



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3798

Introduced 10/5/2011, by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

5 ILCS 430/5-45

Amends the State Officials and Employees Ethics Act. Provides that a State employee who holds a Rutan-exempt position and is involuntarily terminated from that position shall not, within a period of 5 years immediately after involuntary termination, knowingly accept employment or receive compensation or fees for services from a person or entity if the person or entity or its parent or subsidiary is a party to a State contract or contracts, regardless of whether the State employee participated personally and substantially in the award of the State contract or contracts. Effective immediately.

LRB097 12630 PJG 57116 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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 one year immediately after termination of
11 State employment, knowingly accept employment or receive
12 compensation or fees for services from a person or entity if
13 the officer, member, or State employee, during the year
14 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 one year immediately
23 after termination of State employment, knowingly accept

1 employment or receive compensation or fees for services from a
2 person or entity if the officer or State employee, during the
3 year immediately preceding termination of State employment,
4 participated personally and substantially in making a
5 regulatory or licensing decision that directly applied to the
6 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 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 one year immediately after
15 termination of office or State employment, knowingly accept
16 employment or receive compensation or fees for services from a
17 person or entity if the person or entity or its parent or
18 subsidiary, during the year immediately preceding termination
19 of State employment, was a party to a State contract or
20 contracts with a cumulative value of \$25,000 or more involving
21 the officer, member, or State employee's State agency, or was
22 the subject of a regulatory or licensing decision involving the
23 officer, member, or State employee's State agency, regardless
24 of whether he or she participated personally and substantially
25 in the award of the State contract or contracts or the making
26 of the regulatory or licensing decision in question:

- 1 (1) members or officers;
- 2 (2) members of a commission or board created by the
3 Illinois Constitution;
- 4 (3) persons whose appointment to office is subject to
5 the advice and consent of the Senate;
- 6 (4) the head of a department, commission, board,
7 division, bureau, authority, or other administrative unit
8 within the government of this State;
- 9 (5) chief procurement officers, State purchasing
10 officers, and their designees whose duties are directly
11 related to State procurement; and
- 12 (6) chiefs of staff, deputy chiefs of staff, associate
13 chiefs of staff, assistant chiefs of staff, and deputy
14 governors.

15 (i) A State employee who holds a Rutan-exempt position and
16 is involuntarily terminated from that position shall not,
17 within a period of 5 years immediately after involuntary
18 termination, knowingly accept employment or receive
19 compensation or fees for services from a person or entity if
20 the person or entity or its parent or subsidiary is a party to
21 a State contract or contracts, regardless of whether the State
22 employee participated personally and substantially in the
23 award of the State contract or contracts.

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

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.