

HOUSE BILL REPORT

SSB 5363

As Reported By House Committee On:
Government Administration

Title: An act relating to contracting by public officers.

Brief Description: Increasing the dollar amount allowed for contracts in which public officers have an interest.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators Snyder, Haugen and Hargrove).

Brief History:

Committee Activity:

Government Administration: 3/28/97, 4/1/97 [DPA].

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: Do pass as amended. Signed by 10 members: Representatives D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunshee; Reams; Smith; L. Thomas; Wensman and Wolfe.

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, and some of these exemptions pertain to the hiring of a spouse of a municipal officer. All of these particular spousal exemptions apply only to school districts. There are no spousal exemptions from the prohibition against a municipal officer having a beneficial interest in a contract for any other type of municipality.

Other 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 that the

municipal officer's business has an interest in do not exceed \$750 in any calendar month; and contracts by a second class city or town, noncharter code city, or county fair board in a county that does not have a purchasing department in which the total volume of business exceeds this \$750 monthly limit, and 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.

If there is a conflict between provisions, a city charter controls over a provision of the municipal code of ethics. 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 Amended Bill: A public hospital district may employ the spouse of a public hospital district commissioner without a violation of the municipal code of ethics occurring if (1) the spouse was employed by the district before the initial election of the commissioner; (2) the terms of the contract are commensurate with provisions for similar employees; (3) the commissioner's interest is disclosed in the public record prior to the letting or continuation of the contract; and (4) the commissioner does not vote on the authorization, approval, or ratification of the contract or any of its conditions.

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 moneys received under a contract are raised from \$750 to \$1,500 in a calendar month; and (2) the threshold for money received under a contract when the municipality is a second-class city or town, noncharter code city, or county fair board in a county without a purchasing department is raised so that a contract may exceed \$1,500 in a calendar month but may not exceed \$18,000 in any calendar year. These dollar thresholds are to be adjusted annually based upon the governmental price index established by the Department of Revenue. First-class school districts are no longer required to publish notice of these proposed contracts. The amount of a contract for unskilled day labor may not exceed \$200 in a calendar month.

A municipal officers is 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.

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

Amended Bill Compared to Substitute Bill: Language is added to make a violation of the chapter a grounds for forfeiture of office rather than an automatic forfeiture of office. Municipal officers may not vote on contracts in which they have an interest. An exemption is created for the spouse of a hospital district commissioner.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The current law is a real problem for rural communities. It forces local governments to do business outside their communities, including turning to out-of-state businesses.

Testimony Against: None.

Testified: Senator Snyder, prime sponsor; Jim Justin, Association of Washington Cities; and Jack McDonald, Pacific County Fire District.