

FIRST REGULAR SESSION

HOUSE BILL NO. 246

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

0329H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 105, RSMo, by adding thereto one new section relating to ethics, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 105, RSMo, is amended by adding thereto one new section, to be known as section 105.451, to read as follows:

105.451. 1. For purposes of this section, the term "discretionary matter" means any matter in which a governing body may take action but is not required by law to take action.

2. Notwithstanding the common law rule of necessity or any other provision of law, if the governing body of a political subdivision is unable to approve a proposed action with respect to a discretionary matter because at least one member of the governing body has a financial interest greater than twenty-five thousand dollars in the outcome of the matter and is required by law to disqualify himself or herself from participation in the matter, the governing body of the political subdivision shall immediately refer the matter to the ethics commission. The governing body shall not take any action on the matter until after the ethics commission has decided whether the disqualified member or members may participate in the matter and the time for an appeal of that decision has expired.

3. The ethics commission shall decide whether otherwise disqualified members may participate in any matter referred under subsection 2 of this section in accordance with the provisions of this section and rules it shall promulgate. The ethics commission shall notify the members of the governing body of the political subdivision of its decision within thirty days of receipt of the referral.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **4. Upon receipt of a referral under subsection 2 of this section, the ethics**
19 **commission shall determine whether there is clear and convincing evidence that:**

20 **(1) Approval of the proposed action by the governing body is necessary to serve the**
21 **general public interest; and**

22 **(2) No reasonable alternative course of action is available that could provide a**
23 **similar public benefit considering relevant economic costs.**

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25 **If clear and convincing evidence exists, the ethics commission shall find that the member**
26 **who is otherwise disqualified may participate in the matter despite the disqualification.**
27 **If clear and convincing evidence does not exist, the ethics commission shall find that the**
28 **disqualified member is barred from participating in the matter.**

29 **5. Any member of the governing body of a political subdivision that referred a**
30 **matter under subsection 2 of this section may appeal the ethics commission's decision to**
31 **the circuit court of Cole County within thirty days after actual notice of the decision. The**
32 **court shall conduct a de novo review of the decision of the commission.**

33 **6. If a disqualified member of the governing body of a political subdivision is found**
34 **to be barred from participating in a matter after the review outlined in this section, the**
35 **governing body of the political subdivision shall not invoke the common law rule of**
36 **necessity in order to approve the proposed action with respect to the matter in which the**
37 **member is disqualified.**

38 **7. Any person guilty of knowingly violating any of the provisions of this section**
39 **shall be subject to the penalties specified in section 105.478.**

40 **8. The ethics commission shall promulgate rules to implement the provisions of this**
41 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
42 **created under the authority delegated in this section shall become effective only if it**
43 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
44 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
45 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
46 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
47 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,**
48 **shall be invalid and void.**

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