ENROLLED SENATE
BILL NO. 1295

By: Harrison of the Senate

and

Walker of the House

An Act relating to county officers; amending 11 O.S. 2001, Section 8-113, which relates to officers prohibited from conducting certain business; modifying amount spent per calendar year for certain activities; amending 62 O.S. 2001, Section 371, which relates to contracts with officers; modifying amount spent per calendar year for certain activities; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 8-113, is amended to read as follows:

Section 8-113. A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the municipality;

2. Contracting with the municipality; or

3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than two thousand five hundred (2,500) according to the latest Federal Decennial Census, who has a proprietary interest in 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)~~ Ten Thousand Dollars ($10,000.00) for all activities in any calendar year.

C. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week

for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.

D. For purposes of this section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.

E. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of the provisions of this section shall be held personally liable for the amount of the transaction.

F. 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 they are associated and the public body in which they serve.

SECTION 2. 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;

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)~~ Ten Thousand Dollars ($10,000.00) 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, if the member or the spouse of the member has an interest in the employing entity of five percent (5%) or less.

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 Senate the 1st day of March, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 1st day of April, 2004.

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Presiding Officer of the House
of Representatives