

SB2536



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2536

Introduced 2/26/2021, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

5 ILCS 430/1-5
5 ILCS 430/5-45

Amends the State Officials and Employees Ethics Act. Provides that no person who has served as a statewide elected official, the executive or administrative head of a State agency, the deputy executive or administrative head of a State agency, or a member of the General Assembly shall, within 2 years after the termination of service or employment, become a lobbyist. Defines "lobbyist".

LRB102 10294 RJF 15621 b

A BILL FOR

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 State Officials and Employees Ethics Act is
5 amended by changing Sections 1-5 and 5-45 as follows:

6 (5 ILCS 430/1-5)

7 Sec. 1-5. Definitions. As used in this Act:

8 "Appointee" means a person appointed to a position in or
9 with a State agency, regardless of whether the position is
10 compensated.

11 "Board members of Regional Transit Boards" means any
12 person appointed to serve on the governing board of a Regional
13 Transit Board.

14 "Campaign for elective office" means any activity in
15 furtherance of an effort to influence the selection,
16 nomination, election, or appointment of any individual to any
17 federal, State, or local public office or office in a
18 political organization, or the selection, nomination, or
19 election of Presidential or Vice-Presidential electors, but
20 does not include activities (i) relating to the support or
21 opposition of any executive, legislative, or administrative
22 action (as those terms are defined in Section 2 of the Lobbyist
23 Registration Act), (ii) relating to collective bargaining, or

1 (iii) that are otherwise in furtherance of the person's
2 official State duties.

3 "Candidate" means a person who has filed nominating papers
4 or petitions for nomination or election to an elected State
5 office, or who has been appointed to fill a vacancy in
6 nomination, and who remains eligible for placement on the
7 ballot at either a general primary election or general
8 election.

9 "Collective bargaining" has the same meaning as that term
10 is defined in Section 3 of the Illinois Public Labor Relations
11 Act.

12 "Commission" means an ethics commission created by this
13 Act.

14 "Compensated time" means any time worked by or credited to
15 a State employee that counts toward any minimum work time
16 requirement imposed as a condition of employment with a State
17 agency, but does not include any designated State holidays or
18 any period when the employee is on a leave of absence.

19 "Compensatory time off" means authorized time off earned
20 by or awarded to a State employee to compensate in whole or in
21 part for time worked in excess of the minimum work time
22 required of that employee as a condition of employment with a
23 State agency.

24 "Contribution" has the same meaning as that term is
25 defined in Section 9-1.4 of the Election Code.

26 "Employee" means (i) any person employed full-time,

1 part-time, or pursuant to a contract and whose employment
2 duties are subject to the direction and control of an employer
3 with regard to the material details of how the work is to be
4 performed or (ii) any appointed or elected commissioner,
5 trustee, director, or board member of a board of a State
6 agency, including any retirement system or investment board
7 subject to the Illinois Pension Code or (iii) any other
8 appointee.

9 "Employment benefits" include but are not limited to the
10 following: modified compensation or benefit terms; compensated
11 time off; or change of title, job duties, or location of office
12 or employment. An employment benefit may also include
13 favorable treatment in determining whether to bring any
14 disciplinary or similar action or favorable treatment during
15 the course of any disciplinary or similar action or other
16 performance review.

17 "Executive branch constitutional officer" means the
18 Governor, Lieutenant Governor, Attorney General, Secretary of
19 State, Comptroller, and Treasurer.

20 "Gift" means any gratuity, discount, entertainment,
21 hospitality, loan, forbearance, or other tangible or
22 intangible item having monetary value including, but not
23 limited to, cash, food and drink, and honoraria for speaking
24 engagements related to or attributable to government
25 employment or the official position of an employee, member, or
26 officer. The value of a gift may be further defined by rules

1 adopted by the appropriate ethics commission or by the Auditor
2 General for the Auditor General and for employees of the
3 office of the Auditor General.

4 "Governmental entity" means a unit of local government
5 (including a community college district) or a school district
6 but not a State agency or a Regional Transit Board.

7 "Leave of absence" means any period during which a State
8 employee does not receive (i) compensation for State
9 employment, (ii) service credit towards State pension
10 benefits, and (iii) health insurance benefits paid for by the
11 State.

12 "Legislative branch constitutional officer" means a member
13 of the General Assembly and the Auditor General.

14 "Legislative leader" means the President and Minority
15 Leader of the Senate and the Speaker and Minority Leader of the
16 House of Representatives.

17 "Member" means a member of the General Assembly.

18 "Lobbyist" means an individual who, by acting directly,
19 does any of the following:

20 (1) Receives compensation to encourage the passage,
21 defeat, approval, veto, or modification of legislation, a
22 rule, or an executive order by the members of the General
23 Assembly, a State agency, or any statewide elected
24 official.

25 (2) Is a designated representative of an organization
26 which has as one of its purposes the encouragement of the

1 passage, defeat, approval, veto, or modification of
2 legislation, a rule, or an executive order before the
3 General Assembly, a State agency, or any statewide elected
4 official.

5 (3) Represents the position of a federal, State, or
6 local government agency, in which the person serves or is
7 employed as the designated representative, for purposes of
8 encouraging the passage, defeat, approval, veto, or
9 modification of legislation, a rule, or an executive order
10 by members of the General Assembly, a State agency, or any
11 statewide elected official.

12 "Lobbyist" does not include:

13 (1) Officials and employees of a political party
14 organized in the State of Illinois representing more than
15 2% of the total votes cast for governor in the last
16 preceding general election, but only when representing the
17 political party in an official capacity.

18 (2) Representatives of the news media only when
19 engaged in the reporting and dissemination of news and
20 editorials.

21 (3) All federal, State, and local elected officials,
22 while performing the duties and responsibilities of
23 office.

24 (4) Persons whose activities are limited to
25 appearances to give testimony or provide information or
26 assistance at sessions of committees of the General

1 Assembly or at public hearings of State agencies or who
2 are giving testimony or providing information or
3 assistance at the request of public officials or
4 employees.

5 (5) Members of the staff of the United States Congress
6 or the General Assembly.

7 (6) State agency officials and employees while they
8 are engaged in activities within the agency in which they
9 serve or are employed or with another agency with which
10 the official's or employee's agency is involved in a
11 collaborative project.

12 (7) An individual who is a member, director, trustee,
13 officer, or committee member of a business, trade, labor,
14 farm, professional, religious, education, or charitable
15 association, foundation, or organization who is not paid
16 compensation and is not otherwise specifically designated
17 as a lobbyist under this Act.

18 "Officer" means an executive branch constitutional officer
19 or a legislative branch constitutional officer.

20 "Political" means any activity in support of or in
21 connection with any campaign for elective office or any
22 political organization, but does not include activities (i)
23 relating to the support or opposition of any executive,
24 legislative, or administrative action (as those terms are
25 defined in Section 2 of the Lobbyist Registration Act), (ii)
26 relating to collective bargaining, or (iii) that are otherwise

1 in furtherance of the person's official State duties or
2 governmental and public service functions.

3 "Political organization" means a party, committee,
4 association, fund, or other organization (whether or not
5 incorporated) that is required to file a statement of
6 organization with the State Board of Elections or a county
7 clerk under Section 9-3 of the Election Code, but only with
8 regard to those activities that require filing with the State
9 Board of Elections or a county clerk.

10 "Prohibited political activity" means:

11 (1) Preparing for, organizing, or participating in any
12 political meeting, political rally, political
13 demonstration, or other political event.

14 (2) Soliciting contributions, including but not
15 limited to the purchase of, selling, distributing, or
16 receiving payment for tickets for any political
17 fundraiser, political meeting, or other political event.

18 (3) Soliciting, planning the solicitation of, or
19 preparing any document or report regarding any thing of
20 value intended as a campaign contribution.

21 (4) Planning, conducting, or participating in a public
22 opinion poll in connection with a campaign for elective
23 office or on behalf of a political organization for
24 political purposes or for or against any referendum
25 question.

26 (5) Surveying or gathering information from potential

1 or actual voters in an election to determine probable vote
2 outcome in connection with a campaign for elective office
3 or on behalf of a political organization for political
4 purposes or for or against any referendum question.

5 (6) Assisting at the polls on election day on behalf
6 of any political organization or candidate for elective
7 office or for or against any referendum question.

8 (7) Soliciting votes on behalf of a candidate for
9 elective office or a political organization or for or
10 against any referendum question or helping in an effort to
11 get voters to the polls.

12 (8) Initiating for circulation, preparing,
13 circulating, reviewing, or filing any petition on behalf
14 of a candidate for elective office or for or against any
15 referendum question.

16 (9) Making contributions on behalf of any candidate
17 for elective office in that capacity or in connection with
18 a campaign for elective office.

19 (10) Preparing or reviewing responses to candidate
20 questionnaires in connection with a campaign for elective
21 office or on behalf of a political organization for
22 political purposes.

23 (11) Distributing, preparing for distribution, or
24 mailing campaign literature, campaign signs, or other
25 campaign material on behalf of any candidate for elective
26 office or for or against any referendum question.

1 (12) Campaigning for any elective office or for or
2 against any referendum question.

3 (13) Managing or working on a campaign for elective
4 office or for or against any referendum question.

5 (14) Serving as a delegate, alternate, or proxy to a
6 political party convention.

7 (15) Participating in any recount or challenge to the
8 outcome of any election, except to the extent that under
9 subsection (d) of Section 6 of Article IV of the Illinois
10 Constitution each house of the General Assembly shall
11 judge the elections, returns, and qualifications of its
12 members.

13 "Prohibited source" means any person or entity who:

14 (1) is seeking official action (i) by the member or
15 officer or (ii) in the case of an employee, by the employee
16 or by the member, officer, State agency, or other employee
17 directing the employee;

18 (2) does business or seeks to do business (i) with the
19 member or officer or (ii) in the case of an employee, with
20 the employee or with the member, officer, State agency, or
21 other employee directing the employee;

22 (3) conducts activities regulated (i) by the member or
23 officer or (ii) in the case of an employee, by the employee
24 or by the member, officer, State agency, or other employee
25 directing the employee;

26 (4) has interests that may be substantially affected

1 by the performance or non-performance of the official
2 duties of the member, officer, or employee;

3 (5) is registered or required to be registered with
4 the Secretary of State under the Lobbyist Registration
5 Act, except that an entity not otherwise a prohibited
6 source does not become a prohibited source merely because
7 a registered lobbyist is one of its members or serves on
8 its board of directors; or

9 (6) is an agent of, a spouse of, or an immediate family
10 member who is living with a "prohibited source".

11 "Regional Transit Boards" means (i) the Regional
12 Transportation Authority created by the Regional
13 Transportation Authority Act, (ii) the Suburban Bus Division
14 created by the Regional Transportation Authority Act, (iii)
15 the Commuter Rail Division created by the Regional
16 Transportation Authority Act, and (iv) the Chicago Transit
17 Authority created by the Metropolitan Transit Authority Act.

18 "State agency" includes all officers, boards, commissions
19 and agencies created by the Constitution, whether in the
20 executive or legislative branch; all officers, departments,
21 boards, commissions, agencies, institutions, authorities,
22 public institutions of higher learning as defined in Section 2
23 of the Higher Education Cooperation Act (except community
24 colleges), and bodies politic and corporate of the State; and
25 administrative units or corporate outgrowths of the State
26 government which are created by or pursuant to statute, other

1 than units of local government (including community college
2 districts) and their officers, school districts, and boards of
3 election commissioners; and all administrative units and
4 corporate outgrowths of the above and as may be created by
5 executive order of the Governor. "State agency" includes the
6 General Assembly, the Senate, the House of Representatives,
7 the President and Minority Leader of the Senate, the Speaker
8 and Minority Leader of the House of Representatives, the
9 Senate Operations Commission, and the legislative support
10 services agencies. "State agency" includes the Office of the
11 Auditor General. "State agency" does not include the judicial
12 branch.

13 "State employee" means any employee of a State agency.

14 "Ultimate jurisdictional authority" means the following:

15 (1) For members, legislative partisan staff, and
16 legislative secretaries, the appropriate legislative
17 leader: President of the Senate, Minority Leader of the
18 Senate, Speaker of the House of Representatives, or
19 Minority Leader of the House of Representatives.

20 (2) For State employees who are professional staff or
21 employees of the Senate and not covered under item (1),
22 the Senate Operations Commission.

23 (3) For State employees who are professional staff or
24 employees of the House of Representatives and not covered
25 under item (1), the Speaker of the House of
26 Representatives.

1 (4) For State employees who are employees of the
2 legislative support services agencies, the Joint Committee
3 on Legislative Support Services.

4 (5) For State employees of the Auditor General, the
5 Auditor General.

6 (6) For State employees of public institutions of
7 higher learning as defined in Section 2 of the Higher
8 Education Cooperation Act (except community colleges), the
9 board of trustees of the appropriate public institution of
10 higher learning.

11 (7) For State employees of an executive branch
12 constitutional officer other than those described in
13 paragraph (6), the appropriate executive branch
14 constitutional officer.

15 (8) For State employees not under the jurisdiction of
16 paragraph (1), (2), (3), (4), (5), (6), or (7), the
17 Governor.

18 (9) For employees of Regional Transit Boards, the
19 appropriate Regional Transit Board.

20 (10) For board members of Regional Transit Boards, the
21 Governor.

22 (Source: P.A. 96-6, eff. 4-3-09; 96-555, eff. 8-18-09;
23 96-1528, eff. 7-1-11; 96-1533, eff. 3-4-11; 97-813, eff.
24 7-13-12.)

25 (5 ILCS 430/5-45)

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

2 (a) No former officer, member, or State employee, or
3 spouse or immediate family member living with such person,
4 shall, within a period of one year immediately after
5 termination of State employment, knowingly accept employment
6 or receive compensation or fees for services from a person or
7 entity if the officer, member, or State employee, during the
8 year immediately preceding termination of State employment,
9 participated personally and substantially in the award of
10 State contracts, or the issuance of State contract change
11 orders, with a cumulative value of \$25,000 or more to the
12 person or entity, or its parent or subsidiary.

13 (a-5) No officer, member, or spouse or immediate family
14 member living with such person shall, during the officer or
15 member's term in office or within a period of 2 years
16 immediately leaving office, hold an ownership interest, other
17 than a passive interest in a publicly traded company, in any
18 gaming license under the Illinois Gambling Act, the Video
19 Gaming Act, the Illinois Horse Racing Act of 1975, or the
20 Sports Wagering Act. Any member of the General Assembly or
21 spouse or immediate family member living with such person who
22 has an ownership interest, other than a passive interest in a
23 publicly traded company, in any gaming license under the
24 Illinois Gambling Act, the Illinois Horse Racing Act of 1975,
25 the Video Gaming Act, or the Sports Wagering Act at the time of
26 the effective date of this amendatory Act of the 101st General

1 Assembly shall divest himself or herself of such ownership
2 within one year after the effective date of this amendatory
3 Act of the 101st General Assembly. No State employee who works
4 for the Illinois Gaming Board or Illinois Racing Board or
5 spouse or immediate family member living with such person
6 shall, during State employment or within a period of 2 years
7 immediately after termination of State employment, hold an
8 ownership interest, other than a passive interest in a
9 publicly traded company, in any gaming license under the
10 Illinois Gambling Act, the Video Gaming Act, the Illinois
11 Horse Racing Act of 1975, or the Sports Wagering Act.

12 (a-10) This subsection (a-10) applies on and after June
13 25, 2021. No officer, member, or spouse or immediate family
14 member living with such person, shall, during the officer or
15 member's term in office or within a period of 2 years
16 immediately after leaving office, hold an ownership interest,
17 other than a passive interest in a publicly traded company, in
18 any cannabis business establishment which is licensed under
19 the Cannabis Regulation and Tax Act. Any member of the General
20 Assembly or spouse or immediate family member living with such
21 person who has an ownership interest, other than a passive
22 interest in a publicly traded company, in any cannabis
23 business establishment which is licensed under the Cannabis
24 Regulation and Tax Act at the time of the effective date of
25 this amendatory Act of the 101st General Assembly shall divest
26 himself or herself of such ownership within one year after the

1 effective date of this amendatory Act of the 101st General
2 Assembly.

3 No State employee who works for any State agency that
4 regulates cannabis business establishment license holders who
5 participated personally and substantially in the award of
6 licenses under the Cannabis Regulation and Tax Act or a spouse
7 or immediate family member living with such person shall,
8 during State employment or within a period of 2 years
9 immediately after termination of State employment, hold an
10 ownership interest, other than a passive interest in a
11 publicly traded company, in any cannabis license under the
12 Cannabis Regulation and Tax Act.

13 (a-15) No person who has served as a statewide elected
14 official, the executive or administrative head of a State
15 agency, the deputy executive or administrative head of a State
16 agency, or a member of the General Assembly shall, within 2
17 years after the termination of service or employment, become a
18 lobbyist.

19 (b) No former officer of the executive branch or State
20 employee of the executive branch with regulatory or licensing
21 authority, or spouse or immediate family member living with
22 such person, shall, within a period of one year immediately
23 after termination of State employment, knowingly accept
24 employment or receive compensation or fees for services from a
25 person or entity if the officer or State employee, during the
26 year immediately preceding termination of State employment,

1 participated personally and substantially in making a
2 regulatory or licensing decision that directly applied to the
3 person or entity, or its parent or subsidiary.

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

16 The policies required under subsection (c) of this Section
17 shall be filed with the appropriate ethics commission
18 established under this Act or, for the Auditor General, with
19 the Office of the Auditor General.

20 (d) Each Inspector General shall have the authority to
21 determine that additional State positions under his or her
22 jurisdiction, not otherwise subject to the policies required
23 by subsection (c) of this Section, are nonetheless subject to
24 the notification requirement of subsection (f) below due to
25 their involvement in the award of State contracts or in
26 regulatory or licensing decisions.

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

14 (f) Any State employee in a position subject to the
15 policies required by subsection (c) or to a determination
16 under subsection (d), but who does not fall within the
17 prohibition of subsection (h) below, who is offered non-State
18 employment during State employment or within a period of one
19 year immediately after termination of State employment shall,
20 prior to accepting such non-State employment, notify the
21 appropriate Inspector General. Within 10 calendar days after
22 receiving notification from an employee in a position subject
23 to the policies required by subsection (c), such Inspector
24 General shall make a determination as to whether the State
25 employee is restricted from accepting such employment by
26 subsection (a) or (b). In making a determination, in addition

1 to any other relevant information, an Inspector General shall
2 assess the effect of the prospective employment or
3 relationship upon decisions referred to in subsections (a) and
4 (b), based on the totality of the participation by the former
5 officer, member, or State employee in those decisions. A
6 determination by an Inspector General must be in writing,
7 signed and dated by the Inspector General, and delivered to
8 the subject of the determination within 10 calendar days or
9 the person is deemed eligible for the employment opportunity.
10 For purposes of this subsection, "appropriate Inspector
11 General" means (i) for members and employees of the
12 legislative branch, the Legislative Inspector General; (ii)
13 for the Auditor General and employees of the Office of the
14 Auditor General, the Inspector General provided for in Section
15 30-5 of this Act; and (iii) for executive branch officers and
16 employees, the Inspector General having jurisdiction over the
17 officer or employee. Notice of any determination of an
18 Inspector General and of any such appeal shall be given to the
19 ultimate jurisdictional authority, the Attorney General, and
20 the Executive Ethics Commission.

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

26 On appeal, the Ethics Commission or Auditor General shall

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

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

- 1 (1) members or officers;
 - 2 (2) members of a commission or board created by the
3 Illinois Constitution;
 - 4 (3) persons whose appointment to office is subject to
5 the advice and consent of the Senate;
 - 6 (4) the head of a department, commission, board,
7 division, bureau, authority, or other administrative unit
8 within the government of this State;
 - 9 (5) chief procurement officers, State purchasing
10 officers, and their designees whose duties are directly
11 related to State procurement;
 - 12 (6) chiefs of staff, deputy chiefs of staff, associate
13 chiefs of staff, assistant chiefs of staff, and deputy
14 governors;
 - 15 (7) employees of the Illinois Racing Board; and
 - 16 (8) employees of the Illinois Gaming Board.
- 17 (i) For the purposes of this Section, with respect to
18 officers or employees of a regional transit board, as defined
19 in this Act, the phrase "person or entity" does not include:
20 (i) the United States government, (ii) the State, (iii)
21 municipalities, as defined under Article VII, Section 1 of the
22 Illinois Constitution, (iv) units of local government, as
23 defined under Article VII, Section 1 of the Illinois
24 Constitution, or (v) school districts.
25 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19.)