

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2922

By: Morgan of the House

and

Coffee of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments;
prohibiting state officers from being involved in
certain employment situations; providing penalty;
defining terms; amending 74 O.S. 2001, Sections 3402
and 3407, which relate to the Anti-Kickback Act of
1974; modifying definitions; allowing political
subdivisions to prosecute certain civil actions;
providing for codification; providing an effective
date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 488 of Title 21, unless there is
created a duplication in numbering, reads as follows:

A. No state officer:

1. Shall advocate or cause the employment, appointment,
promotion, transfer, or advancement of a family member to an office
or position with the state, a county, a municipality, or a school
district;

2. Shall supervise or manage a family member who is in an
office or position with the state; and

3. Acting in an official capacity, shall participate in any
matter relating to the employment or termination of a family member.

B. 1. Any person who willfully violates any provision of
subsection A of this section shall be guilty of a misdemeanor and,

upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for not longer than six (6) months or by both such fine and imprisonment.

2. Any person convicted of willfully violating any provision of subsection A of this section shall be ineligible for appointment to or employment in a position in state service. If the person convicted is an employee of the state, that person shall forfeit their position.

C. As used in this section:

1. "State officer" shall have the same meaning as that term is defined in the Rules of the Ethics Commission; and

2. "Family member" means an individual who is related to the state officer as father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, or who is a member of the household of the state officer.

D. The provisions of this section do not apply to law enforcement and fire personnel.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 3402, is amended to read as follows:

Section 3402. As used in this act:

1. "Kickback" means the giving of money or any other thing of value either directly or indirectly by or on behalf of any person, or the agent of any person, holding a contract or bidding to obtain a contract with the state for the furnishing of goods or services of any kind, including, without limitation, collective bargaining agreements between unions and the state, to any state employee or any person holding a higher tier contract with the state for the

furnishing of goods or services, including, without limitation, collective bargaining agreements between unions and the state, when the giving of which is for the purpose of acquiring or holding any such contract with the state;

2. "Person" means an individual, firm, partnership, foreign or domestic corporation or association or any employee or agent thereof;

3. "State" means the State of Oklahoma or any office, department, board, bureau, commission, committee, authority or any other entity or political subdivision of the state which includes, but is not limited to municipalities, counties and school boards; and

4. "State employee" means any elected or appointed officer or employee of the state.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 3407, is amended to read as follows:

Section 3407. The Attorney General of the State of Oklahoma shall appear for the state and prosecute and defend all actions and proceedings in which the state is an interested party under this act; however, political subdivisions of the State of Oklahoma may appear and prosecute any civil actions on their own behalf under this act.

SECTION 4. This act shall become effective July 1, 2002.

SECTION 5. 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.

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