

ENGROSSED HOUSE
BILL NO. 1575

By: Dorman of the House

and

Helton of the Senate

An Act relating to public contracts; amending 62 O.S. 2001, Section 371, which relates to contracts with officers; expanding certain exemption; amending 70 O.S. 2001, Section 5-124, which relates to contracts with boards of education; expanding certain exemption; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2001, Section 371, is amended to read as follows:

Section 371. A. Except as otherwise provided in this section, no board of county commissioners, nor city council, nor board of trustees of any town, nor any district board of any school district in this state, nor any board of any local subdivision of this state shall make any contract with any of its members, or in which any of its members shall be directly or indirectly interested. All contracts made in violation of this section shall be wholly void.

However, for the purposes of this section, the following shall not be considered the making of a contract:

1. The depositing of any funds in a bank or other depository;
2. Any contract with a qualified nonprofit Internal Revenue Code Section 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract entered into by a school district involving the counseling or instruction of students or staff; or
3. Monthly billings submitted to any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by

the Oklahoma Corporation Commission, or billings of the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for the charges or billings by the companies are on file with the Oklahoma Corporation Commission.

In addition, the governing board of a technology center school district may enter into a contract for the technology center school district to provide training for a company, individual, or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the technology center school district board and the company, individual, or business concern by which the member is employed.

B. The provisions of this section shall not apply to:

1. Those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes; or

2. A member of any board of education of a school district or a director or member of any rural water, sewer, gas and solid waste management district organized pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who owns or operates a business which is the only business of that type within ten (10) miles of the corporate limits of the municipality.

However, any activities permitted by this subsection shall not exceed Five Hundred Dollars (\$500.00) for any single activity and shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for all activities in any calendar year.

C. The provisions of this section shall not apply to conservation district board members participating in programs authorized by Section 3-2-106 of Title 27A of the Oklahoma Statutes.

D. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which the member is associated and the public body in which the member serves.

E. The provisions of this section shall not apply to any board of county commissioners purchasing motor fuel for exclusive use by the county from a cooperative agricultural association in which a member of the board of county commissioners has a financial or proprietary interest. The county commissioner having a financial or proprietary interest in the cooperative agricultural association shall abstain from voting on any such purchase or contract between the county and the cooperative agricultural association. Except as provided in this subsection, the purchasing procedures required by law for counties and county officers shall not otherwise be modified.

F. A member of a board of county commissioners, city council, board of trustees of any town, district board of any school district in this state, or of any board of any local subdivision of this state shall not be considered to be directly or indirectly interested in any contract with a person or entity that employs such member or the spouse of the member or an entity in which the member or the spouse of the member has an ownership interest, if the member or the spouse of the member has an interest ~~in the employing entity~~ of five percent (5%) or less in the entity.

SECTION 2. AMENDATORY 70 O.S. 2001, Section 5-124, is amended to read as follows:

Section 5-124. A. Except as otherwise provided in this section, no board of education of any school district in this state shall make any contract with any of its members or with any company, individual or business concern in which any of its members shall be

directly or indirectly interested. All contracts made in violation of this section shall be wholly void. A member of a board of education shall be considered to be interested in any contract made with any company, individual, or any business concern if the member of the board of education or any member of the immediate family of the member owns any substantial interest in same.

B. For purposes of this section, the following shall not be considered the making of a contract:

1. Any contract with a qualified nonprofit Internal Revenue Code 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract involving the counseling or instruction of students or staff;

2. Monthly billings submitted to any school district for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission, or billings of the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for the charges or billings by the companies are on file with the Oklahoma Corporation Commission; and

3. The depositing of any funds in a bank or other depository.

C. 1. The governing board of a technology center school district may enter into a contract for the technology center school district to provide training for a company, individual or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the technology center school district board and the company, individual or business concern by which the member is employed.

2. A board of education may enter into a contract with a company, individual, or business concern in which a board member or a member's spouse is employed by or has a substantial interest if the company, individual, or business concern is the only supplier having a place of business located within the school district or

within ten (10) miles of the needed services or materials. The board member shall abstain from voting on any such contract between the company, individual, or business concern in which that member has a substantial interest, and the minutes of the board meeting at which the contract is approved shall state that the contract is being made because of the lack of another supplier with a place of business located within the school district.

3. A board of education which has entered into a lease-purchase agreement, prior to the time a board member which has a substantial interest in the company, individual, or business concern became a member of the board of education, may, after the member becomes a board member, continue to exercise any fiscal year options in the lease-purchase agreement for renewal of the lease-purchase for the balance of the contract term. The affected board member shall abstain from voting on such fiscal year renewal of the continuation of the lease-purchase agreement.

4. A board of education may enter into a contract with a company, individual or business concern in which a board member or a spouse of a member is employed and has no substantial interest if the school district does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census and the company, individual or business concern is located in the corporate limits of a municipality which is in the boundaries of the school district.

D. A board member shall not be considered to be directly or indirectly interested in any contract with a company, individual, or business concern that employs such board member or the spouse of the board member or a company, individual, or business concern in which the member or the spouse of the member has an ownership interest, if the board member or the spouse of the board member has an interest of five percent (5%) or less in the company, individual, or business concern.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 11th day of March, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate