
HOUSE BILL 1746

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Fey, Jinkins, Sawyer, and Kirby

Read first time 02/07/13. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to a municipal officer's beneficial interest in
2 certain renewable energy or conservation programs; and amending RCW
3 42.23.030 and 42.23.060.

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

5 **Sec. 1.** RCW 42.23.030 and 2007 c 298 s 1 are each amended to read
6 as follows:

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

14 (1) The furnishing of electrical, water or other utility services
15 by a municipality engaged in the business of furnishing such services,
16 at the same rates and on the same terms as are available to the public
17 generally, which includes entering into agreements related to: (a)
18 Renewable energy incentive programs authorized under chapter 82.16 RCW;
19 or (b) the financing, acquisition, or installation of fixtures,

1 systems, and equipment, for compensation or otherwise, for the
2 conservation or more efficient use of electrical, water, or other
3 utility services;

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

5 (3) The publication of legal notices required by law to be
6 published by any municipality, upon competitive bidding or at rates not
7 higher than prescribed by law for members of the general public;

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

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

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

21 (b) However, in the case of a particular officer of a second-class
22 city or town, or a noncharter optional code city, or a member of any
23 county fair board in a county which has not established a county
24 purchasing department pursuant to RCW 36.32.240, 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 eighteen thousand dollars in any calendar year.

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

33 (ii) At the beginning of each calendar year, beginning with the
34 2006 calendar year, the legislative authority of the rural public
35 hospital district shall increase the calendar year limitation described
36 in this subsection (6)(c) by an amount equal to the dollar amount for
37 the previous calendar year multiplied by the change in the consumer
38 price index as of the close of the twelve-month period ending December

1 31st of that previous calendar year. If the new dollar amount
2 established under this subsection is not a multiple of ten dollars, the
3 increase shall be rounded to the next lowest multiple of ten dollars.
4 As used in this subsection, "consumer price index" means the consumer
5 price index compiled by the bureau of labor statistics, United States
6 department of labor for the state of Washington. If the bureau of
7 labor statistics develops more than one consumer price index for areas
8 within the state, the index covering the greatest number of people,
9 covering areas exclusively within the boundaries of the state, and
10 including all items shall be used.

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

12 (i) A sale or lease by the municipality as the seller or lessor;

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

17 (iii) Contracts for legal services, except for reimbursement of
18 expenditures.

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

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

31 (8) The letting of any employment contract for the driving of a
32 school bus in a second-class school district if the terms of such
33 contract are commensurate with the pay plan or collective bargaining
34 agreement operating in the district;

35 (9) The letting of an employment contract as a substitute teacher
36 or substitute educational aide to an officer of a second-class school
37 district that has two hundred or fewer full-time equivalent students,
38 if the terms of the contract are commensurate with the pay plan or

1 collective bargaining agreement operating in the district and the board
2 of directors has found, consistent with the written policy under RCW
3 28A.330.240, that there is a shortage of substitute teachers in the
4 school district;

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

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

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

36 A municipal officer may not vote in the authorization, approval, or
37 ratification of a contract in which he or she is beneficially
38 interested even though one of the exemptions allowing the awarding of

1 such a contract applies. The interest of the municipal officer must be
2 disclosed to the governing body of the municipality and noted in the
3 official minutes or similar records of the municipality before the
4 formation of the contract.

5 **Sec. 2.** RCW 42.23.060 and 1999 c 261 s 5 are each amended to read
6 as follows:

7 If any provision of this chapter, with the exception of RCW
8 42.23.030(1), conflicts with any provision of a city or county charter,
9 or with any provision of a city-county charter, the charter shall
10 control if it contains stricter requirements than this chapter. The
11 provisions of this chapter shall be considered as minimum standards to
12 be enforced by municipalities.

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