



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2847

Introduced 1/20/2006, by Sen. Jeffrey M. Schoenberg

#### SYNOPSIS AS INTRODUCED:

5 ILCS 420/4A-105 from Ch. 127, par. 604A-105  
30 ILCS 500/50-13  
30 ILCS 500/50-20  
30 ILCS 500/50-21 new

Amends the Illinois Governmental Ethics Act. Requires that a special government agent file his or her statement of economic interests within 60 days after assuming responsibilities as a special government agent (now, within 30 days after making an ex parte communication). Amends the Illinois Procurement Code. Prohibits all State employees from obtaining State contracts (now, those earning more than 60% of the Governor's compensation). Requires that a waiver from the prohibition against obtaining State contracts must be filed within the earlier of 60 days after it is issued or when contract performance begins, and provides that the contract is voidable if the waiver is not filed within that period. Effective immediately.

LRB094 18863 JAM 54298 b

FISCAL NOTE ACT  
MAY APPLY

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 Illinois Governmental Ethics Act is amended  
5 by changing Section 4A-105 as follows:

6 (5 ILCS 420/4A-105) (from Ch. 127, par. 604A-105)

7 Sec. 4A-105. Time for filing. Except as provided in  
8 Section 4A-106.1, by May 1 of each year a statement must be  
9 filed by each person whose position at that time subjects him  
10 to the filing requirements of Section 4A-101 unless he has  
11 already filed a statement in relation to the same unit of  
12 government in that calendar year.

13 Statements must also be filed as follows:

14 (a) A candidate for elective office shall file his  
15 statement not later than the end of the period during which  
16 he can take the action necessary under the laws of this  
17 State to attempt to qualify for nomination, election, or  
18 retention to such office if he has not filed a statement in  
19 relation to the same unit of government within a year  
20 preceding such action.

21 (b) A person whose appointment to office is subject to  
22 confirmation by the Senate shall file his statement at the  
23 time his name is submitted to the Senate for confirmation.

24 (b-5) A special government agent, as defined in item  
25 (1) of Section 4A-101 of this Act, shall file a statement  
26 within 60 days after assuming responsibilities as a special  
27 government agent ~~30 days after making the first ex parte~~  
28 ~~communication~~ and each May 1 thereafter if he or she has  
29 made an ex parte communication within the previous 12  
30 months.

31 (c) Any other person required by this Article to file  
32 the statement shall file a statement at the time of his or

1 her initial appointment or employment in relation to that  
2 unit of government if appointed or employed by May 1.

3 If any person who is required to file a statement of  
4 economic interests fails to file such statement by May 1 of any  
5 year, the officer with whom such statement is to be filed under  
6 Section 4A-106 of this Act shall, within 7 days after May 1,  
7 notify such person by certified mail of his or her failure to  
8 file by the specified date. Except as may be prescribed by rule  
9 of the Secretary of State, such person shall file his or her  
10 statement of economic interests on or before May 15 with the  
11 appropriate officer, together with a \$15 late filing fee. Any  
12 such person who fails to file by May 15 shall be subject to a  
13 penalty of \$100 for each day from May 16 to the date of filing,  
14 which shall be in addition to the \$15 late filing fee specified  
15 above. Failure to file by May 31 shall result in a forfeiture  
16 in accordance with Section 4A-107 of this Act.

17 Any person who takes office or otherwise becomes required  
18 to file a statement of economic interests within 30 days prior  
19 to May 1 of any year may file his or her statement at any time  
20 on or before May 31 without penalty. If such person fails to  
21 file such statement by May 31, the officer with whom such  
22 statement is to be filed under Section 4A-106 of this Act  
23 shall, within 7 days after May 31, notify such person by  
24 certified mail of his or her failure to file by the specified  
25 date. Such person shall file his or her statement of economic  
26 interests on or before June 15 with the appropriate officer,  
27 together with a \$15 late filing fee. Any such person who fails  
28 to file by June 15 shall be subject to a penalty of \$100 per day  
29 for each day from June 16 to the date of filing, which shall be  
30 in addition to the \$15 late filing fee specified above. Failure  
31 to file by June 30 shall result in a forfeiture in accordance  
32 with Section 4A-107 of this Act.

33 All late filing fees and penalties collected pursuant to  
34 this Section shall be paid into the General Revenue Fund in the  
35 State treasury, if the Secretary of State receives such  
36 statement for filing, or into the general fund in the county

1 treasury, if the county clerk receives such statement for  
2 filing. The Attorney General, with respect to the State, and  
3 the several State's Attorneys, with respect to counties, shall  
4 take appropriate action to collect the prescribed penalties.

5 Failure to file a statement of economic interests within  
6 the time prescribed shall not result in a fine or ineligibility  
7 for, or forfeiture of, office or position of employment, as the  
8 case may be; provided that the failure to file results from not  
9 being included for notification by the appropriate agency,  
10 clerk, secretary, officer or unit of government, as the case  
11 may be, and that a statement is filed within 30 days of actual  
12 notice of the failure to file.

13 (Source: P.A. 93-617, eff. 12-9-03.)

14 Section 10. The Illinois Procurement Code is amended by  
15 changing Sections 50-13 and 50-20 and by adding Section 50-21  
16 as follows:

17 (30 ILCS 500/50-13)

18 Sec. 50-13. Conflicts of interest.

19 (a) Prohibition. It is unlawful for any person holding an  
20 elective office in this State, holding a seat in the General  
21 Assembly, or appointed to or employed in any of the offices or  
22 agencies of State government ~~and who receives compensation for~~  
23 ~~such employment in excess of 60% of the salary of the Governor~~  
24 ~~of the State of Illinois~~, or who is an officer or employee of  
25 the Capital Development Board or the Illinois Toll Highway  
26 Authority, or who is the spouse or minor child of any such  
27 person to have or acquire any contract, or any direct pecuniary  
28 interest in any contract therein, whether for stationery,  
29 printing, paper, or any services, materials, or supplies, that  
30 will be wholly or partially satisfied by the payment of funds  
31 appropriated by the General Assembly of the State of Illinois  
32 or in any contract of the Capital Development Board or the  
33 Illinois Toll Highway Authority.

34 (b) Interests. It is unlawful for any firm, partnership,

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

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

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

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

20 (e) Prior interests. This Section does not affect the  
21 validity of any contract made between the State and an officer  
22 or employee of the State or member of the General Assembly, his  
23 or her spouse, minor child, or other immediate family member  
24 living in his or her residence or any combination of those  
25 persons if that contract was in existence before his or her  
26 election or employment as an officer, member, or employee. The  
27 contract is voidable, however, if it cannot be completed within  
28 365 days after the officer, member, or employee takes office or  
29 is employed.

30 (f) Exceptions.

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

33 (2) Teaching. This Section does not apply to a contract  
34 for personal services as a teacher or school administrator  
35 between a member of the General Assembly or his or her  
36 spouse, or a State officer or employee or his or her

1 spouse, and any school district, public community college  
2 district, the University of Illinois, Southern Illinois  
3 University, Illinois State University, Eastern Illinois  
4 University, Northern Illinois University, Western Illinois  
5 University, Chicago State University, Governor State  
6 University, or Northeastern Illinois University.

7 (3) Ministerial duties. This Section does not apply to  
8 a contract for personal services of a wholly ministerial  
9 character, including but not limited to services as a  
10 laborer, clerk, typist, stenographer, page, bookkeeper,  
11 receptionist, or telephone switchboard operator, made by a  
12 spouse or minor child of an elective or appointive State  
13 officer or employee or of a member of the General Assembly.

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

20 (5) Licensed professionals. Contracts with licensed  
21 professionals, provided they are competitively bid or part  
22 of a reimbursement program for specific, customary goods  
23 and services through the Department of Children and Family  
24 Services, the Department of Human Services, the Department  
25 of Healthcare and Family Services ~~Public Aid~~, the  
26 Department of Public Health, or the Department on Aging.

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

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

31 (30 ILCS 500/50-20)

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

1 of Section 50-13 when, in his, her, or its judgment, the public  
2 interest in having the individual in the service of the State  
3 outweighs the public policy evidenced in that Section. An  
4 exemption is effective only when it is filed with the Secretary  
5 of State and the Comptroller within 60 days after its issuance  
6 or when performance of the contract begins, whichever is  
7 earlier, and includes a statement setting forth the name of the  
8 individual and all the pertinent facts that would make that  
9 Section applicable, setting forth the reason for the exemption,  
10 and declaring the individual exempted from that Section. Notice  
11 of each exemption shall be published in the Illinois  
12 Procurement Bulletin.

13 A contract for which a waiver has been issued but has not  
14 been filed in accordance with this Section is voidable.

15 (Source: P.A. 90-572, eff. 2-6-98.)

16 (30 ILCS 500/50-21 new)

17 Sec. 50-21. Bond issuances.

18 (a) A State agency shall not enter into a contract with  
19 respect to the issuance of bonds or other securities by the  
20 State or a State agency with any entity that uses an  
21 independent consultant.

22 As used in this subsection, "independent consultant" means  
23 a person used by the entity to obtain or retain securities  
24 business through direct or indirect communication by the person  
25 with a State official or employee on behalf of the entity when  
26 the communication is undertaken by the person in exchange for  
27 or with the understanding of receiving payment from the entity  
28 or another person. "Independent consultant" does not include  
29 (i) a finance professional employed by the entity or (ii) a  
30 person whose sole basis of compensation from the entity is the  
31 actual provision of legal, accounting, or engineering advice,  
32 services, or assistance in connection with the securities  
33 business that the entity seeks to obtain or retain.

34 (b) Each contract entered into by a State agency with  
35 respect to the issuance of bonds or other securities by the

1 State or a State agency shall include a certification by any  
2 contracting party subject to the Municipal Securities  
3 Rulemaking Board's Rule G-38, or a successor rule, that the  
4 contracting entity is and shall remain for the duration of the  
5 contract in compliance with the Rule's requirements for  
6 reporting political contributions. Violation of the  
7 certification makes the contract voidable by the State and  
8 shall bar the awarding of a State agency contract with respect  
9 to the issuance of bonds or other securities to the violator  
10 for a period of 10 years after the determination of the  
11 violation.

12 (c) Any entity convicted of violating the Municipal  
13 Securities Rulemaking Board's Rule G-37 or Rule G-38, or any  
14 successor rules, with respect to the prohibitions of those  
15 rules against obtaining or retaining municipal securities  
16 business and the making of political contributions or payments  
17 is permanently barred from participating in any State agency  
18 contract with respect to the issuance of bonds or other  
19 securities.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.