

ENROLLED HOUSE
BILL NO. 2392

BY: JOHNSON (Glen) of the
HOUSE

and

CULLISON of the SENATE

AN ACT RELATING TO ETHICS; AMENDING 74 O.S. 1991, SECTIONS 4201, 4203 AND 4230, AS AMENDED BY SECTIONS 2, 4 AND 34 OF ENROLLED HOUSE JOINT RESOLUTION NO. 1077 OF THE 2ND SESSION OF THE 43RD OKLAHOMA LEGISLATURE, WHICH RELATE TO THE ETHICS COMMISSION ACT; MODIFYING LEGISLATIVE INTENT; MODIFYING PROHIBITED ACTS OF MEMBERS AND EMPLOYEES OF THE ETHICS COMMISSION; MODIFYING CERTAIN REPORTING REQUIREMENTS OF LOBBYISTS; AMENDING SECTION 48 OF ENROLLED HOUSE JOINT RESOLUTION NO. 1077 OF THE 2ND SESSION OF THE 43RD OKLAHOMA LEGISLATURE, WHICH RELATES TO AN EFFECTIVE DATE; MODIFYING AN EFFECTIVE DATE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 1991, Section 4201, as amended by Section 2 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 4201. It is the intent of the Legislature that the law reflect the following items:

1. That the operation of government be properly conducted so that public officers are independent and impartial and that a public office is not used for private gain other than the remuneration provided by law. Public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officers and government employees in situations where conflicts may exist;

2. That the government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officers should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when such interests conflict with the responsibility of such officers to the public;

3. That the campaign process in this state operate to ensure that the people of this state elect their representatives in an informed and equitable manner and that qualified persons become candidates for public office with full confidence in the ability of the process to protect them from wrongful allegations of unlawful election practices;

4. That the Ethics Commission operates to encourage the disclosure of all information required by this act, to assist persons required to file information with the Commission in

complying with this act and to make liberal and extensive use of settlement agreements allowed by this act;

5. That the central function of the Ethics Commission Act is to prevent, rather than punish, unethical conduct. ~~It is the further intent of the Legislature that referrals not be made for prosecution except in cases of knowing and willful violations of this act;~~

6. That the Ethics Commission is authorized to promulgate rules of ethical conduct for campaigns for elective state office and for campaigns for initiatives and referenda and rules of ethical conduct for state officers and state employees pursuant to the provisions of Section 3 of Article XXIX of the Oklahoma Constitution;

7. That the Ethics Commission give certain portions of any rules promulgated pursuant to Section 3 of Article XXIX of the Oklahoma Constitution future effective dates in order to allow sufficient opportunity to publish, educate and allow those affected by the rules to become familiar with their provisions and to attribute emergency status only to those rules necessary to guard against conduct which is in substantial conflict with the proper discharge of duties in the public interest;

8. That the Ethics Commission is to develop an effective and comprehensive ethics education program designed to educate persons affected by such rules of their content;

9. That the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and pending legislative actions at every level of government;

10. That these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflict of interest without creating unnecessary barriers to public service be implemented;

11. That no officer or employee of any governmental entity or political subdivision of this state, and no member of the Legislature or legislative employee, have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activities; or incur any obligation of any nature that is in substantial conflict with the proper discharge of his duties in the public interest; and

12. That all public officers and public employees are agents of the people and hold their positions for the benefit of the people. They are bound to uphold the Constitution of the United States and the Constitution of this state and to perform efficiently and faithfully their duties under the laws of the federal, state and local governments. Such officers and employees must observe, in their official acts, high standards of ethics regardless of personal consideration, recognizing that promoting the public interest and maintaining the respect for their government must be a foremost concern.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 4203, as amended by Section 4 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 4203. A. Any references to the Oklahoma Ethics Commission or the Oklahoma Council on Campaign Compliance and Ethical Standards shall be construed to refer to the Ethics Commission created in Section 1 of Article XXIX of the Oklahoma Constitution.

B. No member or employee of the Commission, during the period of such membership or employment, shall:

1. Hold or campaign for state or local office;
2. Be an officer of any political party or committee;

3. Permit his name to be used, or make contributions, in support of or in opposition to any candidate or ballot measure;

4. Participate in any way in any election campaign; provided, a member or employee of the Commission shall retain the rights to register and vote in any election, to express his opinion privately on political subjects or candidates, to participate in the activities of a civic, community, social, labor or professional organization and to be a member of a political party;

5. Lobby or assist a lobbyist; provided a member or employee of the Commission may provide information on matters directly affecting this act, Section 4200 et seq. of this title, at the request of any member of the Legislature;

6. Sell or cause to be sold, rent or lease either as an individual or through any nonpublicly traded business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to the state or any county except by condemnation or threat of condemnation. A member or employee of the Commission holding a substantial financial interest in a business enterprise shall disqualify himself in any proceeding in which such interest might cause his impartiality to be reasonably questioned pursuant to the provisions of Section 4203.1 of this title;

7. Be employed by the state or any county in any other capacity, whether or not for compensation;

8. Receive or agree to receive compensation for representing or assisting any person or business in any transaction involving the state or any county, except a court of law, or represent another person, firm, corporation or entity for a fee before any governmental entity state department, agency, board or commission, except a court of law; or

9. Represent any person as an attorney before the Commission; provided, an employee of the Commission may act as a lawyer before the Commission in the course of the employee's official duties.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 4230, as amended by Section 34 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 4230. A. Every person required to be registered pursuant to the provisions of Section 4227 of this title shall file reports required by this section with the Ethics Commission concerning the activities specified in this section. The reports shall be filed whether or not the person has taken any action which is required to be reported pursuant to the provisions of this section. The reports shall be filed between the first and twentieth day of January and the first and twentieth day of July of each calendar year which shall cover the activities during the period following the last report.

B. The reports shall be signed and certified. The reports shall include the information specified in subsection C of this section for each gift given to a state officer or state employee by the registrant, the cost of which exceeds Thirty-five Dollars (\$35.00), as that amount is annually adjusted commencing on January 1, 1993, to reflect changes in the United States Consumer Price Index for Urban Consumers as certified to the Commission by the Department of Commerce, during the period immediately preceding the first day of the reporting period following the last report or the cost of which exceeds Three Hundred Dollars (\$300.00), as that amount is annually adjusted to reflect changes in the United States Consumer Price Index for Urban Consumers as certified to the Commission by the Department of Commerce, on any one such officer or employee in the aggregate during the twelve (12) months immediately

preceding the first day of the reporting period, which have been made by the registrant for the purpose of lobbying. The annual adjustment of the reporting amount shall be posted in the office of the Commission by the Executive Director and shall be attached to any Registered Lobbyist Gift Report form which is distributed.

C. The information to be reported pursuant to the provisions of subsection B of this section shall be as follows:

1. The name and position of the state officer or state employee to whom the gift was given; ~~provided, if a registrant makes a gift to more than one state officer or state employee on a single occasion and the information required by this paragraph cannot reasonably be ascertained, such information may be omitted;~~

2. The date the gift was given;

3. The nature of the gift;

4. The amount of the expenditure made by the registrant for the gift; and

5. The name of the donor or donors on whose behalf the gift was given, if any.

D. For purposes of reporting gifts as required by this section, a registrant making a gift on behalf of more than one donor shall not divide the cost of the gift by the number of participating donors. Nor may a registrant divide the cost of a gift with other registrants for any single expenditure.

E. A registrant who gives a gift to a state officer or state employee must be present when the gift is accepted by the recipient.

F. A registrant shall also report any gifts when given by other persons on behalf of the registrant or the registrant's client if they were made with the knowledge and consent of the registrant ~~or the registrant's client~~. When other persons give gifts that the registrant is required to report, the other persons shall provide a full, verified account of such gifts to the registrant at least seven (7) days before the reports of the registrant are due to be filed.

G. Any information required to be reported pursuant to the provisions of Sections 4211 through 4221 of this title is not required to be reported pursuant to the provisions of Sections 4227 through 4239 of this title.

H. The form for reports of lobbyists shall be promulgated by the Ethics Commission.

I. Each registrant shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this section for two (2) years from the date of filing of the reports containing the items.

SECTION 4. AMENDATORY Section 48 of Enrolled House Joint Resolution No. 1077 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 48. Sections ~~4~~ 2 through 29, and 33 through 45 of this act shall become effective January 1, 1993.

SECTION 5. Sections 1 through 3 of this act shall become effective January 1, 1993.

Passed the House of Representatives the 29th day of May, 1992.

Speaker of the House of
Representatives

Passed the Senate the 29th day of May, 1992.

President of the Senate