

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1136

Introduced by Williams, 36.

Read first time January 22, 2020

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to political accountability and disclosure; to
2 amend section 49-14,103.01, Reissue Revised Statutes of Nebraska; to
3 redefine officer for purposes of prescribing when an interest in a
4 contract is prohibited; to eliminate a prohibition against an
5 interest in a contract by a board member of a public power and
6 irrigation district; to harmonize provisions; to repeal the original
7 section; and to outright repeal section 70-642.02, Reissue Revised
8 Statutes of Nebraska.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-14,103.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 49-14,103.01 (1) For purposes of sections 49-14,103.01 to
4 49-14,103.06, unless the context otherwise requires, officer means (a) a
5 member of the board of directors of a natural resources district, (b) a
6 member of the board of directors of a district organized under Chapter
7 70, (c) a member of any board or commission of any county, school
8 district, city, or village which spends and administers its own funds,
9 who is dealing with a contract made by such board or commission, (d) ~~(e)~~
10 any elected county, school district, educational service unit, city, or
11 village official, and (e) ~~(d)~~ a member of any board of directors or
12 trustees of a hospital district as provided by the Nebraska Local
13 Hospital District Act or a county hospital as provided by sections
14 23-3501 to 23-3519. Officer does not mean volunteer firefighters or
15 ambulance drivers with respect to their duties as firefighters or
16 ambulance drivers.

17 (2) Except as provided in section 49-1499.04 or 70-624.04, no
18 officer may have an interest in any contract to which his or her
19 governing body, or anyone for its benefit, is a party. The existence of
20 such an interest in any contract shall render the contract voidable by
21 decree of a court of competent jurisdiction as to any person who entered
22 into the contract or took assignment of such contract with actual
23 knowledge of the prohibited conflict.

24 (3) An action to have a contract declared void under this section
25 may be brought by the county attorney, the governing body, or any
26 resident within the jurisdiction of the governing body and shall be
27 brought within one year after the contract is signed or assigned. The
28 decree may provide for the reimbursement of any person for the reasonable
29 value of all money, goods, material, labor, or services furnished under
30 the contract, to the extent that the governing body has benefited
31 thereby.

1 (4) The prohibition in this section shall apply only when the
2 officer or his or her parent, spouse, or child (a) has a business
3 association as defined in section 49-1408 with the business involved in
4 the contract or (b) will receive a direct pecuniary fee or commission as
5 a result of the contract.

6 (5) The prohibition in this section does not apply if the contract
7 is an agenda item approved at a board meeting and the interested officer:

8 (a) Makes a declaration on the record to the governing body
9 responsible for approving the contract regarding the nature and extent of
10 his or her interest prior to official consideration of the contract;

11 (b) Does not vote on the matters of granting the contract, making
12 payments pursuant to the contract, or accepting performance of work under
13 the contract, or similar matters relating to the contract, except that if
14 the number of members of the governing body declaring an interest in the
15 contract would prevent the body with all members present from securing a
16 quorum on the issue, then all members may vote on the matters; and

17 (c) Does not act for the governing body which is party to the
18 contract as to inspection or performance under the contract in which he
19 or she has an interest.

20 (6) An officer who (a) has no business association as defined in
21 section 49-1408 with the business involved in the contract or (b) will
22 not receive a direct pecuniary fee or commission as a result of the
23 contract shall not be deemed to have an interest within the meaning of
24 this section.

25 (7) The receiving of deposits, cashing of checks, and buying and
26 selling of warrants and bonds of indebtedness of any such governing body
27 by a financial institution shall not be considered a contract for
28 purposes of this section. The ownership of less than five percent of the
29 outstanding shares of a corporation shall not constitute an interest
30 within the meaning of this section.

31 (8) If an officer's parent, spouse, or child is an employee of his

1 or her governing body, the officer may vote on all issues of the contract
2 which are generally applicable to (a) all employees or (b) all employees
3 within a classification and do not single out his or her parent, spouse,
4 or child for special action.

5 (9) Section 49-14,102 does not apply to contracts covered by
6 sections 49-14,103.01 to 49-14,103.06.

7 (10)(a) This section does not prohibit a director of a natural
8 resources district from acting as a participant in any of the
9 conservation or other general district programs which are available for
10 like participation to other residents and landowners of the district or
11 from granting, selling, or otherwise transferring to such district any
12 interest in real property necessary for the exercise of its powers and
13 authorities if the cost of acquisition thereof is equal to or less than
14 that established by a board of three credentialed real property
15 appraisers or by a court of competent jurisdiction in an eminent domain
16 proceeding.

17 (b) District payments to a director of a natural resources district
18 of the market value for real property owned by him or her and needed for
19 district projects, or for cost sharing for conservation work on such
20 director's land or land in which a director may have an interest, shall
21 not be deemed subject to this section.

22 Sec. 2. Original section 49-14,103.01, Reissue Revised Statutes of
23 Nebraska, is repealed.

24 Sec. 3. The following section is outright repealed: Section
25 70-642.02, Reissue Revised Statutes of Nebraska.