



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1305

Introduced 2/9/2007, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

5 ILCS 420/4A-105 from Ch. 127, par. 604A-105
30 ILCS 500/50-13
30 ILCS 500/50-20
30 ILCS 500/50-21 new

Amends the Illinois Governmental Ethics Act. Requires that a special government agent file his or her statement of economic interests within 60 days after assuming responsibilities as a special government agent (now, within 30 days after making an ex parte communication). Amends the Illinois Procurement Code. Prohibits all State employees from obtaining State contracts (now, those earning more than 60% of the Governor's compensation). Requires that a waiver from the prohibition against obtaining State contracts must be filed within the earlier of 60 days after it is issued or when contract performance begins, and provides that the contract is voidable if the waiver is not filed within that period. Prohibits the State from entering into a contract with respect to the issuance of bonds or other securities with an entity that uses an independent consultant. Defines an independent consultant. Requires that a State contract with an entity subject to certain Municipal Securities Rulemaking Board requirements for reporting political contributions must include a certification of compliance during the contract with those requirements. Provides that violation makes the contract voidable by the State and bars the entity from State contracts with respect to issuance of bonds or other securities for 10 years. Permanently bars an entity found guilty of violating the rules' prohibitions against obtaining or retaining securities business and making political contributions or payments. Effective immediately.

LRB095 10735 JAM 30973 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Governmental Ethics Act is amended
5 by changing Section 4A-105 as follows:

6 (5 ILCS 420/4A-105) (from Ch. 127, par. 604A-105)

7 Sec. 4A-105. Time for filing. Except as provided in
8 Section 4A-106.1, by May 1 of each year a statement must be
9 filed by each person whose position at that time subjects him
10 to the filing requirements of Section 4A-101 unless he has
11 already filed a statement in relation to the same unit of
12 government in that calendar year.

13 Statements must also be filed as follows:

14 (a) A candidate for elective office shall file his
15 statement not later than the end of the period during which
16 he can take the action necessary under the laws of this
17 State to attempt to qualify for nomination, election, or
18 retention to such office if he has not filed a statement in
19 relation to the same unit of government within a year
20 preceding such action.

21 (b) A person whose appointment to office is subject to
22 confirmation by the Senate shall file his statement at the
23 time his name is submitted to the Senate for confirmation.

1 (b-5) A special government agent, as defined in item
2 (1) of Section 4A-101 of this Act, shall file a statement
3 within 60 days after assuming responsibilities as a special
4 government agent ~~30 days after making the first ex parte~~
5 ~~communication~~ and each May 1 thereafter if he or she has
6 made an ex parte communication within the previous 12
7 months.

8 (c) Any other person required by this Article to file
9 the statement shall file a statement at the time of his or
10 her initial appointment or employment in relation to that
11 unit of government if appointed or employed by May 1.

12 If any person who is required to file a statement of
13 economic interests fails to file such statement by May 1 of any
14 year, the officer with whom such statement is to be filed under
15 Section 4A-106 of this Act shall, within 7 days after May 1,
16 notify such person by certified mail of his or her failure to
17 file by the specified date. Except as may be prescribed by rule
18 of the Secretary of State, such person shall file his or her
19 statement of economic interests on or before May 15 with the
20 appropriate officer, together with a \$15 late filing fee. Any
21 such person who fails to file by May 15 shall be subject to a
22 penalty of \$100 for each day from May 16 to the date of filing,
23 which shall be in addition to the \$15 late filing fee specified
24 above. Failure to file by May 31 shall result in a forfeiture
25 in accordance with Section 4A-107 of this Act.

26 Any person who takes office or otherwise becomes required

1 to file a statement of economic interests within 30 days prior
2 to May 1 of any year may file his or her statement at any time
3 on or before May 31 without penalty. If such person fails to
4 file such statement by May 31, the officer with whom such
5 statement is to be filed under Section 4A-106 of this Act
6 shall, within 7 days after May 31, notify such person by
7 certified mail of his or her failure to file by the specified
8 date. Such person shall file his or her statement of economic
9 interests on or before June 15 with the appropriate officer,
10 together with a \$15 late filing fee. Any such person who fails
11 to file by June 15 shall be subject to a penalty of \$100 per day
12 for each day from June 16 to the date of filing, which shall be
13 in addition to the \$15 late filing fee specified above. Failure
14 to file by June 30 shall result in a forfeiture in accordance
15 with Section 4A-107 of this Act.

16 All late filing fees and penalties collected pursuant to
17 this Section shall be paid into the General Revenue Fund in the
18 State treasury, if the Secretary of State receives such
19 statement for filing, or into the general fund in the county
20 treasury, if the county clerk receives such statement for
21 filing. The Attorney General, with respect to the State, and
22 the several State's Attorneys, with respect to counties, shall
23 take appropriate action to collect the prescribed penalties.

24 Failure to file a statement of economic interests within
25 the time prescribed shall not result in a fine or ineligibility
26 for, or forfeiture of, office or position of employment, as the

1 case may be; provided that the failure to file results from not
2 being included for notification by the appropriate agency,
3 clerk, secretary, officer or unit of government, as the case
4 may be, and that a statement is filed within 30 days of actual
5 notice of the failure to file.

6 (Source: P.A. 93-617, eff. 12-9-03.)

7 Section 10. The Illinois Procurement Code is amended by
8 changing Sections 50-13 and 50-20 and by adding Section 50-21
9 as follows:

10 (30 ILCS 500/50-13)

11 Sec. 50-13. Conflicts of interest.

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

1 or in any contract of the Capital Development Board or the
2 Illinois Toll Highway Authority.

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

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

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

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

23 (e) Prior interests. This Section does not affect the
24 validity of any contract made between the State and an officer
25 or employee of the State or member of the General Assembly, his
26 or her spouse, minor child, or other immediate family member

1 living in his or her residence or any combination of those
2 persons if that contract was in existence before his or her
3 election or employment as an officer, member, or employee. The
4 contract is voidable, however, if it cannot be completed within
5 365 days after the officer, member, or employee takes office or
6 is employed.

7 (f) Exceptions.

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

10 (2) Teaching. This Section does not apply to a contract
11 for personal services as a teacher or school administrator
12 between a member of the General Assembly or his or her
13 spouse, or a State officer or employee or his or her
14 spouse, and any school district, public community college
15 district, the University of Illinois, Southern Illinois
16 University, Illinois State University, Eastern Illinois
17 University, Northern Illinois University, Western Illinois
18 University, Chicago State University, Governor State
19 University, or Northeastern Illinois University.

20 (3) Ministerial duties. This Section does not apply to
21 a contract for personal services of a wholly ministerial
22 character, including but not limited to services as a
23 laborer, clerk, typist, stenographer, page, bookkeeper,
24 receptionist, or telephone switchboard operator, made by a
25 spouse or minor child of an elective or appointive State
26 officer or employee or of a member of the General Assembly.

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

7 (5) Licensed professionals. Contracts with licensed
8 professionals, provided they are competitively bid or part
9 of a reimbursement program for specific, customary goods
10 and services through the Department of Children and Family
11 Services, the Department of Human Services, the Department
12 of Healthcare and Family Services ~~Public Aid~~, the
13 Department of Public Health, or the Department on Aging.

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

17 (Source: P.A. 93-615, eff. 11-19-03; revised 12-15-05.)

18 (30 ILCS 500/50-20)

19 Sec. 50-20. Exemptions. With the approval of the
20 appropriate chief procurement officer involved, the Governor,
21 or an executive ethics board or commission he or she
22 designates, may exempt named individuals from the prohibitions
23 of Section 50-13 when, in his, her, or its judgment, the public
24 interest in having the individual in the service of the State
25 outweighs the public policy evidenced in that Section. An

1 exemption is effective only when it is filed with the Secretary
2 of State and the Comptroller within 60 days after its issuance
3 or when performance of the contract begins, whichever is
4 earlier, and includes a statement setting forth the name of the
5 individual and all the pertinent facts that would make that
6 Section applicable, setting forth the reason for the exemption,
7 and declaring the individual exempted from that Section. Notice
8 of each exemption shall be published in the Illinois
9 Procurement Bulletin.

10 A contract for which a waiver has been issued but has not
11 been filed in accordance with this Section is voidable.

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

13 (30 ILCS 500/50-21 new)

14 Sec. 50-21. Bond issuances.

15 (a) A State agency shall not enter into a contract with
16 respect to the issuance of bonds or other securities by the
17 State or a State agency with any entity that uses an
18 independent consultant.

19 As used in this subsection, "independent consultant" means
20 a person used by the entity to obtain or retain securities
21 business through direct or indirect communication by the person
22 with a State official or employee on behalf of the entity when
23 the communication is undertaken by the person in exchange for
24 or with the understanding of receiving payment from the entity
25 or another person. "Independent consultant" does not include

1 (i) a finance professional employed by the entity or (ii) a
2 person whose sole basis of compensation from the entity is the
3 actual provision of legal, accounting, or engineering advice,
4 services, or assistance in connection with the securities
5 business that the entity seeks to obtain or retain.

6 (b) Each contract entered into by a State agency with
7 respect to the issuance of bonds or other securities by the
8 State or a State agency shall include a certification by any
9 contracting party subject to the Municipal Securities
10 Rulemaking Board's Rule G-38, or a successor rule, that the
11 contracting entity is and shall remain for the duration of the
12 contract in compliance with the Rule's requirements for
13 reporting political contributions. Violation of the
14 certification makes the contract voidable by the State and
15 shall bar the awarding of a State agency contract with respect
16 to the issuance of bonds or other securities to the violator
17 for a period of 10 years after the determination of the
18 violation.

19 (c) Any entity convicted of violating the Municipal
20 Securities Rulemaking Board's Rule G-37 or Rule G-38, or any
21 successor rules, with respect to the prohibitions of those
22 rules against obtaining or retaining municipal securities
23 business and the making of political contributions or payments
24 is permanently barred from participating in any State agency
25 contract with respect to the issuance of bonds or other
26 securities.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.