



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4073

Introduced 4/29/2005, by Rep. John A. Fritchey - William B. Black - Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-13  
30 ILCS 500/50-20  
30 ILCS 500/50-37 new

Amends the Illinois Procurement Code. Provides that State officers and employees prohibited from obtaining State contracts may not receive legal, banking, consulting, or other fees related to State government bond issuances. Prohibits waivers from the prohibition. Prohibits State contractors with contracts with an annual aggregate value of more than \$25,000 from making political contributions to the executive branch constitutional officers responsible for awarding the contracts. Establishes penalties for violations. Requires that each State contract bid or offer in excess of \$10,000 annual value must be accompanied by a disclosure of the bidder's or offeror's political contributions to the executive branch constitutional officer responsible for awarding the contract. Authorizes the State Comptroller to refuse payments under contracts for which those disclosures were not made. Makes other changes.

LRB094 12186 JAM 45656 b

1 AN ACT concerning procurement.

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

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Sections 50-13 and 50-20 and by adding Section 50-37  
6 as follows:

7 (30 ILCS 500/50-13)

8 Sec. 50-13. Conflicts of interest.

9 (a) Prohibition. It is unlawful for any person holding an  
10 elective office in this State, holding a seat in the General  
11 Assembly, or appointed to or employed in any of the offices or  
12 agencies of State government and who receives compensation for  
13 such employment in excess of 60% of the salary of the Governor  
14 of the State of Illinois, or who is an officer or employee of  
15 the Capital Development Board or the Illinois Toll Highway  
16 Authority, or who is the spouse or minor child of any such  
17 person to have or acquire any contract, or any direct pecuniary  
18 interest in any contract therein, whether for stationery,  
19 printing, paper, or any services, materials, or supplies, that  
20 will be wholly or partially satisfied by the payment of funds  
21 appropriated by the General Assembly of the State of Illinois  
22 or in any contract of the Capital Development Board or the  
23 Illinois Toll Highway Authority.

24 (b) Interests. It is unlawful for any firm, partnership,  
25 association, or corporation, in which any person listed in  
26 subsection (a) is entitled to receive (i) more than 7 1/2% of  
27 the total distributable income or (ii) an amount in excess of  
28 the salary of the Governor, to have or acquire any such  
29 contract or direct pecuniary interest therein.

30 (b-5) Notwithstanding any other provision of law, no person  
31 listed in subsection (a) may receive a legal, banking,  
32 consulting, or other fee related to the issuance of any bond

1 issued by the State or by any agency or other entity of State  
2 government.

3 (c) Combined interests. It is unlawful for any firm,  
4 partnership, association, or corporation, in which any person  
5 listed in subsection (a) together with his or her spouse or  
6 minor children is entitled to receive (i) more than 15%, in the  
7 aggregate, of the total distributable income or (ii) an amount  
8 in excess of 2 times the salary of the Governor, to have or  
9 acquire any such contract or direct pecuniary interest therein.

10 (c-5) Appointees and firms. In addition to any provisions  
11 of this Code, the interests of certain appointees and their  
12 firms are subject to Section 3A-35 of the Illinois Governmental  
13 Ethics Act.

14 (d) Securities. Nothing in this Section invalidates the  
15 provisions of any bond or other security previously offered or  
16 to be offered for sale or sold by or for the State of Illinois.

17 (e) Prior interests. This Section does not affect the  
18 validity of any contract made between the State and an officer  
19 or employee of the State or member of the General Assembly, his  
20 or her spouse, minor child, or other immediate family member  
21 living in his or her residence or any combination of those  
22 persons if that contract was in existence before his or her  
23 election or employment as an officer, member, or employee. The  
24 contract is voidable, however, if it cannot be completed within  
25 365 days after the officer, member, or employee takes office or  
26 is employed.

27 (f) Exceptions.

28 (1) Public aid payments. This Section does not apply to  
29 payments made for a public aid recipient.

30 (2) Teaching. This Section does not apply to a contract  
31 for personal services as a teacher or school administrator  
32 between a member of the General Assembly or his or her  
33 spouse, or a State officer or employee or his or her  
34 spouse, and any school district, public community college  
35 district, the University of Illinois, Southern Illinois  
36 University, Illinois State University, Eastern Illinois

1 University, Northern Illinois University, Western Illinois  
2 University, Chicago State University, Governor State  
3 University, or Northeastern Illinois University.

4 (3) Ministerial duties. This Section does not apply to  
5 a contract for personal services of a wholly ministerial  
6 character, including but not limited to services as a  
7 laborer, clerk, typist, stenographer, page, bookkeeper,  
8 receptionist, or telephone switchboard operator, made by a  
9 spouse or minor child of an elective or appointive State  
10 officer or employee or of a member of the General Assembly.

11 (4) Child and family services. This Section does not  
12 apply to payments made to a member of the General Assembly,  
13 a State officer or employee, his or her spouse or minor  
14 child acting as a foster parent, homemaker, advocate, or  
15 volunteer for or in behalf of a child or family served by  
16 the Department of Children and Family Services.

17 (5) Licensed professionals. Contracts with licensed  
18 professionals, provided they are competitively bid or part  
19 of a reimbursement program for specific, customary goods  
20 and services through the Department of Children and Family  
21 Services, the Department of Human Services, the Department  
22 of Public Aid, the Department of Public Health, or the  
23 Department on Aging.

24 (g) Penalty. A person convicted of a violation of this  
25 Section is guilty of a business offense and shall be fined not  
26 less than \$1,000 nor more than \$5,000.

27 (Source: P.A. 93-615, eff. 11-19-03.)

28 (30 ILCS 500/50-20)

29 Sec. 50-20. Exemptions. With the approval of the  
30 appropriate chief procurement officer involved, the Governor,  
31 or an executive ethics board or commission he or she  
32 designates, may exempt named individuals from the prohibitions  
33 of Section 50-13, except the prohibitions set forth in  
34 subsection (b-5) of Section 50-13, when, in his, her, or its  
35 judgment, the public interest in having the individual in the

1 service of the State outweighs the public policy evidenced in  
2 that Section. An exemption is effective only when it is filed  
3 with the Secretary of State and the Comptroller and includes a  
4 statement setting forth the name of the individual and all the  
5 pertinent facts that would make that Section applicable,  
6 setting forth the reason for the exemption, and declaring the  
7 individual exempted from that Section. Notice of each exemption  
8 shall be published in the Illinois Procurement Bulletin.

9 (Source: P.A. 90-572, eff. 2-6-98.)

10 (30 ILCS 500/50-37 new)

11 Sec. 50-37. Disclosure of political contributions.

12 (a) All offers from responsive bidders or offerors with an  
13 annual value of more than \$10,000 shall be accompanied by  
14 disclosure of the political contributions of the contractor,  
15 bidder, or proposer as provided in this Section. The  
16 appropriate chief procurement officer shall ensure that this  
17 disclosure is not used in the awarding of the contract or  
18 selection of the vendor and further ensure that the disclosure  
19 remains confidential until after the contract is awarded or  
20 vendor is selected. The disclosure of each successful bidder or  
21 offeror shall become part of the publicly available contract or  
22 procurement file maintained by the appropriate chief  
23 procurement officer and shall also be filed with the  
24 Comptroller as part of the filing required pursuant to Section  
25 20-80 of this Code.

26 (b) Disclosure by the responsive bidders or offerors shall  
27 include at least the names and addresses of the contributors  
28 and the dollar amounts of any contributions to the officeholder  
29 responsible for awarding the contract or to any political  
30 committees established to promote the candidacy of such  
31 officeholder made within the previous 2 years by the responsive  
32 bidders or offerors and any affiliated persons or entities.

33 (c) As used in this Section:

34 "Contribution" means contribution as defined in Section  
35 9-1.4 of the Election Code.

1 "Officeholder" means the Governor, Lieutenant Governor,  
2 Attorney General, Secretary of State, Comptroller, or  
3 Treasurer. The Governor shall be considered the officeholder  
4 responsible for awarding all contracts by all officers and  
5 employees of, and vendors and others doing business with,  
6 executive branch State agencies under the jurisdiction of the  
7 Executive Ethics Commission and not within the jurisdiction of  
8 the Attorney General, the Secretary of State, the Comptroller,  
9 or the Treasurer.

10 "Sponsoring entity" means sponsoring entity as defined in  
11 Section 9-3 of the Election Code.

12 "Affiliated person" means (i) any person with any ownership  
13 interest or distributive share of the bidding or contracting  
14 entity in excess of 5%, (ii) executive employees of the bidding  
15 or contracting entity, and (iii) the spouse and minor children  
16 of any such persons.

17 "Affiliated entity" means (i) any subsidiary of the bidding  
18 or contracting entity, (ii) any member of the same unitary  
19 business group, or (iii) any political committee for which the  
20 bidding or contracting entity is the sponsoring entity.

21 (d) Pursuant to Section 9 of the State Comptroller Act, the  
22 Comptroller may refuse to draw a warrant for payment on any  
23 voucher based on the obligation of any contract if the  
24 disclosures required by this Section are not filed with the  
25 Comptroller.

26 (e) Notwithstanding subsection (b), contributions to any  
27 candidate that in the aggregate do not exceed \$500 within the  
28 previous 2 years do not need to be disclosed.

29 (f) Any business whose contracts with State agencies, in  
30 the aggregate, annually total more than \$25,000 is prohibited  
31 from making any contributions to the officeholder responsible  
32 for awarding the contracts or to any political committees  
33 established to promote the candidacy of that officeholder. This  
34 prohibition shall be effective for the current term of office  
35 of the incumbent awarding the contracts or for a period of 2  
36 years following the conclusion of the contracts, whichever is

1 longer. This prohibition shall also apply to contributions from  
2 any affiliated persons or entities.

3 (g) All contracts between State agencies and a business  
4 that violates subsection (f) shall be voidable under Section  
5 50-60.

6 If a business violates subsection (f) 3 or more times  
7 within a 36-month period, then all contracts between State  
8 agencies and that business shall be void, and that business  
9 shall not bid or respond to any invitation to bid or request  
10 for proposals from any State agency or otherwise enter into any  
11 contract with any State agency for 3 years from the date of the  
12 last violation.

13 A notice of each violation and the penalty imposed shall be  
14 published in both the Procurement Bulletin and the Illinois  
15 Register.