

February 15, 2001

H 115. BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS. TO AMEND THE LAW REGARDING BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS. Amends GS 14-234(d1) to raise the limit on the size of municipalities and transactions that are not subject to GS 14-234's criminal provisions for self-dealing. Raises size of excluded municipalities to 15,000 (was, 7,500) so that elected officials, school board members and medical professionals serving on health-related boards in such municipalities, or in counties with no municipalities larger than 15,000, are not subject to the statutory criminal self-dealing provisions. Raises limits for board-approved self-dealing transactions by directors of public hospitals to \$12,500 (was, \$10,000) for medically related services and \$20,000 (was, \$15,000) for other goods and services in a 12-month period.

Intro. by Baker.

Ref. to Judiciary III	GS 14
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March 1, 2001

H 115. BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS. Intro. 2/15/01. House committee substitute makes the following changes to 1st edition. Increases limit for board-approved self-dealing transactions by directors of public hospitals for other goods and services to \$25,000 (was, \$20,000).

March 6, 2001

H 115. BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS. Intro. 2/15/01. House amendment makes the following changes to 2nd edition. Requires governing board that contracts with any of the officials of its governmental unit to comply with the bidding requirements for public contracts found in Art. 8 or Ch. 143 General Statutes.

August 7, 2001

H 115. PUBLIC CONFLICTS OF INTEREST. Intro. 2/15/01. Senate committee substitute makes the following changes to 3rd edition. Changes title to *AN ACT TO AMEND THE LAW REGARDING BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS AND CONFLICTS OF INTEREST* and amends requirements in GS 14-234(d1) for meeting revised "small town" exception in former bill to specify that the exception does not apply to contracts that are subject to the bidding laws (Article 8 of GS Ch. 143, Public Building Contracts). Thus, purchase contracts must be for less than \$5,000 to fall under exception. (Prior language could have been read to allow the exception to apply to informally bid purchase contracts between \$5,000 and \$25,000.)

Adds following substantive provisions. Clarifies and updates several criminal statutes that prohibit public officials from benefiting from contracts with the public officials they serve. Primary statutes changed are GS 14-234, GS 14-236, and 14-237, which deal primarily but not exclusively with school officials. Bill repeals GS 14-236 and 14-237 and incorporates those statutes' essential provisions into a revised GS 14-234. New GS 14-234 applies to any state or local public employee or official.

Revised GS 14-234 prohibits a public officer (as defined in act) or employee (1) who is involved in making or administering a contract (as defined in act) on behalf of a public agency to derive a direct benefit from the contract except as provided in GS 14-234 or otherwise by law; (2) who will derive a direct benefit from a contract with the public agency he or she serves but who is not involved in making or administering the contract to attempt to influence any other person who is so involved; and (3) from soliciting or receiving any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves. Specifies that a public officer or employee derives a direct benefit from a contract if the person, or his or her spouse, (1) has more than a 10% ownership or other interest in an entity that is a party to the contract; (2) derives any income or commission directly from the contract, or (3) acquires property under the contract. (Current law is somewhat ambiguous; also, it may allow mere employees of private contractor to benefit from contract in their public roles. And spouse is not currently included in prohibition, at least under case law.)

Retains exception for contracts between public agencies and banks, and adds new exception allowing conveyances by public officers or employees in condemnation proceeding initiated by the public agency. Also adds exception allowing an employment relationship between a public agency and the spouse of a public officer of the agency. Retains exception for remuneration to doctors, etc., who are public officers or employees and provide services to the needy. Retains requirement that public officers who will derive benefits from contracts under these exceptions may not deliberate or vote on the contract; adds prohibition on attempting to influence any other person who is involved in making or administering the contract.

Deletes two-year "rotating door" contracting prohibition for state officials in GS 14-234(c). Specifies that GS 14-234 does not apply to a public hospital subject to GS 131E-14.2 or a public hospital authority subject to GS 131E-21 (see discussion of changes in those statutes below).

Makes contracts entered into in violation of GS 14-234 void, but allows them to continue in effect until an alternative can be arranged when immediate termination would result in harm to the public health or welfare, and the continuation is approved as provided in act by the chairman of the Local Gov't Comm'n or the State Director of the Budget, as appropriate.

Adds new GS 131-14.2 specifying that no member of the board of directors or employee of a public hospital or that person's spouse may acquire any direct or indirect interest in any hospital facility or property included or planned to be included in a hospital facility, or have any direct or indirect interest in any contract for materials or services to be furnished or used in connection with any hospital facility, except an employment contract for an employee. Includes small interest exception with \$12,500 for medically related goods and services and \$25,000 for other goods and services limits within a 12-month period; approval by specific resolution in an open meeting, recording in minutes, and recusal by interested official are required. Statute's general prohibition does not apply to contracts with banks, so long as they are authorized by the board by specific resolution on which no interested director votes. Prohibition does not apply to employment relationship between a public hospital and spouse of a board of directors member.

Specifies that employment or 10% or less ownership interest does not make a person interested, but specific resolution and recusal are again required. If board member, employee, or spouse owns or controls property listed above, they must immediately disclose it in writing to board for board to enter upon its minutes; failure to do so is misconduct in office and grounds for removal. Specifies that contracts entered into in violation of section are void, but has continuation option similar to revised GS 14-234.

Amends GS 131E-21 to add spouses to conflict of interest prohibitions in hospital authority's statute. Adds new provisions like those for hospital boards concerning small dollar amount conflicts of interest, employment relationships with spouses of boards, and void contracts. Net effect of all these changes is to make GS 131-14.2 and 131E-21 virtually identical.

Adds cross-references to GS 14-234 in GS 153A-44 and 160A-75 (county and city governing board voting statutes) and makes technical and other conforming changes. Revised GS 14-234(d1) and effective date section are effective April 1, 2001, and apply to actions taken and offenses committed on or after that date. Remainder of act becomes effective July 1, 2002, and applies to actions taken and offenses committed on or after that date. Specifies that prosecutions for offenses committed before the effective dates of act's provisions are not abated or affected by act, and that the statutes that would be applicable but for this act remain applicable to those prosecutions.

August 14, 2001

H 115. PUBLIC CONFLICTS OF INTEREST. Intro. 2/15/01. Senate amendment makes the following changes to 4th edition. Makes technical changes only.

September 18, 2001

SL 2001-409 (H 115). PUBLIC CONFLICTS OF INTEREST. AN ACT TO AMEND THE LAW REGARDING BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS AND CONFLICTS OF INTEREST. Summarized in *Daily Bulletin* 2/15/01, 3/1/01, 3/6/01, 8/7/01, and 8/14/01. Enacted Sept. 14, 2001. Section 10 and GS 14-234(d1), as rewritten in Section 1 of this act, are effective April 1, 2001, and apply to actions taken and offenses committed on or after that date. The

remainder of this act is effective July 1, 2002, and applies to actions taken and offenses committed on or after that date.