



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1819

Introduced 2/20/2009, by Sen. John J. Millner

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/33-7

Amends the Criminal Code of 1961. Provides that a public contractor, employee of a public contractor, or a person seeking a public contract also commits the offense of public contractor misconduct when he or she knowingly or intentionally seeks or receives compensation or reimbursement for goods and services he or she purported to deliver or render, but failed to do so pursuant to the terms of the contract, to the unit of State or local government or school district. Provides that any person convicted of the offense or a similar offense in any state of the United States which contains the same elements of public contractor misconduct shall be barred for 10 years from the date of conviction from contracting with, employment by, or holding public office with the State or any unit of local government or school district. Provides that the Attorney General or the State's Attorney in the county where the principal office of the unit of local government or school district is located may bring a civil action on behalf of any unit of State or local government to recover a civil penalty from any person who knowingly engages in conduct which violates the statute in treble the amount of the monetary cost to the unit of State or local government or school district involved in the violation. Effective immediately.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 33-7 as follows:

6 (720 ILCS 5/33-7)

7 Sec. 33-7. Public contractor misconduct.

8 (a) A public contractor; a person seeking a public contract  
9 on behalf of himself, herself, or another; an employee of a  
10 public contractor; or a person seeking a public contract on  
11 behalf of himself, herself, or another commits public  
12 contractor misconduct when, in the performance of, or in  
13 connection with, a contract with the State, a unit of local  
14 government, or a school district or in obtaining or seeking to  
15 obtain such a contract he or she commits any of the following  
16 acts:

17 (1) intentionally or knowingly makes, uses, or causes  
18 to be made or used a false record or statement to conceal,  
19 avoid, or decrease an obligation to pay or transmit money  
20 or property;

21 (2) knowingly performs an act that he or she knows he  
22 or she is forbidden by law to perform;

23 (3) with intent to obtain a personal advantage for

1 himself, herself, or another, he or she performs an act in  
2 excess of his or her contractual responsibility; ~~or~~

3 (4) solicits or knowingly accepts for the performance  
4 of any act a fee or reward that he or she knows is not  
5 authorized by law; or ~~or~~

6 (5) knowingly or intentionally seeks or receives  
7 compensation or reimbursement for goods and services he or  
8 she purported to deliver or render, but failed to do so  
9 pursuant to the terms of the contract, to the unit of State  
10 or local government or school district.

11 (b) Sentence. Any person who violates this Section commits  
12 a Class 3 felony. Any person convicted of this offense or a  
13 similar offense in any state of the United States which  
14 contains the same elements of this offense shall be barred for  
15 10 years from the date of conviction from contracting with,  
16 employment by, or holding public office with the State or any  
17 unit of local government or school district. No corporation  
18 shall be barred as a result of a conviction under this Section  
19 of any employee or agent of such corporation if the employee so  
20 convicted is no longer employed by the corporation and (1) it  
21 has been finally adjudicated not guilty or (2) it demonstrates  
22 to the government entity with which it seeks to contract, and  
23 that entity finds, that the commission of the offense was  
24 neither authorized, requested, commanded, nor performed by a  
25 director, officer or high managerial agent on behalf of the  
26 corporation as provided in paragraph (2) of subsection (a) of

1 Section 5-4 of this Code.

2 (c) The Attorney General or the State's Attorney in the  
3 county where the principal office of the unit of local  
4 government or school district is located may bring a civil  
5 action on behalf of any unit of State or local government to  
6 recover a civil penalty from any person who knowingly engages  
7 in conduct which violates subsection (a) of this Section in  
8 treble the amount of the monetary cost to the unit of State or  
9 local government or school district involved in the violation.  
10 The Attorney General or State's Attorney shall be entitled to  
11 recover reasonable attorney's fees as part of the costs  
12 assessed to the defendant. This subsection (c) shall in no way  
13 limit the ability of any unit of State or local government or  
14 school district to recover moneys or damages regarding public  
15 contracts under any other law or ordinance. A civil action  
16 shall be barred unless the action is commenced within 6 years  
17 after the later of (1) the date on which the conduct  
18 establishing the cause of action occurred or (2) the date on  
19 which the unit of State or local government or school district  
20 knew or should have known that the conduct establishing the  
21 cause of action occurred.

22 (Source: P.A. 94-338, eff. 1-1-06.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.