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Bribery for Votes

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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The Tennessee Constitution and statutes also prohibit offering bribes for votes. *Clariday v. State of Tennessee*, 552 S.W.2d 759 (Tenn. 1976); *State v. Prybil*, 211 N.W.2d 308 (Iowa 1973). It is unlawful for any candidate for a county office to expend, pay, promise, loan or become pecuniarily liable in any way for money or any other thing of value, either directly or indirectly, or to agree to enter into any contract with any person to vote for or support any particular policy or measure, in consideration of the vote or support, moral or financial, of that person. T.C.A. § 2-19-121. See Op. Tenn. Atty. Gen. 07-113 (July 30, 2007) (paying a fee to a group or individual in exchange for their endorsement would violate T.C.A. § 2-19-121, which bars a candidate from bargaining for support).

A violation of this statute, known as bargaining for votes, is a Class C misdemeanor. T.C.A. § 2-19-123. It is not illegal under this statute to make expenditures to employ clerks or stenographers in a campaign, for printing and advertising, actual travel expenses, or certain other allowed expenditures. T.C.A. § 2-19-124.

A stronger prohibition against bribing voters is found in the statute which makes it illegal for a person, whether directly or indirectly, either personally or through another person, to pay or give anything of value to a voter to influence the person's vote (or failure to vote) in any election, primary or convention. T.C.A. § 2-19-126. See Op. Tenn. Atty. Gen. 02-073 (June 10, 2002) (awarding a prize to individuals who voted in an election violates the prohibitions of T.C.A. § 2-19-126 against offers of something of value in return for voting and direct payments given on account of voting). A violation of this statute is a Class C felony. T.C.A. § 2-19-128. Voters are also prohibited from accepting bribes, and the same penalty applies. Betting on elections is also prohibited. T.C.A. §§ 2-19-129 through 2-19-131.

In *State ex rel. Anderson v. Fulton*, 712 S.W.2d 90 (Tenn. 1986), a case involving the matter of whether the district attorney abused his or her discretion in refusing to bring a quo warranto proceeding against the Mayor of Nashville-Davidson County as requested by an unsuccessful candidate for that office, the Tennessee Supreme Court considered the question of bribery in violation of the bribery statutes and Article 10, Section 3 of the Tennessee Constitution, which states:

Any elector who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the law shall direct. And any person who shall directly or indirectly give, promise or bestow any such reward to be elected, shall thereby be rendered incapable, for six years, to serve in the office for which he was elected, and be subject to such further punishment as the Legislature shall direct.

The allegations of wrongdoing on the part of the Mayor involved distribution of free cheese and butter to low income groups through the Metropolitan Development and Housing Agency, and a barbecue and watermelon feast sponsored by the Mayor's re-election committee.

In finding no bribery under these circumstances, the Supreme Court explained the bribery prohibition as follows:

The prohibition of the Constitution and the statute involved here is directed to the giving or promising of rewards such as meat, drink, money or things of value for a vote to be elected to public office. Ms. Anderson and her attorney did not provide the District Attorney with a single instance wherein it was factually asserted that Mayor Fulton had given anything of value in exchange for a promise to vote for him in the Mayoral election. Implicit in the District Attorney General's letter of May 17 was the observation that the serving of food at a traditional political rally promoting a candidate for election to public office, to which the general public is invited, lacks the essential element of bribery, to-wit: that a voter is given food in exchange for his vote, which element was also not present in the distribution of butter and cheese.

Fulton, at 93 - 94.

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