

CONFLICT OF INTEREST:
LEGISLATORS:
GENERAL ASSEMBLY:
SENATORS:
REPRESENTATIVES:

1. The receipt by Representative F. E. Robinson, Knox County, of \$125.00 per month as Executive Vice President of the Missouri Motel Association does not bring him within the purview of the State Conflict of Interest Law in that this amount of money does not constitute a substantial personal or private interest within the meaning of that law (2) A member of the General Assembly who has a substantial or private interest in any measure or bill proposed or pending before the General Assembly must file a written report of the nature of that interest before he passes on the measure or bill. (3) The Conflict of Interest Law, Section 105.460, RSMo Cum. Supp. 1965, applicable to members of the General Assembly does not prohibit a member of the General Assembly from voting on pending legislation even though he has a substantial personal or private interest in any pending legislation, if prior to his voting on that pending legislation he has filed a written report of the nature of his interest in that legislation with the Chief Clerk of the House or the Secretary of the Senate.

OPINION No. 294

May 16, 1966

Honorable A. Clifford Jones
Senator
9 Clermont Lane
Clayton, Missouri



Dear Senator Jones:

This is in response to your request for an opinion dated April 27, 1966, which reads as follows:

"Please give me an opinion immediately on whether Rep. F. E. (Buck) Robinson has the right to vote, under the conflict of interest law, on Senate Bill 8, Senate Bill 9 and Senate Bill 10.

Please give me this opinion immediately."

In response to your request for an opinion we wrote you on April 28, 1966, as follows:

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"This will acknowledge receipt by Norman H. Anderson, Attorney General, of your opinion request dated April 27, 1966, which has been numbered 294, in which you request an opinion 'on whether Rep. F. E. (Buck) Robinson has the right to vote on Senate Bill 8, Senate Bill 9 and Senate Bill 10.' We presume that your reference to Senate Bill 8, 9 and 10 has reference to pending bills regulating outdoor advertising adjacent to the highway systems relating to junkyards and authorizing the Highway Commission to acquire, maintain and beautify areas adjacent to highways. We also presume that since you refer to Representative F. E. Robinson you are referring to the State Representative of Knox County. We further presume that your reference to the Conflict of Interest Law has reference to the statute that has been numbered 105.460, RSMo Cum. Supp. 1965, requiring any member of the general assembly who has a substantial personal or private interest in any measure or bill to file a written report of the nature of the interest with the Chief Clerk of the House. This office is not advised of the material relevant facts concerning Mr. Robinson's interest in bills to which you refer. Perhaps if you could advise us the material relevant facts which pertain to the Conflict of Interest question which you have raised, we would be in a better position to comment on the application of that statute."

Since our letter of April 28, 1966, to you we have heard nothing further and since you have chosen not to furnish us the information requested, we have sought to obtain what information we could from other sources pertaining to the subject. We have been advised that Mr. F. E. Robinson is "Executive Vice President of the Missouri Motel Association at a salary of \$125.00 per month."

The applicable section of the Conflict of Interest Law pertaining to members of the General Assembly is Section 105.460, RSMo Cum. Supp. 1965. It provides as follows:

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"The governor, lieutenant governor and any member of the general assembly who has a substantial personal or private interest in any measure or bill proposed or pending before the general assembly shall, before he passes on the measure or bill, file a written report of the nature of the interest to the chief clerk of the house or the secretary of the senate and such statement shall be recorded in the journal. However, if the governor, lieutenant governor or any member of the general assembly desires, at the beginning of any regular or special session, or any time during said regular or special session, to disclose substantial interests that he or she may have at any time during the session then he or she shall thereafter be relieved from filing a written report on each measure or bill proposed or pending. Said disclosure by anyone named in this section of substantial interests shall be filed in writing with the chief clerk of the house or the secretary of the senate and shall be recorded in the journal. If during the session a person named in this section and who has filed substantial interests shall require the filing of a further substantial interest as herein defined then he may add same to his filing as herein provided and the same shall be recorded in the journal."

It is to be noted that there is no provision referable to Section 105.460 for a penalty for violation thereof.

Section 105.460 requires members of the General Assembly who have a substantial personal or private interest in any measure or bill pending before the general assembly to file a written report of the nature of the interest.

Section 105.450 (5) defines "Substantial personal or private interest in any measure or bill" as "any interest in a measure or bill which results from the combined definitions of subsections (2) and (4) of this section."

Subsections (2) and (4) provide as follows:

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"(2) 'Business entity', a corporation, association, firm, partnership, proprietorship, or business entity of any kind or character;"

"(4) 'Substantial interest', ownership by the individual, or his spouse directly or indirectly, of ten per cent or more of any business entity, or of an interest having a value of ten thousand dollars or more, or the receipt by an individual or his spouse of a salary, gratuity, or other compensation or remuneration of six thousand dollars, or more, per year from any individual, partnership, organization, or association."

It is to be noted that Section 105.450 (4) defines a substantial interest as ownership of ten percent or more of any business, or of an interest having a value of ten thousand dollars or more. We are not advised whether Mr. Robinson owns ten percent or more of the Motel Association or whether whatever he owns has a value of ten thousand dollars. However, in the absence of facts to the contrary, we have to assume that he or his spouse does not own ten percent or more of the Association or that the interest which they own does not have a value of ten thousand dollars or more.

We are directly advised, however, that Representative Robinson receives a salary of \$125.00 per month. Said definition section provides if he receives a "salary, gratuity, or other compensation or remuneration of six thousand dollars or more, per year" it shall be deemed a substantial interest. It is apparent that \$125.00 per month does not equal six thousand dollars per year. It therefore would appear that if the facts we have are correct, Section 105.460 would not require a member of the General Assembly under these facts to "file a written report of the nature of the interest with the Chief Clerk of the House."

The language of Section 105.460 requires any member of the General Assembly who has a substantial or private interest in any measure or bill proposed or pending before the General Assembly to file a written report of the nature of that interest before he passes on the measure or bill. No penalty however, is provided for the failure to comply with this mandatory provision.

We find no provision in the law which denies to any member of the General Assembly the right to vote on any pending legislation even though he has a substantial personal or private interest in

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any pending measure or bill, if prior to his voting on such pending legislation he has filed a written report of the nature of his interest in that legislation with the Chief Clerk of the House or the Secretary of the Senate.

CONCLUSION

It is the opinion of this office that:

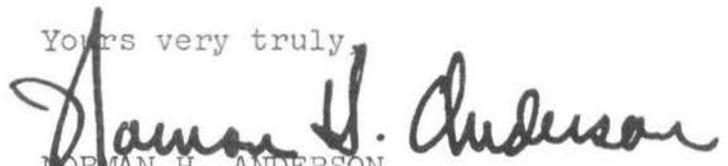
1. The receipt by Representative F. E. Robinson, Knox County, of \$125.00 per month as Executive Vice President of the Missouri Motel Association does not bring him within the purview of the State Conflict of Interest Law in that this amount of money does not constitute a substantial personal or private interest within the meaning of that law. As set out in this opinion a substantial interest as defined in the Conflict of Interest Law is one in which the individual's annual remuneration is six thousand dollars per year or more.

2. A member of the General Assembly who has a substantial or private interest in any measure or bill proposed or pending before the General Assembly must file a written report of the nature of that interest before he passes on the measure or bill.

3. The Conflict of Interest Law, Section 105.460, RSMo Cum. Supp. 1965, applicable to members of the General Assembly does not prohibit a member of the General Assembly from voting on pending legislation even though he has a substantial personal or private interest in any pending measure or bill, if prior to his voting on that pending legislation he has filed a written report of the nature of his interest in that legislation with the Chief Clerk of the House or the Secretary of the Senate.

The foregoing opinion, which I hereby approve, was prepared by my assistant, J. Gordon Siddens.

Yours very truly,


NORMAN H. ANDERSON
Attorney General