



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

July 1, 1975

ATTORNEY GENERAL OPINION NO. 75-276

Mr. David R. Gilman
Attorney at Law
7134 West 80th Street
Overland Park, Kansas 66204

Re: Public Officers--Judicial Nominating Committee--
Conflict of Interest

Synopsis: A member of a district judicial nominating commission is a public officer as defined by K.S.A. 1974 Supp. 75-4301.

* * *

Dear Mr. Gilman:

You advise that you have recently been elected as a member of the Judicial Selection Committee of the 10th Judicial District. You inquire whether persons serving on this Committee are subject to the Kansas general conflict of interest law, K.S.A. 75-4301 *et seq.*

Although not directly related to K.S.A. 1974 Supp. 75-4301, it should be pointed out that section 1 of 1975 House Bill 2625 amended K.S.A. 1974 Supp. 46-221 to provide that the term "state officer or employee" as used in the state governmental ethics act, K.S.A. 1974 Supp. 46-215 *et seq.* shall not include:

"any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch."

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Thus, members of the Judicial Selection Committee for the 10th Judicial District are not subject to the requirements of the ethics act commencing at K.S.A. 1974 Supp. 46-215 *et seq.*

The question remains, however, whether members of the Committee are "public officers," as that term is defined at K.S.A. 1974 Supp. 75-4301, and are thus subject to the disclosure requirements of K.S.A. 1974 Supp. 75-4302(b), which states thus:

"At the time of his taking office, every public officer or employee appointed or employed to serve as a board member of, or the head or executive officer of, any state agency, department, board, bureau, office, institution, council or commission in the executive, legislative or judicial branch of state government . . . shall file in the office of the secretary of state a written report disclosing all of his substantial interests."

A "public office" is defined by K.S.A. 1974 Supp. 75-4301 as

"A position of public trust or agency, created by the Kansas constitution, by statute, by executive decree or by an ordinance or resolution of a municipal or quasi-municipal corporation passed in pursuance of legislative authority."

K.S.A. 20-2903 provides that in each judicial district in which the proposition for nonpartisan selection of district court judges is approved, there is "hereby established . . . a district judicial nominating commission" Its purpose shall be "to nominate persons for appointment to the office of district court judge in a judicial district. K.S.A. 20-2907(a) provides in pertinent part thus:

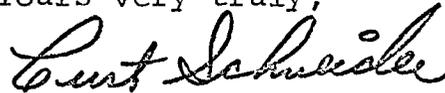
"Prior to taking office, each member of a district judicial nominating commission shall

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take and subscribe an oath of office as provided by law for public officers, and shall file the same with the clerk of the supreme court. After the members of the first commission . . . have commenced their terms of office, the chairman shall call a meeting of the commission At such meeting, the commission shall determine a regular meeting place or places, and the commission shall have the power to adopt such reasonable and proper rules and regulations as are necessary for the conduct of its proceedings and the discharge of its duties, consistent with the provisions of this act and the constitution and laws of this state."

Positions on the Committee, thus, are clearly identified as offices in the enabling legislation, and members thereof are required to take the oath of office prescribed by law for public officers. Committee membership is, in my judgment, a "position of public trust" created by statute, and is thus a "public office" as that term is defined in K.S.A. 1974 Supp. 75-4301. A member of the Committee is, then, in my opinion, a "public officer appointed to serve as a board member of any commission in the judicial branch of government" who is required to file a disclosure of substantial interests under K.S.A. 1974 Supp. 75-4302.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. James R. James
Judicial Administrator
Supreme Court
4th Floor - State Capitol
Topeka, Kansas 66612