



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2079

Introduced 2/7/2023, by Rep. Anna Moeller - Daniel Didech

#### SYNOPSIS AS INTRODUCED:

50 ILCS 105/3

from Ch. 102, par. 3

Amends the Public Officer Prohibited Activities Act. Provides that a township officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the township if: (1) the township officer is appointed by the governing body of the township to represent the interests of the township on a not-for-profit corporation's board, then the township officer may actively vote on matters involving either that board or the township, so long as the membership on the not-for-profit board is not a paid position; or (2) the township officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the township, then the township officer may continue to serve, however, the township officer shall abstain from voting on an proposition before the township governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of quorum of the township governing body.

LRB103 04677 AWJ 49685 b

1 AN ACT concerning local government.

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

4 Section 5. The Public Officer Prohibited Activities Act is  
5 amended by changing Section 3 as follows:

6 (50 ILCS 105/3) (from Ch. 102, par. 3)

7 Sec. 3. Prohibited interest in contracts.

8 (a) No person holding any office, either by election or  
9 appointment under the laws or Constitution of this State, may  
10 be in any manner financially interested directly in his own  
11 name or indirectly in the name of any other person,  
12 association, trust, or corporation, in any contract or the  
13 performance of any work in the making or letting of which such  
14 officer may be called upon to act or vote. No such officer may  
15 represent, either as agent or otherwise, any person,  
16 association, trust, or corporation, with respect to any  
17 application or bid for any contract or work in regard to which  
18 such officer may be called upon to vote. Nor may any such  
19 officer take or receive, or offer to take or receive, either  
20 directly or indirectly, any money or other thing of value as a  
21 gift or bribe or means of influencing his vote or action in his  
22 official character. Any contract made and procured in  
23 violation hereof is void. This Section shall not apply to any

1 person serving on an advisory panel or commission, to any  
2 director serving on a hospital district board as provided  
3 under subsection (a-5) of Section 13 of the Hospital District  
4 Law, or to any person serving as both a contractual employee  
5 and as a member of a public hospital board as provided under  
6 Article 11 of the Illinois Municipal Code in a municipality  
7 with a population between 13,000 and 16,000 that is located in  
8 a county with a population between 50,000 and 70,000.

9 (b) However, any elected or appointed member of the  
10 governing body may provide materials, merchandise, property,  
11 services, or labor, subject to the following provisions under  
12 either paragraph (1) or (2):

13 (1) If:

14 A. the contract is with a person, firm,  
15 partnership, association, corporation, or cooperative  
16 association in which such interested member of the  
17 governing body of the municipality has less than a 7  
18 1/2% share in the ownership; and

19 B. such interested member publicly discloses the  
20 nature and extent of his interest prior to or during  
21 deliberations concerning the proposed award of the  
22 contract; and

23 C. such interested member abstains from voting on  
24 the award of the contract, though he shall be  
25 considered present for the purposes of establishing a  
26 quorum; and

1           D. such contract is approved by a majority vote of  
2 those members presently holding office; and

3           E. the contract is awarded after sealed bids to  
4 the lowest responsible bidder if the amount of the  
5 contract exceeds \$1500, or awarded without bidding if  
6 the amount of the contract is less than \$1500; and

7           F. the award of the contract would not cause the  
8 aggregate amount of all such contracts so awarded to  
9 the same person, firm, association, partnership,  
10 corporation, or cooperative association in the same  
11 fiscal year to exceed \$25,000.

12       (2) If:

13           A. the award of the contract is approved by a  
14 majority vote of the governing body of the  
15 municipality provided that any such interested member  
16 shall abstain from voting; and

17           B. the amount of the contract does not exceed  
18 \$2,000; and

19           C. the award of the contract would not cause the  
20 aggregate amount of all such contracts so awarded to  
21 the same person, firm, association, partnership,  
22 corporation, or cooperative association in the same  
23 fiscal year to exceed \$4,000; and

24           D. such interested member publicly discloses the  
25 nature and extent of his interest prior to or during  
26 deliberations concerning the proposed award of the

1 contract; and

2 E. such interested member abstains from voting on  
3 the award of the contract, though he shall be  
4 considered present for the purposes of establishing a  
5 quorum.

6 (b-5) In addition to the above exemptions, any elected or  
7 appointed member of the governing body may provide materials,  
8 merchandise, property, services, or labor if:

9 A. the contract is with a person, firm, partnership,  
10 association, corporation, or cooperative association in  
11 which the interested member of the governing body of the  
12 municipality, advisory panel, or commission has less than  
13 a 1% share in the ownership; and

14 B. the award of the contract is approved by a majority  
15 vote of the governing body of the municipality provided  
16 that any such interested member shall abstain from voting;  
17 and

18 C. such interested member publicly discloses the  
19 nature and extent of his interest before or during  
20 deliberations concerning the proposed award of the  
21 contract; and

22 D. such interested member abstains from voting on the  
23 award of the contract, though he shall be considered  
24 present for the purposes of establishing a quorum.

25 (c) A contract for the procurement of public utility  
26 services by a public entity with a public utility company is

1 not barred by this Section by one or more members of the  
2 governing body of the public entity being an officer or  
3 employee of the public utility company or holding an ownership  
4 interest of no more than 7 1/2% in the public utility company,  
5 or holding an ownership interest of any size if the public  
6 entity is a municipality with a population of less than 7,500  
7 and the public utility's rates are approved by the Illinois  
8 Commerce Commission. An elected or appointed member of the  
9 governing body of the public entity having such an interest  
10 shall be deemed not to have a prohibited interest under this  
11 Section.

12 (d) Notwithstanding any other provision of this Section or  
13 any other law to the contrary, until January 1, 1994, a member  
14 of the city council of a municipality with a population under  
15 20,000 may purchase real estate from the municipality, at a  
16 price of not less than 100% of the value of the real estate as  
17 determined by a written MAI certified appraisal or by a  
18 written certified appraisal of a State certified or licensed  
19 real estate appraiser, if the purchase is approved by a  
20 unanimous vote of the city council members then holding office  
21 (except for the member desiring to purchase the real estate,  
22 who shall not vote on the question).

23 (e) For the purposes of this Section only, a municipal  
24 officer shall not be deemed interested if the officer is an  
25 employee of a company or owns or holds an interest of 1% or  
26 less in the municipal officer's individual name in a company,

1 or both, that company is involved in the transaction of  
2 business with the municipality, and that company's stock is  
3 traded on a nationally recognized securities market, provided  
4 the interested member: (i) publicly discloses the fact that he  
5 or she is an employee or holds an interest of 1% or less in a  
6 company before deliberation of the proposed award of the  
7 contract; (ii) refrains from evaluating, recommending,  
8 approving, deliberating, or otherwise participating in  
9 negotiation, approval, or both, of the contract, work, or  
10 business; (iii) abstains from voting on the award of the  
11 contract though he or she shall be considered present for  
12 purposes of establishing a quorum; and (iv) the contract is  
13 approved by a majority vote of those members currently holding  
14 office.

15 A municipal officer shall not be deemed interested if the  
16 officer owns or holds an interest of 1% or less, not in the  
17 officer's individual name but through a mutual fund or  
18 exchange-traded fund, in a company, that company is involved  
19 in the transaction of business with the municipality, and that  
20 company's stock is traded on a nationally recognized  
21 securities market.

22 (f) Under either of the following circumstances, a  
23 municipal, ~~or county,~~ or township officer may hold a position  
24 on the board of a not-for-profit corporation that is  
25 interested in a contract, work, or business of the  
26 municipality, ~~or county,~~ or township:

1           (1) If the municipal, ~~or~~ county, or township officer  
2 is appointed by the governing body of the municipality, ~~or~~  
3 county, or township to represent the interests of the  
4 municipality, ~~or~~ county, or township on a not-for-profit  
5 corporation's board, then the municipal, ~~or~~ county, or  
6 township officer may actively vote on matters involving  
7 either that board or the municipality, ~~or~~ county, or  
8 township, at any time, so long as the membership on the  
9 not-for-profit board is not a paid position, except that  
10 the municipal, ~~or~~ county, or township officer may be  
11 reimbursed by the not-for-profit board for expenses  
12 incurred as the result of membership on the not-for-profit  
13 board.

14           (2) If the municipal, ~~or~~ county, or township officer  
15 is not appointed to the governing body of a not-for-profit  
16 corporation by the governing body of the municipality, ~~or~~  
17 county, or township, then the municipal, ~~or~~ county, or  
18 township officer may continue to serve; however, the  
19 municipal, ~~or~~ county, or township officer shall abstain  
20 from voting on any proposition before the municipal, ~~or~~  
21 county, or township governing body directly involving the  
22 not-for-profit corporation and, for those matters, shall  
23 not be counted as present for the purposes of a quorum of  
24 the municipal, ~~or~~ county, or township governing body.

25 (Source: P.A. 100-201, eff. 8-18-17.)