duties -- Disclosure.

An officer or municipal employee who has a personal interest or investment that creates a conflict between the officer's or municipal employee's personal interests and the officer's or municipal employee's public duties shall disclose the conflict in the manner described in Section 10-3-1306.

Amended by Chapter 443, 2024 General Session

10-3-1309 Inducing officer or employee to violate part prohibited.

It is a class A misdemeanor for any person to induce or seek to induce an officer or a municipal employee to violate any of the provisions of this part.

Amended by Chapter 443, 2024 General Session

10-3-1310 Penalties for violation -- Dismissal from employment or removal from office.

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part, with the exception of Sections 10-3-1306, 10-3-1307, 10-3-1308, and 10-3-1309, shall be dismissed from employment or removed from office and is guilty of:

- (1) a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
- (2) a felony of the third degree if:
 - (a) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or
 - (b) the elected or appointed officer or municipal 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) a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or
- (4) a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Amended by Chapter 147, 1989 General Session

10-3-1311 Municipal ethics commission -- Complaints charging violations.

- (1) A municipality may establish by ordinance an ethics commission to review a complaint against an officer or a municipal employee subject to this part for a violation of a provision of this part.
- (2)
 - (a) A person filing a complaint for a violation of this part shall file the complaint:
 - (i) with the municipal ethics commission, if a municipality has established a municipal ethics commission in accordance with Subsection (1); or
 - (ii) with the Political Subdivisions Ethics Review Commission in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission, if the municipality has not established a municipal ethics commission.
 - (b) A municipality that receives a complaint described in Subsection (2)(a) may:
 - (i) accept the complaint if the municipality has established a municipal ethics commission in accordance with Subsection (1); or
 - (ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section 63A-15-201:
 - (A) regardless of whether the municipality has established a municipal ethics commission; or
 - (B) if the municipality has not established a municipal ethics commission.
- (3) If the alleged ethics complaint is against a person who is a member of the municipal ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions Ethics Review Commission.

Amended by Chapter 443, 2024 General Session

10-3-1312 Violation of disclosure requirements -- Penalties -- Rescission of prohibited transaction.

If a transaction is entered into in connection with a violation of Section 10-3-1305, 10-3-1306, 10-3-1307, or 10-3-1308, the municipality:

- (1) shall dismiss or remove the officer or municipal employee who knowingly and intentionally violates this part from employment or office; and
- (2) may rescind or void a contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the municipality.

Amended by Chapter 443, 2024 General Session

10-3-1313 Annual conflict of interest disclosure -- City recorder or town clerk -- Posting of written disclosure statement -- Penalties.

- (1) In addition to any other disclosure obligation described in this part, an elected officer shall, no sooner than January 1 and no later than January 31 of each year during which the elected officer holds the office of mayor, commissioner, or council member:
 - (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
 - (b) submit the written disclosure statement to the city recorder or town clerk.
- (2)
 - (a) No later than 10 business days after the day on which the elected officer submits the written disclosure statement described in Subsection (1) to the city recorder or town clerk, the city recorder or town clerk shall:
 - (i) post an electronic copy of the written disclosure statement on the municipality's website; and
 - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

- (b) The city recorder or town clerk shall ensure that the elected officer's written disclosure statement remains posted on the municipality's website until the elected officer leaves office.
- (3) A city recorder or town clerk shall take the action described in Subsection (4) if:
 - (a) an elected officer fails to timely submit the written disclosure statement described in Subsection (1); or
 - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (4) If a circumstance described in Subsection (3) occurs, the city recorder or town clerk shall, within five days after the day on which the city recorder or town clerk determines that a violation occurred, notify the elected officer of the violation and direct the elected officer to submit an amended written disclosure statement correcting the problem.
- (5)
 - (a) It is unlawful for an elected officer to fail to submit or amend a written disclosure statement within seven days after the day on which the elected officer receives the notice described in Subsection (4).
 - (b) An elected officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.
 - (c) The city recorder or town clerk shall report a violation of Subsection (5)(a) to the attorney general.
 - (d) In addition to the criminal penalty described in Subsection (5)(b), the city recorder or town clerk shall impose a civil fine of \$100 against an elected officer who violates Subsection (5)(a).
- (6) The city recorder or town clerk shall deposit a fine collected under this section into the municipality's general fund as a dedicated credit to pay for the costs of administering this section.

Enacted by Chapter 443, 2024 General Session