



St. Johns County
Office of the County Attorney

Voting Conflict and Gift Laws for County Officials

Presented by

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Definitions

(Per §112.3143, Fla. Stat.).

- “Public Officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.
- “Relative” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.



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Special Private Gain or Loss

“Special private gain or loss” means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.



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Special Private Gain or Loss, cont'd

This definition is a new definition which was included in Senate Bill 2, which was passed by the Florida Legislature, and became effective on May 1, 2013.



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Voting Conflict Rules

- No elected county officer may vote upon any measure which would inure to the special private gain or loss of:
 - i. The County Officer
 - ii. The Officer's Employer
 - iii. A parent's organization or subsidiary of the officer's corporate employer
 - iv. The officer's relative, or
 - v. Business associate of the county officer



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Voting Conflict Rules cont'd

- If a voting conflict exists, such elected officer shall, prior to the vote being taken, publicly state to the assembly the nature of the conflict of interest and shall within 15 days after the vote occurs disclose the notice of his or her interest in a public record memorandum filed with the clerk of the body (Form 8B).



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Voting Conflict Rules cont'd

- No appointed county officer shall participate without first disclosing the nature of his or her interest in any matter which would inure to the special private gain or loss of:
 - i. The appointed county officer
 - ii. A principal of the officer's employer
 - iii. The parent organization or subsidiary of a corporate principal whom the officer is retained
 - iv. The officer's relative, or
 - v. Business associate of the county officer



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Voting Conflict Rules cont'd

- Such disclosure shall be made by memorandum filed as public record with the Clerk which shall be immediately provided to the other members and which shall be read at the next official meeting of the body. (See §112.3143 (4), Fla. Stat).
- Whenever a public officer or former public officer is considered for appointment or reappointment, the number and matter of such memoranda shall be considered. §112.3143 (6), Fla. Stat.



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Gifts

- Public officers are subject to state laws regarding the solicitation and acceptance of certain gifts.
- In some instances, gift acceptance or solicitation is completely prohibited. In other instances, gifts may be accepted, but must be reported to the Commission on Ethics.



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- Public officers are prohibited from soliciting or accepting anything of value to the recipient based on any understanding that the vote, official action, or judgment of the official would be influenced thereby.
 - Examples include loans, promises of future employment, services, favors, etc.
 - Such a situation essentially amounts to bribery and requires a quid pro quo.



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- Public officers and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when the official knows, or with the exercise of reasonable care, should know that it is given to influence a vote or other action in which the official was expected to participate in his/her official capacity.
- Public officers are also prohibited from knowingly accepting a gift which he or she knows or reasonably believes has a value exceeding \$100 from a lobbyist who lobbies the official's agency.
- Public officers are prohibited from soliciting any gift from a lobbyist.



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- Other gifts are acceptable, however, any gift worth over \$100 must be reported quarterly to the Commission on Ethics.
- Alternatively, a public official can pay back the value of the gift (or partially pay back so the net value received does not exceed \$100) within 90 days of acceptance of the gift. If such action is taken, the gift does not have to be reported.
- Any gift from a lobbyist that exceeds \$25 must also be reported by the lobbyist on a quarterly basis.
 - Remember that no gift worth more than \$100 can be accepted from a lobbyist
- These provisions only apply to gifts that are not otherwise prohibited under the previously discussed prohibitions.



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Form 9 – Quarterly Gift Disclosure

- Florida Commission on Ethics Form 9 must be submitted for any calendar quarter in which a Public Official accepted a reportable gift.
- Any permissible gift with a value in excess of \$100 must be reported on this form.
- The form must be filed with the Commission no later than the last day of the calendar quarter that follows the calendar quarter for which the form is filed.



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References

- Anderson III, C. Christopher, *Conflicts of Interest, Financial Disclosure, Gift Laws, Postemployment Restrictions, Voting Conflicts, and More, Under Part III, Chapter 112, Florida Statutes (Code of Ethics for Public Officers and Employees)*, August 2012
- Florida Statutes, 2014, and Chapter 2013-36, Laws of Florida

