



Rep. Jerry L. Mitchell

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LRB097 05283 KMW 54896 a

1 AMENDMENT TO SENATE BILL 1364

2 AMENDMENT NO. _____. Amend Senate Bill 1364 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Officer Prohibited Activities Act is
5 amended by changing Section 3 as follows:

6 (50 ILCS 105/3) (from Ch. 102, par. 3)

7 Sec. 3. Prohibited interest in contracts.

8 (a) No person holding any office, either by election or
9 appointment under the laws or Constitution of this State, may
10 be in any manner financially interested directly in his own
11 name or indirectly in the name of any other person,
12 association, trust, or corporation, in any contract or the
13 performance of any work in the making or letting of which such
14 officer may be called upon to act or vote. No such officer may
15 represent, either as agent or otherwise, any person,
16 association, trust, or corporation, with respect to any

1 application or bid for any contract or work in regard to which
2 such officer may be called upon to vote. Nor may any such
3 officer take or receive, or offer to take or receive, either
4 directly or indirectly, any money or other thing of value as a
5 gift or bribe or means of influencing his vote or action in his
6 official character. Any contract made and procured in violation
7 hereof is void. This Section shall not apply to any person
8 serving on an advisory panel or commission, ~~or to~~ any director
9 serving on a hospital district board as provided under
10 subsection (a-5) of Section 13 of the Hospital District Law, or
11 to any person serving as both a contractual employee and as a
12 member of a public hospital board as provided under Article 11
13 of the Illinois Municipal Code in a county with a population of
14 50,000 or more.

15 (b) However, any elected or appointed member of the
16 governing body may provide materials, merchandise, property,
17 services, or labor, subject to the following provisions under
18 either paragraph (1) or (2):

19 (1) If:

20 A. the contract is with a person, firm,
21 partnership, association, corporation, or cooperative
22 association in which such interested member of the
23 governing body of the municipality has less than a 7
24 1/2% share in the ownership; and

25 B. such interested member publicly discloses the
26 nature and extent of his interest prior to or during

1 deliberations concerning the proposed award of the
2 contract; and

3 C. such interested member abstains from voting on
4 the award of the contract, though he shall be
5 considered present for the purposes of establishing a
6 quorum; and

7 D. such contract is approved by a majority vote of
8 those members presently holding office; and

9 E. the contract is awarded after sealed bids to the
10 lowest responsible bidder if the amount of the contract
11 exceeds \$1500, or awarded without bidding if the amount
12 of the contract is less than \$1500; and

13 F. the award of the contract would not cause the
14 aggregate amount of all such contracts so awarded to
15 the same person, firm, association, partnership,
16 corporation, or cooperative association in the same
17 fiscal year to exceed \$25,000.

18 (2) If:

19 A. the award of the contract is approved by a
20 majority vote of the governing body of the municipality
21 provided that any such interested member shall abstain
22 from voting; and

23 B. the amount of the contract does not exceed
24 \$2,000; and

25 C. the award of the contract would not cause the
26 aggregate amount of all such contracts so awarded to

1 the same person, firm, association, partnership,
2 corporation, or cooperative association in the same
3 fiscal year to exceed \$4,000; and

4 D. such interested member publicly discloses the
5 nature and extent of his interest prior to or during
6 deliberations concerning the proposed award of the
7 contract; and

8 E. such interested member abstains from voting on
9 the award of the contract, though he shall be
10 considered present for the purposes of establishing a
11 quorum.

12 (b-5) In addition to the above exemptions, any elected or
13 appointed member of the governing body may provide materials,
14 merchandise, property, services, or labor if:

15 A. the contract is with a person, firm, partnership,
16 association, corporation, or cooperative association in
17 which the interested member of the governing body of the
18 municipality, advisory panel, or commission has less than a
19 1% share in the ownership; and

20 B. the award of the contract is approved by a majority
21 vote of the governing body of the municipality provided
22 that any such interested member shall abstain from voting;
23 and

24 C. such interested member publicly discloses the
25 nature and extent of his interest before or during
26 deliberations concerning the proposed award of the

1 contract; and

2 D. such interested member abstains from voting on the
3 award of the contract, though he shall be considered
4 present for the purposes of establishing a quorum.

5 (c) A contract for the procurement of public utility
6 services by a public entity with a public utility company is
7 not barred by this Section by one or more members of the
8 governing body of the public entity being an officer or
9 employee of the public utility company or holding an ownership
10 interest of no more than 7 1/2% in the public utility company,
11 or holding an ownership interest of any size if the public
12 entity is a municipality with a population of less than 7,500
13 and the public utility's rates are approved by the Illinois
14 Commerce Commission. An elected or appointed member of the
15 governing body of the public entity having such an interest
16 shall be deemed not to have a prohibited interest under this
17 Section.

18 (d) Notwithstanding any other provision of this Section or
19 any other law to the contrary, until January 1, 1994, a member
20 of the city council of a municipality with a population under
21 20,000 may purchase real estate from the municipality, at a
22 price of not less than 100% of the value of the real estate as
23 determined by a written MAI certified appraisal or by a written
24 certified appraisal of a State certified or licensed real
25 estate appraiser, if the purchase is approved by a unanimous
26 vote of the city council members then holding office (except

1 for the member desiring to purchase the real estate, who shall
2 not vote on the question).

3 (e) For the purposes of this Section only, a municipal
4 officer shall not be deemed interested if the officer is an
5 employee of a company or owns or holds an interest of 1% or
6 less in the municipal officer's individual name in a company,
7 or both, that company is involved in the transaction of
8 business with the municipality, and that company's stock is
9 traded on a nationally recognized securities market, provided
10 the interested member: (i) publicly discloses the fact that he
11 or she is an employee or holds an interest of 1% or less in a
12 company before deliberation of the proposed award of the
13 contract; (ii) refrains from evaluating, recommending,
14 approving, deliberating, or otherwise participating in
15 negotiation, approval, or both, of the contract, work, or
16 business; (iii) abstains from voting on the award of the
17 contract though he or she shall be considered present for
18 purposes of establishing a quorum; and (iv) the contract is
19 approved by a majority vote of those members currently holding
20 office.

21 A municipal officer shall not be deemed interested if the
22 officer owns or holds an interest of 1% or less, not in the
23 officer's individual name but through a mutual fund or
24 exchange-traded fund, in a company, that company is involved in
25 the transaction of business with the municipality, and that
26 company's stock is traded on a nationally recognized securities

1 market.

2 (f) Under either of the following circumstances, a
3 municipal officer may hold a position on the board of a
4 not-for-profit corporation that is interested in a contract,
5 work, or business of the municipality:

6 (1) If the municipal officer is appointed by the
7 governing body of the municipality to represent the
8 interests of the municipality on a not-for-profit
9 corporation's board, then the municipal officer may
10 actively vote on matters involving either that board or the
11 municipality, at any time, so long as the membership on the
12 not-for-profit board is not a paid position, except that
13 the municipal officer may be reimbursed by the
14 non-for-profit board for expenses incurred as the result of
15 membership on the non-for-profit board.

16 (2) If the municipal officer is not appointed to the
17 governing body of a not-for-profit corporation by the
18 governing body of the municipality, then the municipal
19 officer may continue to serve; however, the municipal
20 officer shall abstain from voting on any proposition before
21 the municipal governing body directly involving the
22 not-for-profit corporation and, for those matters, shall
23 not be counted as present for the purposes of a quorum of
24 the municipal governing body.

25 (Source: P.A. 96-277, eff. 1-1-10; 96-1058, eff. 7-14-10.)".