



Rep. Jim Durkin

Filed: 10/26/2011

09700HB0358ham002

LRB097 03241 JDS 59163 a

1 AMENDMENT TO HOUSE BILL 358

2 AMENDMENT NO. _____. Amend House Bill 358 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 430/5-45)

7 Sec. 5-45. Procurement; revolving door prohibition.

8 (a) No former officer, member, or State employee, or spouse
9 or immediate family member living with such person, shall,
10 within a period of one year immediately after termination of
11 State employment, knowingly accept employment or receive
12 compensation or fees for services from a person or entity if
13 the officer, member, or State employee, during the year
14 immediately preceding termination of State employment,
15 participated personally and substantially in the award of State
16 contracts, or the issuance of State contract change orders,

1 with a cumulative value of \$25,000 or more to the person or
2 entity, or its parent or subsidiary.

3 (b) No former officer of the executive branch or State
4 employee of the executive branch with regulatory or licensing
5 authority, or spouse or immediate family member living with
6 such person, shall, within a period of one year immediately
7 after termination of State employment, knowingly accept
8 employment or receive compensation or fees for services from a
9 person or entity if the officer or State employee, during the
10 year immediately preceding termination of State employment,
11 participated personally and substantially in making a
12 regulatory or licensing decision that directly applied to the
13 person or entity, or its parent or subsidiary.

14 (c) Within 6 months after the effective date of this
15 amendatory Act of the 96th General Assembly, each executive
16 branch constitutional officer and legislative leader, the
17 Auditor General, and the Joint Committee on Legislative Support
18 Services shall adopt a policy delineating which State positions
19 under his or her jurisdiction and control, by the nature of
20 their duties, may have the authority to participate personally
21 and substantially in the award of State contracts or in
22 regulatory or licensing decisions. The Governor shall adopt
23 such a policy for all State employees of the executive branch
24 not under the jurisdiction and control of any other executive
25 branch constitutional officer.

26 The policies required under subsection (c) of this Section

1 shall be filed with the appropriate ethics commission
2 established under this Act or, for the Auditor General, with
3 the Office of the Auditor General.

4 (d) Each Inspector General shall have the authority to
5 determine that additional State positions under his or her
6 jurisdiction, not otherwise subject to the policies required by
7 subsection (c) of this Section, are nonetheless subject to the
8 notification requirement of subsection (f) below due to their
9 involvement in the award of State contracts or in regulatory or
10 licensing decisions.

11 (e) The Joint Committee on Legislative Support Services,
12 the Auditor General, and each of the executive branch
13 constitutional officers and legislative leaders subject to
14 subsection (c) of this Section shall provide written
15 notification to all employees in positions subject to the
16 policies required by subsection (c) or a determination made
17 under subsection (d): (1) upon hiring, promotion, or transfer
18 into the relevant position; and (2) at the time the employee's
19 duties are changed in such a way as to qualify that employee.
20 An employee receiving notification must certify in writing that
21 the person was advised of the prohibition and the requirement
22 to notify the appropriate Inspector General in subsection (f).

23 (f) Any State employee in a position subject to the
24 policies required by subsection (c) or to a determination under
25 subsection (d), but who does not fall within the prohibition of
26 subsection (h) below, who is offered non-State employment

1 during State employment or within a period of one year
2 immediately after termination of State employment shall, prior
3 to accepting such non-State employment, notify the appropriate
4 Inspector General. Within 10 calendar days after receiving
5 notification from an employee in a position subject to the
6 policies required by subsection (c), such Inspector General
7 shall make a determination as to whether the State employee is
8 restricted from accepting such employment by subsection (a) or
9 (b). In making a determination, in addition to any other
10 relevant information, an Inspector General shall assess the
11 effect of the prospective employment or relationship upon
12 decisions referred to in subsections (a) and (b), based on the
13 totality of the participation by the former officer, member, or
14 State employee in those decisions. A determination by an
15 Inspector General must be in writing, signed and dated by the
16 Inspector General, and delivered to the subject of the
17 determination within 10 calendar days or the person is deemed
18 eligible for the employment opportunity. For purposes of this
19 subsection, "appropriate Inspector General" means (i) for
20 members and employees of the legislative branch, the
21 Legislative Inspector General; (ii) for the Auditor General and
22 employees of the Office of the Auditor General, the Inspector
23 General provided for in Section 30-5 of this Act; and (iii) for
24 executive branch officers and employees, the Inspector General
25 having jurisdiction over the officer or employee. Notice of any
26 determination of an Inspector General and of any such appeal

1 shall be given to the ultimate jurisdictional authority, the
2 Attorney General, and the Executive Ethics Commission.

3 (g) An Inspector General's determination regarding
4 restrictions under subsection (a) or (b) may be appealed to the
5 appropriate Ethics Commission by the person subject to the
6 decision or the Attorney General no later than the 10th
7 calendar day after the date of the determination.

8 On appeal, the Ethics Commission or Auditor General shall
9 seek, accept, and consider written public comments regarding a
10 determination. In deciding whether to uphold an Inspector
11 General's determination, the appropriate Ethics Commission or
12 Auditor General shall assess, in addition to any other relevant
13 information, the effect of the prospective employment or
14 relationship upon the decisions referred to in subsections (a)
15 and (b), based on the totality of the participation by the
16 former officer, member, or State employee in those decisions.
17 The Ethics Commission shall decide whether to uphold an
18 Inspector General's determination within 10 calendar days or
19 the person is deemed eligible for the employment opportunity.

20 (h) The following officers, members, or State employees
21 shall not, within a period of one year immediately after
22 termination of office or State employment, knowingly accept
23 employment or receive compensation or fees for services from a
24 person or entity if the person or entity or its parent or
25 subsidiary, during the year immediately preceding termination
26 of State employment, was a party to a State contract or

1 contracts with a cumulative value of \$25,000 or more involving
2 the officer, member, or State employee's State agency, or was
3 the subject of a regulatory or licensing decision involving the
4 officer, member, or State employee's State agency, regardless
5 of whether he or she participated personally and substantially
6 in the award of the State contract or contracts or the making
7 of the regulatory or licensing decision in question:

8 (1) members or officers;

9 (2) members of a commission or board created by the
10 Illinois Constitution;

11 (3) persons whose appointment to office is subject to
12 the advice and consent of the Senate;

13 (4) the head of a department, commission, board,
14 division, bureau, authority, or other administrative unit
15 within the government of this State;

16 (5) chief procurement officers, State purchasing
17 officers, and their designees whose duties are directly
18 related to State procurement; and

19 (6) chiefs of staff, deputy chiefs of staff, associate
20 chiefs of staff, assistant chiefs of staff, and deputy
21 governors.

22 (i) For the purposes of this Section, with respect to
23 officers or employees of a regional transit board, as defined
24 in this Act, the phrase "person or entity" does not include:
25 (i) the United States government, (ii) the State, (iii)
26 municipalities, as defined under Article VII, Section 1 of the

1 Illinois Constitution, (iv) units of local government, as
2 defined under Article VII, Section 1 of the Illinois
3 Constitution, or (v) school districts.

4 (Source: P.A. 96-555, eff. 8-18-09.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".