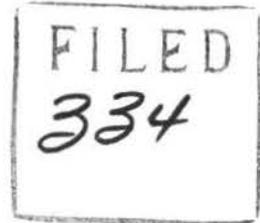


SENATORS: A member of the General Assembly who is
LEGISLATORS: an agent for an insurance company is not
REPRESENTATIVES: prohibited by the Constitution or state
GENERAL ASSEMBLY: law from selling group insurance cover-
CONSTITUTIONAL LAW: ing school personnel.
CONFLICT OF INTEREST:

OPINION NO. 334

November 18, 1974

Honorable Russell Goward
Representative, District 65
2739 North Grand
St. Louis, Missouri 63106



Dear Representative Goward:

This is in response to your request for an opinion from this office as follows:

"Can a legislator doing business as an Insurance & Real Estate Broker do business with school boards, specifically: Group Insurance Contracts on school board personnel. What are the prohibitions relative to Legislators doing business with public boards and institutions supported wholly or in part with State Funds."

In substance you inquire whether a member of the General Assembly doing business as an insurance and real estate broker can sell group insurance covering school personnel.

The conflict of interest law by statute is found in Sections 105.490 and 105.495, RSMo. Section 105.450, RSMo, provides the following terms as used in these statutes have the following meanings:

"(1) 'Agency', any department, office, board, commission, bureau, institution or any other agency, except the legislative and judicial branches, of the state or any political subdivision thereof including counties, cities, towns, villages, school, road, drainage, sewer, levee and other special purpose districts;"
(Emphasis supplied)

Honorable Russell Goward

Under the above-statutory provisions of Section 105.450, Sections 105.490 and 105.495 do not apply to members of the General Assembly.

Article III, Section 12, Constitution of Missouri, provides as follows:

"No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This section shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public."

The above-constitutional provision prohibits any senator or representative from accepting any office or employment under the United States, this state or any municipality thereof, a violation of which results in the forfeiture of his office. It also prohibits him from accepting any appointive office or employment under this state which is created or emoluments increased during his term.

It is our opinion that a member of the General Assembly who, as a representative of any insurance company, sells group insurance covering school personnel is not an officer or employee of the United States, this state, or any municipality thereof and, therefore, does not come within the provisions of the above-constitutional provision.

CONCLUSION

It is the opinion of this office that a member of the General Assembly who is an agent for an insurance company is not prohibited by the Constitution or state law from selling group insurance covering school personnel.

Honorable Russell Goward

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General