



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1203

Introduced 2/11/2009, by Rep. Robert F. Flider - Michael K. Smith - Mark L. Walker - Keith Farnham - Daniel V. Beiser, et al.

#### SYNOPSIS AS INTRODUCED:

5 ILCS 420/4A-101	from Ch. 127, par. 604A-101
5 ILCS 420/4A-105	from Ch. 127, par. 604A-105
5 ILCS 420/4A-107	from Ch. 127, par. 604A-107
25 ILCS 170/4.5 new	
25 ILCS 170/11.3 new	

Amends the Illinois Governmental Ethics Act and the Lobbyist Registration Act. Redefines a special government agent who must file a statement of economic interests to include a person who, by or on behalf of a statewide executive branch constitutional officer, is directed, retained, designated, appointed, or employed to cause the making of an ex parte communication. Requires that a special government agent file a statement of economic interests before making any ex parte communications (now, within 30 days after). Makes a special government agent's failure to file a statement a Class 4 felony. Makes a special government agent ineligible for registration under the Lobbyist Registration Act. Makes it a violation of that Act for a person required to register to act as a special government agent and for a special government agent to engage in lobbying. Prohibits a person subject to the Act from accepting compensation from a State agency for lobbying legislative action. Exempts the salaries of full-time State employees with responsibilities or authority other than lobbying.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 Sections 4A-101, 4A-105, and 4A-107 as follows:

6 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

7 Sec. 4A-101. Persons required to file. The following  
8 persons shall file verified written statements of economic  
9 interests, as provided in this Article:

10 (a) Members of the General Assembly and candidates for  
11 nomination or election to the General Assembly.

12 (b) Persons holding an elected office in the Executive  
13 Branch of this State, and candidates for nomination or  
14 election to these offices.

15 (c) Members of a Commission or Board created by the  
16 Illinois Constitution, and candidates for nomination or  
17 election to such Commission or Board.

18 (d) Persons whose appointment to office is subject to  
19 confirmation by the Senate.

20 (e) Holders of, and candidates for nomination or  
21 election to, the office of judge or associate judge of the  
22 Circuit Court and the office of judge of the Appellate or  
23 Supreme Court.

1           (f) Persons who are employed by any branch, agency,  
2           authority or board of the government of this State,  
3           including but not limited to, the Illinois State Toll  
4           Highway Authority, the Illinois Housing Development  
5           Authority, the Illinois Community College Board, and  
6           institutions under the jurisdiction of the Board of  
7           Trustees of the University of Illinois, Board of Trustees  
8           of Southern Illinois University, Board of Trustees of  
9           Chicago State University, Board of Trustees of Eastern  
10          Illinois University, Board of Trustees of Governor's State  
11          University, Board of Trustees of Illinois State  
12          University, Board of Trustees of Northeastern Illinois  
13          University, Board of Trustees of Northern Illinois  
14          University, Board of Trustees of Western Illinois  
15          University, or Board of Trustees of the Illinois  
16          Mathematics and Science Academy, and are compensated for  
17          services as employees and not as independent contractors  
18          and who:

19               (1) are, or function as, the head of a department,  
20               commission, board, division, bureau, authority or  
21               other administrative unit within the government of  
22               this State, or who exercise similar authority within  
23               the government of this State;

24               (2) have direct supervisory authority over, or  
25               direct responsibility for the formulation,  
26               negotiation, issuance or execution of contracts

1 entered into by the State in the amount of \$5,000 or  
2 more;

3 (3) have authority for the issuance or  
4 promulgation of rules and regulations within areas  
5 under the authority of the State;

6 (4) have authority for the approval of  
7 professional licenses;

8 (5) have responsibility with respect to the  
9 financial inspection of regulated nongovernmental  
10 entities;

11 (6) adjudicate, arbitrate, or decide any judicial  
12 or administrative proceeding, or review the  
13 adjudication, arbitration or decision of any judicial  
14 or administrative proceeding within the authority of  
15 the State;

16 (7) have supervisory responsibility for 20 or more  
17 employees of the State; or

18 (8) negotiate, assign, authorize, or grant naming  
19 rights or sponsorship rights regarding any property or  
20 asset of the State, whether real, personal, tangible,  
21 or intangible.

22 (g) Persons who are elected to office in a unit of  
23 local government, and candidates for nomination or  
24 election to that office, including regional  
25 superintendents of school districts.

26 (h) Persons appointed to the governing board of a unit

1 of local government, or of a special district, and persons  
2 appointed to a zoning board, or zoning board of appeals, or  
3 to a regional, county, or municipal plan commission, or to  
4 a board of review of any county, and persons appointed to  
5 the Board of the Metropolitan Pier and Exposition Authority  
6 and any Trustee appointed under Section 22 of the  
7 Metropolitan Pier and Exposition Authority Act, and  
8 persons appointed to a board or commission of a unit of  
9 local government who have authority to authorize the  
10 expenditure of public funds. This subsection does not apply  
11 to members of boards or commissions who function in an  
12 advisory capacity.

13 (i) Persons who are employed by a unit of local  
14 government and are compensated for services as employees  
15 and not as independent contractors and who:

16 (1) are, or function as, the head of a department,  
17 division, bureau, authority or other administrative  
18 unit within the unit of local government, or who  
19 exercise similar authority within the unit of local  
20 government;

21 (2) have direct supervisory authority over, or  
22 direct responsibility for the formulation,  
23 negotiation, issuance or execution of contracts  
24 entered into by the unit of local government in the  
25 amount of \$1,000 or greater;

26 (3) have authority to approve licenses and permits

1 by the unit of local government; this item does not  
2 include employees who function in a ministerial  
3 capacity;

4 (4) adjudicate, arbitrate, or decide any judicial  
5 or administrative proceeding, or review the  
6 adjudication, arbitration or decision of any judicial  
7 or administrative proceeding within the authority of  
8 the unit of local government;

9 (5) have authority to issue or promulgate rules and  
10 regulations within areas under the authority of the  
11 unit of local government; or

12 (6) have supervisory responsibility for 20 or more  
13 employees of the unit of local government.

14 (j) Persons on the Board of Trustees of the Illinois  
15 Mathematics and Science Academy.

16 (k) Persons employed by a school district in positions  
17 that require that person to hold an administrative or a  
18 chief school business official endorsement.

19 (l) Special government agents. A "special government  
20 agent" is a person who is directed, retained, designated,  
21 appointed, or employed, with or without compensation, by or  
22 on behalf of a statewide executive branch constitutional  
23 officer to make, or cause to be made, an ex parte  
24 communication under Section 5-50 of the State Officials and  
25 Employees Ethics Act or Section 5-165 of the Illinois  
26 Administrative Procedure Act.

1 (m) Members of the board of commissioners of any flood  
2 prevention district.

3 This Section shall not be construed to prevent any unit of  
4 local government from enacting financial disclosure  
5 requirements that mandate more information than required by  
6 this Act.

7 (Source: P.A. 95-719, eff. 5-21-08.)

8 (5 ILCS 420/4A-105) (from Ch. 127, par. 604A-105)

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

15 Statements must also be filed as follows:

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

23 (b) A person whose appointment to office is subject to  
24 confirmation by the Senate shall file his statement at the  
25 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 before ~~within 30 days after~~ making the first ex parte  
4 communication and each May 1 thereafter if he or she has  
5 made an ex parte communication within the previous 12  
6 months.

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

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

25 Any person who takes office or otherwise becomes required  
26 to file a statement of economic interests within 30 days prior



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

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

23 Failure to file a statement of economic interests within  
24 the time prescribed shall not result in a fine or ineligibility  
25 for, or forfeiture of, office or position of employment, as the  
26 case may be; provided that the failure to file results from not

1 being included for notification by the appropriate agency,  
2 clerk, secretary, officer or unit of government, as the case  
3 may be, and that a statement is filed within 30 days of actual  
4 notice of the failure to file.

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

6 (5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

7 Sec. 4A-107. Any person required to file a statement of  
8 economic interests under this Article who willfully files a  
9 false or incomplete statement shall be guilty of a Class A  
10 misdemeanor.

11 Failure to file a statement within the time prescribed  
12 shall result in ineligibility for, or forfeiture of, office or  
13 position of employment, as the case may be; provided, however,  
14 that if the notice of failure to file a statement of economic  
15 interests provided in Section 4A-105 of this Act is not given  
16 by the Secretary of State or the county clerk, as the case may  
17 be, no forfeiture shall result if a statement is filed within  
18 30 days of actual notice of the failure to file. In addition,  
19 in the case of a special government agent as defined in Section  
20 4A-101(1), failure to file shall result in a Class 4 felony.

21 The Attorney General, with respect to offices or positions  
22 described in items (a) through (f) and items (j) and (l) of  
23 Section 4A-101 of this Act, or the State's Attorney of the  
24 county of the entity for which the filing of statements of  
25 economic interests is required, with respect to offices or

1 positions described in items (g) through (i) and item (k) of  
2 Section 4A-101 of this Act, shall bring an action in quo  
3 warranto against any person who has failed to file by either  
4 May 31 or June 30 of any given year.

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

6 Section 10. The Lobbyist Registration Act is amended by  
7 adding Sections 4.5 and 11.3 as follows:

8 (25 ILCS 170/4.5 new)

9 Sec. 4.5. Special government agent. A special government  
10 agent is ineligible to register under this Act.

11 It is a violation of this Act for a special government  
12 agent to engage in activities for which this Act requires  
13 registration.

14 It is a violation of this Act for a person registered or  
15 required to register under this Act to act as a special  
16 government agent.

17 "Special government agent" means a person required by item  
18 (1) of Section 4A-101 of the Illinois Governmental Ethics Act  
19 to file a statement of economic interests.

20 (25 ILCS 170/11.3 new)

21 Sec. 11.3. Compensation from a State agency. It is a  
22 violation of this Act for a person registered or required to be  
23 registered under this Act to accept or agree to accept

1 compensation from a State agency for the purpose of lobbying  
2 legislative action.

3 This Section does not apply to compensation that is a  
4 portion of the salary of a full-time employee of a State agency  
5 whose responsibility or authority includes, but is not limited  
6 to, lobbying executive, legislative, or administrative action.

7 For the purpose of this Section, "State agency" is defined  
8 as in the Illinois State Auditing Act.