

46-229

Chapter 46.--LEGISLATURE Article 2.--STATE GOVERNMENTAL ETHICS

46-229. "Substantial interest" and "client or customer" defined. "Substantial interest" means any of the following:

(a) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(b) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(c) If an individual or an individual's spouse, either individually or collectively, has received directly or indirectly in the preceding 12 months, gifts or honoraria having an aggregate value of \$500 or more from any person, the individual has a substantial interest in that person. If a gift is received for which the value is unknown, the individual shall be deemed to have a substantial interest in the donor. A substantial interest does not exist under this subsection by reason of: (1) A gift or bequest received as the result of the death of the donor; (2) a gift from a spouse, parent, grandparent, sibling, aunt or uncle; or (3) acting as a trustee of a trust for the benefit of another.

(d) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(e) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used in this subsection, "client or customer" means a business or combination of businesses.

History: L. 1974, ch. 353, § 15; L. 1983, ch. 172, § 1; L. 1984, ch. 189, § 1; L. 1987, ch. 198, § 1; July 1.

Law Review and Bar Journal References:

"Ethical Dilemmas for the Kansas Government Lawyer," Brian J. Moline, 5 Kan. J.L. & Pub. Pol'y, No. 1, 105, 106 (1995).

Governmental Ethics Commission Opinions:

Reporting of substantial interests; substantial interest of spouse. 87-5.

Conflict of interest; substantial interest. 87-8.

Substantial interest; spouse's employment. 87-10.

Behavioral sciences regulatory board (BSRB) member who is also board member of association of Kansas community health centers cannot represent BSRB in dealing with that association. 88-19.

Interim youth center director whose spouse is retail store manager where youth center purchases merchandise may not participate in contracting with such retail store. 90-11.

Legislator holding a stock option worth minimum of \$5,000 is required to report such option as a substantial interest. 91-36.

Deputy warden whose spouse directs alcohol and drug treatment program at warden's facility may participate in program's compliance but not in renewal of contract. 92-22.

The terms "substantial interest" and "business" defined and discussed. 93-34.

Wildlife and parks employee may serve as drainage district supervisor under conditions outlined in opinion. 94-28.

State employee's agency awarding grant to board of which employee is a director; employee not involved in preparation or making of contract or awarding grant. 95-14.

Board member has deposit relationship with financial institution providing services for board; deposit relationship does not create a substantial interest. 95-15.

Individual serving on both state advisory council on aging and a department on aging subcontractee controlling board. 95-18.

State senator serving as president of a racing association. 96-37.

State legislator as president of private corporation; sales of advertising. 96-38.

Member of Kansas arts commission serving on board of organization applying for funding from commission. 97-11.

State employee serving on advisory board of private organization which contracts with the state agency. 97-50.

State legislator serving as member of city council; voting. 98-5.

Staff member of a state agency entering into a contract to provide services to an entity which in turn contracts with and is licensed by the state agency. 98-15.

Compensation of members of a board for being instructors for pre-licensing and continuing education courses subject to approval by board. 98-17.

Director of division of department of commerce and housing; family member investing in venture capital company and Kansas-based life insurance company. 1998-27.

Staff member of SRS with primary duties to authorize benefits for clients of department; assisting in establishing and holding position as executive director or member of board of directors of local homeless shelter. 1998-28.

State employee serving as chairperson of committee of private organization to which employee submits state projects and requests vote of committee thereon. 1999-18.

Unclassified state employee and wife; acceptance of shares of stock from long-time personal friends. 1999-19.

No improper involvement of state employees in pending contract since contract will be let through competitive bidding. 1999-34.

Attorney General's Opinions:

Retail liquor dealer's license; dealer's spouse prohibited from holding beneficial interest in another retail establishment; constitutionality. 94-88.