



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB5598

Introduced 2/15/2012, by Rep. Jim Durkin - Darlene J. Senger -  
Kent Gaffney - Chad Hays - Jim Sacia

#### SYNOPSIS AS INTRODUCED:

5 ILCS 420/4A-101	from Ch. 127, par. 604A-101
5 ILCS 420/4A-102	from Ch. 127, par. 604A-102
5 ILCS 420/4A-106	from Ch. 127, par. 604A-106
5 ILCS 420/4A-107	from Ch. 127, par. 604A-107

Amends the Illinois Governmental Ethics Act. Requires members of the investment advisory panel created under the Illinois Prepaid Tuition Act to file verified written statements of economic interests with the Secretary of State. Effective immediately.

LRB097 19054 NHT 64293 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning education.

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-102, 4A-106, and 4A-107 as  
6 follows:

7 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

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

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

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

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

19 (d) Persons whose appointment to office is subject to  
20 confirmation by the Senate and persons appointed by the  
21 Governor to any other position on a board or commission  
22 described in subsection (a) of Section 15 of the  
23 Gubernatorial Boards and Commissions Act.

1           (e) Holders of, and candidates for nomination or  
2 election to, the office of judge or associate judge of the  
3 Circuit Court and the office of judge of the Appellate or  
4 Supreme Court.

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

23           (1) are, or function as, the head of a department,  
24 commission, board, division, bureau, authority or  
25 other administrative unit within the government of  
26 this State, or who exercise similar authority within

1 the government of this State;

2 (2) have direct supervisory authority over, or  
3 direct responsibility for the formulation,  
4 negotiation, issuance or execution of contracts  
5 entered into by the State in the amount of \$5,000 or  
6 more;

7 (3) have authority for the issuance or  
8 promulgation of rules and regulations within areas  
9 under the authority of the State;

10 (4) have authority for the approval of  
11 professional licenses;

12 (5) have responsibility with respect to the  
13 financial inspection of regulated nongovernmental  
14 entities;

15 (6) adjudicate, arbitrate, or decide any judicial  
16 or administrative proceeding, or review the  
17 adjudication, arbitration or decision of any judicial  
18 or administrative proceeding within the authority of  
19 the State;

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

22 (8) negotiate, assign, authorize, or grant naming  
23 rights or sponsorship rights regarding any property or  
24 asset of the State, whether real, personal, tangible,  
25 or intangible; or

26 (9) have responsibility with respect to the

1 procurement of goods or services.

2 (g) Persons who are elected to office in a unit of  
3 local government, and candidates for nomination or  
4 election to that office, including regional  
5 superintendents of school districts.

6 (h) Persons appointed to the governing board of a unit  
7 of local government, or of a special district, and persons  
8 appointed to a zoning board, or zoning board of appeals, or  
9 to a regional, county, or municipal plan commission, or to  
10 a board of review of any county, and persons appointed to  
11 the Board of the Metropolitan Pier and Exposition Authority  
12 and any Trustee appointed under Section 22 of the  
13 Metropolitan Pier and Exposition Authority Act, and  
14 persons appointed to a board or commission of a unit of  
15 local government who have authority to authorize the  
16 expenditure of public funds. This subsection does not apply  
17 to members of boards or commissions who function in an  
18 advisory capacity.

19 (i) Persons who are employed by a unit of local  
20 government and are compensated for services as employees  
21 and not as independent contractors and who:

22 (1) are, or function as, the head of a department,  
23 division, bureau, authority or other administrative  
24 unit within the unit of local government, or who  
25 exercise similar authority within the unit of local  
26 government;

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

6           (3) have authority to approve licenses and permits  
7           by the unit of local government; this item does not  
8           include employees who function in a ministerial  
9           capacity;

10          (4) adjudicate, arbitrate, or decide any judicial  
11          or administrative proceeding, or review the  
12          adjudication, arbitration or decision of any judicial  
13          or administrative proceeding within the authority of  
14          the unit of local government;

15          (5) have authority to issue or promulgate rules and  
16          regulations within areas under the authority of the  
17          unit of local government; or

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

20          (j) Persons on the Board of Trustees of the Illinois  
21          Mathematics and Science Academy.

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

25          (l) Special government agents. A "special government  
26          agent" is a person who is directed, retained, designated,

1 appointed, or employed, with or without compensation, by or  
2 on behalf of a statewide executive branch constitutional  
3 officer to make an ex parte communication under Section  
4 5-50 of the State Officials and Employees Ethics Act or  
5 Section 5-165 of the Illinois Administrative Procedure  
6 Act.

7 (m) Members of the board of commissioners of any flood  
8 prevention district created under the Flood Prevention  
9 District Act or the Beardstown Regional Flood Prevention  
10 District Act.

11 (n) Members of the board of any retirement system or  
12 investment board established under the Illinois Pension  
13 Code, if not required to file under any other provision of  
14 this Section.

15 (o) Members of the board of any pension fund  
16 established under the Illinois Pension Code, if not  
17 required to file under any other provision of this Section.

18 (p) Members of the investment advisory panel created  
19 under Section 20 of the Illinois Prepaid Tuition Act.

20 This Section shall not be construed to prevent any unit of  
21 local government from enacting financial disclosure  
22 requirements that mandate more information than required by  
23 this Act.

24 (Source: P.A. 96-6, eff. 4-3-09; 96-543, eff. 8-17-09; 96-555,  
25 eff. 8-18-09; 96-1000, eff. 7-2-10; 97-309, eff. 8-11-11.)

1 (5 ILCS 420/4A-102) (from Ch. 127, par. 604A-102)

2 Sec. 4A-102. The statement of economic interests required  
3 by this Article shall include the economic interests of the  
4 person making the statement as provided in this Section. The  
5 interest (if constructively controlled by the person making the  
6 statement) of a spouse or any other party, shall be considered  
7 to be the same as the interest of the person making the  
8 statement. Campaign receipts shall not be included in this  
9 statement.

10 (a) The following interests shall be listed by all  
11 persons required to file:

12 (1) The name, address and type of practice of any  
13 professional organization or individual professional  
14 practice in which the person making the statement was  
15 an officer, director, associate, partner or  
16 proprietor, or served in any advisory capacity, from  
17 which income in excess of \$1200 was derived during the  
18 preceding calendar year;

19 (2) The nature of professional services (other  
20 than services rendered to the unit or units of  
21 government in relation to which the person is required  
22 to file) and the nature of the entity to which they  
23 were rendered if fees exceeding \$5,000 were received  
24 during the preceding calendar year from the entity for  
25 professional services rendered by the person making  
26 the statement.



1           (3) The identity (including the address or legal  
2 description of real estate) of any capital asset from  
3 which a capital gain of \$5,000 or more was realized in  
4 the preceding calendar year.

5           (4) The name of any unit of government which has  
6 employed the person making the statement during the  
7 preceding calendar year other than the unit or units of  
8 government in relation to which the person is required  
9 to file.

10          (5) The name of any entity from which a gift or  
11 gifts, or honorarium or honoraria, valued singly or in  
12 the aggregate in excess of \$500, was received during  
13 the preceding calendar year.

14          (b) The following interests shall also be listed by  
15 persons listed in items (a) through (f), item (l), ~~and~~ item  
16 (n), and item (p) of Section 4A-101:

17           (1) The name and instrument of ownership in any  
18 entity doing business in the State of Illinois, in  
19 which an ownership interest held by the person at the  
20 date of filing is in excess of \$5,000 fair market value  
21 or from which dividends of in excess of \$1,200 were  
22 derived during the preceding calendar year. (In the  
23 case of real estate, location thereof shall be listed  
24 by street address, or if none, then by legal  
25 description). No time or demand deposit in a financial  
26 institution, nor any debt instrument need be listed;

1           (2) Except for professional service entities, the  
2 name of any entity and any position held therein from  
3 which income of in excess of \$1,200 was derived during  
4 the preceding calendar year, if the entity does  
5 business in the State of Illinois. No time or demand  
6 deposit in a financial institution, nor any debt  
7 instrument need be listed.

8           (3) The identity of any compensated lobbyist with  
9 whom the person making the statement maintains a close  
10 economic association, including the name of the  
11 lobbyist and specifying the legislative matter or  
12 matters which are the object of the lobbying activity,  
13 and describing the general type of economic activity of  
14 the client or principal on whose behalf that person is  
15 lobbying.

16           (c) The following interests shall also be listed by  
17 persons listed in items (g), (h), (i), and (o) of Section  
18 4A-101:

19           (1) The name and instrument of ownership in any  
20 entity doing business with a unit of local government  
21 in relation to which the person is required to file if  
22 the ownership interest of the person filing is greater  
23 than \$5,000 fair market value as of the date of filing  
24 or if dividends in excess of \$1,200 were received from  
25 the entity during the preceding calendar year. (In the  
26 case of real estate, location thereof shall be listed

1 by street address, or if none, then by legal  
2 description). No time or demand deposit in a financial  
3 institution, nor any debt instrument need be listed.

4 (2) Except for professional service entities, the  
5 name of any entity and any position held therein from  
6 which income in excess of \$1,200 was derived during the  
7 preceding calendar year if the entity does business  
8 with a unit of local government in relation to which  
9 the person is required to file. No time or demand  
10 deposit in a financial institution, nor any debt  
11 instrument need be listed.

12 (3) The name of any entity and the nature of the  
13 governmental action requested by any entity which has  
14 applied to a unit of local government in relation to  
15 which the person must file for any license, franchise  
16 or permit for annexation, zoning or rezoning of real  
17 estate during the preceding calendar year if the  
18 ownership interest of the person filing is in excess of  
19 \$5,000 fair market value at the time of filing or if  
20 income or dividends in excess of \$1,200 were received  
21 by the person filing from the entity during the  
22 preceding calendar year.

23 For the purposes of this Section, the unit of local  
24 government in relation to which a person required to file under  
25 item (o) of Section 4A-101 shall be the unit of local  
26 government that contributes to the pension fund of which such

1 person is a member of the board.

2 (Source: P.A. 96-6, eff. 4-3-09.)

3 (5 ILCS 420/4A-106) (from Ch. 127, par. 604A-106)

4 Sec. 4A-106. The statements of economic interests required  
5 of persons listed in items (a) through (f), item (j), item (l),  
6 ~~and~~ item (n), and item (p) of Section 4A-101 shall be filed  
7 with the Secretary of State. The statements of economic  
8 interests required of persons listed in items (g), (h), (i),  
9 (k), and (o) of Section 4A-101 shall be filed with the county  
10 clerk of the county in which the principal office of the unit  
11 of local government with which the person is associated is  
12 located. If it is not apparent which county the principal  
13 office of a unit of local government is located, the chief  
14 administrative officer, or his or her designee, has the  
15 authority, for purposes of this Act, to determine the county in  
16 which the principal office is located. On or before February 1  
17 annually, (1) the chief administrative officer of any State  
18 agency in the executive, legislative, or judicial branch  
19 employing persons required to file under item (f) or item (l)  
20 of Section 4A-101 and the chief administrative officer of a  
21 board or panel described in item (n) or (p) of Section 4A-101  
22 shall certify to the Secretary of State the names and mailing  
23 addresses of those persons, and (2) the chief administrative  
24 officer, or his or her designee, of each unit of local  
25 government with persons described in items (h), (i) and (k) and

1 a board described in item (o) of Section 4A-101 shall certify  
2 to the appropriate county clerk a list of names and addresses  
3 of persons described in items (h), (i), (k), and (o) of Section  
4 4A-101 that are required to file. In preparing the lists, each  
5 chief administrative officer, or his or her designee, shall set  
6 out the names in alphabetical order.

7 On or before April 1 annually, the Secretary of State shall  
8 notify (1) all persons whose names have been certified to him  
9 under items (f), (l), ~~and (n)~~, and (p) of Section 4A-101, and  
10 (2) all persons described in items (a) through (e) and item (j)  
11 of Section 4A-101, other than candidates for office who have  
12 filed their statements with their nominating petitions, of the  
13 requirements for filing statements of economic interests. A  
14 person required to file with the Secretary of State by virtue  
15 of more than one item among items (a) through (f) and items  
16 (j), (l), ~~and (n)~~, and (p) shall be notified of and is required  
17 to file only one statement of economic interests relating to  
18 all items under which the person is required to file with the  
19 Secretary of State.

20 On or before April 1 annually, the county clerk of each  
21 county shall notify all persons whose names have been certified  
22 to him under items (g), (h), (i), (k), and (o) of Section  
23 4A-101, other than candidates for office who have filed their  
24 statements with their nominating petitions, of the  
25 requirements for filing statements of economic interests. A  
26 person required to file with a county clerk by virtue of more

1 than one item among items (g), (h), (i), (k), and (o) shall be  
2 notified of and is required to file only one statement of  
3 economic interests relating to all items under which the person  
4 is required to file with that county clerk.

5 Except as provided in Section 4A-106.1, the notices  
6 provided for in this Section shall be in writing and deposited  
7 in the U.S. Mail, properly addressed, first class postage  
8 prepaid, on or before the day required by this Section for the  
9 sending of the notice. Alternatively, a county clerk may send  
10 the notices electronically to all persons whose names have been  
11 thus certified to him under item (h), (i), or (k) of Section  
12 4A-101. A certificate executed by the Secretary of State or  
13 county clerk attesting that he or she has sent the notice by  
14 the means permitted by this Section constitutes prima facie  
15 evidence thereof.

16 From the lists certified to him under this Section of  
17 persons described in items (g), (h), (i), (k), and (o) of  
18 Section 4A-101, the clerk of each county shall compile an  
19 alphabetical listing of persons required to file statements of  
20 economic interests in his office under any of those items. As  
21 the statements are filed in his office, the county clerk shall  
22 cause the fact of that filing to be indicated on the  
23 alphabetical listing of persons who are required to file  
24 statements. Within 30 days after the due dates, the county  
25 clerk shall mail to the State Board of Elections a true copy of  
26 that listing showing those who have filed statements.

1           The county clerk of each county shall note upon the  
2 alphabetical listing the names of all persons required to file  
3 a statement of economic interests who failed to file a  
4 statement on or before May 1. It shall be the duty of the  
5 several county clerks to give notice as provided in Section  
6 4A-105 to any person who has failed to file his or her  
7 statement with the clerk on or before May 1.

8           Any person who files or has filed a statement of economic  
9 interest under this Act is entitled to receive from the  
10 Secretary of State or county clerk, as the case may be, a  
11 receipt indicating that the person has filed such a statement,  
12 the date of such filing, and the identity of the governmental  
13 unit or units in relation to which the filing is required.

14           The Secretary of State may employ such employees and  
15 consultants as he considers necessary to carry out his duties  
16 hereunder, and may prescribe their duties, fix their  
17 compensation, and provide for reimbursement of their expenses.

18           All statements of economic interests filed under this  
19 Section shall be available for examination and copying by the  
20 public at all reasonable times. Not later than 12 months after  
21 the effective date of this amendatory Act of the 93rd General  
22 Assembly, beginning with statements filed in calendar year  
23 2004, the Secretary of State shall make statements of economic  
24 interests filed with the Secretary available for inspection and  
25 copying via the Secretary's website.

26           (Source: P.A. 96-6, eff. 4-3-09; 96-1336, eff. 1-1-11.)

1 (5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

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

6 Except when the fees and penalties for late filing have  
7 been waived under Section 4A-105, failure to file a statement  
8 within the time prescribed shall result in ineligibility for,  
9 or forfeiture of, office or position of employment, as the case  
10 may be; provided, however, that if the notice of failure to  
11 file a statement of economic interests provided in Section  
12 4A-105 of this Act is not given by the Secretary of State or  
13 the county clerk, as the case may be, no forfeiture shall  
14 result if a statement is filed within 30 days of actual notice  
15 of the failure to file. The Secretary of State shall provide  
16 the Attorney General with the names of persons who failed to  
17 file a statement. The county clerk shall provide the State's  
18 Attorney of the county of the entity for which the filing of  
19 statement of economic interest is required with the name of  
20 persons who failed to file a statement.

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



1 positions described in items (g) through (i), item (k), and  
2 item (o) of Section 4A-101 of this Act, shall bring an action  
3 in quo warranto against any person who has failed to file by  
4 either May 31 or June 30 of any given year and for whom the fees  
5 and penalties for late filing have not been waived under  
6 Section 4A-105.

7 (Source: P.A. 96-6, eff. 4-3-09; 96-550, eff. 8-17-09; 96-1000,  
8 eff. 7-2-10.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.