



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1369

Introduced 2/8/2011, by Sen. Martin A. Sandoval

#### SYNOPSIS AS INTRODUCED:

5 ILCS 430/5-45

Amends the State Officials and Employees Ethics Act. Extends, from one year to 2 years, the period after termination of State employment during which current and former officers, members, State employees, and, in some cases, the spouse and immediate family members of such persons, are prohibited from knowingly accepting employment or receiving compensation or fees for services from persons and entities on whose behalf the officer, member, or employee has participated personally and substantially in the making of certain procurement, regulatory, or licensing decisions.

LRB097 09777 JDS 49921 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 State Officials and Employees Ethics Act is  
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 430/5-45)

7 Sec. 5-45. Procurement; revolving door prohibition.

8 (a) No former officer, member, or State employee, or spouse  
9 or immediate family member living with such person, shall,  
10 within a period of 2 years ~~one year~~ immediately after  
11 termination of State employment, knowingly accept employment  
12 or receive compensation or fees for services from a person or  
13 entity if the officer, member, or State employee, during the  
14 year immediately preceding termination of State employment,  
15 participated personally and substantially in the award of State  
16 contracts, or the issuance of State contract change orders,  
17 with a cumulative value of \$25,000 or more to the person or  
18 entity, or its parent or subsidiary.

19 (b) No former officer of the executive branch or State  
20 employee of the executive branch with regulatory or licensing  
21 authority, or spouse or immediate family member living with  
22 such person, shall, within a period of 2 years ~~one year~~  
23 immediately after termination of State employment, knowingly

1 accept employment or receive compensation or fees for services  
2 from a person or entity if the officer or State employee,  
3 during the year immediately preceding termination of State  
4 employment, participated personally and substantially in  
5 making a regulatory or licensing decision that directly applied  
6 to the person or entity, or its parent or subsidiary.

7 (c) Within 6 months after the effective date of this  
8 amendatory Act of the 96th General Assembly, each executive  
9 branch constitutional officer and legislative leader, the  
10 Auditor General, and the Joint Committee on Legislative Support  
11 Services shall adopt a policy delineating which State positions  
12 under his or her jurisdiction and control, by the nature of  
13 their duties, may have the authority to participate personally  
14 and substantially in the award of State contracts or in  
15 regulatory or licensing decisions. The Governor shall adopt  
16 such a policy for all State employees of the executive branch  
17 not under the jurisdiction and control of any other executive  
18 branch constitutional officer.

19 The policies required under subsection (c) of this Section  
20 shall be filed with the appropriate ethics commission  
21 established under this Act or, for the Auditor General, with  
22 the Office of the Auditor General.

23 (d) Each Inspector General shall have the authority to  
24 determine that additional State positions under his or her  
25 jurisdiction, not otherwise subject to the policies required by  
26 subsection (c) of this Section, are nonetheless subject to the

1 notification requirement of subsection (f) below due to their  
2 involvement in the award of State contracts or in regulatory or  
3 licensing decisions.

4 (e) The Joint Committee on Legislative Support Services,  
5 the Auditor General, and each of the executive branch  
6 constitutional officers and legislative leaders subject to  
7 subsection (c) of this Section shall provide written  
8 notification to all employees in positions subject to the  
9 policies required by subsection (c) or a determination made  
10 under subsection (d): (1) upon hiring, promotion, or transfer  
11 into the relevant position; and (2) at the time the employee's  
12 duties are changed in such a way as to qualify that employee.  
13 An employee receiving notification must certify in writing that  
14 the person was advised of the prohibition and the requirement  
15 to notify the appropriate Inspector General in subsection (f).

16 (f) Any State employee in a position subject to the  
17 policies required by subsection (c) or to a determination under  
18 subsection (d), but who does not fall within the prohibition of  
19 subsection (h) below, who is offered non-State employment  
20 during State employment or within a period of 2 years ~~one year~~  
21 immediately after termination of State employment shall, prior  
22 to accepting such non-State employment, notify the appropriate  
23 Inspector General. Within 10 calendar days after receiving  
24 notification from an employee in a position subject to the  
25 policies required by subsection (c), such Inspector General  
26 shall make a determination as to whether the State employee is

1 restricted from accepting such employment by subsection (a) or  
2 (b). In making a determination, in addition to any other  
3 relevant information, an Inspector General shall assess the  
4 effect of the prospective employment or relationship upon  
5 decisions referred to in subsections (a) and (b), based on the  
6 totality of the participation by the former officer, member, or  
7 State employee in those decisions. A determination by an  
8 Inspector General must be in writing, signed and dated by the  
9 Inspector General, and delivered to the subject of the  
10 determination within 10 calendar days or the person is deemed  
11 eligible for the employment opportunity. For purposes of this  
12 subsection, "appropriate Inspector General" means (i) for  
13 members and employees of the legislative branch, the  
14 Legislative Inspector General; (ii) for the Auditor General and  
15 employees of the Office of the Auditor General, the Inspector  
16 General provided for in Section 30-5 of this Act; and (iii) for  
17 executive branch officers and employees, the Inspector General  
18 having jurisdiction over the officer or employee. Notice of any  
19 determination of an Inspector General and of any such appeal  
20 shall be given to the ultimate jurisdictional authority, the  
21 Attorney General, and the Executive Ethics Commission.

22 (g) An Inspector General's determination regarding  
23 restrictions under subsection (a) or (b) may be appealed to the  
24 appropriate Ethics Commission by the person subject to the  
25 decision or the Attorney General no later than the 10th  
26 calendar day after the date of the determination.

1           On appeal, the Ethics Commission or Auditor General shall  
2 seek, accept, and consider written public comments regarding a  
3 determination. In deciding whether to uphold an Inspector  
4 General's determination, the appropriate Ethics Commission or  
5 Auditor General shall assess, in addition to any other relevant  
6 information, the effect of the prospective employment or  
7 relationship upon the decisions referred to in subsections (a)  
8 and (b), based on the totality of the participation by the  
9 former officer, member, or State employee in those decisions.  
10 The Ethics Commission shall decide whether to uphold an  
11 Inspector General's determination within 10 calendar days or  
12 the person is deemed eligible for the employment opportunity.

13           (h) The following officers, members, or State employees  
14 shall not, within a period of 2 years ~~one year~~ immediately  
15 after termination of office or State employment, knowingly  
16 accept employment or receive compensation or fees for services  
17 from a person or entity if the person or entity or its parent  
18 or subsidiary, during the year immediately preceding  
19 termination of State employment, was a party to a State  
20 contract or contracts with a cumulative value of \$25,000 or  
21 more involving the officer, member, or State employee's State  
22 agency, or was the subject of a regulatory or licensing  
23 decision involving the officer, member, or State employee's  
24 State agency, regardless of whether he or she participated  
25 personally and substantially in the award of the State contract  
26 or contracts or the making of the regulatory or licensing

1 decision in question:

2 (1) members or officers;

3 (2) members of a commission or board created by the  
4 Illinois Constitution;

5 (3) persons whose appointment to office is subject to  
6 the advice and consent of the Senate;

7 (4) the head of a department, commission, board,  
8 division, bureau, authority, or other administrative unit  
9 within the government of this State;

10 (5) chief procurement officers, State purchasing  
11 officers, and their designees whose duties are directly  
12 related to State procurement; and

13 (6) chiefs of staff, deputy chiefs of staff, associate  
14 chiefs of staff, assistant chiefs of staff, and deputy  
15 governors.

16 (Source: P.A. 96-555, eff. 8-18-09.)