



OVERVIEW OF DUTIES AND RESPONSIBILITIES OF COMMISSIONERS

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Very Broad Powers of Commissioners

- County Commissioners serve as both the executive and legislative bodies of county
- County Council serves as fiscal body
- St. Joseph and Lake County – Council is fiscal and legislative body; Commissioners are executive
- Board of Commissioners “shall transact the business of the County”

Barnes & Thornburg LLP

- General counsel for over 30 years

Advise IACC Board

Available to Commissioners as complement
to County Attorney

- Legislative counsel to Indiana Association of
County Commissioners

Together with Stephanie Yager, your
advocates at Statehouse

County Commissioner Handbook

- I. GENERAL POWERS AND DUTIES**
- II. OPEN DOOR LAW AND ACCESS TO PUBLIC RECORDS**
- III. BUDGETING**
- IV. PUBLIC PURCHASES**
- V. PUBLIC CONSTRUCTION**
- VI. PUBLIC SAFETY**
- VII. PUBLIC HEALTH**
- VIII. TRANSPORTATION**
- IX. LABOR**
- X. TORTS CLAIMS ACT**
- XI. ETHICAL CONSIDERATIONS**

Two Lucrative Offices

Article 2 Section 9 of the Indiana Constitution

“No person holding a lucrative office or appointment under the United States or under this State is eligible to a seat in the General Assembly; and no person may hold more than one lucrative office at the same time, except as expressly permitted in this Constitution.”

Two Lucrative Offices

- County Commissioner is a lucrative office
- Violate by holding second position this an office and lucrative
- Office - Exercise of the sovereign power of government for the public benefit. See Attorney General Guide
- Lucrative – Eligible for compensation even if not received
- If violate, forfeit first position; could lose County Commissioner position

Official Misconduct –Level 6 Felony

A public servant who knowingly or intentionally:

- Commits an offense in the performance of the public servant's official duties
- Solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment
- acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or
- fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies.

Bribery – Level 5 Felony

County Commissioners commits bribery if he or she:

- (i) solicits, accepts, or agree to accept,
- (ii) either before or after the person becomes appointed, elected, or qualified,
- (iii) any property, except property the person is authorized by law to accept,
- (iv) with intent to control the performance of an act related to the person's function as a County Commissioner.

Ghost Employment – Level 6 Felony

Ghost employment is committed by a public servant who knowingly or intentionally:

- Hires an employee for the government entity that the public servant serves and fails to assign to the employee any duties, or assigns the employee any duties not related to the operation of the governmental entity
- Assigns an employee under the public servant's supervision any duties not related to the operation of the governmental entity that the public servant serves

Conflict of Interest – Level 6 Felony

A Public Servant who knowingly or intentionally has a pecuniary interest in or derives profit from a contract or purchase connected with an action by the governmental entity served by the Public Servant commits Conflict of Interest.

Exceptions include:

- Compensation through salary or an employment contract for services or for expenses incurred by the Public Servant.
- 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.

Conflict of Interest - Disclosure

No Conflict of Interest is committed if disclosure is made

Disclosure must:

- be in writing and affirmed under penalty of perjury
- contain a description of the contract or purchase to be made and the pecuniary interest of the Public Servant
- be submitted to the governmental entity and accepted by it in a public meeting before final action on the contract or purchase
- be filed within fifteen (15) days after final action on the contract or purchase with SBOA and Circuit Court Clerk

Indiana State Form 54266 is a Uniform Conflict of Interest Disclosure Statement

Profiteering from Public Service – Level 6 Felony

A person commits Profiteering from Public Service who

- knowingly or intentionally obtains a pecuniary interest in a contract or purchase
- within one year of separation from employment or service with the governmental entity
- as a Public Servant approved, negotiated, or prepared on behalf of the governmental agency the terms or specifications of the contract or purchase

Nepotism

- Individuals who are Relatives may not be employed by a unit in a position that results in a Relative being in the direct line of supervision of the other Relative
- Relative means a spouse, parent or step-parent, child or step-child (including adopted children), brother or sister (including step-siblings and siblings by the half-blood), niece or nephew, aunt or uncle, and daughter-in-law or son-in-law
- County of Commissioners must a adopt a policy and annually certify compliance

Nepotism - Exception

- Already Employed Relatives
 - If employed or subject of a contract at time of Commissioner's election may remain employed but may not be promoted
 - County policy may provide otherwise

Contracts with the County

- County cannot enter into a contract or renew a contract with
 - an individual who is a Relative of an Elected Official or
 - a business entity that is wholly or partially owned by a Relative of an Elected Official
- Same definition of Relative as above
- County Commissioners must adopt a policy on contracting that at a minimum incorporates the statutory standards
- Commissioners must certify compliance

Contracts with the County

- Contracts in existence prior to taking office not prohibited
- Contracts permitted with disclosure that must:
 - Meet requirements under Conflict of Interest above
 - Contain a description of the contract or purchase to be made and the pecuniary interest of the Public Servant
 - Be accepted by Commissioners at a public meeting before final action on the contract or purchase
 - Be filed within fifteen (15) days after final action on the contract or purchase with SBOA and Circuit Court Clerk
- Commissioners must certify contract lowest amount other reasons why the vendor or contractor was selected

Questions