

# SENATE BILL REPORT

## ESHB 2128

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As Reported By Senate Committee On:  
Government Operations, April 4, 1997

**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:** House Committee on Government Administration (originally sponsored by Representatives Sheahan, Appelwick, Cooke, Radcliff, Dyer, Cooper, Schoesler, Costa, D. Schmidt and Anderson).

**Brief History:**

**Committee Activity:** Government Operations: 4/1/97, 4/4/97 [DPA, DNPA].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS

**Majority Report:** Do pass as amended.

Signed by Senators McCaslin, Chair; Hale, Vice Chair; Haugen and Swanson.

**Minority Report:** Do not pass as amended.

Signed by Senator Horn.

**Staff:** Diane Smith (786-7410)

**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 have consulting contracts unless the ethics board approves each contract individually.

**Summary of Amended 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.

The appropriate ethics board is authorized to entertain the question of a series of substantially identical contracts or grants rather than having to assess each contract or grant individually.

**Amended Bill Compared to Substitute Bill:** The amended bill includes the provisions permitting the appropriate ethics board to consider groups of substantially identical contracts.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This statute is overbroad, capturing situations which have little ethical significance. Many consultants who have numerous small agency contracts have been conducting business this way for many years without ethical entanglements.

**Testimony Against:** None.

**Testified:** Craig Jensen (pro); Bev Hermanson, WFSE (pro); Ann Spargo (pro); Evone Hedgepeth (pro w/amend.).