

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE JOINT  
RESOLUTION NO. 1110

By: Gray and Webb

AS INTRODUCED

A Joint Resolution relating to ethics; amending Ethics Commission Rules 257:20-1-9 and 257:20-1-10, which relate to restraints on solicitation or acceptance of anything of value, disclosure and state officers' and state employees' private interests in public contracts; requiring state officers and state employees to report things of value received; prohibiting public members from doing business with the governmental entities the public members serve; expanding time period regarding contracts entered into with former legislators; clarifying language; deleting certain exception regarding employment contracts with former legislators; and declaring an emergency.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE  
2ND SESSION OF THE 45TH OKLAHOMA LEGISLATURE:

SECTION 1. Ethics Commission Rule 257:20-1-9, is amended to  
read as follows:

Rule 257:20-1-9. Restraints on solicitation or acceptance of  
anything of value - Disclosure.

(a) Influence of official act, fraud or official duty. No  
state officer and no state employee shall, directly or indirectly,  
ask, demand, exact, solicit, seek, accept, assign, receive, or agree  
to receive anything of value for the state officer or employee or  
for any other person or entity, in return for being:

(1) influenced in the performance of an official act;

(2) influenced to commit, aid in committing, collude in, or allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of the state officer's or state employee's official duty.

(b) Calendar year limits on things of value. No state officer, state employee, or an immediate family member of a state officer or state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than three hundred dollars (\$300) from a person who the state officer or state employee knows or should know:

(1) is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

(A) Things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and

(B) Things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal as a result of a personal or casual relationship with the recipient;

(2) Is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; or

(3) Has a substantial financial interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part.

(c) Disclosure of things of value exceeding fifty dollars (\$50) in the aggregate. State officers and state employees who determine state policy or who make final spending decisions for the state or any governmental entity shall report monthly the source, recipient, type, date, and exact amount or retail value of things of value received in a calendar year valued in excess of fifty dollars (\$50) to three hundred dollars (\$300) in the aggregate for the private benefit of the officer or employee or his or her immediate family or an entity with which the officer or employee is associated from a person who the state officer or state employee knows or should know:

(1) Is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

(A) Things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and

(B) Things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal as a result of a personal or casual relationship with the recipient;

(2) Is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; or

(3) Has a substantial financial interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part.

When exact values are not known and not ascertainable, a good faith estimate of the fair market value shall be reported. Reports shall be due by the tenth day of each month for the period covered by the previous month. No report shall be due for periods during which things of value under this subsection were not received. The report shall be signed by the state officer or state employee who

shall attest to the report's accuracy and veracity, and the signature shall be notarized.

(d) Prohibition versus limit and/or disclosure of anything of value. Nothing in Subsection (b) or (c) shall allow a state officer or state employee to accept anything of value in violation of Subsection (a) of this section. Subsection (b) shall not apply to public members when things of value not to exceed fifty dollars (\$50) in amount or value in a calendar day are received but are not given as a result of the public member's status as a public member.

~~(d)~~ (e) Exceptions for state officers and employees of judicial branch and corporations. Nothing in this section shall allow:

(1) a judicial officer, juror, referee, arbitrator or umpire to accept anything of value from a corporation or any other person, knowing that person to be a party in interest or the attorney or counsel of a party in interest to any action or proceeding then pending or about to be brought before him or her pursuant to Section 386 of Title 21 of the Oklahoma Statutes; or

(2) a corporation to influence elections or official duty by contributions of money or anything of value pursuant to Section 40 of Article IX of the Oklahoma Constitution.

~~(e)~~ (f) Exceptions for forms of compensation, gifts to state, and officers/directors of organizations. Nothing in this section shall prohibit the acceptance or require the disclosure of:

(1) compensation, bonuses, dividends, interest payments, employee benefits, expense reimbursements or other forms of compensation or earnings on investments;

(2) anything of value which is accepted on behalf of the state of Oklahoma pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes; or

(3) the solicitation or acceptance of anything of value for or from either:

(A) a charitable organization or an organization described in Section 501 (c) of Title 26 of the United States Code, 26 U.S.C., Section 501 (c), as it currently exists or as it may be amended; or

(B) a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court,

by a state officer or state employee, who is an officer or director of the organization, when receipt of anything of value results from the state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization.

SECTION 2. Ethics Commission Rule 257:20-1-10, is amended to read as follows:

Rule 257:20-1-10. State officers' and state employees' private interests in public contracts.

(a) Prohibition on contracting with state - Exceptions.

(1) State officers and state employees. No state officer or state employee, ~~except a public member,~~ shall sell, offer to sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to the governmental entity with which the officer or employee is associated or to any business entity licensed or regulated by the governmental entity which the officer or employee serves unless real property is acquired from the state officer or state employee either by condemnation proceedings or the price to be paid for such property is approved in writing by the appointing authority of the agency acquiring such property and by the Governor. ~~A public member shall be required to disclose in detail any attempt to sell, offer to sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to any~~

~~governmental entity with which the public member is associated or to any business entity licensed or regulated by the governmental entity which the public member serves. Such disclosure shall be made part of the minutes of the meeting of the entity on which the public member serves and the public member shall be disqualified from participating in the discussion on, voting on, influencing or attempting to influence any action taken by the entity on the proposed transaction as provided in Section 8 of this chapter. This section shall not apply to students who are engaged in bona fide work-study programs at institutions of higher education within the Oklahoma State System of Higher Education.~~

(2) Limited exceptions. Except for a legislator or a statewide elective officer, Paragraph (1) of this subsection shall not apply to a state employee or state officer:

- (A) if real property is acquired from the state officer or state employee either by condemnation proceedings or the price to be paid for such property is approved in writing by the appointing authority of the agency acquiring such property and by the Governor; or
- (B) to contracts of employment with the state.

(b) Contracting with current or former legislators and statewide elective officers - Exceptions. No legislator or statewide elective officer shall sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, goods, services, buildings or property to any governmental entity. No state officer or state employee, acting in his or her official capacity, shall enter into any contract in which the state officer or state employee knows that a person who is then or has been a legislator within the previous ~~year~~ two years, or a member of such person's immediate family, has a substantial financial interest. The provisions of this subsection shall not apply to:

(1) a contract of employment with an immediate family member of a legislator, together with any renewal, promotion or lateral transfer of such employment contract to another governmental entity, which is:

- (A) in existence on July 1, 1994;
- (B) in existence prior to the legislator's term of office;
- (C) in existence prior to marriage to the legislator; or
- (D) with a student employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, and who ~~are~~ is regularly enrolled, as defined in Paragraph 11 of Section 840.8 of Title 74 of the Oklahoma Statutes, in an institution of higher education comprising the Oklahoma State System of Higher Education;

(2) a contract entered into with a sole provider within a reasonable geographic area of the services or goods for which the contract is made; and

(3) a contract to serve as a provider of goods or services for which no consideration is paid pursuant to which a third party beneficiary has a choice of providers, but for which a governmental entity is obligated to pay.

No legislator or statewide elective officer shall attempt to influence or perform an official function requiring the exercise of discretion relating to a contract with any governmental entity if a member of the legislator's or statewide elective officer's immediate family has a substantial financial interest in such contract.

(c) Exceptions for all state officers and state employees. Subsections (a) and (b), except as prohibited by law, shall not apply to:

(1) contracts for goods or services valued at less than five thousand dollars (\$5,000); and

(2) contracts entered into after public notice by the governmental entity and compliance with competitive bidding procedures; ~~and~~

~~(3) employment contracts entered into with former legislators.~~

(d) Exceptions for care of DHS clients only.

(1) Care of children in need of treatment. Employees of the Department of Human Services are authorized to contract with qualified former state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing direct care or treatment services to clients of the Department who are mentally retarded or have other developmental disabilities or are delinquent, children in need of supervision, or in need of treatment, or deprived. Provided, however, that rates of payment and other terms and conditions of contracts entered into pursuant to this section shall be established by the Commission for Human Services and shall be no more favorable than contracts for such services with persons who were not employed by the Department of Human Services nor related to an individual employed by the Department of Human Services.

(2) Limitations on return to state employment. A state employee terminating state employment to provide direct care or treatment services to clients of the Department of Human Services who are mentally retarded or have developmental disabilities, are delinquent, children in need of supervision, or in need of treatment, or deprived may not return to state employment for a period of one hundred eighty (180) days after date of termination from contracts with the Department of Human Services for direct care or treatment services to clients of the Department of Human Services who are mentally retarded or have developmental disabilities or are delinquent, children in need of supervision, or in need of treatment, or deprived.

(3) Exceptions for contracting with employees of OU Health Sciences Center. Notwithstanding Subsection (a) of this section, employees of the Department of Human Services are authorized to employ or contract with personnel of the University of Oklahoma Health Sciences Center, directly or indirectly, to obtain professional services for the Oklahoma Medical Center or clients of other programs administered by the Department of Human Services.

(4) Exceptions for foster care, respite care, or services to children. Notwithstanding Subsection (a) of this section, employees of the Department of Human Services are authorized to contract with qualified state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing foster care, respite care, and attendant services to children in the custody of the Department.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-10419

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