

HB3378



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3378

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-9

from Ch. 122, par. 10-9

Amends the School Code. In provisions concerning interest of board members in contracts, sets forth additional exemptions from the provisions if the board member maintains less than a 1% share in the ownership of the company with which the school district is attempting to contract and the board member discloses and recuses himself or herself from the deliberations. Sets forth provisions concerning when a board member shall be deemed interested.

LRB100 10299 MLM 20488 b

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section
5 10-9 as follows:

6 (105 ILCS 5/10-9) (from Ch. 122, par. 10-9)

7 Sec. 10-9. Interest of board member in contracts.

8 (a) No school board member shall be interested, directly or
9 indirectly, in his own name or in the name of any other person,
10 association, trust or corporation, in any contract, work or
11 business of the district or in the sale of any article,
12 whenever the expense, price or consideration of the contract,
13 work, business or sale is paid either from the treasury or by
14 any assessment levied by any statute or ordinance. A school
15 board member shall not be deemed interested if the board member
16 is an employee of a business that is involved in the
17 transaction of business with the school district, provided that
18 the board member has no financial interests other than as an
19 employee. No school board member shall be interested, directly
20 or indirectly, in the purchase of any property which (1)
21 belongs to the district, or (2) is sold for taxes or
22 assessments, or (3) is sold by virtue of legal process at the
23 suit of the district.

1 (b) However, any board member may provide materials,
2 merchandise, property, services or labor, if:

3 A. the contract is with a person, firm, partnership,
4 association, corporation or cooperative association in
5 which the board member has less than a 7 1/2% share in the
6 ownership; and

7 B. such interested board member publicly discloses the
8 nature and extent of his interest prior to or during
9 deliberations concerning the proposed award of the
10 contract; and

11 C. such interested board member abstains from voting on
12 the award of the contract, though he shall be considered
13 present for the purposes of establishing a quorum; and

14 D. such contract is approved by a majority vote of
15 those board members presently holding office; and

16 E. the contract is awarded after sealed bids to the
17 lowest responsible bidder if the amount of the contract
18 exceeds \$1500, or awarded without bidding if the amount of
19 the contract is less than \$1500; and

20 F. the award of the contract would not cause the
21 aggregate amount of all such contracts so awarded to the
22 same person, firm, association, partnership, corporation
23 or cooperative association in the same fiscal year to
24 exceed \$25,000.

25 (c) In addition to the above exemption, any board member
26 may provide materials, merchandise, property, services or

1 labor if:

2 A. the award of the contract is approved by a majority
3 vote of the board provided that any such interested member
4 shall abstain from voting; and

5 B. the amount of the contract does not exceed \$1,000;
6 and

7 C. the award of the contract would not cause the
8 aggregate amount of all such contracts so awarded to the
9 same person, firm, association, partnership, corporation,
10 or cooperative association in the same fiscal year to
11 exceed \$2,000, except with respect to a board member of a
12 school district in which the materials, merchandise,
13 property, services, or labor to be provided under the
14 contract are not available from any other person, firm,
15 association, partnership, corporation, or cooperative
16 association in the district, in which event the award of
17 the contract shall not cause the aggregate amount of all
18 contracts so awarded to that same person, firm,
19 association, partnership, or cooperative association in
20 the same fiscal year to exceed \$5,000; and

21 D. such interested member publicly discloses the
22 nature and extent of his interest prior to or during
23 deliberations concerning the proposed award of the
24 contract; and

25 E. such interested member abstains from voting on the
26 award of the contract, though he shall be considered

1 present for the purposes of establishing a quorum.

2 (c-5) In addition to the exemptions in subsection (c) of
3 this Section, any board member may provide materials,
4 merchandise, property, services, or labor if:

5 A. the contract is with a person, firm, partnership,
6 association, corporation, or cooperative association in
7 which the interested board member has less than a 1% share
8 in the ownership;

9 B. the award of the contract is approved by a majority
10 vote of the board, provided that any interested board
11 member shall abstain from voting;

12 C. the interested board member publicly discloses the
13 nature and extent of his or her interest before or during
14 deliberations concerning the proposed award of the
15 contract; and

16 D. the interested board member abstains from voting on
17 the award of the contract, though he or she shall be
18 considered present for purposes of establishing a quorum.

19 (d) In addition to exemptions otherwise authorized by this
20 Section, any board member may purchase for use as the board
21 member's primary place of residence a house constructed by the
22 district's vocational education students on the same basis that
23 any other person would be entitled to purchase the property.
24 The sale of the house by the district must comply with the
25 requirements set forth in Section 5-22 of The School Code.

26 (e) A contract for the procurement of public utility

1 services by a district with a public utility company is not
2 barred by this Section by one or more members of the board
3 being an officer or employee of the public utility company or
4 holding an ownership interest of no more than 7 1/2% in the
5 public utility company, or holding an ownership interest of any
6 size if the school district has a population of less than 7,500
7 and the public utility's rates are approved by the Illinois
8 Commerce Commission. An elected or appointed member of the
9 board having such an interest shall be deemed not to have a
10 prohibited interest under this Section.

11 (e-5) For the purposes of this Section, a board member
12 shall not be deemed interested if he or she is an employee of a
13 company or owns or holds an interest of 1% or less in the board
14 member's individual name in a company, or both; that company is
15 involved in the transaction of business with the district; and
16 that company's stock is traded on a nationally-recognized
17 securities market, provided that the interested member: (i)
18 publicly discloses the fact that he or she is an employee or
19 holds an interest of 1% or less in the company, as applicable,
20 before deliberation of the proposed award of the contract; (ii)
21 refrains from evaluating, recommending, approving,
22 deliberating, or otherwise participating in negotiation,
23 approval, or both, of the contract, work, or business; (iii)
24 abstains from voting on the award of the contract, provided
25 that he or she shall be considered present for purposes of
26 establishing a quorum; and (iv) the contract is approved by a

1 majority vote of those members currently holding office.

2 A board member shall not be deemed interested if the board
3 member owns or holds an interest of 1% or less, not in the
4 board member's individual name but through a mutual fund or
5 exchange-traded fund, in a company; that company is involved in
6 the transaction of business with the school district; and that
7 company's stock is traded on a nationally-recognized
8 securities market.

9 (f) Nothing contained in this Section, including the
10 restrictions set forth in subsections (b), (c), (c-5), (d), and
11 (e), and (e-5) shall preclude a contract of deposit of monies,
12 loans or other financial services by a school district with a
13 local bank or local savings and loan association, regardless of
14 whether a member or members of the governing body of the school
15 district are interested in such bank or savings and loan
16 association as an officer or employee or as a holder of less
17 than 7 1/2% of the total ownership interest. A member or
18 members holding such an interest in such a contract shall not
19 be deemed to be holding a prohibited interest for purposes of
20 this Act. Such interested member or members of the governing
21 body must publicly state the nature and extent of their
22 interest during deliberations concerning the proposed award of
23 such a contract, but shall not participate in any further
24 deliberations concerning the proposed award. Such interested
25 member or members shall not vote on such a proposed award. Any
26 member or members abstaining from participation in

1 deliberations and voting under this Section may be considered
2 present for purposes of establishing a quorum. Award of such a
3 contract shall require approval by a majority vote of those
4 members presently holding office. Consideration and award of
5 any such contract in which a member or members are interested
6 may only be made at a regularly scheduled public meeting of the
7 governing body of the school district.

8 (g) Any school board member who violates this Section is
9 guilty of a Class 4 felony and in addition thereto any office
10 held by such person so convicted shall become vacant and shall
11 be so declared as part of the judgment of the court.

12 (h) Any ownership interest of a school board member in a
13 firm, partnership, association, or corporation involved in the
14 transaction of business with the board member's school district
15 prior to the effective date of this amendatory Act of the 100th
16 General Assembly, which ownership interest and transaction or
17 transactions would have complied with the provisions of this
18 Section as amended to include subsections (c-5) and (e-5),
19 shall not constitute a violation of this Section.

20 (Source: P.A. 96-998, eff. 7-2-10.)