



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3060

Introduced 2/23/2011, by Rep. David Harris

SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-37

Amends the Illinois Procurement Code. Prohibits certain business entities with State contracts or pending bids or proposals on State contracts from making political contributions to any political committee (i) established to promote the candidacy of an officeholder or declared candidate for that office, (ii) established to promote the candidacy of any member of the General Assembly or declared candidate for membership in the General Assembly, or (iii) of a State central committee of any political party that is represented by an officeholder or member of the General Assembly or a declared candidate for that office or membership in the General Assembly (now, any political committee established to promote the candidacy of an officeholder responsible for awarding the contracts or, with regard to business entities with State contracts, any other declared candidate for that office).

LRB097 09435 PJG 49570 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 50-37 as follows:

6 (30 ILCS 500/50-37)

7 Sec. 50-37. Prohibition of political contributions.

8 (a) As used in this Section:

9 The terms "contract", "State contract", and "contract
10 with a State agency" each mean any contract, as defined in
11 this Code, between a business entity and a State agency let
12 or awarded pursuant to this Code. The terms "contract",
13 "State contract", and "contract with a State agency" do not
14 include cost reimbursement contracts; purchase of care
15 agreements as defined in Section 1-15.68 of this Code;
16 contracts for projects eligible for full or partial
17 federal-aid funding reimbursements authorized by the
18 Federal Highway Administration; grants, including but are
19 not limited to grants for job training or transportation;
20 and grants, loans, or tax credit agreements for economic
21 development purposes.

22 "Contribution" means a contribution as defined in
23 Section 9-1.4 of the Election Code.

1 "Declared candidate" means a person who has filed a
2 statement of candidacy and petition for nomination or
3 election in the principal office of the State Board of
4 Elections.

5 "State agency" means and includes all boards,
6 commissions, agencies, institutions, authorities, and
7 bodies politic and corporate of the State, created by or in
8 accordance with the Illinois Constitution or State
9 statute, of the executive branch of State government and
10 does include colleges, universities, public employee
11 retirement systems, and institutions under the
12 jurisdiction of the governing boards of the University of
13 Illinois, Southern Illinois University, Illinois State
14 University, Eastern Illinois University, Northern Illinois
15 University, Western Illinois University, Chicago State
16 University, Governors State University, Northeastern
17 Illinois University, and the Illinois Board of Higher
18 Education.

19 "Officeholder" means the Governor, Lieutenant
20 Governor, Attorney General, Secretary of State,
21 Comptroller, or Treasurer. The Governor shall be
22 considered the officeholder responsible for awarding all
23 contracts by all officers and employees of, and vendors and
24 others doing business with, executive branch State
25 agencies under the jurisdiction of the Executive Ethics
26 Commission and not within the jurisdiction of the Attorney

1 General, the Secretary of State, the Comptroller, or the
2 Treasurer.

3 "Sponsoring entity" means a sponsoring entity as
4 defined in Section 9-3 of the Election Code.

5 "Affiliated person" means (i) any person with any
6 ownership interest or distributive share of the bidding or
7 contracting business entity in excess of 7.5%, (ii)
8 executive employees of the bidding or contracting business
9 entity, and (iii) the spouse of any such persons.
10 "Affiliated person" does not include a person prohibited by
11 federal law from making contributions or expenditures in
12 connection with a federal, state, or local election.

13 "Affiliated entity" means (i) any corporate parent and
14 each operating subsidiary of the bidding or contracting
15 business entity, (ii) each operating subsidiary of the
16 corporate parent of the bidding or contracting business
17 entity, (iii) any organization recognized by the United
18 States Internal Revenue Service as a tax-exempt
19 organization described in Section 501(c) of the Internal
20 Revenue Code of 1986 (or any successor provision of federal
21 tax law) established by the bidding or contracting business
22 entity, any affiliated entity of that business entity, or
23 any affiliated person of that business entity, or (iv) any
24 political committee for which the bidding or contracting
25 business entity, or any 501(c) organization described in
26 item (iii) related to that business entity, is the

1 sponsoring entity. "Affiliated entity" does not include an
2 entity prohibited by federal law from making contributions
3 or expenditures in connection with a federal, state, or
4 local election.

5 "Business entity" means any entity doing business for
6 profit, whether organized as a corporation, partnership,
7 sole proprietorship, limited liability company or
8 partnership, or otherwise.

9 "Executive employee" means (i) the President,
10 Chairman, or Chief Executive Officer of a business entity
11 and any other individual that fulfills equivalent duties as
12 the President, Chairman of the Board, or Chief Executive
13 Officer of a business entity; and (ii) any employee of a
14 business entity whose compensation is determined directly,
15 in whole or in part, by the award or payment of contracts
16 by a State agency to the entity employing the employee. A
17 regular salary that is paid irrespective of the award or
18 payment of a contract with a State agency shall not
19 constitute "compensation" under item (ii) of this
20 definition. "Executive employee" does not include any
21 person prohibited by federal law from making contributions
22 or expenditures in connection with a federal, state, or
23 local election.

24 (b) Any business entity whose contracts with State
25 agencies, in the aggregate, annually total more than \$50,000,
26 and any affiliated entities or affiliated persons of such

1 business entity, are prohibited from making any contributions
2 to (i) any political committees established to promote the
3 candidacy of an officeholder or declared candidate for that
4 office, (ii) any political committees established to promote
5 the candidacy of any member of the General Assembly or declared
6 candidate for membership in the General Assembly, or (iii) any
7 political committee of a State central committee of any
8 political party that is represented by an officeholder or
9 member of the General Assembly or a declared candidate for that
10 office or membership in the General Assembly ~~(i) the~~
11 ~~officeholder responsible for awarding the contracts or (ii) any~~
12 ~~other declared candidate for that office.~~ This prohibition
13 shall be effective for the duration of the terms ~~term~~ of the
14 contracts and office of the incumbent officeholder awarding the
15 ~~contracts or~~ for a period of 2 years following the expiration
16 or termination of the contracts, ~~whichever is longer.~~

17 (c) Any business entity whose aggregate pending bids and
18 proposals on State contracts total more than \$50,000, or whose
19 aggregate pending bids and proposals on State contracts
20 combined with the business entity's aggregate annual total
21 value of State contracts exceed \$50,000, and any affiliated
22 entities or affiliated persons of such business entity, are
23 prohibited from making any contributions to (i) any political
24 committee established to promote the candidacy of an
25 officeholder or declared candidate for that office, (ii) any
26 political committees established to promote the candidacy of

1 any member of the General Assembly or declared candidate for
2 membership in the General Assembly, or (iii) any political
3 committee of a State central committee of any political party
4 that is represented by an officeholder or member of the General
5 Assembly or a declared candidate for that office or membership
6 in the General Assembly. This prohibition shall be effective
7 ~~the officeholder responsible for awarding the contract on which~~
8 ~~the business entity has submitted a bid or proposal~~ during the
9 period beginning on the date the invitation for bids or request
10 for proposals is issued and ending on the day after the date
11 the contract is awarded.

12 (d) All contracts between State agencies and a business
13 entity that violate subsection (b) or (c) shall be voidable
14 under Section 50-60. If a business entity violates subsection
15 (b) 3 or more times within a 36-month period, then all
16 contracts between State agencies and that business entity shall
17 be void, and that business entity shall not bid or respond to
18 any invitation to bid or request for proposals from any State
19 agency or otherwise enter into any contract with any State
20 agency for 3 years from the date of the last violation. A
21 notice of each violation and the penalty imposed shall be
22 published in both the Procurement Bulletin and the Illinois
23 Register.

24 (e) Any political committee that has received a
25 contribution in violation of subsection (b) or (c) shall pay an
26 amount equal to the value of the contribution to the State no

1 more than 30 days after notice of the violation concerning the
2 contribution appears in the Illinois Register. Payments
3 received by the State pursuant to this subsection shall be
4 deposited into the general revenue fund.

5 (f) Nothing in this Section shall prohibit an individual
6 from making a contribution to a political committee established
7 to promote his or her own candidacy for office or for
8 membership in the General Assembly.

9 (g) This Section shall not apply in circumstances when it
10 is determined by the federal government or a court of competent
11 jurisdiction that its application would violate federal law or
12 regulation or otherwise prevent the State's receipt of federal
13 funds.

14 (Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09;
15 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
16 effective date of changes made by P.A. 96-795); 96-848, eff.
17 1-1-10.)