



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3363

Introduced 2/24/2011, by Rep. Ann Williams

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Public Corruption Profit Forfeiture Act. Specifies additional offenses the violation of which could form the basis for a forfeiture action against a criminal defendant. Amends the State Officials and Employees Ethics Act. Removes a provision authorizing the Attorney General to hear direct appeals of certain determinations made by Inspectors General. Authorizes the Inspector General and Ethics Commission to refer matters to the Attorney General for prosecution. Increases the penalties for specified violations of the Act. Also makes technical changes. Amends the Illinois Procurement Code. Requires all State contracts to contain a certification that vendors are in compliance with various anti-fraud and anti-corruption statutes. Amends the Criminal Code of 1961. Expands the class of persons that could potentially be liable for engaging in kickback transactions. Amends the Illinois False Claims Act. Provides that certain false claim actions must, unless opposed by the State, be dismissed by the court if substantially the same allegations or transactions as alleged in the action were publicly disclosed. Redefines "original source". Effective immediately.

LRB097 10930 JDS 51490 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Corruption Profit Forfeiture Act is  
5 amended by changing Sections 10 and 20 as follows:

6 (5 ILCS 283/10)

7 Sec. 10. Penalties.

8 (a) A person who is convicted of a violation of any of the  
9 following Articles, Sections, subsections, and clauses of the  
10 Criminal Code of 1961:

11 (1) clause (a)(6) of Section 12-6 (intimidation by a  
12 public official),

13 (2) Section 17-9 (public aid wire fraud) ~~33-1~~  
14 ~~(bribery)~~, or

15 (3) ~~subsection (a) of~~ Section 17-10 (public aid mail  
16 fraud) ~~33E-7 (kickbacks)~~,

17 (4) Section 17-24 (fraudulent schemes and artifices),

18 (5) Article 33 (official misconduct),

19 (6) Section 33C-4 (fraudulently obtaining public  
20 moneys reserved for disadvantaged business enterprises),

21 or

22 (7) Article 33 E (public contracts)

23 shall forfeit to the State of Illinois:

1 (A) any profits or proceeds and any property or  
2 property interest he or she has acquired or maintained in  
3 violation of any of the offenses identified in ~~listed in~~  
4 ~~clauses (1) through (3) of this~~ subsection (a) that the  
5 court determines, after a forfeiture hearing under  
6 subsection (b) of this Section, to have been acquired or  
7 maintained as a result of violating any of the offenses  
8 identified in ~~listed in~~ ~~clauses (1) through (3) of this~~  
9 subsection (a); and

10 (B) any interest in, security of, claim against, or  
11 property or contractual right of any kind affording a  
12 source of influence over, any enterprise which he or she  
13 has established, operated, controlled, conducted, or  
14 participated in the conduct of, in violation of any of the  
15 offenses identified in ~~listed in~~ ~~clauses (1) through (3) of~~  
16 ~~this~~ subsection (a) that the court determines, after a  
17 forfeiture hearing under subsection (b) of this Section, to  
18 have been acquired or maintained as a result of violating  
19 any of the offenses identified in ~~listed in~~ ~~clauses (1)~~  
20 ~~through (3) of this~~ subsection (a) or used to facilitate a  
21 violation of one of the offenses identified in ~~listed in~~  
22 ~~clauses (1) through (3) of this~~ subsection (a).

23 (b) The court shall, upon petition by the Attorney General  
24 or State's Attorney, at any time after the filing of an  
25 information or return of an indictment, conduct a hearing to  
26 determine whether any property or property interest is subject

1 to forfeiture under this Act. At the forfeiture hearing the  
2 people shall have the burden of establishing, by a  
3 preponderance of the evidence, that property or property  
4 interests are subject to forfeiture under this Act. There is a  
5 rebuttable presumption at such hearing that any property or  
6 property interest of a person charged by information or  
7 indictment with a violation of any of the offenses identified  
8 ~~in listed in clauses (1) through (3)~~ of subsection (a) of this  
9 Section or who is convicted of a violation of any of the  
10 offenses identified in ~~listed in clauses (1) through (3)~~ of  
11 subsection (a) of this Section is subject to forfeiture under  
12 this Section if the State establishes by a preponderance of the  
13 evidence that:

14 (1) such property or property interest was acquired by  
15 such person during the period of the violation of any of  
16 the offenses identified in ~~listed in clauses (1) through~~  
17 ~~(3)~~ of subsection (a) of this Section or within a  
18 reasonable time after such period; and

19 (2) there was no likely source for such property or  
20 property interest other than the violation of any of the  
21 offenses identified in ~~listed in clauses (1) through (3)~~ of  
22 subsection (a) of this Section.

23 (c) In an action brought by the People of the State of  
24 Illinois under this Act, wherein any restraining order,  
25 injunction or prohibition or any other action in connection  
26 with any property or property interest subject to forfeiture

1 under this Act is sought, the circuit court which shall preside  
2 over the trial of the person or persons charged with any of the  
3 offenses identified in ~~listed in clauses (1) through (3) of~~  
4 subsection (a) of this Section shall first determine whether  
5 there is probable cause to believe that the person or persons  
6 so charged have committed a violation of any of the offenses  
7 identified in ~~listed in clauses (1) through (3) of~~ subsection  
8 (a) of this Section and whether the property or property  
9 interest is subject to forfeiture pursuant to this Act.

10 In order to make such a determination, prior to entering  
11 any such order, the court shall conduct a hearing without a  
12 jury, wherein the People shall establish that there is: (i)  
13 probable cause that the person or persons so charged have  
14 committed one of the offenses identified in ~~listed in clauses~~  
15 ~~(1) through (3) of~~ subsection (a) of this Section and (ii)  
16 probable cause that any property or property interest may be  
17 subject to forfeiture pursuant to this Act. Such hearing may be  
18 conducted simultaneously with a preliminary hearing, if the  
19 prosecution is commenced by information or complaint, or by  
20 motion of the People, at any stage in the proceedings. The  
21 court may accept a finding of probable cause at a preliminary  
22 hearing following the filing of a charge for violating one of  
23 the offenses identified in ~~listed in clauses (1) through (3) of~~  
24 subsection (a) of this Section or the return of an indictment  
25 by a grand jury charging one of the offenses identified in  
26 ~~listed in clauses (1) through (3) of~~ subsection (a) of this

1 Section as sufficient evidence of probable cause as provided in  
2 item (i) above.

3       Upon such a finding, the circuit court shall enter such  
4 restraining order, injunction or prohibition, or shall take  
5 such other action in connection with any such property or  
6 property interest subject to forfeiture under this Act, as is  
7 necessary to insure that such property is not removed from the  
8 jurisdiction of the court, concealed, destroyed or otherwise  
9 disposed of by the owner of that property or property interest  
10 prior to a forfeiture hearing under subsection (b) of this  
11 Section. The Attorney General or State's Attorney shall file a  
12 certified copy of such restraining order, injunction or other  
13 prohibition with the recorder of deeds or registrar of titles  
14 of each county where any such property of the defendant may be  
15 located. No such injunction, restraining order or other  
16 prohibition shall affect the rights of any bona fide purchaser,  
17 mortgagee, judgment creditor or other lien holder arising prior  
18 to the date of such filing.

19       The court may, at any time, upon verified petition by the  
20 defendant, conduct a hearing to release all or portions of any  
21 such property or interest which the court previously determined  
22 to be subject to forfeiture or subject to any restraining  
23 order, injunction, or prohibition or other action. The court  
24 may release such property to the defendant for good cause shown  
25 and within the sound discretion of the court.

26       (d) Prosecution under this Act may be commenced by the

1 Attorney General or a State's Attorney.

2 (e) Upon an order of forfeiture being entered pursuant to  
3 subsection (b) of this Section, the court shall authorize the  
4 Attorney General to seize any property or property interest  
5 declared forfeited under this Act and under such terms and  
6 conditions as the court shall deem proper. Any property or  
7 property interest that has been the subject of an entered  
8 restraining order, injunction or prohibition or any other  
9 action filed under subsection (c) shall be forfeited unless the  
10 claimant can show by a preponderance of the evidence that the  
11 property or property interest has not been acquired or  
12 maintained as a result of a violation of any of the offenses  
13 identified in ~~listed in clauses (1) through (3) of~~ subsection  
14 (a) of this Section or has not been used to facilitate a  
15 violation of any of the offenses identified in ~~listed in~~  
16 ~~clauses (1) through (3) of~~ subsection (a) of this Section.

17 (f) The Attorney General or his or her designee is  
18 authorized to sell all property forfeited and seized pursuant  
19 to this Act, unless such property is required by law to be  
20 destroyed or is harmful to the public, and, after the deduction  
21 of all requisite expenses of administration and sale, shall  
22 distribute the proceeds of such sale, along with any moneys  
23 forfeited or seized, in accordance with subsection (g).

24 (g) All monies and the sale proceeds of all other property  
25 forfeited and seized pursuant to this Act shall be distributed  
26 as follows:

1           (1) An amount equal to 50% shall be distributed to the  
2           unit of local government or other law enforcement agency  
3           whose officers or employees conducted the investigation  
4           into a violation of any of the offenses identified in  
5           ~~listed in clauses (1) through (3) of~~ subsection (a) of this  
6           Section and caused the arrest or arrests and prosecution  
7           leading to the forfeiture. Amounts distributed to units of  
8           local government and law enforcement agencies shall be used  
9           for enforcement of laws governing public corruption, or for  
10          other law enforcement purposes. In the event, however, that  
11          the investigation, arrest or arrests and prosecution  
12          leading to the forfeiture were undertaken solely by a State  
13          agency, the portion provided hereunder shall be paid into  
14          the State Asset Forfeiture Fund in the State treasury to be  
15          used by that State agency in accordance with law. If the  
16          investigation, arrest or arrests and prosecution leading  
17          to the forfeiture were undertaken by the Attorney General,  
18          the portion provided hereunder shall be paid into the  
19          Attorney General's Whistleblower Reward and Protection  
20          Fund in the State treasury to be used by the Attorney  
21          General in accordance with law.

22          (2) An amount equal to 12.5% shall be distributed to  
23          the county in which the prosecution resulting in the  
24          forfeiture was instituted, deposited in a special fund in  
25          the county treasury and appropriated to the State's  
26          Attorney for use in accordance with law. If the prosecution



1           was conducted by the Attorney General, then the amount  
2           provided under this subsection shall be paid into the  
3           Attorney General's Whistleblower Reward and Protection  
4           Fund in the State treasury to be used by the Attorney  
5           General in accordance with law.

6           (3) An amount equal to 12.5% shall be distributed to  
7           the Office of the State's Attorneys Appellate Prosecutor  
8           and deposited in the State's Attorneys Appellate  
9           Prosecutor Anti-Corruption Fund, to be used by the Office  
10          of the State's Attorneys Appellate Prosecutor for  
11          additional expenses incurred in prosecuting appeals  
12          arising under this Act. Any amounts remaining in the Fund  
13          after all additional expenses have been paid shall be used  
14          by the Office to reduce the participating county  
15          contributions to the Office on a prorated basis as  
16          determined by the board of governors of the Office of the  
17          State's Attorneys Appellate Prosecutor based on the  
18          populations of the participating counties. If the appeal is  
19          to be conducted by the Attorney General, then the amount  
20          provided under this subsection shall be paid into the  
21          Attorney General's Whistleblower Reward and Protection  
22          Fund in the State treasury to be used by the Attorney  
23          General in accordance with law.

24          (4) An amount equal to 25% shall be paid into the State  
25          Asset Forfeiture Fund in the State treasury to be used by  
26          the Department of State Police for the funding of the

1 investigation of public corruption activities. Any amounts  
2 remaining in the Fund after full funding of such  
3 investigations shall be used by the Department in  
4 accordance with law to fund its other enforcement  
5 activities.

6 (h) All moneys deposited pursuant to this Act in the State  
7 Asset Forfeiture Fund shall, subject to appropriation, be used  
8 by the Department of State Police in the manner set forth in  
9 this Section. All moneys deposited pursuant to this Act in the  
10 Attorney General's Whistleblower Reward and Protection Fund  
11 shall, subject to appropriation, be used by the Attorney  
12 General for State law enforcement purposes and for the  
13 performance of the duties of that office. All moneys deposited  
14 pursuant to this Act in the State's Attorneys Appellate  
15 Prosecutor Anti-Corruption Fund shall, subject to  
16 appropriation, be used by the Office of the State's Attorneys  
17 Appellate Prosecutor in the manner set forth in this Section.

18 (Source: P.A. 96-1019, eff. 1-1-11.)

19 Section 10. The State Officials and Employees Ethics Act is  
20 amended by changing Sections 5-45, 20-45, 20-50, and 50-5 as  
21 follows:

22 (5 ILCS 430/5-45)

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

24 (a) No former officer, member, or State employee, or spouse

1 or immediate family member living with such person, shall,  
2 within a period of one year immediately after termination of  
3 State employment, knowingly accept employment or receive  
4 compensation or fees for services from a person or entity if  
5 the officer, member, or State employee, during the year  
6 immediately preceding termination of State employment,  
7 participated personally and substantially in the award of State  
8 contracts, or the issuance of State contract change orders,  
9 with a cumulative value of \$25,000 or more to the person or  
10 entity, or its parent or subsidiary.

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

22 (c) Within 6 months after the effective date of this  
23 amendatory Act of the 96th General Assembly, each executive  
24 branch constitutional officer and legislative leader, the  
25 Auditor General, and the Joint Committee on Legislative Support  
26 Services shall adopt a policy delineating which State positions

1 under his or her jurisdiction and control, by the nature of  
2 their duties, may have the authority to participate personally  
3 and substantially in the award of State contracts or in  
4 regulatory or licensing decisions. The Governor shall adopt  
5 such a policy for all State employees of the executive branch  
6 not under the jurisdiction and control of any other executive  
7 branch constitutional officer.

8 The policies required under subsection (c) of this Section  
9 shall be filed with the appropriate ethics commission  
10 established under this Act or, for the Auditor General, with  
11 the Office of the Auditor General.

12 (d) Each Inspector General shall have the authority to  
13 determine that additional State positions under his or her  
14 jurisdiction, not otherwise subject to the policies required by  
15 subsection (c) of this Section, are nonetheless subject to the  
16 notification requirement of subsection (f) below due to their  
17 involvement in the award of State contracts or in regulatory or  
18 licensing decisions.

19 (e) The Joint Committee on Legislative Support Services,  
20 the Auditor General, and each of the executive branch  
21 constitutional officers and legislative leaders subject to  
22 subsection (c) of this Section shall provide written  
23 notification to all employees in positions subject to the  
24 policies required by subsection (c) or a determination made  
25 under subsection (d): (1) upon hiring, promotion, or transfer  
26 into the relevant position; and (2) at the time the employee's

1 duties are changed in such a way as to qualify that employee.  
2 An employee receiving notification must certify in writing that  
3 the person was advised of the prohibition and the requirement  
4 to notify the appropriate Inspector General in subsection (f).

5 (f) Any State employee in a position subject to the  
6 policies required by subsection (c) or to a determination under  
7 subsection (d), but who does not fall within the prohibition of  
8 subsection (h) below, who is offered non-State employment  
9 during State employment or within a period of one year  
10 immediately after termination of State employment shall, prior  
11 to accepting such non-State employment, notify the appropriate  
12 Inspector General. Within 10 calendar days after receiving  
13 notification from an employee in a position subject to the  
14 policies required by subsection (c), such Inspector General  
15 shall make a determination as to whether the State employee is  
16 restricted from accepting such employment by subsection (a) or  
17 (b). In making a determination, in addition to any other  
18 relevant information, an Inspector General shall assess the  
19 effect of the prospective employment or relationship upon  
20 decisions referred to in subsections (a) and (b), based on the  
21 totality of the participation by the former officer, member, or  
22 State employee in those decisions. A determination by an  
23 Inspector General must be in writing, signed and dated by the  
24 Inspector General, and delivered to the subject of the  
25 determination within 10 calendar days or the person is deemed  
26 eligible for the employment opportunity. For purposes of this

1 subsection, "appropriate Inspector General" means (i) for  
2 members and employees of the legislative branch, the  
3 Legislative Inspector General; (ii) for the Auditor General and  
4 employees of the Office of the Auditor General, the Inspector  
5 General provided for in Section 30-5 of this Act; and (iii) for  
6 executive branch officers and employees, the Inspector General  
7 having jurisdiction over the officer or employee. Notice of any  
8 determination of an Inspector General and of any such appeal  
9 shall be given to the ultimate jurisdictional authority,~~the~~  
10 ~~Attorney General,~~ and the Executive Ethics Commission.

11 (g) An Inspector General's determination regarding  
12 restrictions under subsection (a) or (b) may be appealed to the  
13 appropriate Ethics Commission by the person subject to the  
14 decision ~~or the Attorney General~~ no later than the 10th  
15 calendar day after the date of the determination. If the Ethics  
16 Commission believes that an Inspector General's determination  
17 requires further investigation, or if the Ethics Commission has  
18 any other concern regarding the determination, it may refer the  
19 matter to the Attorney General for appropriate action,  
20 including, but not limited to, an appeal of that determination.

21 On appeal, the Ethics Commission or Auditor General shall  
22 seek, accept, and consider written public comments regarding a  
23 determination. In deciding whether to uphold an Inspector  
24 General's determination, the appropriate Ethics Commission or  
25 Auditor General shall assess, in addition to any other relevant  
26 information, the effect of the prospective employment or

1 relationship upon the decisions referred to in subsections (a)  
2 and (b), based on the totality of the participation by the  
3 former officer, member, or State employee in those decisions.  
4 The Ethics Commission shall decide whether to uphold an  
5 Inspector General's determination within 10 calendar days or  
6 the person is deemed eligible for the employment opportunity.  
7 Regardless of the disposition of the Inspector General's  
8 determination regarding non-State employment, if the Inspector  
9 General or the Ethics Commission determines at any time that  
10 there is reasonable cause to believe any person has provided  
11 intentional omissions or knowing false statements material to  
12 his or her notification regarding non-State employment, the  
13 matter shall be referred to the Attorney General for  
14 investigation and prosecution as a violation of this Section.

15 (h) The following officers, members, or State employees  
16 shall not, within a period of one year immediately after  
17 termination of office or State employment, knowingly accept  
18 employment or receive compensation or fees for services from a  
19 person or entity if the person or entity or its parent or  
20 subsidiary, during the year immediately preceding termination  
21 of State employment, was a party to a State contract or  
22 contracts with a cumulative value of \$25,000 or more involving  
23 the officer, member, or State employee's State agency, or was  
24 the subject of a regulatory or licensing decision involving the  
25 officer, member, or State employee's State agency, regardless  
26 of whether he or she participated personally and substantially

1 in the award of the State contract or contracts or the making  
2 of the regulatory or licensing decision in question:

3 (1) members or officers;

4 (2) members of a commission or board created by the  
5 Illinois Constitution;

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

8 (4) the head of a department, commission, board,  
9 division, bureau, authority, or other administrative unit  
10 within the government of this State;

11 (5) chief procurement officers, State purchasing  
12 officers, and their designees whose duties are directly  
13 related to State procurement; and

14 (6) chiefs of staff, deputy chiefs of staff, associate  
15 chiefs of staff, assistant chiefs of staff, and deputy  
16 governors.

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

18 (5 ILCS 430/20-45)

19 Sec. 20-45. Standing; representation.

20 (a) With the exception of a person appealing an Inspector  
21 General's determination under Section 5-45 of this Act or under  
22 applicable provisions of the Illinois Procurement Code, only an  
23 Executive Inspector General or the Attorney General may bring  
24 actions before the Executive Ethics Commission. The Attorney  
25 General may bring actions before the Executive Ethics



1 Commission upon receipt of notice pursuant to Section 20-50  
2 ~~5-50~~ or Section 20-51 ~~5-51~~ or pursuant to Section 5-45.

3 (b) The ~~With the exception of Section 5-45,~~ the Attorney  
4 General shall represent an Executive Inspector General in all  
5 proceedings before the Commission. Whenever the Attorney  
6 General is sick or absent, or unable to attend, or is  
7 interested in any matter or proceeding under this Act, upon the  
8 filing of a petition under seal by any person with standing,  
9 the Supreme Court (or any other court of competent jurisdiction  
10 as designated and determined by rule of the Supreme Court) may  
11 appoint some competent attorney to prosecute or defend that  
12 matter or proceeding, and the attorney so appointed shall have  
13 the same power and authority in relation to that matter or  
14 proceeding as the Attorney General would have had if present  
15 and attending to the same.

16 (c) Attorneys representing an Inspector General in  
17 proceedings before the Executive Ethics Commission, except an  
18 attorney appointed under subsection (b), shall be appointed or  
19 retained by the Attorney General, shall be under the  
20 supervision, direction, and control of the Attorney General,  
21 and shall serve at the pleasure of the Attorney General. The  
22 compensation of any attorneys appointed or retained in  
23 accordance with this subsection or subsection (b) shall be paid  
24 by the appropriate Office of the Executive Inspector General.

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

1 (5 ILCS 430/20-50)

2 Sec. 20-50. Investigation reports.

3 (a) If an Executive Inspector General, upon the conclusion  
4 of an investigation, determines that reasonable cause exists to  
5 believe that a violation has occurred, then the Executive  
6 Inspector General shall issue a summary report of the  
7 investigation. The report shall be delivered to the appropriate  
8 ultimate jurisdictional authority and to the head of each State  
9 agency affected by or involved in the investigation, if  
10 appropriate. The appropriate ultimate jurisdictional authority  
11 or agency head shall respond to the summary report within 20  
12 days, in writing, to the Executive Inspector General. The  
13 response shall include a description of any corrective or  
14 disciplinary action to be imposed.

15 (b) The summary report of the investigation shall include  
16 the following:

17 (1) A description of any allegations or other  
18 information received by the Executive Inspector General  
19 pertinent to the investigation.

20 (2) A description of any alleged misconduct discovered  
21 in the course of the investigation.

22 (3) Recommendations for any corrective or disciplinary  
23 action to be taken in response to any alleged misconduct  
24 described in the report, including but not limited to  
25 discharge.

26 (4) Other information the Executive Inspector General

1           deems relevant to the investigation or resulting  
2           recommendations.

3           (c) Within 30 days after receiving a response from the  
4           appropriate ultimate jurisdictional authority or agency head  
5           under subsection (a), the Executive Inspector General shall  
6           notify the Commission and the Attorney General if the Executive  
7           Inspector General believes that a complaint should be filed  
8           with the Commission. If the Executive Inspector General desires  
9           to file a complaint with the Commission, the Executive  
10          Inspector General shall submit the summary report and  
11          supporting documents to the Attorney General. If the Attorney  
12          General concludes that there is insufficient evidence that a  
13          violation has occurred, the Attorney General shall notify the  
14          Executive Inspector General and the Executive Inspector  
15          General shall deliver to the Executive Ethics Commission a copy  
16          of the summary report and response from the ultimate  
17          jurisdictional authority or agency head. If the Attorney  
18          General determines that reasonable cause exists to believe that  
19          a violation has occurred, then the Executive Inspector General,  
20          represented by the Attorney General, may file with the  
21          Executive Ethics Commission a complaint. The complaint shall  
22          set forth the alleged violation and the grounds that exist to  
23          support the complaint. The complaint must be filed with the  
24          Commission within 18 months after the most recent act of the  
25          alleged violation or of a series of alleged violations except  
26          where there is reasonable cause to believe that fraudulent

1 concealment has occurred. To constitute fraudulent concealment  
2 sufficient to toll this limitations period, there must be an  
3 affirmative act or representation calculated to prevent  
4 discovery of the fact that a violation has occurred. If a  
5 complaint is not filed with the Commission within 6 months  
6 after notice by the Inspector General to the Commission and the  
7 Attorney General, then the Commission may set a meeting of the  
8 Commission at which the Attorney General shall appear and  
9 provide a status report to the Commission.

10 (c-5) Within 30 days after receiving a response from the  
11 appropriate ultimate jurisdictional authority or agency head  
12 under subsection (a), if the Executive Inspector General does  
13 not believe that a complaint should be filed, the Executive  
14 Inspector General shall deliver to the Executive Ethics  
15 Commission a statement setting forth the basis for the decision  
16 not to file a complaint and a copy of the summary report and  
17 response from the ultimate jurisdictional authority or agency  
18 head. An Inspector General may also submit a redacted version  
19 of the summary report and response from the ultimate  
20 jurisdictional authority if the Inspector General believes  
21 either contains information that, in the opinion of the  
22 Inspector General, should be redacted prior to releasing the  
23 report, may interfere with an ongoing investigation, or  
24 identifies an informant or complainant.

25 (c-10) If, after reviewing the documents, the Commission  
26 believes that further investigation is warranted, the

1 Commission may request that the Executive Inspector General  
2 provide additional information or conduct further  
3 investigation. The Commission may also appoint a Special  
4 Executive Inspector General to investigate or refer the summary  
5 report and response from the ultimate jurisdictional authority  
6 to the Attorney General for further investigation or review. If  
7 the Commission requests the Attorney General to investigate or  
8 review, the Commission must notify the Attorney General and the  
9 Inspector General. The Attorney General may not begin an  
10 investigation or review until receipt of notice from the  
11 Commission. If, after review, the Attorney General determines  
12 that reasonable cause exists to believe that a violation has  
13 occurred, then the Attorney General may file a complaint with  
14 the Executive Ethics Commission. If the Attorney General  
15 concludes that there is insufficient evidence that a violation  
16 has occurred, the Attorney General shall notify the Executive  
17 Ethics Commission and the appropriate Executive Inspector  
18 General.

19 (d) A copy of the complaint filed with the Executive Ethics  
20 Commission must be served on all respondents named in the  
21 complaint and on each respondent's ultimate jurisdictional  
22 authority in the same manner as process is served under the  
23 Code of Civil Procedure.

24 (e) A respondent may file objections to the complaint  
25 within 30 days after notice of the complaint ~~petition~~ has been  
26 served on the respondent.

1           (f) The Commission shall meet, either in person or by  
2 telephone, at least 30 days after the complaint is served on  
3 all respondents in a closed session to review the sufficiency  
4 of the complaint. The Commission shall issue notice by  
5 certified mail, return receipt requested, to the Executive  
6 Inspector General, Attorney General, and all respondents of the  
7 Commission's ruling on the sufficiency of the complaint. If the  
8 complaint is deemed to sufficiently allege a violation of this  
9 Act, then the Commission shall include a hearing date scheduled  
10 within 4 weeks after the date of the notice, unless all of the  
11 parties consent to a later date. If the complaint is deemed not  
12 to sufficiently allege a violation, then the Commission shall  
13 send by certified mail, return receipt requested, a notice to  
14 the Executive Inspector General, Attorney General, and all  
15 respondents of the decision to dismiss the complaint.

16           (g) On the scheduled date the Commission shall conduct a  
17 closed meeting, either in person or, if the parties consent, by  
18 telephone, on the complaint and allow all parties the  
19 opportunity to present testimony and evidence. All such  
20 proceedings shall be transcribed.

21           (h) Within an appropriate time limit set by rules of the  
22 Executive Ethics Commission, the Commission shall (i) dismiss  
23 the complaint, (ii) issue a recommendation of discipline to the  
24 respondent and the respondent's ultimate jurisdictional  
25 authority, (iii) impose an administrative fine upon the  
26 respondent, (iv) issue injunctive relief as described in

1 Section 50-10, or (v) impose a combination of (ii) through  
2 (iv).

3 (i) The proceedings on any complaint filed with the  
4 Commission shall be conducted pursuant to rules promulgated by  
5 the Commission.

6 (j) The Commission may designate hearing officers to  
7 conduct proceedings as determined by rule of the Commission.

8 (k) In all proceedings before the Commission, the standard  
9 of proof is by a preponderance of the evidence.

10 (l) Within 30 days after the issuance of a final  
11 administrative decision that concludes that a violation  
12 occurred, the Executive Ethics Commission shall make public the  
13 entire record of proceedings before the Commission, the  
14 decision, any recommendation, any discipline imposed, and the  
15 response from the agency head or ultimate jurisdictional  
16 authority to the Executive Ethics Commission.

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

18 (5 ILCS 430/50-5)

19 Sec. 50-5. Penalties.

20 (a) A person is guilty of a Class A misdemeanor and subject  
21 to a fine of up to \$20,000 if that person intentionally  
22 violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or  
23 Article 15.

24 (a-1) In addition to any other penalty that may apply,  
25 whether criminal or civil, an ~~An~~ ethics commission may levy an

1 administrative fine for a violation of Section 5-45 of this Act  
2 of up to 3 times the total annual compensation that would have  
3 been obtained in violation of Section 5-45.

4 (b) A person who intentionally violates any provision of  
5 Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business  
6 offense subject to a fine of at least \$1,001 and up to \$5,000.

7 (c) A person who intentionally violates any provision of  
8 Article 10 is guilty of a business offense and subject to a  
9 fine of at least \$1,001 and up to \$5,000.

10 (d) Any person who intentionally makes a false report  
11 alleging a violation of any provision of this Act to an ethics  
12 commission, an inspector general, the State Police, a State's  
13 Attorney, the Attorney General, or any other law enforcement  
14 official is guilty of a Class A misdemeanor and subject to a  
15 fine of up to \$20,000.

16 (e) In addition to any other penalty that may apply,  
17 whether criminal or civil, an ~~An~~ ethics commission may levy an  
18 administrative fine of up to \$20,000 ~~\$5,000~~ against any person  
19 who violates this Act, who intentionally obstructs or  
20 interferes with an investigation conducted under this Act by an  
21 inspector general, or who intentionally makes a false,  
22 frivolous, or bad faith allegation.

23 (f) In addition to any other penalty that may apply,  
24 whether criminal or civil, a State employee who intentionally  
25 violates any provision of Section 5-5, 5-15, 5-20, 5-30, 5-35,  
26 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or



1 25-90 is subject to discipline or discharge by the appropriate  
2 ultimate jurisdictional authority.

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

4 Section 20. The Illinois Procurement Code is amended by  
5 changing Section 50-60 and by adding Section 50-33 as follows:

6 (30 ILCS 500/50-33 new)

7 Sec. 50-33. Lawful and ethical conduct.

8 (a) No person shall enter into or perform a contract with a  
9 State agency or enter into or perform a subcontract under this  
10 Code if that person has engaged in conduct, alone or in concert  
11 with any other person, relating to the contract or subcontract  
12 which would constitute a violation of Section 17-9, Section  
13 17-10, Section 17-24, Article 33, Section 33C-4, or Article 33E  
14 of the Criminal Code of 1961, or any similar federal offense,  
15 or Section 5-30 of the State Officials and Employees Ethics  
16 Act.

17 (b) Every bid submitted and contract executed by the State  
18 and every subcontract subject to Section 20-120 of this Code  
19 shall contain a certification by the bidder, contractor, or  
20 subcontractor, respectively, that the bidder, contractor, or  
21 subcontractor is not barred from bidding for, entering into, or  
22 performing a contract under subsection (a) of this Section and  
23 that he or she acknowledges that the chief procurement officer  
24 shall declare the related contract void if any of the

1 certifications completed pursuant to this subsection (b) are  
2 false.

3 (30 ILCS 50/50-60)

4 Sec. 50-60. Voidable contracts.

5 (a) If any contract or amendment thereto is entered into or  
6 purchase or expenditure of funds is made at any time in  
7 violation of this Code or any other law, the contract or  
8 amendment thereto may be declared void by the chief procurement  
9 officer or may be ratified and affirmed, provided the chief  
10 procurement officer determines that ratification is in the best  
11 interests of the State. If the contract is ratified and  
12 affirmed, it shall be without prejudice to the State's rights  
13 to any appropriate damages.

14 (b) If, during the term of a contract, the chief  
15 procurement officer determines that the contractor is  
16 delinquent in the payment of debt as set forth in Section 50-11  
17 of this Code, the chief procurement officer may declare the  
18 contract void if it determines that voiding the contract is in  
19 the best interests of the State. The Debt Collection Bureau  
20 shall adopt rules for the implementation of this subsection  
21 (b).

22 (c) If, during the term of a contract, the chief  
23 procurement officer determines that the contractor is in  
24 violation of Section 50-10.5 or Section 50-33 of this Code, the  
25 chief procurement officer shall declare the contract void.

1 (d) If, during the term of a contract, the contracting  
2 agency learns from an annual certification or otherwise  
3 determines that the contractor no longer qualifies to enter  
4 into State contracts by reason of Section 50-5, 50-10, 50-12,  
5 50-14, or 50-14.5 of this Article, the chief procurement  
6 officer may declare the contract void if it determines that  
7 voiding the contract is in the best interests of the State.

8 (e) If, during the term of a contract, the chief  
9 procurement officer learns from an annual certification or  
10 otherwise determines that a subcontractor subject to Section  
11 20-120 no longer qualifies to enter into State contracts by  
12 reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, or  
13 50-14.5 of this Article, the chief procurement officer may  
14 declare the related contract void if it determines that voiding  
15 the contract is in the best interests of the State.

16 (f) The changes to this Section made by Public Act 96-795  
17 apply to actions taken by the chief procurement officer on or  
18 after July 1, 2010.

19 (Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see  
20 Section 5 of P.A. 96-793 for the effective date of changes made  
21 by P.A. 96-795); 96-1000, eff. 7-2-10.)

22 Section 25. The Criminal Code of 1961 is amended by  
23 changing Sections 33-7, 33E-2, and 33E-7 as follows:

24 (720 ILCS 5/33-7)

1           Sec. 33-7. Public contractor misconduct.

2           (a) A public contractor; a person seeking a public contract  
3 on behalf of himself, herself, or another; an employee of a  
4 public contractor; or a person seeking a public contract on  
5 behalf of himself, herself, or another commits public  
6 contractor misconduct when, in the performance of, or in  
7 connection with, a contract with the State, a unit of local  
8 government, or a school district or in obtaining or seeking to  
9 obtain such a contract he or she commits any of the following  
10 acts:

11           (1) intentionally or knowingly makes, uses, or causes  
12 to be made or used a false record or statement to conceal,  
13 avoid, or decrease an obligation to pay or transmit money  
14 or property;

15           (2) knowingly performs an act that he or she knows he  
16 or she is forbidden by law to perform;

17           (3) with intent to obtain a personal advantage for  
18 himself, herself, or another, he or she performs an act in  
19 excess of his or her contractual responsibility;

20           (4) solicits or offers or knowingly accepts or provides  
21 for the performance of any act a fee or reward that he or  
22 she knows is not authorized by law; or

23           (5) knowingly or intentionally seeks or receives  
24 compensation or reimbursement for goods and services he or  
25 she purported to deliver or render, but failed to do so  
26 pursuant to the terms of the contract, to the unit of State

1 or local government or school district.

2 (b) Sentence. Any person who violates this Section commits  
3 a Class 3 felony. Any person convicted of this offense or a  
4 similar offense in any state of the United States which  
5 contains the same elements of this offense shall be barred for  
6 10 years from the date of conviction from contracting with,  
7 employment by, or holding public office with the State or any  
8 unit of local government or school district. No corporation  
9 shall be barred as a result of a conviction under this Section  
10 of any employee or agent of such corporation if the employee so  
11 convicted is no longer employed by the corporation and (1) it  
12 has been finally adjudicated not guilty or (2) it demonstrates  
13 to the government entity with which it seeks to contract, and  
14 that entity finds, that the commission of the offense was  
15 neither authorized, requested, commanded, nor performed by a  
16 director, officer or high managerial agent on behalf of the  
17 corporation as provided in paragraph (2) of subsection (a) of  
18 Section 5-4 of this Code.

19 (c) The Attorney General or the State's Attorney in the  
20 county where the principal office of the unit of local  
21 government or school district is located may bring a civil  
22 action on behalf of any unit of State or local government to  
23 recover a civil penalty from any person who knowingly engages  
24 in conduct which violates subsection (a) of this Section in  
25 treble the amount of the monetary cost to the unit of State or  
26 local government or school district involved in the violation.

1 The Attorney General or State's Attorney shall be entitled to  
2 recover reasonable attorney's fees as part of the costs  
3 assessed to the defendant. This subsection (c) shall in no way  
4 limit the ability of any unit of State or local government or  
5 school district to recover moneys or damages regarding public  
6 contracts under any other law or ordinance. A civil action  
7 shall be barred unless the action is commenced within 6 years  
8 after the later of (1) the date on which the conduct  
9 establishing the cause of action occurred or (2) the date on  
10 which the unit of State or local government or school district  
11 knew or should have known that the conduct establishing the  
12 cause of action occurred.

13 (d) This amendatory Act of the 96th General Assembly shall  
14 not be construed to create a private right of action.

15 (Source: P.A. 96-575, eff. 8-18-09.)

16 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

17 Sec. 33E-2. Definitions. In this Act:

18 (a) "Public contract" means any contract for goods,  
19 services or construction let to any person with or without bid  
20 by any unit of State or local government.

21 (b) "Unit of State or local government" means the State,  
22 any unit of state government or agency thereof, any county or  
23 municipal government or committee or agency thereof, or any  
24 other entity which is funded by or expends tax dollars or the  
25 proceeds of publicly guaranteed bonds.

1 (c) "Change order" means a change in a contract term other  
2 than as specifically provided for in the contract which  
3 authorizes or necessitates any increase or decrease in the cost  
4 of the contract or the time to completion.

5 (d) "Person" means any individual, firm, partnership,  
6 corporation, joint venture or other entity, but does not  
7 include a unit of State or local government.

8 (e) "Person employed by any unit of State or local  
9 government" means any employee of a unit of State or local  
10 government and any person defined in subsection (d) who is  
11 authorized by such unit of State or local government to act on  
12 its behalf in relation to any public contract.

13 (f) "Sheltered market" has the meaning ascribed to it in  
14 Section 8b of the Business Enterprise for Minorities, Females,  
15 and Persons with Disabilities Act.

16 (g) "Kickback" means any money, fee, commission, credit,  
17 gift, gratuity, thing of value, or compensation of any kind  
18 which is provided, directly or indirectly, to any person  
19 employed by any unit of State or local government, prime  
20 contractor, prime contractor employee, subcontractor, or  
21 subcontractor employee for the purpose of improperly obtaining  
22 or rewarding favorable treatment in connection with a prime  
23 contract or in connection with a subcontract relating to a  
24 prime contract.

25 (h) "Prime contractor" means any person who has entered  
26 into a public contract.

1 (i) "Prime contractor employee" means any officer,  
2 partner, employee, or agent of a prime contractor.

3 (i-5) "Stringing" means knowingly structuring a contract  
4 or job order to avoid the contract or job order being subject  
5 to competitive bidding requirements.

6 (j) "Subcontract" means a contract or contractual action  
7 entered into by a prime contractor or subcontractor for the  
8 purpose of obtaining goods or services of any kind under a  
9 prime contract.

10 (k) "Subcontractor" (1) means any person, other than the  
11 prime contractor, who offers to furnish or furnishes any goods  
12 or services of any kind under a prime contract or a subcontract  
13 entered into in connection with such prime contract; and (2)  
14 includes any person who offers to furnish or furnishes goods or  
15 services to the prime contractor or a higher tier  
16 subcontractor.

17 (l) "Subcontractor employee" means any officer, partner,  
18 employee, or agent of a subcontractor.

19 (Source: P.A. 92-16, eff. 6-28-01.)

20 (720 ILCS 5/33E-7) (from Ch. 38, par. 33E-7)

21 Sec. 33E-7. Kickbacks. (a) A person, including a person  
22 employed by any unit of State or local government, violates  
23 this Section when he knowingly either:

24 (1) provides, attempts to provide or offers to provide any  
25 kickback;



1 (2) solicits, accepts or attempts to accept any kickback;

2 or

3 (3) includes, directly or indirectly, the amount of any  
4 kickback prohibited by paragraphs (1) or (2) of this subsection  
5 (a) in the contract price charged by a subcontractor to a prime  
6 contractor or a higher tier subcontractor or in the contract  
7 price charged by a prime contractor to any unit of State or  
8 local government for a public contract.

9 (b) Any person, including a person employed by any unit of  
10 State or local government, violates this Section when he has  
11 received an offer of a kickback, or has been solicited to make  
12 a kickback, and fails to report it to law enforcement  
13 officials, including but not limited to the Attorney General or  
14 the State's Attorney for the county in which the contract is to  
15 be performed.

16 (c) A violation of subsection (a) is a Class 3 felony. A  
17 violation of subsection (b) is a Class 4 felony.

18 (d) Any unit of State or local government may, in a civil  
19 action, recover a civil penalty from any person who knowingly  
20 engages in conduct which violates paragraph (3) of subsection  
21 (a) of this Section in twice the amount of each kickback  
22 involved in the violation. This subsection (d) shall in no way  
23 limit the ability of any unit of State or local government to  
24 recover monies or damages regarding public contracts under any  
25 other law or ordinance. A civil action shall be barred unless  
26 the action is commenced within 6 years after the later of (1)

1 the date on which the conduct establishing the cause of action  
2 occurred or (2) the date on which the unit of State or local  
3 government knew or should have known that the conduct  
4 establishing the cause of action occurred.

5 (Source: P.A. 85-1295.)

6 Section 30. The Illinois False Claims Act is amended by  
7 changing Section 4 as follows:

8 (740 ILCS 175/4) (from Ch. 127, par. 4104)

9 Sec. 4. Civil actions for false claims.

10 (a) Responsibilities of the Attorney General and the  
11 Department of State Police. The Attorney General or the  
12 Department of State Police shall diligently investigate a civil  
13 violation under Section 3. If the Attorney General finds that a  
14 person violated or is violating Section 3, the Attorney General  
15 may bring a civil action under this Section against the person.

16 The State shall receive an amount for reasonable expenses  
17 that the court finds to have been necessarily incurred by the  
18 Attorney General, including reasonable attorneys' fees and  
19 costs. All such expenses, fees, and costs shall be awarded  
20 against the defendant. The court may award amounts from the  
21 proceeds of an action or settlement that it considers  
22 appropriate to any governmental entity or program that has been  
23 adversely affected by a defendant. The Attorney General, if  
24 necessary, shall direct the State Treasurer to make a

1 disbursement of funds as provided in court orders or settlement  
2 agreements.

3 (b) Actions by private persons.

4 (1) A person may bring a civil action for a violation  
5 of Section 3 for the person and for the State. The action  
6 shall be brought in the name of the State. The action may  
7 be dismissed only if the court and the Attorney General  
8 give written consent to the dismissal and their reasons for  
9 consenting.

10 (2) A copy of the complaint and written disclosure of  
11 substantially all material evidence and information the  
12 person possesses shall be served on the State. The  
13 complaint shall be filed in camera, shall remain under seal  
14 for at least 60 days, and shall not be served on the  
15 defendant until the court so orders. The State may elect to  
16 intervene and proceed with the action within 60 days after  
17 it receives both the complaint and the material evidence  
18 and information.

19 (3) The State may, for good cause shown, move the court  
20 for extensions of the time during which the complaint  
21 remains under seal under paragraph (2). Any such motions  
22 may be supported by affidavits or other submissions in  
23 camera. The defendant shall not be required to respond to  
24 any complaint filed under this Section until 20 days after  
25 the complaint is unsealed and served upon the defendant.

26 (4) Before the expiration of the 60-day period or any

1 extensions obtained under paragraph (3), the State shall:

2 (A) proceed with the action, in which case the  
3 action shall be conducted by the State; or

4 (B) notify the court that it declines to take over  
5 the action, in which case the person bringing the  
6 action shall have the right to conduct the action.

7 (5) When a person brings an action under this  
8 subsection (b), no person other than the State may  
9 intervene or bring a related action based on the facts  
10 underlying the pending action.

11 (c) Rights of the parties to Qui Tam actions.

12 (1) If the State proceeds with the action, it shall  
13 have the primary responsibility for prosecuting the  
14 action, and shall not be bound by an act of the person  
15 bringing the action. Such person shall have the right to  
16 continue as a party to the action, subject to the  
17 limitations set forth in paragraph (2).

18 (2) (A) The State may dismiss the action  
19 notwithstanding the objections of the person initiating  
20 the action if the person has been notified by the State of  
21 the filing of the motion and the court has provided the  
22 person with an opportunity for a hearing on the motion.

23 (B) The State may settle the action with the defendant  
24 notwithstanding the objections of the person initiating  
25 the action if the court determines, after a hearing, that  
26 the proposed settlement is fair, adequate, and reasonable

1 under all the circumstances. Upon a showing of good cause,  
2 such hearing may be held in camera.

3 (C) Upon a showing by the State that unrestricted  
4 participation during the course of the litigation by the  
5 person initiating the action would interfere with or unduly  
6 delay the State's prosecution of the case, or would be  
7 repetitious, irrelevant, or for purposes of harassment,  
8 the court may, in its discretion, impose limitations on the  
9 person's participation, such as:

10 (i) limiting the number of witnesses the person may  
11 call:

12 (ii) limiting the length of the testimony of such  
13 witnesses;

14 (iii) limiting the person's cross-examination of  
15 witnesses; or

16 (iv) otherwise limiting the participation by the  
17 person in the litigation.

18 (D) Upon a showing by the defendant that unrestricted  
19 participation during the course of the litigation by the  
20 person initiating the action would be for purposes of  
21 harassment or would cause the defendant undue burden or  
22 unnecessary expense, the court may limit the participation  
23 by the person in the litigation.

24 (3) If the State elects not to proceed with the action,  
25 the person who initiated the action shall have the right to  
26 conduct the action. If the State so requests, it shall be

1 served with copies of all pleadings filed in the action and  
2 shall be supplied with copies of all deposition transcripts  
3 (at the State's expense). When a person proceeds with the  
4 action, the court, without limiting the status and rights  
5 of the person initiating the action, may nevertheless  
6 permit the State to intervene at a later date upon a  
7 showing of good cause.

8 (4) Whether or not the State proceeds with the action,  
9 upon a showing by the State that certain actions of  
10 discovery by the person initiating the action would  
11 interfere with the State's investigation or prosecution of  
12 a criminal or civil matter arising out of the same facts,  
13 the court may stay such discovery for a period of not more  
14 than 60 days. Such a showing shall be conducted in camera.  
15 The court may extend the 60-day period upon a further  
16 showing in camera that the State has pursued the criminal  
17 or civil investigation or proceedings with reasonable  
18 diligence and any proposed discovery in the civil action  
19 will interfere with the ongoing criminal or civil  
20 investigation or proceedings.

21 (5) Notwithstanding subsection (b), the State may  
22 elect to pursue its claim through any alternate remedy  
23 available to the State, including any administrative  
24 proceeding to determine a civil money penalty. If any such  
25 alternate remedy is pursued in another proceeding, the  
26 person initiating the action shall have the same rights in

1 such proceeding as such person would have had if the action  
2 had continued under this Section. Any finding of fact or  
3 conclusion of law made in such other proceeding that has  
4 become final shall be conclusive on all parties to an  
5 action under this Section. For purposes of the preceding  
6 sentence, a finding or conclusion is final if it has been  
7 finally determined on appeal to the appropriate court, if  
8 all time for filing such an appeal with respect to the  
9 finding or conclusion has expired, or if the finding or  
10 conclusion is not subject to judicial review.

11 (d) Award to Qui Tam plaintiff.

12 (1) If the State proceeds with an action brought by a  
13 person under subsection (b), such person shall, subject to  
14 the second sentence of this paragraph, receive at least 15%  
15 but not more than 25% of the proceeds of the action or  
16 settlement of the claim, depending upon the extent to which  
17 the person substantially contributed to the prosecution of  
18 the action. Where the action is one which the court finds  
19 to be based primarily on disclosures of specific  
20 information (other than information provided by the person  
21 bringing the action) relating to allegations or  
22 transactions in a criminal, civil, or administrative  
23 hearing, in a legislative, administrative, or Auditor  
24 General's report, hearing, audit, or investigation, or  
25 from the news media, the court may award such sums as it  
26 considers appropriate, but in no case more than 10% of the

1 proceeds, taking into account the significance of the  
2 information and the role of the person bringing the action  
3 in advancing the case to litigation. Any payment to a  
4 person under the first or second sentence of this paragraph  
5 (1) shall be made from the proceeds. Any such person shall  
6 also receive an amount for reasonable expenses which the  
7 court finds to have been necessarily incurred, plus  
8 reasonable attorneys' fees and costs. The State shall also  
9 receive an amount for reasonable expenses which the court  
10 finds to have been necessarily incurred by the Attorney  
11 General, including reasonable attorneys' fees and costs.  
12 All such expenses, fees, and costs shall be awarded against  
13 the defendant. The court may award amounts from the  
14 proceeds of an action or settlement that it considers  
15 appropriate to any governmental entity or program that has  
16 been adversely affected by a defendant. The Attorney  
17 General, if necessary, shall direct the State Treasurer to  
18 make a disbursement of funds as provided in court orders or  
19 settlement agreements.

20 (2) If the State does not proceed with an action under  
21 this Section, the person bringing the action or settling  
22 the claim shall receive an amount which the court decides  
23 is reasonable for collecting the civil penalty and damages.  
24 The amount shall be not less than 25% and not more than 30%  
25 of the proceeds of the action or settlement and shall be  
26 paid out of such proceeds. Such person shall also receive



1 an amount for reasonable expenses which the court finds to  
2 have been necessarily incurred, plus reasonable attorneys'  
3 fees and costs. All such expenses, fees, and costs shall be  
4 awarded against the defendant. The court may award amounts  
5 from the proceeds of an action or settlement that it  
6 considers appropriate to any governmental entity or  
7 program that has been adversely affected by a defendant.  
8 The Attorney General, if necessary, shall direct the State  
9 Treasurer to make a disbursement of funds as provided in  
10 court orders or settlement agreements.

11 (3) Whether or not the State proceeds with the action,  
12 if the court finds that the action was brought by a person  
13 who planned and initiated the violation of Section 3 upon  
14 which the action was brought, then the court may, to the  
15 extent the court considers appropriate, reduce the share of  
16 the proceeds of the action which the person would otherwise  
17 receive under paragraph (1) or (2) of this subsection (d),  
18 taking into account the role of that person in advancing  
19 the case to litigation and any relevant circumstances  
20 pertaining to the violation. If the person bringing the  
21 action is convicted of criminal conduct arising from his or  
22 her role in the violation of Section 3, that person shall  
23 be dismissed from the civil action and shall not receive  
24 any share of the proceeds of the action. Such dismissal  
25 shall not prejudice the right of the State to continue the  
26 action, represented by the Attorney General.

1           (4) If the State does not proceed with the action and  
2           the person bringing the action conducts the action, the  
3           court may award to the defendant its reasonable attorneys'  
4           fees and expenses if the defendant prevails in the action  
5           and the court finds that the claim of the person bringing  
6           the action was clearly frivolous, clearly vexatious, or  
7           brought primarily for purposes of harassment.

8           (e) Certain actions barred.

9           (1) No court shall have jurisdiction over an action  
10          brought by a former or present member of the Guard under  
11          subsection (b) of this Section against a member of the  
12          Guard arising out of such person's service in the Guard.

13          (2) (A) No court shall have jurisdiction over an action  
14          brought under subsection (b) against a member of the  
15          General Assembly, a member of the judiciary, or an exempt  
16          official if the action is based on evidence or information  
17          known to the State when the action was brought.

18          (B) For purposes of this paragraph (2), "exempt  
19          official" means any of the following officials in State  
20          service: directors of departments established under the  
21          Civil Administrative Code of Illinois, the Adjutant  
22          General, the Assistant Adjutant General, the Director of  
23          the State Emergency Services and Disaster Agency, members  
24          of the boards and commissions, and all other positions  
25          appointed by the Governor by and with the consent of the  
26          Senate.

1           (3) In no event may a person bring an action under  
2 subsection (b) which is based upon allegations or  
3 transactions which are the subject of a civil suit or an  
4 administrative civil money penalty proceeding in which the  
5 State is already a party.

6           (4) (A) The court shall dismiss an action or claim under  
7 this Section, unless opposed by the State, if substantially  
8 the same allegations or transactions as alleged in the  
9 action or claim were publicly disclosed: ~~No court shall~~  
10 have jurisdiction over an action under this Section based  
11 upon the public disclosure of allegations or transactions

12           (i) in a criminal, civil, or administrative  
13 hearing in which the State or its agent is a party; ~~τ~~

14           (ii) in a legislative, administrative, ~~or~~ Auditor  
15 General, or other State General's report, hearing,  
16 audit, or investigation; ~~τ~~ or

17           (iii) from the news media,

18 unless the action is brought by the Attorney General or the  
19 person bringing the action is an original source of the  
20 information.

21           (B) For purposes of this paragraph (4), "original  
22 source" means an individual who either (i) prior to a  
23 public disclosure under subsection (e) (4) (A), has  
24 voluntarily disclosed to the State the information on which  
25 allegations or transactions in a claim are based, or (ii)  
26 who has knowledge that is independent of and materially

1       adds to the publicly disclosed allegations or  
2       transactions, and who has voluntarily provided the  
3       information to the State before filing an action under this  
4       Section. ~~who has direct and independent knowledge of the~~  
5       ~~information on which the allegations are based and has~~  
6       ~~voluntarily provided the information to the State before~~  
7       ~~filing an action under this Section which is based on the~~  
8       ~~information.~~

9       (f) State not liable for certain expenses. The State is not  
10      liable for expenses which a person incurs in bringing an action  
11      under this Section.

12      (g) Relief from retaliatory actions.

13           (1) In general, any employee, contractor, or agent  
14      shall be ~~is~~ entitled to all relief necessary to make that  
15      employee, contractor, or agent whole, if that employee,  
16      contractor, or agent is discharged, demoted, suspended,  
17      threatened, harassed, or in any other manner discriminated  
18      against in the terms and conditions of employment because  
19      of lawful acts done by the employee, contractor, ~~or~~ agent  
20      ~~on behalf of the employee, contractor, or agent~~ or  
21      associated others in furtherance of an action under this  
22      Section or other efforts to stop one or more violations of  
23      this Act.

24           (2) Relief under paragraph (1) shall include  
25      reinstatement with the same seniority status that the  
26      employee, contractor, or agent would have had but for the

1 discrimination, 2 times the amount of back pay, interest on  
2 the back pay, and compensation for any special damages  
3 sustained as a result of the discrimination, including  
4 litigation costs and reasonable attorneys' fees. An action  
5 under this subsection (g) may be brought in the appropriate  
6 circuit court for the relief provided in this subsection  
7 (g).

8 (3) A civil action under this subsection may not be  
9 brought more than 3 years after the date when the  
10 retaliation occurred.

11 (Source: P.A. 96-1304, eff. 7-27-10.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 283/10

4 5 ILCS 430/5-45

5 5 ILCS 430/20-45

6 5 ILCS 430/20-50

7 5 ILCS 430/50-5

8 30 ILCS 500/50-33 new

9 30 ILCS 500/50-60

10 720 ILCS 5/33-7

11 720 ILCS 5/33E-2 from Ch. 38, par. 33E-2

12 720 ILCS 5/33E-7 from Ch. 38, par. 33E-7

13 740 ILCS 175/4 from Ch. 127, par. 4104