

HOUSE BILL REPORT

SB 5731

As Reported By House Committee On:
Local Government

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

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

Sponsors: Senator Snyder.

Brief History:

Committee Activity:

Local Government: 3/29/99 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Revising provisions regulating municipal officers' interest in contracts.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 6 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Mielke, Republican Vice Chair; Ericksen; Fisher and Fortunato.

Staff: Scott MacColl (786-7106).

Background:

The code of ethics for municipal officers includes specific language restricting an officer from having a beneficial interest in a particular contract if the officer has any connection with the contract if it would benefit them individually. A municipal officer is any elected or appointed officer of a unit of local government, and includes deputies and assistants of that officer.

A municipal officer is not allowed to vote on the authorization 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.

There are several exemptions specified in statute in which municipal officers are allowed to have an interest in an awarded contract if the contract is within certain limits. 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, or non-charter code city, or a county fair board in a county without 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.

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 a conflict between the code of ethics and a county charter or a city-county charter.

Summary of Amended Bill:

The municipal officer's interest in contracts law is amended by requiring that municipal officers not vote in the authorization, approval, or ratification of any contract in which they are interested. The municipal officer also must submit their interest in the contract to the governing body and have it noted in the official minutes prior to the formation of the contract. This rule is to apply despite a specific exemption already in statute allowing the awarding of such contracts.

The dollar levels for exemptions are increased as follows:

- The day labor dollar amount for employment of unskilled labor used by a municipality in any month is raised from \$100 to \$200;
- The letting of any contract in which the total amount that can not be exceed under the contract in any calendar month is raised from \$750 to \$1,500; and
- For officers in a second class city or town, or noncharter code city, or county fair board in a county without a purchasing department, the total amount that such contracts may exceeded is raised from \$750 to \$1,500 in any given month; the total amount that cannot be exceeded in any given year is raised from \$9,000 to \$18,000.

The civil penalty that may be imposed for violating the municipal code of ethics is raised from \$300 to \$500. A violation of this code may be grounds for forfeiture of office, rather than a mandatory forfeiture of office. Conflicting provisions between the municipal ethics law and any county charter or city-county charter defer to the local provisions, assuming stricter requirements than the state provisions. The state municipal ethics laws are to be considered a minimum standard to be enforced by municipalities.

Amended Bill Compared to Original Bill: The Senate version added an automatic yearly inflator for the contracting exemption threshold levels that is based on the Department of Revenue Governmental Price Index. This automatic inflator was removed from the bill.

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 legislation does three important things: makes a clarification that municipal officers cannot vote on contracts they have any interest in; it increases the thresholds (which have not changed for 35 years) on the dollar amount for the exemption for a contract let to a municipal officer; and it adds an automatic inflator to the threshold levels. It is very common for a local business person to be on a council, and be the only person in the area with a gas station. There is a situation in which the fire department in Pacific County had to drive to Oregon to gas up because a commissioner owned the only gas station. This is good for rural area small businesses, and for business owners that want to be involved in their communities.

Testimony Against: None.

Testified: Roger Ferris, Washington Fire Commissioners Association; and Jim Justin, Association of Washington Cities.