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THE STATE SENATE
Thursday, February 16, 2006

Senate Bill No. 1392

SENATE BILL NO. 1392 - By: LAUGHLIN of the Senate and HICKMAN of the House.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 8-113, as amended by Section 1, Chapter 68, O.S.L. 2004 (11 O.S. Supp. 2005, Section 8-113), which relates to certain exceptions for municipalities under two thousand five hundred persons; modifying certain exception; adding exception for monetary limit for certain purchases; providing an effective date; 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, as amended by Section 1, Chapter 68, O.S.L. 2004 (11 O.S. Supp. 2005, 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.

(Bold face denotes Committee Amendments)

1 B. The provisions of this section shall not apply to any
2 officer or employee of any municipality of this state with a
3 population of not more than two thousand five hundred (2,500)
4 according to the latest Federal Decennial Census, who has a
5 proprietary interest in a business which is the only business of
6 that type within ~~ten (10)~~ five (5) miles of the corporate limits of
7 the municipality. However, any activities permitted by this
8 subsection shall not exceed Five Hundred Dollars (\$500.00) for any
9 single activity and shall not exceed Ten Thousand Dollars
10 (\$10,000.00) for all activities in any calendar year. Provided,
11 however, such activity may exceed Ten Thousand Dollars (\$10,000.00)
12 per year if the municipality purchases items therefrom that are
13 regularly sold to the general public in the normal course of
14 business and the price charged to the municipality by the business
15 does not exceed the price charged to the general public.

16 C. For purposes of this section, "employee" means any person
17 who is employed by a municipality more than ten (10) hours in a week
18 for more than thirteen (13) consecutive weeks and who enters into,
19 recommends or participates in the decision to enter into any
20 transaction described in subsection A of this section. Any person
21 who receives wages, reimbursement for expenses, or emoluments of any
22 kind from a municipality, any spouse of the person, or any business
23 in which the person or spouse has a proprietary interest shall not

1 buy or otherwise become interested in the transfer of any surplus
2 property of a municipality or a public trust of which the
3 municipality is beneficiary unless the surplus property is offered
4 for sale to the public after notice of the sale is published.

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

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

16 F. Notwithstanding the provisions of this section, any officer,
17 director or employee of a financial institution may serve on a board
18 of a public body. Provided, the member shall abstain from voting on
19 any matter relating to a transaction between or involving the
20 financial institution in which they are associated and the public
21 body in which they serve.

22 SECTION 2. This act shall become effective July 1, 2006.

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.
5 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-13-06
6 - DO PASS, As Coauthored.