

Introduction

1973 PA 196 is commonly known as the State Ethics Act. Section 2 of the act sets out the standards imposed on public officers and employees. Of particular note are the following subsections:

A public officer or employee shall not engage in or accept employment or render services for a private or public interest when such employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or may tend to impair his or her independent judgment. MCL 15.342(6)

A public officer or employee may participate in making a governmental decision (MCL 15.342(3)) if the following requirements are met:

- a quorum is not otherwise available,
- the official is not paid for working more than 25 hours per week, and
- disclosure is made.

Further, an officer may participate in a governmental decision *involving the award of a contract* (MCL 15.342(4)) if the above requirements are met and, in addition,

- the officer will benefit in an amount less than \$250 or 5% of public cost of contract, and
- the officer files a sworn affidavit which is made part of the public record.

Definition of Public Officer

The definition of *public officer*, under the act, is a person appointed by the governor or another executive department official. By virtue of a 1980 amendment, the definition was expanded, for purposes of MCL 15.342b which provides protection for a public officer or employee reporting a violation, to include an elected or appointed official of the state or a political subdivision of the state.

According to the attorney general, the amendment has imposed the ethical standards of section 2 of the act (including subsections (6) and (7) set out above) on employees and officers of local units of government by providing protection to local officers and employees against job-related retaliation for "blowing the whistle" on local conduct in violation of the standards set forth in the act. *See* 1981 AGO 6005.

**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 also Ethics OPPs covering Incompatible Public Offices, Misconduct in Office, and Contracts of Public Servants with Public Entities.