



PUBLICATIONS

9002

MUNICIPAL CONFLICT OF INTEREST ACT

Reprinted from February 1990
COWAN NEWS

Insurance Questions

Members of a council or local board are exposed to charges under the *Municipal Conflict of Interest Act*. Where there is a deviation from the legislation, the individual jeopardizes his/her right to continue in elected office. Where a charge is brought under the Act, the legal costs to defend such charges can be substantial. Although many people in public office receive compensation for their duties, it is unlikely that it would offset the defence costs and potential harm to their reputation that go along with the conflict charge.

In its simplest terms, the Act states that a person who has a pecuniary interest in a matter must disclose their interest prior to any consideration thereof and must not take part in any

discussion, must not vote and must not attempt to influence the voting. The penalties for failing to abide by the intent of the legislation are defined in the legislation.

Insurance protection is available which will provide for reimbursement of legal fees if the member is found to be other than guilty. Such coverage is purchased by many of our clients.

Over time, we have responded to numerous enquiries about the coverage. Our answers to some of the more common questions follow.

Q If I purchase the coverage, does it follow me to the various boards or committees that I sit on?

A Yes, it certainly does. The coverage is provided to any elected or

appointed official as defined in the *Municipal Conflict of Interest Act*. The definitions of “council” and “local board” are very broad – including municipal councils, boards of trustees of improvement districts, school boards and numerous boards of trustees, directors and committees. The complete list is set out in the Act.

Q When does the insurance pay and what does it pay?

A The insurance will reimburse the insured 90% of legal fees and disbursements actually incurred (to a maximum of either \$25,000 or \$50,000 depending upon the coverage selected) in defending proceedings under the Act where there is a finding by the court that there has been no contravention or

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where there is a finding that there has been a contravention but the court has also determined that the contravention occurred by reason of inadvertence or bona fide error in judgement.

Q How do I submit an insurance claim?

A When the insured becomes aware that proceedings under the *Conflict of Interest Act* have commenced, they should contact the Frank Cowan Company. The individual charged should retain his/her own legal counsel. Assuming that the finding in the court is as discussed above, the insured shall

forward the detailed account for legal fees and disbursements to the Frank Cowan Company within 30 days of receipt of such account, together with a copy of the judgement. ➔

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