

HB5890



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5890

by Rep. Brent Hassert - Renée Kosel - Ed Sullivan, Jr.

SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-35

Amends the Illinois Procurement Code. Requires that the disclosure of financial interests filed by a State contract bidder or offeror include the financial interests of each subcontractor named in the bid or offer.

LRB095 17970 JAM 44052 b

A BILL FOR

1 AN ACT concerning finance.

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 Section 50-35 as follows:

6 (30 ILCS 500/50-35)

7 Sec. 50-35. Disclosure and potential conflicts of
8 interest.

9 (a) All offers from responsive bidders or offerors with an
10 annual value of more than \$10,000 shall be accompanied by
11 disclosure of the financial interests of (i) the contractor,
12 bidder, or proposer and (ii) each subcontractor named in the
13 offer. The financial disclosure of each successful bidder or
14 offeror shall become part of the publicly available contract or
15 procurement file maintained by the appropriate chief
16 procurement officer.

17 (b) Disclosure by the responsive bidders or offerors shall
18 include any ownership or distributive income share that is in
19 excess of 5%, or an amount greater than 60% of the annual
20 salary of the Governor, of the bidding entity or its parent
21 entity, whichever is less, unless the contractor or bidder (i)
22 is a publicly traded entity subject to Federal 10K reporting,
23 in which case it may submit its 10K disclosure in place of the

1 prescribed disclosure, or (ii) is a privately held entity that
2 is exempt from Federal 10k reporting but has more than 400
3 shareholders, in which case it may submit the information that
4 Federal 10k reporting companies are required to report under 17
5 CFR 229.401 and list the names of any person or entity holding
6 any ownership share that is in excess of 5% in place of the
7 prescribed disclosure. The form of disclosure shall be
8 prescribed by the applicable chief procurement officer and must
9 include at least the names, addresses, and dollar or
10 proportionate share of ownership of each person identified in
11 this Section, their instrument of ownership or beneficial
12 relationship, and notice of any potential conflict of interest
13 resulting from the current ownership or beneficial
14 relationship of each person identified in this Section having
15 in addition any of the following relationships:

16 (1) State employment, currently or in the previous 3
17 years, including contractual employment of services.

18 (2) State employment of spouse, father, mother, son, or
19 daughter, including contractual employment for services in
20 the previous 2 years.

21 (3) Elective status; the holding of elective office of
22 the State of Illinois, the government of the United States,
23 any unit of local government authorized by the Constitution
24 of the State of Illinois or the statutes of the State of
25 Illinois currently or in the previous 3 years.

26 (4) Relationship to anyone holding elective office

1 currently or in the previous 2 years; spouse, father,
2 mother, son, or daughter.

3 (5) Appointive office; the holding of any appointive
4 government office of the State of Illinois, the United
5 States of America, or any unit of local government
6 authorized by the Constitution of the State of Illinois or
7 the statutes of the State of Illinois, which office
8 entitles the holder to compensation in excess of expenses
9 incurred in the discharge of that office currently or in
10 the previous 3 years.

11 (6) Relationship to anyone holding appointive office
12 currently or in the previous 2 years; spouse, father,
13 mother, son, or daughter.

14 (7) Employment, currently or in the previous 3 years,
15 as or by any registered lobbyist of the State government.

16 (8) Relationship to anyone who is or was a registered
17 lobbyist in the previous 2 years; spouse, father, mother,
18 son, or daughter.

19 (9) Compensated employment, currently or in the
20 previous 3 years, by any registered election or re-election
21 committee registered with the Secretary of State or any
22 county clerk in the State of Illinois, or any political
23 action committee registered with either the Secretary of
24 State or the Federal Board of Elections.

25 (10) Relationship to anyone; spouse, father, mother,
26 son, or daughter; who is or was a compensated employee in

1 the last 2 years of any registered election or re-election
2 committee registered with the Secretary of State or any
3 county clerk in the State of Illinois, or any political
4 action committee registered with either the Secretary of
5 State or the Federal Board of Elections.

6 (b-5) The disclosure required by this Section shall include
7 each interest, as described in subsection (b), of each
8 subcontractor named in the offer.

9 (c) The disclosure in subsection (b) is not intended to
10 prohibit or prevent any contract. The disclosure is meant to
11 fully and publicly disclose any potential conflict to the chief
12 procurement officers, State purchasing officers, their
13 designees, and executive officers so they may adequately
14 discharge their duty to protect the State.

15 (d) In the case of any contract for personal services in
16 excess of \$50,000; any contract competitively bid in excess of
17 \$250,000; any other contract in excess of \$50,000; when a
18 potential for a conflict of interest is identified, discovered,
19 or reasonably suspected it shall be reviewed and commented on
20 in writing by the Governor of the State of Illinois, or by an
21 executive ethics board or commission he or she might designate.
22 The comment shall be returned to the responsible chief
23 procurement officer who must rule in writing whether to void or
24 allow the contract, bid, offer, or proposal weighing the best
25 interest of the State of Illinois. The comment and
26 determination shall become a publicly available part of the

1 contract, bid, or proposal file.

2 (e) These thresholds and disclosure do not relieve the
3 chief procurement officer, the State purchasing officer, or
4 their designees from reasonable care and diligence for any
5 contract, bid, offer, or proposal. The chief procurement
6 officer, the State purchasing officer, or their designees shall
7 be responsible for using any reasonably known and publicly
8 available information to discover any undisclosed potential
9 conflict of interest and act to protect the best interest of
10 the State of Illinois.

11 (f) Inadvertent or accidental failure to fully disclose
12 shall render the contract, bid, proposal, or relationship
13 voidable by the chief procurement officer if he or she deems it
14 in the best interest of the State of Illinois and, at his or
15 her discretion, may be cause for barring from future contracts,
16 bids, proposals, or relationships with the State for a period
17 of up to 2 years.

18 (g) Intentional, willful, or material failure to disclose
19 shall render the contract, bid, proposal, or relationship
20 voidable by the chief procurement officer if he or she deems it
21 in the best interest of the State of Illinois and shall result
22 in debarment from future contracts, bids, proposals, or
23 relationships for a period of not less than 2 years and not
24 more than 10 years. Reinstatement after 2 years and before 10
25 years must be reviewed and commented on in writing by the
26 Governor of the State of Illinois, or by an executive ethics

1 board or commission he or she might designate. The comment
2 shall be returned to the responsible chief procurement officer
3 who must rule in writing whether and when to reinstate.

4 (h) In addition, all disclosures shall note any other
5 current or pending contracts, proposals, leases, or other
6 ongoing procurement relationships the bidding, proposing, or
7 offering entity has with any other unit of State government and
8 shall clearly identify the unit and the contract, proposal,
9 lease, or other relationship.

10 (Source: P.A. 95-331, eff. 8-21-07.)