

**CONFLICT OF INTEREST:
FEDERAL GRANT OR LOAN**

**House Bill 4585 (Substitute H-1)
First Analysis (10-1-97)**

**Sponsor: Rep. Michael Hanley
Committee: Local Government**

THE APPARENT PROBLEM:

Public Act 317 of 1968 deals with conflicts of interest that may arise when a public servant enters into a contract with a public entity. Generally speaking, the act prohibits a public servant from being a party, directly or indirectly, to any contract between himself or herself and the public entity of which he is an officer or employee. There are some exceptions to this, however, and for those cases, the act prescribes special notification requirements and voting procedures. A new exception has been proposed arising from a problem encountered by municipal workers in the city of Saginaw (and probably elsewhere, as well).

City employees have been denied the opportunity to participate in federal home rehabilitation programs administered by the city because such participation is considered a violation of the conflict of interest statute. (There is said to be an attorney general's ruling to that effect.) At the same time, municipal employees in Saginaw are required to live in the city (and so cannot participate in such programs elsewhere). Representatives of municipal employees believe that city workers should be able to obtain federal home rehabilitation loans and grants, and otherwise participate in locally administered federal programs.

THE CONTENT OF THE BILL:

The bill would amend Public Act 317 of 1968, which addresses conflicts of interest between public servants and public entities, in the following ways:

-- The act prohibits, with some exceptions, a public servant from being a party, directly or indirectly, to any contract between himself or herself and the public entity of which he is an officer or employee. The bill would provide an exception when a contract governed the receipt of a federal grant or loan and the public servant qualified under federal law for the grant or loan.

-- The act currently says that it "shall supersede all local charter provisions, whether incorporated in legislative

acts or local charters, which relate to the matter of conflict of interest." The bill would delete this provision and would specify that the act does not prohibit a unit of local government from adopting an ordinance or enforcing an existing ordinance relating to conflict of interest in subjects other than public contracts involving public servants. (Note: This language was included in House Bill 4386 of the current session, which has already passed the House.)

MCL 15.323 et al.

BACKGROUND INFORMATION:

The term "public servant" in Public Act 317 refers to "all persons serving any public entity, except members of the legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution as implemented by legislative act." The term "public entity" means "the state including all agencies thereof, any public body corporate within the state, including all agencies thereof, or any non-incorporated public body within the state of whatever nature, including all agencies thereof."

The act establishes the following requirements for a contract involving a public entity and a public servant: 1) the public servant must promptly disclose any pecuniary interest to the official body and the disclosure must be made a matter of record; 2) the contract must be approved by a vote of at least two-thirds of the full membership of the body in open session without the vote of the member making the disclosure; and 3) the body must put certain specified information in its official minutes, including the nature of the pecuniary interest.

FISCAL IMPLICATIONS:

The bill would have no state or local fiscal impact, according to the House Fiscal Agency. (Fiscal Note dated 9-17-97)

ARGUMENTS:***For:***

This bill will allow public servants to enter into a contract with a public entity for a federal grant or loan. In particular, it will allow employees to participate in federal housing rehabilitation assistance programs. An employee would still need to meet federal conflict of interest requirements. And the state conflict of interest act contains special notification and voting requirements that would apply. Currently, city workers in Saginaw are denied the ability to participate in these programs administered by the city because they work for the city. Yet, the city prohibits them from living anywhere else. This is unfair. Public employees should have the same opportunities as other citizens. A representative of cities has said that the bill is really a clarification of the law: some cities already allow workers to participate in such programs. The bill also contains a clarifying provision allowing local units to adopt their own conflict of interest ordinances or to enforce already adopted ordinances that address matters other than public contracts involving public servants. The provision has already been approved by the House once in House Bill 4386 of this session.

Response:

In situations where the demand for federal grants and loans exceed the supply, wouldn't public employees have an inside track due to their knowledge of the application and award process?

POSITIONS:

The Michigan Municipal League has indicated support for the bill. (9-23-97)

Service Employees International Union, Local 466M, has indicated support for the bill. (9-22-97)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.