

HB3384



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3384

by Rep. Jeanne M Ives

SYNOPSIS AS INTRODUCED:

50 ILCS 105/3

from Ch. 102, par. 3

Amends the Public Officer Prohibited Activities Act. Provides that a public officer's direct or indirect financial interest in a contract or work to be done is not removed by an abstention or present vote. Provides that an abstention during a vote on a contract or the performance of any work is considered a vote and carries with the majority. Effective immediately.

LRB100 10641 AWJ 20864 b

A BILL FOR

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. Any direct or
15 indirect financial interest of an officer is not removed by an
16 abstention or present vote. An abstention during a vote on a
17 contract or the performance of any work is considered a vote
18 and carries with the majority. No such officer may represent,
19 either as agent or otherwise, any person, association, trust,
20 or corporation, with respect to any application or bid for any
21 contract or work in regard to which such officer may be called
22 upon to vote. Nor may any such officer take or receive, or
23 offer to take or receive, either directly or indirectly, any

1 money or other thing of value as a gift or bribe or means of
2 influencing his vote or action in his official character. Any
3 contract made and procured in violation hereof is void. This
4 Section shall not apply to any person serving on an advisory
5 panel or commission, to any director serving on a hospital
6 district board as provided under subsection (a-5) of Section 13
7 of the Hospital District Law, or to any person serving as both
8 a contractual employee and as a member of a public hospital
9 board as provided under Article 11 of the Illinois Municipal
10 Code in a municipality with a population between 13,000 and
11 16,000 that is located in a county with a population between
12 50,000 and 70,000.

13 (b) However, any elected or appointed member of the
14 governing body may provide materials, merchandise, property,
15 services, or labor, subject to the following provisions under
16 either paragraph (1) or (2):

17 (1) If:

18 A. the contract is with a person, firm,
19 partnership, association, corporation, or cooperative
20 association in which such interested member of the
21 governing body of the municipality has less than a 7
22 1/2% share in the ownership; and

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

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

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

7 E. the contract is awarded after sealed bids to the
8 lowest responsible bidder if the amount of the contract
9 exceeds \$1500, or awarded without bidding if the amount
10 of the contract is less than \$1500; and

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

16 (2) If:

17 A. the award of the contract is approved by a
18 majority vote of the governing body of the municipality
19 provided that any such interested member shall abstain
20 from voting; and

21 B. the amount of the contract does not exceed
22 \$2,000; and

23 C. the award of the contract would not cause the
24 aggregate amount of all such contracts so awarded to
25 the same person, firm, association, partnership,
26 corporation, or cooperative association in the same

1 fiscal year to exceed \$4,000; and

2 D. such interested member publicly discloses the
3 nature and extent of his interest prior to or during
4 deliberations concerning the proposed award of the
5 contract; and

6 E. such interested member abstains from voting on
7 the award of the contract, though he shall be
8 considered present for the purposes of establishing a
9 quorum.

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

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

18 B. the award of the contract is approved by a majority
19 vote of the governing body of the municipality provided
20 that any such interested member shall abstain from voting;
21 and

22 C. such interested member publicly discloses the
23 nature and extent of his interest before or during
24 deliberations concerning the proposed award of the
25 contract; and

26 D. such interested member abstains from voting on the

1 award of the contract, though he shall be considered
2 present for the purposes of establishing a quorum.

3 (c) A contract for the procurement of public utility
4 services by a public entity with a public utility company is
5 not barred by this Section by one or more members of the
6 governing body of the public entity being an officer or
7 employee of the public utility company or holding an ownership
8 interest of no more than 7 1/2% in the public utility company,
9 or holding an ownership interest of any size if the public
10 entity is a municipality with 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 governing body of the public entity having such an interest
14 shall be deemed not to have a prohibited interest under this
15 Section.

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

1 (e) For the purposes of this Section only, a municipal
2 officer shall not be deemed interested if the officer is an
3 employee of a company or owns or holds an interest of 1% or
4 less in the municipal officer's individual name in a company,
5 or both, that company is involved in the transaction of
6 business with the municipality, and that company's stock is
7 traded on a nationally recognized securities market, provided
8 the interested member: (i) publicly discloses the fact that he
9 or she is an employee or holds an interest of 1% or less in a
10 company before deliberation of the proposed award of the
11 contract; (ii) refrains from evaluating, recommending,
12 approving, deliberating, or otherwise participating in
13 negotiation, approval, or both, of the contract, work, or
14 business; (iii) abstains from voting on the award of the
15 contract though he or she shall be considered present for
16 purposes of establishing a quorum; and (iv) the contract is
17 approved by a majority vote of those members currently holding
18 office.

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

26 (f) Under either of the following circumstances, a

1 municipal or county officer may hold a position on the board of
2 a not-for-profit corporation that is interested in a contract,
3 work, or business of the municipality or county:

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

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

25 (Source: P.A. 97-520, eff. 8-23-11; 98-1083, eff. 1-1-15;
26 revised 9-22-16.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.