

75-4304

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

75-4304. Same; making or participating in certain contracts prohibited; exceptions; abstaining from action. (a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

(b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

(d) This section shall not apply to the following:

- (1) Contracts let after competitive bidding has been advertised for by published notice; and
- (2) contracts for property or services for which the price or rate is fixed by law.

(e) Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.

History: L. 1970, ch. 366, § 4; L. 1974, ch. 397, § 1; L. 1990, ch. 306, § 17; May 31.

Source or prior law:

L. 1967, ch. 464, § 4.

Revisor's Note:

Former 75-4304 repealed, L. 1970, ch. 366, § 22.

Governmental Standards and Conduct Comm. Opinions:

A mayor elected to board of a bank has a substantial interest therein. 80-3.

Member of board of community college whose spouse is faculty member thereof; no conflict of interest. 80-10.

City treasurer serving as officer of bank doing business with city; no conflict of interest under circumstances stated in opinion. 80-15.

No conflict of interest arises because candidate for county has a spouse who is a teacher in local school under hypotheticals stated in opinion. 80-16.

Mayor who is private contractor involved in IRB issue for construction of building by contracting company; requirements to comply with statutes. 80-18.

Action required to comply with statutes where city commissioner is president of local bank making loans on property involved in rezoning. 80-31.

School district hearing officer whose law partner is on school board; no conflict of interest under certain conditions. 82-23.

Mayor whose spouse is candidate for city council and operates solid waste business under contract with city; no conflict of interest under certain conditions. 83-6.

Nursing home administrator elected as city councilman; substantial interests; conflict of interests under certain circumstances. 83-11.

City council member who is an insurance agent doing business with city; no conflict of interest under certain conditions. 83-16.

Person appointed to fill unexpired term to board of public utilities who has had past business relation with board does not violate conflict of interests provisions. 84-14.

City commission member who is engaged in real estate sales business; sales involving city mortgage revenue bonds; possible conflict of interests. 85-5.

Ability of public officer to participate in the making of contracts in which he has a substantial interest. 86-4.

City councilman; ability to be employed by the city. 87-4.

County commission member; ability to sell insurance to the county. 87-12.

City councilperson also serving as chairperson of hospital board may vote on zoning and other matters pertaining to hospital so long as proper disclosure is made. 90-13.

School board member who is also school counselor; permissibility of participation as board member in negotiated school employment package. 90-14.

Unified school district teacher may also serve as school board member; school district is not a business or person as defined. 90-21.

"Substantial interest" defined and discussed. 90-22.

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.

School teacher may serve on board of education of teacher's school district; board of education is not a person or business under this act. 91-5.

Board of education member whose spouse is teacher on teachers' negotiating team; no conflict of interest under this act. 91-17.

County hospital board member whose spouse is physician directly involved in hospital related items may not participate in any board decisions pertaining to such spouse. Disclosure statement is required. 91-14.

School board member who made personal contribution to fund to provide legal efforts to preserve old school building must either abstain or file disclosure statement if participating in school board action on this fund. 91-29.

Act does not restrict conduct of persons serving on two local public bodies or serving on one and employed by another such body. 91-31.

County counselor, requested by county commission soliciting bids from all attorneys in-county to provide public defender services, submitted low bid; permissible under circumstances. 91-32.

City council member who is salaried employee of county airport commission; no conflict under this act since airport commission is not a "person" or "business". 92-7.

Area agency on aging (AAA) division of department on aging; AAA director may serve as county commissioner if not involved in contract negotiations with county. 92-15.

Limitations on sheriff who operates a private security and investigations agency. 92-16.

County attorney with part-time private practice may accept part-time position with corporation contracting with county if proper disclosure statement is filed. 92-27.

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

County commission member who is a building contractor may contract with the county if such member abstains from all commission action thereon and if contract is awarded on competitive bid. 93-15.

City commissioner, in such commissioner's private capacity, may sign petition to create a benefit district for downtown improvements; other factors considered. 93-17.

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

Area Agencies on Aging (AAA) is not a "person" or "business" and is not subject to conflict of interest restrictions. 93-29.

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.

Rural water district is not a "person" or "business" under this act; county commissioner who owns rights to water district's meter does not hold a "substantial interest" in water district. 94-7.

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.

Local governmental agency may contract with private enterprise in which local official has substantial interest if such official abstains from any official action on such contract. 94-31.

Local real estate agency president also serves on city/county joint planning commission and board of zoning appeals; possible conflicts of interest problems discussed. 94-38.

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.

Spouse of a city council member may serve as city planning commission member. 95-4.

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.

Employees of county treasurer's office owning and managing title service company; employees' involvement in contracts with company. 95-22.

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

Airport operated under joint agreement of county and city; mayor and county commissioner, who are on governing committee under agreement, voting as officer of city and county on funding for airport. 96-12.

Employee of educational service center, member of negotiating team for center's employees; service on center's board of directors. 96-15.

City council members voting on matters involving school district by which such members or their spouses are employed. 96-22.

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

Local subdivision of government not a person or business for purpose of prohibitions involving conflicts of interests. 96-36.

Contract between county commissioner and airport authority created by city. 97-01.

Accounts of city treasurer audited by spouse's accounting firm. 97-06.

Member of city council is partner in law firm with city attorney; compensation of city attorney paid to individual not to firm. 97-15.

Attorney General's Opinions:

Recall of elected officials; grounds for recall; abstinence from voting thereon. 80-142.

Incompatibility of officers doctrine; municipal judge, fire chief, members of volunteer fire department. 81-74.

Eligibility to office in cities of third class; conflict of interest. 81-88.

Public officers and employees; conflict of interests; reporting substantial interests. 81-170.

County officers; conflict of interest; prohibited contracts. 82-144.

Public officers and employees; conflict of interests. 83-98.

Public officers and employees prohibited from making certain contracts. 84-49.

Public officers and employees; prohibition on certain contracts. 85-141.

Prohibition on certain contracts; community college board of trustees. 85-169.

Conflict of interests; public officers and employees prohibited from making certain contracts; inapplicable where governmental unit is employer. 86-41.

Conflict of interest; marital relationship. 86-89.

Public officers and employees prohibited from making certain contracts; county community corrections program director. 90-4.

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

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.

Authority of county appraiser to own a private appraisal company doing appraisal work in county. 96-23.

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Governmental Ethics Commission Opinions:

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

Wife of county commissioner provides contract services for clinic employed by corporation requesting approval of county commissioners to locate swine feeding facility. 98-3.

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

Local governmental official drafting bid request for a position; acceptance of position by such official. 98-11.

City council member participation and voting on matters in which spouse's firm appears on behalf of client or is considered for work for city. 1998-20.

Kansas department of wildlife and parks owns land in drainage district; area manager of department elected secretary of board of district. 1998-21.

Member of board of education engaged as subcontractor to perform work for firm entering into contract to provide services to unified school district. 1998-30.

Members of board of education; acceptance of travel expenses to headquarters of private firm interested in operating high school in district. 1999-4.

County commissioner participating in amendment of sanitation code; commissioner owns and plans to develop land benefiting from such amendment. 1999-5.

Employee of engineering firm dealing regularly with board of public utilities; election to membership on board. 1999-6.

City council member contracting for sale of ownership in land to private individual; sale dependent upon development of land which must have approval of city council. 1999-22.

Ability of city councilman to participate as councilman in affairs involving a sister corporation of his employer for which wife's law firm is counsel. 1999-28.

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

City council member employed by company providing services to city; voting on matters providing funds to company; filing of statement of substantial interest. 1999-51.

Recreation commission may provide free access to local recreational activities to commission members. 2000-02.

City commission member may participate in hearing appeal of disciplinary action in which commission member's niece was involved although better course of action would be to abstain. 2000-07.

Person hired by city while person's company has executory contract with city; filing of statement of substantial interests. 2000-19.