

Chapter 16a

County Officers and Employees Disclosure Act

17-16a-1 Citation of chapter.

This chapter may be cited as the "County Officers and Employees Disclosure Act."

Enacted by Chapter 46, 1983 General Session

17-16a-2 Purposes.

The purposes of this chapter are to establish standards of conduct for county officers and employees and to require these persons to disclose conflicts of interest between their public duties and their personal interests.

Enacted by Chapter 46, 1983 General Session

17-16a-3 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 county, except a special employee.
 - (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 so 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 any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (5) "Elected officer" means an individual elected or appointed to an office in the county.
- (6) "Governmental action" means an action on the part of a county including:
 - (a) a decision, determination, finding, ruling, or order;
 - (b) a grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval; or
 - (c) the denial of, or failure to act upon, a matter described in Subsection (6)(a) or (b).
- (7) "Officer" means an appointed officer or an elected officer.
- (8) "Special employee" means an individual hired on the basis of a contract to perform a special service for the county pursuant to an award of a contract following a public bid.
- (9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, and 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

17-16a-3.5 Statutory construction.

The definition of appointed officer in Section 17-16a-3 does not have the effect of making an appointed individual or employee an officer of the county.

Enacted by Chapter 443, 2024 General Session

17-16a-4 Prohibited use of official position -- Exception.

- (1) Except as provided in Subsection (3) or (5), it is an offense for an officer to:
 - (a) disclose confidential information acquired by reason of the officer's official position or use that information to secure special privileges or exemptions for the officer or others;
 - (b) use or attempt to use the officer's official position to secure special privileges for the officer or for others; or
 - (c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties.
- (2) This section does not apply to:
 - (a) an occasional nonpecuniary gift having a value of less than \$50;
 - (b) an award publicly presented;
 - (c) any bona fide loan made in the ordinary course of business; or
 - (d) political campaign contributions subject to Section 17-16-6.5.
- (3) A member of a county legislative body who is also a member of the governing board of a provider of mental health or substance abuse services under contract with the county does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the duties and responsibilities of each position, if the county legislative body member does not participate in the process of selecting the mental health or substance abuse service provider.
- (4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.
- (5) This section does not apply to an officer 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

17-16a-5 Compensation for assistance in transaction involving county -- Public disclosure and filing required.

- (1) An officer may not receive or agree to receive compensation for assisting a person or business entity in a transaction involving the county in which the officer is elected or appointed unless the officer:
 - (a) files with the county legislative body a sworn statement disclosing the information described in Subsection (5);
 - (b) discloses in open meeting to the members of the body of which the officer is a member, immediately before the discussion, the information described in Subsection (5); and
 - (c) for an officer who is an elected officer, files the sworn statement described in Subsection (1)
 - (a) with the county clerk.

- (2) An officer shall file the sworn statement described in Subsection (1)(a) on or before the earlier of:
 - (a) 10 days before the date on which the officer and the person or business entity being assisted enter into an agreement; or
 - (b) 10 days before the date on which the officer receives compensation.
- (3) In accordance with Subsection (1)(c), an elected officer shall file the sworn statement with the county clerk on or before the earlier of the deadlines described in Subsections (2)(a) and (b).
- (4) A county clerk who receives the sworn statement described in Subsection (1)(a) shall:
 - (a) post a copy of the sworn statement on the county's website; and
 - (b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.
- (5) The sworn statement described in Subsection (1)(a) is public information and is available for examination by the public.
- (6) The sworn statement and public disclosure described in Subsection (1) shall contain the following information:
 - (a) the name and address of the officer;
 - (b) the name and address of the person or business entity being or to be assisted, or in which the officer 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.

Amended by Chapter 443, 2024 General Session

17-16a-6 Interest in business entity regulated by county -- Disclosure.

- (1) An officer under this part who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity that is subject to the regulation of the county in which the officer is appointed or elected shall disclose the position held and the precise nature and value of the officer's interest:
 - (a) upon first becoming appointed or elected; and
 - (b) during January of each year during which the officer continues to be an appointed or elected officer.
- (2) An officer shall make the disclosure described in Subsection (1) in a sworn statement filed with:
 - (a) the county legislative body; and
 - (b) if the officer is an elected officer, the county clerk.
- (3) The commission 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 described in Subsection (2) to the members of the governing body no later than 30 days after the day on which the commission receives the statement.
- (4) A county clerk who receives the sworn statement described in Subsection (2) shall:
 - (a) post a copy of the sworn statement on the county's website; and
 - (b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.
- (5)
 - (a) This section does not apply to instances 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

17-16a-7 Interest in business entity doing business with county -- Disclosure.

- (1) An officer under this part who is an officer, director, agent, or employee, or owner of a substantial interest in a business entity that does or anticipates doing business with the county in which the officer is appointed or elected shall:
 - (a) publicly disclose the conflict of interest to the members of the body of which the officer is a member, immediately before a discussion by the body on matters relating to the business entity, the nature of the officer'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 county clerk.
- (2) The public disclosure described in Subsection (1)(a) shall be entered in the minutes of the meeting.
- (3) A county clerk who receives the sworn statement described in Subsection (1)(b) shall:
 - (a) post a copy of the sworn statement on the county's website; and
 - (b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

Amended by Chapter 443, 2024 General Session

17-16a-8 Investment creating conflict of interest with duties -- Disclosure.

An officer who has a personal interest or investment that creates a potential or actual conflict between the officer's personal interests and the officer's public duties shall disclose the conflict in the manner described in Section 17-16a-6.

Amended by Chapter 443, 2024 General Session

17-16a-9 Inducing officer to violate provisions prohibited.

No person shall induce or seek to induce an officer to violate any of the provisions of this part.

Amended by Chapter 443, 2024 General Session

17-16a-10 Violation a misdemeanor -- Removal from office.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates this part is guilty of a class A misdemeanor and shall be dismissed from employment or removed from office.

Amended by Chapter 443, 2024 General Session

17-16a-11 County ethics commission -- Complaints charging violations -- Procedure.

- (1) A county may establish by ordinance an ethics commission to review a complaint, except as provided in Subsection (3), against an officer or employee subject to this part for a violation of a provision of this part.
- (2)

- (a) Except as provided in Subsection (3), a person filing a complaint for a violation of this part shall file the complaint:
 - (i) with the county ethics commission, if the county has established a county ethics commission in accordance with Subsection (1); or
 - (ii) with the Political Subdivisions Ethics Review Commission established in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission if the county has not established a county ethics commission.
- (b) A county that receives a complaint described in Subsection (2)(a) may:
 - (i) accept the complaint if the county has established a county 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 county has established a county ethics commission; or
 - (B) if the county has not established a county ethics commission.
- (3) Any complaint against a person who is under the merit system, charging that person with a violation of this part, shall be filed and processed in accordance with the provisions of the merit system.

Amended by Chapter 461, 2018 General Session

17-16a-12 Rescission of prohibited transaction.

If a transaction is entered into in connection with a violation of Section 17-16a-6, the county may rescind or void a contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the county.

Amended by Chapter 443, 2024 General Session

17-16a-13 Annual conflict of interest disclosure -- County clerk -- 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 county elective office:
 - (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 county clerk.
- (2)
 - (a) No later than 10 business days after the day on which an elected officer submits the written disclosure described in Subsection (1) to the county clerk, the county clerk shall:
 - (i) post an electronic copy of the written disclosure statement on the county's website; and
 - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).
 - (b) The county clerk shall ensure that the elected officer's written disclosure statement remains posted on the county's website until the elected officer leaves office.
- (3) A county 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 county clerk shall, within five days after the day on which the county 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) A regulated officeholder who violates Subsection (5)(a) is guilty of a class B misdemeanor.
 - (c) The lieutenant governor 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 county clerk shall impose a civil fine of \$100 against an elected officer who violates Subsection (5)(a).
- (6) The county clerk shall deposit a fine collected under this part into the county's general fund as a dedicated credit to pay for the costs of administering this section.

Enacted by Chapter 443, 2024 General Session