



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4989

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

5 ILCS 430/5-45
5 ILCS 430/20-23
5 ILCS 430/20-50
5 ILCS 430/20-90
5 ILCS 430/20-95
30 ILCS 500/50-30

Amends the State Officials and Employees Ethics Act. Provides that the Inspector General may require an ethics officer to provide relevant information as may be necessary to make an informed determination concerning whether to allow a former State employee to accept employment from a new employer in which he or she may have personally and substantially participated in decisions that benefited the new employer. Specifies requirements for written restricted determinations. Requires ethics officers to, among other requirements, successfully complete a training curriculum to be developed by the Executive Ethics Commission and thereafter successfully complete an annual training program. Provides that after an Executive Inspector General issues a summary report of an investigation, the ultimate jurisdictional authority or agency head may disclose Office of Executive Inspector General investigatory files and reports to agency staff who are necessary and responsible for determining and imposing discipline, and to an employee accused of wrongdoing for the purpose of determining and imposing appropriate discipline. Provides that the head and employees of a State agency affected by or involved in an investigation shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by the State Officials and Employees Ethics Act. Provides additional exceptions under which investigatory files, reports, and requests for documents may be disclosed. Amends the Illinois Procurement Code to modify a Section concerning revolving door prohibitions. Makes conforming changes. Contains a severability clause. Effective immediately.

LRB099 19550 RJF 43945 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 Sections 5-45, 20-23, 20-50, 20-90, and
6 20-95 as follows:

7 (5 ILCS 430/5-45)

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

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

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

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

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

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

24 (d) Each Inspector General shall have the authority to
25 determine that additional State positions under his or her
26 jurisdiction, not otherwise subject to the policies required by

1 subsection (c) of this Section, are nonetheless subject to the
2 notification requirement of subsection (f) below due to their
3 involvement in the award of State contracts or in regulatory or
4 licensing decisions.

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

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

1 shall make a determination as to whether the State employee is
2 restricted from accepting such employment by subsection (a) or
3 (b). In making a determination, in addition to any other
4 relevant information, an Inspector General shall assess the
5 effect of the prospective employment or relationship upon
6 decisions referred to in subsections (a) and (b), based on the
7 totality of the participation by the former officer, member, or
8 State employee in those decisions. The Inspector General may
9 require an ethics officer to provide relevant information as
10 may be necessary to make an informed determination. A
11 determination by an Inspector General must be in writing,
12 signed and dated by the Inspector General, and delivered to the
13 subject of the determination within 10 calendar days after
14 receiving notification from the employee, or the person is
15 deemed eligible for the employment opportunity. A written
16 restricted determination shall identify the factual and legal
17 basis for the determination and provide the person subject to
18 the restricted determination with notice of the opportunity to
19 request the investigatory files and reports relied upon in
20 making the determination. If requested by the person subject to
21 a restricted determination, the Inspector General shall
22 provide a copy of the investigatory files and reports, subject
23 to subsection (d) of Section 20-95 of this Act, relied upon in
24 making the determination to the person subject to the
25 restricted determination within 3 business days. The Inspector
26 General may redact information in the investigatory files and

1 reports that may reveal the identity of witnesses, or if the
2 Inspector General determines it is appropriate to protect the
3 identity of a person. For purposes of this subsection,
4 "appropriate Inspector General" means (i) for members and
5 employees of the legislative branch, the Legislative Inspector
6 General; (ii) for the Auditor General and employees of the
7 Office of the Auditor General, the Inspector General provided
8 for in Section 30-5 of this Act; and (iii) for executive branch
9 officers and employees, the Inspector General having
10 jurisdiction over the officer or employee. For purposes of this
11 subsection, "notification from the employee" may be defined by
12 the Executive Ethics Commission by rule. Notice of any
13 determination of an Inspector General and of any such appeal
14 shall be given to the ultimate jurisdictional authority, the
15 Attorney General, and the Executive Ethics Commission.

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

21 On appeal, the Ethics Commission or Auditor General shall
22 seek, accept, and consider written public comments regarding a
23 determination. In deciding whether to uphold an Inspector
24 General's determination, the appropriate Ethics Commission or
25 Auditor General shall assess, in addition to any other relevant
26 information, the effect of the prospective employment or

1 relationship upon the decisions referred to in subsections (a)
2 and (b), based on the totality of the participation by the
3 former officer, member, or State employee in those decisions.
4 The Ethics Commission shall decide whether to uphold an
5 Inspector General's determination within 10 calendar days or
6 the person is deemed eligible for the employment opportunity.

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

21 (1) members or officers;

22 (2) members of a commission or board created by the
23 Illinois Constitution;

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

26 (4) the head of a department, commission, board,

1 division, bureau, authority, or other administrative unit
2 within the government of this State;

3 (5) chief procurement officers, State purchasing
4 officers, and their designees whose duties are directly
5 related to State procurement; and

6 (6) chiefs of staff, deputy chiefs of staff, associate
7 chiefs of staff, assistant chiefs of staff, and deputy
8 governors.

9 (i) For the purposes of this Section, with respect to
10 officers or employees of a regional transit board, as defined

11 in this Act, the phrase "person or entity" does not include:

12 (i) the United States government, (ii) the State, (iii)
13 municipalities, as defined under Article VII, Section 1 of the
14 Illinois Constitution, (iv) units of local government, as
15 defined under Article VII, Section 1 of the Illinois
16 Constitution, or (v) school districts.

17 (j) For purposes of this Section, "compensation or fees for
18 services" includes compensation received directly or
19 indirectly from a person or entity. It does not include a small
20 portion of a person's compensation received as part of a
21 general profit sharing plan.

22 (Source: P.A. 96-555, eff. 8-18-09; 97-653, eff. 1-13-12.)

23 (5 ILCS 430/20-23)

24 Sec. 20-23. Ethics Officers. Each officer and the head of
25 each State agency under the jurisdiction of the Executive

1 Ethics Commission shall designate an Ethics Officer for the
2 office or State agency. The board of each Regional Transit
3 Board shall designate an Ethics Officer. Ethics Officers shall:

4 (1) act as liaisons between the State agency or
5 Regional Transit Board and the appropriate Executive
6 Inspector General and between the State agency or Regional
7 Transit Board and the Executive Ethics Commission;

8 (2) review statements of economic interest and
9 disclosure forms of officers, senior employees, and
10 contract monitors before they are filed with the Secretary
11 of State; ~~and~~

12 (3) provide guidance to officers and employees in the
13 interpretation and implementation of this Act, which the
14 officer or employee may in good faith rely upon. Such
15 guidance shall be based, wherever possible, upon legal
16 precedent in court decisions, opinions of the Attorney
17 General, and the findings and opinions of the Executive
18 Ethics Commission; and -

19 (4) within 6 months after the effective date of this
20 amendatory Act of the 99th General Assembly, successfully
21 complete a training curriculum to be developed by the
22 Executive Ethics Commission and thereafter successfully
23 complete an annual training program. Thereafter, whenever
24 a new ethics officer is designated by a State agency, that
25 person shall successfully complete the training curriculum
26 within 30 days after assuming the position. Successful

1 completion of the required training curriculum within the
2 periods provided shall be a prerequisite to continue
3 servicing as an ethics officer.

4 (Source: P.A. 96-1528, eff. 7-1-11.)

5 (5 ILCS 430/20-50)

6 Sec. 20-50. Investigation reports.

7 (a) If an Executive Inspector General, upon the conclusion
8 of an investigation, determines that reasonable cause exists to
9 believe that a violation has occurred, then the Executive
10 Inspector General shall issue a summary report of the
11 investigation. The report shall be delivered to the appropriate
12 ultimate jurisdictional authority and to the head of each State
13 agency affected by or involved in the investigation, if
14 appropriate. The appropriate ultimate jurisdictional authority
15 or agency head shall respond to the summary report within 20
16 days, in writing, to the Executive Inspector General. The
17 response shall include a description of any corrective or
18 disciplinary action to be imposed.

19 (b) The summary report of the investigation shall include
20 the following:

21 (1) A description of any allegations or other
22 information received by the Executive Inspector General
23 pertinent to the investigation.

24 (2) A description of any alleged misconduct discovered
25 in the course of the investigation.

1 (3) Recommendations for any corrective or disciplinary
2 action to be taken in response to any alleged misconduct
3 described in the report, including but not limited to
4 discharge.

5 (4) Other information the Executive Inspector General
6 deems relevant to the investigation or resulting
7 recommendations.

8 (c) Within 30 days after receiving a response from the
9 appropriate ultimate jurisdictional authority or agency head
10 under subsection (a), the Executive Inspector General shall
11 notify the Commission and the Attorney General if the Executive
12 Inspector General believes that a complaint should be filed
13 with the Commission. If the Executive Inspector General desires
14 to file a complaint with the Commission, the Executive
15 Inspector General shall submit the summary report and
16 supporting documents to the Attorney General. If the Attorney
17 General concludes that there is insufficient evidence that a
18 violation has occurred, the Attorney General shall notify the
19 Executive Inspector General and the Executive Inspector
20 General shall deliver to the Executive Ethics Commission a copy
21 of the summary report and response from the ultimate
22 jurisdictional authority or agency head. If the Attorney
23 General determines that reasonable cause exists to believe that
24 a violation has occurred, then the Executive Inspector General,
25 represented by the Attorney General, may file with the
26 Executive Ethics Commission a complaint. The complaint shall

1 set forth the alleged violation and the grounds that exist to
2 support the complaint. The complaint must be filed with the
3 Commission within 18 months after the most recent act of the
4 alleged violation or of a series of alleged violations except
5 where there is reasonable cause to believe that fraudulent
6 concealment has occurred. To constitute fraudulent concealment
7 sufficient to toll this limitations period, there must be an
8 affirmative act or representation calculated to prevent
9 discovery of the fact that a violation has occurred. If a
10 complaint is not filed with the Commission within 6 months
11 after notice by the Inspector General to the Commission and the
12 Attorney General, then the Commission may set a meeting of the
13 Commission at which the Attorney General shall appear and
14 provide a status report to the Commission.

15 (c-5) Within 30 days after receiving a response from the
16 appropriate ultimate jurisdictional authority or agency head
17 under subsection (a), if the Executive Inspector General does
18 not believe that a complaint should be filed, the Executive
19 Inspector General shall deliver to the Executive Ethics
20 Commission a statement setting forth the basis for the decision
21 not to file a complaint and a copy of the summary report and
22 response from the ultimate jurisdictional authority or agency
23 head. An Inspector General may also submit a redacted version
24 of the summary report and response from the ultimate
25 jurisdictional authority if the Inspector General believes
26 either contains information that, in the opinion of the

1 Inspector General, should be redacted prior to releasing the
2 report, may interfere with an ongoing investigation, or
3 identifies an informant or complainant.

4 (c-10) If, after reviewing the documents, the Commission
5 believes that further investigation is warranted, the
6 Commission may request that the Executive Inspector General
7 provide additional information or conduct further
8 investigation. The Commission may also appoint a Special
9 Executive Inspector General to investigate or refer the summary
10 report and response from the ultimate jurisdictional authority
11 to the Attorney General for further investigation or review. If
12 the Commission requests the Attorney General to investigate or
13 review, the Commission must notify the Attorney General and the
14 Inspector General. The Attorney General may not begin an
15 investigation or review until receipt of notice from the
16 Commission. If, after review, the Attorney General determines
17 that reasonable cause exists to believe that a violation has
18 occurred, then the Attorney General may file a complaint with
19 the Executive Ethics Commission. If the Attorney General
20 concludes that there is insufficient evidence that a violation
21 has occurred, the Attorney General shall notify the Executive
22 Ethics Commission and the appropriate Executive Inspector
23 General.

24 (d) A copy of the complaint filed with the Executive Ethics
25 Commission must be served on all respondents named in the
26 complaint and on each respondent's ultimate jurisdictional

1 authority in the same manner as process is served under the
2 Code of Civil Procedure.

3 (e) A respondent may file objections to the complaint
4 within 30 days after notice of the petition has been served on
5 the respondent.

6 (f) The Commission shall meet, either in person or by
7 telephone, at least 30 days after the complaint is served on
8 all respondents in a closed session to review the sufficiency
9 of the complaint. The Commission shall issue notice by
10 certified mail, return receipt requested, to the Executive
11 Inspector General, Attorney General, and all respondents of the
12 Commission's ruling on the sufficiency of the complaint. If the
13 complaint is deemed to sufficiently allege a violation of this
14 Act, then the Commission shall include a hearing date scheduled
15 within 4 weeks after the date of the notice, unless all of the
16 parties consent to a later date. If the complaint is deemed not
17 to sufficiently allege a violation, then the Commission shall
18 send by certified mail, return receipt requested, a notice to
19 the Executive Inspector General, Attorney General, and all
20 respondents of the decision to dismiss the complaint.

21 (g) On the scheduled date the Commission shall conduct a
22 closed meeting, either in person or, if the parties consent, by
23 telephone, on the complaint and allow all parties the
24 opportunity to present testimony and evidence. All such
25 proceedings shall be transcribed.

26 (h) Within an appropriate time limit set by rules of the

1 Executive Ethics Commission, the Commission shall (i) dismiss
2 the complaint, (ii) issue a recommendation of discipline to the
3 respondent and the respondent's ultimate jurisdictional
4 authority, (iii) impose an administrative fine upon the
5 respondent, (iv) issue injunctive relief as described in
6 Section 50-10, or (v) impose a combination of (ii) through
7 (iv).

8 (i) The proceedings on any complaint filed with the
9 Commission shall be conducted pursuant to rules promulgated by
10 the Commission.

11 (j) The Commission may designate hearing officers to
12 conduct proceedings as determined by rule of the Commission.

13 (k) In all proceedings before the Commission, the standard
14 of proof is by a preponderance of the evidence.

15 (l) Within 30 days after the issuance of a final
16 administrative decision that concludes that a violation
17 occurred, the Executive Ethics Commission shall make public the
18 entire record of proceedings before the Commission, the
19 decision, any recommendation, any discipline imposed, and the
20 response from the agency head or ultimate jurisdictional
21 authority to the Executive Ethics Commission.

22 (m) After the Executive Inspector General issues a summary
23 report of the investigation, the ultimate jurisdictional
24 authority or agency head may, as necessary, disclose Office of
25 Executive Inspector General investigatory files and reports to
26 agency staff who are necessary and responsible for determining

1 and imposing discipline and, as strictly necessary, to an
2 employee accused of wrongdoing for the purpose of determining
3 and imposing appropriate discipline.

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

5 (5 ILCS 430/20-90)

6 Sec. 20-90. Confidentiality.

7 (a) The identity of any individual providing information or
8 reporting any possible or alleged misconduct to an Executive
9 Inspector General or the Executive Ethics Commission shall be
10 kept confidential and may not be disclosed without the consent
11 of that individual, unless the individual consents to
12 disclosure of his or her name or disclosure of the individual's
13 identity is otherwise required by law. The confidentiality
14 granted by this subsection does not preclude the disclosure of
15 the identity of a person in any capacity other than as the
16 source of an allegation.

17 (b) Subject to the provisions of Section 20-52,
18 commissioners, employees, and agents of the Executive Ethics
19 Commission, the Executive Inspectors General, and employees
20 and agents of each Office of an Executive Inspector General,
21 the Attorney General, and the employees and agents of the
22 office of the Attorney General, and the head and employees of a
23 State agency affected by or involved in an investigation, shall
24 keep confidential and shall not disclose information exempted
25 from disclosure under the Freedom of Information Act or by this

1 Act, provided the identity of any individual providing
2 information or reporting any possible or alleged misconduct to
3 the Executive Inspector General for the Governor may be
4 disclosed to an Inspector General appointed or employed by a
5 Regional Transit Board in accordance with Section 75-10.

6 (Source: P.A. 96-555, eff. 8-18-09; 96-1528, eff. 7-1-11.)

7 (5 ILCS 430/20-95)

8 Sec. 20-95. Exemptions.

9 (a) Documents generated by an ethics officer under this
10 Act, except Section 5-50, are exempt from the provisions of the
11 Freedom of Information Act.

12 (b) Any allegations and related documents submitted to an
13 Executive Inspector General and any pleadings and related
14 documents brought before the Executive Ethics Commission are
15 exempt from the provisions of the Freedom of Information Act so
16 long as the Executive Ethics Commission does not make a finding
17 of a violation of this Act. If the Executive Ethics Commission
18 finds that a violation has occurred, the entire record of
19 proceedings before the Commission, the decision and
20 recommendation, and the response from the agency head or
21 ultimate jurisdictional authority to the Executive Ethics
22 Commission are not exempt from the provisions of the Freedom of
23 Information Act but information contained therein that is
24 otherwise exempt from the Freedom of Information Act must be
25 redacted before disclosure as provided in the Freedom of

1 Information Act. A summary report released by the Executive
2 Ethics Commission under Section 20-52 is a public record, but
3 information redacted by the Executive Ethics Commission shall
4 not be part of the public record.

5 (c) Meetings of the Commission are exempt from the
6 provisions of the Open Meetings Act.

7 (d) Unless otherwise provided in this Act, all
8 investigatory files, ~~and reports,~~ and requests for documents of
9 or by the Office of an Executive Inspector General, other than
10 monthly reports required under Section 20-85, are
11 confidential, are exempt from disclosure under the Freedom of
12 Information Act, and shall not be divulged to any person or
13 agency, except as necessary (i) to a law enforcement authority,
14 (ii) to the ultimate jurisdictional authority, (iii) to the
15 Executive Ethics Commission, (iv) to another Inspector General
16 appointed pursuant to this Act, ~~or~~ (v) to an Inspector General
17 appointed or employed by a Regional Transit Board in accordance
18 with Section 75-10, (vi) to the head of a State agency affected
19 by or involved in the investigation, or (vii) to the person
20 subject to a restricted determination, the Attorney General, or
21 the Executive Ethics Commission, when the investigatory files
22 and reports relate to a revolving door determination under
23 Section 5-45 of this Act.

24 (Source: P.A. 96-555, eff. 8-18-09; 96-1528, eff. 7-1-11.)

25 Section 10. The Illinois Procurement Code is amended by

1 changing Section 50-30 as follows:

2 (30 ILCS 500/50-30)

3 Sec. 50-30. Revolving door prohibition.

4 (a) Chief procurement officers, State purchasing officers,
5 procurement compliance monitors, their designees whose
6 principal duties are directly related to State procurement, and
7 executive officers confirmed by the Senate are expressly
8 prohibited for a period of 2 years after terminating an
9 affected position from engaging in any procurement activity
10 relating to the State agency most recently employing them, or
11 relating to the State agency most recently assigned to them to
12 oversee, in an affected position for a period of at least 6
13 months. The prohibition includes but is not limited to:
14 lobbying the procurement process; specifying; bidding;
15 proposing bid, proposal, or contract documents; on their own
16 behalf or on behalf of any firm, partnership, association, or
17 corporation. This subsection applies only to persons who
18 terminate an affected position on or after January 15, 1999.

19 (b) In addition to any other provisions of this Code,
20 employment of former State employees is subject to the State
21 Officials and Employees Ethics Act.

22 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
23 for the effective date of changes made by P.A. 96-795).)

24 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

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