



Sen. Tim Bivins

Filed: 5/19/2014

09800HB5812sam001

LRB098 18013 JLK 59651 a

1 AMENDMENT TO HOUSE BILL 5812

2 AMENDMENT NO. _____. Amend House Bill 5812 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, 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 municipality with a
14 population between 13,000 and 16,000 that is located in a
15 county with a population between 50,000 and 70,000.

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

20 (1) If:

21 A. the contract is with a person, firm,
22 partnership, association, corporation, or cooperative
23 association in which such interested member of the
24 governing body of the municipality has less than a 7
25 1/2% share in the ownership; and

26 B. such interested member publicly discloses the

1 nature and extent of his interest prior to or during
2 deliberations concerning the proposed award of the
3 contract; and

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

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

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

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

19 (2) If:

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

24 B. the amount of the contract does not exceed
25 \$2,000; and

26 C. the award of the contract would not cause the

1 aggregate amount of all such contracts so awarded to
2 the same person, firm, association, partnership,
3 corporation, or cooperative association in the same
4 fiscal year to exceed \$4,000; and

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

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

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

16 A. the contract is with a person, firm, partnership,
17 association, corporation, or cooperative association in
18 which the interested member of the governing body of the
19 municipality, advisory panel, or commission has less than a
20 1% share in the ownership; and

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

25 C. such interested member publicly discloses the
26 nature and extent of his interest before or during

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

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

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

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

1 vote of the city council members then holding office (except
2 for the member desiring to purchase the real estate, who shall
3 not vote on the question).

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

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

1 company's stock is traded on a nationally recognized securities
2 market.

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

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

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

1 governing body.

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

3 97-520, eff. 8-23-11.)".