HOUSE BILL No. 1786

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-2-6; IC 35-44-1-3.

Synopsis: Government ethics. Provides that the state ethics commission has jurisdiction over local officers and employees. Adds two members to the commission and requires at least two commission members to have knowledge of the operation of political subdivisions. Provides that the criminal conflict of interest statute applies to grants and loans made by a governmental entity under certain circumstances.

Effective: July 1, 1999.

Liggett

January 26, 1999, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1786

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this chapter, and unless the context clearly denotes otherwise:

(1) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of **a political subdivision or** the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state that chooses to be under the jurisdiction of the state ethics commission. The term does not include any of the following:

(A) The judicial department of state government.

(B) The legislative department of state government.

(C) A state educational institution (as defined in IC 20-12-0.5-1).

~~(D) A political subdivision.~~

~~(E)~~ **(D)** A private nonprofit government related corporation.

(2) "Appointing authority" means the chief administrative officer of an agency. The term does not include a state officer.

(3) "Assist" means to:

(A) help;

(B) aid;

(C) advise; or

(D) furnish information to;

a person. The term includes an offer to do any of the actions in clauses (A) through (D).

(4) "Business relationship" means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

(A) a pecuniary interest in a contract, **grant, loan,** or purchase with the agency; or

(B) a license or permit requiring the exercise of judgment or discretion by the agency.

(5) "Commission" refers to the state ethics commission created under section 2 of this chapter.

(6) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(7) "Covered person" refers to a person described in section 2.5 of this chapter.

~~(7)~~ **(8)** "Employee" means an individual, other than ~~a state~~ **an** officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services for more than thirty (30) hours a week for more than twenty-six (26) weeks during any one (1) year period.

~~(8)~~ **(9)** "Employer" means any person from whom ~~a state~~ **an** officer or employee or the officer's or employee's spouse received more than thirty-three percent (33%) of the officer's, employee's, or spouse's nonstate income in a year.

~~(9)~~ **(10)** "Financial interest" means an interest:

(A) in a purchase, sale, lease, contract, option, **grant, loan,** or other transaction between an agency and any person; or

(B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of ~~a state~~ **an** officer or employee in the common stock of a corporation unless the combined

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holdings in the corporation of the ~~state~~ officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any ~~state~~ officer or any ~~state~~ employee.

~~(10)~~ **(11)** "Information of a confidential nature" means information:

(A) obtained by reason of the position or office held; and

(B) which:

(i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);

(ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(iii) the information is not in a public record, but if it were, would be confidential.

(12) "Officer" refers to a state officer or an elected official of a political subdivision.

~~(11)~~ **(13)** "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

~~(12)~~ **(14)** "Political subdivision" means a county, city, town, township, school district, municipal corporation, special taxing district, or other local instrumentality. The term includes an officer of a political subdivision.

~~(13)~~ **(15)** "Property" has the meaning set forth in IC 35-41-1-23.

~~(14)~~ **(16)** "Represent" means to do any of the following on behalf of a person:

(A) Attend an agency proceeding.

(B) Write a letter.

(C) Communicate with an employee of an agency.

~~(15)~~ **(17)** "Special state appointee" means a person who is:

(A) not a state officer or employee; and

(B) elected or appointed to an authority, a board, a commission, a committee, a counsel, a task force, or other body designated by any name that:

(i) is authorized by statute or executive order; and

(ii) functions in a policy or an advisory role in the executive (including the administrative) department of state government, including a separate body corporate and politic.

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~~(16)~~ **(18)** "State officer" means any of the following:

(A) The governor.

(B) The lieutenant governor.

(C) The secretary of state.

(D) The auditor of state.

(E) The treasurer of state.

(F) The attorney general.

(G) The superintendent of public instruction.

~~(17)~~ **(19)** The masculine gender includes the masculine and feminine.

~~(18)~~ **(20)** The singular form of any noun includes the plural wherever appropriate.

SECTION 2. IC 4-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) There is created a state ethics commission.

(b) The commission is composed of ~~five (5)~~ **seven (7)** members appointed by the governor.

(c) ~~No~~ **Not** more than ~~three (3)~~ **four (4)** commission members shall be of the same political party. A person who:

(1) holds an elected or appointed office; ~~of the state;~~

(2) is employed by ~~the state;~~ **an agency;** or

(3) is registered as a lobbyist under IC 2-7-2-1;

may not be a member of the commission. **At least two (2) members of the commission must have knowledge of the operation of political subdivisions.**

(d) The governor shall designate one (1) member of the commission as the chairman. Each appointment to the commission is for a period of four (4) years. A vacancy shall be filled by the governor for the unexpired term.

~~(d)~~ **(e)** The governor and state budget agency shall provide such rooms and staff assistance as the commission may require.

SECTION 3. IC 4-2-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. The commission has jurisdiction over the following persons:

(1) A current or former ~~state~~ officer.

(2) A current or former employee.

(3) A person who has or had a business relationship with an agency.

(4) A special state appointee.

SECTION 4. IC 4-2-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. The commission shall adopt rules under IC 4-22-2 establishing a code of ethics for ~~the conduct of state~~

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~~business.~~ **covered persons.** The code of ethics must be consistent with state law.

SECTION 5. IC 4-2-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The commission may do any of the following:

(1) Upon a vote of ~~four (4)~~ **five (5)** members, or upon the written request of the governor, initiate and conduct an investigation.

(2) Receive and hear any complaint which alleges a violation of this chapter, a rule adopted under this chapter, or any other statute or rule governing official conduct of ~~state officers, employees, or special state appointees.~~ **covered persons.**

(3) Obtain information and, upon a vote of ~~four (4)~~ **five (5)** members, compel the attendance and testimony of witnesses and the production of pertinent books and papers by a subpoena enforceable by the circuit or superior court of the county where the subpoena is to be issued.

(4) Recommend legislation to the general assembly relating to the conduct and ethics of ~~state officers, employees, and special state appointees,~~ **covered persons,** including whether additional specific state officers or **state** employees should be required to file a financial disclosure statement under section 8 of this chapter.

(5) Adopt rules under IC 4-22-2 to implement this chapter.

(6) Prescribe and provide forms for statements required to be filed under this chapter.

(7) Accept and file information:

(A) voluntarily supplied; and

(B) that exceeds the requirements of this chapter.

(8) Inspect financial disclosure forms.

(9) Notify persons who fail to file forms required under this chapter.

(10) Develop a filing, a coding, and an indexing system required by this chapter and IC 35-44-1-3(f).

(11) Conduct research.

(12) Prepare interpretive and educational materials and programs.

(b) The commission shall do the following:

(1) Act as an advisory body by issuing advisory opinions to interpret this chapter, the commission's rules, or any other statute or rule governing official conduct upon:

(A) request of

~~(i) a state officer or a former state officer;~~

~~(ii) an employee or a former employee;~~

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~~(iii) a person who has or had a business relationship with an agency; or~~

~~(iv) a special state appointee;~~

a covered person; or

(B) motion of the commission.

(2) Conduct its proceedings in the following manner:

(A) When a complaint is filed with the commission, the commission may:

(i) reject, without further proceedings, a complaint that the commission considers frivolous or inconsequential;

(ii) upon the vote of ~~four (4)~~ **five (5)** members, determine that the complaint does not allege facts sufficient to constitute a violation of this chapter or the code of ethics and dismiss the complaint; or

(iii) forward a copy of the complaint to the attorney general, the prosecuting attorney of the county in which the alleged violation occurred, the state board of accounts, ~~a state~~ **an** officer, the appointing authority, or other appropriate person for action, and stay the commission's proceedings pending the other action.

(B) If a complaint is not disposed of under clause (A), a copy of the complaint shall be sent to the person alleged to have committed the violation.

(C) If the complaint is not disposed of under clause (A), or when the commission initiates an investigation on its own motion or upon request of the governor, the commission shall promptly investigate the alleged violation. If, after the preliminary investigation, the commission finds by a majority vote that probable cause exists to support an alleged violation, it shall convene a public hearing on the matter within sixty (60) days after making the determination. The respondent shall be notified within fifteen (15) days of the commission's determination. Commission records relating to a preliminary investigation are confidential until the earlier of:

(i) the time the respondent is notified of the hearing; or

(ii) the time the respondent elects to have the records divulged.

However, the commission may acknowledge the existence and scope of an investigation or that the commission did not find probable cause to support an alleged violation.

(D) If a hearing is to be held, the respondent may examine and make copies of all evidence in the commission's possession

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relating to the charges. At the hearing, the charged party shall be afforded appropriate due process protection consistent with IC 4-21.5, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses.

(E) After the hearing, the commission shall state its findings of fact. If the commission, based on competent and substantial evidence, finds by a majority vote that the respondent has violated this chapter, a rule adopted under this chapter, or any other statute or rule governing official conduct of ~~state officers, employees, or special state appointees,~~ **covered persons,** it shall state its findings in writing in a report, which shall be supported and signed by a majority of the commission members and shall be made public. The report may make a recommendation for the sanctions to be imposed by the appointing authority or ~~state~~ officer for the violation, including:

(i) reprimand;

(ii) suspension with or without pay; or

(iii) dismissal of an employee.

(F) If the commission, based on competent and substantial evidence, finds by a majority vote a violation of this chapter, a rule adopted under this chapter, or any other statute or rule governing official conduct of ~~state officers, employees, or special state appointees,~~ **covered persons**, the commission may also take any of the actions provided in section 12 of this chapter.

(G) The report required under clause (E) shall be presented to:

(i) the respondent;

(ii) the appointing authority or state officer of the employee, former employee, or special state appointee; and

(iii) the governor.

(H) The commission may also forward the report to any of the following:

(i) The prosecuting attorney of each county in which the violation occurred.

(ii) The state board of accounts.

(iii) The state personnel director.

(iv) The attorney general.

(v) A state officer.

(vi) The appointing authority.

(vii) Any other appropriate person.

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(I) If the commission finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(3) Maintain an index of conflict of interest disclosures received by the commission under IC 35-44-1-3.

(c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the commission concerning the case of a respondent that are not confidential under subsection (b)(2)(C) shall be available for inspection and copying in accordance with IC 5-14-3.

SECTION 6. IC 4-2-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. ~~No state~~ **(a) An** officer or employee ~~shall~~ **may not** solicit or accept compensation, other than that provided for by law for such office or employment for the performance of ~~his~~ duties. ~~it shall be unlawful for any~~

(b) A person, other than state officers or employees performing their duties in making payments to state officers or employees as provided by law, ~~to~~ **may not** pay or offer to pay, any ~~state~~ officer or employee any compensation for the performance of ~~his~~ official duties.

SECTION 7. IC 4-2-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. ~~A state~~ **An** officer or employee may not receive compensation:

(1) for the sale or lease of any property or service which substantially exceeds that which the ~~state~~ officer or employee would charge in the ordinary course of business; and

(2) from any person whom ~~he~~ **the officer or employee** knows or, in the exercise of reasonable care and diligence should know, has a business relationship with the agency in which the ~~state~~ officer or employee holds a position.

SECTION 8. IC 4-2-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of ~~an~~ **a state** agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) An employee required to do so by rule adopted by the

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commission.

(b) The statement shall be filed with the commission as follows:

(1) No later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) Before filing a declaration of candidacy under IC 3-8-2, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices.

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with an agency; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse. The state need not be listed as an employer.

(4) The name of any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse and the nature of the business.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

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(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 9. IC 4-2-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. ~~A state~~ **An** officer or employee may not participate in any decision or vote of any kind in which the ~~state~~ officer or the employee, or that individual's spouse or unemancipated children, ~~has~~ **have** a financial interest.

SECTION 10. IC 4-2-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) This section applies only:

(1) to a former ~~state~~ officer or former employee; and

(2) during the period that is twelve (12) months after the date the former ~~state~~ officer or former employee had responsibility for the particular matter.

(b) As used in this section, "legislative matter" has the meaning set forth in IC 2-2.1-3-1.

(c) As used in this section, "particular matter" means:

(1) an application;

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(2) a business transaction;
(3) a claim;
(4) a contract;
(5) a determination;
(6) an enforcement proceeding;
(7) an investigation;
(8) a judicial proceeding;
(9) a lawsuit;
(10) a license;
(11) an economic development project; or
(12) a public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(d) A former ~~state~~ officer or former employee may not represent or assist a person regarding a particular matter involving a specific party or parties:

(1) that was under consideration by the agency that was served by the ~~state~~ officer or employee; and
(2) in which the officer or employee participated personally and substantially through:
(A) a decision;
(B) an approval;
(C) a disapproval;
(D) a recommendation;
(E) giving advice;
(F) an investigation; or
(G) the substantial exercise of administrative discretion.

(e) An appointing authority or ~~state~~ officer of the agency that was served by the former ~~state~~ officer or former employee may waive application of this section if the appointing authority or ~~state~~ officer determines that representation or assistance of a former ~~state~~ officer or former employee is not adverse to the public interest. A waiver under this subsection must be in writing and must be filed with the commission.

(f) This section does not prohibit an agency from contracting with a former ~~state~~ officer or employee to act on a matter on behalf of the agency.

SECTION 11. IC 4-2-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. If the commission finds a violation of this chapter, a rule adopted under this chapter, or any other statute or rule governing official conduct of ~~state officers,~~

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~~employees, or special state appointees~~ **covered persons** in a proceeding under section 4 of this chapter, the commission may take any of the following actions:

(1) Impose a civil penalty upon a respondent not to exceed the greater of:

(A) three (3) times the value of any benefit received from the violation; or

(B) ten thousand dollars ($10,000).

(2) Cancel a contract.

(3) Bar a person from entering into a contract with any agency for a period specified by the commission. The period specified by the commission may not exceed two (2) years from the date the action of the commission is effective.

SECTION 12. IC 4-2-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Subject to subsection (b), ~~a state~~ **an** officer or employee shall not retaliate or threaten to retaliate against an employee because the employee did any of the following:

(1) Filed a complaint with the commission.

(2) Provided information to the commission.

(3) Testified at a commission proceeding.

(b) Notwithstanding subsection (a), ~~a state~~ **an** officer or an employee may take appropriate action against an employee who took any of the actions listed in subsection (a) if the employee:

(1) did not act in good faith; or

(2) knowingly or recklessly provided false information or testimony to the commission.

SECTION 13. IC 35-44-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A public servant who knowingly or intentionally:

(1) has a pecuniary interest in; or

(2) derives a profit from;

a contract, **grant, loan,** or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.

(b) This section does not prohibit **any of the following:**

(1) A public servant from receiving compensation for:

~~(1)~~ **(A)** services provided as a public servant; or

~~(2)~~ **(B)** expenses incurred by the public servant as provided by law.

(2) A public servant or a dependent of a public servant receiving a grant or loan from the governmental entity served

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by the public servant over the award of which the public servant exercised no immediate, actual discretion.

(c) This section does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract, **grant, loan,** or purchase connected with the governmental entity served under any of the following conditions:

(1) If the:

(A) public servant is not a member or on the staff of the governing body empowered to contract, **grant, loan,** or purchase on behalf of the governmental entity;

(B) functions and duties performed by the public servant for the governmental entity are unrelated to the contract, **grant, loan,** or purchase; and

(C) public servant makes a disclosure under subsection (d)(1) through (d)(6).

(2) If the contract, **grant, loan,** or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.

(3) If the public servant:

(A) is an elected public servant or a member of the board of trustees of a state supported college or university; and

(B) makes a disclosure under subsection (d)(1) through (d)(6).

(4) If the public servant:

(A) was appointed by an elected public servant or the board of trustees of a state supported college or university; and

(B) makes a disclosure under subsection (d)(1) through (d)(7).

(5) If the public servant:

(A) acts in only an advisory capacity for a state supported college or university; and

(B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase.

(6) If the public servant:

(A) is employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent; and

(B) makes a disclosure under subsection (d)(1) through (d)(6).

(7) If the public servant is under the jurisdiction of the state ethics commission as provided in IC 4-2-6-2.5 and obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract, **grant, loan,** or purchase under IC 4-2-6 and this section. The approval

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required under this subdivision must be:

(A) ~~granted~~ **given** to the public servant before action is taken in connection with the contract, **grant, loan,** or purchase by the governmental entity served; or

(B) sought by the public servant as soon after the contract, **grant, loan,** or purchase as the public servant becomes aware of the facts that give rise to a question of conflict of interest.

(d) A disclosure required by this section must:

(1) be in writing;

(2) describe the contract, **grant, loan,** or purchase to be made by the governmental entity;

(3) describe the pecuniary interest that the public servant has in the contract, **grant, loan,** or purchase;

(4) be affirmed under penalty of perjury;

(5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity prior to final action on the contract, **grant, loan,** or purchase;

(6) be filed within fifteen (15) days after final action on the contract, **grant, loan,** or purchase with:

(A) the state board of accounts; and

(B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the contract, **grant, loan,** or purchase; and

(7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant.

(e) The state board of accounts shall forward to the state ethics commission a copy of all disclosures filed with the board under IC 16-22-2 through IC 16-22-5, IC 16-23-1, or this section.

(f) The state ethics commission shall maintain an index of all disclosures received by the commission. The index must contain a listing of each public servant, setting forth the disclosures received by the commission made by that public servant.

(g) A public servant has a pecuniary interest in a contract, **grant, loan,** or purchase if the contract, **grant, loan,** or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:

(1) the public servant; or

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(2) a dependent of the public servant who:

(A) is under the direct or indirect administrative control of the public servant; or

(B) receives a contract, **grant, loan,** or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant.

(h) It is a defense in a prosecution under this section that the public servant's interest in the contract, **grant, loan,** or purchase and all other contracts, **grants, loans,** and purchases made by the governmental entity during the twelve (12) months before the date of the contract, **grant, loan,** or purchase was two hundred fifty dollars ($250) or less.

(i) Notwithstanding subsection (d), a member of the board of trustees of a state supported college or university, or a person appointed by such a board of trustees, complies with the disclosure requirements of this chapter with respect to the member's or person's pecuniary interest in a particular type of contract or purchase which is made on a regular basis from a particular vendor if the member or person files with the state board of accounts and the board of trustees a statement of pecuniary interest in that particular type of contract or purchase made with that particular vendor. The statement required by this subsection must be made on an annual basis.

(j) This section does not apply to members of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.

(k) As used in this section, "dependent" means any of the following:

(1) The spouse of a public servant.

(2) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is:

(A) unemancipated; and

(B) less than eighteen (18) years of age.

(3) Any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

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