

this section, "nonprofit organization" includes an unincorporated club, association, or other similar entity, however named, if no part of its income or profit is distributed to its members, directors, or officers.

Sec. 20. Section 613A.2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who performs services for a municipality or an agency or subdivision of a municipality and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "compensation" does not include payments to reimburse a person for expenses.

Sec. 21. A corporation may adopt a provision pursuant to section 2, 5, 12, 13, or 15 of this Act prior to the effective date of this Act which shall become effective upon the effective date of this Act.

Approved June 5, 1987

CHAPTER 213

GIFTS TO PERSONS SERVING IN PUBLIC CAPACITIES AND CANDIDATES

S.F. 480

AN ACT relating to things of value given to and received by public employees, officials, members of the general assembly, other persons serving in a public capacity, and candidates, mandating reporting of certain things of value, subjecting violators to penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 68B.2, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.2 DEFINITIONS.

When used in this chapter, unless the context otherwise requires:

1. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.
2. "Legislative employee" means a full-time officer or employee of the general assembly but does not include members of the general assembly.
3. "Member of the general assembly" means an individual duly elected to the senate or the house of representatives of the state of Iowa.
4. "Regulatory agency" means the department of agriculture and land stewardship, department of employment services, department of commerce, department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue and finance, department of inspections and appeals, department of personnel, public employment relations board, department of transportation, civil rights commission, department of public defense, and department of natural resources.
5. "Employee" means a full-time, salaried employee of the state of Iowa and does not include part-time employees or independent contractors. Employee includes but is not limited to all clerical personnel.
6. "Official" means an officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time. Official includes but is not limited

to supervisory personnel and members of state agencies and does not include members of the general assembly or legislative employees.

7. "Agency" means a department, division, board, commission, or bureau of the state, including a regulatory agency, or any of its political subdivisions.

8. "Candidate" means a candidate as defined in section 56.2 and includes a person elected to public office until the person takes office.

9. a. "Gift" means a rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, or anything else of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:

(1) Is doing or seeking to do business of any kind with the donee's agency.

(2) Is engaged in activities which are regulated or controlled by the donee's agency.

(3) Has interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the donee's official duty.

(4) Is a lobbyist with respect to matters within the donee's jurisdiction.

b. However, "gift" does not mean any of the following:

(1) Campaign contributions.

(2) Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals, and registration fees or tuition not including travel or lodging, for not more than three days, at seminars or other public meetings conducted in this state, at which the public servant receives information relevant to the public servant's official functions. Information or participation received under the exclusion of this paragraph may be applied to satisfy a continuing education requirement of the donee's regulated occupation or profession if the donee pays any registration costs exceeding thirty-five dollars.

(3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(4) An inheritance.

(5) Anything available to or distributed to the public generally without regard to official status of the recipient.

(6) Food, beverages, registration, and scheduled entertainment at group events to which all members of either house or both houses of the general assembly are invited.

(7) Actual expenses for food, beverages, travel, lodging, registration, and scheduled entertainment of the donee for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting.

(8) Plaques or items of negligible resale value given as recognition for public services.

10. "Local official" and "local employee" mean an official or employee of a political subdivision of this state.

11. "Public disclosure" means a written report filed by the fifteenth day of the month following the month in which a gift is received as required by this chapter or required by rules adopted or executive order issued pursuant to this chapter.

12. "Immediate family members" means the spouse and minor children of a person required to file reports pursuant to this chapter or the rules adopted or executive order issued pursuant to this chapter.

13. "Is doing business with the donee's agency" means being a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the state or a political subdivision, or any agency thereof.

Where the terms "legislative employee", "member of the general assembly", "candidate", "employee", "local employee", "official" or "local official" are used in this chapter, they include a firm of which any of those persons is a partner and a corporation of which any of those persons holds ten percent or more of the stock either directly or indirectly, and the spouse and minor children of any of those persons.

Sec. 2. Section 68B.5, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.5 GIFTS SOLICITED OR ACCEPTED.

1. An official, employee, local official, local employee, member of the general assembly, candidate, legislative employee or that person's immediate family member shall not, directly or indirectly, solicit, accept, or receive from any one donor in any one calendar day a gift or a series of gifts having a value of thirty-five dollars or more.

2. A person shall not, directly or indirectly, offer or make a gift or a series of gifts to an official, employee, local official, local employee, member of the general assembly, candidate, or legislative employee, in any one calendar day, if the gift or series of gifts has a value of thirty-five dollars or more. A person shall not, directly or indirectly, join with one or more other persons to offer or make a gift or a series of gifts to an official, employee, local official, local employee, member of the general assembly, candidate, or legislative employee, in any one calendar day, if the gift or series of gifts has a total value of thirty-five dollars or more. The thirty-five dollar limitation of this section applies separately to a person and the person's immediate family member.

3. A person may give and an official, employee, local official, local employee, member of the general assembly, candidate, legislative employee or the person's immediate family member may accept in any one calendar day a gift or a series of gifts which has a value of thirty-five dollars or more and not be in violation of this section if the gift or series of gifts is donated within thirty days to a public body, a bona fide educational or charitable organization, or the department of general services. All such items donated to the department of general services shall be disposed of by assignment to state agencies for official use or by public sale.

Sec. 3. Section 68B.8, Code 1987, is amended to read as follows:

68B.8 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates ~~the provisions a provision~~ of section 68B.3 to 68B.6 ~~and this section shall be is~~ guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

Sec. 4. Section 68B.10, subsection 3, Code 1987, is amended to read as follows:

3. Issue advisory opinions interpreting the intent of constitutional and statutory provisions relating to legislators and lobbyists as well as interpreting the code of ethics and rules issued pursuant to this section. Opinions shall be issued when approved by a majority of the seven members and may be issued upon the written request of a member of the general assembly or upon the committee's initiation. Opinions are not binding on the legislator or lobbyist.

Sec. 5. Section 68B.10, subsection 4, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

4. Receive and investigate complaints and charges against members of its house alleging a violation of the code of ethics, rules governing lobbyists, this chapter, or other matters referred to it by its house. The committee shall recommend rules for the receipt and processing of complaints made during the legislative session and those made after the general assembly adjourns.

Sec. 6. Section 68B.10, Code 1987, is amended by adding the following new unnumbered paragraph after subsection 5:

NEW UNNUMBERED PARAGRAPH. The ethics committees may employ independent legal counsel to assist them in carrying out their duties under this chapter with the approval of a committee's house when the general assembly is in session and with the approval of the rules and administration committee of that house when the general assembly is not in session. Payment of costs for the independent legal counsel shall be made from section 2.12.

Sec. 7. Section 68B.10, unnumbered paragraph 5, Code 1987, is amended to read as follows:

Violation of the code of ethics may result in the suspension of a member from the general assembly and the forfeiture of the censure, reprimand, or other sanctions as determined by a majority of the member's house. However, a member may be suspended or expelled and the member's salary forfeited only if directed by a two-thirds vote of the member's house to which the member belongs. Such A suspension, expulsion, or forfeiture of salary shall be for such the duration as specified in the directing resolution provided however, that. However, it cannot shall not extend beyond the date of adjournment of the session end of the general assembly during which the violation occurred. Violation of the rules a rule relating to lobbyists and lobbying activities may result in the suspension of any censure, reprimand, or other sanctions as determined by a majority of the members of the house in which the violation occurred. However, a lobbyist may be suspended from lobbying activities for the duration provided in the directing resolution only if directed by a two-thirds vote of the house wherein in which the violation occurred.

Sec. 8. Section 68B.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

68B.11 REPORTING OF GIFTS AND FINANCIAL DISCLOSURE.

1. The house of representatives and the senate shall adopt rules requiring the reporting of gifts made to members of the general assembly, legislative employees, and their immediate family members. The rules shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceed fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. However, the rules of either or both houses may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

2. The governor shall issue an executive order requiring the reporting of gifts made to officials and employees of the executive department of the state and their immediate family members. The executive order shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The executive order shall require such disclosure by both the donor and donee. The executive order may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

3. The supreme court of this state shall adopt rules requiring the reporting of gifts made to officials and employees of the judicial department of this state and their immediate family members. The rules shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. The rules may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor.

4. The governing body of a political subdivision of this state shall adopt rules requiring the reporting of gifts made to its respective members and their immediate family members and its local officials and local employees and their immediate family members. The rules as adopted shall require public disclosure of the nature, amount, date, and donor of a gift or gifts from any one donor made to one of those individuals which exceeds fifteen dollars in cumulative value in any one calendar day. The rules shall require such disclosure by both the donor and donee. The rules may waive the reporting of food and beverage provided for immediate consumption in the presence of the donor. Copies of the rules and reports shall be filed with the county auditor of the county in which the political subdivision is located.

The secretary of state shall develop a standard form for public disclosure of gifts in compliance with this subsection which shall be available at every county auditor's office without cost.

5. a. In determining the value of a gift, an individual making a gift on behalf of more than one person shall not divide the value of the gift by the number of persons on whose behalf the gift is made.

b. The value of a gift to the donee is the value actually received.

c. For the purposes of the reporting requirements of this section, a donor of a gift made by more than one individual to one or more donees shall report the gift if the total value of the gift to the donee exceeds fifteen dollars.

6. The rules required under this section shall provide that expenses for food, beverages, registration, and scheduled entertainment at group events to which all members of either house or both houses of the general assembly have been invited shall be reported for each such event by reporting the date, location, and total expense incurred by the donor or donors.

7. Reporting requirements adopted or issued under this section may include requirements relating to the reporting of income which is not a gift.

8. A person who does not make public disclosure of gifts as required by this chapter or the rules adopted or executive order issued pursuant to this chapter is guilty of a serious misdemeanor.

Sec. 9. Section 722.1, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

722.1 BRIBERY.

A person who offers, promises, or gives anything of value or any benefit to a person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration, pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "D" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

Sec. 10. Section 722.2, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

722.2 ACCEPTING BRIBE.

A person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration who solicits or knowingly accepts or receives a promise or anything of value or a benefit given pursuant to an understanding or arrangement that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "C" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

Sec. 11. This Act, being deemed of immediate importance, is effective upon enactment.

Approved June 5, 1987