

HOUSE BILL REPORT

HB 1390

As Reported By House Committee On:
Government Administration

Title: An act relating to municipal officers' interest in contracts.

Brief Description: Revising provisions regulating municipal officers' interest in contracts.

Sponsors: Representatives Hatfield, Pennington, Doumit, Robertson, Murray, D. Schmidt, Chopp, Scott, Gardner, Romero, Dunshee, Wolfe, Morris, Wensman, Kessler and Dunn.

Brief History:

Committee Activity:

Government Administration: 2/5/97, 2/7/97 [DPS].

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Doumit; Dunn; Reams; Smith; L. Thomas and Wensman.

Minority Report: Without recommendation. Signed by 2 members: Representatives Gardner, Assistant Ranking Minority Member; and Dunshee.

Staff: Bill Lynch (786-7092).

Background: Municipal officers are prohibited by the municipal code of ethics from having a beneficial interest in a contract, either directly or indirectly, which is made by, through, or under the supervision of that officer. A municipal officer is any elected or appointed officer of a unit of local government, and includes any deputies and assistants of that officer.

A number of exemptions to this prohibition have been established for certain municipalities. They include contracts for unskilled labor that do not exceed \$100 in a calendar month; contracts in which the total volume of business represented by the contract in which the municipal officer's business is interested does not exceed \$750 in any calendar month; and contracts by a second class city or town, non-charter code

city, or county fair board in a county which does not have a purchasing department in which the total volume of business exceeds this \$750 monthly limit, but the total amount of such contracts do not exceed \$9,000 in any calendar year.

The dollar thresholds established for these contracts have not been changed for many years, and the thresholds apply to the total value of the contract instead of the portion of the contract that would benefit the municipal officer's business. The exemptions are also very difficult to read and understand. First class school districts are the only units of government that must publish notice of these proposed contracts.

A municipal officer is not allowed to vote on the authorization of a contract if the officer is the supplier or contractor. There is no prohibition against municipal officers voting on other contracts in which they may be beneficially interested.

A violation of the municipal code of ethics results in a voiding of the contract made in violation of the law, a civil penalty of \$300 against the municipal officer, and a mandated forfeiture of office by the municipal officer.

A city charter controls over a provision of the municipal code of ethics if there is a conflict between provisions. The statutes do not address if there is a conflict between the code of ethics and a county charter or a city-county charter.

Summary of Substitute Bill: The dollar thresholds for contracts which are exempted from the municipal conflict of interest statutes are made applicable to the portion of the contract that will benefit the business operated by the municipal officer. The amount of the dollar thresholds are raised as follows: (1) The threshold for unskilled labor is raised from \$100 to \$200 a month; (2) the threshold for monies received under a contract are raised from \$750 to \$1200 in a calendar month; and (3) the threshold for monies received under a contract when the municipality is a second class city or town, non-charter code city, or county fair board in a county without a purchasing department, is raised so that a contract may exceed \$1,200 in a calendar month but may not exceed \$14,400 in any calendar year. First class school districts are no longer required to publish notice of these proposed contracts.

Municipal officers are prohibited from voting in the authorization, approval, or ratification of a contract in which he or she is beneficially interested, even if an exemption from the municipal conflict of interest laws applies.

The amount of the civil penalty that may be imposed on a municipal officer for violating the municipal code of ethics is raised from \$300 to \$500. A violation of the code of ethics may be grounds for forfeiture of the municipal officer's office instead of a mandatory forfeiture of office.

A county charter or a city-county charter controls over the municipal code of ethics if there is a conflict between provisions.

Substitute Bill Compared to Original Bill: The substitute corrects and clarifies some references and eliminates the requirement for a first class school district to publish notice of these contracts in the newspaper.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Adjusting the dollar amounts will particularly help small and rural communities. This will allow them to buy locally, get better service, and often times award a contract to the lowest responsible bidder. The dollar thresholds have not been changed in many years and can act as a deterrent to local business people filing for office. This is a good clean up of the law.

Testimony Against: None.

Testified: Representative Hatfield, prime sponsor; and Jim Justin, Association of Washington Cities.