

# HOUSE BILL No. 5811

September 7, 2016, Introduced by Rep. Price and referred to the Committee on Oversight and Ethics.

A bill to amend 1968 PA 317, entitled

"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,"

by amending section 3 (MCL 15.323), as amended by 1997 PA 145.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 3. (1) ~~Section~~ **EXCEPT AS PROVIDED IN SUBSECTION (2),**

2   **SECTION 2** does not apply to ~~either~~ **ANY** of the following:

3           (a) A public servant who is paid for working an average of 25  
4 hours per week or less for a public entity.

5           (b) A public servant who is an employee of a public community  
6 college, junior college, or state college or university.

7           **(C) A CONTRACT BETWEEN A PUBLIC COMMUNITY COLLEGE, JUNIOR**  
8 **COLLEGE, OR STATE COLLEGE OR UNIVERSITY AND A PUBLIC SERVANT WHO IS**  
9 **AN EMPLOYEE OF THE SAME PUBLIC COMMUNITY COLLEGE, JUNIOR COLLEGE,**

1 OR STATE COLLEGE OR UNIVERSITY FOR THE PURCHASE OF GOODS OR  
 2 SERVICES THAT ARE AVAILABLE FOR PURCHASE AT THE SAME PRICE BY THE  
 3 GENERAL PUBLIC.

4 (2) A contract as defined in and limited by section 2  
 5 involving a public entity and a public servant described in  
 6 subsection ~~(1) shall meet~~ **(1) (A) OR (B) IS EXEMPT FROM SECTION 2**  
 7 **ONLY IF IT MEETS** all of the following requirements:

8 (a) The public servant promptly discloses any pecuniary  
 9 interest in the contract to the official body that has power to  
 10 approve the contract, ~~which~~ **AND THE OFFICIAL BODY INCLUDES THAT**  
 11 ~~disclosure shall be made a matter of~~ **IN THE** record ~~in~~ **OF** its  
 12 official proceedings. Unless the public servant making the  
 13 disclosure will directly benefit from the contract in an amount  
 14 less than ~~\$250.00~~ **\$1,500.00** and less than 5% of the public cost of  
 15 the contract and the public servant files a sworn affidavit to that  
 16 effect with the official body or the contract is for emergency  
 17 repairs or services, **HE OR SHE SHALL MAKE** the disclosure ~~shall be~~  
 18 ~~made in either of the following manners:~~

19 ~~—— (i) The public servant promptly discloses in writing to the~~  
 20 ~~presiding officer, or if the presiding officer is the public~~  
 21 ~~servant who is a party to the contract, to the clerk, the pecuniary~~  
 22 ~~interest in the contract at least 7 days prior to~~ **BEFORE** the  
 23 meeting at which a vote **CONCERNING THE CONTRACT** will be taken. The  
 24 disclosure shall be made public in the same manner as a public  
 25 meeting notice.

26 ~~—— (ii) The public servant discloses the pecuniary interest at a~~  
 27 ~~public meeting of the official body. The vote shall be taken at a~~

~~meeting of the official body held at least 7 days after the meeting at which the disclosure is made. If the amount of the direct benefit to the public servant is more than \$5,000.00, disclosure must be made as provided under this subparagraph.~~

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

(c) The official body discloses the following summary information in its official minutes:

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

(ii) The terms of the contract, including duration, financial consideration between parties, facilities or services of the public entity included in the contract, and the nature and degree of assignment of employees of the public entity for fulfillment of the contract.

(iii) The nature of any pecuniary interest.

(3) This section and section 2 do not prevent a public servant from making or participating in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under this act to vote on a contract or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member will directly benefit from the contract in an amount less than ~~\$250.00~~ **\$1,500.00** and less than 5% of the public cost of the contract and the member files a sworn affidavit to that effect with the official body. The affidavit shall be made a part of the public record of the official proceedings. As used in this subsection,

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

6 Enacting section 1. This amendatory act takes effect 90 days  
7 after the date it is enacted into law.