

CHAPTER 50: STATE GIFT BAN

Flagg Creek Water Reclamation District - State Gift Ban

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' 50-1.01 STATE GIFT BAN ACT ADOPTED.

The gift ban provisions of the State Officials and Employees Ethics Act (5 ILCS 430/10-10 et seq.) (the Act) are hereby adopted.
(Ord. 717, passed 7-22-1999)

' 50-1.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPAIGN FOR ELECTIVE OFFICE. Any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, state or local public office or office in a political organization, or the selection, nomination or election of presidential or vice-presidential electors, but does not include activities:

- (1) Relating to the support or opposition of any executive, legislative or administrative action;
- (2) Relating to collective bargaining; or
- (3) That are otherwise in furtherance of the person=s official duties.

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CANDIDATE. A person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Election Code ' 1-3 (10 ILCS 5/1-3).

COLLECTIVE BARGAINING. Has the same meaning as that term is defined in the Illinois Public Labor Relations Act ' 3 (5 ILCS 315/3).

COMPENSATED TIME. With respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but, for purposes of this Ordinance 858, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, **COMPENSATED TIME** includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

COMPENSATORY TIME OFF. Authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

CONTRIBUTION. Has the same meaning as that term is defined in the Election Code ' 9-1.4 (10 ILCS 5/9-1.4).

EMPLOYEE. A person employed by the Flagg Creek Water Reclamation District, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

EMPLOYER. The Flagg Creek Water Reclamation District.

GIFT. Any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value, including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

LEAVE OF ABSENCE. Any period during which an employee does not receive:

- (1) Compensation for employment;
- (2) Service credit towards pension benefits; and
- (3) Health insurance benefits paid for by the employer.

OFFICER. A person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

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POLITICAL ACTIVITY. Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:

- (1) Relating to the support or opposition of any executive, legislative or administrative action;
- (2) Relating to collective bargaining; or
- (3) That are otherwise in furtherance of the person=s official duties.

POLITICAL ORGANIZATION. A party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a County Clerk under the Election Code ' 9-3 (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a County Clerk.

PROHIBITED POLITICAL ACTIVITY.

- (1) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;
- (2) Soliciting contributions, including, but not limited to, the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event;
- (3) Soliciting, planning the solicitation of or preparing any document or report regarding anything of value intended as a campaign contribution;
- (4) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;
- (8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question;
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;

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(10) Preparing or reviewing responses to candidate questionnaires;

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;

(12) Campaigning for any elective office or for or against any referendum question;

(13) Managing or working on a campaign for elective office or for or against any referendum question;

(14) Serving as a delegate, alternate or proxy to a political party convention; and/or

(15) Participating in any recount or challenge to the outcome of any election.

PROHIBITED SOURCE. Any person or entity who:

(1) Is seeking official action:

(a) By an officer; or

(b) By an employee, or by the officer or another employee directing that employee.

(2) Does business or seeks to do business:

(a) With the officer; or

(b) With an employee, or with the officer or another employee directing that employee.

(3) Conducts activities regulated:

(a) By the officer; or

(b) By an employee, or by the officer or another employee directing that employee.

(4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.
(Ord. 858, passed 5-18-2012)

' 50-1.03 PROHIBITED POLITICAL ACTIVITY.

(A) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the District in connection with any prohibited political activity.

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(B) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity:

- (1) As part of that officer or employee's duties;
- (2) As a condition of employment; or
- (3) During any compensated time off (such as holidays, vacation or personal time off).

(C) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(D) Nothing in this section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Ordinance 858.

(E) No person either (a) in a position that is subject to recognized merit principles of public employment or (b) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the *Federal Standards for a Merit System of Personnel Administration* applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party or of a political organization or club.
(Ord. 858, passed 5-18-2012)

' 50-1.04 GIFT BAN.

Except as permitted by this chapter, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as Recipients@), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this section.

(Ord. 858, passed 5-18-2012)

' 50-1.05 GIFT BAN; EXCEPTIONS.

(A) Section 50-1.04 is not applicable to the following:

(1) Opportunities, benefits and services that are available on the same conditions as for the general public;

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(2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value;

(3) Any:

(a) Contribution that is lawfully made under the Election Code; or

(b) Activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions;

(5) Travel expenses for a meeting to discuss business;

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister and including the father, mother, grandfather or grandmother of the individual=s spouse and the individual=s fiancé or fiancée;

(7) (a) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship.

(b) In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as:

1. The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

2. Whether, to the actual knowledge of the recipient, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

3. Whether, to the actual knowledge of the recipient, the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(8) (a) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are:

1. Consumed on the premises from which they were purchased or prepared; or

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2. Catered.

(b) For the purposes of this section, **CATERED** means food or refreshments that are purchased ready to consume which are delivered by any means.

(9) Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances;

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, **INTRA-GOVERNMENTAL GIFT** means any gift given to an officer or employee from another officer or employee, and **INTER-GOVERNMENTAL GIFT** means any gift given to an officer or employee by an officer or employee of another governmental entity;

(11) Bequests, inheritances and other transfers at death; and

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

(B) Each of the exceptions listed in this section is mutually exclusive and independent of every other.

(Ord. 858, passed 5-18-2012)

' 50-1.06 GIFT BAN; DISPOSITION OF GIFTS.

An officer or employee, his or her spouse or an immediate family member living with the officer or employee does not violate this Ordinance 858 if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under I.R.C. ' 501(c)(3), as now or hereafter amended, renumbered or succeeded.

(Ord. 858, passed 5-18-2012)

' 50-1.07 ETHICS ADVISOR; DESIGNATION.

The Executive Director, with the advice and consent of the Board of Trustees, shall designate an Ethics Advisor for the District. The duties of the Ethics Advisor may be delegated to an officer or employee of the District unless the position has been created as an office by the District.

(Ord. 858, passed 5-18-2012)

Flagg Creek Water Reclamation District - State Gift Ban**' 50-1.08 ETHICS ADVISOR; DUTIES.**

The Ethics Advisor shall provide guidance to the officers and employees of the District concerning the interpretation of and compliance with the provisions of this Ordinance 858 and state ethics laws. The Ethics Advisor shall perform such other duties as may be delegated by the Board of Trustees.
(Ord. 858, passed 5-18-2012)

' 50-1.09 ETHICS COMMISSION; CREATION.

(A) There is hereby created a commission to be known as the Ethics Commission of the Flagg Creek Water Reclamation District. The Commission shall be comprised of three members appointed by the Board of Trustees.

(B) At the first meeting of the Commission, the Commissioners shall choose a Chairperson from their number. Meetings shall be held at the call of the Chairperson or any two Commissioners. A quorum shall consist of two Commissioners, and official action by the Commission shall require the affirmative vote of two members.
(Ord. 858, passed 5-18-2012)

' 50-1.10 ETHICS COMMISSION; REMOVAL AND VACANCIES.

The Board of Trustees may remove a Commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the Commissioner by certified mail, return receipt requested, of a copy of the written charges against the Commissioner and after providing an opportunity to be heard in person or by counsel upon not less than ten days= notice. Vacancies shall be filled in the same manner as original appointments.
(Ord. 858, passed 5-18-2012)

' 50-1.11 ETHICS COMMISSION; POWERS AND DUTIES.

The Commission shall have the following powers and duties:

(A) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers;

(B) Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions, impose fines in accordance with ' 29-1.09(C) and refer violations of " 5-1.03 or 50-1.04 to 50-1.06 to the appropriate attorney for prosecution. The Commission shall, however, act only upon the receipt of a written complaint alleging a violation of this Ordinance 858 and not upon its own prerogative;

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(C) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Ordinance 858;

(D) To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the District to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Commission shall constitute grounds for discipline or discharge; and

(E) The powers and duties of the Commission are limited to matters clearly within the purview of this Ordinance 858.

(Ord. 858, passed 5-18-2012)

' 50-1.12 ETHICS COMMISSION; COMPLAINTS.

(A) Complaints alleging a violation of this Ordinance 858 shall be filed with the Ethics Commission.

(B) Within three business days after the receipt of a complaint, the Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within three business days after receipt by the Commission. The notices to the respondent and the complainant shall also advise them of the date, time and place of the meeting to determine the sufficiency of the complaint and to establish whether probable cause exists to proceed.

(C) (1) Upon not less than 48 hours= public notice, the Commission shall meet to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Ordinance 858, to determine whether there is probable cause, based on the evidence presented by the complainant, to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. The Commission shall issue notice to the complainant and the respondent of the Commission=s ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed within seven business days after receiving the complaint.

(2) If the complaint is deemed sufficient to allege a violation of " 50-1.04 to 50-1.06 and there is a determination of probable cause, then the Commission=s notice to the parties shall include a hearing date scheduled within four weeks after the complaint=s receipt. Alternatively, the Commission may elect to notify, in writing, the attorney designated by the Board of Trustees to prosecute such actions and request that the complaint be adjudicated judicially. If the complaint is deemed not sufficient to allege a violation or if there is no determination of probable cause, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

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(3) If the complaint is deemed sufficient to allege a violation of ' 50-1.03, then the Commission shall notify, in writing, the attorney designated by the corporate authorities to prosecute such actions and shall transmit to the attorney the complaint and all additional documents in the custody of the Commission concerning the alleged violation.

(D) On the scheduled date and upon at least 48 hours= public notice of the meeting, the Commission shall conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

(E) (1) Within 30 days after the date the hearing or any recessed hearing is concluded, the Commission shall either:

(a) Dismiss the complaint; or

(b) Issue a recommendation for discipline to the alleged violator and to the Board of Trustees, or impose a fine upon the violator, or both.

(2) The particular findings in the case, any recommendation for discipline and any fine imposed shall be a matter of public information.

(F) If the hearing was closed to the public, the respondent may file a written demand for a public hearing on the complaint within seven business days after the issuance of the recommendation for discipline or imposition of a fine, or both. The filing of the demand shall stay the enforcement of the recommendation or fine. Within 14 days after receiving the demand, the Commission shall conduct a public hearing on the complaint upon at least 48 hours= public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within seven days thereafter, the Commission shall publicly issue a final recommendation to the alleged violator and to the Executive Director, or impose a fine upon the violator, or both.

(G) If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision as required under division (E) above within seven days after the complaint is filed, and during the seven days preceding that election, the Commission shall render such decision before the date of that election, if possible.

(H) The Commission may fine any person who intentionally violates any provision of " 50-1.04 to 50-1.06 in an amount of not less than \$1,001 and not more than \$5,000. The Commission may fine any person who knowingly files a frivolous complaint alleging a violation of this Ordinance 858 in an amount of not less than \$1,001 and not more than \$5,000. The Commission may recommend any appropriate discipline up to and including discharge.

(I) A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

(Ord. 858, passed 5-18-2012)