



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2138

Introduced 10/19/2005, by Sen. Miguel del Valle - Jeffrey M. Schoenberg

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. Effective July 1, 2006.

LRB094 14166 JAM 49073 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.

16 Section 99. Effective date. This Act takes effect July 1,
17 2006.