

2020 -- H 7251

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

Introduced By: Representative Samuel A. Azzinaro

Date Introduced: January 23, 2020

Referred To: House Municipal Government

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 36-14-5 of the General Laws in Chapter 36-14 entitled "Code of  
2 Ethics" is hereby amended to read as follows:

3 **36-14-5. Prohibited activities.**

4 (a) No person subject to this code of ethics shall have any interest, financial or otherwise,  
5 direct or indirect, or engage in any business, employment, transaction, or professional activity, or  
6 incur any obligation of any nature, which is in substantial conflict with the proper discharge of his  
7 or her duties or employment in the public interest and of his or her responsibilities as prescribed  
8 in the laws of this state, as defined in § 36-14-7.

9 (b) No person subject to this code of ethics shall accept other employment which will  
10 either impair his or her independence of judgment as to his or her official duties or employment  
11 or require him or her, or induce him or her, to disclose confidential information acquired by him  
12 or her in the course of and by reason of his or her official duties.

13 (c) No person subject to this code of ethics shall willfully and knowingly disclose, for  
14 pecuniary gain, to any other person, confidential information acquired by him or her in the course  
15 of and by reason of his or her official duties or employment or use any information for the  
16 purpose of pecuniary gain.

17 (d) No person subject to this code of ethics shall use in any way his or her public office or  
18 confidential information received through his or her holding any public office to obtain financial  
19 gain, other than that provided by law, for him or herself or any person within his or her family,

1 any business associate, or any business by which the person is employed or which the person  
2 represents.

3 (e) No person subject to this code of ethics shall:

4 (1) Represent him or herself before any state or municipal agency of which he or she is a  
5 member or by which he or she is employed. In cases of hardship, the ethics commission may  
6 permit such representation upon application by the official provided that he or she shall first:

7 (i) Advise the state or municipal agency in writing of the existence and the nature of his  
8 or her interest in the matter at issue;

9 (ii) Recuse him or herself from voting on or otherwise participating in the agency's  
10 consideration and disposition of the matter at issue; and

11 (iii) Follow any other recommendations the ethics commission may make to avoid any  
12 appearance of impropriety in the matter.

13 (2) Represent any other person before any state or municipal agency of which he or she is  
14 a member or by which he or she is employed.

15 (3) Act as an expert witness before any state or municipal agency of which he or she is a  
16 member or by which he or she is employed with respect to any matter the agency's disposition of  
17 which will or can reasonably be expected to directly result in an economic benefit or detriment to  
18 him or herself, or any person within his or her family, or any business associate of the person, or  
19 any business by which that person is employed or which the person represents.

20 (4) Shall engage in any of the activities prohibited by subsection (e)(1), (e)(2), or (e)(3)  
21 of this section for a period of one year after he or she has officially severed his or her position  
22 with said state or municipal agency; provided, however, that this prohibition shall not pertain to a  
23 matter of public record in a court of law.

24 (f) No business associate of any person subject to this code of ethics shall represent him  
25 or herself or any other person, or act as an expert witness before the state or municipal agency of  
26 which the person is a member or by which the person is employed unless:

27 (1) He or she shall first advise the state or municipal agency of the nature of his or her  
28 business relationship with the person subject to this code of ethics; and

29 (2) The person subject to this code of ethics shall recuse him or herself from voting on or  
30 otherwise participating in the agency's consideration and disposition of the matter at issue.

31 (g) No person subject to this code of ethics, or spouse (if not estranged), dependent child,  
32 or business associate of the person, or any business by which the person is employed or which the  
33 person represents, shall solicit or accept any gift, loan, political contribution, reward, or promise  
34 of future employment based on any understanding that the vote, official action, or judgment of

1 the person would be influenced thereby.

2 (h) No person subject to this code of ethics, or any person within his or her family or  
3 business associate of the person, or any business entity in which the person or any person within  
4 his or her family or business associate of the person has a ten percent (10%) or greater equity  
5 interest or five thousand dollars (\$5,000) or greater cash value interest, shall enter into any  
6 contract with any state or municipal agency unless the contract has been awarded through an open  
7 and public process, including prior public notice and subsequent public disclosure of all proposals  
8 considered and contracts awarded; provided, however, that contracts for professional services  
9 which have been customarily awarded without competitive bidding shall not be subject to  
10 competitive bidding if awarded through a process of public notice and disclosure of financial  
11 details.

12 (i) No person shall give or offer to any person covered by this code of ethics, or to any  
13 candidate for public office, or to any person within his or her family or business associate of any  
14 person, or to any business by which the person is employed or which the person represents, any  
15 gift, loan, political contribution, reward, or promise of future employment based on any  
16 understanding or expectation that the vote, official action, or judgment of the person would be  
17 influenced thereby.

18 (j) No person shall use for any commercial purpose information copied from any  
19 statements required by this chapter or from lists compiled from the statements.

20 (k) No person shall knowingly and willfully make a false or frivolous complaint under  
21 this chapter.

22 (l) No candidate for public office, or any person within his or her family, business  
23 associate of the candidate, or any business by which the candidate is employed or which the  
24 candidate represents, shall solicit or accept any gift, loan, political contribution, reward, or  
25 promise of future employment based on any understanding that the vote, official action, or  
26 judgment of the candidate would be influenced thereby.

27 (m) No person subject to this code of ethics shall, either directly or indirectly, through  
28 any government agency, or through a business associate, or through any other person, threaten or  
29 intimidate any complainant or witness or any family member of any complainant or witness in  
30 any proceeding before the state ethics commission.

31 (1) In addition to any rights a complainant or witness may have under the Rhode Island  
32 Whistleblowers' Protection Act, chapter 50 of title 28 or under any other statute, a complainant or  
33 witness may bring a civil action in superior court for appropriate injunctive relief, or actual  
34 damages, or both and attorney's fees within three (3) years after the occurrence of the alleged

1 violation of subsection (m) above.

2 (2) The initiation of litigation by a complainant or witness pursuant to subsection (m)(1)  
3 shall not constitute a violation of any confidentiality provisions of this chapter.

4 (n)(1) No state elected official, while holding state office and for a period of one year  
5 after leaving state office, shall seek or accept employment with any other state agency, as defined  
6 in § 36-14-2(8)(i), other than employment which was held at the time of the official's election or  
7 at the time of enactment of this subsection, except as provided herein. [This subsection shall apply](#)  
8 [only to state elected officials and not municipal elected or appointed officials.](#)

9 (2) Nothing contained herein shall prohibit any general officer or the general assembly  
10 from appointing any state elected official to a senior policy-making, discretionary, or confidential  
11 position on the general officer's or the general assembly's staff, and in the case of the governor, to  
12 a position as a department director; nor shall the provisions herein prohibit any state elected  
13 official from seeking or accepting a senior policy-making, discretionary, or confidential position  
14 on any general officer's or the general assembly's staff, or from seeking or accepting appointment  
15 as a department director by the governor.

16 (3) Nothing contained herein shall prohibit a state elected official from seeking or being  
17 elected for any other constitutional office.

18 (4) Nothing contained herein shall prohibit the Rhode Island ethics commission from  
19 authorizing exceptions to this subsection where such exemption would not create an appearance  
20 of impropriety.

21 (o)(1) No person holding a senior policy-making, discretionary, or confidential position  
22 on the staff of any state elected official or the general assembly shall seek or accept any other  
23 employment by any state agency as defined in § 36-14-2(8)(i), while serving as such policy-  
24 making, discretionary, or confidential staff member and for a period of one year after leaving that  
25 state employment as a member of the state elected official's or the general assembly's senior  
26 policy-making, discretionary, or confidential staff.

27 (2) Notwithstanding the foregoing, a person holding a senior policy-making,  
28 discretionary, or confidential staff position who has a minimum of five (5) years of uninterrupted  
29 state service shall be exempt from the provisions of this section. "State service" as used herein  
30 means service in the classified, unclassified and nonclassified services of the state, but shall not  
31 include service in any state elective office.

32 (3) Nothing contained herein shall prohibit any general officer or the general assembly  
33 from appointing any such senior policy-making, discretionary, or confidential member of the staff  
34 of any state elected official or the general assembly to any other senior policymaking,

1 discretionary, or confidential position on any general officer's or the general assembly's staff, and  
2 in the case of the governor, to a position as a department director; nor shall the provisions hereof  
3 prohibit any senior policy-making, discretionary, or confidential member of the staff of any state  
4 elected official or the general assembly from seeking or accepting any other senior policy-  
5 making, discretionary, or confidential position on any general officer's or the general assembly's  
6 staff, or from seeking or accepting appointment as a department director by the governor.

7 (4) Nothing contained herein shall prohibit a person holding a senior policy-making,  
8 discretionary, or confidential staff position from seeking or being elected for any constitutional  
9 office.

10 (5) Nothing contained herein shall prohibit the Rhode Island ethics commission from  
11 authorizing exceptions to this subsection where such exemption would not create an appearance  
12 of impropriety.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

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- 1           This act would exempt elected and appointed municipal employees from the prohibition
- 2 of seeking or holding employment with the municipality they represent.
- 3           This act would take effect upon passage.

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