

HB4327



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4327

Introduced 1/29/2020, by Rep. Grant Wehrli

SYNOPSIS AS INTRODUCED:

5 ILCS 430/5-45

Amends the State Officials and Employees Ethics Act. Modifies provisions concerning procurement and revolving door prohibitions to include specified persons involved in the fiscal administration of State contracts. Makes other changes concerning persons subject to a specified revolving door prohibition. Effective immediately.

LRB101 18002 RJF 67440 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 5-45 as follows:

6 (5 ILCS 430/5-45)

7 Sec. 5-45. Procurement; revolving door prohibition.

8 (a) No former officer, member, or State employee, or spouse
9 or immediate family member living with such person, shall,
10 within a period of one year immediately after termination of
11 State employment, knowingly accept employment or receive
12 compensation or fees for services from a person or entity if
13 the officer, member, or State employee, during the year
14 immediately preceding termination of State employment,
15 participated personally and substantially in the award of or
16 the fiscal administration of State contracts, or the issuance
17 of State contract change orders, with a cumulative value of
18 \$25,000 or more to the person or entity, or its parent or
19 subsidiary.

20 (a-5) No officer, member, or spouse or immediate family
21 member living with such person shall, during the officer or
22 member's term in office or within a period of 2 years
23 immediately leaving office, hold an ownership interest, other

1 than a passive interest in a publicly traded company, in any
2 gaming license under the Illinois Gambling Act, the Video
3 Gaming Act, the Illinois Horse Racing Act of 1975, or the
4 Sports Wagering Act. Any member of the General Assembly or
5 spouse or immediate family member living with such person who
6 has an ownership interest, other than a passive interest in a
7 publicly traded company, in any gaming license under the
8 Illinois Gambling Act, the Illinois Horse Racing Act of 1975,
9 the Video Gaming Act, or the Sports Wagering Act at the time of
10 the effective date of this amendatory Act of the 101st General
11 Assembly shall divest himself or herself of such ownership
12 within one year after the effective date of this amendatory Act
13 of the 101st General Assembly. No State employee who works for
14 the Illinois Gaming Board or Illinois Racing Board or spouse or
15 immediate family member living with such person shall, during
16 State employment or within a period of 2 years immediately
17 after termination of State employment, hold an ownership
18 interest, other than a passive interest in a publicly traded
19 company, in any gaming license under the Illinois Gambling Act,
20 the Video Gaming Act, the Illinois Horse Racing Act of 1975, or
21 the Sports Wagering Act.

22 (a-10) This subsection (a-10) applies on and after June 25,
23 2021. No officer, member, or spouse or immediate family member
24 living with such person, shall, during the officer or member's
25 term in office or within a period of 2 years immediately after
26 leaving office, hold an ownership interest, other than a

1 passive interest in a publicly traded company, in any cannabis
2 business establishment which is licensed under the Cannabis
3 Regulation and Tax Act. Any member of the General Assembly or
4 spouse or immediate family member living with such person who
5 has an ownership interest, other than a passive interest in a
6 publicly traded company, in any cannabis business
7 establishment which is licensed under the Cannabis Regulation
8 and Tax Act at the time of the effective date of this
9 amendatory Act of the 101st General Assembly shall divest
10 himself or herself of such ownership within one year after the
11 effective date of this amendatory Act of the 101st General
12 Assembly.

13 No State employee who works for any State agency that
14 regulates cannabis business establishment license holders who
15 participated personally and substantially in the award of
16 licenses under the Cannabis Regulation and Tax Act or a spouse
17 or immediate family member living with such person shall,
18 during State employment or within a period of 2 years
19 immediately after termination of State employment, hold an
20 ownership interest, other than a passive interest in a publicly
21 traded company, in any cannabis license under the Cannabis
22 Regulation and Tax Act.

23 (b) No former officer of the executive branch or State
24 employee of the executive branch with regulatory or licensing
25 authority, or spouse or immediate family member living with
26 such person, shall, within a period of one year immediately

1 after termination of State employment, knowingly accept
2 employment or receive compensation or fees for services from a
3 person or entity if the officer or State employee, during the
4 year immediately preceding termination of State employment,
5 participated personally and substantially in making a
6 regulatory or licensing decision that directly applied to the
7 person or entity, or its parent or subsidiary.

8 (c) Within 6 months after the effective date of this
9 amendatory Act of the 96th General Assembly, each executive
10 branch constitutional officer and legislative leader, the
11 Auditor General, and the Joint Committee on Legislative Support
12 Services shall adopt a policy delineating which State positions
13 under his or her jurisdiction and control, by the nature of
14 their duties, may have the authority to participate personally
15 and substantially in the award of or the fiscal administration
16 of State contracts or in regulatory or licensing decisions. The
17 Governor shall adopt such a policy for all State employees of
18 the executive branch not under the jurisdiction and control of
19 any other executive branch constitutional officer.

20 The policies required under subsection (c) of this Section
21 shall be filed with the appropriate ethics commission
22 established under this Act or, for the Auditor General, with
23 the Office of the Auditor General.

24 (d) Each Inspector General shall have the authority to
25 determine that additional State positions under his or her
26 jurisdiction, not otherwise subject to the policies required by

1 subsection (c) of this Section, are nonetheless subject to the
2 notification requirement of subsection (f) below due to their
3 involvement in the award of or the fiscal administration of
4 State contracts or in regulatory or licensing decisions.

5 (e) The Joint Committee on Legislative Support Services,
6 the Auditor General, and each of the executive branch
7 constitutional officers and legislative leaders subject to
8 subsection (c) of this Section shall provide written
9 notification to all employees in positions subject to the
10 policies required by subsection (c) or a determination made
11 under subsection (d): (1) upon hiring, promotion, or transfer
12 into the relevant position; and (2) at the time the employee's
13 duties are changed in such a way as to qualify that employee.
14 An employee receiving notification must certify in writing that
15 the person was advised of the prohibition and the requirement
16 to notify the appropriate Inspector General in subsection (f).

17 (f) Any State employee in a position subject to the
18 policies required by subsection (c) or to a determination under
19 subsection (d), but who does not fall within the prohibition of
20 subsection (h) below, who is offered non-State employment
21 during State employment or within a period of one year
22 immediately after termination of State employment shall, prior
23 to accepting such non-State employment, notify the appropriate
24 Inspector General. Within 10 calendar days after receiving
25 notification from an employee in a position subject to the
26 policies required by subsection (c), such Inspector General

1 shall make a determination as to whether the State employee is
2 restricted from accepting such employment by subsection (a) or
3 (b). In making a determination, in addition to any other
4 relevant information, an Inspector General shall assess the
5 effect of the prospective employment or relationship upon
6 decisions referred to in subsections (a) and (b), based on the
7 totality of the participation by the former officer, member, or
8 State employee in those decisions. A determination by an
9 Inspector General must be in writing, signed and dated by the
10 Inspector General, and delivered to the subject of the
11 determination within 10 calendar days or the person is deemed
12 eligible for the employment opportunity. For purposes of this
13 subsection, "appropriate Inspector General" means (i) for
14 members and employees of the legislative branch, the
15 Legislative Inspector General; (ii) for the Auditor General and
16 employees of the Office of the Auditor General, the Inspector
17 General provided for in Section 30-5 of this Act; and (iii) for
18 executive branch officers and employees, the Inspector General
19 having jurisdiction over the officer or employee. Notice of any
20 determination of an Inspector General and of any such appeal
21 shall be given to the ultimate jurisdictional authority, the
22 Attorney General, and the Executive Ethics Commission.

23 (g) An Inspector General's determination regarding
24 restrictions under subsection (a) or (b) may be appealed to the
25 appropriate Ethics Commission by the person subject to the
26 decision or the Attorney General no later than the 10th

1 calendar day after the date of the determination.

2 On appeal, the Ethics Commission or Auditor General shall
3 seek, accept, and consider written public comments regarding a
4 determination. In deciding whether to uphold an Inspector
5 General's determination, the appropriate Ethics Commission or
6 Auditor General shall assess, in addition to any other relevant
7 information, the effect of the prospective employment or
8 relationship upon the decisions referred to in subsections (a)
9 and (b), based on the totality of the participation by the
10 former officer, member, or State employee in those decisions.
11 The Ethics Commission shall decide whether to uphold an
12 Inspector General's determination within 10 calendar days or
13 the person is deemed eligible for the employment opportunity.

14 (h) The following officers, members, or State employees
15 shall not, within a period of one year immediately after
16 termination of office or State employment, knowingly accept
17 employment or receive compensation or fees for services from a
18 person or entity if the person or entity or its parent or
19 subsidiary, during the year immediately preceding termination
20 of State employment, was a party to a State contract or
21 contracts with a cumulative value of \$25,000 or more involving
22 the officer, member, or State employee's State agency, or was
23 the subject of a regulatory or licensing decision involving the
24 officer, member, or State employee's State agency, regardless
25 of whether he or she participated personally and substantially
26 in the award of or the fiscal administration of the State

1 contract or contracts or the making of the regulatory or
2 licensing decision in question:

3 (1) members or officers;

4 (2) members of a commission or board created by the
5 Illinois Constitution;

6 (3) persons whose appointment to office is subject to
7 the advice and consent of the Senate;

8 (4) the head of a department, commission, board,
9 division, bureau, authority, or other administrative unit
10 within the government of this State;

11 (5) chief procurement officers, State purchasing
12 officers, and their designees whose duties are directly
13 related to State procurement;

14 (6) chiefs of staff, deputy chiefs of staff, associate
15 chiefs of staff, assistant chiefs of staff, ~~and~~ deputy
16 governors, or any other position that holds an equivalent
17 level of managerial oversight;

18 (7) employees of the Illinois Racing Board; and

19 (8) employees of the Illinois Gaming Board.

20 (i) For the purposes of this Section, with respect to
21 officers or employees of a regional transit board, as defined
22 in this Act, the phrase "person or entity" does not include:

23 (i) the United States government, (ii) the State, (iii)
24 municipalities, as defined under Article VII, Section 1 of the
25 Illinois Constitution, (iv) units of local government, as
26 defined under Article VII, Section 1 of the Illinois

1 Constitution, or (v) school districts.

2 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19.)

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