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HOUSE BILL 1255

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Simpson, Curtis, Sells, Walsh, Buri, B. Sullivan, Ericks, Ormsby and Moeller

Read first time 01/15/2007. Referred to Committee on Local Government.

1            AN ACT Relating to municipal officers' beneficial interest in  
2 contracts; and amending RCW 42.23.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 42.23.030 and 2006 c 121 s 1 are each amended to read  
5 as follows:

6            No municipal officer shall be beneficially interested, directly or  
7 indirectly, in any contract which may be made by, through or under the  
8 supervision of such officer, in whole or in part, or which may be made  
9 for the benefit of his or her office, or accept, directly or  
10 indirectly, any compensation, gratuity or reward in connection with  
11 such contract from any other person beneficially interested therein.  
12 This section shall not apply in the following cases:

13            (1) The furnishing of electrical, water or other utility services  
14 by a municipality engaged in the business of furnishing such services,  
15 at the same rates and on the same terms as are available to the public  
16 generally;

17            (2) The designation of public depositaries for municipal funds;

18            (3) The publication of legal notices required by law to be

1 published by any municipality, upon competitive bidding or at rates not  
2 higher than prescribed by law for members of the general public;

3 (4) The designation of a school director as clerk or as both clerk  
4 and purchasing agent of a school district;

5 (5) The employment of any person by a municipality for unskilled  
6 day labor at wages not exceeding two hundred dollars in any calendar  
7 month. The exception provided in this subsection does not apply to a  
8 county with a population of one hundred twenty-five thousand or more,  
9 a city with a population of more than one thousand five hundred, an  
10 irrigation district encompassing more than fifty thousand acres, or a  
11 first class school district;

12 (6)(a) The letting of any other contract in which the total amount  
13 received under the contract or contracts by the municipal officer or  
14 the municipal officer's business does not exceed one thousand five  
15 hundred dollars in any calendar month.

16 (b) However, in the case of a particular officer of a second class  
17 city or town, or a noncharter optional code city, or a member of any  
18 county fair board in a county which has not established a county  
19 purchasing department pursuant to RCW 36.32.240, the total amount of  
20 such contract or contracts authorized in this subsection (6) may exceed  
21 one thousand five hundred dollars in any calendar month but shall not  
22 exceed eighteen thousand dollars in any calendar year.

23 (c)(i) In the case of a particular officer of a rural public  
24 hospital district, as defined in RCW 70.44.460, the total amount of  
25 such contract or contracts authorized in this subsection (6) may exceed  
26 one thousand five hundred dollars in any calendar month, but shall not  
27 exceed twenty-four thousand dollars in any calendar year.

28 (ii) At the beginning of each calendar year, beginning with the  
29 2006 calendar year, the legislative authority of the rural public  
30 hospital district shall increase the calendar year limitation described  
31 in this subsection (6)(c) by an amount equal to the dollar amount for  
32 the previous calendar year multiplied by the change in the consumer  
33 price index as of the close of the twelve-month period ending December  
34 31st of that previous calendar year. If the new dollar amount  
35 established under this subsection is not a multiple of ten dollars, the  
36 increase shall be rounded to the next lowest multiple of ten dollars.  
37 As used in this subsection, "consumer price index" means the consumer  
38 price index compiled by the bureau of labor statistics, United States

1 department of labor for the state of Washington. If the bureau of  
2 labor statistics develops more than one consumer price index for areas  
3 within the state, the index covering the greatest number of people,  
4 covering areas exclusively within the boundaries of the state, and  
5 including all items shall be used.

6 (d) The exceptions provided in this subsection (6) do not apply to:

7 (i) A sale or lease by the municipality as the seller or lessor~~((-~~  
8 ~~The exceptions provided in this subsection (6) also do not apply to))~~;

9 (ii) The letting of any contract by a county with a population of  
10 one hundred twenty-five thousand or more, a city with a population of  
11 ten thousand or more, or an irrigation district encompassing more than  
12 fifty thousand acres; or

13 (iii) Contracts for personal services.

14 (e) The municipality shall maintain a list of all contracts that  
15 are awarded under this subsection (6). The list must be made available  
16 for public inspection and copying;

17 (7) The leasing by a port district as lessor of port district  
18 property to a municipal officer or to a contracting party in which a  
19 municipal officer may be beneficially interested, if in addition to all  
20 other legal requirements, a board of three disinterested appraisers and  
21 the superior court in the county where the property is situated finds  
22 that all terms and conditions of such lease are fair to the port  
23 district and are in the public interest. The appraisers must be  
24 appointed from members of the American Institute of Real Estate  
25 Appraisers by the presiding judge of the superior court;

26 (8) The letting of any employment contract for the driving of a  
27 school bus in a second class school district if the terms of such  
28 contract are commensurate with the pay plan or collective bargaining  
29 agreement operating in the district;

30 (9) The letting of an employment contract as a substitute teacher  
31 or substitute educational aide to an officer of a second class school  
32 district that has two hundred or fewer full-time equivalent students,  
33 if the terms of the contract are commensurate with the pay plan or  
34 collective bargaining agreement operating in the district and the board  
35 of directors has found, consistent with the written policy under RCW  
36 28A.330.240, that there is a shortage of substitute teachers in the  
37 school district;

1 (10) The letting of any employment contract to the spouse of an  
2 officer of a school district, when such contract is solely for  
3 employment as a substitute teacher for the school district. This  
4 exception applies only if the terms of the contract are commensurate  
5 with the pay plan or collective bargaining agreement applicable to all  
6 district employees and the board of directors has found, consistent  
7 with the written policy under RCW 28A.330.240, that there is a shortage  
8 of substitute teachers in the school district;

9 (11) The letting of any employment contract to the spouse of an  
10 officer of a school district if the spouse was under contract as a  
11 certificated or classified employee with the school district before the  
12 date in which the officer assumes office and the terms of the contract  
13 are commensurate with the pay plan or collective bargaining agreement  
14 operating in the district. However, in a second class school district  
15 that has less than two hundred full-time equivalent students enrolled  
16 at the start of the school year as defined in RCW 28A.150.040, the  
17 spouse is not required to be under contract as a certificated or  
18 classified employee before the date on which the officer assumes  
19 office;

20 (12) The authorization, approval, or ratification of any employment  
21 contract with the spouse of a public hospital district commissioner if:  
22 (a) The spouse was employed by the public hospital district before the  
23 date the commissioner was initially elected; (b) the terms of the  
24 contract are commensurate with the pay plan or collective bargaining  
25 agreement operating in the district for similar employees; (c) the  
26 interest of the commissioner is disclosed to the board of commissioners  
27 and noted in the official minutes or similar records of the public  
28 hospital district prior to the letting or continuation of the contract;  
29 and (d) and the commissioner does not vote on the authorization,  
30 approval, or ratification of the contract or any conditions in the  
31 contract.

32 A municipal officer may not vote in the authorization, approval, or  
33 ratification of a contract in which he or she is beneficially  
34 interested even though one of the exemptions allowing the awarding of  
35 such a contract applies. The interest of the municipal officer must be  
36 disclosed to the governing body of the municipality and noted in the

1 official minutes or similar records of the municipality before the  
2 formation of the contract.

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