



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3127

Introduced 2/6/2020, by Sen. Dan McConchie

SYNOPSIS AS INTRODUCED:

5 ILCS 420/3A-40

Amends the Illinois Governmental Ethics Act. Provides that, for purposes of determining the partisanship of any person who is appointed by the Governor to an office that either requires specific partisanship or limits the number of appointees from a single political party that may be appointed, the vote of that person in the 3 general primary elections immediately preceding the effective date of the appointment shall determine their partisanship for that person's term of office. Provides that a person who did not vote, or who voted but did not request a partisan ballot, in the 3 general primary elections immediately preceding the effective date of the appointment or who voted but requested partisan ballots for 2 or more different political parties in the 3 general primary elections immediately preceding the effective date of the appointment, shall be deemed an independent for purposes of determining partisanship for that person's term of office.

LRB101 17857 RJF 67292 b

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 3A-40 as follows:

6 (5 ILCS 420/3A-40)

7 Sec. 3A-40. Appointees with expired terms; temporary and
8 acting appointees.

9 (a) A person who is nominated by the Governor on or after
10 August 26, 2011 (the effective date of Public Act 97-582) for
11 any affected office to which appointment requires the advice
12 and consent of the Senate, who is appointed pursuant to that
13 advice and consent, and whose term of office expires on or
14 after August 26, 2011 shall not continue in office longer than
15 60 calendar days after the expiration of that term of office.
16 After that 60th day, each such office is considered vacant and
17 shall be filled only pursuant to the law applicable to making
18 appointments to that office, subject to the provisions of this
19 Section.

20 A person who has been nominated by the Governor before
21 August 26, 2011 (the effective date of Public Act 97-582) for
22 any affected office to which appointment requires the advice
23 and consent of the Senate, who has been appointed pursuant to

1 that advice and consent, and whose term of office has expired
2 shall not continue in office longer than 60 calendar days after
3 the date upon which his or her term of office has expired.
4 After that 60 days, each such office is considered vacant and
5 shall be filled only pursuant to the law applicable to making
6 appointments to that office, subject to the provisions of this
7 Section. If the term of office of a person who is subject to
8 this paragraph expires more than 60 calendar days prior to the
9 effective date of this amendatory Act of the 97th General
10 Assembly, then that office is considered vacant on the
11 effective date of this amendatory Act of the 97th General
12 Assembly, and that vacancy shall be filled only pursuant to the
13 law applicable to making appointments to that office. For the
14 purposes of this subsection (a), "affected office" means (i) an
15 office in which one receives any form of compensation,
16 including salary or per diem, but not including expense
17 reimbursement, or (ii) membership on the board of trustees of a
18 public university.

19 (b) A person who is appointed by the Governor on or after
20 August 26, 2011 (the effective date of Public Act 97-582) to
21 serve as a temporary appointee during a recess of the Senate,
22 pursuant to Article V, Section 9(b) of the Illinois
23 Constitution or any other applicable statute, to any office to
24 which appointment requires the advice and consent of the Senate
25 shall not continue in office after the next meeting of the
26 Senate unless the Governor has filed a message with the

1 Secretary of the Senate nominating that person to fill that
2 office on or before that meeting date. After that meeting date,
3 each such office is considered vacant and shall be filled only
4 pursuant to the law applicable to making appointments to that
5 office, subject to the provisions of this Section. Any
6 temporary appointment made pursuant to subsection (b) of
7 Section 9 of Article V of the Illinois Constitution or any
8 applicable statute shall be filed with the Secretary of State
9 and the Secretary of the Senate. The form of the temporary
10 appointment message shall be established by the Senate under
11 its rules.

12 For the purposes of this subsection (b), a meeting of the
13 Senate does not include a perfunctory session day as designated
14 by the Senate under its rules. For the purposes of this
15 subsection (b), the Senate is in recess on a day in which it is
16 not in session and does not include a perfunctory session day
17 as designated by the Senate under its rules.

18 (c) A person who is designated by the Governor on or after
19 August 26, 2011 (the effective date of Public Act 97-582) to
20 serve as an acting appointee to any office to which appointment
21 requires the advice and consent of the Senate shall not
22 continue in office more than 60 calendar days unless the
23 Governor files a message with the Secretary of the Senate
24 nominating that person to fill that office within that 60 days.
25 After that 60 days, each such office is considered vacant and
26 shall be filled only pursuant to the law applicable to making

1 appointments to that office, subject to the provisions of this
2 Section. The Governor shall file with the Secretary of the
3 Senate the name of any person who the Governor designates as an
4 acting appointee under this Section. The form of the message
5 designating an appointee as acting shall be established by the
6 Senate under its rules. No person who has been designated by
7 the Governor to serve as an acting appointee to any office to
8 which appointment requires the advice and consent of the Senate
9 shall, except at the Senate's request, be designated again as
10 an acting appointee for that office at the same session of that
11 Senate, subject to the provisions of this Section.

12 During the term of a General Assembly, the Governor may not
13 designate a person to serve as an acting appointee to any
14 office to which appointment requires the advice and consent of
15 the Senate if that person's nomination to serve as the
16 appointee for the same office was rejected by the Senate of the
17 same General Assembly.

18 For the purposes of this subsection (c), "acting appointee"
19 means a person designated by the Governor to serve as an acting
20 director or acting secretary pursuant to Section 5-605 of the
21 Civil Administrative Code of Illinois. "Acting appointee" also
22 means a person designated by the Governor pursuant to any other
23 statute to serve as an acting holder of any office, to execute
24 the duties and functions of any office, or both.

25 (d) The provisions of this Section apply notwithstanding
26 any law to the contrary. However, the provisions of this

1 Section do not apply to appointments made under Article 1A of
2 the Election Code or to the appointment of any person to serve
3 as Director of the Illinois Power Agency.

4 (e) Except as otherwise provided by law, for purposes of
5 determining the partisanship of any person who is appointed by
6 the Governor to an office that either requires specific
7 partisanship or limits the number of appointees from a single
8 political party that may be appointed, the vote of that person
9 in the 3 general primary elections immediately preceding the
10 effective date of the appointment shall determine that person's
11 partisanship for his or her term of office. A person who did
12 not vote, or who voted but did not request a partisan ballot,
13 in the 3 general primary elections immediately preceding the
14 effective date of the appointment or who voted but requested
15 partisan ballots for 2 or more different political parties in
16 the 3 general primary elections immediately preceding the
17 effective date of the appointment, shall be deemed an
18 independent for purposes of determining partisanship for that
19 person's term of office. After being appointed to an office, no
20 person shall be disqualified from continuing in that office
21 during the term for which that person was appointed, or for
22 holding over thereafter, based on that person's voting in a
23 general primary election after his or her appointment.

24 This subsection (e) shall apply to a person who is
25 nominated by the Governor on or after the effective date of
26 this amendatory Act of the 101st General Assembly and shall

1 apply to all appointments, including those which are acting or
2 temporary.

3 (Source: P.A. 97-582, eff. 8-26-11; 97-719, eff. 6-29-12;
4 98-692, eff. 7-1-14.)