

HOUSE BILL REPORT

HB 2128

As Reported By House Committee On:
Government Administration

Title: An act relating to ethics in public service.

Brief Description: Stating how a state officer or employee may receive a contract or grant in compliance with the ethics code.

Sponsors: Representatives Sheahan, Appelwick, Cooke, Radcliff, Dyer, Cooper, Schoesler, Costa, D. Schmidt and Anderson.

Brief History:

Committee Activity:

Government Administration: 3/4/97, 3/5/97 [DPS].

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunn; Dunshee; Murray; Reams; Smith; L. Thomas; Wensman and Wolfe.

Staff: Bill Lynch (786-7092).

Background: In 1994 the Legislature enacted the State Ethics Act. This act prescribes ethical standards for state officers and employees.

State officers and employees are prohibited from receiving anything of economic value under any contract outside of his or her official duties unless certain conditions have been met. These conditions are (1) the contract must be bona fide and actually performed; (2) the performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision; (3) the performance of the contract or grant is not prohibited by laws or rules governing outside employment; (4) the contract or grant is neither performed nor compensated by a person who is prohibited by law from furnishing a gift to the officer or employee; (5) the contract or grant would not result in the disclosure of confidential information; and (6) the contract or grant is not

expressly created or authorized by the officer or employee in his or her official capacity or by his or her agency.

In addition to satisfying all the requirements for outside employment, a state officer or employee may have a beneficial interest in a contract or grant only if it was awarded through an open competitive bidding process, or it was not awarded through an open competitive bidding process, but the officer or employee was advised by the appropriate ethics board that the contract or grant would not create a conflict of interest.

Circumstances arise when a state officer or employee wishes to perform a contract or grant that is not created or authorized under the official capacity of the officer or employee, but the officer or employee is prohibited from performing the contract or grant because the officer's or employee's agency authorized it. In addition, part-time employees are sometimes told they cannot do consulting contracts unless the ethics board approves the contract.

Summary of Substitute Bill: The limitation on outside employment by state officers and employees is modified so that a contract or grant may be performed by an officer or employee of the agency authorizing the contract or grant, but the contract or grant cannot be expressly created or authorized by the officer or employee acting in his or her official capacity.

Categorical exemptions are allowed as follows: college faculty may have consulting contracts with state agencies, state employees may teach at institutions of higher education, individuals may teach part-time for more than one institution of higher education, individuals may work part-time for more than one state agency, individuals may work part-time at an institution of higher education and at a state agency, legislators may hold consulting contracts and hold part-time employment with a state agency or institution of higher education, and the lieutenant governor may receive compensation for acting as Governor when the Governor is outside the state. These exemptions only apply when there is no conflict with official duties.

Substitute Bill Compared to Original Bill: Categorical exemptions are added for various part-time employees so long as there is no conflict with their official duties.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill removes punitive restrictions where there are no conflicts occurring. Part-time employees often are adversely affected. This is not violating the spirit of the law.

Testimony Against: None.

Testified: Evonne Hedgepeth, Ph.D, citizen; and Greg Devereaux, Washington Federation of State Employees.