

Missouri Revised Statutes

Chapter 36

State Personnel Law (Merit System)

Section 36.155

August 28, 2007

Political activities by state employees permitted--prohibited activities.

36.155. 1. An employee may take part in the activities of political parties and political campaigns.

2. An employee may not:

1) Use the employee's official authority or influence for the purpose of interfering with the results of an election;

2) Knowingly solicit, accept or receive a political contribution from any person who is a subordinate employee of the employee;

3) Run for the nomination, or as a candidate for election, to a partisan political office; or

4) Knowingly solicit or discourage the participation in any political activity of any person who has an application for any compensation, grant, contract, ruling, license, permit or certificate pending before the employing department of such employee or is the subject of, or a participant in, an ongoing audit, investigation or enforcement action being carried out by the employing department of such employee.

3. An employee retains the right to vote as the employee chooses and to express the employee's opinion on political subjects and candidates.

(L. 1998 H.B. 927)

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Missouri General Assembly

Missouri Revised Statutes

Chapter 36 State Personnel Law (Merit System) Section 36.157

August 28, 2007

Prohibitions on political activities by state employees.

36.157. An employee may not engage in political activity:

- 1) While on duty;
- 2) In any room or building occupied in the discharge of official duties;
- 3) By utilizing any state resources or facilities;
- 4) While wearing a uniform or official insignia identifying the office or position of the employee; or
- 5) When using any vehicle owned or leased by the state or any agency or instrumentality of the state.

(L. 1998 H.B. 927)

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Missouri Revised Statutes

Chapter 36 **State Personnel Law (Merit System)** **Section 36.159**

August 28, 2007

State employee not to be coerced into political activity--penalty.

36.159. It shall be unlawful for any person to intimidate, threaten, command or coerce any employee of the state to engage in, or not to engage in, any political activity, including, but not limited to, voting, or refusing to vote, for any candidate or measure in any election, making, or refusing to make, any political contribution or working, or refusing to work, on behalf of any candidate. No employee of this state shall discriminate against, discipline or otherwise create a preference for or against any employee subject to such person's authority as a consequence of such employee's political belief or expression of such belief. Any person who violates the provisions of this section is guilty of a class three election offense as established in section 115.635, RSMo, punishable by a term of imprisonment for not more than one year and a fine of not more than two thousand five hundred dollars, or both such fine and imprisonment. Any person convicted of a violation of this section shall lose such person's position in the agency.

(L. 1998 H.B. 927)

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Missouri Revised Statutes

Chapter 105

Public Officers and Employees--Miscellaneous Provisions

Section 105.055

August 28, 2007

State employee reporting mismanagement or violations of agencies, discipline of employee prohibited--appeal by employee from disciplinary actions, procedure--disciplinary action defined -- violation, penalties--civil action, when.

105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature, state auditor, attorney general, or any state official or body charged with investigating such alleged misconduct.

2. No supervisor or appointing authority of any state agency shall:

1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

a) A violation of any law, rule or regulation; or

b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or

2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

f. As used in this section, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the state personnel advisory board; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter 36, RSMo. If the board or appropriate review body finds that disciplinary action taken was unreasonable, the board or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.

(L. 1987 H.B. 659 § 1, A.L. 1993 S.B. 180, A.L. 2000 S.B. 788, A.L. 2004 H.B. 1548)

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Missouri General Assembly

Missouri Revised Statutes

Chapter 105 **Public Officers and Employees--Miscellaneous Provisions** **Section 105.058**

August 28, 2007

State agencies and officials not to prohibit communications between employees and the state auditor or legislators, exceptions.

105.058. No state agency and no state official, including the joint committee on legislative research and the oversight division, shall, by agency policy, executive order, ethics codes or any other means, prohibit any state employee from communicating with the state auditor or his or her state representative or state senator, nor shall such agency or official require any such employee to provide any record or other information regarding any communications with the state auditor or his or her state representative or state senator, except when such communications are directly related to the primary employment duties of such employee.

(L. 1998 H.B. 927 § 1, A.L. 2000 S.B. 788)

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Missouri Revised Statutes

Chapter 105 Public Officers and Employees--Miscellaneous Provisions Section 105.150

August 28, 2007

No state officer or clerk to deal in state stocks--penalty.

105.150. It shall not be lawful for the state treasurer or auditor, or any state officer or any clerk or employee of the state, to deal in any of the stocks or indebtedness of the state, at less than their par value, or any claim against the state, or to prosecute any claim against the state, under pain of forfeiting his office or place.

(L. 1945 p. 1977 § 27)

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Missouri Revised Statutes

Chapter 105 **Public Officers and Employees--Miscellaneous Provisions** **Section 105.452**

August 28, 2007

Prohibited acts by elected and appointed public officials and employees.

105.452. No elected or appointed official or employee of the state or any political subdivision thereof shall:

- 1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or
- 2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;
- 3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;
- 4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting and shall not be relieved by reason of the provisions of section 105.460, except that such official may act on increases in compensation subject to the restrictions of section 105.460 of article VII of the Missouri Constitution; or
- 5) Use his decision-making authority for the purpose of obtaining a financial gain which materially enriches himself, his spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.

(L. 1978 H.B. 1610 § 3, A.L. 1990 H.B. 948, A.L. 1991 S.B. 262)

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Missouri Revised Statutes

Chapter 105

Public Officers and Employees--Miscellaneous Provisions

Section 105.454

August 28, 2007

Additional prohibited acts by certain elected and appointed public officials and employees, exceptions.

105.454. No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

- 1) Perform any service for any agency of the state, or for any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his or her official duties, in excess of five hundred dollars per transaction or five thousand dollars per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received;
- 2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power and received consideration therefor in excess of five hundred dollars per transaction or five thousand dollars per year, unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding provided that the bid or offer accepted is the lowest received;
- 3) Participate in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state, or political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per annum to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;
- 4) Perform any services during the time of his or her office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his or her official duties, by which service he or she attempts to influence a decision of any agency of the state, or of any political subdivision in which he or she is an officer or employee or over which he or she has supervisory power;
- 5) Perform any service for consideration, during one year after termination of his or her office or employment, by which performance he or she attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he or she was an officer or employee or over which he or she had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation herefor, in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of the executive department from being employed by any other department, division or agency of the executive branch of state government. For purposes of this subdivision, within ninety days after assuming office, the governor shall by executive order designate those members of his or her staff who have supervisory authority over each department, division or agency of state government for purposes of application of this subdivision. The executive order shall be

ended within ninety days of any change in the supervisory assignments of the governor's staff. The governor shall designate not less than three staff members pursuant to this subdivision;

6) Perform any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.

(L. 1978 H.B. 1610 § 4, A.L. 1991 S.B. 262, A.L. 1998 H.B. 1120, A.L. 2004 S.B. 968 and S.B. 969, A.L. 2005 H.B. 577 merged with S.B. 307)

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Missouri General Assembly

Missouri Revised Statutes

Chapter 105 **Public Officers and Employees--Miscellaneous Provisions** **Section 105.462**

August 28, 2007

Prohibited acts by persons with rulemaking authority--appearances --exceptions.

105.462. 1. No member of any agency of the state or any political subdivision thereof who is empowered to adopt a rule or regulation, other than rules and regulations governing the internal affairs of the agency, or who is empowered to fix any rate, adopt zoning or land use planning regulations or plans, or who participates in or votes on the adoption of any such rule, regulation, rate or plan shall:

1) Attempt to influence the decision or participate, directly or indirectly, in the decision of the agency in which he or she is a member when he or she knows the result of such decision may be the adoption of rates or zoning plans by the agency which may result in a direct financial gain or loss to him or her, to his or her spouse or a dependent child in his or her custody or to any business with which he or she is associated;

2) Perform any service, during the time of his or her employment, for any person, firm or corporation for compensation other than the compensation provided for the performance of his or her official duties, if by the performance of the service he or she attempts to influence the decision of the agency of the state or political subdivision in which he or she is a member;

3) Perform for one year after termination of his or her employment any service for compensation for any person, firm or corporation to influence the decision or action of the agency with which he or she served as a member; provided, however, that he or she may, after termination of his or her office or employment, perform such service for consideration in any adversary proceeding or in the preparation or filing of any public document or conference thereon unless he or she participated directly in that matter or in the receipt or analysis of that document while he or she was serving as a member.

2. No such member or any business with which such member is associated shall knowingly perform any service for, or sell, rent or lease any property to any person, firm or corporation which has participated in any proceeding in which the member adopted, participated in the adoption or voted on the adoption of any rate or zoning plan or the granting or revocation of any license during the preceding year and received therefor in excess of five hundred dollars per transaction or one thousand five hundred dollars per annum except on transactions pursuant to an award on contract let or of sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

(L. 1978 H.B. 1610 § 7, A.L. 1998 H.B. 1120)

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Missouri General Assembly

Missouri Revised Statutes

Chapter 105 Public Officers and Employees--Miscellaneous Provisions Section 105.464

August 28, 2007

Prohibited acts by persons in judicial or quasi-judicial positions.

105.464. 1. No person serving in a judicial or quasi-judicial capacity shall participate in such capacity in any proceeding in which the person knows that a party is any of the following: the person or the person's great-grandparent, grandparent, parent, stepparent, guardian, foster parent, spouse, former spouse, child, stepchild, foster child, ward, niece, nephew, brother, sister, uncle, aunt, or cousin.

2. No provision in the section shall be construed to prohibit him from entering an order disqualifying himself or herself or transferring the matter to another court, body, or person for further proceedings.

(L. 1978 H.B. 1610 § 8, A.L. 1997 S.B. 16, A.L. 1999 S.B. 1, et al.)

(1999) Section prior to amendment by Senate Bill 1 (1999) declared unconstitutional as violation of separation of powers. *Weinstock v. Holden*, 995 S.W.2d 408 (Mo.banc).

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Missouri General Assembly

Missouri Revised Statutes

Chapter 105 Public Officers and Employees--Miscellaneous Provisions Section 105.467

August 28, 2007

Discharge and discrimination prohibited, reasons--reinstatement.

105.467. 1. A governmental body, state agency or appointing authority shall not discharge, threaten, or otherwise discriminate against a person or state employee acting on behalf of a person regarding compensation, terms, conditions, location, or privileges of employment because:

- 1) The person or state employee acting on behalf of the person reports or is about to report, verbally or in writing, a violation or a suspected violation of sections 105.450 to 105.498; or
- 2) A person or state employee acting on behalf of the person is requested by the commission to participate in an investigation, hearing, or inquiry held by the commission or any related court action.

This subsection shall not apply to a person or state employee acting on behalf of a person who knowingly or recklessly makes a false report.

2. A person or state employee acting on behalf of a person who alleges a violation of subsection 1 of this section may bring a civil action for appropriate injunctive relief, or actual damages, or both.

3. A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, reinstatement of the person or state employee acting on behalf of the person, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award such person all or a portion of the costs of litigation, including reasonable attorney's fees and witness fees, if the court determines that the award is appropriate.

(L. 1991 S.B. 262)

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