



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6121

Introduced 2/11/2010, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

10 ILCS 5/9-35
30 ILCS 500/20-160

Amends the Election Code and the Illinois Procurement Code. With respect to the pay-to-play provisions, requires each State agency to notify its current contractors in writing of the business registration requirements. Makes a business entity's failure to receive that notice an affirmative defense against an alleged violation of the registration requirements. Effective immediately.

LRB096 17126 JAM 32451 b

1 AN ACT concerning ethics.

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

4 Section 5. The Election Code is amended by changing Section
5 9-35 as follows:

6 (10 ILCS 5/9-35)

7 Sec. 9-35. Registration of business entities.

8 (a) This Section governs the procedures for the
9 registration required under Section 20-160 of the Illinois
10 Procurement Code.

11 For the purposes of this Section, the terms "officeholder",
12 "State contract", "business entity", "State agency",
13 "affiliated entity", and "affiliated person" have the meanings
14 ascribed to those terms in Section 50-37 of the Illinois
15 Procurement Code.

16 (b) Registration under Section 20-160 of the Illinois
17 Procurement Code, and any changes to that registration, must be
18 made electronically, and the State Board of Elections by rule
19 shall provide for electronic registration; except that the
20 State Board may adopt emergency rules providing for a temporary
21 filing system, effective through August 1, 2009, under which
22 business entities must file the required registration forms
23 provided by the Board via e-mail attachment in a PDF file or

1 via another type of mail service and must receive from the
2 State Board registration certificates via e-mail or paper
3 registration certificates. The State Board shall retain the
4 registrations submitted by business entities via e-mail or
5 another type of mail service for at least 6 months following
6 the establishment of the electronic registration system
7 required by this subsection.

8 Each registration must contain substantially the
9 following:

10 (1) The name and address of the business entity.

11 (2) The name and address of any affiliated entity of
12 the business entity, including a description of the
13 affiliation.

14 (3) The name and address of any affiliated person of
15 the business entity, including a description of the
16 affiliation.

17 (c) The Board shall provide a certificate of registration
18 to the business entity. The certificate shall be electronic,
19 except as otherwise provided in this Section, and accessible to
20 the business entity through the State Board of Elections'
21 website and protected by a password. Within 60 days after
22 establishment of the electronic system, each business entity
23 that submitted a registration via e-mail attachment or paper
24 copy pursuant to this Section shall re-submit its registration
25 electronically. At the time of re-submission, the State Board
26 of Elections shall provide an electronic certificate of

1 registration to that business entity.

2 (d) Any business entity required to register under Section
3 20-160 of the Illinois Procurement Code shall provide a copy of
4 the registration certificate, by first class mail or hand
5 delivery within 10 days after registration, to each affiliated
6 entity or affiliated person whose identity is required to be
7 disclosed. Failure to provide notice to an affiliated entity or
8 affiliated person is a business offense for which the business
9 entity is subject to a fine not to exceed \$1,001.

10 (e) In addition to any penalty under Section 20-160 of the
11 Illinois Procurement Code, intentional, willful, or material
12 failure to disclose information required for registration is
13 subject to a civil penalty imposed by the State Board of
14 Elections. The State Board shall impose a civil penalty of
15 \$1,000 per business day for failure to update a registration.

16 (f) Any business entity required to register under Section
17 20-160 of the Illinois Procurement Code shall notify any
18 political committee to which it makes a contribution, at the
19 time of the contribution, that the business entity is
20 registered with the State Board of Elections under Section
21 20-160 of the Illinois Procurement Code. Any affiliated entity
22 or affiliated person of a business entity required to register
23 under Section 20-160 of the Illinois Procurement Code shall
24 notify any political committee to which it makes a contribution
25 that it is affiliated with a business entity registered with
26 the State Board of Elections under Section 20-160 of the

1 Illinois Procurement Code.

2 (g) The State Board of Elections on its official website
3 shall have a searchable database containing (i) all information
4 required to be submitted to the Board under Section 20-160 of
5 the Illinois Procurement Code and (ii) all reports filed under
6 this Article with the State Board of Elections by all political
7 committees. For the purposes of databases maintained by the
8 State Board of Elections, "searchable" means able to search by
9 "political committee", as defined in this Article, and by
10 "officeholder", "State agency", "business entity", "affiliated
11 entity", and "affiliated person". The Board shall not place the
12 name of a minor child on the website. However, the Board shall
13 provide a link to all contributions made by anyone reporting
14 the same residential address as any affiliated person. In
15 addition, the State Board of Elections on its official website
16 shall provide an electronic connection to any searchable
17 database of State contracts maintained by the Comptroller,
18 searchable by business entity.

19 (h) The State Board of Elections shall have rulemaking
20 authority to implement this Section.

21 (i) Failure of a business entity with a State contract in
22 effect with a State agency on the effective date of this
23 amendatory Act of the 96th General Assembly to receive the
24 written notification required by subsection (j) of Section
25 20-160 of the Illinois Procurement Code is an affirmative
26 defense of that business entity against any alleged violation

1 of the registration requirements of this Section or of Section
2 20-160 of the Illinois Procurement Code.

3 (Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09.)

4 Section 10. The Illinois Procurement Code is amended by
5 changing Section 20-160 as follows:

6 (30 ILCS 500/20-160)

7 Sec. 20-160. Business entities; certification;
8 registration with the State Board of Elections.

9 (a) For purposes of this Section, the terms "business
10 entity", "contract", "State contract", "contract with a State
11 agency", "State agency", "affiliated entity", and "affiliated
12 person" have the meanings ascribed to those terms in Section
13 50-37.

14 (b) Every bid submitted to and every contract executed by
15 the State on or after the effective date of this amendatory Act
16 of the 95th General Assembly shall contain (1) a certification
17 by the bidder or contractor that either (i) the bidder or
18 contractor is not required to register as a business entity
19 with the State Board of Elections pursuant to this Section or
20 (ii) the bidder or contractor has registered as a business
21 entity with the State Board of Elections and acknowledges a
22 continuing duty to update the registration and (2) a statement
23 that the contract is voidable under Section 50-60 for the
24 bidder's or contractor's failure to comply with this Section.

1 (c) Within 30 days after the effective date of this
2 amendatory Act of the 95th General Assembly, each business
3 entity (i) whose aggregate bids and proposals on State
4 contracts annually total more than \$50,000, (ii) whose
5 aggregate bids and proposals on State contracts combined with
6 the business entity's aggregate annual total value of State
7 contracts exceed \$50,000, or (iii) whose contracts with State
8 agencies, in the aggregate, annually total more than \$50,000
9 shall register with the State Board of Elections in accordance
10 with Section 9-35 of the Election Code. A business entity
11 required to register under this subsection shall submit a copy
12 of the certificate of registration to the applicable chief
13 procurement officer within 90 days after the effective date of
14 this amendatory Act of the 95th General Assembly. A business
15 entity required to register under this subsection due to item
16 (i) or (ii) has a continuing duty to ensure that the
17 registration is accurate during the period beginning on the
18 date of registration and ending on the day after the date the
19 contract is awarded; any change in information must be reported
20 to the State Board of Elections within 2 business days
21 following such change. A business entity required to register
22 under this subsection due to item (iii) has a continuing duty
23 to ensure that the registration is accurate in accordance with
24 subsection (f).

25 (d) Any business entity, not required under subsection (c)
26 to register within 30 days after the effective date of this

1 amendatory Act of the 95th General Assembly, whose aggregate
2 bids and proposals on State contracts annually total more than
3 \$50,000, or whose aggregate bids and proposals on State
4 contracts combined with the business entity's aggregate annual
5 total value of State contracts exceed \$50,000, shall register
6 with the State Board of Elections in accordance with Section
7 9-35 of the Election Code prior to submitting to a State agency
8 the bid or proposal whose value causes the business entity to
9 fall within the monetary description of this subsection. A
10 business entity required to register under this subsection has
11 a continuing duty to ensure that the registration is accurate
12 during the period beginning on the date of registration and
13 ending on the day after the date the contract is awarded. Any
14 change in information must be reported to the State Board of
15 Elections within 2 business days following such change.

16 (e) A business entity whose contracts with State agencies,
17 in the aggregate, annually total more than \$50,000 must
18 maintain its registration under this Section and has a
19 continuing duty to ensure that the registration is accurate for
20 the duration of the term of office of the incumbent
21 officeholder awarding the contracts or for a period of 2 years
22 following the expiration or termination of the contracts,
23 whichever is longer. Any change in information shall be
24 reported to the State Board of Elections within 10 days
25 following such change; however, if a business entity required
26 to register under this subsection has a pending bid or

1 proposal, any change in information shall be reported to the
2 State Board of Elections within 2 business days.

3 (f) A business entity's continuing duty under this Section
4 to ensure the accuracy of its registration includes the
5 requirement that the business entity notify the State Board of
6 Elections of any change in information, including but not
7 limited to changes of affiliated entities or affiliated
8 persons.

9 (g) A copy of a certificate of registration must accompany
10 any bid or proposal for a contract with a State agency by a
11 business entity required to register under this Section. A
12 chief procurement officer shall not accept a bid or proposal
13 unless the certificate is submitted to the agency with the bid
14 or proposal.

15 (h) A registration, and any changes to a registration, must
16 include the business entity's verification of accuracy and
17 subjects the business entity to the penalties of the laws of
18 this State for perjury.

19 In addition to any penalty under Section 9-35 of the
20 Election Code, intentional, willful, or material failure to
21 disclose information required for registration shall render
22 the contract, bid, proposal, or other procurement relationship
23 voidable by the chief procurement officer if he or she deems it
24 to be in the best interest of the State of Illinois.

25 (i) This Section applies regardless of the method of source
26 selection used in awarding the contract.

1 (j) Within 60 days after the effective date of this
2 amendatory Act of the 96th General Assembly, each State agency
3 shall provide written notice of the registration requirements
4 of this Section and of Section 9-35 of the Election Code to
5 each business entity with a State contract with that State
6 agency in effect on the effective date of this amendatory Act
7 of the 96th General Assembly. Failure of a business entity with
8 a State contract in effect with a State agency on the effective
9 date of this amendatory Act of the 96th General Assembly to
10 receive the written notification required by this subsection is
11 an affirmative defense of that business entity against any
12 alleged violation of the registration requirements of this
13 Section or of Section 9-35 of the Election Code.

14 (Source: P.A. 95-971, eff. 1-1-09.)

15 Section 95. No acceleration or delay. Where this Act makes
16 changes in a statute that is represented in this Act by text
17 that is not yet or no longer in effect (for example, a Section
18 represented by multiple versions), the use of that text does
19 not accelerate or delay the taking effect of (i) the changes
20 made by this Act or (ii) provisions derived from any other
21 Public Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.