

## **PART 1 CODE OF ETHICS**

### **24-18-101. Legislative declaration.**

The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

**Source: L. 88:** Entire article added, p. 899, § 1, effective July 1.

### **24-18-102. Definitions.**

As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

- (a) An ownership interest in a business;
- (b) A creditor interest in an insolvent business;
- (c) An employment or a prospective employment for which negotiations have begun;
- (d) An ownership interest in real or personal property;
- (e) A loan or any other debtor interest; or

(f) A directorship or officership in a business.

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government, but does not include an employee of a local government. "Local government official" includes a member of the board of commissioners of any airport authority created pursuant to article 3 of title 41.

(7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government except the courts.

**Source: L. 88:** Entire article added, p. 899, § 1, effective July 1. **L. 90:** (1) amended, p. 447, § 10, effective April 18. **L. 91:** (8) amended, p. 837, § 1, effective March 29. **L. 2023:** (6) amended, (HB 23-1156), ch. 60, p. 217, § 6, effective August 7.

#### ANNOTATION

**Negotiations for future employment began when respondent submitted his resume to potential employer as contemplated in subsection (4)(c).** Colo. Ethics Watch v. McCasky, Indep. Ethics Comm'n 11-03.

**The generalized interests held by members of a county planning commission when drafting and adopting the county's master plan are insufficient to rise to the level of a "financial interest" as defined in subsection (4).** Indep. Ethics Comm'n Letter Ruling 24-01.

**County administrator's actions in making purchases on behalf of the county and signing the purchase order were not "official acts" as defined in subsection (7)** because these routine tasks were more administrative than discretionary to effect a decision that had already been made. Matter of LeValley, Indep. Ethics Comm'n Complaint 19-25.

**The county planning commission's recommendation to the board of county commissioners is**

an "official act" within the meaning of subsection (7). Indep. Ethics Comm'n Letter Ruling 24-01.

**Acceptance of gift of season ski passes by nearby town for its employees** may lead the public to conclude that the ski area has received, or its employees may receive, some benefit from the town employees in return. Public employees should avoid any conduct that may violate the public trust or appear to violate the public trust. Indep. Ethics Comm'n Advisory Opinion 14-21.

#### **24-18-103. Public trust - breach of fiduciary duty.**

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

**Source: L. 88:** Entire article added, p. 900, § 1, effective July 1.

#### **ANNOTATION**

**This section, when read in conjunction with the rest of the standards of conduct, establishes an ethical standard of conduct concerning activities that could allow covered individuals to improperly benefit financially from their public employment.** Thus, allegations that a public official breached his or her fiduciary duty under this section by using public employment for improper personal financial gain fell within the ambit of the independent ethics commission's (IEC's) jurisdiction under § 5 of art. XXIX of the state constitution. *Gessler v. Smith*, 2018 CO 48, 419 P.3d 964, cert. denied, \_\_\_ U.S. \_\_\_, 139 S. Ct. 430, 202 L. Ed. 2d 318 (2018).

**Given the allegations against the former secretary of state, the IEC properly exercised jurisdiction under § 5 of art. XXIX of the state constitution.** The claims were predicated on allegations that the secretary improperly used his discretionary funds for personal financial gain -- specifically, that he used state funds for partisan purposes and that he accepted a reimbursement for personal purposes. The allegations clearly implicate the ethical standard of conduct set forth in this section and thus fall within the IEC's jurisdiction under § 5 of article XXIX. *Gessler v. Smith*, 2018 CO 48, 419 P.3d 964, cert. denied, \_\_\_ U.S. \_\_\_, 139 S. Ct. 430, 202 L. Ed. 2d 318 (2018).

**Secretary of state breached the public trust for private gain in violation of this section** by using funds from his discretionary account for purposes other than official business. *Colo. Ethics Watch v.*

Gessler, Indep. Ethics Comm'n 12-07.

**Acceptance of gifts from partner nonprofit organ procurement organization by driver's license examiners may result in appearance of impropriety.** Indep. Ethics Comm'n Advisory Opinion 14-08.

**Employment opportunities sought by compliance investigator in the financial unit of the marijuana enforcement division of the department of revenue present a potential violation of the public trust** and a potential conflict of interest and could inhibit compliance investigator's ability to carry out regulatory duties in an impartial manner for the benefit of the state. Indep. Ethics Comm'n Advisory Opinion 19-05.

**Parties' stipulation that, by admitting to facts sufficient to prove embezzlement of public property and official misconduct, respondent has admitted to breach of public trust and fiduciary duty** pursuant to this section. King v. King, Indep. Ethics Comm'n 14-16.

**Failure of county commissioner to disclose his personal or private interest in a matter being voted on**, failure to recuse himself from the matter, and attempts to influence his fellow commissioners in violation of rules of conduct for local government officials constitutes a breach of the public trust for private gain. Matter of Flower, Indep. Ethics Comm'n Complaint 20-73.

**There is no breach of public trust sufficient to constitute an ethics violation where town clerk, prior to approval by the town board of trustees, recorded** a vacation of an alleyway that bisected a private organization's property. In re Ricotta, Indep. Ethics Comm'n Complaint 17-25.

**24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

(a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift of substantial value includes without limitation:

(a) A loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services; or

(b) The acceptance by a public officer, a member of the general assembly, a local government official, or an employee of goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the state or a local government under a contract or other means by which the person receives payment or other compensation from the state or local government, as applicable, for which the officer, member, official, or employee serves, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the officer, member, official, or employee does not receive any substantial benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.

(3) The following are not gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, C.R.S.;

(b) An unsolicited item of trivial value;

(b.5) A gift with a fair market value of fifty-three dollars or less that is given to the public officer, member of the general assembly, local government official, or employee by a person other than a professional lobbyist.

(c) An unsolicited token or award of appreciation as described in section 3 (3)(c) of article XXIX of the state constitution;

(c.5) Unsolicited informational material, publications, or subscriptions related to the performance of official duties on the part of the public officer, member of the general assembly, local government official, or employee;

(d) Payment of or reimbursement for reasonable expenses paid by a nonprofit organization or state and local government in connection with attendance at a convention, fact-finding mission or trip, or other meeting as permitted in accordance with the provisions of section 3 (3)(f) of article XXIX of the state constitution;

(e) Payment of or reimbursement for admission to, and the cost of food or beverages consumed at, a reception, meal, or meeting that may be accepted or received in accordance with the provisions of section 3 (3)(e) of article XXIX of the state constitution;

(f) A gift given by an individual who is a relative or personal friend of the public officer, member of the general assembly, local government official, or employee on a special occasion.

(g) Payment for speeches, appearances, or publications that may be accepted or received by the public officer, member of the general assembly, local government official, or employee in

accordance with the provisions of section 3 of article XXIX of the state constitution that are reported pursuant to section 24-6-203 (3)(d);

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office;

(i) A component of the compensation paid or other incentive given to the public officer, member of the general assembly, local government official, or employee in the normal course of employment; and

(j) Any other gift or thing of value a public officer, member of the general assembly, local government official, or employee is permitted to solicit, accept, or receive in accordance with the provisions of section 3 of article XXIX of the state constitution, the acceptance of which is not otherwise prohibited by law.

(4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, C.R.S., and section 24-6-203, and do not relieve an incumbent in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

(5) The amount of the gift limit specified in paragraph (b.5) of subsection (3) of this section, set at fifty-three dollars as of August 8, 2012, shall be identical to the amount of the gift limit under section 3 of article XXIX of the state constitution, and shall be adjusted for inflation contemporaneously with any adjustment of the constitutional gift limit pursuant to section 3 (6) of article XXIX.

**Source: L. 88:** Entire article added, p. 901, § 1, effective July 1. **L. 92:** (3)(g) and (3)(h) amended, p. 874, § 103, effective January 1, 1993. **L. 94:** (3) amended and (4) added, p. 1827, § 4, effective January 1, 1995. **L. 2012:** (2) amended, (SB 12-146), ch. 93, p. 306, § 1, effective April 12; (3) amended and (5) added, (HB 12-1070), ch. 167, p. 584, § 4, effective August 8.

#### ANNOTATION

**Subsection (1) prohibits a state employee from disclosing or using any information he may acquire in the course of his official duties** which, by virtue of his position with the state, is not available to competitors, but is advantageous to his software company's interests. Indep. Ethics Comm'n Advisory Opinion 21-01.

**It is a violation of this section for a clerk and recorder's office to accept a gift box from the Denver Broncos** the motivation for which was likely to thank the office for providing individual players with private appointments for official services and with a private entrance policy not available to the general public. Indep. Ethics Comm'n Advisory Opinion 14-01 (the portion of Advisory Opinion 14-01 that considers the value of a gift to be the sum total of gifts to a specific agency's employees overturned in Letter Ruling 22-01).

**Driver's license examiners would likely know that gifts from partner nonprofit organ procurement organization are given in return for official action taken**, such as asking driver's license applicants for a monetary donation, designating an organ donor by putting a Y on the driver's license, or educating applicants who choose to be donors, and therefore would violate subsection (1)(b)(II). Indep. Ethics Comm'n Advisory Opinion 14-08.

**It is not a violation of this section for driver's license office employees to accept a lunch incentive** from a nonprofit organization for promoting National Donate Life Month since the value of the lunch would be less than the \$75 limit set forth in subsection (3)(b.5) and could be viewed as an incentive given to the employee in the normal course of employment under subsection (3)(i). Indep. Ethics Comm'n Advisory Opinion 23-01.

**Employment opportunities sought by compliance investigator in the financial unit of the marijuana enforcement division of the department of revenue present a potential conflict of interest** and a potential violation of the public trust and could inhibit compliance investigator's ability to carry out regulatory duties in an impartial manner for the benefit of the state. Indep. Ethics Comm'n Advisory Opinion 19-05.

**There is no conflict or appearance of impropriety** created by the president of History Colorado paying fair market value from his personal funds to fly on the personal plane of one of History Colorado's largest donors to participate in a trip to Washington, D.C. Indep. Ethics Comm'n Advisory Opinion 13-09.

**It would not violate this section for sheriff's deputies to receive lift tickets or season ski passes in exchange for their off-duty law enforcement services to a ski resort** when the value provided by each deputy to the resort is equal to or greater than the retail price of the daily lift ticket or season pass. Indep. Ethics Comm'n Letter Ruling 22-03.

**24-18-105. Ethical principles for public officers, local government officials, and employees.**

(1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic

detriment when he has a substantial financial interest in a competing firm or undertaking.

(5) Public officers, local government officials, and employees are discouraged from assisting or enabling members of their immediate family in obtaining employment, a gift of substantial value, or an economic benefit tantamount to a gift of substantial value from a person whom the officer, official, or employee is in a position to reward with official action or has rewarded with official action in the past.

**Source: L. 88:** Entire article added, p. 902, § 1, effective July 1. **L. 2012:** (5) added, (SB 12-146), ch. 93, p. 307, § 2, effective April 12.

#### ANNOTATION

**It would not violate this section** for a former employee of the department of health care policy and financing to enter into a contract with a consulting company to work on project management issues relating to a major health care provider where the state agency indicated there is no conflict. Indep. Ethics Comm'n Letter Ruling 10-02.

**It would violate this section** for a former employee of the department of human services to enter into a contract or seek employment before the passage of six months with one of the direct service organizations that continues to contract with the department since the former employee has information not readily available to others as a result of the former state employment. Indep. Ethics Comm'n Letter Ruling 14-02.

**This section specifically prevents a state employee from revealing information unavailable to others that the employee has acquired through his or her employment with the state** when the employee is in the process of seeking employment outside of state government. Indep. Ethics Comm'n Advisory Opinion 13-13.

**There was no violation of this section where city council member voted on a matter in which she had neither a personal or private interest nor a financial interest.** Arnett v. Brandau, Indep. Ethics Comm'n 12-06.

#### **24-18-106. Rules of conduct for members of the general assembly.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates;



(b) Accept or receive a benefit as an indirect consequence of transacting state business; or

(c) Accept the payment of or reimbursement for actual and necessary expenses for travel, board, and lodging from any organization declared to be a joint governmental agency of this state under section 2-3-311 (2), C.R.S., if:

(I) (A) The expenses are related to the member's attendance at a convention or meeting of the joint governmental agency at which the member is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state of Colorado or for some other legitimate state purpose;

(B) The travel, board, and lodging arrangements are appropriate for purposes of the member's attendance at the convention or meeting;

(C) The duration of the member's stay is no longer than is reasonably necessary for the member to accomplish the purpose of his or her attendance at the convention or meeting;

(D) The member is not currently and will not subsequent to the convention or meeting be in a position to take any official action that will benefit the joint governmental agency; and

(E) The attendance at conventions or meetings of the joint governmental agency has been approved by the executive committee of the legislative council or by the leadership of the house of the general assembly to which the member belongs; or

(II) The general assembly pays regular monthly, annual, or other periodic dues to the joint governmental agency that are invoiced expressly to cover travel, board, and lodging expenses for the attendance of members at conventions or meetings of the joint governmental agency.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

**Source:** **L. 88:** Entire article added, p. 902, § 1, effective July 1. **L. 2003:** (3) added, p. 1230, § 1, effective July 1. **L. 2010:** (2) amended, (SB 10-099), ch. 184, p. 662, § 4, effective August 11.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (2), see section 1 of chapter 184, Session Laws of Colorado 2010.

#### **24-18-107. Ethical principles for members of the general assembly.**

(1) The **principles** in this section are intended only as guides to a member of the general

assembly in determining whether or not his conduct is **ethical**.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

(a) Whether the interest impedes his independence of judgment;

(b) The effect of his participation on public confidence in the integrity of the general assembly; and

(c) Whether his participation is likely to have any significant effect on the disposition of the matter.

(3) An interest situation does not arise from legislation affecting the entire membership of a class.

(4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

**Source: L. 88:** Entire article added, p. 902, § 1, effective July 1.

#### **24-18-108. Rules of conduct for public officers and state employees.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A public officer or a state employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;

(b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his

participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) Repealed.

**Source: L. 88:** Entire article added, p. 903, § 1, effective July 1. **L. 91:** (4) repealed, p. 837, § 2, effective March 29.

#### ANNOTATION

**The housing division of the department of local affairs may hire a qualified individual whose business has outstanding loans** with the division where the individual would not have the ability to take an official act relating to the current contracts, have access to computer files or data regarding his contracts, and would not be able to inspect or manipulate agency data relating to his contracts. Independent Ethics Commission Advisory Opinion 11-11.

**Subsection (2)(d) prohibits a state employee's performance of any official act that directly and substantially provides economic benefits to his software company**, including the use of discretionary authority, decisions, recommendations, approvals, disapprovals, and inaction. Indep. Ethics Comm'n Advisory Opinion 21-01.

#### **24-18-108.5. Rules of conduct for members of boards and commissions.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

**Source: L. 91:** Entire section added, p. 837, § 3, effective March 29.

#### ANNOTATION

**Because this section applies only to an "official act", a member of the county planning commission may speak to the board of county commissioners as a member of the public** because, in doing so, they would not be exercising the use of discretionary authority as a member of the planning commission. Indep. Ethics Comm'n Letter Ruling 22-02.

**Similarly, close physical proximity of a county commissioner's property to a short-term rental, the regulation of which was a matter before the board of county commissioners, would not pose a disqualifying conflict of interest** because it is unlikely to confer a "direct economic benefit" on a business in which the commissioner has a "direct or substantial financial interest" unless the commissioner has a direct or substantial financial interest in a business that directly benefits from

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short-term rentals. Indep. Ethics Comm'n Letter Ruling 22-02.

**24-18-109. Rules of conduct for local government officials and employees.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties;

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(c) Accept goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the local government for which the official or employee serves, under a contract or other means by which the person receives payment or other compensation from the local government, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the official or employee does not receive any substantial benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

(5) (a) Notwithstanding any other provision of this article 18, it is neither a conflict of interest

nor a breach of fiduciary duty or the public trust for a local government official who is a member of the governing body of a local government to serve on a board of directors of a nonprofit entity and, when serving on the governing body, to vote on matters that may pertain to or benefit the nonprofit entity.

(b) (I) Except as provided in subsection (5)(b)(II) of this section, a local government official is not required to provide or file a disclosure or otherwise comply with the requirements of subsection (3) of this section unless the local government official has a financial interest in, or the local government official or an immediate family member receives services from, the nonprofit entity independent of the official's membership on the board of directors of the nonprofit entity.

(II) A local government official who serves on the board of directors of a nonprofit entity shall publicly announce his or her relationship with the nonprofit entity before voting on a matter that provides a direct and substantial economic benefit to the nonprofit entity.

**Source: L. 88:** Entire article added, p. 903, § 1, effective July 1. **L. 2012:** (2)(c) added, (SB 12-146), ch. 93, p. 307, § 3, effective April 12. **L. 2017:** (5) added, (HB 17-1293), ch. 291, p. 1610, § 1, effective August 9.

#### ANNOTATION

**A local official should avoid engaging in financial business with the entity he represents,** but if he does, he should not participate in the vote on the matter or urge his fellow local officials to vote a particular way. Indep. Ethics Comm'n Advisory Opinion 12-01.

**Member of a town's board of trustees must refrain from performing any official act that directly and substantially benefits the member's business economically** and must not vote or attempt to influence the decisions of other board members when he or she has a personal or private interest in the outcome. Indep. Ethics Comm'n Advisory Opinion 16-05.

**Member of a board of county commissioners who also serves on that county's board of health and local board of equalization would not have a conflict of interest in the county boards' future regulation of short-term rentals in the county** since he closed his personal short-term rental business and, therefore, there is no possibility that any official action he would take would directly and substantially affect, to its economic benefit, a business or other undertaking in which he has a substantial financial interest. Indep. Ethics Comm'n Advisory Opinion 21-02.

**Individual seeking to hold office as county assessor or treasurer/public trustee while continuing his employment in the banking or mortgage industry must continually evaluate procedures and practices to insure the public is treated fairly,** avoiding discretionary practices that would enrich the office holder or his business interests. Indep. Ethics Comm'n Advisory Opinion 17-10.

**County administrator's actions in making purchases from husband's business and signing the purchase orders did not violate subsection (2)(b)** since the county administrator did not exercise her judgment and choice in completing the routine tasks necessary to effect a decision that had already been made by another; therefore, her actions did not involve the use of discretionary authority. Matter of

LeValley, Indep. Ethics Comm'n Complaint 19-25.

**Town clerk did not violate subsection (2)(b) because she did not have a substantial financial interest in, and was not a representative or agent of, a private organization** when she recorded a vacation of an alleyway that bisected the organization's property prior to approval of the vacation by the town board of trustees. In re Ricotta, Indep. Ethics Comm'n Complaint 17-25.

**However, as a representative or agent for a private organization, a member of the town's board of trustees violated subsection (2)(b) when he took official action by voting** to remove an encumbrance on the organization's property which vote directly and substantially benefitted the organization. In re Ricotta, Indep. Ethics Comm'n Complaint 17-31.

**Respondent violated subsections (2) and (3)(a) since he took official action by voting on an increased contribution to an entity with which he had begun negotiations for future employment** and therefore had a personal or private interest in the vote on the entity's budget. Colo. Ethics Watch v. McCasky, Indep. Ethics Comm'n 11-03.

**County commissioner respondent violated subsection (3)(a) when she voted on a matter in which she had a personal or private interest** by voting in favor of a consent agenda that included a warrant to reimburse the respondent for legal fees she had incurred in defending a separate ethics complaint before the state ethics commission. Matter of Cozad, Indep. Ethics Comm'n Complaint 18-08.

**Individual who holds a dual role as both a county commissioner and a director on the board of a regional transportation authority has neither breached her fiduciary duty nor the public trust under subsection (2)(b)** since she receives no personal economic benefit from her service on the authority and since she represents the county's interests on the board, but is not expected to represent the authority's interests in the official business of the county. Indep. Ethics Comm'n Advisory Opinion 17-04.

**The general policy recommendations of a county's master plan do not "directly and substantially" affect, to its economic benefit, a business or other undertaking** in which a member of the county planning commission has a substantial interest or is engaged as counsel, consultant, representative, or agent as contemplated in subsection (2)(b). Indep. Ethics Comm'n Letter Ruling 24-01.

**The term "other undertaking" in subsection (2)(b) does not include a regional transportation authority** which is a separate public body politic and corporate of the state. Indep. Ethics Comm'n Advisory Opinion 17-04.

**There is no violation of subsection (3)(a) where city council member voted on a matter in which she did not have a personal or private interest.** Arnett v. Brandau, Indep. Ethics Comm'n 12-06.

**Subsection (3)(a) specifically addresses actions of a governing body of which a local government official is a member and not the official's actions related to another governing body of which they are not a member;** therefore, a member of the county planning commission may attend a meeting of the board of county commissioners and speak freely as a member of the public at those meetings so long as they do not purport to speak on behalf of the planning commission or in their capacity as a member of the planning commission. Indep. Ethics Comm'n Letter Ruling 22-02.

**Similarly, a member of the board of county commissioners would not violate this section when voting on or participating in discussions regarding short-term rental regulations,** unless the member has an interest different in kind from that of the general public such that recusal would be merited. Indep. Ethics Comm'n Letter Ruling 22-02.

**Mayor's actions in presiding over a city council meeting at which a purchase of land was**

**approved and signing the purchase resolution did not violate subsection (2)(b) or (3)(a)** since the land purchase did not directly and substantially affect to his economic benefit the mayor's business interest and therefore the mayor did not derive any personal or private benefit from the land purchase. Matter of Wood, Indep. Ethics Comm'n Complaint 20-21.

**Mayor's actions in negotiating a payment arrangement between his nonprofit corporation and the complainant's concessions business did not violate subsections (2)(a), (2)(b), or (3)(a)** because he had neither inspected nor supervised the complainant's business in his official capacity as mayor and he had taken no "official act" as mayor that would have directly and substantially affected his nonprofit corporation to its economic benefit since he had not voted on either the contract between the complainant's business and the municipality or the municipality's issuance of a liquor license to the complainant's business. Matter of Bowman, Indep. Ethics Comm'n Complaint 20-18.

**And there is no violation of subsection (3)(a) where there was no evidence that city council member derived a personal or private benefit above and beyond that of the general public as a result of his vote on the land-purchase matter before the city council.** Matter of Kasper, Indep. Ethics Comm'n Complaint 20-22.

**Member of town's board of trustees violated subsection (3)(a)** when he voted to retain all of the town employees, including his wife who was the town clerk. In re Ricotta, Indep. Ethics Comm'n Complaint 17-31.

**County commissioner violated subsection (3)(a) by failing to disclose his personal or private interest in the issue of overtime pay to employees of the county public health agency,** by failing to recuse himself from voting, and by attempting to influence his fellow commissioners in voting on the matter knowing his wife was the primary beneficiary of that vote and the commissioner therefore stood to benefit financially by the board's approval of the overtime pay. Matter of Flower, Indep. Ethics Comm'n Complaint 20-73.

**County planning commission's members' roles on local nonprofit boards do not constitute a conflict of interest under subsection (5)(a),** because members of the county planning commission are not members of "the governing body of a local government", which, for a county, is the board of county commissioners, and because the master plan recommended by the members of the county planning commission is an advisory document with broad recommendations that do not directly and substantially affect the nonprofits. Indep. Ethics Comm'n Letter Ruling 24-01.

#### **24-18-110. Voluntary disclosure.**

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the

time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

**Source: L. 88:** Entire article added, p. 904, § 1, effective July 1. **L. 91:** Entire section amended, p. 838, § 4, effective March 29.

**24-18-111. Powers of the secretary of state. (Repealed)**

**Source: L. 88:** Entire article added, p. 904, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1404), ch. 405, p. 2003, § 2, effective June 10.

**24-18-112. Board of ethics for the executive branch - created - duties.**

(1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.

(2) The board of ethics for the executive branch shall:

(a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;

(b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;

(c) Make written recommendations to the governor concerning his requests; and

(d) Review appeals brought before the board of ethics pursuant to section 24-30-1003 (4).

**Source: L. 88:** Entire article added, p. 905, § 1, effective July 1. **L. 94:** (2) amended, p. 1249, § 2, effective July 1.

**24-18-113. Board of ethics for the general assembly - created - duties.**

(1) (a) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(b) The terms of the members appointed by the majority and minority leaders of the house of



representatives and the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the majority and minority leaders of the house of representatives and the senate shall each appoint or reappoint members in the same manner as provided in paragraph (a) of this subsection (1). Thereafter, the terms of members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the majority and minority leaders of the house of representatives and the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall continue in office until the member's successor is appointed.

(c) The members of the board of ethics for the general assembly are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, C.R.S.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

**Source: L. 88:** Entire article added, p. 905, § 1, effective July 1. **L. 2007:** (1) amended, p. 181, § 13, effective March 22. **L. 2014:** (1)(c) added, (SB 14-153), ch. 390, p. 1963, § 13, effective June 6.

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