

HOUSE BILL No. 2474

By Committee on Utilities

2-9

AN ACT concerning the state corporation commission; relating to commission members, employees and former employees; imposing certain requirements and providing penalties for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act, unless the context requires otherwise:

(a) "Commission" means the state corporation commission.

(b) "Regulated entity" means any entity regulated by the commission.

Sec. 2. (a) Any person offered employment by the commission shall disclose, prior to employment by the commission, any and all direct or indirect financial relationships that the person or any immediate family member of the person has or has had with any regulated entity. The disclosure shall be in writing and shall include a specific listing of all regulated entities by whom the new employee or a member of the new employee's immediate family has been employed, or with whom the new employee or a member of the new employee's immediate family has had any contractual relationship. The commission shall maintain a separate file of all such disclosure statements.

(b) If after employment by the commission an employee becomes aware of any financial relationship which the employee would have been required to disclose under subsection (a) at the time of employment, such employee shall immediately notify the employee's supervisor and division director. Such employee shall disclose in writing the information required by subsection (a) and file it with the commission.

(c) No employee of the commission, except for clerical support staff, shall be assigned to any matter relating to a regulated entity by whom the employee was previously employed until one year after the employee's last date of employment with such regulated entity. It shall be the duty of every employee of the commission to immediately report any matter falling under this prohibition to the employee's immediate supervisor and division director.

Sec. 3. (a) As a condition of employment with the commission, any employee required to file a written statement of substantial interest pursuant to K.S.A. 46-247, and amendments thereto, shall not own any bonds, stocks or other property interest in any regulated entity. An em-

1 employee may own a passive mineral interest or mutual funds if such em-
2 ployee cannot or does not exercise any control over the investment. Any
3 employee subject to this prohibition shall divest the employee's self of
4 the interest or investment within a reasonable period of time, not to
5 exceed 90 days from the date the employee accepted employment by the
6 commission.

7 (b) The provisions of this section shall not apply to members of the
8 commission, who shall be governed by the provisions of K.S.A. 74-605,
9 and amendments thereto.

10 Sec. 4. (a) Any attorney employed by the commission shall be subject
11 to the model rules of professional conduct adopted by the supreme court
12 of the state of Kansas. The model rules provide strict regulation of con-
13 duct by attorneys leaving private practice to enter government employ-
14 ment, as to matters in which attorneys may or may not participate. In all
15 matters where the model rules establish restrictions upon attorneys that
16 are greater than the restrictions imposed by this act, the model rules shall
17 apply and have precedence. The general counsel of the commission shall
18 monitor the assignment of matters and the activities of the attorneys em-
19 ployed by the commission to assure that such attorneys are in compliance
20 with the model rules. Wherever appropriate, the general counsel shall
21 consult with and seek the advice of the disciplinary administrator ap-
22 pointed by the supreme court to investigate all matters of alleged mis-
23 conduct by any attorney employed by the commission.

24 (b) No attorney employed by the commission shall hold: (1) Any of-
25 fice of profit; (2) any position under any committee of any political party;
26 or (3) any other position of honor, profit or trust under or by virtue of
27 any of the laws of the United States or of the state of Kansas.

28 Sec. 5. (a) Each employee of the commission shall report to the em-
29 ployee's immediate supervisor and division director, or to the general
30 counsel, any and all facts which such employee believes may constitute a
31 violation of this act. The alleged or potential violation shall be promptly
32 investigated and a report, together with any action taken, shall be made
33 to the commission.

34 (b) Any alleged violation of conflict of this act by someone who is not
35 an employee of the commission shall be reduced to writing by the person
36 making the allegation. The written allegation must include detailed facts
37 and shall be given to general counsel. After such written facts and alle-
38 gations are received, the matter shall be promptly investigated and a re-
39 port made to the commission. If the commission determines that a vio-
40 lation has occurred, the commission shall take appropriate action.

41 Sec. 6. (a) No employee of the commission shall divulge or reveal to
42 the commission, or to any other person employed by the commission,
43 confidential or otherwise privileged information which came to the em-

1 ployee's knowledge by reason of prior employment by a regulated entity.

2 (b) A former commission employee shall not divulge or impart any
3 confidential or otherwise privileged information to any person if such
4 information came to the former employee's attention or knowledge dur-
5 ing or by reason of employment with the commission.

6 (c) Failure to comply with the requirements of this section is a class
7 C misdemeanor.

8 Sec. 7. A former commission employee shall not appear before the
9 commission as a witness, nor enter an appearance as attorney of record,
10 in any matter pending before the commission in which the former em-
11 ployee was directly involved while a commission employee, unless on
12 behalf of or with permission of the commission.

13 Sec. 8. Unless otherwise specifically provided by this act, the provi-
14 sions of this act, shall apply to all commission employees or former em-
15 ployees, as the case may be, including members of the commission. If a
16 commission employee believes that a special circumstance exists which
17 would warrant complete or partial waiver of any provision of this act, such
18 employee may submit a written request for waiver to the commission. In
19 its discretion and insofar as it does not conflict with any existing and
20 applicable other law, the commission may grant a complete or partial
21 waiver, on a case by case basis, and may subject that waiver to any con-
22 ditions the commission deems necessary to prevent a conflict of interest
23 or the appearance of a conflict of interest. Any waiver so granted may be
24 at any time later modified or revoked.

25 Sec. 9. The failure of an employee of the commission to comply with
26 the requirements of sections 1 through 6, and amendments thereto, un-
27 less waived by the commission pursuant to section 8, and amendments
28 thereto, shall be grounds to terminate such person's employment or re-
29 move such person from office.

30 Sec. 10. This act shall take effect and be in force from and after its
31 publication in the statute book.

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