

SB2463



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2463

Introduced 1/15/2020, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

5 ILCS 430/1-5
5 ILCS 430/5-45

Amends the State Officials and Employees Ethics Act. Provides that no person who has served as a statewide elected official, the executive or administrative head of a State agency, the deputy executive or administrative head of a State agency, or a member of the General Assembly shall, within 2 years after the termination of service or employment, become a lobbyist. Defines "lobbyist".

LRB101 16716 RJF 66105 b

A BILL FOR

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 1-5 and 5-45 as follows:

6 (5 ILCS 430/1-5)

7 Sec. 1-5. Definitions. As used in this Act:

8 "Appointee" means a person appointed to a position in or
9 with a State agency, regardless of whether the position is
10 compensated.

11 "Board members of Regional Transit Boards" means any person
12 appointed to serve on the governing board of a Regional Transit
13 Board.

14 "Campaign for elective office" means any activity in
15 furtherance of an effort to influence the selection,
16 nomination, election, or appointment of any individual to any
17 federal, State, or local public office or office in a political
18 organization, or the selection, nomination, or election of
19 Presidential or Vice-Presidential electors, but does not
20 include activities (i) relating to the support or opposition of
21 any executive, legislative, or administrative action (as those
22 terms are defined in Section 2 of the Lobbyist Registration
23 Act), (ii) relating to collective bargaining, or (iii) that are

1 otherwise in furtherance of the person's official State duties.

2 "Candidate" means a person who has filed nominating papers
3 or petitions for nomination or election to an elected State
4 office, or who has been appointed to fill a vacancy in
5 nomination, and who remains eligible for placement on the
6 ballot at either a general primary election or general
7 election.

8 "Collective bargaining" has the same meaning as that term
9 is defined in Section 3 of the Illinois Public Labor Relations
10 Act.

11 "Commission" means an ethics commission created by this
12 Act.

13 "Compensated time" means any time worked by or credited to
14 a State employee that counts toward any minimum work time
15 requirement imposed as a condition of employment with a State
16 agency, but does not include any designated State holidays or
17 any period when the employee is on a leave of absence.

18 "Compensatory time off" means authorized time off earned by
19 or awarded to a State employee to compensate in whole or in
20 part for time worked in excess of the minimum work time
21 required of that employee as a condition of employment with a
22 State agency.

23 "Contribution" has the same meaning as that term is defined
24 in Section 9-1.4 of the Election Code.

25 "Employee" means (i) any person employed full-time,
26 part-time, or pursuant to a contract and whose employment

1 duties are subject to the direction and control of an employer
2 with regard to the material details of how the work is to be
3 performed or (ii) any appointed or elected commissioner,
4 trustee, director, or board member of a board of a State
5 agency, including any retirement system or investment board
6 subject to the Illinois Pension Code or (iii) any other
7 appointee.

8 "Employment benefits" include but are not limited to the
9 following: modified compensation or benefit terms; compensated
10 time off; or change of title, job duties, or location of office
11 or employment. An employment benefit may also include favorable
12 treatment in determining whether to bring any disciplinary or
13 similar action or favorable treatment during the course of any
14 disciplinary or similar action or other performance review.

15 "Executive branch constitutional officer" means the
16 Governor, Lieutenant Governor, Attorney General, Secretary of
17 State, Comptroller, and Treasurer.

18 "Gift" means any gratuity, discount, entertainment,
19 hospitality, loan, forbearance, or other tangible or
20 intangible item having monetary value including, but not
21 limited to, cash, food and drink, and honoraria for speaking
22 engagements related to or attributable to government
23 employment or the official position of an employee, member, or
24 officer. The value of a gift may be further defined by rules
25 adopted by the appropriate ethics commission or by the Auditor
26 General for the Auditor General and for employees of the office

1 of the Auditor General.

2 "Governmental entity" means a unit of local government
3 (including a community college district) or a school district
4 but not a State agency or a Regional Transit Board.

5 "Leave of absence" means any period during which a State
6 employee does not receive (i) compensation for State
7 employment, (ii) service credit towards State pension
8 benefits, and (iii) health insurance benefits paid for by the
9 State.

10 "Legislative branch constitutional officer" means a member
11 of the General Assembly and the Auditor General.

12 "Legislative leader" means the President and Minority
13 Leader of the Senate and the Speaker and Minority Leader of the
14 House of Representatives.

15 "Member" means a member of the General Assembly.

16 "Lobbyist" means an individual who, by acting directly,
17 does any of the following:

18 (1) Receives compensation to encourage the passage,
19 defeat, approval, veto, or modification of legislation, a
20 rule, or an executive order by the members of the General
21 Assembly, a State agency, or any statewide elected
22 official.

23 (2) Is a designated representative of an organization
24 which has as one of its purposes the encouragement of the
25 passage, defeat, approval, veto, or modification of
26 legislation, a rule, or an executive order before the

1 General Assembly, a State agency, or any statewide elected
2 official.

3 (3) Represents the position of a federal, State, or
4 local government agency, in which the person serves or is
5 employed as the designated representative, for purposes of
6 encouraging the passage, defeat, approval, veto, or
7 modification of legislation, a rule, or an executive order
8 by members of the General Assembly, a State agency, or any
9 statewide elected official.

10 "Lobbyist" does not include:

11 (1) Officials and employees of a political party
12 organized in the State of Illinois representing more than
13 2% of the total votes cast for governor in the last
14 preceding general election, but only when representing the
15 political party in an official capacity.

16 (2) Representatives of the news media only when engaged
17 in the reporting and dissemination of news and editorials.

18 (3) All federal, State, and local elected officials,
19 while performing the duties and responsibilities of
20 office.

21 (4) Persons whose activities are limited to
22 appearances to give testimony or provide information or
23 assistance at sessions of committees of the General
24 Assembly or at public hearings of State agencies or who are
25 giving testimony or providing information or assistance at
26 the request of public officials or employees.

1 (5) Members of the staff of the United States Congress
2 or the General Assembly.

3 (6) State agency officials and employees while they are
4 engaged in activities within the agency in which they serve
5 or are employed or with another agency with which the
6 official's or employee's agency is involved in a
7 collaborative project.

8 (7) An individual who is a member, director, trustee,
9 officer, or committee member of a business, trade, labor,
10 farm, professional, religious, education, or charitable
11 association, foundation, or organization who is not paid
12 compensation and is not otherwise specifically designated
13 as a lobbyist under this Act.

14 "Officer" means an executive branch constitutional officer
15 or a legislative branch constitutional officer.

16 "Political" means any activity in support of or in
17 connection with any campaign for elective office or any
18 political organization, but does not include activities (i)
19 relating to the support or opposition of any executive,
20 legislative, or administrative action (as those terms are
21 defined in Section 2 of the Lobbyist Registration Act), (ii)
22 relating to collective bargaining, or (iii) that are otherwise
23 in furtherance of the person's official State duties or
24 governmental and public service functions.

25 "Political organization" means a party, committee,
26 association, fund, or other organization (whether or not

1 incorporated) that is required to file a statement of
2 organization with the State Board of Elections or a county
3 clerk under Section 9-3 of the Election Code, but only with
4 regard to those activities that require filing with the State
5 Board of Elections or a county clerk.

6 "Prohibited political activity" means:

7 (1) Preparing for, organizing, or participating in any
8 political meeting, political rally, political
9 demonstration, or other political event.

10 (2) Soliciting contributions, including but not
11 limited to the purchase of, selling, distributing, or
12 receiving payment for tickets for any political
13 fundraiser, political meeting, or other political event.

14 (3) Soliciting, planning the solicitation of, or
15 preparing any document or report regarding any thing of
16 value intended as a campaign contribution.

17 (4) Planning, conducting, or participating in a public
18 opinion poll in connection with a campaign for elective
19 office or on behalf of a political organization for
20 political purposes or for or against any referendum
21 question.

22 (5) Surveying or gathering information from potential
23 or actual voters in an election to determine probable vote
24 outcome in connection with a campaign for elective office
25 or on behalf of a political organization for political
26 purposes or for or against any referendum question.

1 (6) Assisting at the polls on election day on behalf of
2 any political organization or candidate for elective
3 office or for or against any referendum question.

4 (7) Soliciting votes on behalf of a candidate for
5 elective office or a political organization or for or
6 against any referendum question or helping in an effort to
7 get voters to the polls.

8 (8) Initiating for circulation, preparing,
9 circulating, reviewing, or filing any petition on behalf of
10 a candidate for elective office or for or against any
11 referendum question.

12 (9) Making contributions on behalf of any candidate for
13 elective office in that capacity or in connection with a
14 campaign for elective office.

15 (10) Preparing or reviewing responses to candidate
16 questionnaires in connection with a campaign for elective
17 office or on behalf of a political organization for
18 political purposes.

19 (11) Distributing, preparing for distribution, or
20 mailing campaign literature, campaign signs, or other
21 campaign material on behalf of any candidate for elective
22 office or for or against any referendum question.

23 (12) Campaigning for any elective office or for or
24 against any referendum question.

25 (13) Managing or working on a campaign for elective
26 office or for or against any referendum question.

1 (14) Serving as a delegate, alternate, or proxy to a
2 political party convention.

3 (15) Participating in any recount or challenge to the
4 outcome of any election, except to the extent that under
5 subsection (d) of Section 6 of Article IV of the Illinois
6 Constitution each house of the General Assembly shall judge
7 the elections, returns, and qualifications of its members.

8 "Prohibited source" means any person or entity who:

9 (1) is seeking official action (i) by the member or
10 officer or (ii) in the case of an employee, by the employee
11 or by the member, officer, State agency, or other employee
12 directing the employee;

13 (2) does business or seeks to do business (i) with the
14 member or officer or (ii) in the case of an employee, with
15 the employee or with the member, officer, State agency, or
16 other employee directing the employee;

17 (3) conducts activities regulated (i) by the member or
18 officer or (ii) in the case of an employee, by the employee
19 or by the member, officer, State agency, or other employee
20 directing the employee;

21 (4) has interests that may be substantially affected by
22 the performance or non-performance of the official duties
23 of the member, officer, or employee;

24 (5) is registered or required to be registered with the
25 Secretary of State under the Lobbyist Registration Act,
26 except that an entity not otherwise a prohibited source

1 does not become a prohibited source merely because a
2 registered lobbyist is one of its members or serves on its
3 board of directors; or

4 (6) is an agent of, a spouse of, or an immediate family
5 member who is living with a "prohibited source".

6 "Regional Transit Boards" means (i) the Regional
7 Transportation Authority created by the Regional
8 Transportation Authority Act, (ii) the Suburban Bus Division
9 created by the Regional Transportation Authority Act, (iii) the
10 Commuter Rail Division created by the Regional Transportation
11 Authority Act, and (iv) the Chicago Transit Authority created
12 by the Metropolitan Transit Authority Act.

13 "State agency" includes all officers, boards, commissions
14 and agencies created by the Constitution, whether in the
15 executive or legislative branch; all officers, departments,
16 boards, commissions, agencies, institutions, authorities,
17 public institutions of higher learning as defined in Section 2
18 of the Higher Education Cooperation Act (except community
19 colleges), and bodies politic and corporate of the State; and
20 administrative units or corporate outgrowths of the State
21 government which are created by or pursuant to statute, other
22 than units of local government (including community college
23 districts) and their officers, school districts, and boards of
24 election commissioners; and all administrative units and
25 corporate outgrowths of the above and as may be created by
26 executive order of the Governor. "State agency" includes the

1 General Assembly, the Senate, the House of Representatives, the
2 President and Minority Leader of the Senate, the Speaker and
3 Minority Leader of the House of Representatives, the Senate
4 Operations Commission, and the legislative support services
5 agencies. "State agency" includes the Office of the Auditor
6 General. "State agency" does not include the judicial branch.

7 "State employee" means any employee of a State agency.

8 "Ultimate jurisdictional authority" means the following:

9 (1) For members, legislative partisan staff, and
10 legislative secretaries, the appropriate legislative
11 leader: President of the Senate, Minority Leader of the
12 Senate, Speaker of the House of Representatives, or
13 Minority Leader of the House of Representatives.

14 (2) For State employees who are professional staff or
15 employees of the Senate and not covered under item (1), the
16 Senate Operations Commission.

17 (3) For State employees who are professional staff or
18 employees of the House of Representatives and not covered
19 under item (1), the Speaker of the House of
20 Representatives.

21 (4) For State employees who are employees of the
22 legislative support services agencies, the Joint Committee
23 on Legislative Support Services.

24 (5) For State employees of the Auditor General, the
25 Auditor General.

26 (6) For State employees of public institutions of

1 higher learning as defined in Section 2 of the Higher
2 Education Cooperation Act (except community colleges), the
3 board of trustees of the appropriate public institution of
4 higher learning.

5 (7) For State employees of an executive branch
6 constitutional officer other than those described in
7 paragraph (6), the appropriate executive branch
8 constitutional officer.

9 (8) For State employees not under the jurisdiction of
10 paragraph (1), (2), (3), (4), (5), (6), or (7), the
11 Governor.

12 (9) For employees of Regional Transit Boards, the
13 appropriate Regional Transit Board.

14 (10) For board members of Regional Transit Boards, the
15 Governor.

16 (Source: P.A. 96-6, eff. 4-3-09; 96-555, eff. 8-18-09; 96-1528,
17 eff. 7-1-11; 96-1533, eff. 3-4-11; 97-813, eff. 7-13-12.)

18 (5 ILCS 430/5-45)

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

20 (a) No former officer, member, or State employee, or spouse
21 or immediate family member living with such person, shall,
22 within a period of one year immediately after termination of
23 State employment, knowingly accept employment or receive
24 compensation or fees for services from a person or entity if
25 the officer, member, or State employee, during the year

1 immediately preceding termination of State employment,
2 participated personally and substantially in the award of State
3 contracts, or the issuance of State contract change orders,
4 with a cumulative value of \$25,000 or more to the person or
5 entity, or its parent or subsidiary.

6 (a-5) No officer, member, or spouse or immediate family
7 member living with such person shall, during the officer or
8 member's term in office or within a period of 2 years
9 immediately leaving office, hold an ownership interest, other
10 than a passive interest in a publicly traded company, in any
11 gaming license under the Illinois Gambling Act, the Video
12 Gaming Act, the Illinois Horse Racing Act of 1975, or the
13 Sports Wagering Act. Any member of the General Assembly or
14 spouse or immediate family member living with such person who
15 has an ownership interest, other than a passive interest in a
16 publicly traded company, in any gaming license under the
17 Illinois Gambling Act, the Illinois Horse Racing Act of 1975,
18 the Video Gaming Act, or the Sports Wagering Act at the time of
19 the effective date of this amendatory Act of the 101st General
20 Assembly shall divest himself or herself of such ownership
21 within one year after the effective date of this amendatory Act
22 of the 101st General Assembly. No State employee who works for
23 the Illinois Gaming Board or Illinois Racing Board or spouse or
24 immediate family member living with such person shall, during
25 State employment or within a period of 2 years immediately
26 after termination of State employment, hold an ownership

1 interest, other than a passive interest in a publicly traded
2 company, in any gaming license under the Illinois Gambling Act,
3 the Video Gaming Act, the Illinois Horse Racing Act of 1975, or
4 the Sports Wagering Act.

5 (a-7) No person who has served as a statewide elected
6 official, the executive or administrative head of a State
7 agency, the deputy executive or administrative head of a State
8 agency, or a member of the General Assembly shall, within 2
9 years after the termination of service or employment, become a
10 lobbyist.

11 (a-10) This subsection (a-10) applies on and after June 25,
12 2021. No officer, member, or spouse or immediate family member
13 living with such person, shall, during the officer or member's
14 term in office or within a period of 2 years immediately after
15 leaving office, hold an ownership interest, other than a
16 passive interest in a publicly traded company, in any cannabis
17 business establishment which is licensed under the Cannabis
18 Regulation and Tax Act. Any member of the General Assembly or
19 spouse or immediate family member living with such person who
20 has an ownership interest, other than a passive interest in a
21 publicly traded company, in any cannabis business
22 establishment which is licensed under the Cannabis Regulation
23 and Tax Act at the time of the effective date of this
24 amendatory Act of the 101st General Assembly shall divest
25 himself or herself of such ownership within one year after the
26 effective date of this amendatory Act of the 101st General

1 Assembly.

2 No State employee who works for any State agency that
3 regulates cannabis business establishment license holders who
4 participated personally and substantially in the award of
5 licenses under the Cannabis Regulation and Tax Act or a spouse
6 or immediate family member living with such person shall,
7 during State employment or within a period of 2 years
8 immediately after termination of State employment, hold an
9 ownership interest, other than a passive interest in a publicly
10 traded company, in any cannabis license under the Cannabis
11 Regulation and Tax Act.

12 (b) No former officer of the executive branch or State
13 employee of the executive branch with regulatory or licensing
14 authority, or spouse or immediate family member living with
15 such person, shall, within a period of one year immediately
16 after termination of State employment, knowingly accept
17 employment or receive compensation or fees for services from a
18 person or entity if the officer or State employee, during the
19 year immediately preceding termination of State employment,
20 participated personally and substantially in making a
21 regulatory or licensing decision that directly applied to the
22 person or entity, or its parent or subsidiary.

23 (c) Within 6 months after the effective date of this
24 amendatory Act of the 96th General Assembly, each executive
25 branch constitutional officer and legislative leader, the
26 Auditor General, and the Joint Committee on Legislative Support

1 Services shall adopt a policy delineating which State positions
2 under his or her jurisdiction and control, by the nature of
3 their duties, may have the authority to participate personally
4 and substantially in the award of State contracts or in
5 regulatory or licensing decisions. The Governor shall adopt
6 such a policy for all State employees of the executive branch
7 not under the jurisdiction and control of any other executive
8 branch constitutional officer.

9 The policies required under subsection (c) of this Section
10 shall be filed with the appropriate ethics commission
11 established under this Act or, for the Auditor General, with
12 the Office of the Auditor General.

13 (d) Each Inspector General shall have the authority to
14 determine that additional State positions under his or her
15 jurisdiction, not otherwise subject to the policies required by
16 subsection (c) of this Section, are nonetheless subject to the
17 notification requirement of subsection (f) below due to their
18 involvement in the award of State contracts or in regulatory or
19 licensing decisions.

20 (e) The Joint Committee on Legislative Support Services,
21 the Auditor General, and each of the executive branch
22 constitutional officers and legislative leaders subject to
23 subsection (c) of this Section shall provide written
24 notification to all employees in positions subject to the
25 policies required by subsection (c) or a determination made
26 under subsection (d): (1) upon hiring, promotion, or transfer

1 into the relevant position; and (2) at the time the employee's
2 duties are changed in such a way as to qualify that employee.
3 An employee receiving notification must certify in writing that
4 the person was advised of the prohibition and the requirement
5 to notify the appropriate Inspector General in subsection (f).

6 (f) Any State employee in a position subject to the
7 policies required by subsection (c) or to a determination under
8 subsection (d), but who does not fall within the prohibition of
9 subsection (h) below, who is offered non-State employment
10 during State employment or within a period of one year
11 immediately after termination of State employment shall, prior
12 to accepting such non-State employment, notify the appropriate
13 Inspector General. Within 10 calendar days after receiving
14 notification from an employee in a position subject to the
15 policies required by subsection (c), such Inspector General
16 shall make a determination as to whether the State employee is
17 restricted from accepting such employment by subsection (a) or
18 (b). In making a determination, in addition to any other
19 relevant information, an Inspector General shall assess the
20 effect of the prospective employment or relationship upon
21 decisions referred to in subsections (a) and (b), based on the
22 totality of the participation by the former officer, member, or
23 State employee in those decisions. A determination by an
24 Inspector General must be in writing, signed and dated by the
25 Inspector General, and delivered to the subject of the
26 determination within 10 calendar days or the person is deemed

1 eligible for the employment opportunity. For purposes of this
2 subsection, "appropriate Inspector General" means (i) for
3 members and employees of the legislative branch, the
4 Legislative Inspector General; (ii) for the Auditor General and
5 employees of the Office of the Auditor General, the Inspector
6 General provided for in Section 30-5 of this Act; and (iii) for
7 executive branch officers and employees, the Inspector General
8 having jurisdiction over the officer or employee. Notice of any
9 determination of an Inspector General and of any such appeal
10 shall be given to the ultimate jurisdictional authority, the
11 Attorney General, and the Executive Ethics Commission.

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

17 On appeal, the Ethics Commission or Auditor General shall
18 seek, accept, and consider written public comments regarding a
19 determination. In deciding whether to uphold an Inspector
20 General's determination, the appropriate Ethics Commission or
21 Auditor General shall assess, in addition to any other relevant
22 information, the effect of the prospective employment or
23 relationship upon the decisions referred to in subsections (a)
24 and (b), based on the totality of the participation by the
25 former officer, member, or State employee in those decisions.
26 The Ethics Commission shall decide whether to uphold an

1 Inspector General's determination within 10 calendar days or
2 the person is deemed eligible for the employment opportunity.

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

17 (1) members or officers;

18 (2) members of a commission or board created by the
19 Illinois Constitution;

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

22 (4) the head of a department, commission, board,
23 division, bureau, authority, or other administrative unit
24 within the government of this State;

25 (5) chief procurement officers, State purchasing
26 officers, and their designees whose duties are directly

1 related to State procurement;

2 (6) chiefs of staff, deputy chiefs of staff, associate
3 chiefs of staff, assistant chiefs of staff, and deputy
4 governors;

5 (7) employees of the Illinois Racing Board; and

6 (8) employees of the Illinois Gaming Board.

7 (i) For the purposes of this Section, with respect to
8 officers or employees of a regional transit board, as defined
9 in this Act, the phrase "person or entity" does not include:

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

15 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19.)