

SENATE BILL REPORT

SHB 1390

As Reported By Senate Committee On:
Government Operations, February 27, 1998

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

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

Sponsors: House Committee on Government Administration (originally sponsored by Representatives Hatfield, Pennington, Doumit, Robertson, Murray, D. Schmidt, Chopp, Scott, Gardner, Romero, Dunshee, Wolfe, Morris, Wensman, Kessler and Dunn).

Brief History:

Committee Activity: Government Operations: 2/20/98, 2/27/98 [DPA].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Hale, Vice Chair; Anderson, Haugen, Horn, Patterson and T. Sheldon.

Staff: Diane Smith (786-7410)

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 Amended Bill: The dollar thresholds for contracts which are exempt 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 \$1500 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 \$1,500 in a calendar month but may not exceed \$18,000 in any calendar year. First class school districts are no longer required to publish notice of these proposed contracts.

The dollar amounts must be adjusted annually as indicated by the governmental price index.

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.

Amended Bill Compared to Substitute Bill: The amended bill raises the monthly \$1,200 thresholds to \$1,500, the yearly \$14,400 threshold to \$18,000, and provides for yearly adjustments in the dollar amounts.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill makes needed adjustments to the dollar thresholds that trigger a conflict of interest for municipal officers.

Testimony Against: None.

Testified: PRO: Representative Brian Hatfield, prime sponsor; Kathy Gerke, Association of Cities.