



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5812

by Rep. Brian W. Stewart

SYNOPSIS AS INTRODUCED:

50 ILCS 105/3

from Ch. 102, par. 3

55 ILCS 5/5-3003 new

Amends the Public Officer Prohibited Activities Act. Provides that a county officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the county. Sets forth the limitations of participation if a county officer is appointed by the governing body of the county to represent the interests of the county on the board of a not-for-profit corporation. Sets forth the limitations of participation if a county officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the county. Makes conforming changes in the Counties Code.

LRB098 18013 JLK 53140 b

1 AN ACT concerning local government.

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

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

6 (50 ILCS 105/3) (from Ch. 102, par. 3)

7 Sec. 3. Prohibited interest in contracts.

8 (a) No person holding any office, either by election or
9 appointment under the laws or Constitution of this State, may
10 be in any manner financially interested directly in his own
11 name or indirectly in the name of any other person,
12 association, trust, or corporation, in any contract or the
13 performance of any work in the making or letting of which such
14 officer may be called upon to act or vote. No such officer may
15 represent, either as agent or otherwise, any person,
16 association, trust, or corporation, with respect to any
17 application or bid for any contract or work in regard to which
18 such officer may be called upon to vote. Nor may any such
19 officer take or receive, or offer to take or receive, either
20 directly or indirectly, any money or other thing of value as a
21 gift or bribe or means of influencing his vote or action in his
22 official character. Any contract made and procured in violation
23 hereof is void. This Section shall not apply to any person

1 serving on an advisory panel or commission, to any director
2 serving on a hospital district board as provided under
3 subsection (a-5) of Section 13 of the Hospital District Law, or
4 to any person serving as both a contractual employee and as a
5 member of a public hospital board as provided under Article 11
6 of the Illinois Municipal Code in a municipality with a
7 population between 13,000 and 16,000 that is located in a
8 county with a population between 50,000 and 70,000.

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

13 (1) If:

14 A. the contract is with a person, firm,
15 partnership, association, corporation, or cooperative
16 association in which such interested member of the
17 governing body of the municipality has less than a 7
18 1/2% share in the ownership; and

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

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

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

3 E. the contract is awarded after sealed bids to the
4 lowest responsible bidder if the amount of the contract
5 exceeds \$1500, or awarded without bidding if the amount
6 of the contract is less than \$1500; and

7 F. the award of the contract would not cause the
8 aggregate amount of all such contracts so awarded to
9 the same person, firm, association, partnership,
10 corporation, or cooperative association in the same
11 fiscal year to exceed \$25,000.

12 (2) If:

13 A. the award of the contract is approved by a
14 majority vote of the governing body of the municipality
15 provided that any such interested member shall abstain
16 from voting; and

17 B. the amount of the contract does not exceed
18 \$2,000; and

19 C. the award of the contract would not cause the
20 aggregate amount of all such contracts so awarded to
21 the same person, firm, association, partnership,
22 corporation, or cooperative association in the same
23 fiscal year to exceed \$4,000; 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

1 contract; and

2 E. such interested member abstains from voting on
3 the award of the contract, though he shall be
4 considered present for the purposes of establishing a
5 quorum.

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

9 A. the contract is with a person, firm, partnership,
10 association, corporation, or cooperative association in
11 which the interested member of the governing body of the
12 municipality, advisory panel, or commission has less than a
13 1% share in the ownership; and

14 B. the award of the contract is approved by a majority
15 vote of the governing body of the municipality provided
16 that any such interested member shall abstain from voting;
17 and

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

22 D. 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.

25 (c) A contract for the procurement of public utility
26 services by a public entity with a public utility company is

1 not barred by this Section by one or more members of the
2 governing body of the public entity being an officer or
3 employee of the public utility company or holding an ownership
4 interest of no more than 7 1/2% in the public utility company,
5 or holding an ownership interest of any size if the public
6 entity is a municipality with a population of less than 7,500
7 and the public utility's rates are approved by the Illinois
8 Commerce Commission. An elected or appointed member of the
9 governing body of the public entity having such an interest
10 shall be deemed not to have a prohibited interest under this
11 Section.

12 (d) Notwithstanding any other provision of this Section or
13 any other law to the contrary, until January 1, 1994, a member
14 of the city council of a municipality with a population under
15 20,000 may purchase real estate from the municipality, at a
16 price of not less than 100% of the value of the real estate as
17 determined by a written MAI certified appraisal or by a written
18 certified appraisal of a State certified or licensed real
19 estate appraiser, if the purchase is approved by a unanimous
20 vote of the city council members then holding office (except
21 for the member desiring to purchase the real estate, who shall
22 not vote on the question).

23 (e) For the purposes of this Section only, a municipal
24 officer shall not be deemed interested if the officer is an
25 employee of a company or owns or holds an interest of 1% or
26 less in the municipal officer's individual name in a company,

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

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

22 (f) Under either of the following circumstances, a
23 municipal officer may hold a position on the board of a
24 not-for-profit corporation that is interested in a contract,
25 work, or business of the municipality:

26 (1) If the municipal officer is appointed by the

1 governing body of the municipality to represent the
2 interests of the municipality on a not-for-profit
3 corporation's board, then the municipal officer may
4 actively vote on matters involving either that board or the
5 municipality, at any time, so long as the membership on the
6 not-for-profit board is not a paid position, except that
7 the municipal officer may be reimbursed by the
8 non-for-profit board for expenses incurred as the result of
9 membership on the non-for-profit board.

10 (2) If the municipal officer is not appointed to the
11 governing body of a not-for-profit corporation by the
12 governing body of the municipality, then the municipal
13 officer may continue to serve; however, the municipal
14 officer shall abstain from voting on any proposition before
15 the municipal governing body directly involving the
16 not-for-profit corporation and, for those matters, shall
17 not be counted as present for the purposes of a quorum of
18 the municipal governing body.

19 (g) Under either of the following circumstances, a county
20 officer may hold a position on the board of a not-for-profit
21 corporation that is interested in a contract, work, or business
22 of the county:

23 (1) If the county officer is appointed by the governing
24 body of the county to represent the interests of the county
25 on a not-for-profit corporation's board, then the county
26 officer may actively vote on matters involving either that

1 board or the county, at any time, so long as the membership
2 on the not-for-profit board is not a paid position, except
3 that the county officer may be reimbursed by the
4 not-for-profit board for expenses incurred as the result of
5 membership on the non-for-profit board.

6 (2) If the county officer is not appointed to the
7 governing body of a not-for-profit corporation by the
8 governing body of the county, then the county officer may
9 continue to serve; however, the county officer shall
10 abstain from voting on any proposition before the governing
11 body of the county directly involving the not-for-profit
12 corporation and, for those matters, shall not be counted as
13 present for the purposes of a quorum of the governing body
14 of the county.

15 (Source: P.A. 96-277, eff. 1-1-10; 96-1058, eff. 7-14-10;
16 97-520, eff. 8-23-11.)

17 Section 10. The Counties Code is amended by adding Section
18 5-3003 as follows:

19 (55 ILCS 5/5-3003 new)

20 Sec. 5-3003. Interests in contracts. Under either of the
21 following circumstances, a county officer may hold a position
22 on the board of a not-for-profit corporation that is interested
23 in a contract, work, or business of the county:

24 (1) If the county officer is appointed by the governing

1 body of the county to represent the interests of the county on
2 a not-for-profit corporation's board, then the county officer
3 may actively vote on matters involving either that board or the
4 county, at any time, so long as the membership on the
5 not-for-profit board is not a paid position, except that the
6 county officer may be reimbursed by the not-for-profit board
7 for expenses incurred as the result of membership on the
8 not-for-profit board.

9 (2) If the county officer is not appointed to the governing
10 body of a not-for-profit corporation by the governing body of
11 the county, then the county officer may continue to serve;
12 however, the county officer shall abstain from voting on any
13 proposition before the governing body of the county directly
14 involving the not-for-profit corporation and, for those
15 matters, shall not be counted as present for the purposes of a
16 quorum of the governing body of the county.