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The Senate of the State of Texas

Jane Nelson  
Senate District 12

FILE # ML-47886-15  
I.D. # 47886

November 23, 2015

RQ-0081-KP

The Honorable Ken Paxton  
Attorney General of Texas  
209 W. 14th Street  
Austin, TX 78701

Re: Whether an institution of higher education may enter into a contract with a business entity in which an institution's board member has an interest

Dear General Paxton:

Last session the Legislature passed Senate Bill 20 (84R) prohibiting state agencies from entering into a contract with an entity in which a board member has a financial interest. Section 2261.252 of the Government Code states: "A state agency may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest: (1) a member of the agency's governing body..." That section is immediately preceded by Section 2261.251 which states: "this subchapter applies to...an institution of higher education..."

However, Section 51.923 of the Education Code states: "An institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has an interest..."

These provisions appear to contradict one another. In order to provide clear guidance to universities, I respectfully request your opinion on whether an institution of higher education may enter into a contract with a business entity in which an institution's board member has an interest. Please do not hesitate to contact me or my office if I can provide further information.

Very truly yours,

A handwritten signature in cursive script that reads "Jane Nelson".

Senator Jane Nelson