

COLORADO LAW PERTAINING TO PUBLIC TRUST

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COLORADO CRIMINAL STATUTES PERTAINING TO GOVERNMENTAL OPERATIONS AND GOVERNMENTAL CONTRACTING

C.R.S. Section 18-8-101 (Same as 18-1-901 and Amendment 41)

- a) "Government" includes the United States, any state, county, municipality or other political unit, any branch, department, agency or subdivision of the foregoing, and any corporation or other entity established by law to carry out any governmental function. (Includes private quasi-governmental corporations such as an Urban Renewal Project. *People v. Bailey*, 617 P.2d 549 (Colo. 1980))
- b) "Governmental Function" means any activity which a public servant is legally authorized to undertake on behalf of government.
- c) "Public Servant" means any elected or appointed officer or employee of government or person performing governmental functions as advisor or consultant.
- d) "Government Employee" means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or any local government, except a member of the general assembly or a public officer. Colo. Const. art. XXIX, § 2.
- e) "Local Government Official" means an elected or appointed official of a local government but does not include an employee of a local government. A "person" means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity. Colo. Const. art. XXIX, § 2.

Section 18-8-102 OBSTRUCTING GOVERNMENT OPERATIONS

Committed by intentionally interfering in or obstructing performance of governmental function by public servant by use of or threat of force or physical interference. (Class 3 misdemeanor).

Section 18-8-113 IMPERSONATING A PUBLIC SERVANT

Committed by falsely pretending to be a public servant. (Class 3 misdemeanor).

Section 18-8-114 ABUSE OF PUBLIC RECORDS

Committed by making false entry or altering of public record or by destroying or removing public record with knowledge that there is no authority to do so, or by knowingly refusing to deliver public record upon proper request. (Class 1 misdemeanor).

Public record includes all official books, papers, or records created, received or used by any governmental office or agency. Does not include applications for governmental employment or to state school. Does include state civil service exam.

Section 18-8-302 **BRIBERY**

- a) Committed by a person who offers, confers or agrees to confer a pecuniary benefit on a public servant with intent to influence public servant's vote, opinion, judgment or exercise of discretion, or other action taken in official capacity.
- b) Committed by public servant by soliciting, accepting, or agreeing to accept a pecuniary benefit with agreement or understanding that his vote, opinion, judgment or exercise of discretion or official action will be influenced thereby. (Class 3 felony).

Contrast with Section 18-5-401, Commercial Bribery, which pertains to fiduciary, corporate officers, professional advisors, labor union officers, arbitrators, appraisers, etc. who violate duty of fidelity.

"Pecuniary Benefit" means money, property, commercial interests or anything else involving economic gain. Section 18-8-301(3).

Section 18-8-303 **COMPENSATION FOR PAST OFFICIAL BEHAVIOR**

Committed by a public servant by soliciting, accepting or agreeing to accept pecuniary benefit as compensation for having given a decision, opinion, recommendation or vote favorable to another or exercised discretion in favor of another whether or not such action violated his duty. (Class 6 felony).

Section 18-8-304 **SOLICITING UNLAWFUL COMPENSATION**

Committed by a public servant who requests a pecuniary benefit for performance of official action which was required without additional compensation or at a lower level of compensation. (Class 2 misdemeanor).

Section 18-8-305 **TRADING IN PUBLIC OFFICE**

- a) Committed by conferring a pecuniary benefit upon a public servant or party officer upon agreement or understanding that a particular person will be appointed to or nominated for a public office.
- b) Committed by public servant or party officer by soliciting or accepting a pecuniary benefit from another upon an agreement or understanding that a particular person will be appointed to or nominated for public office. (Class 1 misdemeanor).

Person offering pecuniary benefit need not be one appointed or nominated.

Exception for customary campaign contributions to political committee or political party. (Emphasis added).

Section 18-8-306 ATTEMPT TO INFLUENCE PUBLIC SERVANT

Committed by attempting to influence action of public servant by means of deceit, threat of violence, or economic reprisal against any person or property. (Class 4 felony).

Section 18-8-307 DESIGNATION OF SUPPLIER PROHIBITED

Committed by public servant by requiring bidder or contractor to deal with a particular supplier in submitting a bid or fulfilling a government contract. (Class 6 felony).

Any provision in invitation to bid or in contract documents to the contrary is void as against public policy.

Public servant acting within scope of authority may exercise right to reject supplier tendered by bidder or contractor because supplier does not meet bona fide specifications or contract requirements or based on legitimate experience with supplier.

Section 18-8-308 FAILING TO DISCLOSE A CONFLICT OF INTEREST

Committed by public servant who fails to give 72 hours actual advance written notice to Secretary of State and to governing body which employs public servant of the existence of a known potential conflicting interest before exercising substantial discretionary function in connection with a governmental contract or other pecuniary transaction. (Class 2 misdemeanor).

Potential conflicting interest includes being officer or director in or owning or controlling directly or indirectly a substantial interest in any non-governmental entity which is participating in the transaction.

Section 18-8-402 MISUSE OF OFFICIAL INFORMATION

Committed by public servant who acquires pecuniary interest in property, transaction or enterprise or speculates or wagers or advises others to do so in contemplation of action by himself or other governmental unit or based on non-public information he has access to in his official capacity. (Class 6 felony).

Section 18-8-404 FIRST DEGREE OFFICIAL MISCONDUCT

Committed by a public servant who, with intent to obtain benefit for himself or another or maliciously cause harm to another, knowingly;

- a) Commits act constituting unauthorized exercise of official function,
- b) Refrains from performing a duty imposed by law,
- c) Violates any statute or lawful adopted regulation pertaining to his office. (Emphasis added)(Class 2 misdemeanor).

Section 18-8-405 **SECOND DEGREE OFFICIAL MISCONDUCT.**
(Previously known as Malfeasance in Office.)

Committed by a public servant who knowingly and arbitrarily refrains from performing duty imposed by law or violates any statute or lawfully adopted regulation pertaining to his office. (Class 1 petty offense).

Section 18-8-406 **ISSUING A FALSE CERTIFICATE**

Committed by a public servant authorized by law to issue official certificates by making or issuing certificate containing statement which he knows to be false. (Class 6 felony).

Section 18-8-407 **EMBEZZLEMENT OF PUBLIC PROPERTY**

Committed by public servant who knowingly converts any public money or property of whatever description to his own use or any use other than the authorized public use. (Emphasis added). (Class 5 felony).

Fraudulent intent is not an element of the offense. *People v. Mcknight*, 567 P.2d 811, 812-813 (Colo. 1977).

Anyone convicted is barred from holding any public office in state.

Federal moneys deposited in state treasury or subdivision of State is public money.

Unauthorized use of government equipment for personal gain is a violation.

Section 18-8-408 **DESIGNATION OF INSURER PROHIBITED**

Committed by public servant by requiring bidder on public building or construction contract which is competitively bid to obtain surety bond or contract of insurance from a particular insurer, agent or broker. (Class 1 petty offense).

Any provisions in invitation to bid or in contract documents to contrary are void as against public policy.

Public servant may reject surety bond or contract of insurance selected by bidder on basis of its form or sufficiency or financial capability of insurer.

**COLORADO CONSTITUTIONAL PROVISIONS AND CIVIL STATUTES
PERTAINING TO STANDARDS OF CONDUCT AND ETHICS OF
GOVERNMENT OFFICIALS AND EMPLOYEES**

Conduct that violates the public trust or creates a justifiable impression among members of the public that such trust is being violated must be avoided. Any effort to realize personal financial gains through public office other than compensation provided by law is considered a violation of that trust. Colorado law addresses the public trust in Amendment 41 and Title 24.

AMENDMENT 41

The Colorado Constitution was amended in 2006 by Amendment 41, which became Article XXIX of the Constitution entitled “Ethics in Government” and Title 24, Article 18, entitled "Code of Ethics” set forth rules of conduct and ethical principles for public officials and public employees. Article XXIX preempts any inconsistent or conflicting provisions in the state statutes. Colo. Const. art. XXIX, § 8. The purpose of Article XXIX is to ensure the public trust by setting specific standards of conduct for public officers, members of the general assembly, local government officials, and government employees, and a penalty mechanism to enforce those standards. Colo. Const. art. XXIX, § 1.

Article XXIX definitions: (Same as 18-8-101 and 18-1-901)

- a) “Government Employee” means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or any local government, except a member of the general assembly or a public officer. Colo. Const. art. XXIX, § 2.

- b) “Local Government Official” means an elected or appointed official of a local government but does not include an employee of a local government. A “person” means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity. Colo. Const. art. XXIX, § 2.

CONSEQUENCES FOR BREACH OF THE PUBLIC TRUST

Article XXIX of the Colorado Constitution addresses the penalty for the breach of the public trust. Colo. Const. art. XXIX, § 6. A public official or government employee who breaches the public trust for private gain or any person inducing such a breach is liable to the state or local jurisdiction for double the amount of the financial equivalent of any benefits obtained by such actions.

Conduct that violates the public trust or creates a justifiable impression among members of the public that such trust is being violated must be avoided. Any effort to realize personal financial gains through public office other than compensation provided by law is considered a violation of that trust.

The consequences for breach of the public trust by violating the rules of conduct in H.B. 1209 are set forth in Section 24-18-103. First, any public officer, 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". This would typically constitute a refund of any ill gotten gain and reimbursement to the governmental entity of any financial loss occasioned by the breach of fiduciary duty. Secondly, the District Attorney is empowered to "bring appropriate judicial proceedings on behalf of the people", presumably to recover any loss to the governmental entity or ill gotten gain by the governmental official or employee. Finally, it is made clear that any civil proceedings under this section are "in addition to any criminal action which may be brought".

LIMITATION ON POST PUBLIC SERVICE EMPLOYMENT

A statewide elected officeholder or member of the general assembly may not represent another person or entity for compensation before any other statewide elected officeholder or member of the general assembly for a period of two years after vacating office. Colo. Const. art. XXIX, § 4.

RECEIPT OF GIFTS

No public officer, member of the general assembly, local government official, or government employee may receive money, forbearance, or forgiveness of a debt without receiving lawful consideration of an equal or greater amount in return. Colo. Const. art. XXIX, § 3. A public official or government employee may not receive from a person directly, or indirectly through a spouse or dependent child, a gift or thing of value having a fair market value of greater than fifty dollars in any calendar year without the person receiving valuable consideration of equal or greater value in return. This includes gifts, loans, favors or services, honoraria, travel, entertainment or special discounts.

No professional lobbyist may give to any public official or government employee, or that person's immediate family, any thing of value of any nature. A lobbyist may not pay for any meal, beverage, or other item to be consumed by the public official or government employee, whether or not it is given in the course of the lobbyist's business or in connection with a personal or social event.

Although less precise, the regulation of gift-taking by local government officials and employees is contained in Section 24-18-104(1)(b), which states that they shall not,

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.

Also, under Section 24-18-104(2),

An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate than currently prevalent for similar loans and compensation received for private services tendered at a rate substantially exceeding the fair market value of such services. *See also* §24-18-104(3), C.R.S. *infra*.

AMENDMENT 41 ETHICS COMMISSION

Article XXIX created an independent ethics commission composed of five appointed members to hear complaints, issue findings, assess penalties, and issue advisory opinions on ethics issues arising under the article. Colo. Const. art. XXIX, § 5. This commission was established in the office of administrative courts in the department of personnel. § 24-18.5-101(2)(a), C.R.S. (2009). The commission has authority to adopt rules necessary for administering and enforcing the provisions of Article XXIX and any other standards of conduct and reporting requirements as provided by law. The Independent Ethics Commission (IEC) has issued several position statements and advisory opinions about ethical issues arising under Article XXIX since it was added to the Constitution. IEC Opinions, available at:

<http://www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1225277043918>.

Definition of a Person

The IEC holds that a government agency is a person within the meaning of Article XXIX, so a public official or employee may not accept gifts with a value of over fifty dollars from governmental agencies or institutions, unless the gifts falls under another exception. IEC Position Statement 09-04.

Acceptable Gifts or Things of Value

In most circumstances, a public official or government employee, or that person's spouse or dependent child, may accept a scholarship without giving lawful consideration of equal or greater value in return. IEC Position Statement 08-01. Most scholarships are

conditioned on some sort of future performance which, in the IEC's opinion, constitutes lawful consideration.

Public employees and officials generally may accept honoraria for speaking before business or civic groups or writing publications. Honoraria of more than fifty dollars may be received if the speech or publication is not part of the person's official duties; public resources are not used to prepare the speech or publication; government time is not used in preparation or delivery of the speech or publication; the amount of the honorarium is reasonably related to the services the public official or employee is asked to perform; and neither the sponsor of the speech nor the source of the honorarium is a person or entity with whom the public official or employee has had, or expects to have, dealings in his or her official capacity.

A government official or employee may receive other items of value as long as appropriate consideration has been given or the item is received as the result of a personal relationship and not the person's official capacity. The controlling factor is whether the gift has the potential to influence official action. Acceptable items of value that a government official or employee may receive include insurance proceeds, inheritances, lottery and silent auction winnings, and things of value given by relatives or personal friends. A government official or employee may also receive offers of future employment as long as these offers are not excessive relative to market demands and there is nothing to indicate a conflict of interest. IEC Position Statement 09-03.

Although "special discount" is not defined in Article XXIX, the IEC does not consider the receipt of a commercial discount broadly available to others as a violation of the public trust. IEC Position Statement 08-03. The IEC believes that a "special discount" refers to a discount targeted to a government official or small group of employees where there is a potential to influence government action.

Travel Expenses

The payment of travel expenses is not a gift under Article XXIX if five conditions are met: (1) the travel is for a legitimate government purpose related to the person's official position; (2) the travel arrangements are appropriate to that purpose, for example, they are similar to that of others attending; (3) the trip is no longer than is reasonably necessary; (4) the person traveling is not currently or will not in the foreseeable future be in a position to take direct official action with respect to the donor; and (5) there is verification that the government official or employee is in compliance with conditions (1) through (4). IEC Position Statement 08-02. If those conditions are met, the payment of travel expenses is considered a gift to the state rather than the individual government official or employee.

Lobbyists

The IEC recognizes Article XXIX's absolute ban on gifts from lobbyists of any value. IEC Position Statement 09-01. This would include a lobbyist paying for lunch for a

public official or government employee. IEC Letter Ruling 09-01. The IEC believes, however, that this prohibition does not extend to organizations or groups that might be represented by a professional lobbyist or whose industry may be represented by a professional lobbyist. IEC Position Statement 09-01. In these situations, the other provisions of Article XXIX would apply, such as the \$50 gift threshold and any relevant exceptions, such as the exception for food consumed at a meeting when the recipient is part of the scheduled program.

Not-For-Profit Entities

A not-for-profit entity may host an annual luncheon, but unless a government official or employee is appearing to speak or answer questions as part of a scheduled program, the value of the meal and beverages is included in the aggregate value of all gifts from this entity. IEC Letter Ruling 09-02. For attendees the value of all gifts must be less than fifty dollars for the entire calendar year, but a speaker may accept admission to the event and a meal without regard to their value. In the IEC's opinion, this is permissible because the government official or employee who speaks or answers questions gives lawful consideration for the meal. A government official or employee who serves on a board of a nonprofit, non-lobbyist entity may also accept meals during meetings because his or her service is considered lawful consideration. IEC Letter Ruling 09-03.

C.R.S. 24-18-101, et seq.

LEGISLATIVE DECLARATION AND DEFINITIONS

The legislative declaration contained in C.R.S. Section 24-18-101 acknowledges 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". It appears the term "private interest", which is undefined in the Act, equates with a "financial interest" which is defined in Section 24-18-102(4) as:

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 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.

The broad language contained in the definition of a "financial interest" gives overall impetus to the Act by covering such diverse topics as business relationships, employment opportunities, creditor/debtor scenarios, and both real and personal property concerns.

FINANCIAL INTERESTS

The absolute rules of conduct which prohibit local government officials from acting to benefit their financial interests are contained in Sections 24-18-104 and -109. Specifically, a county official or employee shall not: (1) "disclose or use confidential information acquired in the course of his official duties in order to further substantially

(sic) his personal financial interests"; or (2) "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"; or (3) "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".

VOTING

An expansive prohibition on members of the local government board voting in matters where they have a private interest is contained in Section 24-18-109(3)(a) which states:

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.

However, if the board vote is a tie or a quorum is needed, an otherwise disqualified board member may vote under Section 24-18-109(3)(b) which provides that:

A member of the governing body of 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.

WHAT IS NOT PROHIBITED

The Colo. Const. art. XXIX prohibition does not apply if the gift or thing of value is a campaign contribution as defined by law; an unsolicited item of trivial value less than fifty dollars such book or plant; an unsolicited token of appreciation such as a trophy or wall memento; unsolicited informational material or subscriptions related to the recipient's performance of official duties; admission to and the cost of food or beverages served at a reception or meeting by an organization before whom the recipient appears to speak as part of a scheduled program; or reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, or represent the state or local government, provided that the nonprofit organization receives less than five percent of its funding from for-profit organizations. The prohibition also does not apply if the thing of value is given by a relative or personal friend on a special occasion or is compensation given in the normal course of employment.

Section 24-18-104(3) also provides guidance as to what does not constitute gifts of substantial value, stating,

The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

- a) Campaign contributions reported as required by law;
- b) An occasional non-pecuniary gift, insignificant in value;
- c) A non-pecuniary award publicly presented by a non-profit organization in recognition of public service;
- d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;
- e) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;
- f) Items of perishable or non-permanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;
- g) Payments for speeches, debates, or other public events, reported as honorariums.

VOLUNTARY DISCLOSURE

In order to safely avoid any civil liability or criminal action (under C.R.S. 18-8-308), one should voluntarily disclose any actual or potential conflict of interest before it becomes an issue.

Under Section 24-18-110, a public officer, local government official, or an employee may, "Prior to acting in a manner which may impinge on his fiduciary duty and in the public trust, disclose the nature of his private interest".

Disclosure shall be made "in writing to the Secretary of State, listing the amount of his financial interest, if any, the purpose and duration of the services tendered, if any, 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 facts and summary nature of the interest disclosed at the time of performing the act". The encouragement to the local government official or employee to make a disclosure is the fact that "such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction".

It appears that with contracts, disclosure should be made both to the Secretary of State and to the governing body in order to satisfy the provisions of both Section 24-18-110

and Section 24-18-201(b)(V).

It is interesting to contrast the expansive prohibition on voting and disclosure of conflicts of interest in 24-18-109(3)(a) and 24-18-110, with the criminal statute for failing to disclose a conflict of interest, Section 18-8-308(1). Criminal liability attaches for non-disclosure of a conflict of interest only where the government official or employee is an officer or owns a substantial interest in an entity involved in the... transaction. A civil action could lie under 24-18-109(3)(a) where the voting person fails to disclose any financial interest in any matter proposed or pending before the governing body.

ETHICAL PRINCIPLES

Apart from the absolute rules of conduct regarding prohibition over financial interests, voting, and receipt of gifts, as set forth above, H.B. 1209 also set forth non-binding ethical principles or guidelines for public servants.

Section 24-18-105, entitled "Ethical Principles for Public Officers, Local Government Officials, and Employees", begins by stating that these principles are intended as guides to conduct and do not constitute violations of the public trust. Under this section, public officers, local government officials, or employees are admonished to not: (1) "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"; (2) "within six months following the termination of his office or employment, obtain employment in which he shall 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"; (3) "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".

Although these ethical principles do not absolutely constrain behavior, elected public officials and employees risk the appearance of impropriety if they act contrary to these provisions.

CONTRACTS AND CLAIMS

Title 24, Article 18, Part 2, is entitled "Prohibited Acts Related to Contracts and Claims". The prohibition states that local government officials and employees "shall not be interested in any contract made by them in their official capacity or by any body, agency or board of which they are members or employees. A former employee may not, within six months following the termination of his employment, contract or be employed by an employer who contracts with . . . any local government involving matters with which he was directly involved during his employment". C.R.S. Section 24-18-201(1).

Clearly, this provision could lead to invalidation of otherwise legitimate contracts with the county. Therefore, part two also incorporates the disclosure and abstention rules for voting set forth above. Full disclosure is a defense to a civil claim.

This part two further allows certain types of contracts where a public servant has an interest. First, to "be interested in" does not include holding a minority interest in a corporation. Second, a "contract" does not include: (1) "contracts awarded to the lowest responsive bidder based on competitive bidding procedures"; (2) "merchandise sold to the highest bidder at public auctions"; (3) "investments or deposits in financial institutions which are in the business of loaning or receiving moneys"; (4) "a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract". (The presumption that a local government could not reasonably afford itself of the subject of a contract requires that it would cost more than 10% to contract with a non-interested party, or that a contract for services could not otherwise be performed within a reasonable time by a non-interested party.); (5) "A contract with respect to which a local government official or employee has disclosed a personal interest and has not voted thereon or with respect to which any member of the governing body of a local government has voted thereon in accordance with Section 24-18-109(3)(b)" (to get a quorum or break a tie). For local government officials and employees such disclosure must be made to the governing body.

Next, Section 24-18-202 prohibits public officers and local government officials from being purchasers at any sale or vendors at any purchase made by them in their official capacity.

Under Section 24-18-203, every contract made in violation of this provision is voidable at the instance of any party to the contract except the officer interested therein.

RECOMMENDATIONS

Every governmental official, board member, or employee should take time to consider what constitutes his/her "private interest" of a financial nature, including: business ownership, creditor/debtor relationships, real or personal property ownership, and any directorship, officership or general manager positions in any business or profit entity. If there is any doubt in a public servant's mind about whether their "private interest" is affected by a county action, the County Attorney's Office should be contacted well in advance in regard to advice as to abstention from voting or acting or making necessary disclosure.

Before accepting gifts of anything other than those of a clearly de minimis nature, county officials or board members or employees should contact their county attorney for advice concerning the propriety of accepting the gift.

When terminating their association with a governmental entity and entering a similar area

in the private sector, officials, board members, and employees should purposefully avoid being involved in matters during the first six months after their termination which would take unfair advantage of matters with which he or she was directly involved during his or her government service.

Finally, and most importantly, when in doubt about the propriety of any action, always err on the side of full disclosure. Remember that full and proper disclosure constitutes a valid defense to any subsequent civil or criminal proceeding.