State Code

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.

Enacted by Chapter 57, 1981 General Session

10-3-1303. Definitions.

As used in this part:

(1) "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city or with a community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality.

(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 any 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 person:

(a) elected or appointed to the office of mayor, commissioner, or council member; or

(b) 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 disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.

(7) "Municipal employee" means a person who is not an elected or appointed officer who is employed on a full or part-time basis by a municipality or by a community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.

(8) "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 other applicable provision of law.

(9) "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 40, 2011 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; and

(b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

(2) Except as provided in Subsection (4), it is an offense for an elected or appointed officer or municipal employee to:

(a) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or employee's official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for the officer or employee or for others;

(b) use or attempt to use the officer's or employee's official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges for the officer or employee or for others; or

(c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or 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 elected or appointed officer or municipal employee who engages in conduct that constitutes a violation of this section to the extent that the elected or appointed officer or municipal employee is chargeable, for the same conduct, under Section **76-8-105**.

Amended by Chapter 445, 2013 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 (6), it is an offense for an elected officer, or an appointed officer, who is a member of a public body to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality in which the member is an officer unless the member:

(a) files with the mayor a sworn statement giving the information required by this section; and

(b) discloses the information required by Subsection (5) in an open meeting to the members of the body of which the officer is a member immediately before the discussion.

(3) It is an offense for an appointed officer who is not a member of a public body or a municipal employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality by which the person is employed unless the officer or employee:

(a) files with the mayor a sworn statement giving the information required by this section; and

(b) discloses the information required by Subsection (5) to:

(i) the officer or employee's immediate supervisor; and

(ii) any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.

(4) (a) The officer or employee shall file the statement required to be filed by this section 10 days before the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted or 10 days before the receipt of compensation by the officer or employee, whichever is earlier.

(b) The statement is public information and shall be available for examination by the public.

(5) The statement and disclosure 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 appointed or elected official 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.

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

Amended by Chapter 445, 2013 General Session

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

(1) Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to

the regulation of the municipality in which he is an elected or appointed officer or municipal employee shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the municipality, and again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.

(2) The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the members of the governing body, or may provide to the members of the governing body copies of the disclosure statement within 30 days after the statement is received by him.

(3) This section does not apply to instances where the value of the interest does not exceed $2,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

Amended by Chapter 378, 2010 General Session

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

(1) Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which he is an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.

(2) The disclosure statement shall be entered in the minutes of the meeting.

(3) Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in the manner required by Sections **10-3-1305** and**10-3-1306**.

Amended by Chapter 147, 1989 General Session

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

Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section **10-3-1306**.

Amended by Chapter 147, 1989 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 any appointed or elected officer or municipal employee to violate any of the provisions of this part.

Amended by Chapter 241, 1991 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 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 11, Chapter 49, 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 **11-49-201**:

(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 202, 2012 General Session

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

If any 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 appointed or elected officer or municipal employee who knowingly and intentionally violates this part from employment or office; and

(2) may rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the municipality.

Amended by Chapter 147, 1989 General Session