

PUBLIC TRANSIT DISTRICT CONFLICT OF INTEREST

AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Janice M. Fisher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Public Transit District Act and the Utah Public Officers' and Employees' Ethics Act by amending provisions relating to conflicts of interest.

Highlighted Provisions:

This bill:

- ▶ repeals certain public transit district conflict of interest provisions and clarifies that each trustee, officer, and employee of a public transit district is subject to the Utah Public Officers' and Employees' Ethics Act;

- ▶ provides that a trustee, officer, or employee of a public transit district may not be interested in any manner, directly or indirectly, in a contract or in the profits derived from a contract:

- awarded by the board of trustees; or
 - made by an officer or employee pursuant to discretionary authority vested in the officer or employee;

- ▶ provides that the prohibition applies even if the trustee, officer, or employee makes certain disclosures; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17B-2a-814**, as renumbered and amended by Laws of Utah 2007, Chapter 329

33 **67-16-8**, as last amended by Laws of Utah 1990, Chapter 93



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **17B-2a-814** is amended to read:

37 **17B-2a-814. Conflict of interests prohibited -- Disclosure -- Violation -- Penalty.**

38 ~~[(1) As used in this section, "relative" means a parent, spouse, child, grandparent,~~
39 ~~grandchild, great grandparent, great grandchild, or sibling of a trustee, officer, or employee.]~~

40 ~~[(2) Except as provided in this section, a trustee, officer, or employee of a public transit~~
41 ~~district may not be interested in any manner, directly or indirectly, in a contract or in the profits~~
42 ~~derived from a contract:]~~

43 ~~[(a) awarded by the board of trustees; or]~~

44 ~~[(b) made by an officer or employee pursuant to discretionary authority vested in the~~
45 ~~officer or employee.]~~

46 ~~[(3) Notwithstanding Subsection (2), if a trustee, officer, or employee of a public~~
47 ~~transit district is a stockholder, bondholder, director, or other officer or employee of a~~
48 ~~corporation contracting with the district, the district may contract with that corporation for its~~
49 ~~general benefit unless the trustee, officer, or employee of the district owns or controls, directly~~
50 ~~or indirectly, stock or bonds in an amount greater than 5% of the total amount of outstanding~~
51 ~~stock or bonds:]~~

52 ~~[(4) (a) (i) A trustee, officer, or employee of a public transit district who has, or whose~~
53 ~~relative has, a substantial interest in a contract with, sale to, purchase from, or service to the~~
54 ~~district shall disclose that interest to the board of trustees of the district in a public meeting of~~
55 ~~the board:]~~

56 ~~[(ii) The board of trustees of the district shall disclose that interest in the minutes of its~~
57 ~~meeting.]~~

58 ~~[(b) A trustee, officer, or employee of a public transit district who has, or whose~~

59 ~~relative has, a substantial interest in a contract with, sale to, purchase from, or service to the~~
 60 ~~district may not vote upon or otherwise participate in any manner as a trustee, officer, or~~
 61 ~~employee in the contract, sale, purchase, or service.]~~

62 ~~[(5) A trustee, officer, or employee of a public transit district, in contemplation of~~
 63 ~~official action by the trustee, officer, or employee or by the district or in reliance on~~
 64 ~~information to which the trustee, officer, or employee has access in an official capacity and~~
 65 ~~which has not been made public, commits misuse of official information if the trustee, officer,~~
 66 ~~or employee:]~~

67 ~~[(a) acquires a pecuniary interest in any property, transaction, or enterprise that may be~~
 68 ~~affected by the information or official action;]~~

69 ~~[(b) speculates or wagers on the basis of the information or official action; or]~~

70 ~~[(c) aids, advises, or encourages another to do so with intent to confer upon any person~~
 71 ~~a special pecuniary benefit.]~~

72 ~~[(6) Each trustee, officer, and employee who violates this section:]~~

73 ~~[(a) is guilty of a class B misdemeanor; and]~~

74 ~~[(b) if convicted, shall be terminated from board appointment or district employment.]~~

75 Each trustee, officer, and employee of a public transit district is subject to the
 76 provisions of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

77 Section 2. Section **67-16-8** is amended to read:

78 **67-16-8. Participation in transaction involving business as to which public officer**
 79 **or employee has interest -- Exceptions.**

80 (1) ~~[No]~~ Except as provided in Subsection (3), a public officer or public employee
 81 [shall] may not participate in [his] the public officer's or public employee's official capacity or
 82 receive compensation ~~[in]~~ with respect to any transaction between the state or any of its
 83 agencies and any business entity as to which ~~[such]~~ the public officer or public employee is
 84 also an officer, director, or employee or owns a substantial interest, unless disclosure has been
 85 made as provided under Section 67-16-7.

86 (2) A concession contract between an agency, political subdivision, or the state and a
 87 certified professional golf association member who is a public employee or officer does not
 88 violate the provisions of Subsection (1) or Title 10, Chapter 3, Part 13, Municipal Officers' and
 89 Employees' Ethics Act.

90 (3) (a) A trustee, officer, or employee of a public transit district organized under Title
91 17B, Chapter 2a, Part 8, Public Transit District Act, may not be interested in any manner,
92 directly or indirectly, in a contract or in the profits derived from a contract:

93 (i) awarded by the board of trustees; or

94 (ii) made by an officer or employee pursuant to discretionary authority vested in the
95 officer or employee.

96 (b) The prohibition under Subsection (3)(a) applies even if the trustee, officer, or
97 employee makes a disclosure as provided under Section 67-16-7.

Legislative Review Note
as of **2-24-11 3:50 PM**

Office of Legislative Research and General Counsel