



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2559

Introduced 2/15/2023, by Rep. Martin J. Moylan

#### SYNOPSIS AS INTRODUCED:

5 ILCS 430/10-15  
30 ILCS 500/50-13  
30 ILCS 500/50-39  
30 ILCS 535/35

from Ch. 127, par. 4151-35

Amends the State Officials and Employees Ethics Act. Provides that the gift ban requirements specified under the Act do not apply to attendance at professional conferences or events. Amends the Illinois Procurement Code. Attaches specified revolving door prohibition requirements to specified government officers and employees concerning conflicts of interest under the Code. Exempts communications providing general information about a firm and communications about proposal deficiencies under the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act from procurement communications reporting requirements. Amends the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. Provides that a State agency shall publish the list of firms, along with scoring comments, determined to be qualified to provide services so that all firms have an opportunity to identify ways they may improve proposals in the future. Provides that a State agency may communicate with firms who were not selected in order to provide further information about the firm's proposal deficiencies.

LRB103 30295 DTM 56723 b

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 State Officials and Employees Ethics Act is  
5 amended by changing Section 10-15 as follows:

6 (5 ILCS 430/10-15)

7 Sec. 10-15. Gift ban; exceptions. The restriction in  
8 Section 10-10 does not apply to the following:

9 (1) Opportunities, benefits, and services that are  
10 available on the same conditions as for the general  
11 public.

12 (2) Anything for which the officer, member, or State  
13 employee pays the market value.

14 (3) Any (i) contribution that is lawfully made under  
15 the Election Code or under this Act or (ii) activities  
16 associated with a fundraising event in support of a  
17 political organization or candidate.

18 (4) Educational materials and missions. This exception  
19 may be further defined by rules adopted by the appropriate  
20 ethics commission or by the Auditor General for the  
21 Auditor General and employees of the Office of the Auditor  
22 General.

23 (5) Travel expenses for a meeting to discuss State

1 business. This exception may be further defined by rules  
2 adopted by the appropriate ethics commission or by the  
3 Auditor General for the Auditor General and employees of  
4 the Office of the Auditor General.

5 (6) A gift from a relative, meaning those people  
6 related to the individual as father, mother, son,  
7 daughter, brother, sister, uncle, aunt, great aunt, great  
8 uncle, first cousin, nephew, niece, husband, wife,  
9 grandfather, grandmother, grandson, granddaughter,  
10 father-in-law, mother-in-law, son-in-law,  
11 daughter-in-law, brother-in-law, sister-in-law,  
12 stepfather, stepmother, stepson, stepdaughter,  
13 stepbrother, stepsister, half brother, half sister, and  
14 including the father, mother, grandfather, or grandmother  
15 of the individual's spouse and the individual's fiance or  
16 fiancée.

17 (7) Anything provided by an individual on the basis of  
18 a personal friendship unless the member, officer, or  
19 employee has reason to believe that, under the  
20 circumstances, the gift was provided because of the  
21 official position or employment of the member, officer, or  
22 employee and not because of the personal friendship.

23 In determining whether a gift is provided on the basis  
24 of personal friendship, the member, officer, or employee  
25 shall consider the circumstances under which the gift was  
26 offered, such as:

1 (i) the history of the relationship between the  
2 individual giving the gift and the recipient of the  
3 gift, including any previous exchange of gifts between  
4 those individuals;

5 (ii) whether to the actual knowledge of the  
6 member, officer, or employee the individual who gave  
7 the gift personally paid for the gift or sought a tax  
8 deduction or business reimbursement for the gift; and

9 (iii) whether to the actual knowledge of the  
10 member, officer, or employee the individual who gave  
11 the gift also at the same time gave the same or similar  
12 gifts to other members, officers, or employees.

13 (8) Food or refreshments not exceeding \$75 per person  
14 in value on a single calendar day; provided that the food  
15 or refreshments are (i) consumed on the premises from  
16 which they were purchased or prepared or (ii) catered. For  
17 the purposes of this Section, "catered" means food or  
18 refreshments that are purchased ready to eat and delivered  
19 by any means.

20 (9) Food, refreshments, lodging, transportation, and  
21 other benefits resulting from the outside business or  
22 employment activities (or outside activities that are not  
23 connected to the duties of the officer, member, or  
24 employee as an office holder or employee) of the officer,  
25 member, or employee, or the spouse of the officer, member,  
26 or employee, if the benefits have not been offered or

1 enhanced because of the official position or employment of  
2 the officer, member, or employee, and are customarily  
3 provided to others in similar circumstances.

4 (10) Intra-governmental and inter-governmental gifts.  
5 For the purpose of this Act, "intra-governmental gift"  
6 means any gift given to a member, officer, or employee of a  
7 State agency from another member, officer, or employee of  
8 the same State agency; and "inter-governmental gift" means  
9 any gift given to a member, officer, or employee of a State  
10 agency, by a member, officer, or employee of another State  
11 agency, of a federal agency, or of any governmental  
12 entity.

13 (11) Bequests, inheritances, and other transfers at  
14 death.

15 (12) Any item or items from any one prohibited source  
16 during any calendar year having a cumulative total value  
17 of less than \$100.

18 (13) Any food, refreshments, or other items provided  
19 to an employee who is attending a professional conference  
20 or event if the food, refreshments, or items are made  
21 available to all other attendees of the conference or  
22 event.

23 Each of the exceptions listed in this Section is mutually  
24 exclusive and independent of one another.

25 (Source: P.A. 93-617, eff. 12-9-03.)

1 Section 10. The Illinois Procurement Code is amended by  
2 changing Sections 50-13, 50-39, and 50-65 as follows:

3 (30 ILCS 500/50-13)

4 Sec. 50-13. Conflicts of interest.

5 (a) Prohibition. It is unlawful for any person (i) holding  
6 an elective office in this State, holding a seat in the General  
7 Assembly, or appointed to or employed in any of the offices or  
8 agencies of State government and who receives compensation for  
9 such employment in excess of 60% of the salary of the Governor  
10 of the State of Illinois and is subject to the requirements of  
11 subsection (h) of Section 5-45 of the State Officials and  
12 Employees Ethics Act, ~~or~~ (ii) who is an officer or employee of  
13 the Capital Development Board or the Illinois Toll Highway  
14 Authority and is subject to the requirements of subsection (h)  
15 of Section 5-45 of the State Officials and Employees Ethics  
16 Act, or (iii) who is the spouse or minor child of any such  
17 person who is subject to the requirements of subsection (h) of  
18 Section 5-45 of the State Officials and Employees Ethics Act,  
19 to have or acquire any contract, or any direct pecuniary  
20 interest in any contract therein, whether for stationery,  
21 printing, paper, or any services, materials, or supplies, that  
22 will be wholly or partially satisfied by the payment of funds  
23 appropriated by the General Assembly of the State of Illinois  
24 or in any contract of the Capital Development Board or the  
25 Illinois Toll Highway Authority.

1           (b) Interests. It is unlawful for any firm, partnership,  
2 association, or corporation, in which any person listed in  
3 subsection (a) is entitled to receive (i) more than 7 1/2% of  
4 the total distributable income or (ii) an amount in excess of  
5 the salary of the Governor, to have or acquire any such  
6 contract or direct pecuniary interest therein.

7           (c) Combined interests. It is unlawful for any firm,  
8 partnership, association, or corporation, in which any person  
9 listed in subsection (a) together with his or her spouse or  
10 minor children is entitled to receive (i) more than 15%, in the  
11 aggregate, of the total distributable income or (ii) an amount  
12 in excess of 2 times the salary of the Governor, to have or  
13 acquire any such contract or direct pecuniary interest  
14 therein.

15           (c-5) Appointees and firms. In addition to any provisions  
16 of this Code, the interests of certain appointees and their  
17 firms are subject to Section 3A-35 of the Illinois  
18 Governmental Ethics Act.

19           (d) Securities. Nothing in this Section invalidates the  
20 provisions of any bond or other security previously offered or  
21 to be offered for sale or sold by or for the State of Illinois.

22           (e) Prior interests. This Section does not affect the  
23 validity of any contract made between the State and an officer  
24 or employee of the State or member of the General Assembly, his  
25 or her spouse, minor child, or other immediate family member  
26 living in his or her residence or any combination of those

1 persons if that contract was in existence before his or her  
2 election or employment as an officer, member, or employee. The  
3 contract is voidable, however, if it cannot be completed  
4 within 365 calendar days after the officer, member, or  
5 employee takes office or is employed.

6 (f) Exceptions.

7 (1) Public aid payments. This Section does not apply  
8 to payments made for a public aid recipient.

9 (2) Teaching. This Section does not apply to a  
10 contract for personal services as a teacher or school  
11 administrator between a member of the General Assembly or  
12 his or her spouse, or a State officer or employee or his or  
13 her spouse, and any school district, public community  
14 college district, the University of Illinois, Southern  
15 Illinois University, Illinois State University, Eastern  
16 Illinois University, Northern Illinois University, Western  
17 Illinois University, Chicago State University, Governors  
18 State University, or Northeastern Illinois University.

19 (3) Ministerial duties. This Section does not apply to  
20 a contract for personal services of a wholly ministerial  
21 character, including but not limited to services as a  
22 laborer, clerk, typist, stenographer, page, bookkeeper,  
23 receptionist, or telephone switchboard operator, made by a  
24 spouse or minor child of an elective or appointive State  
25 officer or employee or of a member of the General  
26 Assembly.



1           (4) Child and family services. This Section does not  
2           apply to payments made to a member of the General  
3           Assembly, a State officer or employee, his or her spouse  
4           or minor child acting as a foster parent, homemaker,  
5           advocate, or volunteer for or in behalf of a child or  
6           family served by the Department of Children and Family  
7           Services.

8           (5) Licensed professionals. Contracts with licensed  
9           professionals, provided they are competitively bid or part  
10          of a reimbursement program for specific, customary goods  
11          and services through the Department of Children and Family  
12          Services, the Department of Human Services, the Department  
13          of Healthcare and Family Services, the Department of  
14          Public Health, or the Department on Aging.

15          (g) Penalty. A person convicted of a violation of this  
16          Section is guilty of a business offense and shall be fined not  
17          less than \$1,000 nor more than \$5,000.

18          (Source: P.A. 101-81, eff. 7-12-19.)

19           (30 ILCS 500/50-39)

20          Sec. 50-39. Procurement communications reporting  
21          requirement.

22          (a) Any written or oral communication received by a State  
23          employee who, by the nature of his or her duties, has the  
24          authority to participate personally and substantially in the  
25          decision to award a State contract and that imparts or

1 requests material information or makes a material argument  
2 regarding potential action concerning an active procurement  
3 matter, including, but not limited to, an application, a  
4 contract, or a project, shall be reported to the Procurement  
5 Policy Board, and, with respect to the Illinois Power Agency,  
6 by the initiator of the communication, and may be reported  
7 also by the recipient.

8 Any person communicating orally, in writing,  
9 electronically, or otherwise with the Director or any person  
10 employed by, or associated with, the Illinois Power Agency to  
11 impart, solicit, or transfer any information related to the  
12 content of any power procurement plan, the manner of  
13 conducting any power procurement process, the procurement of  
14 any power supply, or the method or structure of contracting  
15 with power suppliers must disclose to the Procurement Policy  
16 Board the full nature, content, and extent of any such  
17 communication in writing by submitting a report with the  
18 following information:

19 (1) The names of any party to the communication.

20 (2) The date on which the communication occurred.

21 (3) The time at which the communication occurred.

22 (4) The duration of the communication.

23 (5) The method (written, oral, etc.) of the  
24 communication.

25 (6) A summary of the substantive content of the  
26 communication.

1           These communications do not include the following: (i)  
2 statements by a person publicly made in a public forum; (ii)  
3 statements regarding matters of procedure and practice, such  
4 as format, the number of copies required, the manner of  
5 filing, and the status of a matter; (iii) statements made by a  
6 State employee of the agency to the agency head or other  
7 employees of that agency, to the employees of the Executive  
8 Ethics Commission, or to an employee of another State agency  
9 who, through the communication, is either (a) exercising his  
10 or her experience or expertise in the subject matter of the  
11 particular procurement in the normal course of business, for  
12 official purposes, and at the initiation of the purchasing  
13 agency or the appropriate State purchasing officer, or (b)  
14 exercising oversight, supervisory, or management authority  
15 over the procurement in the normal course of business and as  
16 part of official responsibilities; (iv) ~~unsolicited~~  
17 communications providing general information about a firm's  
18 products or services, or industry best practices provided  
19 before those products or services are not directly related to  
20 an open procurement matter ~~become involved in a procurement~~  
21 ~~matter~~; (v) communications received in response to procurement  
22 solicitations, including, but not limited to, vendor responses  
23 to a request for information, request for proposal, request  
24 for qualifications, invitation for bid, or a small purchase,  
25 sole source, or emergency solicitation, or questions and  
26 answers posted to the Illinois Procurement Bulletin to

1 supplement the procurement action, provided that the  
2 communications are made in accordance with the instructions  
3 contained in the procurement solicitation, procedures, or  
4 guidelines; (vi) communications that are privileged,  
5 protected, or confidential under law; ~~and~~ (vii) communications  
6 that are part of a formal procurement process as set out by  
7 statute, rule, or the solicitation, guidelines, or procedures,  
8 including, but not limited to, the posting of procurement  
9 opportunities, the process for approving a procurement  
10 business case or its equivalent, fiscal approval, submission  
11 of bids, the finalizing of contract terms and conditions with  
12 an awardee or apparent awardee, and similar formal procurement  
13 processes; and (viii) communications about proposal  
14 deficiencies as provided under Section 35 of the  
15 Architectural, Engineering, and Land Surveying Qualifications  
16 Based Selection Act. The provisions of this Section shall not  
17 apply to communications regarding the administration and  
18 implementation of an existing contract, except communications  
19 regarding change orders or the renewal or extension of a  
20 contract.

21 The reporting requirement does not apply to any  
22 communication asking for clarification regarding a contract  
23 solicitation so long as there is no competitive advantage to  
24 the person or business and the question and answer, if  
25 material, are posted to the Illinois Procurement Bulletin as  
26 an addendum to the contract solicitation.

1           (b) The report required by subsection (a) shall be  
2 submitted monthly and include at least the following: (i) the  
3 date and time of each communication; (ii) the identity of each  
4 person from whom the written or oral communication was  
5 received, the individual or entity represented by that person,  
6 and any action the person requested or recommended; (iii) the  
7 identity and job title of the person to whom each  
8 communication was made; (iv) if a response is made, the  
9 identity and job title of the person making each response; (v)  
10 a detailed summary of the points made by each person involved  
11 in the communication; (vi) the duration of the communication;  
12 (vii) the location or locations of all persons involved in the  
13 communication and, if the communication occurred by telephone,  
14 the telephone numbers for the callers and recipients of the  
15 communication; and (viii) any other pertinent information. No  
16 trade secrets or other proprietary or confidential information  
17 shall be included in any communication reported to the  
18 Procurement Policy Board.

19           (c) Additionally, when an oral communication made by a  
20 person required to register under the Lobbyist Registration  
21 Act is received by a State employee that is covered under this  
22 Section, all individuals who initiate or participate in the  
23 oral communication shall submit a written report to that State  
24 employee that memorializes the communication and includes, but  
25 is not limited to, the items listed in subsection (b).

26           (d) The Procurement Policy Board shall make each report

1 submitted pursuant to this Section available on its website  
2 within 7 calendar days after its receipt of the report. The  
3 Procurement Policy Board may promulgate rules to ensure  
4 compliance with this Section.

5 (e) The reporting requirements shall also be conveyed  
6 through ethics training under the State Officials and  
7 Employees Ethics Act. An employee who knowingly and  
8 intentionally violates this Section shall be subject to  
9 suspension or discharge. The Executive Ethics Commission shall  
10 promulgate rules, including emergency rules, to implement this  
11 Section.

12 (f) This Section becomes operative on January 1, 2011.

13 (g) For purposes of this Section:

14 "Active procurement matter" means a procurement process  
15 beginning with requisition or determination of need by an  
16 agency and continuing through the publication of an award  
17 notice or other completion of a final procurement action, the  
18 resolution of any protests, and the expiration of any protest  
19 or Procurement Policy Board review period, if applicable.  
20 "Active procurement matter" also includes communications  
21 relating to change orders, renewals, or extensions.

22 "Material information" means information that a reasonable  
23 person would deem important in determining his or her course  
24 of action and pertains to significant issues, including, but  
25 not limited to, price, quantity, and terms of payment or  
26 performance.

1 "Material argument" means a communication that a  
2 reasonable person would believe was made for the purpose of  
3 influencing a decision relating to a procurement matter.  
4 "Material argument" does not include general information about  
5 products, services, or industry best practices or a response  
6 to a communication initiated by an employee of the State for  
7 the purposes of providing information to evaluate new  
8 products, trends, services, or technologies.

9 (Source: P.A. 100-43, eff. 8-9-17.)

10 Section 15. The Architectural, Engineering, and Land  
11 Surveying Qualifications Based Selection Act is amended by  
12 changing Section 35 as follows:

13 (30 ILCS 535/35) (from Ch. 127, par. 4151-35)

14 Sec. 35. Selection procedure. On the basis of evaluations,  
15 discussions, and any presentations, the State agency shall  
16 select no less than 3 firms it determines to be qualified to  
17 provide services for the project and rank them in order of  
18 qualifications to provide services regarding the specific  
19 project. The State agency shall then contact the firm ranked  
20 most preferred to negotiate a contract at a fair and  
21 reasonable compensation. If fewer than 3 firms submit letters  
22 of interest and the State agency determines that one or both of  
23 those firms are so qualified, the State agency may proceed to  
24 negotiate a contract under Section 40. The decision of the

1 State agency shall be final and binding.

2 As part of the State agency's commitment to fostering  
3 greater diversity in contracting, the State agency shall  
4 publish the list of firms, along with scoring comments,  
5 determined to be qualified to provide services under this  
6 Section so that all firms have an opportunity to identify ways  
7 they may improve proposals in the future. The State agency may  
8 communicate with firms who were not selected in order to  
9 provide further information about the firm's proposal  
10 deficiencies.

11 (Source: P.A. 87-673.)