

HOUSE BILL REPORT

HB 1820

As Reported by House Committee On:

State Government

Title: An act relating to clarifying ethics requirements for officers and employees of institutions of higher education with regard to sponsored research and technology transfer agreements.

Brief Description: Clarifying that certain technology transactions by institutions of higher education are exempt from state ethics requirements.

Sponsors: Representatives Van Luven, H. Sommers, Lantz, Morris and Edwards; by request of University of Washington.

Brief History:

Committee Activity:

State Government: 2/23/01, 2/26/01 [DP].

Brief Summary of Bill

- Clarifies that technology transfer licensing agreements entered into by officers or employees of institutions of higher education, or the Spokane Intercollegiate Research and Technology Institute, are contracts that are potentially exempt from the general prohibition on state officers and employees having beneficial interests in contracts under their supervision, if a written administrative process is in place relating to potential conflicts of interest that conforms with certain federal requirements.
- Removes the existing requirements for open bidding, or advice by a state ethics board that a contract or grant does not conflict with the proper discharge of a state officer's or employee's duties, that are part of the process for certain contractual or grant interests of a state officer or employee to be exempt from conflict of interest restrictions, if the officer or employee complies with the written administrative process relating to conflicts of interest that conforms with certain federal requirements.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 8 members: Representatives McMorris,

Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Schindler, Republican Vice Chair; Haigh, Lambert, McDermott and D. Schmidt.

Staff: Steve Lundin (786-7127).

Background:

State ethics laws prohibit certain beneficial interests by state officers and state employees.

A officer or employee of an institution of higher education, or the Spokane Intercollegiate Research and Technology Institute, may not be beneficially interested in a contract or grant made by, through, or under the supervision of the officer or employee, or accept any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant. However, this restriction does not apply where the institution or institute has a written administrative process to identify and manage, reduce, or eliminate conflicting interests in these transactions that is adopted under the National Science Investigator Financial Disclosure and the Public Health Service regulations and the state officer or employee complies with this policy.

A state officer or employee may not receive anything of economic value under a contract or grant outside of the officer's or employee's official duties. However, this prohibition does not apply if the officer or employee of an institution of higher education, or the Spokane Intercollegiate Research and Technology Institute, has a written administrative process described above and the officer or employee complies with this process, and the contract or grant was awarded as follows:

- It was awarded or issued using an open competitive bidding process in which more than one bid or grant application was received;
- It was awarded or issued using an open and competitive bidding or selection process where the officer's or employee's bid or proposal was the only bid or proposal received, if the officer or employee was advised by the appropriate ethics board, before the contract or grant was executed, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or
- The process was not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

Summary of Bill:

It is clarified that **sponsored research and technology transfer agreements** are contracts that may be exempt from the general prohibition on officers and employees, of an

institution of higher education or the Spokane Intercollegiate Research and Technology Institute, having beneficial interests in, if the institution or institute has a written administrative process in place conforming with the National Science Investigator Financial Disclosure and the Public Health Service regulations.

Requirements for open bidding or advice by a state ethics board that a contract or grant does not conflict with the proper discharge of a state officer's or employee's duties, that are required under the exemption from the general prohibition on a state officer or employee receiving anything of economic value under a contract or grant outside of their official duties, do not apply to a contract or grant awarded to an officer or employee of an institution of higher education or the Spokane Intercollegiate Research and Technology Institute, if the officer or employee has complied with the administrative process that is developed to conform with the National Science Investigator Financial Disclosure and the Public Health Service regulations.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This is a technical clarification. Last spring, the executive ethics board issued an advisory opinion on non-higher education employees that implicitly questions this 1996 exemption. This is terribly important. We have a cloud hanging over us.

Testimony Against: None.

Testified: Dick Thompson and Bob Miller, University of Washington; and Larry Ganders, Washington State University.