

Richland County Rules and Resolutions Committee & Ethics Board

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Agenda Item Name: Discussion and possible action regarding the ethics ordinance

Department	County Board	Presented By:	Shaun Murphy-Lopez
Date of Meeting:	11/4/21	Action Needed:	Motion
Disclosure:	Open Session	Authority:	Committee Structure, Letter G
Date submitted:	11/3/21	Referred by:	n/a

Recommendation and/or action language: Motion to direct Corporation Counsel to incorporate the following changes to an amendment of Ordinance No. 06-28 (as amended in Ordinance No. 07-7 and 10-8). The motion may include:

1. Proper reference to state statute 19.59 (1) which sets forth the minimum code of ethics for public officials.
2. The addition of public officials, including county board supervisors, constitutional officers, and the county administrator, as defined in Wisconsin State Statute 19.42 (7w) and allowed in Statute 19.59 (1m).
3. The addition of members of the immediate family of positions, as defined in Statute 19.42 (7) and allowed in Statute 19.59 (2).
4. The addition of candidates for public office, as defined in Statute 19.42 (3s) and allowed in Statute 19.59 (2).
5. A requirement that public officials, county employees, and/or candidates for public office be required to file a statement of economic interests, as defined in Statute 19.44 and allowed in Statute 19.59 (3)(a).
6. A provision directing the county clerk to omit the name of any candidate from an election ballot who fails to disclose their economic interests, as allowed in Statute 19.59 (3)(b).
7. A provision directing the county treasurer to withhold the payment of salaries or expenses from any public official or employee of the county who fails to disclose their economic interests, as allowed in Statute 19.59 (3)(c).
8. Changing the definition of a substantial gift from \$100 to a different amount.
9. That a violation of the ordinance does not require the removal of public officials or employees from their position.

Background:

At the May and September meetings, the Rules and Resolutions Committee & Ethics Board reviewed the County's current ethics ordinance (see Attachment A) and guidance from the Wisconsin Counties Association on ethics, as well as ethics ordinances from three neighboring counties (Crawford, Iowa, and Sauk). Administrator Langreck suggested that the committee generate a list of favored changes to the ethics ordinance, before asking Corporation Counsel to draft an amendment and review applicable state statutes.

This section corresponds to the numbers set forth in the section above. Relevant Wisconsin state statutes from Chapter 19 are included as Attachment B.

1. Wisconsin Statute 19.59 (1) addresses the code of ethics for local government officials, employees, and candidates. Specifically, 19.59 says:

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- a. “No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.”
- b. “No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official’s vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official.”
- c. “Except as otherwise provided in par. (d), no local public official may:
 - i. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
 - ii. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official’s immediate family either separately or together, or an organization with which the official is associated.”
- d. “Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.”

Richland County’s Ethics Ordinance already includes a reference to Statute 19.59, but does not specifically reference section (1).

2. Statute 19.59 (1m) allows a county to enact an ethics ordinance, and it also allows this ordinance to apply not only to employees but also to public officials. Public officials are defined in Statute 19.42 (7w) to include “an elective office of a local governmental unit . . . a county administrator . . . and an appointive office or position of a local governmental unit in which an individual serves for a specified term . . .”
3. Statute 19.59 (1m) allows the ordinance to apply to “members of the immediate family of individuals who hold positions . . .” Immediate family is defined in Statute 19.42 (7) as “(a) An individual’s spouse; and (b) An individual’s relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.”
4. Statute 19.59 (1m) allows the ordinance to apply to “. . . candidates for positions to which the ordinance applies.” Candidates are defined in Statute 19.42 (3s) as “any individual who files nomination papers and a declaration of candidacy under s. 8.21 or who is nominated at a caucus under s. 8.05 (1) for the purpose of appearing on the ballot for election as a local public official or any individual who is nominated for the purpose of appearing on the ballot for election as a local public official through the write-in process or by appointment to fill a vacancy in nomination and who files a declaration of candidacy under s. 8.21.”

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5. Statute 19.59 (3)(a) allows the ordinance to include, “a requirement for local public officials, other employees of the county or municipality and candidates for local public office to identify any of the economic interests specified in s. 19.44.” Statute 19.44 includes employers, investments, real estate, commercial clients, and creditors.
6. Statute 19.59 (3)(b) allows the ordinance to include “A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.”
7. Statute 19.59 (3)(c) allows the ordinance to include “A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employee of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.”
8. Richland County’s current ordinance defines a substantial gift as “any item, items, or service which have an estimated market value of \$100 or more.” The Wisconsin County Official’s Handbook (see Attachment C) says that the Wisconsin Elections Commission has interpreted parallel Statute 19.45 (3), saying that “It would be unreasonable to expect a gift of not more than \$25 to influence an individual’s judgment.”
9. One concern brought to the committee’s attention at the last meeting was a possible conflict between any amendments to the County’s current ethics ordinance and Statute 17.09, which addresses the removal of elective county officers (i.e. clerk, treasurer, surveyor, and supervisor). An attorney general opinion summary states, “Removal is governed by s. 17.16 and contemplates a determination of cause by the board. An ordinance making a violation *ipso facto* cause for removal impermissibly circumvents that procedure.”

The County’s ethics ordinance currently appears to be in compliance with this opinion. Statute 19.59 (3)(f) allows for, “A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.” While Statute 19.59 does not directly address removals, Statute 19.59 (4) says, “This section may not be construed to limit the authority of a county, city, village or town to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws.”

Attachment D includes ethics ordinances for Crawford, Iowa, and Sauk Counties. These ordinances may be reviewed by the committee to determine favored components to include in an amendment to Richland County’s ethics ordinance.

Attachments and References:

Attachment A: Richland County Ethics Ordinance	Attachment B: Wisconsin Statutes Chapter 19
Attachment C: Wisconsin Counties Association Handbook	Attachment D: Crawford, Iowa, Sauk County Ethics Ordinances

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Financial Review:

(please check one)

<input type="checkbox"/>	In adopted budget	Fund Number	
<input type="checkbox"/>	Apportionment needed	Requested Fund Number	
<input type="checkbox"/>	Other funding Source		
<input checked="" type="checkbox"/>	No financial impact		

Approval:

Review:

Department Head

Administrator, or Elected Office (if applicable)