

E K M A R K & E K M A R K, L.L.C.

ATTORNEYS AT LAW

State statutes require that a board member shall declare a conflict of interest if any contract, decision or other action for compensation taken by or on behalf of the board would benefit any member of the board or any person who is a parent, grandparent, spouse, child or sibling of a member of the board or a parent or spouse of any of those persons. The declaration of a conflict must take place in an open meeting before the board discusses or takes action on that issue. Any contract entered into in violation of this law is void and unenforceable.

If you just look at the state statutes, an argument could be made that the member with a conflict can vote on the issue despite the conflict. However, we believe that the better practice is for the member with the conflict to recuse himself or herself and leave the room so that the vote can take place in his or her absence.

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