

# HB2688



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2688

by Rep. Margo McDermed

### SYNOPSIS AS INTRODUCED:

5 ILCS 430/1-5  
5 ILCS 430/5-70 new

Amends the State Officials and Employees Ethics Act. Provides for specified rights of complainants under the Act. Defines terms. Effective immediately.

LRB101 10124 RJF 55227 b

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The State Officials and Employees Ethics Act is  
5 amended by changing Section 1-5 and by adding Section 5-70 as  
6 follows:

7 (5 ILCS 430/1-5)

8 Sec. 1-5. Definitions. As used in this Act:

9 "Appointee" means a person appointed to a position in or  
10 with a State agency, regardless of whether the position is  
11 compensated.

12 "Board members of Regional Transit Boards" means any person  
13 appointed to serve on the governing board of a Regional Transit  
14 Board.

15 "Campaign for elective office" means any activity in  
16 furtherance of an effort to influence the selection,  
17 nomination, election, or appointment of any individual to any  
18 federal, State, or local public office or office in a political  
19 organization, or the selection, nomination, or election of  
20 Presidential or Vice-Presidential electors, but does not  
21 include activities (i) relating to the support or opposition of  
22 any executive, legislative, or administrative action (as those  
23 terms are defined in Section 2 of the Lobbyist Registration

1 Act), (ii) relating to collective bargaining, or (iii) that are  
2 otherwise in furtherance of the person's official State duties.

3 "Candidate" means a person who has filed nominating papers  
4 or petitions for nomination or election to an elected State  
5 office, or who has been appointed to fill a vacancy in  
6 nomination, and who remains eligible for placement on the  
7 ballot at either a general primary election or general  
8 election.

9 "Collective bargaining" has the same meaning as that term  
10 is defined in Section 3 of the Illinois Public Labor Relations  
11 Act.

12 "Commission" means an ethics commission created by this  
13 Act.

14 "Compensated time" means any time worked by or credited to  
15 a State employee that counts toward any minimum work time  
16 requirement imposed as a condition of employment with a State  
17 agency, but does not include any designated State holidays or  
18 any period when the employee is on a leave of absence.

19 "Compensatory time off" means authorized time off earned by  
20 or awarded to a State employee to compensate in whole or in  
21 part for time worked in excess of the minimum work time  
22 required of that employee as a condition of employment with a  
23 State agency.

24 "Complainant" means a person who makes a complaint with the  
25 Office of an Inspector General against any officer of the State  
26 or State employee alleging violations of any laws, policies,

1 procedures, or rules established under this Act.

2 "Contribution" has the same meaning as that term is defined  
3 in Section 9-1.4 of the Election Code.

4 "Employee" means (i) any person employed full-time,  
5 part-time, or pursuant to a contract and whose employment  
6 duties are subject to the direction and control of an employer  
7 with regard to the material details of how the work is to be  
8 performed or (ii) any appointed or elected commissioner,  
9 trustee, director, or board member of a board of a State  
10 agency, including any retirement system or investment board  
11 subject to the Illinois Pension Code or (iii) any other  
12 appointee.

13 "Employment benefits" include but are not limited to the  
14 following: modified compensation or benefit terms; compensated  
15 time off; or change of title, job duties, or location of office  
16 or employment. An employment benefit may also include favorable  
17 treatment in determining whether to bring any disciplinary or  
18 similar action or favorable treatment during the course of any  
19 disciplinary or similar action or other performance review.

20 "Executive branch constitutional officer" means the  
21 Governor, Lieutenant Governor, Attorney General, Secretary of  
22 State, Comptroller, and Treasurer.

23 "Gift" means any gratuity, discount, entertainment,  
24 hospitality, loan, forbearance, or other tangible or  
25 intangible item having monetary value including, but not  
26 limited to, cash, food and drink, and honoraria for speaking

1 engagements related to or attributable to government  
2 employment or the official position of an employee, member, or  
3 officer. The value of a gift may be further defined by rules  
4 adopted by the appropriate ethics commission or by the Auditor  
5 General for the Auditor General and for employees of the office  
6 of the Auditor General.

7 "Governmental entity" means a unit of local government  
8 (including a community college district) or a school district  
9 but not a State agency or a Regional Transit Board.

10 "Inspector General" means an Executive Inspector General,  
11 the Legislative Inspector General, or any other inspector  
12 general created and authorized under this Act.

13 "Leave of absence" means any period during which a State  
14 employee does not receive (i) compensation for State  
15 employment, (ii) service credit towards State pension  
16 benefits, and (iii) health insurance benefits paid for by the  
17 State.

18 "Legislative branch constitutional officer" means a member  
19 of the General Assembly and the Auditor General.

20 "Legislative leader" means the President and Minority  
21 Leader of the Senate and the Speaker and Minority Leader of the  
22 House of Representatives.

23 "Member" means a member of the General Assembly.

24 "Officer" means an executive branch constitutional officer  
25 or a legislative branch constitutional officer.

26 "Political" means any activity in support of or in

1 connection with any campaign for elective office or any  
2 political organization, but does not include activities (i)  
3 relating to the support or opposition of any executive,  
4 legislative, or administrative action (as those terms are  
5 defined in Section 2 of the Lobbyist Registration Act), (ii)  
6 relating to collective bargaining, or (iii) that are otherwise  
7 in furtherance of the person's official State duties or  
8 governmental and public service functions.

9 "Political organization" means a party, committee,  
10 association, fund, or other organization (whether or not  
11 incorporated) that is required to file a statement of  
12 organization with the State Board of Elections or a county  
13 clerk under Section 9-3 of the Election Code, but only with  
14 regard to those activities that require filing with the State  
15 Board of Elections or a county clerk.

16 "Prohibited political activity" means:

17 (1) Preparing for, organizing, or participating in any  
18 political meeting, political rally, political  
19 demonstration, or other political event.

20 (2) Soliciting contributions, including but not  
21 limited to the purchase of, selling, distributing, or  
22 receiving payment for tickets for any political  
23 fundraiser, political meeting, or other political event.

24 (3) Soliciting, planning the solicitation of, or  
25 preparing any document or report regarding any thing of  
26 value intended as a campaign contribution.

1           (4) Planning, conducting, or participating in a public  
2           opinion poll in connection with a campaign for elective  
3           office or on behalf of a political organization for  
4           political purposes or for or against any referendum  
5           question.

6           (5) Surveying or gathering information from potential  
7           or actual voters in an election to determine probable vote  
8           outcome in connection with a campaign for elective office  
9           or on behalf of a political organization for political  
10          purposes or for or against any referendum question.

11          (6) Assisting at the polls on election day on behalf of  
12          any political organization or candidate for elective  
13          office or for or against any referendum question.

14          (7) Soliciting votes on behalf of a candidate for  
15          elective office or a political organization or for or  
16          against any referendum question or helping in an effort to  
17          get voters to the polls.

18          (8)       Initiating       for       circulation,       preparing,  
19          circulating, reviewing, or filing any petition on behalf of  
20          a candidate for elective office or for or against any  
21          referendum question.

22          (9) Making contributions on behalf of any candidate for  
23          elective office in that capacity or in connection with a  
24          campaign for elective office.

25          (10) Preparing or reviewing responses to candidate  
26          questionnaires in connection with a campaign for elective

1 office or on behalf of a political organization for  
2 political purposes.

3 (11) Distributing, preparing for distribution, or  
4 mailing campaign literature, campaign signs, or other  
5 campaign material on behalf of any candidate for elective  
6 office or for or against any referendum question.

7 (12) Campaigning for any elective office or for or  
8 against any referendum question.

9 (13) Managing or working on a campaign for elective  
10 office or for or against any referendum question.

11 (14) Serving as a delegate, alternate, or proxy to a  
12 political party convention.

13 (15) Participating in any recount or challenge to the  
14 outcome of any election, except to the extent that under  
15 subsection (d) of Section 6 of Article IV of the Illinois  
16 Constitution each house of the General Assembly shall judge  
17 the elections, returns, and qualifications of its members.

18 "Prohibited source" means any person or entity who:

19 (1) is seeking official action (i) by the member or  
20 officer or (ii) in the case of an employee, by the employee  
21 or by the member, officer, State agency, or other employee  
22 directing the employee;

23 (2) does business or seeks to do business (i) with the  
24 member or officer or (ii) in the case of an employee, with  
25 the employee or with the member, officer, State agency, or  
26 other employee directing the employee;



1           (3) conducts activities regulated (i) by the member or  
2           officer or (ii) in the case of an employee, by the employee  
3           or by the member, officer, State agency, or other employee  
4           directing the employee;

5           (4) has interests that may be substantially affected by  
6           the performance or non-performance of the official duties  
7           of the member, officer, or employee;

8           (5) is registered or required to be registered with the  
9           Secretary of State under the Lobbyist Registration Act,  
10          except that an entity not otherwise a prohibited source  
11          does not become a prohibited source merely because a  
12          registered lobbyist is one of its members or serves on its  
13          board of directors; or

14          (6) is an agent of, a spouse of, or an immediate family  
15          member who is living with a "prohibited source".

16          "Regional Transit Boards" means (i) the Regional  
17          Transportation Authority created by the Regional  
18          Transportation Authority Act, (ii) the Suburban Bus Division  
19          created by the Regional Transportation Authority Act, (iii) the  
20          Commuter Rail Division created by the Regional Transportation  
21          Authority Act, and (iv) the Chicago Transit Authority created  
22          by the Metropolitan Transit Authority Act.

23          "State agency" includes all officers, boards, commissions  
24          and agencies created by the Constitution, whether in the  
25          executive or legislative branch; all officers, departments,  
26          boards, commissions, agencies, institutions, authorities,

1 public institutions of higher learning as defined in Section 2  
2 of the Higher Education Cooperation Act (except community  
3 colleges), and bodies politic and corporate of the State; and  
4 administrative units or corporate outgrowths of the State  
5 government which are created by or pursuant to statute, other  
6 than units of local government (including community college  
7 districts) and their officers, school districts, and boards of  
8 election commissioners; and all administrative units and  
9 corporate outgrowths of the above and as may be created by  
10 executive order of the Governor. "State agency" includes the  
11 General Assembly, the Senate, the House of Representatives, the  
12 President and Minority Leader of the Senate, the Speaker and  
13 Minority Leader of the House of Representatives, the Senate  
14 Operations Commission, and the legislative support services  
15 agencies. "State agency" includes the Office of the Auditor  
16 General. "State agency" does not include the judicial branch.

17 "State employee" means any employee of a State agency.

18 "Ultimate jurisdictional authority" means the following:

19 (1) For members, legislative partisan staff, and  
20 legislative secretaries, the appropriate legislative  
21 leader: President of the Senate, Minority Leader of the  
22 Senate, Speaker of the House of Representatives, or  
23 Minority Leader of the House of Representatives.

24 (2) For State employees who are professional staff or  
25 employees of the Senate and not covered under item (1), the  
26 Senate Operations Commission.

1           (3) For State employees who are professional staff or  
2 employees of the House of Representatives and not covered  
3 under item (1), the Speaker of the House of  
4 Representatives.

5           (4) For State employees who are employees of the  
6 legislative support services agencies, the Joint Committee  
7 on Legislative Support Services.

8           (5) For State employees of the Auditor General, the  
9 Auditor General.

10          (6) For State employees of public institutions of  
11 higher learning as defined in Section 2 of the Higher  
12 Education Cooperation Act (except community colleges), the  
13 board of trustees of the appropriate public institution of  
14 higher learning.

15          (7) For State employees of an executive branch  
16 constitutional officer other than those described in  
17 paragraph (6), the appropriate executive branch  
18 constitutional officer.

19          (8) For State employees not under the jurisdiction of  
20 paragraph (1), (2), (3), (4), (5), (6), or (7), the  
21 Governor.

22          (9) For employees of Regional Transit Boards, the  
23 appropriate Regional Transit Board.

24          (10) For board members of Regional Transit Boards, the  
25 Governor.

26 (Source: P.A. 96-6, eff. 4-3-09; 96-555, eff. 8-18-09; 96-1528,

1 eff. 7-1-11; 96-1533, eff. 3-4-11; 97-813, eff. 7-13-12.)

2 (5 ILCS 430/5-70 new)

3 Sec. 5-70. Rights of complainants. Each complainant under  
4 this Act has a right to the following:

5 (1) to be notified of the complainant's rights and  
6 receive an explanation of the process, rules, and  
7 procedures related to the complainant's rights, including,  
8 but not limited to, the duties of the Inspector General and  
9 the appropriate Ethics Commission within 48 hours of filing  
10 a complaint with the Inspector General;

11 (2) to be notified of the receipt of his or her  
12 complaint by the Inspector General, notice must be provided  
13 within 48 hours for sexual harassment complaints, and no  
14 later than 30 days for all other complaints;

15 (3) to be informed of the decision made and actions  
16 taken by the Inspector General as to whether the complaint  
17 warrants an investigation or referral, information must be  
18 provided within 48 hours for sexual harassment complaints,  
19 and no later than 30 days for all other complaints;

20 (4) to have an attorney or support person of the  
21 complainant's choice, and at the complainant's expense,  
22 present at any and all interviews or meetings, whether in  
23 person or by any other form of communication, that is  
24 arranged either by the complainant or the Inspector  
25 General;

1           (5) to receive the Inspector General's summary of the  
2           information provided to the Inspector General, including  
3           any and all statements and evidence provided to the  
4           Inspector General by the complainant, for the  
5           complainant's review and for the complainant to make any  
6           necessary corrections to the summary or provide additional  
7           content for inclusion in the Inspector General's summary of  
8           the complainant's statements and evidence;

9           (6) to submit a victim impact statement that shall be  
10           included in the Inspector General's summary report to the  
11           appropriate Ethics Commission for its consideration in  
12           determining an appropriate outcome;

13           (7) to testify and be heard at a hearing on the  
14           complaint;

15           (8) to attend a hearing on the complaint with an  
16           attorney or other support person of the complainant's  
17           choice, and at the complainant's expense;

18           (9) to receive a report of the Inspector General's  
19           findings and recommendations of the Inspector General's  
20           investigation of the complaint within 7 days after the  
21           appropriate Ethics Commission's receipt of the Inspector  
22           General's findings and recommendations.

23           (10) a report of the appropriate Ethics Commission's  
24           decision to determine the outcome of the complaint within 7  
25           days of the final decision; and

26           (11) to file a complaint with the Inspector General for

1       any violation of the complainant's rights under this  
2       Section that is subject to the fines and penalties  
3       established under this Act.

4       Section 99. Effective date. This Act takes effect upon  
5       becoming law.