



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0001

Introduced 1/19/2007, by Rep. John A. Fritchey - Tom Cross -
Jack D. Franks

SYNOPSIS AS INTRODUCED:

- 30 ILCS 500/50-13
- 30 ILCS 500/50-20
- 30 ILCS 500/50-37 new

Amends the Illinois Procurement Code. Provides that State officers and employees prohibited from obtaining State contracts may not receive legal, banking, consulting, or other fees related to State government bond issuances. Prohibits waivers from the prohibition. Prohibits State contractors with contracts with an annual aggregate value of more than \$25,000 from making political contributions to the executive branch constitutional officers responsible for awarding the contracts. Establishes penalties for violations. Requires that each State contract bid or offer in excess of \$10,000 annual value must be accompanied by a disclosure of the bidder's or offeror's political contributions to the executive branch constitutional officer responsible for awarding the contract. Authorizes the State Comptroller to refuse payments under contracts for which those disclosures were not made. Makes other changes.

LRB095 03422 JAM 23426 b

1 AN ACT concerning procurement.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 50-13 and 50-20 and by adding Section 50-37
6 as follows:

7 (30 ILCS 500/50-13)

8 Sec. 50-13. Conflicts of interest.

9 (a) Prohibition. It is unlawful for any person holding an
10 elective office in this State, holding a seat in the General
11 Assembly, or appointed to or employed in any of the offices or
12 agencies of State government and who receives compensation for
13 such employment in excess of 60% of the salary of the Governor
14 of the State of Illinois, or who is an officer or employee of
15 the Capital Development Board or the Illinois Toll Highway
16 Authority, or who is the spouse or minor child of any such
17 person to have or acquire any contract, or any direct pecuniary
18 interest in any contract therein, whether for stationery,
19 printing, paper, or any services, materials, or supplies, that
20 will be wholly or partially satisfied by the payment of funds
21 appropriated by the General Assembly of the State of Illinois
22 or in any contract of the Capital Development Board or the
23 Illinois Toll Highway Authority.

1 (b) Interests. It is unlawful for any firm, partnership,
2 association, or corporation, in which any person listed in
3 subsection (a) is entitled to receive (i) more than 7 1/2% of
4 the total distributable income or (ii) an amount in excess of
5 the salary of the Governor, to have or acquire any such
6 contract or direct pecuniary interest therein.

7 (b-5) Notwithstanding any other provision of law, no person
8 listed in subsection (a) may receive a legal, banking,
9 consulting, or other fee related to the issuance of any bond
10 issued by the State or by any agency or other entity of State
11 government.

12 (c) Combined interests. It is unlawful for any firm,
13 partnership, association, or corporation, in which any person
14 listed in subsection (a) together with his or her spouse or
15 minor children is entitled to receive (i) more than 15%, in the
16 aggregate, of the total distributable income or (ii) an amount
17 in excess of 2 times the salary of the Governor, to have or
18 acquire any such contract or direct pecuniary interest therein.

19 (c-5) Appointees and firms. In addition to any provisions
20 of this Code, the interests of certain appointees and their
21 firms are subject to Section 3A-35 of the Illinois Governmental
22 Ethics Act.

23 (d) Securities. Nothing in this Section invalidates the
24 provisions of any bond or other security previously offered or
25 to be offered for sale or sold by or for the State of Illinois.

26 (e) Prior interests. This Section does not affect the

1 validity of any contract made between the State and an officer
2 or employee of the State or member of the General Assembly, his
3 or her spouse, minor child, or other immediate family member
4 living in his or her residence or any combination of those
5 persons if that contract was in existence before his or her
6 election or employment as an officer, member, or employee. The
7 contract is voidable, however, if it cannot be completed within
8 365 days after the officer, member, or employee takes office or
9 is employed.

10 (f) Exceptions.

11 (1) Public aid payments. This Section does not apply to
12 payments made for a public aid recipient.

13 (2) Teaching. This Section does not apply to a contract
14 for personal services as a teacher or school administrator
15 between a member of the General Assembly or his or her
16 spouse, or a State officer or employee or his or her
17 spouse, and any school district, public community college
18 district, the University of Illinois, Southern Illinois
19 University, Illinois State University, Eastern Illinois
20 University, Northern Illinois University, Western Illinois
21 University, Chicago State University, Governor State
22 University, or Northeastern Illinois University.

23 (3) Ministerial duties. This Section does not apply to
24 a contract for personal services of a wholly ministerial
25 character, including but not limited to services as a
26 laborer, clerk, typist, stenographer, page, bookkeeper,

1 receptionist, or telephone switchboard operator, made by a
2 spouse or minor child of an elective or appointive State
3 officer or employee or of a member of the General Assembly.

4 (4) Child and family services. This Section does not
5 apply to payments made to a member of the General Assembly,
6 a State officer or employee, his or her spouse or minor
7 child acting as a foster parent, homemaker, advocate, or
8 volunteer for or in behalf of a child or family served by
9 the Department of Children and Family Services.

10 (5) Licensed professionals. Contracts with licensed
11 professionals, provided they are competitively bid or part
12 of a reimbursement program for specific, customary goods
13 and services through the Department of Children and Family
14 Services, the Department of Human Services, the Department
15 of Healthcare and Family Services ~~Public Aid~~, the
16 Department of Public Health, or the Department on Aging.

17 (g) Penalty. A person convicted of a violation of this
18 Section is guilty of a business offense and shall be fined not
19 less than \$1,000 nor more than \$5,000.

20 (Source: P.A. 93-615, eff. 11-19-03; revised 12-15-05.)

21 (30 ILCS 500/50-20)

22 Sec. 50-20. Exemptions. With the approval of the
23 appropriate chief procurement officer involved, the Governor,
24 or an executive ethics board or commission he or she
25 designates, may exempt named individuals from the prohibitions

1 of Section 50-13, except the prohibitions set forth in
2 subsection (b-5) of Section 50-13, when, in his, her, or its
3 judgment, the public interest in having the individual in the
4 service of the State outweighs the public policy evidenced in
5 that Section. An exemption is effective only when it is filed
6 with the Secretary of State and the Comptroller and includes a
7 statement setting forth the name of the individual and all the
8 pertinent facts that would make that Section applicable,
9 setting forth the reason for the exemption, and declaring the
10 individual exempted from that Section. Notice of each exemption
11 shall be published in the Illinois Procurement Bulletin.
12 (Source: P.A. 90-572, eff. 2-6-98.)

13 (30 ILCS 500/50-37 new)

14 Sec. 50-37. Disclosure of political contributions.

15 (a) All offers from responsive bidders or offerors with an
16 annual value of more than \$10,000 shall be accompanied by
17 disclosure of the political contributions of the contractor,
18 bidder, or proposer as provided in this Section. The
19 appropriate chief procurement officer shall ensure that this
20 disclosure is not used in the awarding of the contract or
21 selection of the vendor and further ensure that the disclosure
22 remains confidential until after the contract is awarded or
23 vendor is selected. The disclosure of each successful bidder or
24 offeror shall become part of the publicly available contract or
25 procurement file maintained by the appropriate chief

1 procurement officer and shall also be filed with the
2 Comptroller as part of the filing required pursuant to Section
3 20-80 of this Code.

4 (b) Disclosure by the responsive bidders or offerors shall
5 include at least the names and addresses of the contributors
6 and the dollar amounts of any contributions to the officeholder
7 responsible for awarding the contract or to any political
8 committees established to promote the candidacy of such
9 officeholder made within the previous 2 years by the responsive
10 bidders or offerors and any affiliated persons or entities.

11 (c) As used in this Section:

12 "Contribution" means contribution as defined in Section
13 9-1.4 of the Election Code.

14 "Officeholder" means the Governor, Lieutenant Governor,
15 Attorney General, Secretary of State, Comptroller, or
16 Treasurer. The Governor shall be considered the officeholder
17 responsible for awarding all contracts by all officers and
18 employees of, and vendors and others doing business with,
19 executive branch State agencies under the jurisdiction of the
20 Executive Ethics Commission and not within the jurisdiction of
21 the Attorney General, the Secretary of State, the Comptroller,
22 or the Treasurer.

23 "Sponsoring entity" means sponsoring entity as defined in
24 Section 9-3 of the Election Code.

25 "Affiliated person" means (i) any person with any ownership
26 interest or distributive share of the bidding or contracting

1 entity in excess of 5%, (ii) executive employees of the bidding
2 or contracting entity, and (iii) the spouse and minor children
3 of any such persons.

4 "Affiliated entity" means (i) any subsidiary of the bidding
5 or contracting entity, (ii) any member of the same unitary
6 business group, or (iii) any political committee for which the
7 bidding or contracting entity is the sponsoring entity.

8 (d) Pursuant to Section 9 of the State Comptroller Act, the
9 Comptroller may refuse to draw a warrant for payment on any
10 voucher based on the obligation of any contract if the
11 disclosures required by this Section are not filed with the
12 Comptroller.

13 (e) Notwithstanding subsection (b), contributions to any
14 candidate that in the aggregate do not exceed \$500 within the
15 previous 2 years do not need to be disclosed.

16 (f) Any business whose contracts with State agencies, in
17 the aggregate, annually total more than \$25,000 is prohibited
18 from making any contributions to the officeholder responsible
19 for awarding the contracts or to any political committees
20 established to promote the candidacy of that officeholder. This
21 prohibition shall be effective for the current term of office
22 of the incumbent awarding the contracts or for a period of 2
23 years following the conclusion of the contracts, whichever is
24 longer. This prohibition shall also apply to contributions from
25 any affiliated persons or entities.

26 (g) All contracts between State agencies and a business

1 that violates subsection (f) shall be voidable under Section
2 50-60.

3 If a business violates subsection (f) 3 or more times
4 within a 36-month period, then all contracts between State
5 agencies and that business shall be void, and that business
6 shall not bid or respond to any invitation to bid or request
7 for proposals from any State agency or otherwise enter into any
8 contract with any State agency for 3 years from the date of the
9 last violation.

10 A notice of each violation and the penalty imposed shall be
11 published in both the Procurement Bulletin and the Illinois
12 Register.