

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0461.01 Bob Lackner x4350

SENATE BILL 12-146

SENATE SPONSORSHIP

Hodge,

HOUSE SPONSORSHIP

Peniston,

Senate Committees
State, Veterans & Military Affairs

House Committees
Local Government

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE ACCEPTANCE OF CERTAIN**
102 **BENEFITS BY SPECIFIED GOVERNMENTAL ACTORS WHO ARE IN A**
103 **POSITION TO REWARD PERSONS OFFERING SUCH BENEFITS WITH**
104 **OFFICIAL ACTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill amends the statutory rules of conduct for all public officers, members of the general assembly, local government

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 16, 2012

SENATE
2nd Reading Unamended
February 15, 2012

officials, and employees (covered individual) to include, as an economic benefit tantamount to a gift of substantial value, used in the determination of whether a covered individual has accepted an unethical gift:

! The acceptance by the covered individual of goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the state or a local government, under a contract or other means, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates a fair and legitimate transaction.

Section 2 of the bill adds to the existing list of ethical principles for public officers, local government officials, and employees the following principle:

! Public officers, local government officials, and employees are discouraged from assisting or enabling members of their immediate family in obtaining employment, a gift of substantial value, or an economic benefit tantamount to a gift of substantial value from a person whom the officer, official, or employee is in a position to reward with official action or has rewarded with official action in the past.

Section 3 of the bill amends the statutory rules of conduct for local government officials and employees to include:

! A prohibition on the acceptance by such officials and employees of goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the local government for which the official or employee serves, under a contract or other means, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates a fair and legitimate transaction.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-18-104, **amend**
3 (2) as follows:

4 **24-18-104. Rules of conduct for all public officers, members**
5 **of the general assembly, local government officials, and employees.**

6 (2) An economic benefit tantamount to a gift of substantial value
7 includes without limitation:

8 (a) A loan at a rate of interest substantially lower than the

1 commercial rate then currently prevalent for similar loans and
2 compensation received for private services rendered at a rate substantially
3 exceeding the fair market value of such services; OR

4 (b) THE ACCEPTANCE BY A PUBLIC OFFICER, A MEMBER OF THE
5 GENERAL ASSEMBLY, A LOCAL GOVERNMENT OFFICIAL, OR AN EMPLOYEE
6 OF GOODS OR SERVICES FOR HIS OR HER OWN PERSONAL BENEFIT OFFERED
7 BY A PERSON WHO IS AT THE SAME TIME PROVIDING GOODS OR SERVICES
8 TO THE STATE OR A LOCAL GOVERNMENT UNDER A CONTRACT OR OTHER
9 MEANS BY WHICH THE PERSON RECEIVES PAYMENT OR OTHER
10 COMPENSATION FROM THE STATE OR LOCAL GOVERNMENT, AS
11 APPLICABLE, FOR WHICH THE OFFICER, MEMBER, OFFICIAL, OR EMPLOYEE
12 SERVES, UNLESS THE TOTALITY OF THE CIRCUMSTANCES ATTENDANT TO
13 THE ACCEPTANCE OF THE GOODS OR SERVICES INDICATES THAT THE
14 TRANSACTION IS LEGITIMATE, THE TERMS ARE FAIR TO BOTH PARTIES, THE
15 TRANSACTION IS SUPPORTED BY FULL AND ADEQUATE CONSIDERATION,
16 AND THE OFFICER, MEMBER, OFFICIAL, OR EMPLOYEE DOES NOT RECEIVE
17 ANY SUBSTANTIAL BENEFIT RESULTING FROM HIS OR HER OFFICIAL OR
18 GOVERNMENTAL STATUS THAT IS UNAVAILABLE TO MEMBERS OF THE
19 PUBLIC GENERALLY.

20 **SECTION 2.** In Colorado Revised Statutes, 24-18-105, **add** (5)
21 as follows:

22 **24-18-105. Ethical principles for public officers, local**
23 **government officials, and employees.** (5) PUBLIC OFFICERS, LOCAL
24 GOVERNMENT OFFICIALS, AND EMPLOYEES ARE DISCOURAGED FROM
25 ASSISTING OR ENABLING MEMBERS OF THEIR IMMEDIATE FAMILY IN
26 OBTAINING EMPLOYMENT, A GIFT OF SUBSTANTIAL VALUE, OR AN
27 ECONOMIC BENEFIT TANTAMOUNT TO A GIFT OF SUBSTANTIAL VALUE FROM

1 A PERSON WHOM THE OFFICER, OFFICIAL, OR EMPLOYEE IS IN A POSITION TO
2 REWARD WITH OFFICIAL ACTION OR HAS REWARDED WITH OFFICIAL ACTION
3 IN THE PAST.

4 **SECTION 3.** In Colorado Revised Statutes, 24-18-109, **add** (2)
5 (c) as follows:

6 **24-18-109. Rules of conduct for local government officials and**
7 **employees.** (2) A local government official or local government
8 employee shall not:

9 (c) ACCEPT GOODS OR SERVICES FOR HIS OR HER OWN PERSONAL
10 BENEFIT OFFERED BY A PERSON WHO IS AT THE SAME TIME PROVIDING
11 GOODS OR SERVICES TO THE LOCAL GOVERNMENT FOR WHICH THE
12 OFFICIAL OR EMPLOYEE SERVES, UNDER A CONTRACT OR OTHER MEANS BY
13 WHICH THE PERSON RECEIVES PAYMENT OR OTHER COMPENSATION FROM
14 THE LOCAL GOVERNMENT, UNLESS THE TOTALITY OF THE CIRCUMSTANCES
15 ATTENDANT TO THE ACCEPTANCE OF THE GOODS OR SERVICES INDICATES
16 THAT THE TRANSACTION IS LEGITIMATE, THE TERMS ARE FAIR TO BOTH
17 PARTIES, THE TRANSACTION IS SUPPORTED BY FULL AND ADEQUATE
18 CONSIDERATION, AND THE OFFICIAL OR EMPLOYEE DOES NOT RECEIVE ANY
19 SUBSTANTIAL BENEFIT RESULTING FROM HIS OR HER OFFICIAL OR
20 GOVERNMENTAL STATUS THAT IS UNAVAILABLE TO MEMBERS OF THE
21 PUBLIC GENERALLY.

22 **SECTION 4. Applicability.** The provisions of this act apply to
23 actions undertaken by public officers, members of the general assembly,
24 local government officials, and employees, as applicable, on or after the
25 effective date of this act.

26 **SECTION 5. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.