RESOLUTION NUMBER 2012-5

RESOLUTION ESTABLISHING POLICY PROHIBITING NEPOTISM

WHEREAS, the Town Council of the Town of Redkey, Indiana has determined that there is a need to establish a policy that prohibits nepotism among its workforce.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF REDKEY, INDIANA THAT:

Section 1. Definitions

The following definitions shall apply in the interpretation and the enforcement of this Resolution:

A. "Employed" means an individual who is employed by the Town on a full time, part time, temporary, intermittent or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the Town. The performance of the duties of a volunteer firefighter is not considered employment by the Town.

B. "Direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement or performance evaluation. The term does not include the responsibilities of the Town Council to make decisions regarding salary ordinances, budgets or personnel policies of the Town.

C. "Relative" means any of the following:

1. Spouse;
2. Parent or step parent;
3. A child or step child;
4. Brother, sister, step brother or step sister;
5. A niece or nephew;
6. An aunt or uncle; or
7. A daughter-in-law or son-in-law.

An adopted child of an individual is treated as a natural child of the individual. The terms "brother" and "sister" shall include a brother or sister by half blood (a common parent).

Section 2. Nepotism Prohibited

Individuals who are relatives shall not be employed by the Town in a position that results in one relative being in the direct line of supervision of the other relative.

An individual shall not be promoted to a position if the new position would cause their relative to be in the direct line of supervision of that individual.

Section 3. Exceptions to Prohibition Against Nepotism

This Resolution does not abrogate or affect an employment contract with the Town that an individual is a party to and is in effect on the date the individual's relative begins service a term of an elected office of the Town.

If an individual is employed by the Town of Redkey County, Indiana on a date that the individual's relative begins serving a term of an elected office, then that individual employee's employment shall be immediately terminated.

Section 4. Impact of Resolution of Those Individuals Employed by Town On July 1, 2012

An individual who is employed by the Town on July 1, 2012, is not subject to this Resolution unless the individual has a break in employment with the Town after July 1, 2012. The following are not considered a break in employment with the Town:

1. The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

2. The individual's employment with the unit is terminated following by immediate reemployment by the unit, without loss of payroll time.

Section 5. Certification by Elected Officers of Town

Each elected officer of the Town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this Resolution. An elected officer shall submit the certification to the Town Board President not later than December 31 of each year.

Section 6. Effective Date of Resolution

This Resolution shall be effective upon passage.

Passed and adopted by the Town Council on the 21 day of June, 2012.

Town Council Member

Town Council Member

Town Council Member

Town Council Member

Town Council Member

ATTEST:

Debbie L Jones

Clerk-Treasurer

Ind. Code § 36-1-20.2-8

Current through P.L. 171-2024

Section 36-1-20.2-8 - "Relative"

(a) As used in this chapter, "relative" means any of the following:

(1) A spouse.

(2) A parent or stepparent.

(3) A child or stepchild.

(4) A brother, sister, stepbrother, or stepsister.

(5) A niece or nephew.

(6) An aunt or uncle.

(7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

IC 36-1-20.2-8

CHAPTER 7
CONFLICT OF INTEREST

PUBLIC SERVANTS - STATUTORY CONFLICT OF INTEREST [IC 35-44.1-1-4]

Conflict of Interest

A public servant who knowingly or intentionally; (1) has a pecuniary interest in; (2) or derives a profit from, a contract or purchase connected with an action by the government entity served by the public servant, commits conflict of interest, a Level 6 felony. [IC 35-44.1-1-4(b)]

Exception for Compensation and Expenses

A public servant is not prohibited from receiving compensation for services provided as a public servant or for expenses incurred by the public servant as provided by law. [IC 35-44.1-1-4(c)]

Other Exceptions

IC 35-44.1-1-4 does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract or purchase connected with the governmental entity served under any of the following conditions:

1. If the public servant is not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity; the functions and duties the public servant performs for the governmental entity are unrelated to the contract or purchase; and the public servant makes a disclosure as provided in IC 35-44.1-1-4(d). [IC 35-44.1-14(c)(6)]

2. If the contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government. [IC 35-44.1-1-4(c)(3)]

Definition of Pecuniary Interest

A public servant has a pecuniary interest in a contract or purchase if the contract 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

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 or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. [IC 35-44.1-1-4(a)(3)]

Definition of Dependent

A dependent means any of the following:

1. The spouse of a public servant.
2. A child, stepchild, or adoptee of a public servant who is:
   a. unemancipated, and
   b. less than 18 years of age.
3. An individual more than one-half of whose support is provided during a year by the public servant. [IC 35-44.1-1-4(a)]

Disclosure Requirements

A disclosure as required above must:

1. Be in writing.
2. Describe the contract or purchase to be made by the governmental entity.
3. Describe the pecuniary interest that the public servant has in the contract 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 before final action on the contract or purchase.
6. Be filed within fifteen days after final action on the contract or purchase with; (a) the state board of accounts; and (b) the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase.
7. Contain, if the public servant is appointed, the written approval of the elected public servant (if any) that appointed the public servant.

Defense

It is not an offense in a prosecution under this section that the public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars ($250) or less. [IC 35-44.1-1-4(c)(2)]

Form

A suggested format for the disclosure of conflict of interest for board members and employees is located at the end of this section. The attorney for the governmental entity or a private attorney should be consulted in regard to whether a conflict of interest statement should be filed and whether the format of the disclosure is sufficient.

CONSULTANTS - STATUTORY CONFLICT OF INTEREST [IC 5-16-11]

Conflict of Interest

Pursuant to IC 5-16-11-5.5, a consultant has a conflict of interest if any of the following apply:

1. The entity has given a gift or gifts:

   a. to the consultant, the consultant's spouse, or the consultant's unemancipated children;

   b. that have a total fair market value of more than one hundred dollars ($100); and

   c. within the preceding year.

2. The consultant, the consultant's spouse, or the consultant's unemancipated children have an equitable or a legal interest in real property the value of which:

   a. either is at least $5,000 or comprises at least ten percent (10%) of the net worth of the consultant, the consultant's spouse, or the consultant's unemancipated children; and

   b. has been or would be increased or decreased if a contract were awarded to the entity.

3. The consultant or the consultant's spouse is employed by the entity.

4. The entity is the sole proprietorship or professional practice of the consultant or the consultant's spouse.

5. The consultant or the consultant's spouse is a partner in the entity.

6. The consultant or the consultant's spouse is an officer or a director of the entity.

7. The consultant, the consultant's spouse, or the consultant's unemancipated children own stock or options to purchase stock in the entity and the stock or the options to purchase stock have a fair market value of more than ten thousand dollars ($10,000). This subdivision does not apply to the following:

   a. Time deposits or demand deposits in a financial institution.

   b. An insurance policy.

Definition of Consultant

"Consultant" means an individual who, under a contract with the state or a political subdivision, does either of the following for the state or the political subdivision:

1. Evaluates bids for contracts.

2. Awards contracts.

The term does not include a public employee (as defined in IC 34-6-2-38).

An individual is not required to be a party to the contract with the state or the political subdivision to be a consultant under this section. [IC 5-16-11-2]

Definition of Entity

As used in this chapter, **"entity"** refers to a person that:

1. has submitted a bid to be evaluated by a consultant; or
2. was awarded a contract by a consultant. (IC 5-16-11-3.5)

Disclosure Requirements

A conflict of interest must be disclosed as follows:

1. A consultant shall file a conflict of interest disclosure if the consultant has a conflict of interest under IC 5-16-11-5.5.
2. The disclosure must describe the conflict of interest.
3. The consultant shall file the disclosure within ten (10) days of the earlier of the following events:
   a. The closing day for receipt of bids.
   b. The award of the contract.
4. The consultant shall file the disclosure required by IC 5-16-11-6 with the governing board, if the consultant contracts with the political subdivision. [IC 5-16-11-7]
5. The consultant shall make the disclosure required by IC 5-16-11-6 under affirmation. [IC 5-16-11-6,7,8]

Penalties

A consultant who fails to file a disclosure required by this chapter commits a Class A infraction. [IC 5-15-11-11]

A consultant who files a false disclosure under this chapter is subject to the penalties for perjury under IC 35-44-2-1. [IC 5-16-11-12]

LUCRATIVE OFFICE

Article 2, Section 9 of the Constitution of Indiana, states in part: ". . . no person may hold more than one lucrative office at the same time, except as expressly permitted in this Constitution." Any person holding two offices which have been or may be deemed lucrative should obtain the written opinion of the attorney for the unit or units served to determine compliance with Article 2, Section 9 of the Constitution of Indiana.

UNIFORM CONFLICT OF INTEREST DISCLOSURE STATEMENT

State Form 54266 (R / 6-12) / Form 236
STATE BOARD OF ACCOUNTS

Indiana Code 35-44.1-1-4

A public servant who knowingly or intentionally has a pecuniary interest in or derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D Felony. A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public servant or a dependent of the public servant. "Dependent" means any of the following: the spouse of a public servant; a child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

The foregoing consists only of excerpts from IC 35-44.1-1-4. Care should be taken to review IC 35-44.1-1-4 in its entirety.

1. **Name and Address of Public Servant Submitting Statement:** _____

   _____

2. **Title or Position With Governmental Entity:** _____

3. a. **Governmental Entity:** _____

   b. **County:** _____

4. **This statement is submitted *(check one)*:**

   a._ as a "single transaction" disclosure statement, as to my financial interest in a specific contract or purchase connected with the governmental entity which I serve, proposed to be made by the governmental entity with or from a particular contractor or vendor; or

   b._ as an "annual" disclosure statement, as to my financial interest connected with any contracts or purchases of the governmental entity which I serve, which are made on an ongoing basis with or from particular contractors or vendors.

5. **Name(s) of Contractor(s) or Vendor(s):** _____

   _____

   _____

6. **Description(s) of Contract(s) or Purchase(s)** *(Describe the kind of contract involved, and the effective date and term of the contract or purchase if reasonably determinable. Dates required if 4(a) is selected above. If "dependent" is involved, provide dependent's name and relationship.)*:

   _____
   _____
   _____
   _____
   _____

7. **Description of My Financial Interest** *(Describe in what manner the public servant or "dependent" expects to derive a profit or financial benefit from, or otherwise has a pecuniary interest in, the above contract(s) or purchase(s); if reasonably determinable, state the approximate dollar value of such profit or benefit.)*:

_____
_____
_____
_____
_____
_____

(Attach extra pages if additional space is needed.)

8. **Approval of Appointing Officer or Body** *(To be completed if the public servant was appointed by an elected public servant or the board of trustees of a state-supported college or university.)*:

I (We) being the _____ of
(Title of Officer or Name of Governing Body)

_____ and having the power to appoint
(Name of Governmental Entity)

the above named public servant to the public position to which he or she holds, hereby approve the participation to the appointed disclosing public servant in the above described contract(s) or purchase(s) in which said public servant has a conflict of interest as defined in Indiana Code 35-44.1-1-4; however, this approval does not waive any objection to any conflict prohibited by statute, rule, or regulation and is not to be construed as a consent to any illegal act.

_____	_____
_____	_____
_____	_____
Elected Official	Office

9. **Effective Dates** *(Conflict of interest statements must be submitted to the governmental entity prior to final action on the contract or purchase.)*:

_____	_____
Date Submitted *(month, day, year)*	Date of Action on Contract or Purchase *(month, day, year)*

10. **Affirmation of Public Servant:** This disclosure was submitted to the governmental entity and accepted by the governmental entity in a public meeting of the governmental entity prior to final action on the contract or purchase. I affirm, under penalty of perjury, the truth and completeness of the statements made above, and that I am the above named public servant.

Signed: _____
(Signature of Public Servant)

Date: _____
(month, day, year)

Within fifteen (15) days after final action on the contract or purchase, copies of this statement must be filed with the State Board of Accounts, Indiana Government Center South, 302 West Washington Street, Room E418, Indianapolis, Indiana, 46204 and the Clerk of the Circuit Court of the county where the governmental entity took final action on the contract or purchase.