



HOUSE BILL No. 4901

June 29, 1993, Introduced by Rep. Bryant and referred to the Committee on Education.

A bill to amend sections 2 and 3 of Act No. 317 of the Public Acts of 1968, entitled as amended

"An act relating to the conduct of public servants in respect to governmental decisions and contracts with public entities; to provide penalties for the violation of this act; to repeal certain acts and parts of acts; and to validate certain contracts,"

section 2 as amended by Act No. 9 of the Public Acts of 1992 and section 3 as amended by Act No. 184 of the Public Acts of 1984, being sections 15.322 and 15.323 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2 and 3 of Act No. 317 of the Public
2 Acts of 1968, section 2 as amended by Act No. 9 of the Public
3 Acts of 1992 and section 3 as amended by Act No. 184 of the
4 Public Acts of 1984, being sections 15.322 and 15.323 of the
5 Michigan Compiled Laws, are amended to read as follows:

1 Sec. 2. (1) Except as provided in sections 3 and 3a, a
2 public servant shall not be a party, directly or indirectly, to
3 any contract between himself or herself and the public entity of
4 which he or she is an officer or employee.

5 (2) Except as provided in section 3, a public servant shall
6 not directly or indirectly solicit any contract between the
7 public entity of which he or she is an officer or employee and
8 any of the following:

9 (a) Him or herself.

10 (b) Any ~~firm, meaning a~~ co-partnership or other unincor-
11 porated association ~~—~~ of which he or she is a partner, member,
12 or employee.

13 (c) Any private corporation in which he or she is a stock-
14 holder owning more than 1% of the total outstanding stock of any
15 class if the stock is not listed on a stock exchange, or stock
16 with a present total market value in excess of \$25,000.00 if the
17 stock is listed on a stock exchange or of which he or she is a
18 director, officer, or employee.

19 (d) Any trust of which he or she is a beneficiary or
20 trustee.

21 (3) In regard to a contract described in subsection (2), a
22 public servant shall not do either of the following:

23 (a) Take any part in the negotiations for such a contract or
24 the renegotiation or amendment of the contract, or in the
25 approval of the contract.

26 (b) Represent either party in the transaction.

1 (4) A PUBLIC SERVANT WHO IS A MEMBER OF A GOVERNING BOARD OF
2 A LOCAL OR INTERMEDIATE SCHOOL DISTRICT SHALL NOT TAKE ANY PART
3 IN THE NEGOTIATION FOR, OR RENEGOTIATION OR AMENDMENT OF, ANY
4 CONTRACT WITH THE LOCAL OR INTERMEDIATE SCHOOL DISTRICT IN WHICH
5 THE PUBLIC SERVANT OR HIS OR HER SPOUSE HAS A DIRECT FINANCIAL
6 INTEREST, AND SHALL NOT VOTE ON THE APPROVAL OF SUCH A CONTRACT.
7 A PUBLIC SERVANT WHO IS AN EMPLOYEE OF A LOCAL OR INTERMEDIATE
8 SCHOOL DISTRICT SHALL NOT TAKE ANY PART IN THE NEGOTIATION FOR,
9 OR RENEGOTIATION OR AMENDMENT OF, ANY CONTRACT WITH THE LOCAL OR
10 INTERMEDIATE SCHOOL DISTRICT IN WHICH THE PUBLIC SERVANT OR HIS
11 OR HER SPOUSE HAS A DIRECT FINANCIAL INTEREST. THE PROHIBITIONS
12 IN THIS SUBSECTION ARE IN ADDITION TO THE PROHIBITIONS IN
13 SUBSECTION (3).

14 Sec. 3. (1) Section 2 ~~shall~~ DOES not apply to either of
15 the following:

16 (a) A public servant, OTHER THAN A MEMBER OF A GOVERNING
17 BOARD OF A LOCAL OR INTERMEDIATE SCHOOL DISTRICT, who is paid for
18 working an average of 25 hours per week or less for a public
19 entity.

20 (b) A public servant who is an employee of a public commu-
21 nity college, junior college, or state college or university.

22 (2) A contract as defined in and limited by section 2
23 involving a public entity and a public servant described in sub-
24 section (1) shall meet all of the following requirements:

25 (a) The public servant promptly discloses any pecuniary
26 interest in the contract to the official body ~~which~~ THAT has

1 power to approve the contract, which disclosure shall be made a
2 matter of record in its official proceedings.

3 (b) The contract is approved by a vote of not less than 2/3
4 of the full membership of the approving body in open session
5 without the vote of the public servant making the disclosure.

6 (c) The official body discloses the following summary infor-
7 mation in its official minutes:

8 (i) The name of each party involved in the contract.

9 (ii) The terms of the contract, including duration, finan-
10 cial consideration between parties, facilities or services of the
11 public entity included in the contract, and the nature and degree
12 of assignment of employees of the public entity for fulfillment
13 of the contract.

14 (iii) The nature of any pecuniary interest.

15 (3) This section and section 2 ~~shall~~ DO not prevent a
16 public servant from making or participating in making a govern-
17 mental decision to the extent that the public servant's partici-
18 pation is required by law. If 2/3 of the members are not eligi-
19 ble under this act to vote on a contract or to constitute a
20 quorum, a member may be counted for purposes of a quorum and may
21 vote on the contract if the member OR THE MEMBER'S SPOUSE, AS
22 APPLICABLE, will directly benefit from the contract in an amount
23 less than \$250.00 and less than 5% of the public cost of the con-
24 tract and the member files a sworn affidavit to that effect with
25 the official body. The affidavit shall be made a part of the
26 public record of the official proceedings. As used in this
27 subsection, "governmental decision" means a determination,

1 action, vote, or disposition upon a motion, proposal,
2 recommendation, resolution, ordinance, order, or measure on which
3 a vote by members of a local legislative or governing body of a
4 public entity is required and by which a public body effectuates
5 or formulates public policy.