

Dear Rules Committee Members:

I am writing to express the League's concerns over HB 2079, which combines the definition of "relative" in ORS 244, the ethics statutes. The League submits there is a compelling reason to use separate definitions of "relative" in the gift limit and in the nepotism statute.

The gift limit in ORS 244.025 prohibits a public official or a relative from receiving gifts from a person who has a legislative or administrative interest (LAI) in that public official. The statute as it stands now is problematic in that it holds a public official liable for the conduct of others. If the definition of "relative" from HB 2079 were substituted for the current definition, step-siblings and in-laws would be added to the list of persons that may not accept a gift from a person with LAI. A public official has no legal authority to prohibit the acceptance of a gift on the part of anybody encompassed in the current definition of relative (with the possible exception of a minor child). To add legal relations to the definition would place the public official in greater jeopardy of a complaint and possible sanction over conduct they would have even less ability to influence. I have included definitions of the current gift limit and "relative" for your convenience.

*244.025 Gift limit. (1) During a calendar year, a public official, a candidate or a **relative** or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.*

244.177 Employment of relative or member of household; exceptions. (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

Conversely, when regulating nepotism, it would be more appropriate for a wider definition of "relative" because the conduct the state seeks to prevent requires a public official to take an affirmative action to financially benefit a person of familial or legal relation. Steering a contract to a brother-in-law is clearly something that should be prohibited but exposing the public official to liability because that brother-in-law accepts a round of golf from a business associate seems unreasonable.

I would be happy to discuss this matter in greater detail with any who would care to explore the topic further.

Best Regards,

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