

75-4301a

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 43.--PUBLIC OFFICERS AND EMPLOYEES

75-4301a. Governmental ethics applicable to local governmental subdivisions; definitions. As used in K.S.A. 75-4302a, 75-4303a, 75-4304, 75-4305 and 75-4306, and amendments thereto:

- (a) "Substantial interest" means any of the following: (1) 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.
- (2) 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.
- (3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
- (4) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10) or (19) of chapter 26 of the United States code, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.
- (5) 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.

(b) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

(c) "Local governmental employee" means any employee of any governmental subdivision or any of its agencies.

(d) "Local governmental officer" means any elected or appointed officer of any governmental subdivision or any of its agencies.

(e) "Candidate for local office" means any candidate for nomination or election to any elective office of a governmental subdivision.

(f) "Governmental subdivision" means any city, county, township, school district, drainage district or other governmental subdivision of the state having authority to receive or hold public moneys or funds.

(g) "Contracts" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.

(h) "Acts" means the exercise of power or authority or performance of any duty incident to public office or employment.

(i) "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

(j) "Preceding calendar year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date.

History: L. 1990, ch. 306, § 14; L. 1991, ch. 150, § 45; July 1.

Governmental Standards and Conduct Comm. Opinions:

Retirement benefit received by city councilperson is not compensation as defined as a substantial interest. 90-16.

Kansas small business development center agents employed by community colleges, Washburn university or private colleges. Community college and Washburn university employees are covered by conflicts statutes; private college employees are not covered. 91-1.

All elected and appointed municipal officials required to purchase an equity interest in not-for-profit homes association have a "substantial interest" under this act. 92-14.

City commissioner who owns and operates a private business receiving a salary but no commissions does not have a substantial interest in company's customers but must abstain from any city actions concerning the company. 92-30.

Fairgrounds commission appointed by city commission which includes members of local fairground associations discussed; disclosure statements. 93-4.

City mayor may accept free airline ticket from "sister city" in Republic of China for visit to that city. 93-27.

Limitations and restrictions on city council member's participation in contracts between city and council member's business interests. 93-44.

Limitations and restrictions on city council member's participation in litigation involving real estate sold by such council member to city. 94-4.

Permissible extent of city council member's participation in city's development of project that such council member's spouse may possibly receive construction contract. 94-14.

Watershed districts; contracting officers; duties; qualifications; restrictions; definitions; watershed district is not a state agency but is a governmental subdivision. 94-29.

City council member who is also local high school teacher may cast city council vote on annexation of land and contract for construction of new high school. 95-1.

School district classified employee may serve on district's board of education; participation in decisions affecting classified employees; board member's spouse employed teacher; participation in teacher's contract decisions. 95-9.

City planning commission; rezoning residential development; commission member who is member of real estate agency which will sell lots in development. 95-10.

Spouse of city council member may serve as city planning commission member. 95-11.

Spouse of city commissioner as a director of 501(c)(3) corporation for county economic development; city commissioners as trustees for funds to attract industrial development; participation in contracts. 95-12.

Holding offices of city commissioner and attorney for housing authority; holding offices of city attorney and member of planning commission; mayor holding option on land county is considering buying; question of substantial interest. 95-17.

County commissioner, customer and landowner in rural water district; dealing with matters before county commission involving district. 96-6.

Mayor of city or candidate for sheriff, as private business person, involved in contract with county. 96-11.

Candidate for city council; listing clients of law firm on statement of substantial interest. 96-33.

Public airport authority; authority of board members to enter into contract to pay themselves for work done on behalf of authority. 96-34.

Child of county commissioner employed as noxious weed supervisor. 97-05.

Attorney General's Opinions:

School board members to receive no compensation; school employees as board members. 91-15.

Interlocal agreements; prosecution of city DUI violation ordinance by county attorney. 91-26.

Conflicts of interest; district court clerk who is spouse of county sheriff; qualifications. 91-32.

Governmental ethics applicable to local governmental subdivisions; making or participating in certain contracts prohibited; member of board of education. 91-114.

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

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Governmental Ethics Commission Opinions:

Mayor-commissioner abstention from voting; participation in making contract with business in which an interest is held; exceptions. 97-29.

County commissioner is also independent insurance agent; sales of insurance which may involve conflict of interest. 97-37.

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

Person elected mayor whose parents are employed by the city. 1999-11.

Sheriff may establish legal defense fund and solicit contributions to pay cost of defending against recall proceeding. 1999-13.

Person serving as member of city council and also as member of local school board. 1999-40.