

Ethics—Contracts of Public Servants with Public Entities

A public servant shall not be a party, directly or indirectly, to a contract with the public entity of which he or she is an officer or employee. MCL 15.322(1)

A *public servant* is defined as any person serving any public entity except a member of the Legislature and state officers who are within the provisions of section 10 of article 4 of the state constitution. MCL 15.321(a).

Exceptions applicable to municipal officials:

- A public servant who is paid for working an average of 25 hours per week or less (MCL 15.323(1)(a)) if the following conditions are met:
 - o The public servant must disclose any pecuniary interest in a contract to the official body that has power to approve the contract. Unless he or she will directly benefit in an amount less than \$250 and less than 5 percent of the public cost and the public servant files a sworn affidavit to that effect or the contract is for emergency services or repairs, the public servant must notify the presiding officer or clerk in writing seven days before the meeting at which a vote is to be taken. The disclosure must be made public in the same manner as a public meeting seven days before the meeting at which the vote is taken. If the direct benefit to the public servant is more than \$5,000, the second method of disclosure must be followed. MCL 15.323(2)(a)
 - o The contract must be approved by not less than 2/3 of the full membership in open session without the vote of the public servant making the disclosure. MCL 15.323(2)(b)
 - o Summary information must be included in the official minutes. MCL 15.323(2)(c)
- Public servants of a municipality of less than 25,000 population may serve as emergency medical personnel. MCL 15.323a(a)
- A public servant of a municipality of less than 25,000 population may serve as a firefighter with the exception of a full-time firefighter, a fire chief, or a person who negotiates on behalf of firefighters. MCL 15.323a(b)
- A municipality with a population of less than 25,000 may authorize a public servant to perform other additional services for the unit of government. MCL 15.323a(c)
- A public servant may participate 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 the act to vote or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member's direct benefit from a contract is less than \$250 and less than 5 percent of the public cost of the contract, whichever is less, and the member files a sworn affidavit which is made a part of the record. MCL 15.323(3)

**There are three state statutes that provide standards for conduct of local public officials while in public office to avoid conflicts of interest and the appearance of impropriety. See *a/s/o* Fact Sheets covering Incompatible Public Offices and Standards of Conduct for Public Officers and Employees.