



Sen. Dan Cronin

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09400HB3480sam002

LRB094 11248 NHT 46421 a

1 AMENDMENT TO HOUSE BILL 3480

2 AMENDMENT NO. _____. Amend House Bill 3480 as follows:
3 on page 1, immediately below line 3, by inserting the
4 following:

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

7 (50 ILCS 105/3) (from Ch. 102, par. 3)

8 Sec. 3. Prohibited interest in contracts.

9 (a) No person holding any office, either by election or
10 appointment under the laws or Constitution of this State, may
11 be in any manner financially interested directly in his own
12 name or indirectly in the name of any other person,
13 association, trust, or corporation, in any contract or the
14 performance of any work in the making or letting of which such
15 officer may be called upon to act or vote. No such officer may
16 represent, either as agent or otherwise, any person,
17 association, trust, or corporation, with respect to any
18 application or bid for any contract or work in regard to which
19 such officer may be called upon to vote. Nor may any such
20 officer take or receive, or offer to take or receive, either
21 directly or indirectly, any money or other thing of value as a
22 gift or bribe or means of influencing his vote or action in his
23 official character. Nothing contained in this Section may
24 preclude an officer from participating in a group health

1 insurance program provided to an employee of the entity that
2 the officer serves if the officer is a spouse or dependent of
3 that employee. Any contract made and procured in violation
4 hereof is void. This Section shall not apply to any person
5 serving on an advisory panel or commission or to any director
6 serving on a hospital district board as provided under
7 subsection (a-5) of Section 13 of the Hospital District Law.

8 (b) However, any elected or appointed member of the
9 governing body may provide materials, merchandise, property,
10 services, or labor, subject to the following provisions under
11 either paragraph (1) or (2):

12 (1) If:

13 A. the contract is with a person, firm, partnership,
14 association, corporation, or cooperative association in
15 which such interested member of the governing body of the
16 municipality has less than a 7 1/2% share in the ownership;
17 and

18 B. such interested member publicly discloses the
19 nature and extent of his interest prior to or during
20 deliberations concerning the proposed award of the
21 contract; and

22 C. such interested member abstains from voting on the
23 award of the contract, though he shall be considered
24 present for the purposes of establishing a quorum; and

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

27 E. the contract is awarded after sealed bids to the
28 lowest responsible bidder if the amount of the contract
29 exceeds \$1500, or awarded without bidding if the amount of
30 the contract is less than \$1500; and

31 F. the award of the contract would not cause the
32 aggregate amount of all such contracts so awarded to the
33 same person, firm, association, partnership, corporation,
34 or cooperative association in the same fiscal year to

1 exceed \$25,000.

2 (2) If:

3 A. the award of the contract is approved by a majority
4 vote of the governing body of the municipality provided
5 that any such interested member shall abstain from voting;
6 and

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

9 C. the award of the contract would not cause the
10 aggregate amount of all such contracts so awarded to the
11 same person, firm, association, partnership, corporation,
12 or cooperative association in the same fiscal year to
13 exceed \$4,000; and

14 D. such interested member publicly discloses the
15 nature and extent of his interest prior to or during
16 deliberations concerning the proposed award of the
17 contract; and

18 E. such interested member abstains from voting on the
19 award of the contract, though he shall be considered
20 present for the purposes of establishing a quorum.

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

24 A. the contract is with a person, firm, partnership,
25 association, corporation, or cooperative association in
26 which the interested member of the governing body of the
27 municipality, advisory panel, or commission has less than a
28 1% share in the ownership; and

29 B. the award of the contract is approved by a majority
30 vote of the governing body of the municipality provided
31 that any such interested member shall abstain from voting;
32 and

33 C. such interested member publicly discloses the
34 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
27 vote of the city council members then holding office (except
28 for the member desiring to purchase the real estate, who shall
29 not vote on the question).

30 (e) For the purposes of this Section only, a municipal
31 officer shall not be deemed interested if the officer is an
32 employee of a company or owns or holds an interest of 1% or
33 less in the municipal officer's individual name in a company,
34 or both, that company is involved in the transaction of

1 business with the municipality, and that company's stock is
2 traded on a nationally recognized securities market, provided
3 the interested member: (i) publicly discloses the fact that he
4 or she is an employee or holds an interest of 1% or less in a
5 company before deliberation of the proposed award of the
6 contract; (ii) refrains from evaluating, recommending,
7 approving, deliberating, or otherwise participating in
8 negotiation, approval, or both, of the contract, work, or
9 business; (iii) abstains from voting on the award of the
10 contract though he or she shall be considered present for
11 purposes of establishing a quorum; and (iv) the contract is
12 approved by a majority vote of those members currently holding
13 office.

14 A municipal officer shall not be deemed interested if the
15 officer owns or holds an interest of 1% or less, not in the
16 officer's individual name but through a mutual fund, in a
17 company, that company is involved in the transaction of
18 business with the municipality, and that company's stock is
19 traded on a nationally recognized securities market.

20 (Source: P.A. 90-197, eff. 1-1-98; 90-364, eff, 1-1-98; 90-655,
21 eff. 7-30-98.); and

22 on page 1, line 5, by replacing "10-20.21" with "10-9,
23 10-20.21,"; and

24 on page 1, immediately below line 5, by inserting the
25 following:

26 "(105 ILCS 5/10-9) (from Ch. 122, par. 10-9)

27 Sec. 10-9. Interest of board member in contracts.

28 (a) No school board member shall be interested, directly or
29 indirectly, in his own name or in the name of any other person,
30 association, trust or corporation, in any contract, work or
31 business of the district or in the sale of any article,

1 whenever the expense, price or consideration of the contract,
2 work, business or sale is paid either from the treasury or by
3 any assessment levied by any statute or ordinance. No school
4 board member shall be interested, directly or indirectly, in
5 the purchase of any property which (1) belongs to the district,
6 or (2) is sold for taxes or assessments, or (3) is sold by
7 virtue of legal process at the suit of the district. Nothing
8 contained in this Section may preclude a school board member
9 from participating in a group health insurance program provided
10 to a school district employee if the school board member is a
11 spouse or dependent of the employee.

12 (b) However, any board member may provide materials,
13 merchandise, property, services or labor, if:

14 A. the contract is with a person, firm, partnership,
15 association, corporation or cooperative association in
16 which the board member has less than a 7 1/2% share in the
17 ownership; and

18 B. such interested board member publicly discloses the
19 nature and extent of his interest prior to or during
20 deliberations concerning the proposed award of the
21 contract; and

22 C. such interested board member abstains from voting on
23 the award of the contract, though he shall be considered
24 present for the purposes of establishing a quorum; and

25 D. such contract is approved by a majority vote of
26 those board members presently holding office; and

27 E. the contract is awarded after sealed bids to the
28 lowest responsible bidder if the amount of the contract
29 exceeds \$1500, or awarded without bidding if the amount of
30 the contract is less than \$1500; and

31 F. the award of the contract would not cause the
32 aggregate amount of all such contracts so awarded to the
33 same person, firm, association, partnership, corporation
34 or cooperative association in the same fiscal year to

1 exceed \$25,000.

2 (c) In addition to the above exemption, any board member
3 may provide materials, merchandise, property, services or
4 labor if:

5 A. the award of the contract is approved by a majority
6 vote of the board provided that any such interested member
7 shall abstain from voting; and

8 B. the amount of the contract does not exceed \$1,000;
9 and

10 C. the award of the contract would not cause the
11 aggregate amount of all such contracts so awarded to the
12 same person, firm, association, partnership, corporation,
13 or cooperative association in the same fiscal year to
14 exceed \$2,000, except with respect to a board member of a
15 school district in which the materials, merchandise,
16 property, services, or labor to be provided under the
17 contract are not available from any other person, firm,
18 association, partnership, corporation, or cooperative
19 association in the district, in which event the award of
20 the contract shall not cause the aggregate amount of all
21 contracts so awarded to that same person, firm,
22 association, partnership, or cooperative association in
23 the same fiscal year to exceed \$5,000; and

24 D. such interested member publicly discloses the
25 nature and extent of his interest prior to or during
26 deliberations concerning the proposed award of the
27 contract; and

28 E. such interested member abstains from voting on the
29 award of the contract, though he shall be considered
30 present for the purposes of establishing a quorum.

31 (d) In addition to exemptions otherwise authorized by this
32 Section, any board member may purchase for use as the board
33 member's primary place of residence a house constructed by the
34 district's vocational education students on the same basis that

1 any other person would be entitled to purchase the property.
2 The sale of the house by the district must comply with the
3 requirements set forth in Section 5-22 of The School Code.

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

15 (f) Nothing contained in this Section, including the
16 restrictions set forth in subsections (b), (c), (d) and (e),
17 shall preclude a contract of deposit of monies, loans or other
18 financial services by a school district with a local bank or
19 local savings and loan association, regardless of whether a
20 member or members of the governing body of the school district
21 are interested in such bank or savings and loan association as
22 an officer or employee or as a holder of less than 7 1/2% of the
23 total ownership interest. A member or members holding such an
24 interest in such a contract shall not be deemed to be holding a
25 prohibited interest for purposes of this Act. Such interested
26 member or members of the governing body must publicly state the
27 nature and extent of their interest during deliberations
28 concerning the proposed award of such a contract, but shall not
29 participate in any further deliberations concerning the
30 proposed award. Such interested member or members shall not
31 vote on such a proposed award. Any member or members abstaining
32 from participation in deliberations and voting under this
33 Section may be considered present for purposes of establishing
34 a quorum. Award of such a contract shall require approval by a

1 majority vote of those members presently holding office.
2 Consideration and award of any such contract in which a member
3 or members are interested may only be made at a regularly
4 scheduled public meeting of the governing body of the school
5 district.

6 (g) Any school board member who violates this Section is
7 guilty of a Class 4 felony and in addition thereto any office
8 held by such person so convicted shall become vacant and shall
9 be so declared as part of the judgment of the court.

10 (Source: P.A. 89-244, eff. 8-4-95.)".