



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB6702

by Rep. John A. Fritchey - Jay C. Hoffman

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/9-35 new  
30 ILCS 500/20-160 new  
30 ILCS 500/50-37 new

Amends the Election Code and the Illinois Procurement Code. Prohibits campaign contributions from a business entity with annual aggregate State contracts or pending State contract bids of more than \$50,000, or from the business entity's affiliates, to any political committee (i) established to promote the candidacy of a State executive branch constitutional officer, legislator, or candidate for one of those offices or (ii) of a state central committee represented by a State executive branch constitutional officer or legislator. Defines State contracts as contracts awarded by executive or legislative branch agencies or the Auditor General. Specifies the duration of the contribution prohibition and the penalties for violations. Requires that business entities subject to the prohibition electronically register with the State Board of Elections, including disclosure of their affiliates. Specifies penalties for failure to register or to maintain accurate registration. Makes other changes.

LRB095 22392 JAM 52731 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Election Code is amended by adding Section  
5 9-35 as follows:

6 (10 ILCS 5/9-35 new)

7 Sec. 9-35. Registration of business entities.

8 (a) This Section governs the procedures for the  
9 registration required under Section 20-160 of the Illinois  
10 Procurement Code.

11 For the purposes of this Section, the terms "officeholder",  
12 "State contract", "business entity", "State agency",  
13 "affiliated entity", and "affiliated person" have the meanings  
14 ascribed to those terms in Section 50-37 of the Illinois  
15 Procurement Code.

16 (b) Registration under Section 20-160 of the Illinois  
17 Procurement Code, and any changes to that registration, must be  
18 made electronically. The State Board of Elections by rule shall  
19 provide for electronic registration, which must contain  
20 substantially the following:

21 (1) The name and address of the business entity.

22 (2) The name and address of any affiliated entity of  
23 the business entity, including a description of the

1 affiliation.

2 (3) The name and address of any affiliated person of  
3 the business entity, including a description of the  
4 affiliation.

5 (c) The Board shall provide a certificate of registration  
6 to the business entity. The certificate shall be electronic and  
7 accessible to the business entity through the State Board of  
8 Elections' website and protected by a password.

9 (d) Any business entity required to register under Section  
10 20-160 of the Illinois Procurement Code shall provide a copy of  
11 the registration certificate, by first class mail or hand  
12 delivery within 10 days after registration, to each affiliated  
13 entity or affiliated person whose identity is required to be  
14 disclosed. Failure to provide notice to an affiliated entity or  
15 affiliated person is a business offense for which the business  
16 entity is subject to a fine not to exceed \$1,001.

17 (e) In addition to any penalty under Section 20-160 of the  
18 Illinois Procurement Code, intentional, willful, or material  
19 failure to disclose information required for registration is  
20 subject to a civil penalty imposed by the State Board of  
21 Elections. The State Board shall impose a civil penalty of  
22 \$1,000 per business day for failure to update a registration.

23 (f) Any business entity required to register under Section  
24 20-160 of the Illinois Procurement Code shall notify any  
25 political committee to which it makes a contribution, at the  
26 time of the contribution, that the business entity is

1 registered with the State Board of Elections under Section  
2 20-160 of the Illinois Procurement Code. Any affiliated entity  
3 or affiliated person of a business entity required to register  
4 under Section 20-160 of the Illinois Procurement Code shall  
5 notify any political committee to which it makes a contribution  
6 that it is affiliated with a business entity registered with  
7 the State Board of Elections under Section 20-160 of the  
8 Illinois Procurement Code.

9 (g) The State Board of Elections on its official website  
10 shall have a searchable database containing (i) all information  
11 required to be submitted to the Board under Section 20-160 of  
12 the Illinois Procurement Code and (ii) all reports filed under  
13 this Article with the State Board of Elections by all political  
14 committees. For the purposes of databases maintained by the  
15 State Board of Elections, "searchable" means able to search by  
16 "political committee", as defined in this Article, and by  
17 "officeholder", "State agency", "business entity", "affiliated  
18 entity", and "affiliated person". The Board shall not place the  
19 name of a minor child on the website. However, the Board shall  
20 provide a link to all contributions made by anyone reporting  
21 the same residential address as any affiliated person. In  
22 addition, the State Board of Elections on its official website  
23 shall provide an electronic connection to any searchable  
24 database of State contracts maintained by the Comptroller,  
25 searchable by business entity.

26 (h) The State Board of Elections shall have rulemaking

1 authority to implement this Section.

2 Section 10. The Illinois Procurement Code is amended by  
3 adding Sections 20-160 and 50-37 as follows:

4 (30 ILCS 500/20-160 new)

5 Sec. 20-160. Business entities; certification;  
6 registration with the State Board of Elections.

7 (a) For purposes of this Section, the terms "business  
8 entity", "contract", "State contract", "contract with a State  
9 agency", "State agency", "affiliated entity", and "affiliated  
10 person" have the meanings ascribed to those terms in Section  
11 50-37.

12 (b) Every bid submitted to and every contract executed by  
13 the State on or after the effective date of this amendatory Act  
14 of the 95th General Assembly shall contain (1) a certification  
15 by the bidder or contractor that either (i) the bidder or  
16 contractor is not required to register as a business entity  
17 with the State Board of Elections pursuant to this Section or  
18 (ii) the bidder or contractor has registered as a business  
19 entity with the State Board of Elections and acknowledges a  
20 continuing duty to update the registration and (2) a statement  
21 that the contract is voidable under Section 50-60 for the  
22 bidder's or contractor's failure to comply with this Section.

23 (c) Within 30 days after the effective date of this  
24 amendatory Act of the 95th General Assembly, each business

1 entity (i) whose aggregate bids and proposals on State  
2 contracts annually total more than \$50,000, (ii) whose  
3 aggregate bids and proposals on State contracts combined with  
4 the business entity's aggregate annual total value of State  
5 contracts exceed \$50,000, or (iii) whose contracts with State  
6 agencies, in the aggregate, annually total more than \$50,000  
7 shall register with the State Board of Elections in accordance  
8 with Section 9-35 of the Election Code. A business entity  
9 required to register under this subsection shall submit a copy  
10 of the certificate of registration to the applicable chief  
11 procurement officer within 90 days after the effective date of  
12 this amendatory Act of the 95th General Assembly. A business  
13 entity required to register under this subsection due to item  
14 (i) or (ii) has a continuing duty to ensure that the  
15 registration is accurate during the period beginning on the  
16 date of registration and ending on the day after the date the  
17 contract is awarded; any change in information must be reported  
18 to the State Board of Elections within 2 business days  
19 following such change. A business entity required to register  
20 under this subsection due to item (iii) has a continuing duty  
21 to ensure that the registration is accurate in accordance with  
22 subsection (f).

23 (d) Any business entity, not required under subsection (c)  
24 to register within 30 days after the effective date of this  
25 amendatory Act of the 95th General Assembly, whose aggregate  
26 bids and proposals on State contracts annually total more than

1 \$50,000, or whose aggregate bids and proposals on State  
2 contracts combined with the business entity's aggregate annual  
3 total value of State contracts exceed \$50,000, shall register  
4 with the State Board of Elections in accordance with Section  
5 9-35 of the Election Code prior to submitting to a State agency  
6 the bid or proposal whose value causes the business entity to  
7 fall within the monetary description of this subsection. A  
8 business entity required to register under this subsection has  
9 a continuing duty to ensure that the registration is accurate  
10 during the period beginning on the date of registration and  
11 ending on the day after the date the contract is awarded. Any  
12 change in information must be reported to the State Board of  
13 Elections within 2 business days following such change.

14 (e) A business entity whose contracts with State agencies,  
15 in the aggregate, annually total more than \$50,000 must  
16 maintain its registration under this Section and has a  
17 continuing duty to ensure that the registration is accurate for  
18 the duration of the term of office of the incumbent  
19 officerholder awarding the contracts or for a period of 2 years  
20 following the expiration or termination of the contracts,  
21 whichever is longer. Any change in information shall be  
22 reported to the State Board of Elections within 10 days  
23 following such change; however, if a business entity required  
24 to register under this subsection has a pending bid or  
25 proposal, any change in information shall be reported to the  
26 State Board of Elections within 2 business days.

1       (f) A business entity's continuing duty under this Section  
2 to ensure the accuracy of its registration includes the  
3 requirement that the business entity notify the State Board of  
4 Elections of any change in information, including but not  
5 limited to changes of affiliated entities or affiliated  
6 persons.

7       (g) A copy of a certificate of registration must accompany  
8 any bid or proposal for a contract with a State agency by a  
9 business entity required to register under this Section. A  
10 chief procurement officer shall not accept a bid or proposal  
11 unless the certificate is submitted to the agency with the bid  
12 or proposal.

13       (h) A registration, and any changes to a registration, must  
14 include the business entity's verification of accuracy and  
15 subjects the business entity to the penalties of the laws of  
16 this State for perjury.

17       In addition to any penalty under Section 9-35 of the  
18 Election Code, intentional, willful, or material failure to  
19 disclose information required for registration shall render  
20 the contract, bid, proposal, or other procurement relationship  
21 voidable by the chief procurement officer if he or she deems it  
22 to be in the best interest of the State of Illinois.

23       (i) This Section applies regardless of the method of source  
24 selection used in awarding the contract.



1       Sec. 50-37. Prohibition of political contributions.

2       (a) As used in this Section:

3           The terms "contract", "State contract", and "contract  
4 with a State agency" each mean any contract, as defined in  
5 this Code, between a business entity and a State agency let  
6 or awarded pursuant to this Code. The terms "contract",  
7 "State contract", and "contract with a State agency" do not  
8 include cost reimbursement contracts; purchase of care  
9 agreements as defined in Section 1-15.68 of this Code;  
10 grants, including but are not limited to grants for job  
11 training or transportation; and grants, loans, or tax  
12 credit agreements for economic development purposes.

13           "Contribution" means a contribution as defined in  
14 Section 9-1.4 of the Election Code.

15           "Declared candidate" means a person who has filed a  
16 statement of candidacy and petition for nomination or  
17 election in the principal office of the State Board of  
18 Elections.

19           "State agency" means and includes all boards,  
20 commissions, agencies, institutions, authorities, and  
21 bodies politic and corporate of the State, created by or in  
22 accordance with the Illinois Constitution or State  
23 statute, of the executive branch or legislative branch of  
24 State government, and the Auditor General, and does include  
25 colleges, universities, public employee retirement  
26 systems, and institutions under the jurisdiction of the

1 governing boards of the University of Illinois, Southern  
2 Illinois University, Illinois State University, Eastern  
3 Illinois University, Northern Illinois University, Western  
4 Illinois University, Chicago State University, Governors  
5 State University, Northeastern Illinois University, and  
6 the Illinois Board of Higher Education.

7 "Officeholder" means the Governor, Lieutenant  
8 Governor, Attorney General, Secretary of State,  
9 Comptroller, or Treasurer. The Governor shall be  
10 considered the officeholder responsible for awarding all  
11 contracts by all officers and employees of, and vendors and  
12 others doing business with, executive branch State  
13 agencies under the jurisdiction of the Executive Ethics  
14 Commission and not within the jurisdiction of the Attorney  
15 General, the Secretary of State, the Comptroller, or the  
16 Treasurer.

17 "Sponsoring entity" means a sponsoring entity as  
18 defined in Section 9-3 of the Election Code.

19 "Affiliated person" means (i) any person with any  
20 ownership interest or distributive share of the bidding or  
21 contracting business entity in excess of 7.5%, (ii)  
22 executive employees of the bidding or contracting business  
23 entity, and (iii) the spouse and minor children of any such  
24 persons.

25 "Affiliated entity" means (i) any subsidiary of the  
26 bidding or contracting business entity, (ii) any member of

1 the same unitary business group, (iii) any organization  
2 recognized by the United States Internal Revenue Service as  
3 a tax-exempt organization described in Section 501(c) of  
4 the Internal Revenue Code of 1986 (or any successor  
5 provision of federal tax law) established by the bidding or  
6 contracting business entity, any affiliated entity of that  
7 business entity, or any affiliated person of that business  
8 entity, or (iv) any political committee for which the  
9 bidding or contracting business entity, or any 501(c)  
10 organization described in item (iii) related to that  
11 business entity, is the sponsoring entity.

12 "Business entity" means any entity doing business for  
13 profit, whether organized as a corporation, partnership,  
14 sole proprietorship, limited liability company or  
15 partnership, or otherwise.

16 "Executive employee" means the President, Chairman,  
17 Chief Executive Officer, or other employee with executive  
18 decision-making authority over the long-term and  
19 day-to-day affairs of the entity employing the employee, or  
20 an employee whose compensation is determined directly, in  
21 whole or in part, by the award or payment of contracts by a  
22 State agency to the entity employing the employee.

23 (b) Any business entity whose contracts with State  
24 agencies, in the aggregate, annually total more than \$50,000,  
25 and any affiliated entities or affiliated persons of such  
26 business entity, are prohibited from making any contributions

1 to (i) any political committees established to promote the  
2 candidacy of an officeholder or declared candidate for that  
3 office, (ii) any political committees established to promote  
4 the candidacy of any member of the General Assembly or declared  
5 candidate for membership in the General Assembly, or (iii) any  
6 political committee of a state central committee of any  
7 political party that is represented by an officeholder or  
8 member of the General Assembly or a declared candidate for that  
9 office or membership in the General Assembly. This prohibition  
10 shall be effective for the duration of the term of the contract  
11 and for a period of 2 years following the expiration or  
12 termination of the contracts.

13 (c) Any business entity whose aggregate pending bids and  
14 proposals on State contracts total more than \$50,000, or whose  
15 aggregate pending bids and proposals on State contracts  
16 combined with the business entity's aggregate annual total  
17 value of State contracts exceed \$50,000, and any affiliated  
18 entities or affiliated persons of such business entity, are  
19 prohibited from making any contributions to (i) any political  
20 committee established to promote the candidacy of any  
21 officeholder or declared candidate for that office, (ii) any  
22 political committee established to promote the candidacy of any  
23 member of the General Assembly or declared candidate for  
24 membership in the General Assembly, or (iii) any political  
25 committee of a state central committee of any political party  
26 that is represented by an officeholder or member of the General

1 Assembly or a declared candidate for that office or membership  
2 in the General Assembly. This prohibition shall be effective  
3 during the period beginning on the date the invitation for bids  
4 or request for proposals is issued and ending on the day after  
5 the date the contract is awarded.

6 (d) All contracts between State agencies and a business  
7 entity that violate subsection (b) or (c) shall be voidable  
8 under Section 50-60. If a business entity violates subsection  
9 (b) 3 or more times within a 36-month period, then all  
10 contracts between State agencies and that business entity shall  
11 be void, and that business entity shall not bid or respond to  
12 any invitation to bid or request for proposals from any State  
13 agency or otherwise enter into any contract with any State  
14 agency for 3 years from the date of the last violation. A  
15 notice of each violation and the penalty imposed shall be  
16 published in both the Procurement Bulletin and the Illinois  
17 Register.

18 (e) Any political committee that has received a  
19 contribution in violation of subsection (b) or (c) shall pay an  
20 amount equal to the value of the contribution to the State no  
21 more than 30 days after notice of the violation concerning the  
22 contribution appears in the Illinois Register. Payments  
23 received by the State pursuant to this subsection shall be  
24 deposited into the general revenue fund.

25 (f) Nothing in this Section shall prohibit an individual  
26 from making a contribution to a political committee established

1 to promote his or her own candidacy for office or for  
2 membership in the General Assembly.

3 (g) This Section shall not apply in circumstances when it  
4 is determined by the federal government or a court of competent  
5 jurisdiction that its application would violate federal law or  
6 regulation or otherwise prevent the State's receipt of federal  
7 funds.

8 Section 97. Severability. If the provisions of this Act or  
9 its application to any person or circumstance is held invalid,  
10 the invalidity of that provision or application does not affect  
11 the other provisions or applications of this Act that can be  
12 given effect without the invalid provision or application.