

SENATE BILL REPORT

SB 5731

As Passed Senate, March 5, 1999

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: State & Local Government: 2/15/99, 2/17/99 [DP].
Passed Senate, 3/5/99, 42-4.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Patterson, Chair; Gardner, Vice Chair; Hale, Haugen, Horn, Kline and McCaslin.

Staff: Karen Kirkpatrick (786-7403)

Background: Municipal officers are prohibited by the municipal code of ethics from having a beneficial interest in a contract which is made under the supervision of that officer. A municipal officer is any elected or appointed officer of a unit of local government and includes any deputies or assistants of that officer.

A number of exemptions to the prohibition have been established for certain municipalities. They include contracts for unskilled labor that do not exceed \$100 in a calendar month; contracts in which the total volume of business 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, non-charter code city, or county fair board in a county which does not have a purchasing department in which the total volume of business exceeds this \$750 monthly limit, but the total amount of such contracts does not exceed \$9,000 in any calendar year.

The dollar thresholds established for these contracts have not been changed for many years, and the thresholds apply to the total value of the contract instead of the portion of the contract that would benefit the municipal officer's business. First class school districts are the only units of government that must publish notice of these proposed contracts.

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

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 Bill: The dollar thresholds for contracts which are exempt from the municipal conflict of interest statutes are made applicable to the portion of the contract that benefits the business operated by the municipal officer.

The amount of the dollar thresholds are raised as follows: the threshold for unskilled labor is raised from \$100 to \$200 a month; the threshold for monies received under a contract are raised from \$750 to \$1500 in a calendar month; and the threshold for monies received under a contract when the municipality is a second class city or town, non-charter code city, or county fair board in a county without a purchasing department, is raised so that a contract may exceed \$1,500 in a calendar month but may not exceed \$18,000 in any calendar year. The dollar amounts must be adjusted annually as indicated by the governmental price index. First class school districts are no longer required to publish notice of these proposed contracts.

Municipal officers are prohibited from voting in the authorization, approval, or ratification of a contract in which he or she is beneficially interested, even if an exemption from the municipal conflict of interest laws applies.

The amount of the civil penalty that may be imposed on a municipal officer for violating the municipal code of ethics is raised from \$300 to \$500. A violation of the code of ethics may be grounds for forfeiture of the municipal officer's office.

A city, county or city-county charter controls over the municipal code of ethics when there is a conflict between provisions and the charter contains stricter requirements.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: It is hard in small areas for fire districts that must go 30 miles to get merchandise and equipment when the current statutory limits are hit. By the time a truck returns from a far off gas station, the gas tank is an eighth empty. It prevents local shopping. It is also a disincentive to small town business owners to be involved in local politics. This bill solves the problem. The limits in the statute have not been adjusted in 35 years, but an inflator is included so there will be no need to return to the Legislature. An additional selling point is the limits would only apply to the portion of a contract in which the officer has an interest.

Testimony Against: None.

Testified: Jim Justin, AWC (pro); Roger Ferris, WA Fire Commissioners Assn. (pro).

House Amendment(s): The provision requiring annual adjustment based on the governmental price index is deleted.