Purchasing Laws

October 2010

Legislative Audit Commission

Purchasing Laws

With the enactment of the Illinois Procurement Code in 1998 and other modifications thereafter, the State of Illinois has substantially changed the way it procures products and services. This booklet is intended as a ready source of information regarding basic procurement statutes. The user should be aware that a number of laws and regulations govern procurement transactions including the State Finance Act, the Property Control Act, the Comptroller's Statewide Accounting Management System (SAMS), and regulations of the Department of Central Management Services.

The Legislative Audit Commission has an active interest in ensuring greater accountability in State government through its purchasing laws. The Commission is also responsible for the review of all emergency purchases. Finally, the regular compliance examination review activity has disclosed instances of insufficient knowledge of statutory requirements leading to violations and audit exceptions. Hopefully, this booklet will help reduce the frequency of these errors.

The Commission looks forward to suggestions and assistance from users of the booklet to make future editions even more informative. Users of the booklet should contact legal counsel or a state purchasing officer concerning specific procurement questions. For Procurement Code information and questions concerning purchasing regulations, State agencies may wish to contact the Chief Procurement Office at 217/558-2157. This booklet may be found online at www.ilga.gov/commission/lac/lac_home.html.

The assistance of the Legislative Reference Bureau and the Legislative Printing Unit makes this booklet possible.

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STATE OFFICIALS AND EMPLOYEES ETHICS ACT
5 ILCS 430/

ARTICLE 1
GENERAL PROVISIONS

SHORT TITLE

(5 ILCS 430/1-1)

Sec. 1-1. Short title. This Act may be cited as the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03.)

DEFINITIONS

(5 ILCS 430/1-5)

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

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

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

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

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

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

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

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

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

"Employee" means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed or (ii) any appointed or elected commissioner, trustee, director, or board member of a board of a State agency, including any retirement system or investment board subject to the Illinois Pension Code or (iii) any other appointee.

"Employment benefits" include but are not limited to the following: modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable

treatment during the course of any disciplinary or similar action or other performance review.

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

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, or officer.

"Governmental entity" means a unit of local government (including a community college district) or a school district but not a State agency.

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

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

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

"Member" means a member of the General Assembly.

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

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

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Prohibited source" means any person or entity who:

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

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

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

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

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or

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

"State agency" includes all officers, boards, commissions and agencies created by the Constitution, whether in the executive or legislative branch; all officers, departments, boards, commissions, agencies, institutions, authorities, public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act (except community colleges), and bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government (including community college districts) and their officers, school districts, and boards of election commissioners; and all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor. "State agency" includes the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, and the legislative support services agencies. "State agency" includes the Office of the Auditor General. "State agency" does not include the judicial branch.

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

"Ultimate jurisdictional authority" means the following:

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

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

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

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

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

(6) For State employees of public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act (except community colleges), the board of trustees of the appropriate public institution of higher learning.

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

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

(Source: P.A. 95-880, eff. 8-19-08; 96-6, eff. 4-3-09; 96-555, eff. 8-18-09.)

APPLICABILITY

(5 ILCS 430/1-10)

Sec. 1-10. Applicability. The State Officials and Employees Ethics Act applies only to conduct that occurs on or after the effective date of this Act and to causes of action that accrue on or after the effective date of this Act.

(Source: P.A. 93-615, eff. 11-19-03.)

ARTICLE 5
ETHICAL CONDUCT

PERSONNEL POLICIES

(5 ILCS 430/5-5)

Sec. 5-5. Personnel policies.

(a) Each of the following shall adopt and implement personnel policies for all State employees under his, her, or its jurisdiction and control: (i) each executive branch constitutional officer, (ii) each legislative leader, (iii) the Senate Operations Commission, with respect to legislative employees under Section 4 of the General Assembly Operations Act, (iv) the Speaker of the House of Representatives, with respect to legislative employees under Section 5 of the General Assembly Operations Act, (v) the Joint Committee on Legislative Support Services, with respect to State employees of the legislative support services agencies, (vi) members of the General Assembly, with respect to legislative assistants, as provided in Section 4 of the General Assembly Compensation Act, (vii) the Auditor General, (viii) the Board of Higher Education, with respect to State employees of public institutions of higher learning except community colleges, and (ix) the Illinois Community College Board, with respect to State employees of community colleges. The Governor shall adopt and implement those policies for all State employees of the executive branch not under the jurisdiction and control of any other executive branch constitutional officer.

(b) The policies required under subsection (a) shall be filed with the appropriate ethics commission established under this Act or, for the Auditor General, with the Office of the Auditor General.

(c) The policies required under subsection (a) shall include policies relating to work time requirements, documentation of time worked, documentation for reimbursement for travel on official State business, compensation, and the earning or accrual of State benefits for all State employees who may be eligible to receive those benefits. The policies shall comply with and be consistent with all other applicable laws. The policies shall require State employees to periodically submit time sheets documenting the time spent each day on official State business to the nearest quarter hour; contractual State employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. The policies for State employees shall require those time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years.

(d) The policies required under subsection (a) shall be adopted by the applicable entity before February 1, 2004 and shall apply to State employees beginning 30 days after adoption.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ETHICS TRAINING

(5 ILCS 430/5-10)

Sec. 5-10. Ethics training.

(a) Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

(b) Each ultimate jurisdictional authority subject to the Executive Ethics Commission shall submit to the Executive Ethics Commission, at least annually, or more frequently as required by that Commission, an annual report that summarizes ethics training that was completed during the previous year, and lays out the plan for the ethics training programs in the coming year.

(c) Each Inspector General shall set standards and determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 30 days after commencement of his or her office or employment.

(d) Upon completion of the ethics training program, each officer, member, and employee must certify in writing that the person has completed the training program. Each officer, member, and employee must provide to his or her ethics officer a signed copy of the certification by the deadline for completion of the ethics training program.

(e) The ethics training provided under this Act by the Secretary of State may be expanded to satisfy the requirement of Section 4.5 of the Lobbyist Registration Act.

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

PROHIBITED POLITICAL ACTIVITIES

(5 ILCS 430/5-15)

Sec. 5-15. Prohibited political activities.

(a) State employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory

time off). State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

(b) At no time shall any executive or legislative branch constitutional officer or any official, director, supervisor, or State employee intentionally misappropriate the services of any State employee by requiring that State employee to perform any prohibited political activity (i) as part of that employee's State duties, (ii) as a condition of State employment, or (iii) during any time off that is compensated by the State (such as vacation, personal, or compensatory time off).

(c) A State employee shall not be required at any time to participate in any prohibited political activity in consideration for that State employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

(d) A State employee shall not be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the State employee's participation in any prohibited political activity.

(e) Nothing in this Section prohibits activities that are otherwise appropriate for a State employee to engage in as a part of his or her official State employment duties or activities that are undertaken by a State employee on a voluntary basis as permitted by law.

(f) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of State employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.
(Source: P.A. 93-615, eff. 11-19-03.)

PUBLIC SERVICE ANNOUNCEMENTS; OTHER PROMOTIONAL MATERIAL

(5 ILCS 430/5-20)

Sec. 5-20. Public service announcements; other promotional material.

(a) Beginning January 1, 2004, no public service announcement or advertisement that is on behalf of any State administered program and contains the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a commercial newspaper or a commercial magazine at any time.

(b) The proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any (i) bumper stickers, (ii) commercial billboards, (iii) lapel pins or buttons, (iv) magnets, (v) stickers, and (vi) other similar promotional items, that are not in furtherance of the person's official State duties or governmental and public service functions, if designed, paid for, prepared, or distributed using public dollars. This subsection does not apply to stocks of items existing on the effective date of this amendatory Act of the 93rd General Assembly.

(c) This Section does not apply to communications funded through expenditures required to be reported under Article 9 of the Election Code.
(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

PROHIBITED OFFER OR PROMISE

(5 ILCS 430/5-30)

Sec. 5-30. Prohibited offer or promise.

(a) An officer or employee of the executive or legislative branch or a candidate

for an executive or legislative branch office may not promise anything of value related to State government, including but not limited to positions in State government, promotions, salary increases, other employment benefits, board or commission appointments, favorable treatment in any official or regulatory matter, the awarding of any public contract, or action or inaction on any legislative or regulatory matter, in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

(b) Any State employee who is requested or directed by an officer, member, or employee of the executive or legislative branch or a candidate for an executive or legislative branch office to engage in activity prohibited by Section 5-30 shall report such request or directive to the appropriate ethics officer or Inspector General.

(c) Nothing in this Section prevents the making or accepting of voluntary contributions otherwise in accordance with law.

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

CONTRIBUTIONS ON STATE PROPERTY

(5 ILCS 430/5-35)

Sec. 5-35. Contributions on State property. Contributions shall not be intentionally solicited, accepted, offered, or made on State property by public officials, by State employees, by candidates for elective office, by persons required to be registered under the Lobbyist Registration Act, or by any officers, employees, or agents of any political organization, except as provided in this Section. For purposes of this Section, "State property" means any building or portion thereof owned or exclusively leased by the State or any State agency at the time the contribution is solicited, offered, accepted, or made. "State property" does not however, include any portion of a building that is rented or leased from the State or any State agency by a private person or entity.

An inadvertent solicitation, acceptance, offer, or making of a contribution is not a violation of this Section so long as reasonable and timely action is taken to return the contribution to its source.

The provisions of this Section do not apply to the residences of State officers and employees, except that no fundraising events shall be held at residences owned by the State or paid for, in whole or in part, with State funds.

(Source: P.A. 93-615, eff. 11-19-03.)

FUNDRAISING IN SANGAMON COUNTY

(5 ILCS 430/5-40)

Sec. 5-40. Fundraising in Sangamon County. Except as provided in this Section, any executive branch constitutional officer, any candidate for an executive branch constitutional office, any member of the General Assembly, any candidate for the General Assembly, any political caucus of the General Assembly, or any political committee on behalf of any of the foregoing may not hold a political fundraising function in Sangamon County on any day the legislature is in session (i) during the period beginning February 1 and ending on the later of the actual adjournment dates of either house of the spring session and (ii) during fall veto session. For purposes of this Section, the legislature is not considered to be in session on a day that is solely a perfunctory session day or on a day when only a committee is meeting.

During the period beginning June 1 and ending on the first day of fall veto session each year, this Section does not apply to (i) a member of the General Assembly whose legislative or representative district is entirely within Sangamon County or (ii) a candidate for the General Assembly from that legislative or representative district.

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

PROCUREMENT; REVOLVING DOOR PROHIBITION

(5 ILCS 430/5-45)

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

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

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

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

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

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

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

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

employment by subsection (a) or (b). In making a determination, in addition to any other relevant information, an Inspector General shall assess the effect of the prospective employment or relationship upon decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions. A determination by an Inspector General must be in writing, signed and dated by the Inspector General, and delivered to the subject of the determination within 10 calendar days or the person is deemed eligible for the employment opportunity. For purposes of this subsection, "appropriate Inspector General" means (i) for members and employees of the legislative branch, the Legislative Inspector General; (ii) for the Auditor General and employees of the Office of the Auditor General, the Inspector General provided for in Section 30-5 of this Act; and (iii) for executive branch officers and employees, the Inspector General having jurisdiction over the officer or employee. Notice of any determination of an Inspector General and of any such appeal shall be given to the ultimate jurisdictional authority, the Attorney General, and the Executive Ethics Commission.

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

On appeal, the Ethics Commission or Auditor General shall seek, accept, and consider written public comments regarding a determination. In deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission or Auditor General shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions. The Ethics Commission shall decide whether to uphold an Inspector General's determination within 10 calendar days or the person is deemed eligible for the employment opportunity.

(h) The following officers, members, or State employees shall not, within a period of one year immediately after termination of office or State employment, 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, during the year immediately preceding termination of State employment, was a party to a State contract or contracts with a cumulative value of $25,000 or more involving the officer, member, or State employee's State agency, or was the subject of a regulatory or licensing decision involving the officer, member, or State employee's State agency, regardless of whether he or she participated personally and substantially in the award of the State contract or contracts or the making of the regulatory or licensing decision in question:

(1) members or officers;

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

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

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

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

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

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

EX PARTE COMMUNICATIONS; SPECIAL GOVERNMENT AGENTS

(5 ILCS 430/5-50)

Sec. 5-50. Ex parte communications; special government agents.

(a) This Section applies to ex parte communications made to any agency listed in subsection (e).

(b) "Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency.

(b-5) An ex parte communication received by an agency, agency head, or other agency employee from an interested party or his or her official representative or attorney shall promptly be memorialized and made a part of the record.

(c) An ex parte communication received by any agency, agency head, or other agency employee, other than an ex parte communication described in subsection (b-5), shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication be promptly made a part of the record. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter.

(e) This Section applies to the following agencies:

Executive Ethics Commission
Illinois Commerce Commission
Educational Labor Relations Board
State Board of Elections
Illinois Gaming Board
Health Facilities and Services Review Board
Illinois Workers' Compensation Commission
Illinois Labor Relations Board
Illinois Liquor Control Commission
Pollution Control Board
Property Tax Appeal Board
Illinois Racing Board
Illinois Purchased Care Review Board
Department of State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board

Civil Service Commission
Personnel Review Board for the Treasurer
Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims
Board of Review of the Department of Employment Security
Department of Insurance
Department of Professional Regulation and licensing boards under the Department
Department of Public Health and licensing boards under the Department
Office of Banks and Real Estate and licensing boards under the Office
State Employees Retirement System Board of Trustees Judges Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers Retirement System Officers Board of Trustees

(f) Any person who fails to (i) report an ex parte communication to an ethics officer, (ii) make information part of the record, or (iii) make a filing with the Executive Ethics Commission as required by this Section or as required by Section 5-165 of the Illinois Administrative Procedure Act violates this Act.
(Source: P.A. 95-331, eff. 8-21-07; 96-31, eff. 6-30-09.)

PROHIBITION ON SERVING ON BOARDS AND COMMISSIONS

(5 ILCS 430/5-55)

Sec. 5-55. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, a person, his or her spouse, and any immediate family member living with that person is ineligible to serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if (i) that person is entitled to receive more than 7 1/2% of the total distributable income under a State contract other than an employment contract or (ii) that person together with his or her spouse and immediate family members living with that person are entitled to receive more than 15% in the aggregate of the total distributable income under a State contract other than an employment contract; except that this restriction does not apply to any of the following:

(1) a person, his or her spouse, or his or her immediate family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and

(2) a person, his or her spouse, or his or her immediate family member living with that person, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

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

ADMINISTRATIVE LEAVE DURING PENDING CRIMINAL MATTER

(5 ILCS 430/5-60)

Sec. 5-60. Administrative leave during pending criminal matter.

(a) If any officer or government employee is placed on administrative leave, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution and that officer or government employee is removed from office or employment due to his or her resultant criminal conviction, then the officer or government employee is indebted to the State for all compensation and the value of all benefits received during the administrative leave and must forthwith pay the full amount to the State.

(b) As a matter of law and without the necessity of the adoption of an ordinance or resolution under Section 70-5, if any officer or government employee of a governmental entity is placed on administrative leave, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution and that officer or government employee is removed from office or employment due to his or her resultant criminal conviction, then the officer or government employee is indebted to the governmental entity for all compensation and the value of all benefits received during the administrative leave and must forthwith pay the full amount to the governmental entity.
(Source: P.A. 95-947, eff. 8-29-08.)

ARTICLE 10
GIFT BAN

GIFT BAN

(5 ILCS 430/10-10)

Sec. 10-10. Gift ban. Except as otherwise provided in this Article, no officer, member, or State employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the officer, member, or State employee. No prohibited source shall intentionally offer or make a gift that violates this Section.
(Source: P.A. 93-617, eff. 12-9-03.)

GIFT BAN; EXCEPTIONS

(5 ILCS 430/10-15)

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

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

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

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

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

(5) Travel expenses for a meeting to discuss State business. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

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

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

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

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

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

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

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

(9) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, member, or employee as an office holder or employee) of the officer, member, or employee, or the spouse of the officer, member, or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, member, or employee, and are customarily provided to others in similar circumstances.

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

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

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

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

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

GIFT BAN; DISPOSITION OF GIFTS

(5 ILCS 430/10-30)

Sec. 10-30. Gift ban; disposition of gifts. A member, officer, or employee does not violate this Act if the member, officer, or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

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

GIFT BAN; FURTHER RESTRICTIONS

(5 ILCS 430/10-40)

Sec. 10-40. Gift ban; further restrictions. A State agency may adopt or maintain policies that are more restrictive than those set forth in this Article and may continue to follow any existing policies, statutes, or regulations that are more restrictive or are in

addition to those set forth in this Article.
(Source: P.A. 93-617, eff. 12-9-03.)

ARTICLE 15
WHISTLE BLOWER PROTECTION

DEFINITIONS

(5 ILCS 430/15-5)

Sec. 15-5. Definitions. In this Article:

"Public body" means (1) any officer, member, or State agency; (2) the federal government; (3) any local law enforcement agency or prosecutorial office; (4) any federal or State judiciary, grand or petit jury, law enforcement agency, or prosecutorial office; and (5) any officer, employee, department, agency, or other division of any of the foregoing.

"Supervisor" means an officer, a member, or a State employee who has the authority to direct and control the work performance of a State employee or who has authority to take corrective action regarding any violation of a law, rule, or regulation of which the State employee complains.

"Retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any State employee, that is taken in retaliation for a State employee's involvement in protected activity, as set forth in Section 15-10.
(Source: P.A. 96-555, eff. 8-18-09.)

PROTECTED ACTIVITY

(5 ILCS 430/15-10)

Sec. 15-10. Protected activity. An officer, a member, a State employee, or a State agency shall not take any retaliatory action against a State employee because the State employee does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.

(3) Assists or participates in a proceeding to enforce the provisions of this Act.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

BURDEN OF PROOF

(5 ILCS 430/15-20)

Sec. 15-20. Burden of proof. A violation of this Article may be established only upon a finding that (i) the State employee engaged in conduct described in Section 15-10 and (ii) that conduct was a contributing factor in the retaliatory action alleged by the State employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the officer, member, other State employee, or State agency would have taken the same unfavorable personnel action in the absence of that conduct.
(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

REMEDIES

(5 ILCS 430/15-25)

Sec. 15-25. Remedies. The State employee may be awarded all remedies necessary to make the State employee whole and to prevent future violations of this Article. The circuit courts of this State shall have jurisdiction to hear cases brought under this Article. Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;

(2) 2 times the amount of back pay;

(3) interest on the back pay;

(4) the reinstatement of full fringe benefits and seniority rights; and

(5) the payment of reasonable costs and attorneys' fees.

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

PREEMPTION

(5 ILCS 430/15-35)

Sec. 15-35. Preemption. Nothing in this Article shall be deemed to diminish the rights, privileges, or remedies of a State employee under any other federal or State law, rule, or regulation or under any collective bargaining agreement or employment contract.

(Source: P.A. 93-615, eff. 11-19-03.)

POSTING

(5 ILCS 430/15-40)

Sec. 15-40. Posting. All officers, members, and State agencies shall conspicuously display notices of State employee protection under this Act.

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

ARTICLE 20
EXECUTIVE ETHICS COMMISSION AND EXECUTIVE INSPECTORS GENERAL

EXECUTIVE ETHICS COMMISSION

(5 ILCS 430/20-5)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

A member or legislative branch State employee serving on an executive branch board or commission remains subject to the jurisdiction of the Legislative Ethics Commission and is not subject to the jurisdiction of the Executive Ethics Commission.

(d-5) The Executive Ethics Commission shall have jurisdiction over all chief procurement officers and procurement compliance monitors and their respective staffs. The Executive Ethics Commission shall have jurisdiction over any matters arising under the Illinois Procurement Code if the Commission is given explicit authority in that Code.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(i) The Executive Ethics Commission shall appoint, by a majority of the members appointed to the Commission, chief procurement officers and procurement compliance monitors in accordance with the provisions of the Illinois Procurement Code. The compensation of a chief procurement officer and procurement compliance monitor shall be determined by the Commission.

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

OFFICES OF EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-10)

Sec. 20-10. Offices of Executive Inspectors General.

(a) Five independent Offices of the Executive Inspector General are created, one each for the Governor, the Attorney General, the Secretary of State, the Comptroller, and the Treasurer. Each Office shall be under the direction and supervision of an Executive Inspector General and shall be a fully independent office with separate appropriations.

(b) The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint an Executive Inspector General, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of Executive Inspector General, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of Executive Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate.

Nothing in this Article precludes the appointment by the Governor, Attorney General, Secretary of State, Comptroller, or Treasurer of any other inspector general required or permitted by law. The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer each may appoint an existing inspector general as the Executive Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Executive Inspector General required by this Article. An appointing authority may not appoint a relative as an Executive Inspector General.

Each Executive Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an

officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The term of each initial Executive Inspector General shall commence upon qualification and shall run through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial term, each Executive Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. An Executive Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the Executive Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Executive Inspector General appointed by the Attorney General shall have jurisdiction over the Attorney General and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Attorney General. The Executive Inspector General appointed by the Secretary of State shall have jurisdiction over the Secretary of State and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Secretary of State. The Executive Inspector General appointed by the Comptroller shall have jurisdiction over the Comptroller and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Comptroller. The Executive Inspector General appointed by the Treasurer shall have jurisdiction over the Treasurer and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Treasurer. The Executive Inspector General appointed by the Governor shall have jurisdiction over the Governor, the Lieutenant Governor, and all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The compensation for each Executive Inspector General shall be determined by the Executive Ethics Commission and shall be made from appropriations made to the Comptroller for this purpose. Subject to Section 20-45 of this Act, each Executive Inspector General has full authority to organize his or her Office of the Executive Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. A separate appropriation shall be made for each Office of Executive Inspector General.

(e) No Executive Inspector General or employee of the Office of the Executive Inspector General may, during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Executive Inspector General or employee of the Office of the Executive Inspector General may, for one year after the termination of his or her appointment or employment:

(1) become a candidate for any elective office;

(2) hold any elected public office; or

(3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Executive Ethics Commission.

(f) An Executive Inspector General may be removed only for cause and may be removed only by the appointing constitutional officer. At the time of the removal, the appointing constitutional officer must report to the Executive Ethics Commission the justification for the removal.

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

DUTIES OF THE EXECUTIVE ETHICS COMMISSION

(5 ILCS 430/20-15)

Sec. 20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20-21.

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

DUTIES OF THE EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-20)

Sec. 20-20. Duties of the Executive Inspectors General. In addition to duties otherwise assigned by law, each Executive Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Executive Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Executive Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 20-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Executive Inspector General with the Executive Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Executive Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Executive Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(9) To review hiring and employment files of each State agency within the Executive Inspector General's jurisdiction to ensure compliance with Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and with all applicable employment laws.

(10) To establish a policy that ensures the appropriate handling and correct recording of all investigations conducted by the Office, and to ensure that the policy is accessible via the Internet in order that those seeking to report those allegations are familiar with the process and that the subjects of those allegations are treated fairly.

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

ATTORNEY GENERAL INVESTIGATORY AUTHORITY

(5 ILCS 430/20-20a)

Sec. 20-20a. Attorney General investigatory authority. In addition to investigatory authority otherwise granted by law, the Attorney General shall have the authority to investigate violations of this Act pursuant to Section 20-50 or Section 20-51 of this Act after receipt of notice from the Executive Ethics Commission or pursuant to Section 5-45. The Attorney General shall have the discretion to determine the appropriate means of

investigation as permitted by law, including (i) the request of information relating to an investigation from any person when the Attorney General deems that information necessary in conducting an investigation; and (ii) the issuance of subpoenas to compel the attendance of witnesses for the purposes of sworn testimony and production of documents and other items for inspection and copying and the service of those subpoenas.

Nothing in this Section shall be construed as granting the Attorney General the authority to investigate alleged misconduct pursuant to notice received under Section 20-50 or Section 20-51 of this Act, if the information contained in the notice indicates that the alleged misconduct was minor in nature. As used in this Section, misconduct that is "minor in nature" means misconduct that was a violation of office, agency, or department policy and not of this Act or any other civil or criminal law. (Source: P.A. 96-555, eff. 8-18-09.)

SPECIAL EXECUTIVE INSPECTORS GENERAL

(5 ILCS 430/20-21)

Sec. 20-21. Special Executive Inspectors General.

(a) The Executive Ethics Commission, on its own initiative and by majority vote, may appoint special Executive Inspectors General (i) to investigate alleged violations of this Act if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 20-65 for failing to complete the investigation are insufficient, (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning an Executive Inspector General or employee of an Office of an Executive Inspector General and to investigate those allegations, (iii) to investigate matters within the jurisdiction of an Executive Inspector General if an Executive Inspector General (including his or her employees) could be reasonably deemed to be a wrongdoer or suspect, or if in the determination of the Commission, an investigation presents real or apparent conflicts of interest for the Office of the Executive Inspector General, and (iv) to investigate alleged violations of this Act pursuant to Section 20-50 and Section 20-51.

(b) A special Executive Inspector General must have the same qualifications as an Executive Inspector General appointed under Section 20-10.

(c) The Commission's appointment of a special Executive Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Executive Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as an Executive Inspector General appointed under Section 20-10.

(e) A special Executive Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Executive Inspector General and its recommendations, if any, to the appointing authority of the appropriate Executive Inspector General.

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

ETHICS OFFICERS

(5 ILCS 430/20-23)

Sec. 20-23. Ethics Officers. Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an Ethics Officer for the office or State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the appropriate Executive Inspector General and between the State agency and the Executive Ethics Commission;

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

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

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

ADMINISTRATIVE SUBPOENA; COMPLIANCE

(5 ILCS 430/20-35)

Sec. 20-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

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

REPEALED

(5 ILCS 430/20-40)

Sec. 20-40. (Repealed).

(Source: P.A. 93-617, eff. 12-9-03. Repealed by P.A. 96-555, eff. 8-18-09.)

STANDING; REPRESENTATION

(5 ILCS 430/20-45)

Sec. 20-45. Standing; representation.

(a) With the exception of a person appealing an Inspector General's determination under Section 5-45 of this Act or under applicable provisions of the Illinois Procurement Code, only an Executive Inspector General or the Attorney General may bring actions before the Executive Ethics Commission. The Attorney General may bring actions before the Executive Ethics Commission upon receipt of notice pursuant to Section 5-50 or Section 5-51 or pursuant to Section 5-45.

(b) With the exception of Section 5-45, the Attorney General shall represent an Executive Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Executive Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the appropriate Office of the Executive Inspector General.

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

INVESTIGATION REPORTS; COMPLAINT PROCEDURE

(5 ILCS 430/20-50)

Sec. 20-50. Investigation reports.

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

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

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

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

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

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

(c) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), the Executive Inspector General shall notify the Commission and the Attorney General if the Executive Inspector General believes that a complaint should be filed with the Commission. If the Executive Inspector General desires to file a complaint with the Commission, the Executive Inspector General shall submit the summary report and supporting documents to the Attorney General. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Executive Inspector General and the Executive Inspector General shall deliver to the Executive Ethics Commission a copy of the summary report and response from the ultimate jurisdictional authority or agency head. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General, represented by the Attorney General, may file with the Executive Ethics Commission a complaint. The complaint shall set forth the alleged violation and the grounds that exist to support the complaint. The complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(c-5) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), if the Executive Inspector General does not believe that a complaint should be filed, the Executive Inspector General shall deliver to the Executive Ethics Commission a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report and response from the ultimate jurisdictional authority or agency head. An Inspector

General may also submit a redacted version of the summary report and response from the ultimate jurisdictional authority if the Inspector General believes either contains information that, in the opinion of the Inspector General, should be redacted prior to releasing the report, may interfere with an ongoing investigation, or identifies an informant or complainant.

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

(d) A copy of the complaint filed with the Executive Ethics Commission must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

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

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

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

(h) Within an appropriate time limit set by rules of the Executive Ethics Commission, the Commission shall (i) dismiss the complaint, (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority, (iii) impose an administrative fine upon the respondent, (iv) issue injunctive relief as described in Section 50-10, or (v) impose acombination of (ii) through (iv).

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

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

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

(1) Within 30 days after the issuance of a final administrative decision that

concludes that a violation occurred, the Executive Ethics Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission.
(Source: P.A. 96-555, eff. 8-18-09.)

CLOSED INVESTIGATIONS

(5 ILCS 430/20-51)

Sec. 20-51. Closed investigations. When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. The Inspector General shall provide the Commission with a written statement of the Inspector General's decision to close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant. The Commission also has the discretion to request that the Executive Inspector General conduct further investigation of any matter closed pursuant to this Section, to appoint a Special Executive Inspector General to investigate, or to refer the allegations to the Attorney General for further investigation or review. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission.
(Source: P.A. 96-555, eff. 8-18-09.)

RELEASE OF SUMMARY REPORTS

(5 ILCS 430/20-52)

Sec. 20-52. Release of summary reports.

(a) Within 60 days after receipt of a summary report and response from the ultimate jurisdictional authority or agency head that resulted in a suspension of at least 3 days or termination of employment, the Executive Ethics Commission shall make available to the public the report and response or a redacted version of the report and response. The Executive Ethics Commission may make available to the public any other summary report and response of the ultimate jurisdictional authority or agency head or a redacted version of the report and response.

(b) The Commission shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Commission determines it is appropriate to protect the identity of a person before the report is made public. The Commission may also redact any information it believes should not be made public. Prior to publication, the Commission shall permit the respondents, Inspector General, and Attorney General to review documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report.

(c) The Commission may withhold publication of the report or response if the Executive Inspector General or Attorney General certifies that releasing the report to the public will interfere with an ongoing investigation.
(Source: P.A. 96-555, eff. 8-18-09.)

DECISIONS; RECOMMENDATIONS

(5 ILCS 430/20-55)

Sec. 20-55. Decisions; recommendations.

(a) All decisions of the Executive Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the appropriate Executive Inspector General. The Executive Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Executive Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Executive Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Executive Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Executive Ethics Commission and the appropriate Executive Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(c) Disciplinary action under this Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code is within the jurisdiction of the Executive Ethics Commission and is not within the jurisdiction of those Acts.

(d) Any hearing to contest disciplinary action for a violation of this Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code pursuant to an agreement between an Executive Inspector General and an ultimate jurisdictional authority shall be conducted by the Executive Ethics Commission and not under any of those Acts.

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

APPEALS

(5 ILCS 430/20-60)

Sec. 20-60. Appeals. A decision of the Executive Ethics Commission to impose a fine or injunctive relief is subject to judicial review under the Administrative Review Law. All other decisions by the Executive Ethics Commission are final and not subject to review either administratively or judicially.

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

INVESTIGATIONS NOT CONCLUDED WITHIN 6 MONTHS

(5 ILCS 430/20-65)

Sec. 20-65. Reporting of investigations.

(a) Each Executive Inspector General shall file a quarterly activity report with the Executive Ethics Commission that reflects investigative activity during the previous quarter. The Executive Ethics Commission shall establish the reporting dates. The activity report shall include at least the following:

(1) The number of investigations opened during the preceding quarter, the affected offices or agencies, and the unique tracking numbers for new investigations.

(2) The number of investigations closed during the preceding quarter, the affected offices or agencies, and the unique tracking numbers for closed investigations.

(3) The status of each on-going investigation that remained open at the end of the quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the investigation.

(b) If any investigation is not concluded within 6 months after its initiation, the appropriate Executive Inspector General shall file a 6-month report with the Executive Ethics Commission by the fifteenth day of the month following it being open for 6 months. The 6-month report shall disclose:

(1) The general nature of the allegation or information giving rise to the investigation, the title or job duties of the subjects of the investigation, and the investigation's unique tracking number.

(2) The date of the last alleged violation of this Act or other State law giving rise to the investigation.

(3) Whether the Executive Inspector General has found credible the allegations of criminal conduct.

(4) Whether the allegation has been referred to an appropriate law enforcement agency and the identity of the law enforcement agency to which those allegations were referred.

(5) If an allegation has not been referred to an appropriate law enforcement agency, the reasons for the failure to complete the investigation within 6 months, a summary of the investigative steps taken, additional investigative steps contemplated at the time of the report, and an estimate of additional time necessary to complete the investigation.

(6) Any other information deemed necessary by the Executive Ethics Commission in determining whether to appoint a Special Inspector General.

(c) If an Executive Inspector General has referred an allegation to an appropriate law enforcement agency and continues to investigate the matter, the future reporting requirements of this Section are suspended.

(d) Reports filed under this Section are exempt from the Freedom of Information Act.

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

COOPERATION IN INVESTIGATIONS

(5 ILCS 430/20-70)

Sec. 20-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General, including any inspector general serving in any State agency under the jurisdiction of that Executive Inspector General, to cooperate with the Executive Inspector General and the Attorney General in any investigation undertaken pursuant to this Act. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements. Failure to cooperate with an investigation of the Executive Inspector General or the Attorney General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law. (Source: P.A. 96-555, eff. 8-18-09.)

REFERRALS OF INVESTIGATIONS

(5 ILCS 430/20-80)

Sec. 20-80. Referrals of investigations. If an Executive Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Executive Ethics Commission, that Executive Inspector General shall

refer the reported allegations to the appropriate Inspector General, appropriate ethics commission, or other appropriate body. If an Executive Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Executive Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority. If an Executive Inspector General determines that any alleged misconduct resulted in the loss of public funds in an amount of $5,000 or greater, the Executive Inspector General shall refer the allegations regarding that misconduct to the Attorney General and any other appropriate law enforcement authority.
(Source: P.A. 96-555, eff. 8-18-09.)

MONTHLY REPORTS BY EXECUTIVE INSPECTOR GENERAL

(5 ILCS 430/20-85)

Sec. 20-85. Monthly reports by Executive Inspector General. Each Executive Inspector General shall submit monthly reports to the appropriate executive branch constitutional officer, on dates determined by the executive branch constitutional officer, indicating:

(1) the number of allegations received since the date of the last report;

(2) the number of investigations initiated since the date of the last report;

(3) the number of investigations concluded since the date of the last report;

(4) the number of investigations pending as of the reporting date;

(5) the number of complaints forwarded to the Attorney General since the date of the last report;

(6) the number of actions filed with the Executive Ethics Commission since the date of the last report and the number of actions pending before the Executive Ethics Commission as of the reporting date; and

(7) the number of allegations referred to any law enforcement agency.

The monthly report shall be available on the websites of the Executive Inspector General and the constitutional officer.
(Source: P.A. 96-555, eff. 8-18-09.)

QUARTERLY REPORTS BY THE ATTORNEY GENERAL

(5 ILCS 430/20-86)

Sec. 20-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

(1) the number of complaints received from each of the Executive Inspectors General since the date of the last report;

(2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and

(3) the number of complaints still under review by the Attorney General.
(Source: P.A. 93-617, eff. 12-9-03.)

CONFIDENTIALITY

(5 ILCS 430/20-90)

Sec. 20-90. Confidentiality.

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

(b) Subject to the provisions of Section 20-52, commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General, the Attorney General, and the employees and agents of the office of the Attorney General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.
(Source: P.A. 96-555, eff. 8-18-09.)

EXEMPTIONS

(5 ILCS 430/20-95)

Sec. 20-95. Exemptions.

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

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of this Act. If the Executive Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the response from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in the Freedom of Information Act. A summary report released by the Executive Ethics Commission under Section 20-52 is a public record, but information redacted by the Executive Ethics Commission shall not be part of the public record.

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

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission; or (iv) to another Inspector General appointed pursuant to this Act.
(Source: P.A. 96-555, eff. 8-18-09.)

ARTICLE 25
LEGISLATIVE ETHICS COMMISSION AND LEGISLATIVE INSPECTOR GENERAL

LEGISLATIVE ETHICS COMMISSION

(5 ILCS 430/25-5)

Sec. 25-5. Legislative Ethics Commission.

(a) The Legislative Ethics Commission is created.

(b) The Legislative Ethics Commission shall consist of 8 commissioners appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

The terms of the initial commissioners shall commence upon qualification. Each appointing authority shall designate one appointee who shall serve for a 2-year term running through June 30, 2005. Each appointing authority shall designate one appointee who shall serve for a 4-year term running through June 30, 2007. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and may appoint commissioners who are members of the General Assembly as well as commissioners from the general public. A commissioner who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is a relative of the appointing authority, or (iv) is a State officer or employee other than a member of the General Assembly.

(d) The Legislative Ethics Commission shall have jurisdiction over members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services. The jurisdiction of the Commission is limited to matters arising under this Act.

An officer or executive branch State employee serving on a legislative branch board or commission remains subject o the jurisdiction of the Executive Ethics Commission and is not subject to the jurisdiction of the Legislative Ethics Commission.

(e) The Legislative Ethics Commission must meet, either in person or by other technological means, monthly or as often as necessary. At the first meeting of the Legislative Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive no compensation but may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner, other than a commissioner who is a member of the General Assembly, or employee of the Legislative Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) advocate for the appointment of another person to an appointed or elected office or position or actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Legislative Ethics Commission shall appoint an Executive Director subject to the approval of at least 3 of the 4 legislative leaders. The compensation of the Executive Director shall be as determined by the Commission. The Executive Director of the Legislative Ethics Commission may employ, subject to the approval of at least 3

of the 4 legislative leaders, and determine the compensation of staff, as appropriations permit.
(Source: P.A. 96-555, eff. 8-18-09.)

OFFICES OF LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-10)

Sec. 25-10. Office of Legislative Inspector General.

(a) The independent Office of the Legislative Inspector General is created. The Office shall be under the direction and supervision of the Legislative Inspector General and shall be a fully independent office with its own appropriation.

(b) The Legislative Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability. The Legislative Ethics Commission shall diligently search out qualified candidates for Legislative Inspector General and shall make recommendations to the General Assembly.

The Legislative Inspector General shall be appointed by a joint resolution of the Senate and the House of Representatives, which may specify the date on which the appointment takes effect. A joint resolution, or other document as may be specified by the Joint Rules of the General Assembly, appointing the Legislative Inspector General must be certified by the Speaker of the House of Representatives and the President of the Senate as having been adopted by the affirmative vote of three-fifths of the members elected to each house, respectively, and be filed with the Secretary of State. The appointment of the Legislative Inspector General takes effect on the day the appointment is completed by the General Assembly, unless the appointment specifies a later date on which it is to become effective.

The Legislative Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another state, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The Legislative Inspector General may not be a relative of a commissioner.

The term of the initial Legislative Inspector General shall commence upon qualification and shall run through June 30, 2008.

After the initial term, the Legislative Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. The Legislative Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled in the same manner as an appointment only for the balance of the term of the Legislative Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Legislative Inspector General shall have jurisdiction over the members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services.

The jurisdiction of each Legislative Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The compensation of the Legislative Inspector General shall be the greater of an amount (i) determined by the Commission or (ii) by joint resolution of the General Assembly passed by a majority of members elected in each chamber. Subject to Section 25-45 of this Act, the Legislative Inspector General has full authority to organize the Office of the Legislative Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. Employment of staff is subject to the approval of at least 3 of the 4 legislative leaders.

(e) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, for one year after the termination of his or her appointment or employment:

(1) become a candidate for any elective office;

(2) hold any elected public office; or

(3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Legislative Ethics Commission.

(f) The Commission may remove the Legislative Inspector General only for cause. At the time of the removal, the Commission must report to the General Assembly the justification for the removal.

(Source: P.A. 93-617, eff. 12-9-03; 93-685, eff. 7-8-04.)

DUTIES OF THE LEGISLATIVE ETHICS COMMISSION

(5 ILCS 430/25-15)

Sec. 25-15. Duties of the Legislative Ethics Commission. In addition to duties otherwise assigned by law, the Legislative Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Legislative Inspector General.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by the Legislative Inspector General and not upon its own prerogative, but may appoint special Legislative Inspectors General as provided in Section 25-21. Any other allegations of misconduct received by the Commission from a person other than the Legislative Inspector General shall be referred to the Office of the Legislative Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Legislative Inspectors General as provided in Section 25-21.

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

DUTIES OF THE LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-20)

Sec. 25-20. Duties of the Legislative Inspector General. In addition to duties otherwise assigned by law, the Legislative Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Legislative Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Legislative Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas, with the advance approval of the Commission, to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 25-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Legislative Inspector General with the Legislative Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Legislative Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Legislative Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(9) To establish a policy that ensures the appropriate handling and correct recording of all investigations of allegations and to ensure that the policy is accessible via the Internet in order that those seeking to report those allegations are familiar with the process and that the subjects of those allegations are treated fairly.

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

ATTORNEY GENERAL INVESTIGATORY AUTHORITY

(5 ILCS 430/25-20a)

Sec. 25-20a. Attorney General investigatory authority. In addition to investigatory authority otherwise granted by law, the Attorney General shall have the authority to investigate violations of this Act pursuant to Section 25-50 or Section 25-51 of this Act after receipt of notice from the Legislative Ethics Commission or pursuant to Section 5-45. The Attorney General shall have the discretion to determine the appropriate means of investigation as permitted by law, including (i) the request of information relating to an investigation from any person when the Attorney General deems that information necessary in conducting an investigation; and (ii) the issuance of subpoenas to compel the attendance of witnesses for the purposes of sworn testimony and production of documents and other items for inspection and copying and the service of those subpoenas.

Nothing in this Section shall be construed as granting the Attorney General the authority to investigate alleged misconduct pursuant to notice received under Section 5-45, Section 25-50, or Section 25-51 of this Act, if the information contained in the notice indicates that the alleged misconduct was minor in nature. As used in this Section, misconduct that is "minor in nature" means misconduct that was a violation of office, agency, or department policy and not of this Act or any other civil or criminal law.
(Source: P.A. 96-555, eff. 8-18-09.)

SPECIAL LEGISLATIVE INSPECTORS GENERAL

(5 ILCS 430/25-21)

Sec. 25-21. Special Legislative Inspectors General.

(a) The Legislative Ethics Commission, on its own initiative and by majority vote, may appoint special Legislative Inspectors General (i) to investigate alleged violations of this Act, if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 25-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning the Legislative Inspector General or an employee of the Office of the Legislative Inspector General and to investigate those allegations.

(b) A special Legislative Inspector General must have the same qualifications as the Legislative Inspector General appointed under Section 25-10.

(c) The Commission's appointment of a special Legislative Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Legislative Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as the Legislative Inspector General appointed under Section 25-10.

(e) A special Legislative Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Legislative Inspector General and its recommendations, if any, to the General Assembly.
(Source: P.A. 93-617, eff. 12-9-03.)

ETHICS OFFICERS

(5 ILCS 430/25-23)

Sec. 25-23. Ethics Officers. The President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint an ethics officer for the members and employees of his or her legislative caucus. No later than January 1, 2004, the head of each State agency under the jurisdiction of the Legislative Ethics Commission, other than the General Assembly, shall designate an ethics officer for the State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the Legislative Inspector General and between the State agency and the Legislative Ethics Commission;

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

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Legislative Ethics Commission.

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

ADMINISTRATIVE SUBPOENA; COMPLIANCE

(5 ILCS 430/25-35)

Sec. 25-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

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

STANDING; REPRESENTATION

(5 ILCS 430/25-45)

Sec. 25-45. Standing; representation.

(a) Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission.

(b) The Attorney General shall represent the Legislative Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Legislative Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the Office of the Legislative Inspector General.

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

INVESTIGATION REPORTS; COMPLAINT PROCEDURE

(5 ILCS 430/25-50)

Sec. 25-50. Investigation reports.

(a) If the Legislative Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the

head of each State agency affected by or involved in the investigation, if appropriate. The appropriate ultimate jurisdictional authority or agency head shall respond to the summary report within 20 days, in writing, to the Legislative Inspector General. The response shall include a description of any corrective or disciplinary action to be imposed.

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

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

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

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

(4) Other information the Legislative Inspector General deems relevant to the investigation or resulting recommendations.

(c) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), the Legislative Inspector General shall notify the Commission and the Attorney General if the Legislative Inspector General believes that a complaint should be filed with the Commission. If the Legislative Inspector General desires to file a complaint with the Commission, the Legislative Inspector General shall submit the summary report and supporting documents to the Attorney General. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Legislative Inspector General and the Legislative Inspector General shall deliver to the Legislative Ethics Commission a copy of the summary report and response from the ultimate jurisdictional authority or agency head. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General, represented by the Attorney General, may file with the Legislative Ethics Commission a complaint. The complaint shall set forth the alleged violation and the grounds that exist to support the complaint. The complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(c-5) Within 30 days after receiving a response from the appropriate ultimate jurisdictional authority or agency head under subsection (a), if the Legislative Inspector General does not believe that a complaint should be filed, the Legislative Inspector General shall deliver to the Legislative Ethics Commission a statement setting forth the basis for the decision not to file a complaint and a copy of the summary report and response from the ultimate jurisdictional authority or agency head. The Inspector General may also submit a redacted version of the summary report and response from the ultimate jurisdictional authority if the Inspector General believes either contains information that, in the opinion of the Inspector General, should be redacted prior to releasing the report, may interfere with an ongoing investigation, or identifies an informant or complainant.

(c-10) If, after reviewing the documents, the Commission believes that further investigation is warranted, the Commission may request that the Legislative Inspector

General provide additional information or conduct further investigation. The Commission may also refer the summary report and response from the ultimate jurisdictional authority to the Attorney General for further investigation or review. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Legislative Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission. If, after review, the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Attorney General may file a complaint with the Legislative Ethics Commission. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Legislative Ethics Commission and the appropriate Legislative Inspector General.

(d) A copy of the complaint filed with the Legislative Ethics Commission must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

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

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

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

(h) Within an appropriate time limit set by rules of the Legislative Ethics Commission, the Commission shall (i) dismiss the complaint, (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority, (iii) impose an administrative fine upon the respondent, (iv) issue injunctive relief as described in Section 50-10, or (v) impose a combination of (ii) through (iv).

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

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

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

(1) Within 30 days after the issuance of a final administrative decision that concludes that a violation occurred, the Legislative Ethics Commission shall make public the entire record of proceedings before the Commission, the decision, any recommendation, any discipline imposed, and the response from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission.

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

CLOSED INVESTIGATIONS

(5 ILCS 430/25-51)

Sec. 25-51. Closed investigations. When the Legislative Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. The Legislative Inspector General shall provide the Commission with a written statement of the decision to close the investigation. At the request of the subject of the investigation, the Legislative Inspector General shall provide a written statement to the subject of the investigation of the Inspector General's decision to close the investigation. Closure by the Legislative Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant. The Commission also has the discretion to request that the Legislative Inspector General conduct further investigation of any matter closed pursuant to this Section, or to refer the allegations to the Attorney General for further review or investigation. If the Commission requests the Attorney General to investigate or review, the Commission must notify the Attorney General and the Inspector General. The Attorney General may not begin an investigation or review until receipt of notice from the Commission.
(Source: P.A. 96-555, eff. 8-18-09.)

RELEASE OF SUMMARY REPORTS

(5 ILCS 430/25-52)

Sec. 25-52. Release of summary reports.

(a) Within 60 days after receipt of a summary report and response from the ultimate jurisdictional authority or agency head that resulted in a suspension of at least 3 days or termination of employment, the Legislative Ethics Commission shall make available to the public the report and response or a redacted version of the report and response. The Legislative Ethics Commission may make available to the public any other summary report and response of the ultimate jurisdictional authority or agency head or a redacted version of the report and response.

(b) The Legislative Ethics Commission shall redact information in the summary report that may reveal the identity of witnesses, complainants, or informants or if the Commission determines it is appropriate to protect the identity of a person before publication. The Commission may also redact any information it believes should not be made public. Prior to publication, the Commission shall permit the respondents, Legislative Inspector General, and Attorney General to review documents to be made public and offer suggestions for redaction or provide a response that shall be made public with the summary report.

(c) The Legislative Ethics Commission may withhold publication of the report or response if the Legislative Inspector General or Attorney General certifies that publication will interfere with an ongoing investigation.
(Source: P.A. 96-555, eff. 8-18-09.)

DECISIONS; RECOMMENDATIONS

(5 ILCS 430/25-55)

Sec. 25-55. Decisions; recommendations.

(a) All decisions of the Legislative Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the Legislative Inspector General. The Legislative Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Legislative Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Legislative Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Legislative Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Legislative Ethics Commission and the Legislative Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.
(Source: P.A. 93-617, eff. 12-9-03.)

APPEALS

(5 ILCS 430/25-60)

Sec. 25-60. Appeals. A decision of the Legislative Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Legislative Ethics Commission are final and not subject to review either administratively or judicially.
(Source: P.A. 93-617, eff. 12-9-03.)

INVESTIGATIONS NOT CONCLUDED WITHIN 6 MONTHS

(5 ILCS 430/25-65)

Sec. 25-65. Reporting of investigations.

(a) The Legislative Inspector General shall file a quarterly activity report with the Legislative Ethics Commission that reflects investigative activity during the previous quarter. The Legislative Ethics Commission shall establish the reporting dates. The activity report shall include at least the following:

(1) A summary of any investigation opened during the preceding quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the allegation or allegations.

(2) A summary of any investigation closed during the preceding quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the allegation or allegations.

(3) The status of an ongoing investigation that remained open at the end of the quarter, the affected office, agency or agencies, the investigation's unique tracking number, and a brief statement of the general nature of the investigation.

(b) If any investigation is not concluded within 6 months after its initiation, the Legislative Inspector General shall file a 6-month report with the Legislative Ethics Commission no later than 10 days after the 6th month. The 6-month report shall disclose:

(1) The general nature of the allegation or information giving rise to the investigation, the title or job duties of the subjects of the investigation, and the investigation's unique tracking number.

(2) The date of the last alleged violation of this Act or other State law giving rise to the investigation.

(3) Whether the Legislative Inspector General has found credible the allegations of criminal conduct.

(4) Whether the allegation has been referred to an appropriate law enforcement agency and the identity of the law enforcement agency to which those allegations were referred.

(5) If an allegation has not been referred to an appropriate law enforcement agency, the reasons for the failure to complete the investigation within 6 months, a summary of the investigative steps taken, additional investigative steps contemplated at the time of the report, and an estimate of additional time necessary to complete the investigation.

(6) Any other information deemed necessary by the Legislative Ethics Commission in determining whether to appoint a Special Inspector General.

(c) If the Legislative Inspector General has referred an allegation to an appropriate law enforcement agency and continues to investigate the matter, the future reporting requirements of this Section are suspended.

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

COOPERATION IN INVESTIGATIONS

(5 ILCS 430/25-70)

Sec. 25-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of the Legislative Inspector General, including any inspector general serving in any State agency under the jurisdiction of the Legislative Inspector General, to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Legislative Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or privileges under State or federal law.

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

REFERRALS OF INVESTIGATIONS

(5 ILCS 430/25-80)

Sec. 25-80. Referrals of investigations. If the Legislative Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Legislative Ethics Commission, the Legislative Inspector General shall refer the reported allegations to the appropriate ethics commission or other appropriate body. If the Legislative Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Legislative Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

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

QUARTERLY REPORTS BY THE LEGISLATIVE INSPECTOR GENERAL

(5 ILCS 430/25-85)

Sec. 25-85. Quarterly reports by the Legislative Inspector General. The Legislative Inspector General shall submit quarterly reports to the General Assembly and the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

(1) the number of allegations received since the date of the last report;

(2) the number of investigations initiated since the date of the last report;

(3) the number of investigations concluded since the date of the last report;

(4) the number of investigations pending as of the reporting date;

(5) the number of complaints forwarded to the Attorney General since the date of the last report; and

(6) the number of actions filed with the Legislative Ethics Commission since the date of the last report and the number of actions pending before the Legislative Ethics Commission as of the reporting date.

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

QUARTERLY REPORTS BY THE ATTORNEY GENERAL

(5 ILCS 430/25-86)

Sec. 25-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

(1) the number of complaints received from the Legislative Inspector General since the date of the last report;

(2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and

(3) the number of complaints still under review by the Attorney General.

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

CONFIDENTIALITY

(5 ILCS 430/25-90)

Sec. 25-90. Confidentiality.

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

(b) Subject to the provisions of Section 25-50 (c), commissioners, employees, and agents of the Legislative Ethics Commission, the Legislative Inspector General, and employees and agents of the Office of the Legislative Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

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

EXEMPTIONS

(5 ILCS 430/25-95)

Sec. 25-95. Exemptions.

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

(a-5) Requests from ethics officers, members, and State employees to the Office of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader for guidance on matters involving the interpretation or application of this Act or rules promulgated under this Act are exempt from the provisions of the Freedom of Information Act. Guidance provided to an ethics officer, member, or State employee at the request of an ethics officer, member, or State employee by the Office of the Legislative Inspector General, a Special Legislative Inspector General, the Legislative Ethics Commission, an ethics officer, or a person designated by a legislative leader on matters involving the interpretation or application of this Act or rules promulgated under this Act is exempt from the provisions of the Freedom of Information Act.

(b) Summary investigation reports released by the Legislative Ethics Commission as provided in Section 25-52 are public records. Otherwise, any allegations and related documents submitted to the Legislative Inspector General and any pleadings and related documents brought before the Legislative Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Legislative Ethics Commission does not make a finding of a violation of this Act. If the Legislative Ethics

Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

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

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of the Legislative Inspector General, other than monthly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdictional authority, or (iii) to the Legislative Ethics Commission.

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

ARTICLE 30
AUDITOR GENERAL

APPOINTMENT OF INSPECTOR GENERAL

(5 ILCS 430/30-5)

Sec. 30-5. Appointment of Inspector General.

(a) The Auditor General shall appoint an Inspector General (i) to investigate allegations of violations of Articles 5 and 10 by State officers and employees under his or her jurisdiction and (ii) to perform other duties and exercise other powers assigned to the Inspectors General by this or any other Act. The Inspector General shall be appointed within 6 months after the effective date of this Act.

(b) The Auditor General shall provide by rule for the operation of his or her Inspector General. It is declared to be in the public interest, safety, and welfare that the Auditor General adopt emergency rules under the Illinois Administrative Procedure Act to initially perform his or her duties under this subsection.

(c) The Auditor General may appoint an existing inspector general as the Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Inspector General required by this Article.

The Auditor General may not appoint a relative as the Inspector General required by this Article.

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

ETHICS OFFICER

(5 ILCS 430/30-10)

Sec. 30-10. Ethics Officer. The Auditor General shall designate an Ethics Officer for the office of the Auditor General. The ethics officer shall:

(1) act as liaison between the Office of the Auditor General and the Inspector General appointed under this Article;

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

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, whenever possible, upon legal precedent in court decisions and opinions of the Attorney General.

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

ARTICLE 35
OTHER INSPECTORS GENERAL WITHIN THE EXECUTIVE BRANCH

APPOINTMENT OF INSPECTORS GENERAL

(5 ILCS 430/35-5)

Sec. 35-5. Appointment of Inspectors General. Nothing in this Act precludes the appointment by the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer of any inspector general required or permitted by law. Nothing in this Act precludes the Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer from appointing an existing inspector general under his or her jurisdiction to serve simultaneously as an Executive Inspector General. This Act shall be read consistently with all existing State statutes that create inspectors general under the jurisdiction of an executive branch constitutional officer.

This Act prohibits the appointment or employment by an officer, member, State employee, or State agency of any person to serve or act with respect to one or more State agencies as an Inspector General under this Act except as authorized and required by Articles 20, 25, and 30 of this Act or Section 14 of the Secretary of State Act. No officer, member, State employee, or State agency may appoint or employ an inspector general for any purpose except as authorized or required by law.

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

ARTICLE 50
PENALTIES

PENALTIES

(5 ILCS 430/50-5)

Sec. 50-5. Penalties.

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.

(a-1) An ethics commission may levy an administrative fine for a violation of Section 5-45 of this Act of up to 3 times the total annual compensation that would have been obtained in violation of Section 5-45.

(b) A person who intentionally violates any provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business offense subject to a fine of at least $1,001 and up to $5,000.

(c) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least $1,001 and up to $5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provision of this Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(e) An ethics commission may levy an administrative fine of up to $5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation.

(f) In addition to any other penalty that may apply, whether criminal or civil, a State employee who intentionally violates any provision of Section 5-5, 5-15, 5-20, 5-30, 5-35, 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

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

INJUNCTIVE RELIEF

(5 ILCS 430/50-10)

Sec. 50-10. Injunctive relief.

(a) For a violation of any Section of this Act, an ethics commission may issue appropriate injunctive relief up to and including discharge of a State employee.

(b) Any injunctive relief issued pursuant to this Section must comport with the requirements of Section 20-40.

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

ARTICLE 70
GOVERNMENTAL ENTITIES

ADOPTION BY GOVERNMENTAL ENTITIES

(5 ILCS 430/70-5)

Sec. 70-5. Adoption by governmental entities.

(a) Within 6 months after the effective date of this Act, each governmental entity other than a community college district, and each community college district within 6 months after the effective date of this amendatory Act of the 95th General Assembly, shall adopt an ordinance or resolution that regulates, in a manner no less restrictive than Section 5-15 and Article 10 of this Act, (i) the political activities of officers and employees of the governmental entity and (ii) the soliciting and accepting of gifts by and the offering and making of gifts to officers and employees of the governmental entity.

(b) Within 3 months after the effective date of this amendatory Act of the 93rd General Assembly, the Attorney General shall develop model ordinances and resolutions for the purpose of this Article. The Attorney General shall advise governmental entities on their contents and adoption.

(c) As used in this Article, (i) an “officer” means an elected or appointed official; regardless of whether the official is compensated, and (ii) an “employee” means a full-time, part-time, or contractual employee.

(Source: P.A. 95-880, eff. 8-19-08.)

PENALTIES

(5 ILCS 430/70-10)

Sec. 70-10. Penalties. A governmental entity may provide in the ordinance or resolution required by this Article for penalties similar to those provided in this Act for similar conduct.

(Source: P.A. 93-615, eff. 11-19-03.)

HOME RULE PREEMPTION

(5 ILCS 430/70-15)

Sec. 70-15. Home rule preemption. This Article is a denial and limitation of home rule powers and functions in accordance with subsection (i) of Section 6 of Article VII of the Illinois Constitution. A home rule unit may not regulate the political activities of its officers and employees and the soliciting, offering, accepting, and making of gifts in a manner less restrictive than the provisions of Section 70-5.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

ARTICLE 90
AMENDATORY PROVISIONS; TEXT OMITTED

ARTICLE 99
MISCELLANEOUS PROVISIONS

SEVERABILITY

(5 ILCS 430/99-5)

Sec. 99-5. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 93-615, eff. 11-19-03.)

CLOSED SESSIONS; VOTE REQUIREMENT

(5 ILCS 430/99-10) (was Sec. 995 of PA 93-617)

Sec. 99-10. Closed sessions; vote requirement. Public Act 93-617 authorizes the ethics commissions of the executive branch and legislative branch to conduct closed sessions, hearings, and meetings in certain circumstances. In order to meet the requirements of subsection (c) of Section 5 of Article IV of the Illinois Constitution, the General Assembly determines that closed sessions, hearings, and meetings of the ethics commissions, including the ethics commission for the legislative branch, are required by the public interest. Thus, Public Act 93-617 was enacted by the affirmative vote of two-thirds of the members elected to each house of the General Assembly.

(Source: P.A. 95-331, eff. 8-21-07.)

EFFECTIVE DATE

(5 ILCS 430/99-99)

Sec. 99-99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 93-615, eff. 11-19-03.)

SUCCESSOR AGENCY ACT
5 ILCS 705/
ARTICLE 10

SHORT TITLE

(5 ILCS 705/10-1)

Sec. 10-1. Short title. This Article may be cited as the Successor Agency Act.
(Source: P.A. 89-214, eff. 8-4-95.)

DESIGNATION

(5 ILCS 705/10-5)

Sec. 10-5. Designation. Unless a successor agency is specified by law, whenever a State agency ceases operations, a successor agency shall be designated as follows:

(1) for executive branch agencies, the Governor shall designate a successor agency;

(2) for judicial branch agencies, the Supreme Court shall designate a successor agency; and

(3) for legislative branch agencies, the Joint Committee on Legislative Support Services shall designate a successor agency.

(Source: P.A. 89-214, eff. 8-4-95.)

PROPERTY DISPOSAL

(5 ILCS 705/10-10)

Sec. 10-10. Property disposal. Unless otherwise specified by law, a State agency that ceases operations, or the successor agency designated in the manner prescribed by law, shall dispose of the closed agency's records and assets as follows:

(1) Financial and other records shall be transferred to the successor agency or to the State Archives. The records shall be retained intact until after they have been audited by the Auditor General.

(2) All property, whether real or personal in nature, and including but not limited to all inventory and equipment, shall be transferred to the successor agency or to the Department of Central Management Services for disposition in the manner prescribed by law or applicable contract. Neither the successor agency nor the Department of Central Management Services, except as authorized in Section 10-15, shall have any financial responsibility to any vendor or other person making a claim relating to the inventory, property, or equipment so transferred.

(Source: P.A. 89-214, eff. 8-4-95.)

AUTHORITY OF SUCCESSOR AGENCY

(5 ILCS 705/10-15)

Sec. 10-15. Authority of successor agency. A successor agency designated in the manner prescribed by law shall act on behalf of the agency that has ceased operations and shall have the power and duty to receive and answer correspondence, pay claims due and owing to a Department of Central Management Services revolving fund from any remaining unlapsed appropriation, refer unpaid vendors to the Court of Claims, and arrange for the orderly termination of any affairs of the agency that has ceased operations that remain unresolved at the date of closure.
(Source: P.A. 89-214, eff. 8-4-95.)

ARTICLE 99

EFFECTIVE DATE

(5 ILCS 705/99-5)

Sec. 99-5. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 89-214, eff. 8-4-95.)

COMMEMORATIVE MEDALLIONS ACT
15 ILCS 555/

SHORT TITLE

(15 ILCS 555/1)

Sec. 1. Short title. This Act may be cited as the Commemorative Medallions Act.
(Source: P.A. 91-71, eff. 7-9-99.)

ISSUANCE OF COMMEMORATIVE MEDALLIONS

(15 ILCS 555/5)

Sec. 5. Issuance of commemorative medallions. The State Treasurer may issue medallions to commemorate popular contemporaneous events of Statewide interest.

The Treasurer shall select one or more vendors for the production, distribution, marketing, and sale of the medallions. The Treasurer shall require that the vendors share a percentage of the proceeds of the sale of the medallions with a not-for-profit corporation organized under the General Not For Profit Corporation Act of 1986 that is related to the public purpose for which the medallions were issued.
(Source: P.A. 91-71, eff. 7-9-99.)

SELECTION OF EVENTS TO BE COMMEMORATED

(15 ILCS 555/10)

Sec. 10. Selection of events to be commemorated. The General Assembly shall select the events to be commemorated by joint resolution adopted by the affirmative vote of at least three-fifths of the members elected to each house. The State Treasurer may recommend a limit of the number of series of medallions to be issued in a calendar year by giving notice of the recommended limitation to the General Assembly before December 1 of the preceding calendar year.
(Source: P.A. 91-71, eff. 7-9-99.)

RULES

(15 ILCS 555/15)

Sec. 15. Rules. The State Treasurer may promulgate rules to implement this Act.
(Source: P.A. 91-71, eff. 7-9-99.)

EFFECTIVE DATE

(15 ILCS 555/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 91-71, eff. 7-9-99.)

AGENCY ENERGY EFFICIENCY ACT
20 ILCS 20/

AGENCY DUTIES

(20 ILCS 20/25)

Sec. 25. Agency duties. All executive branch State agencies shall:

(1) implement an energy information system to track its energy and water usage;

(2) purchase Energy Star equipment, including air conditioners, computers, appliances, and office equipment, unless justification is provided and the Department approves a waiver of this requirement; and

(3) form an internal committee to assess the environmental impacts of that agency's activities and identify practical alternatives for incorporating pollution prevention and resource conservation into agency management and operational practices. Each internal committee shall consist of representatives from different departments and program areas of the agency, including purchasing, maintenance, and facility management.

A chairperson shall be appointed to coordinate the internal committee's activities and act as liaison to the Department. The chairperson shall report to the Department, on a quarterly basis beginning December 2007, regarding the progress on implementing the policies of this Act and achieving the goal set out in Section 10.

(Source: P.A. 95-559, eff. 6-1-08.)

BLIND VENDORS ACT
20 ILCS 2421/

SHORT TITLE

(20 ILCS 2421/1)

Sec. 1. Short title. This Act may be cited as the Blind Vendors Act.
(Source: P.A. 96-644, eff. 1-1-10.)

DEFINITIONS

(20 ILCS 2421/5)

Sec. 5. Definitions. As used in this Act:

"Blind licensee" means a blind person licensed by the Department to operate a vending facility on State, federal, or other property.

"Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select.

"Building" means only the portion of a structure owned or leased by the State or any State agency.

"Cafeteria" means a food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself or herself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided.

"Committee" means the Illinois Committee of Blind Vendors, an independent representative body for blind vendors established by the federal Randolph-Sheppard Act.

"Department" means the Department of Human Services.

"Director" means the Bureau Director of the Bureau for the Blind in the Department of Human Services.

"Federal property" means any structure, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the U.S. Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States.

"License" means a written instrument issued by the Department to a blind person, authorizing such person to operate a vending facility on State, federal, or other property.

"Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding any set-aside charges required to be paid by the blind vendors).

"Normal working hours" means an 8-hour work period between the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through Friday.

"Other property" means property that is not State or federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any State or federal property.

"Priority" means the right of a blind person licensed by the Department of Human Services, Division of Rehabilitation Services, to operate a vending facility on any and all State property in the State of Illinois, in the same manner and to the same extent as the

priority is provided to blind licensees on federal property under the Randolph-Sheppard Act, 20 U.S.C. 107, and federal regulations, 34 C.F.R. 395.30.

"Secretary" means the Secretary of Human Services.

"Set-aside funds" means funds that accrue to the Department from an assessment against the net income of each vending facility in the State's vending facility program and any income from vending machines on State or federal property that accrues to the Department.

"State agency" means any department, board, commission, or agency created by the Constitution or Public Act, whether in the executive, legislative, or judicial branch.

"State property" means all property owned, leased, or rented by any State agency. For purposes of this Act, "State property" does not include property owned or controlled by a unit of local government, a public school district, or a public university, college, or community college.

"Vending facility" means automatic vending machines, snack bars, cart service, counters, rest areas, and such other appropriate auxiliary equipment that may be operated by blind vendors and that is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and notions dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending and payment of any lottery tickets or shares authorized by State law and conducted by a State agency within the State. "Vending facility" does not include cafeterias, restaurants, the Department of Corrections' non-vending machine commissaries, the Department of Juvenile Justice's non-vending machine commissaries, or commissaries and employment programs of the Division of Mental Health or Division of Developmental Disabilities that are operated by residents or State employees.

"Vending machine", for the purpose of assigning vending machine income under this Act, means a coin, currency, or debit card operated machine that dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending machine income" means the commissions or fees paid to the State from vending machine operations on State property where the machines are operated, serviced, or maintained by, or with the approval of, a State agency by a commercial or not-for-profit vending concern that operates, services, and maintains vending machines.

"Vendor" means a blind licensee who is operating a vending facility on State, federal, or other property.

(Source: P.A. 96-644, eff. 1-1-10.)

BUSINESS ENTERPRISE PROGRAM FOR THE BLIND

(20 ILCS 2421/10)

Sec. 10. Business Enterprise Program for the Blind.

(a) The Business Enterprise Program for the Blind is created for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. In order to achieve these goals, blind persons licensed under this Act shall be authorized to operate vending facilities on any property within this State as provided by this Act.

It is the intent of the General Assembly that the Randolph- Sheppard Act, 20 U.S.C. Sections 107-107f, and the federal regulations for its administration set forth in Part 395 of Title 34 of the Code of Federal Regulations, shall serve as a model for minimum standards for the operation of the Business Enterprise Program for the Blind.

The federal Randolph-Sheppard Act provides employment opportunities for individuals who are blind or visually impaired through the Business Enterprise Program for the Blind. Under the Randolph-Sheppard Act, all federal agencies are required to give priority to licensed blind vendors in the operation of vending facilities on federal property. It is the intent of this Act to provide the same priority to licensed blind vendors on State property by requiring State agencies to give priority to licensed blind vendors in the operation of vending facilities on State property and preference to licensed blind vendors in the operation of cafeteria facilities on State property. Furthermore it is the intent of this Act that all State agencies, particularly the Department of Central Management Services, promote and advocate for the Business Enterprise Program for the Blind.

(b) The Secretary, through the Director, shall continue, maintain, and promote the Business Enterprise Program for the Blind. Some or all of the functions of the program may be provided by the Department of Human Services. The Business Enterprise Program for the Blind must provide that:

(1) priority is given to blind vendors in the operation of vending facilities on State property;

(2) tie bid preference is given to blind vendors in the operation of cafeterias on State property, unless the cafeteria operations are operated by employees of a State agency;

(3) vending machine income from all vending machines on State property is assigned as provided for by Section 30 of this Act;

(4) no State agency may impose any commission, service charge, rent, or utility charge on a licensed blind vendor who is operating a vending facility on State property unless approved by the Department;

(5) the Department shall approve a commission to the State agency from a blind vendor operating a vending facility on the State property of the Department of Corrections or the Department of Juvenile Justice in the amount of 10% of the net proceeds from vending machines servicing State employees and 25% of the net proceeds from vending machines servicing visitors on the State property; and

(6) vending facilities operated by the Program use reasonable and necessary means and methods to maintain fair market pricing in relation to each facility's given demographic, geographic, and other circumstances.

(c) With respect to vending facilities on federal property within this State, priority shall be given as provided in the federal Randolph-Sheppard Act, 20 U.S.C. Sections 107-107f, including any amendments thereto. This Act, as it applies to federal property, is intended to conform to the federal Act, and is to be of no force or effect if, and to the extent that, any provision of this Act or any rule adopted under this Act is in conflict with the federal Act. Nothing in this subsection shall be construed to impose limitations on the operation of vending facilities on State property, or property other than federal property, or to allow only those activities specifically enumerated in the Randolph-Sheppard Act.

(d) The Secretary shall actively pursue all commissions from vending facilities not operated by blind vendors as provided in Section 30 of this Act, and shall propose new placements of vending facilities on State property where a facility is not yet in place.

(e) Partnerships and teaming arrangements between blind vendors and private industry, including franchise operations, shall be fostered and encouraged by the Department.

(Source: P.A. 96-644, eff. 1-1-10.)

VENDING FACILITIES ON STATE PROPERTY

(20 ILCS 2421/15)

Sec. 15. Vending facilities on State property.

(a) In order to ensure that priority is given to blind vendors in the operation of vending facilities on State property as provided in Section 10, the Secretary, directly or by delegation to the Director, and the Committee shall jointly develop rules to ensure the following:

(1) That priority is given to blind persons licensed under this Act or under its predecessor Act (the Blind Persons Operating Vending Facilities Act, 20 ILCS 2420/), including the assignment of vending machine income as provided in this Act.

(2) That one or more vending facilities shall be established on all State property to the extent feasible. Where a larger vending facility is determined by the Director and the Committee to be infeasible, every effort shall be made to place vending machines on the property whenever possible. The Director and the Committee shall take into account the following criteria when determining whether establishment of a vending facility is feasible:

(A) the number of State employees, visitors, and other potential facility customers on the property in a given period;

(B) the size, in square feet, of the area owned, leased, occupied, or otherwise controlled by the State;

(C) the duration the property is expected to be leased or occupied by the State;

(D) whether establishment of a vending facility would adversely affect the interests of the State; and

(E) the likelihood that the vending facility would produce an adequate net income for a blind vendor as determined by the average income of all blind vendors in the State.

(b) Any determination by the Director, or by the State agency controlling the property, that the placement or operation of a vending facility is not feasible, or that the placement or operation would adversely affect the interests of the State shall be in writing and shall be transmitted to the Committee for review and ratification or rejection.

(c) The Secretary, through the Director, subject to the rules developed and adopted pursuant to subsection (a) of this Section and the requirements of federal law and regulations, is authorized to select a location for a vending facility and the type of facility to be provided.

(d) Beginning January 1, 2010, all State agencies that:

(1) undertake to acquire any property, in whole or in part, by ownership, rent, or lease, or that undertake to relocate to any property, shall request a determination from the Director or his or her designee as to whether the new property includes a satisfactory site or sites for the location and operation of a blind vendor vending facility; or

(2) undertake to occupy a building that is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied by the State agency, undertake to substantially alter or renovate that building for use by the State agency;

shall request a determination from the Director or his or her designee as to whether that building includes a satisfactory site or sites for the location and operation of a blind vendor vending facility.

Upon receiving a request for a determination under this subsection (d), the Director or his or her designee and the Committee shall have 10 days in which to notify that requesting State agency as to whether the new property or building is satisfactory

or not satisfactory for the operation of a blind vendor vending facility. A site shall be deemed to be a satisfactory site by examining the potential customer base, including, but not limited to, State employees, State contractual employees, and the general public. The determination shall be based upon a site survey or any other reasonable means enabling an accurate assessment of the location. If the property has an existing private vendor, bottler, or vending machine operator, then the property shall be presumed to be a satisfactory site. If the Director, in consultation with the Committee, determines that the number of people using the location is or will be insufficient to support a vending facility, then the Director shall determine the property to be not satisfactory.

Upon a determination by the Director or his or her designee and the Committee that the new property or building is satisfactory for the operation of a blind vendor vending facility, the Director, in consultation with the head of the State agency and in accordance with the rules developed pursuant to subsection (a), shall inform the agency to comply with the priority established for the operation of vending facilities by blind persons under this Act.

(e) All State agencies shall fully cooperate with the Department to ensure that priority is given to blind vendors in the operation of vending facilities on State property. This includes notifying the Department prior to the expiration of existing contracts or agreements for vending facilities or when such contracts or agreements are considered for renewal options. The notification must be given, when feasible, no later than 6 months prior to the potential expiration or renewal of the existing vending facility contract or agreement.

(Source: P.A. 96-644, eff. 1-1-10.)

SET-ASIDE FUNDS; BLIND VENDOR TRUST FUND

(20 ILCS 2421/25)

Sec. 25. Set-aside funds; Blind Vendors Trust Fund.

(a) The Department may provide, by rule, for set-asides similar to those provided in Section 107d-3 of the Randolph-Sheppard Act. If any funds are set aside, or caused to be set aside, from the net proceeds of the operation of vending facilities by blind vendors, the funds shall be set aside only to the extent necessary in a percentage amount not to exceed that determined jointly by the Director and the Committee and published in State rule, and that these funds may be used only for the following purposes: (1) maintenance and replacement of equipment; (2) purchase of new equipment; (3) construction of new vending facilities; (4) funding the functions of the Committee, including legal and other professional services; and (5) retirement or pension funds, health insurance, paid sick leave, and vacation time for blind licensees, so long as these benefits are approved by a majority vote of all Illinois licensed blind vendors that occurs after the Department provides these vendors with information on all matters relevant to these purposes.

(b) No set-aside funds shall be collected from a blind vendor when the monthly net proceeds of that vendor are less than $1,000. This amount may be adjusted annually by the Director and the Committee to reflect changes in the cost of living.

(c) The Department shall establish, with full participation by the Committee, the Blind Vendors Trust Fund as a separate account managed by the Department for the State's blind vendors.

(d) Set-aside funds collected from the operation of all vending facilities administered by the Business Enterprise Program for the Blind shall be placed in the Blind Vendors Trust Fund, which shall include set-aside funds from facilities on federal property. The Fund must provide separately identified sub-accounts for moneys from (i) federal and (ii) State and other facilities, as well as vending machine income generated

pursuant to Section 30 of this Act. These funds shall be available until expended and shall not revert to the General Revenue Fund or to any other State account.

(e) It is the intent of the General Assembly that the expenditure of set-aside funds authorized by this Section shall be supplemental to any current appropriation or other moneys made available for these purposes and shall not constitute an offset of any previously existing appropriation or other funding source. In no way shall this imply that the appropriation for the Blind Vendors Program may never be decreased, rather that the new funds shall not be used as an offset.

(f) An amount equal to 10% of the wages paid by a blind vendor to any employee who is blind or otherwise disabled shall be deducted from any set-aside charge paid by the vendor each month, in order to encourage vendors to employ blind and disabled workers and to set an example for industry and government. No deduction shall be made for any employee paid less than the State or federal minimum wage.
(Source: P.A. 96-644, eff. 1-1-10.)

VENDING MACHINES INCOME AND COMPLIANCE

(20 ILCS 2421/30)

Sec. 30. Vending machine income and compliance.

(a) Except as provided in subsections (b), (c), (d), (e), and (i) of this Section, after July 1, 2010, all vending machine income, as defined by this Act, from vending machines on State property shall accrue to (1) the blind vendor operating the vending facilities on the property or (2) in the event there is no blind vendor operating a facility on the property, the Blind Vendors Trust Fund for use exclusively as set forth in subsection (a) of Section 25 of this Act.

(b) Notwithstanding the provisions of subsection (a) of this Section, all State university cafeterias and vending machines are exempt from this Act.

(c) Notwithstanding the provisions of subsection (a) of this Section, all vending facilities at the Governor Samuel H. Shapiro Developmental Center in Kankakee are exempt from this Act.

(d) Notwithstanding the provisions of subsection (a) of this Section, in the event there is no blind vendor operating a vending facility on the State property, all vending machine income, as defined in this Act, from vending machines on the State property of the Department of Corrections and the Department of Juvenile Justice shall accrue to the State agency and be allocated in accordance with the commissary provisions in the Unified Code of Corrections.

(e) Notwithstanding the provisions of subsection (a) of this Section, in the event a blind vendor is operating a vending facility on the State property of the Department or Corrections or the Department of Juvenile Justice, a commission shall be paid to the State agency equal to 10% of the net proceeds from vending machines servicing State employees and 25% of the net proceeds from vending machines servicing visitors on the State property.

(f) The Secretary, directly or by delegation of authority, shall ensure compliance with this Section and Section 15 of this Act with respect to buildings, installations, facilities, roadside rest stops, and any other State property, and shall be responsible for the collection of, and accounting for, all vending machine income on this property. The Secretary shall enforce these provisions through litigation, arbitration, or any other legal means available to the State, and each State agency in control of this property shall be subject to the enforcement. State agencies or departments failing to comply with an order of the Department may be held in contempt in any court of general jurisdiction.

(g) Any limitation on the placement or operation of a vending machine by a State agency based on a determination that such placement or operation would adversely affect the interests of the State must be explained in writing to the Secretary. The

Secretary shall promptly determine whether the limitation is justified. If the Secretary determines that the limitation is not justified, the State agency seeking the limitation shall immediately remove the limitation.

(h) The amount of vending machine income accruing from vending machines on State property that may be used for the functions of the Committee shall be determined annually by a two-thirds vote of the Committee, except that no more than 25% of the annual vending machine income may be used by the Committee for this purpose, based upon the income accruing to the Blind Vendors Trust Fund in the preceding year. The Committee may establish its budget and expend funds through contract or otherwise without the approval of the Department.

(i) Notwithstanding the provisions of subsection (a) of this Section, with respect to vending machines located on any facility or property controlled or operated by the Division of Mental Health or the Division of Developmental Disabilities within the Department of Human Services:

(1) Any written contract in place as of the effective date of this Act between the Division and the Business Enterprise Program for the Blind shall be maintained and fully adhered to including any moneys paid to the individual facilities.

(2) With respect to existing vending machines with no written contract or agreement in place as of the effective date of this Act between the Division and a private vendor, bottler, or vending machine supplier, the Business Enterprise Program for the Blind has the right to provide the vending services as provided in this Act, provided that the blind vendor must provide 10% of gross sales from those machines to the individual facilities.

(Source: P.A. 96-644, eff. 1-1-10.)

LICENSES

(20 ILCS 2421/40)

Sec. 40. Licenses.

(a) Licenses shall be issued only to blind persons who are qualified to operate vending facilities. The continuing eligibility of a vendor as a blind person shall be reviewed biennially for partially sighted individuals or whenever the Director has information indicating the vendor is no longer blind as defined under this Act.

(b) Following agreement by the Secretary, the Director, and the Committee, the Secretary shall adopt and publish rules providing for (1) the requirements for licensure as a blind vendor; (2) a curriculum for training, in-service training, and upward mobility training for blind vendors; and (3) a regular schedule for offering the training, classes to be offered at least once per year.

(c) Each license issued pursuant to this Section shall be for an indefinite period as described by rule. The license of a blind vendor may be terminated or suspended for good cause, but only after affording the licensee an opportunity for a full and fair hearing in accordance with the provisions of this Act.

(Source: P.A. 96-644, eff. 1-1-10.)

COMMITTEE OF BLIND VENDORS

(20 ILCS 2421/45)

Sec. 45. Committee of Blind Vendors.

(a) The Secretary, through the Director, shall provide for the biennial election of the Committee, which shall be fully representative of all blind licensees in the State. There shall be no fewer than one Committee member for each 15 licensed blind vendors in the State.

(b) The Committee is empowered to hire staff; contract for consultants including, but not limited to, legal counsel; set agendas and call meetings; create a constitution

and bylaws, subcommittees, and budgets; and do any other thing a not-for-profit organization may do through the use of the Blind Vendors Trust Fund. At the discretion of the Committee major issues may be referred for initial consideration to a subcommittee, or to all blind vendors in order to ascertain their views.

(c) The Secretary shall ensure that the Committee jointly participates with the State in the development and implementation of all policies, plans, program development, and major administrative and management decisions affecting the Business Enterprise Program for the Blind. The Secretary, through the Director, shall provide to the Committee all relevant financial information and data, including quarterly and annual financial reports, on the operation of the vending facility program in order that the Committee may fully participate in budget development and formulation, the establishment of set-aside levels, and other program requirements. A copy of all completed audits, reports, and investigations affecting the Business Enterprise Program for the Blind shall be distributed to the Committee in a timely manner. Any implementation of changes in administrative policy or program development that are within the discretion of the Department shall occur only after Committee review.
(Source: P.A. 96-644, eff. 1-1-10.)

HEARINGS; ARBITRATION

(20 ILCS 2421/50)

Sec. 50. Hearings; arbitration.

(a) Any blind vendor dissatisfied with any act or omission arising from the operation or administration of the vending facility program may submit to the Secretary a request for a full evidentiary hearing. This hearing shall be provided in a timely manner by the Department. Damages, including compensatory damages, attorney's fees, and expenses, must be paid to any operator who prevails in the full evidentiary hearing; however, payment of damages may not be paid from any program funds, the Blind Vendors Trust Fund, or federal rehabilitation funds. If the blind vendor is dissatisfied with any action taken or decision rendered as a result of the hearing, that vendor may file a complaint for arbitration with the Secretary.

(b) If the Secretary determines that any State agency has failed to comply with the requirements of this Act, the Secretary must establish a panel to arbitrate the dispute and the decision of the panel shall be final and binding on the parties. Any arbitration panel convened by the Secretary shall be composed of 3 members, appointed as follows:

(1) one individual appointed by the Secretary;

(2) one individual appointed by the State agency determined by the Secretary to be in noncompliance with the Act; and

(3) one individual, who shall serve as chairperson, jointly designated by the members appointed under items (1) and (2); provided that, if within 30 days following the Secretary's determination of noncompliance either party fails to appoint a panel member, or if the parties are unable to agree on the appointment of the chairperson, the Secretary shall select the final panel member or may designate a hearing officer of the Department who shall preside.

(c) The Secretary may issue a letter of reprimand to a blind vendor who violates program rules or policy. Depending upon the seriousness of the alleged violation, the letter of reprimand may indicate the intention to suspend or terminate the license of the vendor. All reprimand letters shall be sent in a medium accessible by the vendor, and shall be sent by certified mail, return receipt requested. The Secretary must make every reasonable effort to assist the subject vendor to correct the problem for which the vendor is reprimanded. No process to suspend or terminate a license shall be initiated before the vendor is accorded the opportunity for a full evidentiary hearing as provided

under subsection (a). A vendor may be summarily removed from a facility only in an emergency.
(Source: P.A. 96-644, eff. 1-1-10.)

GENERAL PROVISIONS

(20 ILCS 2421/60)

Sec. 60. General provisions.

(a) Blind vendors operating vending facilities are subject to the applicable license or permit requirements of the county or municipality in which the facility is located necessary for the conduct of their business.

(b) Vendors licensed pursuant to this Act are authorized to keep guide animals with them while operating vending facilities subject to public health laws and rules.

(c) The Secretary, the Director, and the Committee shall cooperate in the development of rules to be promulgated by the Department regarding life standards for vending facility equipment. Such rules shall include, but are not limited to, the life expectancy of equipment; time periods within which equipment should be replaced; exceptions to the replacement time periods for equipment with no service problem history; and replacement schedules for equipment subject to excessive failures no the fault of the vendor.

(d) The Secretary, through the Director, shall assign adequate personnel to carry out duties related to the administration and management of this Act. In selecting personnel to fill any program position under this subsection, the Secretary shall ensure that the Committee has full advance opportunity to review the selections, to submit comments thereon, and to assess the adequacy of staffing levels for the program.

(e) The Secretary shall provide each vendor access to: all financial information, his or her performance ratings, and all other individual personnel documents and data maintained by the Department. This includes providing each vendor a written copy of all rules and policies adopted pursuant to this Act. Upon request, the information shall be furnished in the medium most accessible by the vendor.

(f) The surviving spouse of a current Illinois licensed blind vendor who dies may continue to operate the facility for a period of 6 months following the death of the vendor, provided that the surviving spouse is qualified by experience or training to manage the facility.

(g) The Secretary shall, by rule, require licensed blind vendors to obtain additional training o operate a blind vending facility for State property determined by a State agency to be high security property.
(Source: P.A. 96-644, eff. 1-1-10.)

PROGRAM RULES

(20 ILCS 2421/65)

Sec. 65. Program rules.

(a) The Secretary shall promulgate and adopt necessary rules, and do all things necessary and proper to carry out this Act. The Secretary by delegation shall review these rules with the Committee at least every 3 years.

(b) The rules shall include, but are not limited to, the following: (1) uniform procedures for vendor licensing and termination; (2) criteria and standards for selecting vendors and matching them to facilities to ensure that the most qualified person is selected; (3) equipment life standards and service standards for the inventory, repair, and purchase of equipment; (4) minimum requirements for the establishment of a vending facility; (5) standards for training, in-service training, and upward mobility; and (6) policies and procedures for the collection, deposit, reimbursement, and use of all program income, including vending machine income.
(Source: P.A. 96-644, eff. 1-1-10.)

PROPERTY SURVEY AND REPORT

(20 ILCS 2421/70)

Sec. 70. Property Survey and Report.

(a) The Department shall survey and report on State property and vending facilities not later than December 31, 2010. The report shall contain the following information:

(1) A list of all State property or other property within the State that does or reasonably could accommodate a vending facility as provided for in this Act or as provided for in the federal Randolph-Sheppard Act.

(2) For the buildings or locations that have vending facilities or vending machines in place, an indication of the facilities operated by licensed blind vendors under the Business Enterprise Program for the Blind and an indication of the facilities operated by private entities.

(3) For the vending facilities or vending machines operated by private entities, an indication of the facilities from which commissions for the Business Enterprise Program for the Blind have been or are being collected.

(4) For the buildings or other property that do not have vending facilities in place, an indication of the locations where a vending facility could appropriately be placed, or the reasons why a vending facility is not feasible in the building or property.

(b) The Department shall obtain all available information and conduct a survey, before June 30 of every odd-numbered year after the effective date of this Act. This survey shall identify but not be limited to the following information:

(1) The number and identity of the buildings owned, leased, acquired, or occupied by the State.

(2) The number and identity of the State buildings where vending facilities or vending machines are located.

(3) The number of employees located in or visiting these buildings during normal working hours.

(4) The usable interior square footage of the building; and

(5) Any other information the Department may determine to be useful in expanding the Business Enterprise Program for the Blind to the maximum extent feasible consistent with the purposes of this Act.

(c) All State agencies controlling State property or parts thereof where vending machines or vending facilities are located must cooperate with the Department by providing information on the vending machines or facilities at those locations. This information shall include, but is not limited to, the terms of contracts for vending, including financial terms, and the disbursement practices for vending machine income. The Department shall incorporate this information in its reports and updates.

(d) The Department shall use the reports and updates mandated by this Section to develop greater opportunities for the placement of blind vendors, to increase vending machine income to the program, and to aid in establishing vending machines and facilities on State property.

(e) The reports and surveys prepared pursuant to this Section shall be provided to the Committee and to the appropriate committees of the General Assembly.

(Source: P.A. 96-644, eff. 1-1-10.)

REPEAL; BLIND PERSONS OPERATING FACILITIES ACT

(20 ILCS 2421/90)

Sec. 90. The Blind Persons Operating Vending Facilities Act is repealed.

(Source: P.A. 96-644, eff. 1-1-10.)

DEPARTMENT OF TRANSPORTATION LAW
20 ILCS 2705/

TARGET MARKET PROGRAM

(20 ILCS 2705/2705-600)

Sec. 2705-600. Target market program. In order to achieve all diversity goals, the Department's chief procurement officer shall develop and coordinate a target market program including the following elements:

(1) In January of each year, the chief procurement officer shall estimate the dollar value of all contracts to be awarded by the Department during that year and shall multiply that total by the minority-owned business target market percentage and the women-owned business target market percentage for that year. Contracts with an estimated dollar value equal to those products shall be set aside (prior to advertisement in the case of contracts to be awarded by bid) to be let only to qualified minority-owned businesses and qualified women-owned businesses, respectively.

(2) The chief procurement officer shall work with the officers and divisions of the Department to determine the appropriate designation of contracts as target market contracts. To the extent practical, the chief procurement officer shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from minority-owned businesses and women-owned businesses. In making the annual designation of target market contracts, the chief procurement officer shall attempt to vary the included procurements so that a variety of goods and services produced by different minority-owned businesses and women-owned businesses shall be set aside each year. Minority-owned businesses and women-owned businesses shall remain eligible to seek the procurement award of contracts that have not been designated as target market contracts.

(3) The Department shall develop a list of minority-owned businesses and women-owned businesses that are interested in participating in the target market program, including the type of contract in which each minority-owned businesses and women-owned businesses is interested in participating. The Department may make participation in the target market program dependent upon submission to stricter compliance audits than are generally applicable. No contract shall be eligible for inclusion in the target market program unless the list developed by the Department indicates that there are at least 3 qualified minority-owned businesses or women-owned businesses interested in participating in that type of contract. The Department may develop guidelines to regulate the level of participation of individual minority-owned businesses and women-owned businesses in the target market program in order to prevent the domination of the target market program by a small number of those entities. If necessary or useful, the Department may require minority-owned businesses and women-owned businesses to participate in training programs offered by the Department or other State agencies as a condition to participation in the target market program.

(4) Participation in the target market program shall be limited to minority-owned businesses and women-owned businesses and joint ventures consisting exclusively of minority-owned businesses, women-owned businesses, or both. The prime contractor on a target market contract may subcontract up to 50% of the dollar value of the target market contract to subcontractors who are not minority-owned businesses or women-owned businesses.

(5) The Department may include in the target market program contracts that are funded by the federal government and may vary the standards of eligibility of

the target market program (for example, by allowing the participation of businesses owned by a person with a disability) to the extent necessary to comply with the federal funding requirements.

(6) If no satisfactory bid or response is received with respect to a contract that has been designated as part of the target market program, the Department may delete that contract from the target market program. In addition, the chief procurement officer shall thereupon designate and set aside for the target market program additional contracts corresponding in approximate value to the contract that was deleted from the target market program, to the extent feasible.

(7) In order to facilitate the performance of target market contracts by minority-owned businesses and women-owned businesses, the chief procurement officer may expedite payments under target market contracts, may reduce retainages under target market contracts when appropriate, and may pay the contractor a portion of the value of a target market contract at the time of award as an advance to cover start-up and mobilization costs.

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

ENERGY EFFICIENT COMMERCIAL BUILDING ACT
20 ILCS 3125/

SHORT TITLE

(20 ILCS 3125/1)

Sec. 1. Short title. This Act may be cited as the Energy Efficient Building Act.
(Source: P.A. 96-778, eff. 8-28-09.)

FINDINGS

(20 ILCS 3125/5)

Sec. 5. Findings.

(a) The legislature finds that an effective energy efficient building code is essential to:

(1) reduce the air pollutant emissions from energy consumption that are affecting the health of residents of this State;

(2) moderate future peak electric power demand;

(3) assure the reliability of the electrical grid and an adequate supply of heating oil and natural gas; and

(4) control energy costs for residents and businesses in this State.

(b) The legislature further finds that this State has a number of different climate types, all of which require energy for both cooling and heating, and that there are many cost-effective measures that can reduce peak energy use and reduce cooling, heating, lighting, and other energy costs in buildings.
(Source: P.A. 96-778, eff. 8-28-09.)

DEFINITIONS

(20 ILCS 3125/10)

Sec. 10. Definitions.

"Board" means the Capital Development Board.

"Building" includes both residential buildings and commercial buildings.

"Code" means the latest published edition of the International Code Council's International Energy Conservation Code, excluding published supplements but including the adaptations to the Code that are made by the Board.

"Commercial building" means any building except a building that is a residential building, as defined in this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Municipality" means any city, village, or incorporated town.

"Residential building" means (i) a detached one-family or 2-family dwelling or (ii) any building that is 3 stories or less in height above grade that contains multiple dwelling units, in which the occupants reside on a primarily permanent basis, such as a townhouse, a row house, an apartment house, a convent, a monastery, a rectory, a fraternity or sorority house, a dormitory, and a rooming house; provided, however, that when applied to a building located within the boundaries of a municipality having a population of 1,000,000 or more, the term "residential building" means a building containing one or more dwelling units, not exceeding 4 stories above grade, where occupants are primarily permanent.
(Source: P.A. 96-778, eff. 8-28-09.)

ENERGY EFFICIENT BUILDING CODE

(20 ILCS 3125/15)

Sec. 15. Energy Efficient Building Code. The Board, in consultation with the Department, shall adopt the Code as minimum requirements for commercial buildings, applying to the construction of, renovations to, and additions to all commercial buildings in the State. The Board, in consultation with the Department, shall also adopt the Code as the minimum and maximum requirements for residential buildings, applying to the construction of all residential buildings in the State, except as provided for in Section 45 of this Act. The Board may appropriately adapt the International Energy Conservation Code to apply to the particular economy, population distribution, geography, and climate of the State and construction therein, consistent with the public policy objectives of this Act.

(Source: P.A. 96-778, eff. 8-28-09.)

APPLICABILITY

(20 ILCS 3125/20)

Sec. 20. Applicability.

(a) The Board shall adopt the Code within 9 months after its publication. The Code shall take effect within 3 months after it is adopted by the Board and shall apply to any new building or structure in this State for which a building permit application is received by a municipality or county, except as otherwise provided by this Act. In the case of any addition, alteration, renovation, or repair to an existing commercial structure, the Code adopted under this Act applies only to the portions of that structure that are being added, altered, renovated, or repaired.

(b) The following buildings shall be exempt from the Code:

(1) Buildings otherwise exempt from the provisions of a locally adopted building code and buildings that do not contain a conditioned space.

(2) Buildings that do not use either electricity or fossil fuel for comfort conditioning. For purposes of determining whether this exemption applies, a building will be presumed to be heated by electricity, even in the absence of equipment used for electric comfort heating, whenever the building is provided with electrical service in excess of 100 amps, unless the code enforcement official determines that this electrical service is necessary for purposes other than providing electric comfort heating.

(3) Historic buildings. This exemption shall apply to those buildings that are listed on the National Register of Historic Places or the Illinois Register of Historic Places, and to those buildings that have been designated as historically significant by a local governing body that is authorized to make such designations.

(4) (Blank).

(5) Other buildings specified as exempt by the International Energy Conservation Code.

(c) Additions, alterations, renovations, or repairs to an existing building, building system, or portion thereof shall conform to the provisions of the Code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with the Code. The following need not comply with the Code, provided that the energy use of the building is not increased: (i) storm windows installed over existing fenestration, (ii) glass-only replacements in an existing sash and frame, (iii) existing ceiling, wall, or floor cavities exposed during construction, provided that these cavities are filled with insulation, and (iv) construction where the existing roof, wall, or floor is not exposed.

(d) A unit of local government that does not regulate energy efficient building standards is not required to adopt, enforce, or administer the Code; however, any

energy efficient building standards adopted by a unit of local government must comply with this Act. If a unit of local government does not regulate energy efficient building standards, any construction, renovation, or addition to buildings or structures is subject to the provisions contained in this Act.
(Source: P.A. 96-778, eff. 8-28-09.)

TECHNICAL ASSISTANCE

(20 ILCS 3125/25)

Sec. 25. Technical assistance.

(a) The Department shall make available to builders, designers, engineers, and architects implementation materials that explain the requirements of the Code and describe methods of compliance acceptable to Code Enforcement Officials.

(b) The materials shall include software tools, simplified prescriptive options, and other materials as appropriate. The simplified materials shall be designed for projects in which a design professional may not be involved.

(c) The Department shall provide local jurisdictions with technical assistance concerning implementation and enforcement of the Code.
(Source: P.A. 93-936, eff. 8-13-04.)

ENFORCEMENT

(20 ILCS 3125/30)

Sec. 30. Enforcement. The Board, in consultation with the Department, shall determine procedures for compliance with the Code. These procedures may include but need not be limited to certification by a national, State, or local accredited energy conservation program or inspections from private Code-certified inspectors using the Code.
(Source: P.A. 93-936, eff. 8-13-04.)

RULES

(20 ILCS 3125/35)

Sec. 35. Rules. The Board may adopt any rules that are necessary for the furtherance of this Act.
(Source: P.A. 93-936, eff. 8-13-04.)

INPUT FROM INTERESTED PARTIES

(20 ILCS 3125/40)

Sec. 40. Input from interested parties. When developing Code adaptations, rules, and procedures for compliance with the Code, the Capital Development Board, or the Illinois Building Commission as directed by the Board, shall seek input from representatives from the building trades, design professionals, construction professionals, code administrators, and other interested entities affected.
(Source: P.A. 93-936, eff. 8-13-04.)

HOME RULE

(20 ILCS 3125/45)

Sec. 45. Home rule.

(a) No unit of local government, including any home rule unit, may regulate energy efficient building standards for commercial buildings in a manner that is less stringent than the provisions contained in this Act.

(b) No unit of local government, including any home rule unit, may regulate energy efficient building standards for residential buildings in a manner that is either less or more stringent than the standards established pursuant to this Act; provided, however,

that the following entities may regulate energy efficient building standards for residential buildings in a manner that is more stringent than the provisions contained in this Act: (i) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, adopted or incorporated by reference energy efficient building standards for residential buildings that are equivalent to or more stringent than the 2006 International Energy Conservation Code, (ii) a unit of local government, including a home rule unit, that has, on or before May 15, 2009, provided to the Capital Development Board, as required by Section 55 of the Illinois Building Commission Act, an identification of an energy efficient building code or amendment that is equivalent to or more stringent than the 2006 International Energy Conservation Code, and (iii) a municipality with a population of 1,000,000 or more.

(c) No unit of local government, including any home rule unit or unit of local government that is subject to State regulation under the Code as provided in Section 15 of this Act, may hereafter enact any annexation ordinance or resolution, or require or enter into any annexation agreement, that imposes energy efficient building standards for residential buildings that are either less or more stringent than the energy efficiency standards in effect, at the time of construction, throughout the unit of local government.

(d) This Section is a denial and limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State. Nothing in this Section, however, prevents a unit of local government from adopting an energy efficiency code or standards for commercial buildings that are more stringent than the Code under this Act.

(Source: P.A. 96-778, eff. 8-28-09.)

EFFECTIVE DATE

(20 ILCS 3125/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 93-936, eff. 8-13-04.)

GREEN BUILDINGS ACT
20 ILCS 3130/

SHORT TITLE

(20 ILCS 3130/1)

Sec. 1. Short title. This Act may be cited as the Green Buildings Act.

(Source: P.A. 96-73, eff. 7-24-09.)

FINDINGS

(20 ILCS 3130/5)

Sec. 5. Findings. The General Assembly finds that an efficient green building plan is essential to:

(1) reduce the increasing costs of energy for public buildings and reduce the State's overall energy usage;

(2) preserve the environment and make State buildings better for those who work and study in them, as well as the area around them; and

(3) cut pollution, moderate peak energy demand, better assure the reliability of energy studies, and stabilize energy costs.

(Source: P.A. 96-73, eff. 7-24-09.)

DEFINITIONS

(20 ILCS 3130/10)

Sec. 10. Definitions. In this Act:

"Board" means the Capital Development Board.

"USGBC" means the United States Green Building Council.

"LEED" means the USGBC Leadership in Energy and Environmental Design green building rating standard.

"GBI" means The Green Building Initiative.

"Green Globes" means the GBI green building construction model.

"Major renovation" means a project with a construction budget that equals 40% or more of the building's current replacement cost.

(Source: P.A. 96-73, eff. 7-24-09.)

GREEN BUILDINGS STANDARDS

(20 ILCS 3130/15)

Sec. 15. Green Buildings Standards.

(a) All new State-funded building construction and major renovations of existing State-owned facilities are required to seek LEED, Green Globes, or equivalent certification.

(b) All construction and major renovation projects, regardless of size, must achieve the highest level of certification practical within the project budget.

(1) New buildings and major renovations of less than 10,000 square feet must meet the highest standard of the Leadership in Energy and Environmental Design's rating system for new commercial construction and major renovation projects, as established by the United States Green Building Council, or an equivalent standard, including, but not limited to, the Green Building Initiative's Green Globes USA design program. USGBC LEED, GBI Green Globes, or the equivalent certification is not required.

(2) New buildings and major renovations of 10,000 square feet or more must achieve the silver building rating of the Leadership in Energy and Environmental Design's rating system for new commercial construction and major renovation projects, as established by the United States Green Building Council, or an

equivalent standard, including, but not limited to, a two-globe rating in the Green Globes USA design program. USGBC LEED, GBI Green Globes, or the equivalent certification is required.

(c) Exemptions to these standards are buildings that are not "comfort" conditioned as determined by the Board. However, the project design team must document and incorporate all appropriate sustainable building methods, strategies, and technologies in the final design.

(d) State agencies and the project design team may apply to the Board for a waiver from these standards.

(e) Waivers shall be granted by the Board or an appropriate agency when the applicant can demonstrate and document:

(1) An unreasonable financial burden, taking into account the operating and construction costs over the life of the building and the total cost of ownership of the building.

(2) An unreasonable impediment to construction.

(3) The standards would impair the principal function of the building.

(4) The standards would compromise the historic nature of the structure.

Documentation on the submittal must include at a minimum:

(1) Life cycle cost analysis.

(2) Energy modeling.

The design team must provide the documentation for the new project to confirm that LEED, Green Globes, or the equivalent construction standards have been followed.

(f) In addition to any required LEED, Green Globes, or the equivalent criteria, the Board shall require that all projects referenced in subsection (a) implement at least one LEED alternative transportation criterion for public transportation or bicycle access.

(g) The green building standards contained in this Act shall be analyzed and evaluated by the Board 5 years after the effective date of this Act or upon the completion of 10 Board green projects, whichever comes first.

(Source: P.A. 96-73, eff. 7-24-09.)

EFFECTIVE DATE

(20 ILCS 3130/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 96-73, eff. 7-24-09.)

ILLINOIS POWER AGENCY ACT
20 ILCS 3855/
ARTICLE 1

SHORT TITLE

(20 ILCS 3855/1-1)

Sec. 1-1. Short title. This Article may be cited as the Illinois Power Agency Act. References in this Article to "this Act" mean this Article.

(Source: P.A. 95-481, eff. 8-28-07.)

LEGISLATIVE DECLARATIONS AND FINDINGS

(20 ILCS 3855/1-5)

Sec. 1-5. Legislative declarations and findings. The General Assembly finds and declares:

(1) The health, welfare, and prosperity of all Illinois citizens require the provision of adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

(2) The transition to retail competition is not complete. Some customers, especially residential and small commercial customers, have failed to benefit from lower electricity costs from retail and wholesale competition.

(3) Escalating prices for electricity in Illinois pose a serious threat to the economic well-being, health, and safety of the residents of and the commerce and industry of the State.

(4) To protect against this threat to economic well-being, health, and safety it is necessary to improve the process of procuring electricity to serve Illinois residents, to promote investment in energy efficiency and demand-response measures, and to support development of clean coal technologies and renewable resources.

(5) Procuring a diverse electricity supply portfolio will ensure the lowest total cost over time for adequate, reliable, efficient, and environmentally sustainable electric service.

(6) Including cost-effective renewable resources in that portfolio will reduce long-term direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure.

(7) Energy efficiency, demand-response measures, and renewable energy are resources currently underused in Illinois.

(8) The State should encourage the use of advanced clean coal technologies that capture and sequester carbon dioxide emissions to advance environmental protection goals and to demonstrate the viability of coal and coal-derived fuels in a carbon-constrained economy.

The General Assembly therefore finds that it is necessary to create the Illinois Power Agency and that the goals and objectives of that Agency are to accomplish each of the following:

(A) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. The procurement plan shall be updated on an annual basis and shall include renewable energy resources sufficient to achieve the standards specified in this Act.

(B) Conduct competitive procurement processes to procure the supply resources identified in the procurement plan.

(C) Develop electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Illinois Finance Authority.

(D) Supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

DEFINITIONS

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon emissions at the following levels: at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon emissions that the facility would otherwise emit and that uses petroleum coke or coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property and improvements in connection therewith and equipment and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Article VII of Section 1 of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other

than tree waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage in a salt dome.

"Servicing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, and (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09; 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

ILLINOIS POWER AGENCY

(20 ILCS 3855/1-15)

Sec. 1-15. Illinois Power Agency.

(a) For the purpose of effectuating the policy declared in Section 1-5 of this Act, a State agency known as the Illinois Power Agency is created. The Agency shall exercise governmental and public powers, be perpetual in duration, and have the powers and duties enumerated in this Act, together with such others conferred upon it by law.

(b) The Agency is not created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the Agency shall inure to the benefit of or be distributable to any of its employees or any other private persons, except as provided in this Act for actual services rendered.

(Source: P.A. 95-481, eff. 8-28-07.)

GENERAL POWERS OF THE AGENCY

(20 ILCS 3855/1-20)

Sec. 1-20. General powers of the Agency.

(a) The Agency is authorized to do each of the following:

(1) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. The procurement plans shall be updated on an annual basis and shall include electricity generated from renewable resources sufficient to achieve the standards specified in this Act.

(2) Conduct competitive procurement processes to procure the supply resources identified in the procurement plan, pursuant to Section 16-111.5 of the Public Utilities Act.

(3) Develop electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Illinois Finance Authority.

(4) Supply electricity from the Agency's facilities at cost to one or more of the following: municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(b) Except as otherwise limited by this Act, the Agency has all of the powers necessary or convenient to carry out the purposes and provisions of this Act, including without limitation, each of the following:

(1) To have a corporate seal, and to alter that seal at pleasure, and to use it by causing it or a facsimile to be affixed or impressed or reproduced in any other manner.

(2) To use the services of the Illinois Finance Authority necessary to carry out the Agency's purposes.

(3) To negotiate and enter into loan agreements and other agreements with the Illinois Finance Authority.

(4) To obtain and employ personnel and hire consultants that are necessary to fulfill the Agency's purposes, and to make expenditures for that purpose within the appropriations for that purpose.

(5) To purchase, receive, take by grant, gift, devise, bequest, or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with, real or personal property whether tangible or intangible, or any interest therein, within the State.

(6) To acquire real or personal property, whether tangible or intangible, including without limitation property rights, interests in property, franchises, obligations, contracts, and debt and equity securities, and to do so by the exercise of the power of eminent domain in accordance with Section 1-21; except that any real property acquired by the exercise of the power of eminent domain must be located within the State.

(7) To sell, convey, lease, exchange, transfer, abandon, or otherwise dispose of, or mortgage, pledge, or create a security interest in, any of its assets, properties, or any interest therein, wherever situated.

(8) To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities (or interests therein) issued by others, whether engaged in a similar or different business or activity.

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, local government, State agency, or other entity; and all State agencies and all local governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

(10) To lend money, invest and reinvest its funds in accordance with the Public Funds Investment Act, and take and hold real and personal property as security for the payment of funds loaned or invested.

(11) To borrow money at such rate or rates of interest as the Agency may determine, issue its notes, bonds, or other obligations to evidence that indebtedness, and secure any of its obligations by mortgage or pledge of its real or personal property, machinery, equipment, structures, fixtures, inventories, revenues, grants, and other funds as provided or any interest therein, wherever situated.

(12) To enter into agreements with the Illinois Finance Authority to issue bonds whether or not the income therefrom is exempt from federal taxation.

(13) To procure insurance against any loss in connection with its properties or operations in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor.

(14) To negotiate and enter into agreements with trustees or receivers appointed by United States bankruptcy courts or federal district courts or in other proceedings involving adjustment of debts and authorize proceedings involving adjustment of debts and authorize legal counsel for the Agency to appear in any such proceedings.

(15) To file a petition under Chapter 9 of Title 11 of the United States Bankruptcy Code or take other similar action for the adjustment of its debts.

(16) To enter into management agreements for the operation of any of the property or facilities owned by the Agency.

(17) To enter into an agreement to transfer and to transfer any land, facilities, fixtures, or equipment of the Agency to one or more municipal electric systems, governmental aggregators, or rural electric agencies or cooperatives, for such consideration and upon such terms as the Agency may determine to be in the best interest of the citizens of Illinois.

(18) To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this Act.

(19) To maintain an office or offices at such place or places in the State as it may determine.

(20) To request information, and to make any inquiry, investigation, survey, or study that the Agency may deem necessary to enable it effectively to carry out the provisions of this Act.

(21) To accept and expend appropriations.

(22) To engage in any activity or operation that is incidental to and in furtherance of efficient operation to accomplish the Agency's purposes.

(23) To adopt, revise, amend, and repeal rules with respect to its operations, properties, and facilities as may be necessary or convenient to carry out the purposes of this Act, subject to the provisions of the Illinois Administrative Procedure Act and Sections 1-22 and 1-35 of this Act.

(24) To establish and collect charges and fees as described in this Act.

(25) To manage procurement of substitute natural gas from a facility that meets the criteria specified in subsection (a) of Section 1-58 of this Act, on terms and conditions that may be approved by the Agency pursuant to subsection (d) of Section 1-58 of this Act, to support the operations of State agencies and local governments that agree to such terms and conditions. This procurement process is not subject to the Procurement Code.

(Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

EMINENT DOMAIN

(20 ILCS 3855/1-21)

Sec. 1-21. Eminent domain. The Agency may take and acquire possession by eminent domain of any property or interest in property that the Agency is authorized to acquire under this Act for the construction, maintenance, or operation of a facility with the consent in writing of the Governor, after following the provisions of Section 1-85(a) of this Act, to acquire by private purchase, or by condemnation in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act. The power of condemnation shall be exercised, however, solely for the purposes of one or more of the following: siting, rights of way, and easements appurtenant. The Agency shall not exercise its powers of condemnation until it has used reasonable good faith efforts to acquire the property before filing a petition for condemnation and may thereafter use those powers when it determines that the condemnation of the property rights is necessary to avoid unreasonable delay or economic hardship to the progress of activities carried out in the exercise of powers granted under this Act. Before use of the power of condemnation for projects, the Agency shall hold a public hearing to receive comments on the exercise of the power of condemnation. The Agency shall use the information received at the hearing in making its final decision on the exercise of the power of condemnation. The hearing shall be held in a location reasonably accessible to the public interested in the decision. The Agency shall promulgate guidelines for the conduct of the hearing. The Agency shall conduct a feasibility study showing that the taking is necessary to accomplish the purposes of this Act and that is adequate to meet the environmental standards set forth by the State and the federal governments. The Agency may not exercise the authority provided in Article 20 of the Eminent Domain Act (quick-take procedure) providing for immediate possession in those proceedings. The Agency does not have the power to exercise eminent domain over the property of any public utility or any person owning an electric generating plant.

(Source: P.A. 95-481, eff. 8-28-07.)

AUTHORITY OF THE ILLINOIS COMMERCE COMMISSION

(20 ILCS 3855/1-22)

Sec. 1-22. Authority of the Illinois Commerce Commission. Nothing in this Act infringes upon the authority granted to the Commission.

(Source: P.A. 95-481, eff. 8-28-07.)

AGENCY SUBJECT TO OTHER LAWS

(20 ILCS 3855/1-25)

Sec. 1-25. Agency subject to other laws. Unless otherwise stated, the Agency is subject to the provisions of all applicable laws, including but not limited to, each of the following:

(1) The State Records Act.

(2) The Illinois Procurement Code.

(3) The Freedom of Information Act.

(4) The State Property Control Act.

(5) The Personnel Code.

(6) The State Officials and Employees Ethics Act.

(Source: P.A. 95-481, eff. 8-28-07.)

ADMINISTRATIVE PROCEDURE ACT APPLIES

(20 ILCS 3855/1-30.1)

Sec. 1-30.1. Administrative Procedure Act applies. The provisions of the Illinois Administrative Procedure Act are expressly adopted and incorporated into this Act, and apply to all administrative rules and procedures of the Agency.

(Source: P.A. 95-481, eff. 8-28-07.)

ADMINISTRATIVE REVIEW LAW APPLIES

(20 ILCS 3855/1-30.2)

Sec. 1-30.2. Administrative Review Law applies. Any final administrative decision of the Agency, or of the Director of the Agency, that is not subject to review by the Commission, is subject to review under the provisions of the Administrative Review Law.

(Source: P.A. 95-481, eff. 8-28-07.)

ILLINOIS STATE AUDITING ACT APPLIES

(20 ILCS 3855/1-30.3)

Sec. 1-30.3. Illinois State Auditing Act applies. For purposes of the Illinois State Auditing Act, the Agency is a "State agency" within the meaning of the Act and is subject to the jurisdiction of the Auditor General.

(Source: P.A. 95-481, eff. 8-28-07.)

AGENCY RULES

(20 ILCS 3855/1-35)

Sec. 1-35. Agency rules. The Agency shall adopt rules as may be necessary and appropriate for the operation of the Agency. In addition to other rules relevant to the operation of the Agency, the Agency shall adopt rules that accomplish each of the following:

(1) Establish procedures for monitoring the administration of any contract administered directly or indirectly by the Agency; except that the procedures shall not extend to executed contracts between electric utilities and their suppliers.

(2) Establish procedures for the recovery of costs incurred in connection with the development and construction of a facility should the Agency cancel a project, provided that no such costs shall be passed on to public utilities or their customers or paid from the Illinois Power Agency Operations Fund.

(3) Implement accounting rules and a system of accounts, in accordance with State law, permitting all reporting (i) required by the State, (ii) required under this Act, (iii) required by the Authority, or (iv) required under the Public Utilities Act.

The Agency shall not adopt any rules that infringe upon the authority granted to the Commission.

(Source: P.A. 95-481, eff. 8-28-07.)

ILLINOIS POWER AGENCY OPERATIONS FUND

(20 ILCS 3855/1-40)

Sec. 1-40. Illinois Power Agency Operations Fund.

(a) The Illinois Power Agency Operations Fund is created as a special fund in the State treasury.

(b) The Illinois Power Agency Operations Fund shall be administered by the Agency for the Agency's operations as specified in this Section.

(c) All moneys used by the Agency from the Illinois Power Agency Operations Fund are subject to appropriation by the General Assembly.

(d) All disbursements from the Illinois Power Agency Operations Fund shall be made only upon warrants of the State Comptroller drawn upon the State Treasurer as custodian of the Fund upon vouchers signed by the Director or by the person or persons designated by the Director for that purpose. The Comptroller is authorized to draw the warrant upon vouchers so signed. The State Treasurer shall accept all warrants so signed and shall be released from liability for all payments made on those warrants.
(Source: P.A. 95-481, eff. 8-28-07.)

ILLINOIS POWER AGENCY FACILITIES FUND

(20 ILCS 3855/1-45)

Sec. 1-45. Illinois Power Agency Facilities Fund.

(a) The Illinois Power Agency Facilities Fund is created as a special fund in the State treasury.

(b) The Illinois Power Agency Facilities Fund shall be administered by the Agency for costs incurred in connection with the development and construction of a facility by the Agency as well as costs incurred in connection with the operation and maintenance of an Agency facility.

(c) All moneys used by the Agency from the Illinois Power Agency Facilities Fund are subject to appropriation by the General Assembly.

(d) All disbursements from the Illinois Power Agency Facilities Fund shall be made only upon warrants of the State Comptroller drawn upon the State Treasurer as custodian of the Fund upon vouchers signed by the Director or by the person or persons designated by the Director for that purpose. The Comptroller is authorized to draw the warrant upon vouchers so signed. The State Treasurer shall accept all warrants so signed and shall be released from liability for all payments made on those warrants.
(Source: P.A. 95-481, eff. 8-28-07.)

ILLINOIS POWER AGENCY DEBT SERVICE FUND

(20 ILCS 3855/1-50)

Sec. 1-50. Illinois Power Agency Debt Service Fund.

(a) The Illinois Power Agency Debt Service Fund is created as a special fund in the State treasury.

(b) The Illinois Power Agency Debt Service Fund shall be administered by the Agency for retirement of revenue bonds issued for any Agency facility.
(Source: P.A. 95-481, eff. 8-28-07.)

OPERATIONS FUNDING

(20 ILCS 3855/1-55)

Sec. 1-55. Operations Funding. The Agency shall adopt rules regarding charges and fees it is expressly authorized to collect in order to fund the operations of the Agency. These charges and fees shall be deposited into the Illinois Power Agency Operations Fund.
(Source: P.A. 95-481, eff. 8-28-07.)

ILLINOIS POWER AGENCY RENEWABLE ENERGY RESOURCES FUND

(20 ILCS 3855/1-56)

Sec. 1-56. Illinois Power Agency Renewable Energy Resources Fund.

(a) The Illinois Power Agency Renewable Energy Resources Fund is created as a special fund in the State treasury.

(b) The Illinois Power Agency Renewable Energy Resources Fund shall be administered by the Agency to procure renewable energy resources. Prior to June 1, 2011, resources procured pursuant to this Section shall be procured from facilities located in Illinois, provided the resources are available from those facilities. If resources are not available in Illinois, then they shall be procured in states that adjoin Illinois. If resources are not available in Illinois or in states that adjoin Illinois, then they may be purchased elsewhere. Beginning June 1, 2011, resources procured pursuant to this Section shall be procured from facilities located in Illinois or states that adjoin Illinois. If resources are not available in Illinois or in states that adjoin Illinois, then they may be procured elsewhere. To the extent available, at least 75% of these renewable energy resources shall come from wind generation. Of the renewable energy resources procured pursuant to this Section at least the following specified percentages shall come from photovoltaics on the following schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and thereafter.

(c) The Agency shall procure renewable energy resources at least once each year in conjunction with a procurement event for electric utilities required to comply with Section 1-75 of the Act and shall, whenever possible, enter into long-term contracts.

(d) The price paid to procure renewable energy credits using monies from the Illinois Power Agency Renewable Energy Resources Fund shall not exceed the winning bid prices paid for like resources procured for electric utilities required to comply with Section 1-75 of this Act.

(e) All renewable energy credits procured using monies from the Illinois Power Agency Renewable Energy Resources Fund shall be permanently retired.

(f) The procurement process described in this Section is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

(g) All disbursements from the Illinois Power Agency Renewable Energy Resources Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as custodian of the Fund upon vouchers signed by the Director or by the person or persons designated by the Director for that purpose. The Comptroller is authorized to draw the warrant upon vouchers so signed. The Treasurer shall accept all warrants so signed and shall be released from liability for all payments made on those warrants.

(h) The Illinois Power Agency Renewable Energy Resources Fund shall not be subject to sweeps, administrative charges, or chargebacks, including, but not limited to, those authorized under Section 8h of the State Finance Act, that would in any way result in the transfer of any funds from this Fund to any other fund of this State or in having any such funds utilized for any purpose other than the express purposes set forth in this Section.

(Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10; 96-1437, eff. 8-17-10.)

FACILITY FINANCING

(20 ILCS 3855/1-57)

Sec. 1-57. Facility financing.

(a) The Agency shall have the power (1) to borrow from the Authority, through one or more Agency loan agreements, the net proceeds of revenue bonds for costs incurred in connection with the development and construction of a facility, provided that the stated maturity date of any of those revenue bonds shall not exceed 40 years from

their respective issuance dates, (2) to accept prepayments from purchasers of electric energy from a project and to apply the same to costs incurred in connection with the development and construction of a facility, subject to any obligation to refund the same under the circumstances specified in the purchasers' contract for the purchase and sale of electric energy from that project, (3) to enter into leases or similar arrangements to finance the property constituting a part of a project and associated costs incurred in connection with the development and construction of a facility, provided that the term of any such lease or similar arrangement shall not exceed 40 years from its inception, and (4) to enter into agreements for the sale of revenue bonds that bear interest at a rate or rates not exceeding the maximum rate permitted by the Bond Authorization Act. All Agency loan agreements shall include terms making the obligations thereunder subject to redemption before maturity.

(b) The Agency may from time to time engage the services of the Authority, attorneys, appraisers, architects, engineers, accountants, credit analysts, bond underwriters, bond trustees, credit enhancement providers, and other financial professionals and consultants, if the Agency deems it advisable.

(c) The Agency may pledge, as security for the payment of its revenue bonds in respect of a project, (1) revenues derived from the operation of the project in part or whole, (2) the real and personal property, machinery, equipment, structures, fixtures, and inventories directly associated with the project, (3) grants or other revenues or taxes expected to be received by the Agency directly linked to the project, (4) payments to be made by another governmental unit or other entity pursuant to a service, user, or other similar agreement with that governmental unit or other entity that is a result of the project, (5) any other revenues or moneys deposited or to be deposited directly linked to the project, (6) all design, engineering, procurement, construction, installation, management, and operation agreements associated with the project, (7) any reserve or debt service funds created under the agreements governing the indebtedness, (8) the Illinois Power Agency Facilities Fund or the Illinois Power Agency Debt Service Fund, or (9) any combination thereof. Any such pledge shall be authorized in a writing, signed by the Director of the Agency, and then signed by the Governor of Illinois. At no time shall the funds contained in the Illinois Power Agency Trust Fund be pledged or used in any way to pay for the indebtedness of the Agency. The Director shall not authorize the issuance or grant of any pledge until he or she has certified that any associated project is in full compliance with Sections 1-85 and 1-86 of this Act. The certification shall be duly attached or referenced in the agreements reflecting the pledge. Any such pledge made by the Agency shall be valid and binding from the time the pledge is made. The revenues, property, or funds that are pledged and thereafter received by the Agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act; and, subject only to the provisions of prior liens, the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Agency irrespective of whether the parties have notice thereof. All bonds issued on behalf of the Agency must be issued by the Authority and must be revenue bonds. These revenue bonds may be taxable or tax-exempt.

(d) All indebtedness issued by or on behalf of the Agency, including, without limitation, any revenue bonds issued by the Authority on behalf of the Agency, shall not be a debt of the State, the Authority, any political subdivision thereof (other than the Agency to the extent provided in agreements governing the indebtedness), any local government, any governmental aggregator as defined in the this Act, or any local government, and none of the State, the Authority, any political subdivision thereof (other than the Agency to the extent provided in agreements governing the indebtedness), any local government, or any government aggregator shall be liable thereon. Neither the Authority nor the Agency shall have the power to pledge the credit, the revenues, or

the taxing power of the State, any political subdivision thereof (other than the Agency), any governmental aggregator, or of any local government, and neither the credit, the revenues, nor the taxing power of the State, any political subdivision thereof (other than the Agency), any governmental aggregator, or any local government shall be, or shall be deemed to be, pledged to the payment of any revenue bonds, notes, or other obligations of the Agency. In addition, the agreements governing any issue of indebtedness shall provide that all holders of that indebtedness, by virtue of their acquisition thereof, have agreed to waive and release all claims and causes of action against the State of Illinois in respect of the indebtedness or any project associated therewith based on any theory of law. However, the waiver shall not prohibit the holders of indebtedness issued on behalf of the Agency from filing any cause of action against or recovering damages from the Agency, recovering from any property or funds pledged to secure the indebtedness, or recovering from any property or funds to which the Agency holds title, provided the property or funds are directly associated with the project for which the indebtedness was specifically issued. Each evidence of indebtedness of the Agency, including the revenue bonds issued by the Authority on behalf of the Agency, shall contain a clear and explicit statement of the provisions of this Section.

(e) The Agency may from time to time enter into an agreement or agreements to defease indebtedness issued on its behalf or to refund, at maturity, at a redemption date or in advance of either, any indebtedness issued on its behalf or pursuant to redemption provisions or at any time before maturity. All such refunding indebtedness shall be subject to the requirements set forth in subsections (a), (c), and (d) of this Section. No revenue bonds issued to refund or advance refund revenue bonds issued under this Section may mature later than the longest maturity date of the series of bonds being refunded. After the aggregate original principal amount of revenue bonds authorized in this Section has been issued, the payment of any principal amount of those revenue bonds does not authorize the issuance of additional revenue bonds (except refunding revenue bonds).

(f) If the Agency fails to pay the principal of, interest, or premium, if any, on any indebtedness as the same becomes due, a civil action to compel payment may be instituted in the appropriate circuit court by the holder or holders of the indebtedness on which the default of payment exists or by any administrative agent, collateral agent, or indenture trustee acting on behalf of those holders. Delivery of a summons and a copy of the complaint to the Director of the Agency shall constitute sufficient service to give the circuit court jurisdiction over the subject matter of the suit and jurisdiction over the Agency and its officers named as defendants for the purpose of compelling that payment. Any case, controversy, or cause of action concerning the validity of this Act shall relate to the revenue of the Agency. Any such claims and related proceedings are subject in all respects to the provisions of subsection (d) of this Section. The State of Illinois shall not be liable or in any other way financially responsible for any indebtedness issued by or on behalf of the Agency or the performance or non-performance of any covenants associated with any such indebtedness. The foregoing statement shall not prohibit the holders of any indebtedness issued on behalf of the Agency from filing any cause of action against or recovering damages from the Agency recovering from any property pledged to secure that indebtedness or recovering from any property or funds to which the Agency holds title provided such property or funds are directly associated with the project for which the indebtedness is specifically issued.

(g) Upon each delivery of the revenue bonds authorized to be issued by the Authority under this Act, the Agency shall compute and certify to the State Comptroller the total amount of principal of and interest on the Agency loan agreement supporting the revenue bonds issued that will be payable in order to retire those revenue bonds

and the amount of principal of and interest on the Agency loan agreement that will be payable on each payment date during the then current and each succeeding fiscal year. As soon as possible after the first day of each month, beginning on the date set forth in the Agency loan agreement where that date specifies when the Agency shall begin setting aside revenues and other moneys for repayment of the revenue bonds per the agreed to schedule, the Agency shall certify to the Comptroller and the Comptroller shall order transferred and the Treasurer shall transfer from the Illinois Power Agency Facilities Fund to the Illinois Power Agency Debt Service Fund for each month remaining in the State fiscal year a sum of money, appropriated for that purpose, equal to the result of the amount of principal of and interest on those revenue bonds payable on the next payment date divided by the number of full calendar months between the date of those revenue bonds, and the first such payment date, and thereafter divided by the number of months between each succeeding payment date after the first. The Comptroller is authorized and directed to draw warrants on the State Treasurer from the Illinois Power Agency Facilities Fund and the Illinois Power Agency Debt Service Fund for the amount of all payments of principal and interest on the Agency loan agreement relating to the Authority revenue bonds issued under this Act. The State Treasurer or the State Comptroller shall deposit or cause to be deposited any amount of grants or other revenues expected to be received by the Agency that the Agency has pledged to the payment of revenue bonds directly into the Illinois Power Agency Debt Service Fund.
(Source: P.A. 95-481, eff. 8-28-07.)

CLEAN COAL SNG FACILITY CONSTRUCTION

(20 ILCS 3855/1-58)

Sec. 1-58. Clean coal SNG facility construction.

(a) It is the intention of the General Assembly to provide additional long-term natural gas price stability to the State and consumers by promoting the development of a clean coal SNG facility that would produce a minimum annual output of 30 Bcf of SNG and commence construction no later than June 1, 2013 on a brownfield site in a municipality with at least one million residents. The costs associated with preparing a facility cost report for such a facility, which contains all of the information required by subsection (b) of this Section, may be paid or reimbursed pursuant to subsection (c) of this Section.

(b) The facility cost report for a facility that meets the criteria set forth in subsection (a) of this Section shall be prepared by a duly licensed engineering firm that details the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement, and construction of the components comprising the facility and the estimated costs of operation and maintenance of the facility. The report must be provided to the General Assembly and the Agency on or before April 30, 2010. The facility cost report shall include all off the following:

(1) An estimate of the capital cost of the core plant based on a front-end engineering and design study. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems. The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include:

(A) capitalized financing costs during construction;

(B) taxes, insurance, and other owner's costs; and

(C) any assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed;

(2) An estimate of the capital cost of the balance of the plant, including any capital costs associated with site preparation and remediation, sequestration of carbon dioxide emissions, and all interconnects and interfaces required to operate

the facility, such as construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery. The front-end engineering and design study and the cost study for the balance of the plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the facility.

(3) An operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operating and maintenance costs. This quote is subject to the following requirements:

(A) The delivered fuel cost estimate shall be provided by a recognized third party expert or experts in the fuel and transportation industries.

(B) The balance of the operating and maintenance cost quote, excluding delivered fuel costs shall be developed based on the inputs provided by a duly licensed engineering firm performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third-party plant operator or operators.

The operating and maintenance cost quote shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (i) taxes, insurance, and other owner's costs and (ii) any assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(c) Reasonable amounts paid or due to be paid by the owner or owners of the clean coal SNG facility to third parties unrelated to the owner or owners to prepare the facility cost report will be reimbursed or paid up to $10 million through Coal Development Bonds.

(d) The Agency shall review the facility report and based on that report, consider whether to enter into long term contracts to purchase SNG from the facility pursuant to Section 1-20 of this Act. To assist with its evaluation of the report, the Agency may hire one or more experts or consultants, the reasonable costs of which, not to exceed $250,000, shall be paid for by the owner or owners of the clean coal SNG facility submitting the facility cost report. The Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(Source: P.A. 96-781, eff. 8-28-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

MONEYS MADE AVAILABLE BY PRIVATE OR PUBLIC ENTITIES

(20 ILCS 3855/1-60)

Sec. 1-60. Moneys made available by private or public entities.

(a) The Agency may apply for, receive, expend, allocate, or disburse funds and moneys made available by public or private entities, including, but not limited to, contracts, private or public financial gifts, bequests, grants, or donations from individuals, corporations, foundations, or public or private institutions of higher learning. All funds received by the Agency from these sources shall be deposited:

(1) into the Illinois Power Agency Operations Fund, if for general Agency operations, to be held by the State Treasurer as ex officio custodian, and subject to the Comptroller-Treasurer, voucher-warrant system; or

(2) into the Illinois Power Agency Facilities Fund, if for costs incurred in connection with the development and construction of a facility by the Agency, to be held by the State Treasurer as ex officio custodian, and subject to the Comptroller-Treasurer, voucher-warrant system.

Any funds received, expended, allocated, or disbursed shall be expended by the Agency for the purposes as indicated by the grantor, donor, or, in the case of funds or moneys given or donated for no specific purposes, for any purpose deemed appropriate by the Director in administering the responsibilities of the Agency as set forth in this Act.
(Source: P.A. 95-481, eff. 8-28-07.)

APPROPRIATIONS FOR OPERATIONS

(20 ILCS 3855/1-65)

Sec. 1-65. Appropriations for operations. The General Assembly may appropriate moneys from the General Revenue Fund for the operation of the Illinois Power Agency in Fiscal Year 2008 not to exceed $1,250,000 and in Fiscal Year 2009 not to exceed $1,500,000. These appropriated funds shall constitute an advance that the Agency shall repay without interest to the State in Fiscal Year 2010 and in Fiscal Year 2011. Beginning with Fiscal Year 2010, the operation of the Agency shall be funded solely from moneys in the Illinois Power Agency Operations Fund with no liability or obligation imposed on the State by those operations.
(Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

AGENCY OFFICIALS

(20 ILCS 3855/1-70)

Sec. 1-70. Agency officials.

(a) The Agency shall have a Director who meets the qualifications specified in Section 5-222 of the Civil Administrative Code of Illinois (20 ILCS 5/5-222).

(b) Within the Illinois Power Agency, the Agency shall establish a Planning and Procurement Bureau and a Resource Development Bureau. Each Bureau shall report to the Director.

(c) The Chief of the Planning and Procurement Bureau shall be appointed by the Director and (i) shall have at least 10 years of direct experience in electricity supply planning and procurement and (ii) shall also hold an advanced degree in risk management, law, business, or a related field.

(d) The Chief of the Resource Development Bureau shall be appointed by the Director and (i) shall have at least 10 years of direct experience in electric generating project development and (ii) shall also hold an advanced degree in economics, engineering, law, business, or a related field.

(e) The Director shall receive an annual salary of $100,000 or as set by the Compensation Review Board, whichever is higher. The Bureau Chiefs shall each receive an annual salary of $85,000 or as set by the Compensation Review Board, whichever is higher.

(f) The Director and Bureau Chiefs shall not, for 2 years prior to appointment or for 2 years after he or she leaves his or her position, be employed by an electric utility, independent power producer, power marketer, or alternative retail electric supplier regulated by the Commission or the Federal Energy Regulatory Commission.

(g) The Director and Bureau Chiefs are prohibited from: (i) owning, directly or indirectly, 5% or more of the voting capital stock of an electric utility, independent power producer, power marketer, or alternative retail electric supplier; (ii) being in any chain of successive ownership of 5% or more of the voting capital stock of any electric utility, independent power producer, power marketer, or alternative retail electric supplier; (iii) receiving any form of compensation, fee, payment, or other consideration from an electric utility, independent power producer, power marketer, or alternative retail electric supplier, including legal fees, consulting fees, bonuses, or other sums. These limitations do not apply to any compensation received pursuant to a defined benefit plan or other form of deferred compensation, provided that the individual has otherwise severed all

ties to the utility, power producer, power marketer, or alternative retail electric supplier. (Source: P.A. 95-481, eff. 8-28-07.)

PLANNING AND PROCUREMENT BUREAU

(20 ILCS 3855/1-75)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) 10 years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) 10 years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award one-year contracts to those selected with an option for the Agency for a one-year renewal.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a one-year contract to the expert or expert consulting firm so selected with Commission approval with an option for the Agency for a one-year renewal.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois.

(c) Renewable portfolio standard.

(1) The procurement plans shall include cost-effective renewable energy resources. A minimum percentage of each utility's total supply to serve the load of eligible retail customers, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources: at least 2% by June 1, 2008; at least 4% by June 1, 2009; at least 5% by June 1, 2010; at

least 6% by June 1, 2011; at least 7% by June 1, 2012; at least 8% by June 1, 2013; at least 9% by June 1, 2014; at least 10% by June 1, 2015; and increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025. To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation and, beginning on June 1, 2011, at least the following percentages of the renewable energy resources used to meet these standards shall come from photovoltaics on the following schedule: 0.5% by June 1, 2012, 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and thereafter. For purposes of this subsection (c), "cost-effective" means that the costs of procuring renewable energy resources do not cause the limit stated in paragraph (2) of this subsection (c) to be exceeded and do not exceed benchmarks based on market prices for renewable energy resources in the region, which shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(2) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the procurement. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(B) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(C) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(D) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(E) thereafter, the amount of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric

service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these resources in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of renewable energy resources procured pursuant to this subsection (c) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective renewable energy resources.

(3) Through June 1, 2011, renewable energy resources shall be counted for the purpose of meeting the renewable energy standards set forth in paragraph (1) of this subsection (c) only if they are generated from facilities located in the State, provided that cost-effective renewable energy resources are available from those facilities. If those cost-effective resources are not available in Illinois, they shall be procured in states that adjoin Illinois and may be counted towards compliance. If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance. After June 1, 2011, cost-effective renewable energy resources located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection (c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the year commencing June 1, 2010, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described

in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

(A) A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

(B) Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(C) A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending

May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute. No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act permit on the effective date of this amendatory Act of the 95th General Assembly, and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue

requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission

may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility wilfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(viii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure

and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable.

The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include

all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) capitalized financing costs during construction, (2) taxes, insurance, and other owner's costs, and (3) an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs.

(a) The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries.

(b) The balance of the operating and maintenance cost quote, excluding delivered fuel costs will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include (1) taxes, insurance, and other owner's costs, and (2) an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include (i) an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and (ii) an analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into

clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards set forth in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09; 96-159, eff. 8-10-09; 96-1437, eff. 8-17-10.)

RESOURCE DEVELOPMENT BUREAU

(20 ILCS 3855/1-80)

Sec. 1-80. Resource Development Bureau. The Resource Development Bureau has the following duties and responsibilities:

(a) At the Agency's discretion, conduct feasibility studies on the construction of any facility. Funding for a study shall come from either:

(i) fees assessed by the Agency on municipal electric systems, governmental aggregators, unit or units of local government, or rural electric cooperatives requesting the feasibility study; or

(ii) an appropriation from the General Assembly.

(b) If the Agency undertakes the construction of a facility, moneys generated from the sale of revenue bonds by the Authority for the facility shall be used to reimburse the source of the money used for the facility's feasibility study.

(c) The Agency may develop, finance, construct, or operate electric generation and co-generation facilities that use indigenous coal or renewable resources, or both, financed with bonds issued by the Authority on behalf of the Agency. Any such facility that uses coal must be a clean coal facility and must be constructed in a location where the geology is suitable for carbon sequestration. The Agency may also develop, finance, construct, or operate a carbon sequestration facility.

(1) The Agency may enter into contractual arrangements with private and public entities, including but not limited to municipal electric systems, governmental aggregators, and rural electric cooperatives,to plan,site,construct,improve, rehabilitate, and operate those electric generation and co-generation facilities. No contract shall be entered into by the Agency that would jeopardize the tax-exempt status of any bond issued in connection with a project for which the Agency entered into the contract.

(2) The Agency shall hold at least one public hearing before entering into any such contractual arrangements. At least 30-days' notice of the hearing shall be given by publication once in each week during that period in 6 newspapers within the State, at least one of which has a circulation area that includes the location of the proposed facility.

(3) The first facility that the Agency develops, finances, or constructs shall be a facility that uses coal produced in Illinois. The Agency may, however, also develop, finance, or construct renewable energy facilities after work on the first facility has commenced.

(4) The Agency may not develop, finance, or construct a nuclear power plant.

(5) The Agency shall assess fees to applicants seeking to partner with the Agency on projects.

(d) Use of electricity generated by the Agency's facilities. The Agency may supply electricity produced by the Agency's facilities to municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois. The electricity shall be supplied at cost.

(1) Contracts to supply power and energy from the Agency's facilities shall provide for the effectuation of the policies set forth in this Act.

(2) The contracts shall also provide that, notwithstanding any provision in the Public Utilities Act, entities supplied with power and energy from an Agency facility shall supply the power and energy to retail customers at the same price paid to purchase power and energy from the Agency.

(e) Electric utilities shall not be required to purchase electricity directly or indirectly from facilities developed or sponsored by the Agency.

(f) The Agency may sell excess capacity and excess energy into the wholesale electric market at prevailing market rates; provided, however, the Agency may not sell excess capacity or excess energy through the procurement process described in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall not directly sell electric power and energy to retail customers. Nothing in this paragraph shall be construed to prohibit sales to municipal electric systems, governmental aggregators, or rural electric cooperatives.

(Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

CONSTRUCTION OF FACILITIES

(20 ILCS 3855/1-85)

Sec. 1-85. Construction of facilities. The Agency may begin construction of a facility costing the Agency more than $100,000,000 only if the Agency demonstrates each of the following:

(a) After conducting a study, that the construction and operation of the facility is feasible.

(b) That the project does not materially adversely affect overall real property taxes in the taxing jurisdictions where the facility is to be located.

(c) That the Agency has received all required federal, State, and local government licenses, permits, or approval for the facility.

(d) That the Agency has obtained binding written commitments from municipal electric systems, governmental aggregators, or rural electric cooperatives constituting agreements to purchase, in the aggregate, at least 75% of the anticipated output of the facility for a time period long enough to ensure recovery of:

(1) all costs, including interest, amortization charges, and reserve charges, sufficient to retire revenue bonds issued for costs incurred in connection with the development and construction of a facility; and

(2) all operating, capital, administrative, and general expenses for the continued operation of the facility, including fiscal reserves, and any depreciation charges or costs.

(e) That the Agency has a reasonable plan to sell the remaining anticipated output of the facility to municipal electric systems, governmental aggregators, or rural electric cooperatives.

(Source: P.A. 95-481, eff. 8-28-07.)

GENERAL ASSEMBLY APPROVAL

(20 ILCS 3855/1-86)

Sec. 1-86. General Assembly approval. For projects costing the Agency $1,000,000,000 or more, in addition to the provisions of Section 1-85, the General Assembly must adopt a joint resolution of the House of Representatives and the Senate approving the construction of the facility.

(Source: P.A. 95-481, eff. 8-28-07.)

MANAGEMENT AND OPERATING AGREEMENTS

(20 ILCS 3855/1-87)

Sec. 1-87. Management and operating agreements. For projects costing the Agency $1,000,000,000 or more, the Agency shall enter into management and operating agreements for the relevant facility or facilities. Solicitation for any such management and operating agreement shall be pursuant to a request for proposals. The agreements must comply with the Internal Revenue Code and its regulations and shall not jeopardize the tax-exempt status of any bond issued in connection with a project for which the Agency entered into the agreement.

(Source: P.A. 95-481, eff. 8-28-07.)

DISTRIBUTION AND TRANSMISSION FACILITIES

(20 ILCS 3855/1-90)

Sec. 1-90. Distribution and transmission facilities. The Agency shall not own or acquire distribution or transmission facilities except as necessary to connect an Agency facility to an electric transmission or distribution system.

(Source: P.A. 95-481, eff. 8-28-07.)

AGGREGATION OF ELECTRICAL LOAD BY MUNICIPALITIES AND COUNTIES

(20 ILCS 3855/1-92)

Sec. 1-92. Aggregation of electrical load by municipalities and counties.

(a) The corporate authorities of a municipality or county board of a county may adopt an ordinance under which it may aggregate in accordance with this Section residential and small commercial retail electrical loads located, respectively, within the municipality or the unincorporated areas of the county and, for that purpose, may

solicit bids and enter into service agreements to facilitate for those loads the sale and purchase of electricity and related services and equipment.

The corporate authorities or county board may also exercise such authority jointly with any other municipality or county. Two or more municipalities or counties, or a combination of both, may initiate a process jointly to authorize aggregation by a majority vote of each particular municipality or county as required by this Section.

If the corporate authorities or the county board seek to operate the aggregation program as an opt-out program for residential and small commercial retail customers, then prior to the adoption of an ordinance with respect to aggregation of residential and small commercial retail electric loads, the corporate authorities of a municipality or the county board of a county shall submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program for residential and small commercial retail customers.

In addition to the notice and conduct requirements of the general election law, notice of the referendum shall state briefly the purpose of the referendum. The question of whether the corporate authorities or the county board shall adopt an opt-out aggregation program for residential and small commercial retail customers shall be submitted to the electors of the municipality or county board at a regular election and approved by a majority of the electors voting on the question. The corporate authorities or county board must certify to the proper election authority, which must submit the question at an election in accordance with the Election Code.

The election authority must submit the question in substantially the following form:

> Shall the (municipality or county in which the question is being voted upon) have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?

The election authority must record the votes as “Yes” or “No”.

If a majority of the electors voting on the question vote in the affirmative, then the corporate authorities or county board may implement an opt-out aggregation program for residential and small commercial retail customers.

A referendum must pass in each particular municipality or county that is engaged in the aggregation program. If the referendum fails, then the corporate authorities or county board shall operate the aggregation program as an opt-in program for residential and small commercial retail customers.

An ordinance under this Section shall specify whether the aggregation will occur only with the prior consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this Section, however, authorizes the aggregation of electric loads that are served or authorized to be served by an electric cooperative as defined by and pursuant to the Electric Supplier Act or loads served by a municipality that owns and operates its own electric distribution system. No aggregation shall take effect unless approved by a majority of the members of the corporate authority or county board voting upon the ordinance.

A governmental aggregator under this Section is not a public utility or an alternative retail electric supplier.

(b) Upon the applicable requisite authority under this Section, the corporate authorities or the county board, with assistance from the Illinois Power Agency, shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this Section, the corporate authorities or county board shall hold at least 2 public hearings on the plan. Before the first hearing, the corporate authorities or county board shall publish notice of the hearings once a week for 2 consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice

shall summarize the plan and state the date, time, and location of each hearing. Any load aggregation plan established pursuant to this Section shall:

(1) provide for universal access to all applicable residential customers and equitable treatment of applicable residential customers;

(2) describe demand management and energy efficiency services to be provided to each class of customers; and

(3) meet any requirements established by law concerning aggregated service offered pursuant to this Section.

(c) The process for soliciting bids for electricity and other related services and awarding proposed agreements for the purchase of electricity and other related services shall be conducted in the following order:

(1) The corporate authorities or county board may solicit bids for electricity and other related services.

(2) Notwithstanding Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, an electric utility that provides residential and small commercial retail electric service in the aggregate area must, upon request of the corporate authorities or the county board in the aggregate area, submit to the requesting party, in an electronic format, those names and addresses of residential and small commercial retail customers in the aggregate area that are reflected in the electric utility's records at the time of the request. Any corporate authority or county board receiving customer information from an electric utility shall be subject to the limitations on the disclosure of the information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, and an electric utility shall not be held liable for any claims arising out of the provision of information pursuant to this item (2).

(d) If the corporate authorities or county board operate under an opt-in program for residential and small commercial retail customers, then the corporate authorities or county board shall comply with all of the following:

(1) Within 60 days after receiving the bids, the corporate authorities or county board shall allow residential and small commercial retail customers to commit to the terms and conditions of a bid that has been selected by the corporate authorities or county board.

(2) If (A) the corporate authorities or county board award proposed agreements for the purchase of electricity and other related services and (B) an agreement is reached between the corporate authorities or county board for those services, then customers committed to the terms and conditions according to item (1) of this subsection (d) shall be committed to the agreement.

(e) If the corporate authorities or county board operate as an opt-out program for residential and small commercial retail customers, then it shall be the duty of the aggregated entity to fully inform residential and small commercial retail customers in advance that they have the right to opt out of the aggregation program. The disclosure shall prominently state all charges to be made and shall include full disclosure of the cost to obtain service pursuant to Section 16-103 of the Public Utilities Act, how to access it, and the fact that it is available to them without penalty, if they are currently receiving service under that Section. The Illinois Power Agency shall furnish, without charge, to any citizen a list of all supply options available to them in a format that allows comparison of prices and products.

The Illinois Power Agency shall provide assistance to municipalities, counties, or associations working with municipalities to help complete the plan and bidding process.

This Section does not prohibit municipalities or counties from entering into an intergovernmental agreement to aggregate residential and small commercial retail electric loads.
(Source: P.A. 96-176, eff. 1-1-10.)

INSURANCE

(20 ILCS 3855/1-95)

Sec. 1-95. Insurance. Upon the Authority's issuance of revenue bonds for an Agency facility, the Agency shall purchase an insurance policy to cover those construction and operation costs associated with the facility. The policy shall remain in effect for the time period under which the Agency may accrue any liabilities associated with the facility.
(Source: P.A. 95-481, eff. 8-28-07.)

TIMELY PAYMENT TO AGENCY

(20 ILCS 3855/1-100)

Sec. 1-100. Timely payment to Agency. Any party receiving electricity shall make timely payment on all bills rendered by the Agency. Any violation of contractual terms by a party receiving electricity from an Agency facility is grounds for cancellation and termination of the contract.
(Source: P.A. 95-481, eff. 8-28-07.)

DEPOSIT OF REVENUE

(20 ILCS 3855/1-105)

Sec. 1-105. Deposit of revenue. All revenue from contracts described in Section 1-80(d) shall be deposited into the Illinois Power Agency Facilities Fund.
(Source: P.A. 95-481, eff. 8-28-07.)

STATE POLICE REIMBURSEMENT

(20 ILCS 3855/1-110)

Sec. 1-110. State Police reimbursement. The Agency shall reimburse the Department of State Police for any expenses associated with security at facilities from the Illinois Power Agency Facilities Fund.
(Source: P.A. 95-481, eff. 8-28-07.)

REVENUE FROM REAL ESTATE

(20 ILCS 3855/1-115)

Sec. 1-115. Revenue from real estate. All revenue from any sale, conveyance, lease, exchange, transfer, abandonment, or other disposition of real property shall be deposited into the Illinois Power Agency Facilities Fund.
(Source: P.A. 95-481, eff. 8-28-07.)

PROTECTION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

(20 ILCS 3855/1-120)

Sec. 1-120. Protection of confidential and proprietary information. The Agency shall provide adequate protection for confidential and proprietary information furnished, delivered, or filed by any person, corporation, or other entity.
(Source: P.A. 95-481, eff. 8-28-07.)

AGENCY ANNUAL REPORTS

(20 ILCS 3855/1-125)

Sec. 1-125. Agency annual reports. The Agency shall report annually to the Governor and the General Assembly on the operations and transactions of the Agency. The annual report shall include, but not be limited to, each of the following:

(1) The quantity, price, and term of all contracts for electricity procured under the procurement plans for electric utilities.

(2) The quantity, price, and rate impact of all renewable resources purchased under the electricity procurement plans for electric utilities.

(3) The quantity, price, and rate impact of all energy efficiency and demand response measures purchased for electric utilities.

(4) The amount of power and energy produced by each Agency facility.

(5) The quantity of electricity supplied by each Agency facility to municipal electric systems, governmental aggregators, or rural electric cooperatives in Illinois.

(6) The revenues as allocated by the Agency to each facility.

(7) The costs as allocated by the Agency to each facility.

(8) The accumulated depreciation for each facility.

(9) The status of any projects under development.

(10) Basic financial and operating information specifically detailed for the reporting year and including, but not limited to, income and expense statements, balance sheets, and changes in financial position, all in accordance with generally accepted accounting principles, debt structure, and a summary of funds on a cash basis.

(Source: P.A. 95-481, eff. 8-28-07.)

MINORITY, FEMALE, AND DISABLED PERSONS BUSINESSES; REPORTS

(20 ILCS 3855/1-127)

Sec. 1-127. Minority, female, and disabled persons businesses; reports.

(a) The Director of the Illinois Power Agency, or his or her designee, when offering bids for professional services, shall conduct outreach to minority owned businesses, female owned businesses, and businesses owned by persons with disabilities. Outreach shall include, but is not limited to, advertisements in periodicals and newspapers, mailings, and other appropriate media.

(b) The Director or his or her designee shall, upon request, provide technical assistance to minority owned businesses, female owned businesses, and businesses owned by persons with disabilities seeking to do business with the Agency.

(c) The Director or his or her designee, upon request, shall conduct post-bid reviews with minority owned businesses, female owned businesses, and businesses owned by persons with disabilities whose bids were not selected by the Agency. Post-bid reviews shall provide a business with detailed and specific reasons why the bid of that business was rejected and concrete recommendations to improve its bid application on future Agency professional services opportunities.

(d) The Agency shall report annually to the Governor and the General Assembly by July 1. The report shall identify the businesses that have provided bids to offer professional services to the Agency and shall also include, but not be limited to, the following information:

(1) whether or not the businesses are minority owned businesses, female owned businesses, or businesses owned by persons with disabilities;

(2) the percentage of professional service contracts that were awarded to minority owned businesses, female owned businesses, and businesses owned by persons with disabilities as compared to other businesses; and

(3) the actions the Agency has undertaken to increase the use of the minority owned businesses, female owned businesses, and businesses owned by persons with disabilities in professional service contracts.

(e) In this Section, "professional services" means services that use skills that are predominantly mental or intellectual, rather than physical or manual, including, but not limited to, accounting, architecture, consulting, engineering, finance, legal, and marketing. "Professional services" does not include bidders into the competitive procurement process pursuant to Section 16-111.5 of the Public Utilities Act.
(Source: P.A. 95-481, eff. 8-28-07.)

HOME RULE PREEMPTION

(20 ILCS 3855/1-130)

(Section scheduled to be repealed on January 1, 2019)

Sec. 1-130. Home rule preemption.

(a) The authorization to impose any new taxes or fees specifically related to the generation of electricity by, the capacity to generate electricity by, or the emissions into the atmosphere by electric generating facilities after the effective date of this Act is an exclusive power and function of the State. A home rule unit may not levy any new taxes or fees specifically related to the generation of electricity by, the capacity to generate electricity by, or the emissions into the atmosphere by electric generating facilities after the effective date of this Act. This Section is a denial and limitation on home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(b) This Section is repealed on January 1, 2019.
(Source: P.A. 95-481, eff. 8-28-07.)

GENERAL ASSEMBLY OPERATIONS ACT
25 ILCS 10/10

GENERAL ASSEMBLY PRINTING; SESSION LAWS

(25 ILCS 10/10)

Sec. 10. General Assembly printing; session laws.

(a) Authority. Public printing for the use of either House of the General Assembly shall be subject to its control.

(b) Time of delivery. Daily calendars, journals, and other similar printing for which manuscript or copy is delivered to the Legislative Printing Unit by the clerical officer of either House shall be printed so as to permit delivery at any reasonable time required by the clerical officer. Any petition, bill, resolution, joint resolution, memorial, and similar manuscript or copy delivered to the Legislative Printing Unit by the clerical officer of either House shall be printed at any reasonable time required by that officer.

(c) Style. The manner, form, style, size, and arrangement of type used in printing the bills, resolutions, amendments, conference reports, and journals, including daily journals, of the General Assembly shall be as provided in the Rules of the General Assembly.

(d) Daily journal. The Clerk of the House of Representatives and the Secretary of the Senate shall each prepare and deliver to the Legislative Printing Unit, immediately after the close of each daily session, a printer's copy of the daily journal for their respective House.

(e) Daily and bound journals.

(1) Subscriptions. The Legislative Printing Unit shall have printed the number of copies of the daily journal as may be requested by the clerical officer of each House. The Secretary of the Senate and the Clerk of the House of Representatives shall furnish a copy of each daily journal of their respective House to those persons who apply therefor upon payment of a reasonable subscription fee established separately by the Secretary of the Senate and the Clerk of the House for their respective House. Each subscriber shall specify at the time he or she subscribes the address where he or she wishes the journals mailed. The daily journals shall be furnished free of charge on a pickup basis to State offices and to the public as long as the supply lasts. The Secretary of the Senate and the Clerk of the House shall determine the number of journals available for pickup at their respective offices.

(2) Other copies. After the General Assembly adjourns, the Clerk of the House and the Secretary of the Senate shall prepare and deliver to the Legislative Printing Unit a printer's copy of matter for the regular House and Senate journals, together with any matter, not previously printed in the daily journals, that is required by law, by order of either House, or by joint resolution to be printed in the journals. The Legislative Printing Unit shall have printed the number of copies of the bound journal as may be requested by the clerical officer of each House. A reasonable number of bound volumes of the journal of each House of the General Assembly shall be provided to State and local officers, boards, commissions, institutions, departments, agencies, and libraries requesting them through canvasses conducted separately by the Secretary of the Senate and the Clerk of the House. Reasonable fees established separately by the Secretary of the Senate and the Clerk of the House may be charged for bound volumes of the journal of each House of the General Assembly.

(f) Session laws. Immediately after the General Assembly adjourns, the Secretary of State shall prepare a printer's copy for the "Session Laws of Illinois" that shall set forth in full all Acts and joint resolutions passed by the General Assembly at the session just concluded and all executive orders of the Governor taking effect under Article V,

Section 11 of the Constitution and the Executive Reorganization Implementation Act. The printer's copy shall be furnished and delivered to the Secretary of State by the Enrolling and Engrossing Department of the 2 Houses. At the time an enrolled law is filed with the Secretary of State, whether before or after the conclusion of the session in which it was passed, it shall be assigned a Public Act number, the first part of which shall be the number of the General Assembly followed by a dash and then a number showing the order in which that law was filed with the Secretary of State. The title page of each volume of the session laws shall contain the following: "Printed by the authority of the General Assembly of the State of Illinois". The laws shall be arranged by the Secretary of State and printed in the chronological order of Public Act numbers. At the end of each Act the dates when the Act was passed by the General Assembly and when the Act was approved by the Governor shall be stated. Any Act becoming law without the approval of the Governor shall be marked at its end in the session laws by the printed certificate of the Secretary of State. Executive orders taking effect under Article V, Section 11 of the Constitution and the Executive Reorganization Implementation Act shall be printed in chronological order of executive order number and shall state at the end of each executive order the date it was transmitted to the General Assembly and the date it takes effect. In the case of an amendatory Act, the changes made by the amendatory Act shall be indicated in the session laws in the following manner: (i) all new matter shall be underscored; and (ii) all matter deleted by the amendatory Act shall be shown crossed with a line. The Secretary of State shall prepare and furnish a table of contents and an index to each volume of the session laws.

(g) Distribution. The bound volumes of the session laws of the General Assembly shall be made available to the following:

(1) one copy of each to each State officer, board, commission, institution, and department requesting a copy in accordance with a canvass conducted by the Secretary of State before the printing of the session laws except judges of the appellate courts and judges and associate judges of the circuit courts;

(2) 10 copies to the law library of the Supreme Court; one copy each to the law libraries of the appellate courts; and one copy to each of the county law libraries or, in those counties without county law libraries, one copy to the clerk of the circuit court;

(3) one copy of each to each county clerk;

(4) 10 copies of each to the library of the University of Illinois;

(5) 3 copies of each to the libraries of the University of Illinois at Chicago, Southern Illinois University at Carbondale, Southern Illinois University at Edwardsville, Northern Illinois University, Western Illinois University, Eastern Illinois University, Illinois State University, Chicago State University, Northeastern Illinois University, Chicago Kent College of Law, DePaul University, John Marshall Law School, Loyola University, Northwestern University, Roosevelt University, and the University of Chicago;

(6) a number of copies sufficient for exchange purposes to the Legislative Reference Bureau and the University of Illinois College of Law Library;

(7) a number of copies sufficient for public libraries in the State to the State Library; and

(8) the remainder shall be retained for distribution as the interests of the State may require to persons making application in writing or in person for the publication.

(h) Messages and reports. The following shall be printed in a quantity not to exceed the maximum stated in this subsection and bound and distributed at public expense:

(1) messages to the General Assembly by the Governor, 10,000 copies;
(2) the biennial report of the Lieutenant Governor, 1,000 copies;
(3) the biennial report of the Secretary of State, 3,000 copies;
(4) the biennial report of the State Comptroller, 5,000 copies;
(5) the biennial report of the State Treasurer, 3,000 copies;
(6) the annual report of the State Board of Education, 6,000 copies; and
(7) the biennial report and annual opinions of the Attorney General, 5,000 copies.

The reports of all other State officers, boards, commissions, institutions, and departments shall be printed, bound, and distributed at public expense in a number of copies determined from previous experience not to exceed the probable and reasonable demands of the State therefor. Any other report required by law to be made to the Governor shall, upon his or her order, be printed in the quantity ordered by the Governor, bound and distributed at public expense.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

GENERAL ASSEMBLY COMPENSATION ACT
25 ILCS 115/4

OFFICE ALLOWANCE

(25 ILCS 115/4) (from Ch. 63, par. 15.1)

(Text of Section before amendment by P.A. 96-886)

Sec. 4. Office allowance. Beginning July 1, 2001, each member of the House of Representatives is authorized to approve the expenditure of not more than $61,000 per year and each member of the Senate is authorized to approve the expenditure of not more than $73,000 per year to pay for "personal services", "contractual services", "commodities", "printing", "travel", "operation of automotive equipment", "telecommunications services", as defined in the State Finance Act, and the compensation of one or more legislative assistants authorized pursuant to this Section, in connection with his or her legislative duties and not in connection with any political campaign. On July 1, 2002 and on July 1 of each year thereafter, the amount authorized per year under this Section for each member of the Senate and each member of the House of Representatives shall be increased by a percentage increase equivalent to the lesser of (i) the increase in the designated cost of living index or (ii) 5%. The designated cost of living index is the index known as the "Employment Cost Index, Wages and Salaries, By Occupation and Industry Groups: State and Local Government Workers: Public Administration" as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year immediately preceding the year of the respective July 1st increase date. The increase shall be added to the then current amount, and the adjusted amount so determined shall be the annual amount beginning July 1 of the increase year until July 1 of the next year. No increase under this provision shall be less than zero.

A member may purchase office equipment if the member certifies to the Secretary of the Senate or the Clerk of the House, as applicable, that the purchase price, whether paid in lump sum or installments, amounts to less than would be charged for renting or leasing the equipment over its anticipated useful life. All such equipment must be purchased through the Secretary of the Senate or the Clerk of the House, as applicable, for proper identification and verification of purchase.

Each member of the General Assembly is authorized to employ one or more legislative assistants, who shall be solely under the direction and control of that member, for the purpose of assisting the member in the performance of his or her official duties. A legislative assistant may be employed pursuant to this Section as a full-time employee, part-time employee, or contractual employee, at the discretion of the member. If employed as a State employee, a legislative assistant shall receive employment benefits on the same terms and conditions that apply to other employees of the General Assembly. Each member shall adopt and implement personnel policies for legislative assistants under his or her direction and control relating to work time requirements, documentation for reimbursement for travel on official State business, compensation, and the earning and accrual of State benefits for those legislative assistants who may be eligible to receive those benefits. The policies shall also require legislative assistants to periodically submit time sheets documenting, in quarter-hour increments, the time spent each day on official State business. The policies shall require the time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years. Contractual employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. A member may satisfy the requirements of this paragraph by adopting and

implementing the personnel policies promulgated by that member's legislative leader under the State Officials and Employees Ethics Act with respect to that member's legislative assistants.

As used in this Section the term "personal services" shall include contributions of the State under the Federal Insurance Contribution Act and under Article 14 of the Illinois Pension Code. As used in this Section the term "contractual services" shall not include improvements to real property unless those improvements are the obligation of the lessee under the lease agreement. Beginning July 1, 1989, as used in the Section, the term "travel" shall be limited to travel in connection with a member's legislative duties and not in connection with any political campaign. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, as used in this Section, the term "printing" includes, but is not limited to, newsletters, brochures, certificates, congratulatory mailings, greeting or welcome messages, anniversary or birthday cards, and congratulations for prominent achievement cards. As used in this Section, the term "printing" includes fees for non-substantive resolutions charged by the Clerk of the House of Representatives under subsection (c-5) of Section 1 of the Legislative Materials Act. No newsletter or brochure that is paid for, in whole or in part, with funds provided under this Section may be printed or mailed during a period beginning December 15 of the year preceding a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. Nothing in this Section shall be construed to authorize expenditures for lodging and meals while a member is in attendance at sessions of the General Assembly.

Any utility bill for service provided to a member's district office for a period including portions of consecutive fiscal years may be paid from funds appropriated for such expenditure in either fiscal year.

If a vacancy occurs in the office of Senator or Representative in the General Assembly, any office equipment in the possession of the vacating member shall transfer to the member's successor; if the successor does not want such equipment, it shall be transferred to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and if not wanted by other members of the General Assembly then to the Department of Central Management Services for treatment as surplus property under the State Property Control Act. Each member, on or before June 30th of each year, shall conduct an inventory of all equipment purchased pursuant to this Act. Such inventory shall be filed with the Secretary of the Senate or the Clerk of the House, as the case may be. Whenever a vacancy occurs, the Secretary of the Senate or the Clerk of the House, as the case may be, shall conduct an inventory of equipment purchased.

In the event that a member leaves office during his or her term, any unexpended or unobligated portion of the allowance granted under this Section shall lapse. The vacating member's successor shall be granted an allowance in an amount, rounded to the nearest dollar, computed by dividing the annual allowance by 365 and multiplying the quotient by the number of days remaining in the fiscal year.

From any appropriation for the purposes of this Section for a fiscal year which overlaps 2 General Assemblies, no more than 1/2 of the annual allowance per member may be spent or encumbered by any member of either the outgoing or incoming General Assembly, except that any member of the incoming General Assembly who was a member of the outgoing General Assembly may encumber or spend any portion of his annual allowance within the fiscal year.

The appropriation for the annual allowances permitted by this Section shall be included in an appropriation to the President of the Senate and to the Speaker of the House of Representatives for their respective members. The President of the Senate and the Speaker of the House shall voucher for payment individual members' expenditures from their annual office allowances to the State Comptroller, subject to the authority of the Comptroller under Section 9 of the State Comptroller Act.

Nothing in this Section prohibits the expenditure of personal funds or the funds of a political committee controlled by an officeholder to defray the customary and reasonable expenses of an officeholder in connection with the performance of governmental and public service functions.

(Source: P.A. 95-6, eff. 6-20-07; 96-555, eff. 8-18-09.)

(Text of Section after amendment by P.A. 96-886)

Sec. 4. Office allowance. Beginning July 1, 2001, each member of the House of Representatives is authorized to approve the expenditure of not more than $61,000 per year and each member of the Senate is authorized to approve the expenditure of not more than $73,000 per year to pay for "personal services", "contractual services", "commodities", "printing", "travel", "operation of automotive equipment", "telecommunications services", as defined in the State Finance Act, and the compensation of one or more legislative assistants authorized pursuant to this Section, in connection with his or her legislative duties and not in connection with any political campaign. On July 1, 2002 and on July 1 of each year thereafter, the amount authorized per year under this Section for each member of the Senate and each member of the House of Representatives shall be increased by a percentage increase equivalent to the lesser of (i) the increase in the designated cost of living index or (ii) 5%. The designated cost of living index is the index known as the "Employment Cost Index, Wages and Salaries, By Occupation and Industry Groups: State and Local Government Workers: Public Administration" as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year immediately preceding the year of the respective July 1st increase date. The increase shall be added to the then current amount, and the adjusted amount so determined shall be the annual amount beginning July 1 of the increase year until July 1 of the next year. No increase under this provision shall be less than zero.

A member may purchase office equipment if the member certifies to the Secretary of the Senate or the Clerk of the House, as applicable, that the purchase price, whether paid in lump sum or installments, amounts to less than would be charged for renting or leasing the equipment over its anticipated useful life. All such equipment must be purchased through the Secretary of the Senate or the Clerk of the House, as applicable, for proper identification and verification of purchase.

Each member of the General Assembly is authorized to employ one or more legislative assistants, who shall be solely under the direction and control of that member, for the purpose of assisting the member in the performance of his or her official duties. A legislative assistant may be employed pursuant to this Section as a full-time employee, part-time employee, or contractual employee, at the discretion of the member. If employed as a State employee, a legislative assistant shall receive employment benefits on the same terms and conditions that apply to other employees of the General Assembly. Each member shall adopt and implement personnel policies for legislative assistants under his or her direction and control relating to work time requirements, documentation for reimbursement for travel on official State business, compensation, and the earning and accrual of State benefits for those legislative assistants who may be eligible to receive those benefits. The policies shall also require

legislative assistants to periodically submit time sheets documenting, in quarter-hour increments, the time spent each day on official State business. The policies shall require the time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years. Contractual employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. A member may satisfy the requirements of this paragraph by adopting and implementing the personnel policies promulgated by that member's legislative leader under the State Officials and Employees Ethics Act with respect to that member's legislative assistants.

As used in this Section the term "personal services" shall include contributions of the State under the Federal Insurance Contribution Act and under Article 14 of the Illinois Pension Code. As used in this Section the term "contractual services" shall not include improvements to real property unless those improvements are the obligation of the lessee under the lease agreement. Beginning July 1, 1989, as used in the Section, the term "travel" shall be limited to travel in connection with a member's legislative duties and not in connection with any political campaign. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, as used in this Section, the term "printing" includes, but is not limited to, newsletters, brochures, certificates, congratulatory mailings, greeting or welcome messages, anniversary or birthday cards, and congratulations for prominent achievement cards. As used in this Section, the term "printing" includes fees for non-substantive resolutions charged by the Clerk of the House of Representatives under subsection (c-5) of Section 1 of the Legislative Materials Act. No newsletter or brochure that is paid for, in whole or in part, with funds provided under this Section may be printed or mailed during a period beginning February 1 of the year of a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. Nothing in this Section shall be construed to authorize expenditures for lodging and meals while a member is in attendance at sessions of the General Assembly.

Any utility bill for service provided to a member's district office for a period including portions of consecutive fiscal years may be paid from funds appropriated for such expenditure in either fiscal year.

If a vacancy occurs in the office of Senator or Representative in the General Assembly, any office equipment in the possession of the vacating member shall transfer to the member's successor; if the successor does not want such equipment, it shall be transferred to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and if not wanted by other members of the General Assembly then to the Department of Central Management Services for treatment as surplus property under the State Property Control Act. Each member, on or before June 30th of each year, shall conduct an inventory of all equipment purchased pursuant to this Act. Such inventory shall be filed with the Secretary of the Senate or the Clerk of the House, as the case may be. Whenever a vacancy occurs, the Secretary of the Senate or the Clerk of the House, as the case may be, shall conduct an inventory of equipment purchased.

In the event that a member leaves office during his or her term, any unexpended or unobligated portion of the allowance granted under this Section shall lapse. The vacating member's successor shall be granted an allowance in an amount, rounded to the nearest dollar, computed by dividing the annual allowance by 365 and multiplying the quotient by the number of days remaining in the fiscal year.

From any appropriation for the purposes of this Section for a fiscal year which overlaps 2 General Assemblies, no more than 1/2 of the annual allowance per member may be spent or encumbered by any member of either the outgoing or incoming General Assembly, except that any member of the incoming General Assembly who was a member of the outgoing General Assembly may encumber or spend any portion of his annual allowance within the fiscal year.

The appropriation for the annual allowances permitted by this Section shall be included in an appropriation to the President of the Senate and to the Speaker of the House of Representatives for their respective members. The President of the Senate and the Speaker of the House shall voucher for payment individual members' expenditures from their annual office allowances to the State Comptroller, subject to the authority of the Comptroller under Section 9 of the State Comptroller Act.

Nothing in this Section prohibits the expenditure of personal funds or the funds of a political committee controlled by an officeholder to defray the customary and reasonable expenses of an officeholder in connection with the performance of governmental and public service functions.

(Source: P.A. 95-6, eff. 6-20-07; 96-555, eff. 8-18-09; 96-886, eff. 1-1-11.)

ILLINOIS PROCUREMENT CODE
30 ILCS 500/

ARTICLE 1
GENERAL PROVISIONS

SHORT TITLE

(30 ILCS 500/1-1)

Sec. 1-1. Short title. This Act may be cited as the Illinois Procurement Code.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PUBLIC POLICY

(30 ILCS 500/1-5)

Sec. 1-5. Public policy. It is the purpose of this Code and is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts by or for any State agency.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

APPLICATION

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) Procurement expenditures by the Illinois Health Information Exchange Authority involving private funds from the Health Information Exchange Fund. "Private funds" means gifts, donations, and private grants.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10.)

DEFINITIONS

(30 ILCS 500/1-15)

Sec. 1-15. Definitions. For the purposes of this Code, the words set forth in the following Sections of this Article have the meanings set forth in those Sections.

(Source: P.A. 90-572, eff. 2-6-98.)

REPEALED

(30 ILCS 500/1-15.03)

Sec. 1-15.03. (Repealed).

(Source: P.A. 90-572, eff. 2-6-98. Repealed by P.A. 96-795, eff. 7-1-10.)

BOARD

(30 ILCS 500/1-15.05)

Sec. 1-15.05. Board. "Board" means the Procurement Policy Board.

(Source: P.A. 90-572, eff. 2-6-98.)

BUSINESS

(30 ILCS 500/1-15.10)

Sec. 1-15.10. Business. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

(Source: P.A. 90-572, eff. 2-6-98.)

CHIEF PROCUREMENT OFFICER

(30 ILCS 500/1-15.15)

Sec. 1-15.15. Chief Procurement Officer. "Chief Procurement Officer" means any of the 4 persons appointed or approved by a majority of the members of the Executive Ethics Commission:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any construction or construction-related service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, the independent chief procurement officer appointed by the Secretary of Transportation with the consent of the majority of the members of the Executive Ethics Commission.

(3) for all procurements made by a public institution of higher education, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

(4) (Blank).

(5) for all other procurements, the independent chief procurement officer appointed by a majority of the members of the Executive Ethics Commission.

(Source: P.A. 95-481, eff. 8-28-07; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10.)

CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES

(30 ILCS 500/1-15.20)

Sec. 1-15.20. Construction and construction-related services. "Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Construction-related services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction.

(Source: P.A. 90-572, eff. 2-6-98.)

CONSTRUCTION AGENCY

(30 ILCS 500/1-15.25)

Sec. 1-15.25. Construction agency. "Construction agency" means the Capital Development Board for construction or remodeling of State-owned facilities; the Illinois Department of Transportation for construction or maintenance of roads, highways, bridges, and airports; the Illinois Toll Highway Authority for construction or maintenance of toll highways; the Illinois Power Agency for construction, maintenance, and expansion of Agency-owned facilities, as defined in Section 1-10 of the Illinois Power Agency Act; and any other State agency entering into construction contracts as authorized by law or by delegation from the chief procurement officer.

(Source: P.A. 95-481, eff. 8-28-07.)

CONTRACT

(30 ILCS 500/1-15.30)

Sec. 1-15.30. Contract. "Contract" means all types of State agreements, including change orders and renewals, regardless of what they may be called, for the procurement, use, or disposal of supplies, services, professional or artistic services, or construction or for leases of real property, whether the State is lessor or lessee, or capital improvements, and including master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders.

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

COST-REIMBURSEMENT CONTRACT

(30 ILCS 500/1-15.35)

Sec. 1-15.35. Cost-reimbursement contract. "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this Code, and a fee, if any.

(Source: P.A. 90-572, eff. 2-6-98.)

GRANT

(30 ILCS 500/1-15.42)

Sec. 1-15.42. Grant. "Grant" means the furnishing by the State of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award the primary purpose of which is to procure an end product for the direct benefit or use of the State agency making the grant, whether in the form of goods, services, or construction. A contract that results from such an award is not a grant and is subject to this Code.

(Source: P.A. 90-572, eff. 2-6-98.)

INVITATION FOR BIDS

(30 ILCS 500/1-15.45)

Sec. 1-15.45. Invitation for bids. "Invitation for bids" means the process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

(Source: P.A. 90-572, eff. 2-6-98.)

NEGOTIATION

(30 ILCS 500/1-15.50)

Sec. 1-15.50. Negotiation. "Negotiation" means the process of selecting a contractor other than by competitive sealed bids, multi-step sealed bidding, or competitive sealed proposals, whereby a purchasing agency can establish any and all terms and conditions of a procurement contract by discussion with one or more prospective contractors.

(Source: P.A. 90-572, eff. 2-6-98.)

PERSON

(30 ILCS 500/1-15.55)

Sec. 1-15.55. Person. "Person" means any business, public or private corporation, partnership, individual, union, committee, club, unincorporated association or other organization or group of individuals, or other legal entity.

(Source: P.A. 90-572, eff. 2-6-98.)

PROFESSIONAL AND ARTISTIC SERVICES

(30 ILCS 500/1-15.60)

Sec. 1-15.60. Professional and artistic services. "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.

(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASE DESCRIPTION

(30 ILCS 500/1-15.65)

Sec. 1-15.65. Purchase description. "Purchase description" means the words used in a solicitation to describe the supplies, services, professional or artistic services, or construction to be procured or real property or capital improvements to be leased and includes specifications attached to or made a part of the solicitation.
(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASE OF CARE

(30 ILCS 500/1-15.68)

Sec. 1-15.68. Purchase of care. "Purchase of care" means a contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitative, social, or human services directly to a recipient of a State aid program.
(Source: P.A. 90-572, eff. 2-6-98.)

PURCHASING AGENCY

(30 ILCS 500/1-15.70)

Sec. 1-15.70. Purchasing agency. "Purchasing agency" means a State agency that enters into a contract at the direction of a State purchasing officer authorized by a chief procurement officer or a chief procurement officer.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

REQUEST FOR PROPOSALS

(30 ILCS 500/1-15.75)

Sec. 1-15.75. Request for proposals. "Request for proposals" means the process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.
(Source: P.A. 90-572, eff. 2-6-98.)

RESPONSIBLE BIDDER OR OFFEROR

(30 ILCS 500/1-15.80)

Sec. 1-15.80. Responsible bidder or offeror. "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time a bid or proposal is submitted for a State contract.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

RESPONSIVE BIDDERS

(30 ILCS 500/1-15.85)

Sec. 1-15.85. Responsive bidder. "Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation for bids.
(Source: P.A. 90-572, eff. 2-6-98.)

SERVICES

(30 ILCS 500/1-15.90)

Sec. 1-15.90. Services. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.
(Source: P.A. 90-572, eff. 2-6-98.)

SPECIFICATIONS

(30 ILCS 500/1-15.95)

Sec. 1-15.95. Specifications. "Specifications" means any description, provision, or requirement pertaining to the physical or functional characteristics or of the nature of a supply, service, or other item to be procured under a contract. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, professional or artistic service, construction, or other item for delivery.
(Source: P.A. 90-572, eff. 2-6-98.)

STATE AGENCY

(30 ILCS 500/1-15.100)

Sec. 1-15.100. State agency. "State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the constitution or statute, of the executive branch of State government and does include colleges, universities, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor State University, Northeastern Illinois University, and the Board of Higher Education. However, this term does not apply to public employee retirement systems or investment boards that are subject to fiduciary duties imposed by the Illinois Pension Code or to the University of Illinois Foundation. "State agency" does not include units of local government, school districts, community colleges under the Public Community College Act, and the Illinois Comprehensive Health Insurance Board.
(Source: P.A. 90-572, eff. 2-6-98.)

STATE PURCHASING OFFICER

(30 ILCS 500/1-15.105)

Sec. 1-15.105. State purchasing officer. "State purchasing officer" means a person appointed by any of the chief procurement officers to exercise the procurement authority created by this Code or by rule.
(Source: P.A. 90-572, eff. 2-6-98.)

SUBCONTRACT

(30 ILCS 500/1-15.107)

Sec. 1-15.107. Subcontract. "Subcontract" means a contract between a person and a person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor or another subcontractor some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795).)

SUBCONTRACTOR

(30 ILCS 500/1-15.108)

Sec. 1-15.108. Subcontractor. "Subcontractor" means a person or entity that enters into a contractual agreement with a total value of $25,000 or more with a person or entity who has or is seeking a contract subject to this Code pursuant to which the person or entity provides some or all of the goods, services, property, remuneration, or other forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.
(Source: P.A. 96-920, eff. 7-1-10.)

SUPPLIES

(30 ILCS 500/1-15.110)

Sec. 1-15.110. Supplies. “Supplies” means all personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.

(Source: P.A. 90-572, eff. 2-6-98.)

USING AGENCY

(30 ILCS 500/1-15.115)

Sec. 1-15.115. Using agency. “Using agency” means a State agency that uses items procured under this Code.

(Source: P.A. 90-572, eff. 2-6-98.)

PROPERTY RIGHTS

(30 ILCS 500/1-25)

Sec. 1-25. Property rights. No person shall have any right to a specific contract with the State unless that person has a contract that has been signed by an officer or employee of the purchasing agency with appropriate signature authority. The State shall be under no obligation to issue an award or execute a contract.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

APPLICABILITY TO CONSTITUTIONAL OFFICERS AND THE LEGISLATIVE AND JUDICIAL BRANCHES

(30 ILCS 500/1-30)

Sec. 1-30. Applicability to Constitutional Officers and the Legislative and Judicial Branches.

(a) The constitutional officers shall procure their needs in a manner substantially in accordance with the requirements of this Code and shall promulgate rules no less restrictive than the requirements of this Code.

(b) The legislative and judicial branches are exempt from this Code. The legislative and judicial branches shall make procurements in accordance with rules promulgated to meet their needs. Procurement rules promulgated by the legislative and judicial branches may incorporate provisions of this Code.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

ARTICLE 5
POLICY ORGANIZATION

PROCUREMENT POLICY BOARD

(30 ILCS 500/5-5)

Sec. 5-5. Procurement Policy Board.

(a) Creation. There is created a Procurement Policy Board, an agency of the State of Illinois.

(b) Authority and duties. The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with this Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional or artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to chief procurement officers and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.

Upon a three-fifths vote of its members, the Board may review a contract. Upon a three-fifths vote of its members, the Board may propose procurement rules for consideration by chief procurement officers. These proposals shall be published in each volume of the Procurement Bulletin. Except as otherwise provided by law, the Board shall act upon the vote of a majority of its members who have been appointed and are serving.

(b-5) Reviews, studies, and hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of this Code. Each chief procurement officer, State purchasing officer, procurement compliance monitor, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.

(c) Members. The Board shall consist of 5 members appointed one each by the 4 legislative leaders and the Governor. Each member shall have demonstrated sufficient business or professional experience in the area of procurement to perform the functions of the Board. No member may be a member of the General Assembly.

(d) Terms. Of the initial appointees, the Governor shall designate one member, as Chairman, to serve a one-year term, the President of the Senate and the Speaker of the House shall each appoint one member to serve 3-year terms, and the Minority Leader of the House and the Minority Leader of the Senate shall each appoint one member to serve 2-year terms. Subsequent terms shall be 4 years. Members may be reappointed for succeeding terms.

(e) Reimbursement. Members shall receive no compensation but shall be reimbursed for any expenses reasonably incurred in the performance of their duties.

(f) Staff support. Upon a three-fifths vote of its members, the Board may employ an executive director. Subject to appropriation, the Board also may employ a reasonable and necessary number of staff persons.

(g) Meetings. Meetings of the Board may be conducted telephonically, electronically, or through the use of other telecommunications. Written minutes of such meetings shall be created and available for public inspection and copying.

(h) Procurement recommendations. Upon a three-fifths vote of its members, the Board may review a proposal, bid, or contract and issue a recommendation to void a contract or reject a proposal or bid based on any violation of this Code or the existence of a conflict of interest as described in subsections (b) and (d) of Section 50-35. A chief procurement officer or State purchasing officer shall notify the Board if a conflict of interest is identified, discovered, or reasonably suspected to exist. Any person or entity may notify the Board of a conflict of interest. A recommendation of the Board shall be delivered to the appropriate chief procurement officer and Executive Ethics Commission within 5 days and must be published in the next volume of the Procurement Bulletin.

(i) The Board shall refer any alleged violations of this Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.

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

INTERESTS OF BOARD MEMBERS

(30 ILCS 500/5-23)

Sec. 5-23. Interests of Board members. Members of the Procurement Policy Board employed by or holding an interest in an entity doing business with or attempting to do business with the State of Illinois do not, by their service on the Board, preclude that entity from doing business with or attempting to do business with the State.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

RULEMAKING AUTHORITY; AGENCY POLICY; AGENCY RESPONSE

(30 ILCS 500/5-25)

Sec. 5-25. Rulemaking authority; agency policy; agency response.

(a) Rulemaking. A chief procurement officer authorized to make procurements under this Code shall have the authority to promulgate rules to carry out that authority. That rulemaking on specific procurement topics is mentioned in specific Sections of this Code shall not be construed as prohibiting or limiting rulemaking on other procurement topics.

All rules shall be promulgated in accordance with the Illinois Administrative Procedure Act. Contractual provisions, specifications, and procurement descriptions are not rules and are not subject to the Illinois Administrative Procedure Act. All rules other than those promulgated by the Board shall be presented in writing to the Board and the Executive Procurement Officer for review and comment. The Board and the Executive Procurement Officer shall express their opinions and recommendations in writing. The proposed rules and recommendations shall be made available for public review. The rules shall also be approved by the Joint Committee on Administrative Rules.

(b) Policy. Each chief procurement officer shall promptly notify the Procurement Policy Board in writing of any proposed new procurement rule or policy or any proposed change in an existing procurement rule or policy.

(c) Response. Each State agency must respond promptly in writing to all inquiries and comments of the Procurement Policy Board or Executive Procurement Officer.

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

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/5-30)

Sec. 5-30. Proposed contracts; Procurement Policy Board.

(a) Except as provided in subsection (c), within 30 days after notice of the awarding or letting of a contract has appeared in the Procurement Bulletin in accordance with subsection (b) of Section 15-25, the Board may request in writing from the contracting agency and the contracting agency shall promptly, but in no event later than 5 business days after receipt of the request, provide to the Board, by electronic or other means satisfactory to the Board, documentation in the possession of the contracting agency concerning the proposed contract. Nothing in this subsection is intended to waive or abrogate any privilege or right of confidentiality authorized by law.

(b) No contract subject to this Section may be entered into until the 30-day period described in subsection (a) has expired, unless the contracting agency requests in writing that the Board waive the period and the Board grants the waiver in writing.

(c) This Section does not apply to (i) contracts entered into under this Code for small and emergency procurements as those procurements are defined in Article 20 and (ii) contracts for professional and artistic services that are nonrenewable, one year or less in duration, and have a value of less than $20,000. If requested in writing by the Board, however, the contracting agency must promptly, but in no event later than 8 business days after receipt of the request, transmit to the Board a copy of the contract for an emergency procurement and documentation in the possession of the contracting agency concerning the contract.

(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 10
APPOINTMENTS

EXERCISE OF PROCUREMENT AUTHORITY

(30 ILCS 500/10-5)

Sec. 10-5. Exercise of procurement authority. The chief procurement officer shall exercise all procurement authority created by this Code. The State purchasing officers appointed under this Code shall exercise procurement authority at the direction of their respective chief procurement officer. Decisions of a State purchasing officer are subject to review by the respective chief procurement officer.

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

INDEPENDENT STATE PURCHASING OFFICERS

(30 ILCS 500/10-10)

Sec. 10-10. Independent State purchasing officers.

(a) The chief procurement officer shall appoint a State purchasing officer for each agency that the chief procurement officer is responsible for under Section 1-15.15. A State purchasing officer shall be located in the State agency that the officer serves but shall report to his or her respective chief procurement officer. The State purchasing officer shall have direct communication with agency staff assigned to assist with any procurement process. At the direction of his or her respective chief procurement officer, a State purchasing officer shall enter into contracts for a purchasing agency. All actions of a State purchasing officer are subject to review by a chief procurement officer in accordance with procedures and policies established by the chief procurement officer.

(b) In addition to any other requirement or qualification required by State law, within 18 months after appointment, a State purchasing officer must be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council. A State purchasing officer shall serve a term of 5 years beginning on the date of the officer's appointment. A State purchasing officer shall have an office located in the State agency that the officer serves but shall report to the chief procurement officer. A State purchasing officer may be removed by a chief procurement officer for cause after a hearing by the Executive Ethics Commission. The chief procurement officer or executive officer of the State agency housing the State purchasing officer may institute a complaint against the State purchasing officer by filing such a complaint with the Commission and the Commission shall have a public hearing based on the complaint. The State purchasing officer, chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a non-binding recommendation on whether the State purchasing officer shall be removed. The salary of a State purchasing officer shall be established by the chief procurement officer and may not be diminished during the officer's term. In the absence of an appointed State purchasing officer, the applicable chief procurement officer shall exercise the procurement authority created by this Code and may appoint a temporary acting State purchasing officer.

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

PROCUREMENT COMPLIANCE MONITORS

(30 ILCS 500/10-15)

Sec. 10-15. Procurement compliance monitors.

(a) The Executive Ethics Commission shall appoint procurement compliance

monitors to oversee and review the procurement processes. Each procurement compliance monitor shall serve a term of 5 years beginning on the date of the officer's appointment. Each procurement compliance monitor shall have an office located in the State agency that the monitor serves but shall report to the appropriate chief procurement officer. The compliance monitor shall have direct communications with the executive officer of a State agency in exercising duties. A procurement compliance monitor may be removed only for cause after a hearing by the Executive Ethics Commission. The appropriate chief procurement officer or executive officer of the State agency housing the procurement compliance monitor may institute a complaint against the procurement compliance monitor with the Commission and the Commission shall hold a public hearing based on the complaint. The procurement compliance monitor, State purchasing officer, appropriate chief procurement officer, and executive officer of the State agency shall receive notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall determine whether the procurement compliance monitor shall be removed. The salary of a procurement compliance monitor shall be established by the Executive Ethics Commission and may not be diminished during the officer's term.

(b) The procurement compliance monitor may: (i) review each contract or contract amendment prior to execution to ensure that applicable procurement and contracting standards were followed; (ii) attend any procurement meetings; (iii) access any records or files related to procurement; (iv) issue reports to the chief procurement officer on procurement issues that present issues or that have not been corrected after consultation with appropriate State officials; (v) ensure the State agency is maintaining appropriate records; and (vi) ensure transparency of the procurement process.

(c) If the procurement compliance monitor is aware of misconduct, waste, or inefficiency with respect to State procurement, the procurement compliance monitor shall advise the State agency of the issue. If the State agency does not correct the issue, the monitor shall report the problem to the chief procurement officer and Inspector General.

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

INDEPENDENT CHIEF PROCUREMENT OFFICERS

(30 ILCS 500/10-20)

Sec. 10-20. Independent chief procurement officers.

(a) Appointment. Within 60 days after the effective date of this amendatory Act of the 96th General Assembly, the Executive Ethics Commission, with the advice and consent of the Senate shall appoint or approve 4 chief procurement officers, one for each of the following categories:

(1) for procurements for construction and construction-related services committed by law to the jurisdiction or responsibility of the Capital Development Board;

(2) for procurements for all construction, construction-related services, operation of any facility, and the provision of any service or activity committed by law to the jurisdiction or responsibility of the Illinois Department of Transportation, including the direct or reimbursable expenditure of all federal funds for which the Department of Transportation is responsible or accountable for the use thereof in accordance with federal law, regulation, or procedure, the chief procurement officer recommended for approval under this item appointed by the Secretary of Transportation after consent by the Executive Ethics Commission;

(3) for all procurements made by a public institution of higher education; and

(4) for all other procurement needs of State agencies.

A chief procurement officer shall be responsible to the Executive Ethics Commission but must be located within the agency that the officer provides with procurement services. The chief procurement officer for higher education shall have an office located within the Board of Higher Education, unless otherwise designated by the Executive Ethics Commission. The chief procurement officer for all other procurement needs of the State shall have an office located within the Department of Central Management Services, unless otherwise designated by the Executive Ethics Commission.

(b) Terms and independence. Each chief procurement officer appointed under this Section shall serve for a term of 5 years beginning on the date of the officer's appointment. The chief procurement officer may be removed for cause after a hearing by the Executive Ethics Commission. The Governor or the director of a State agency directly responsible to the Governor may institute a complaint against the officer by filing such complaint with the Commission. The Commission shall have a hearing based on the complaint. The officer and the complainant shall receive reasonable notice of the hearing and shall be permitted to present their respective arguments on the complaint. After the hearing, the Commission shall make a finding on the complaint and may take disciplinary action, including but not limited to removal of the officer.

The salary of a chief procurement officer shall be established by the Executive Ethics Commission and may not be diminished during the officer's term. The salary may not exceed the salary of the director of a State agency for which the officer serves as chief procurement officer.

(c) Qualifications. In addition to any other requirement or qualification required by State law, each chief procurement officer must within 12 months of employment be a Certified Professional Public Buyer or a Certified Public Purchasing Officer, pursuant to certification by the Universal Public Purchasing Certification Council, and must reside in Illinois.

(d) Fiduciary duty. Each chief procurement officer owes a fiduciary duty to the State.

(e) Vacancy. In case of a vacancy in one or more of the offices of a chief procurement officer under this Section during the recess of the Senate, the Executive Ethics Commission shall make a temporary appointment until the next meeting of the Senate, when the Executive Ethics Commission shall nominate some person to fill the office, and any person so nominated who is confirmed by the Senate shall hold office during the remainder of the term and until his or her successor is appointed and qualified. If the Senate is not in session at the time this amendatory Act of the 96th General Assembly takes effect, the Executive Ethics Commission shall make a temporary appointment as in the case of a vacancy.

(f) Acting chief procurement officers. Prior to August 31, 2010, the Executive Ethics Commission may, until an initial chief procurement officer is appointed and qualified, designate some person as an acting chief procurement officer to execute the powers and discharge the duties vested by law in that chief procurement officer. An acting chief procurement officer shall serve no later than the appointment of the initial chief procurement officer pursuant to subsection (a) of this Section. Nothing in this subsection shall prohibit the Executive Ethics Commission from appointing an acting chief procurement officer as a chief procurement officer.

(g) Transition schedule. Notwithstanding any other provision of this Act or this amendatory Act of the 96th General Assembly, the chief procurement officers on the effective date of Public Act 96-793 shall continue to serve as chief procurement officers until August 31, 2010 and shall retain their powers and duties pertaining to procurements, provided the chief procurement officer appointed or approved by the Executive Ethics Commission shall approve any rules promulgated to implement this

Code or the provisions of this amendatory Act of the 96th General Assembly. The chief procurement officers appointed or approved by the Executive Ethics Commission shall assume the position of chief procurement officer upon appointment and work in collaboration with the current chief procurement officer and staff. On September 1, 2010, the chief procurement officers appointed by the Executive Ethics Commission shall assume the powers and duties of the chief procurement officers.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

EXECUTIVE PROCUREMENT OFFICER

(30 ILCS 500/10-25)

(Section scheduled to be repealed on January 10, 2011)

Sec. 10-25. Executive Procurement Officer. There is hereby created, under the supervision of the Office of the Governor, an Executive Procurement Office, headed by an Executive Procurement Officer, who shall be appointed by the Governor. The Executive Procurement Officer shall have the following powers and duties:

(1) To recommend policies and procedures to ensure consistency between the chief procurement officers and their staffs, provided that each chief procurement officer shall have final and exclusive authority over particular procurement decisions.

(2) To assist chief procurement officers in the development of and revision of policies that decisions on procurement related matters remain free from political or other inappropriate extrinsic influence.

(3) To provide guidance to all chief procurement officers and their staffs on how to ensure that all State procurement is conducted in a manner that is appropriately responsive to and sensitive to the needs of vendors and the business community in general through the development of technologically sophisticated, efficient, and innovative methodologies for managing procurement processes.

(4) Respecting the authority of the chief procurement officers over procurement in their respective areas, to assist with the implementation of policies mandated through statute or executive order that promote diversity among State contractors, including, but not limited to, the implementation of the Business Enterprise and Disadvantaged Business Enterprise Program.

The Executive Procurement Officer's compensation shall be established by the Governor and paid from appropriations made to the Office of the Governor.

This Section is repealed the second Monday of January 2011.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795).)

ARTICLE 15
PROCUREMENT INFORMATION

PUBLISHER

(30 ILCS 500/15-1)

Sec. 15-1. Publisher. The Department of Central Management Services is the State agency responsible for publishing its volumes of the Illinois Procurement Bulletin. The Capital Development Board is responsible for publishing its volumes of the Illinois Procurement Bulletin. The Department of Transportation is responsible for publishing its volumes of the Illinois Procurement Bulletin. The higher education chief procurement officer is responsible for publishing the higher education volumes of the Illinois Procurement Bulletin. The Illinois Power Agency is the State agency responsible for publishing its volumes of the Illinois Procurement Bulletin.

Each volume of the Illinois Procurement Bulletin shall be available electronically and may be available in print. References in this Code to the publication and distribution of the Illinois Procurement Bulletin include both its print and electronic formats.
(Source: P.A. 95-481, eff. 8-28-07.)

CONTENTS

(30 ILCS 500/15-10)

Sec. 15-10. Contents. The Illinois Procurement Bulletin shall contain notices and other information required by this Code or by rules promulgated under this Code to be published in the Illinois Procurement Bulletin. Each volume shall include a comprehensive index of its contents.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PUBLICATION

(30 ILCS 500/15-15)

Sec. 15-15. Publication. All volumes of the Illinois Procurement Bulletin shall be published at least once per month. Any volume, including volumes available in print format, shall be available through subscription for a minimal fee not exceeding publication and distribution costs. The Illinois Procurement Bulletin shall be distributed free to public libraries within Illinois and electronically to any entity that has subscribed on the publishing entity's website.
(Source: P.A. 96-1444, eff. 8-20-10.)

QUALIFIED BIDDERS

(30 ILCS 500/15-20)

Sec. 15-20. Qualified bidders. Subscription to the Illinois Procurement Bulletin shall not be required to qualify as a bidder or offeror under this Code.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

BULLETIN CONTENT

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin, and all businesses listed on the Department of Transportation Disadvantaged Business Enterprise Directory, the Department of Central Management Services Business Enterprise Program and Small Business Vendors Directory, and the Capital Development Board's Directory of Certified Minority and Female Business Enterprises shall be furnished written instructions and information on how to register on each Procurement Bulletin maintained by the State. Such information shall be provided to each business within 30 days after the business' notice of certification. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to prospective vendors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, persons with disabilities, and residents discharged from any Illinois adult correctional center.

(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders

or offerors submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling the time for filing a bid protest up to 5 business days. The apparent low bidder's award and all other bids from bidders responding to solicitations shall be posted on the agency's website the next business day.

(b-5) Contracts awarded. Notice of each and every contract that is awarded, including renegotiated contracts and change orders, shall be issued electronically to the successful responsible bidder or offeror, posted on the agency's website the next business day, and published in the next available subsequent Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder or offeror, the contract price, the number of unsuccessful responsive bidders, and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

(c) Emergency purchase disclosure. Any chief procurement officer or State purchasing officer exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the next timely, practicable Bulletin. This notice must be posted in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of a hearing to extend an emergency contract must be posted in the online electronic Procurement Bulletin no later than 5 business days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, females, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Females, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act within 10 business days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the online electronic Bulletin within 10 business days of the determination to renew the contract and the next available subsequent Bulletin. The notice shall include at least all of the information required in subsection (b).

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by this amendatory Act of the 96th General Assembly apply to reports submitted, offers made, and notices on contracts executed on or after its effective date.

(f) The Department of Central Management Services, the Capital Development Board, the Department of Transportation, and the higher education chief procurement officer shall provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of this amendatory Act of the 96th General Assembly.

(Source: P.A. 95-536, eff. 1-1-08; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-1444, eff. 8-20-10.)

ELECTRONIC BULLETIN CLEARINGHOUSE

(30 ILCS 500/15-30)

Sec. 15-30. Electronic Bulletin clearinghouse.

(a) The Procurement Policy Board shall maintain on its official website a searchable database containing all information required to be included in the Illinois Procurement Bulletin under subsections (b), (c), (c-10), and (c-15) of Section 15-25 and all information required to be disclosed under Section 50-41. The posting of procurement information on the website is subject to the same posting requirements as the online electronic Bulletin.

(b) For the purposes of this Section, searchable means searchable and sortable by successful responsible bidder or offeror or, for emergency purchases, business or person contracted with; the contract price or total cost; the service or good; the purchasing State agency; and the date first offered or announced.

(c) The chief procurement officer shall provide the Procurement Policy Board the information and resources necessary, and in a manner, to effectuate the purpose of this Section.

(Source: P.A. 95-536, eff. 1-1-08; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

ARTICLE 20
SOURCE SELECTION AND CONTRACT FORMATION

METHOD OF SOURCE SELECTION

(30 ILCS 500/20-5)

Sec. 20-5. Method of source selection. Unless otherwise authorized by law, all State contracts shall be awarded by competitive sealed bidding, in accordance with Section 20-10, except as provided in Sections 20-15, 20-20, 20-25, 20-30, 20-35, 30-15, and 40-20.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

COMPETITIVE SEALED BIDDING; REVERSE AUCTION

(30 ILCS 500/20-10)

(Text of Section from P.A. 96-159 and 96-588)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated

based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the Director of Central Management Services as chief procurement officer, a State purchasing officer under that chief procurement officer's jurisdiction may procure supplies or services through a competitive electronic auction bidding process after the purchasing officer explains in writing to the chief procurement officer his or her determination that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, including but not limited to telecommunications services, communications services, Internet services, and information services, and (ii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-588, eff. 8-18-09; revised 10-5-10.)

(Text of Section from P.A. 96-159 and 96-795)

Sec. 20-10. Competitive sealed bidding; reverse auction.

(a) Conditions for use. All contracts shall be awarded by competitive sealed bidding except as otherwise provided in Section 20-5.

(b) Invitation for bids. An invitation for bids shall be issued and shall include a purchase description and the material contractual terms and conditions applicable to the procurement.

(c) Public notice. Public notice of the invitation for bids shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of bids.

(d) Bid opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each bidder, the amount of each bid, and other relevant information as may be specified by rule shall be recorded. After the award of the contract, the winning bid and the record of each unsuccessful bid shall be open to public inspection.

(e) Bid acceptance and bid evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award, such as discounts, transportation costs, and total or life cycle costs, shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(f) Correction or withdrawal of bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards of contracts based on bid mistakes, shall be permitted in accordance with rules. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids based on bid mistakes shall be supported by written determination made by a State purchasing officer.

(g) Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except when a State purchasing officer determines it is not in the best interest of the State and by written explanation determines another bidder shall receive the award. The explanation shall appear in the appropriate volume of the Illinois Procurement Bulletin. The written explanation must include:

(1) a description of the agency's needs;

(2) a determination that the anticipated cost will be fair and reasonable;

(3) a listing of all responsible and responsive bidders; and

(4) the name of the bidder selected, pricing, and the reasons for selecting that bidder.

Each chief procurement officer may adopt guidelines to implement the requirements of this subsection (g).

The written explanation shall be filed with the Legislative Audit Commission and the Procurement Policy Board and be made available for inspection by the public within 30 days after the agency's decision to award the contract.

(h) Multi-step sealed bidding. When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(i) Alternative procedures. Notwithstanding any other provision of this Act to the contrary, the Director of the Illinois Power Agency may create alternative bidding procedures to be used in procuring professional services under Section 1-75(a) of the Illinois Power Agency Act and Section 16-111.5(c) of the Public Utilities Act and to procure renewable energy resources under Section 1-56 of the Illinois Power Agency Act. These alternative procedures shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

(j) Reverse auction. Notwithstanding any other provision of this Section and in accordance with rules adopted by the chief procurement officer, that chief procurement officer may procure supplies or services through a competitive electronic auction bidding process after the chief procurement officer determines that the use of such a process will be in the best interest of the State. The chief procurement officer shall publish that determination in his or her next volume of the Illinois Procurement Bulletin.

An invitation for bids shall be issued and shall include (i) a procurement description, (ii) all contractual terms, whenever practical, and (iii) conditions applicable to the procurement, including a notice that bids will be received in an electronic auction manner.

Public notice of the invitation for bids shall be given in the same manner as provided in subsection (c).

Bids shall be accepted electronically at the time and in the manner designated in the invitation for bids. During the auction, a bidder's price shall be disclosed to other bidders. Bidders shall have the opportunity to reduce their bid prices during the auction. At the conclusion of the auction, the record of the bid prices received and the name of each bidder shall be open to public inspection.

After the auction period has terminated, withdrawal of bids shall be permitted as provided in subsection (f).

The contract shall be awarded within 60 days after the auction by written notice to the lowest responsible bidder, or all bids shall be rejected except as otherwise provided in this Code. Extensions of the date for the award may be made by mutual written consent of the State purchasing officer and the lowest responsible bidder.

This subsection does not apply to (i) procurements of professional and artistic services, (ii) telecommunications services, communication services, and information services, and (iii) contracts for construction projects.

(Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); revised 10-5-10.)

COMPETITIVE SEALED PROPOSALS

(30 ILCS 500/20-15)

Sec. 20-15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first, covering items except price; and the second, covering price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.

(f) Discussion with responsible offerors and revisions of proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SMALL PURCHASES

(30 ILCS 500/20-20)

Sec. 20-20. Small purchases.

(a) Amount. Any individual procurement of supplies or services other than professional or artistic services, not exceeding $10,000 and any procurement of construction not exceeding $30,000 may be made without competitive sealed bidding. Procurements shall not be artificially divided so as to constitute a small purchase under this Section.

(b) Adjustment. Each July 1, the small purchase maximum established in subsection (a) shall be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest $100.

(c) Based upon rules proposed by the Board and rules promulgated by the chief procurement officers, the small purchase maximum established in subsection (a) may

be modified.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SOLE SOURCE PROCUREMENTS

(30 ILCS 500/20-25)

Sec. 20-25. Sole source procurements.

(a) In accordance with standards set by rule, contracts may be awarded without use of the specified method of source selection when there is only one economically feasible source for the item. A State contract may not be awarded as a sole source procurement unless approved by the chief procurement officer following a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. The Procurement Policy Board and the public may present testimony.

(b) This Section may not be used as a basis for amending a contract for professional or artistic services if the amendment would result in an increase in the amount paid under the contract of more than 5% of the initial award, or would extend the contract term beyond the time reasonably needed for a competitive procurement, not to exceed 2 months.

(c) Notice of intent to enter into a sole source contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing required in subsection (a). The notice shall include the sole source procurement justification form prescribed by the Board, a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin.

(d) By August 1 each year, each chief procurement officer shall file a report with the General Assembly identifying each contract the officer sought under the sole source procurement method and providing the justification given for seeking sole source as the procurement method for each of those contracts.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10.)

EMERGENCY PURCHASES

(30 ILCS 500/20-30)

Sec. 20-30. Emergency purchases.

(a) Conditions for use. In accordance with standards set by rule, a purchasing agency may make emergency procurements without competitive sealed bidding or prior notice when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however, that the term of the emergency purchase shall be limited to the time reasonably needed for a competitive procurement, not to exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony. Emergency procurements shall be made with as much competition as is practicable under the circumstances. A written description of the basis for the emergency and reasons for the selection of the particular contractor shall be included in the contract file.

(b) Notice. Notice of all emergency procurements shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing. Notice shall include at least a description of the need for the emergency purchase, the contractor, and if applicable, the date, time, and location of the public hearing. A copy of this notice and all documents provided at the hearing shall be included in the subsequent Procurement Bulletin. Before the next appropriate volume of the Illinois Procurement Bulletin, the purchasing agency shall publish in the Illinois Procurement Bulletin a copy of each written description and reasons and the total cost of each emergency procurement made during the previous month. When only an estimate of the total cost is known at the time of publication, the estimate shall be identified as an estimate and published. When the actual total cost is determined, it shall also be published in like manner before the 10th day of the next succeeding month.

(c) Affidavits. A chief procurement officer making a procurement under this Section shall file affidavits with the Procurement Policy Board and the Auditor General within 10 days after the procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available within 10 days after the procurement, the actual cost shall be reported immediately after it is determined. At the end of each fiscal quarter, the Auditor General shall file with the Legislative Audit Commission and the Governor a complete listing of all emergency procurements reported during that fiscal quarter. The Legislative Audit Commission shall review the emergency procurements so reported and, in its annual reports, advise the General Assembly of procurements that appear to constitute an abuse of this Section.

(d) Quick purchases. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make purchases under this Section, including but not limited to the procurement of items available at a discount for a limited period of time.

(e) The changes to this Section made by this amendatory Act of the 96th General Assembly apply to procurements executed on or after its effective date.

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

COMPETITIVE SELECTION PROCEDURES

(30 ILCS 500/20-35)

Sec. 20-35. Competitive selection procedures.

(a) Conditions for use. The services specified in Article 35 shall be procured in accordance with this Section, except as authorized under Sections 20-25 and 20-30 of this Article.

(b) Statement of qualifications. Potential contractors shall submit statements of qualifications and expressions of interest. The chief procurement officer shall specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

(c) Public announcement and form of request for proposals. Public notice of the need for the procurement shall be given in the form of a request for proposals and published in the Illinois Procurement Bulletin at least 14 days before the date set in the request for proposals for the opening of proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(d) Discussions. The purchasing agency may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(e) Award. Award shall be made to the offeror determined in writing by the purchasing agency to be best qualified based on the evaluation factors set forth in the request for proposals and negotiation of compensation determined to be fair and reasonable.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

(30 ILCS 500/20-40)

Sec. 20-40. Cancellation of invitations for bids or requests for proposals. An invitation for bids, a request for proposals, or any other solicitation may be cancelled without penalty, or any and all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the State in accordance with rules. The reasons for cancellation or rejection shall be made part of the contract file.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

BIDDER OR OFFEROR AUTHORIZED TO DO BUSINESS IN ILLINOIS

(30 ILCS 500/20-43)

Sec. 20-43. Bidder or offeror authorized to do business in Illinois. In addition to meeting any other requirement of law or rule, a person (other than an individual acting as a sole proprietor) may qualify as a bidder or offeror under this Code only if the person is a legal entity authorized to do business in Illinois prior to submitting the bid, offer, or proposal.

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

PREQUALIFICATION OF SUPPLIERS

(30 ILCS 500/20-45)

Sec. 20-45. Prequalification of suppliers. The chief procurement officer shall promulgate rules for the development of prequalified supplier lists for appropriate categories of purchases and the annual updating of those lists.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SPECIFICATIONS

(30 ILCS 500/20-50)

Sec. 20-50. Specifications. Specifications shall be prepared in accordance with consistent standards that are promulgated by the chief procurement officer and reviewed by the Board and the Joint Committee on Administrative Rules. Those standards shall include a prohibition against the use of brand-name only products, except for products intended for retail sale or as specified by rule. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive.

A solicitation or specification for a contract or a contract, including a contract but not limited to of a college, university, or institution under the jurisdiction of a governing board listed in Section 1-15.100, may not require, stipulate, suggest, or encourage a monetary or other financial contribution or donation, cash bonus or incentive, or economic investment as an explicit or implied term or condition for awarding or completing the contract. The contract, solicitation, or specification also may not include

a requirement that an individual or individuals employed by such a college, university, or institution receive a consulting contract for professional services.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

TYPES OF CONTRACTS

(30 ILCS 500/20-55)

Sec. 20-55. Types of contracts. Subject to the limitations of this Section and unless otherwise authorized by law, any type of contract that will promote the best interests of the State may be used, except that cost-plus-a-percentage-of-cost contracts are prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that a cost-reimbursement contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the item required except under that type of contract. The general form of contracts shall be determined by the chief procurement officer.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

DURATION OF CONTRACTS

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract, other than a contract entered into pursuant to the State University Certificates of Participation Act, may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds $249,999. The Procurement Policy Board may object to the proposed extension or renewal within 30 calendar days and require a hearing before the Board prior to entering into the extension or renewal. If the Procurement Policy Board does not object within 30 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1-10(b) of this Code. If any State agency contract is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board shall file a report with the General Assembly identifying for the previous fiscal year (i) the proposed extensions or renewals that were

filed with the Board and whether the Board objected and (ii) the contracts exempt from this subsection.
(Source: P.A. 95-344, eff. 8-21-07; 96-15, eff. 6-22-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10; 96-1478, eff. 8-23-10.)

RIGHT TO AUDIT RECORDS

(30 ILCS 500/20-65)

Sec. 20-65. Right to audit records.

(a) Maintenance of books and records. Every contract and subcontract shall require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records shall be maintained by the contractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. However, the 3-year period shall be extended for the duration of any audit in progress at the time of that period's expiration.

(b) Audit. Every contract and subcontract shall provide that all books and records required to be maintained under subsection (a) shall be available for review and audit by the Auditor General, chief procurement officer, internal auditor, and the purchasing agency. Every contract and subcontract shall require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

(c) Failure to maintain books and records. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

FINALITY OF DETERMINATIONS

(30 ILCS 500/20-70)

Sec. 20-70. Finality of determinations. Except as otherwise provided in this Code, determinations made by a chief procurement officer, State purchasing officer, or a purchasing agency under this Code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

DISPUTES AND PROTESTS

(30 ILCS 500/20-75)

Sec. 20-75. Disputes and protests. The chief procurement officers shall by rule establish procedures to be followed in resolving protested solicitations and awards and contract controversies, for debarment or suspension of contractors, and for resolving other procurement-related disputes.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

CONTRACT FILES

(30 ILCS 500/20-80)

Sec. 20-80. Contract files. (a) Written determinations. All written determinations required under this Article shall be placed in the contract file maintained by the chief procurement officer.

(b) Filing with Comptroller. Whenever a grant, defined pursuant to accounting standards established by the Comptroller, or a contract liability, except for: (1) contracts paid from personal services, or (2) contracts between the State and its employees to defer compensation in accordance with Article 24 of the Illinois Pension Code, exceeding $10,000 is incurred by any State agency, a copy of the contract, purchase order, grant, or lease shall be filed with the Comptroller within 15 days thereafter. For each State contract for goods, supplies, or services awarded on or after July 1, 2010, the contracting agency shall provide the applicable rate and unit of measurement of the goods, supplies, or services on the contract obligation document as required by the Comptroller. If the contract obligation document that is submitted to the Comptroller contains the rate and unit of measurement of the goods, supplies, or services, the Comptroller shall provide that information on his or her official website. Any cancellation or modification to any such contract liability shall be filed with the Comptroller within 15 days of its execution.

(c) Late filing affidavit. When a contract, purchase order, grant, or lease required to be filed by this Section has not been filed within 30 days of execution, the Comptroller shall refuse to issue a warrant for payment thereunder until the agency files with the Comptroller the contract, purchase order, grant, or lease and an affidavit, signed by the chief executive officer of the agency or his or her designee, setting forth an explanation of why the contract liability was not filed within 30 days of execution. A copy of this affidavit shall be filed with the Auditor General.

(d) Timely execution of contracts. No voucher shall be submitted to the Comptroller for a warrant to be drawn for the payment of money from the State treasury or from other funds held by the State Treasurer on account of any contract unless the contract is reduced to writing before the services are performed and filed with the Comptroller. Vendors shall not be paid for any goods that were received or services that were rendered before the contract was reduced to writing and signed by all necessary parties. A chief procurement officer may request an exception to this subsection by submitting a written statement to the Comptroller and Treasurer setting forth the circumstances and reasons why the contract could not be reduced to writing before the supplies were received or services were performed. A waiver of this subsection must be approved by the Comptroller and Treasurer. This Section shall not apply to emergency purchases if notice of the emergency purchase is filed with the Procurement Policy Board and published in the Bulletin as required by this Code.

(e) Method of source selection. When a contract is filed with the Comptroller under this Section, the Comptroller's file shall identify the method of source selection used in obtaining the contract.

(Source: P.A. 96-794, eff. 1-1-10; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

FEDERAL REQUIREMENTS

(30 ILCS 500/20-85)

Sec. 20-85. Federal requirements. A State agency receiving federal-aid funds, grants, or loans shall have authority to adopt its procedures, rules, project statements, drawings, maps, surveys, plans, specifications, contract terms, estimates, bid forms, bond forms, and other documents or practices to comply with the regulations, policies, and procedures of the designated authority, administration, or department of the United States, in order to remain eligible for such federal-aid funds, grants, or loans.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

FOREIGN COUNTRY PROCUREMENTS

(30 ILCS 500/20-90)

Sec. 20-90. Foreign country procurements. Procurements to meet the needs of State offices located in foreign countries shall comply with the provisions of this Code to the extent practical.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

DONATIONS

(30 ILCS 500/20-95)

Sec. 20-95. Donations. Nothing in this Code or in the rules promulgated under this Code shall prevent any State agency from complying with the terms and conditions of any grant, gift, or bequest that calls for the procurement of a particular good or service or the use of a particular contractor, provided that the grant, gift, or bequest provides majority funding for the contract.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

STATE AGENCY PRINTING

(30 ILCS 500/20-105)

Sec. 20-105. State agency printing. All books, pamphlets, documents, and reports published through or by the State of Illinois or any State agency, board, or commission shall have printed thereon "Printed by authority of the State of Illinois", the date of each publication, the number of copies printed, and the printing order number. Each using agency shall be responsible for ascertaining the compliance of printing materials procured by or for it with this Section. No printing or reproduction contract shall be let and no printing or reproduction shall be accomplished when that wording does not appear on the material to be printed or reproduced. No publication may have written, stamped, or printed on it, or attached to it, "Compliments of ..... (naming a person)" or any words of similar import.

This Section does not apply to the printing by a public institution of higher education of material not paid for in any portion from funds appropriated by the General Assembly, printing that is performed by a university unit, or printing that is performed in conjunction with contracts referenced in subsection (b)(1) of Section 1-10.

(Source: P.A. 95-75, eff. 8-13-07.)

PRINTING COST OFFSETS

(30 ILCS 500/20-110)

Sec. 20-110. Printing cost offsets. The chief procurement officer may promulgate rules permitting the exchange of advertising rights in or receipt of free copies of printed products procured under this Article as a means of reducing printing costs. The rules shall specify the appropriate method of source selection to be used to competitively acquire printing cost offsets.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SUBCONTRACTORS

(30 ILCS 500/20-120)

Sec. 20-120. Subcontractors.

(a) Any contract granted under this Code shall state whether the services of a subcontractor will or may be used. The contract shall include the names and addresses of all known subcontractors with subcontracts with an annual value of more than $25,000 and the expected amount of money each will receive under the contract. For procurements subject to the authority of the chief procurement officer appointed pursuant to subsection (a)(2) of Section 10-20, the contract shall include only the

names and addresses of all known subcontractors of the primary contractor with subcontracts with an annual value of more than $25,000. The contractor shall provide the chief procurement officer or State purchasing officer a copy of any subcontract with an annual value of more than $25,000 so identified within 20 days after the execution of the State contract or after execution of the subcontract, whichever is later. A subcontractor, or contractor on behalf of a subcontractor, may identify information that is deemed proprietary or confidential. If the chief procurement officer determines the information is not relevant to the primary contract, the chief procurement officer may excuse the inclusion of the information. If the chief procurement officer determines the information is proprietary or could harm the business interest of the subcontractor, the chief procurement officer may, in his or her discretion, redact the information. Redacted information shall not become part of the public record.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer, State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced subcontractor will receive. The contractor shall provide to the responsible chief procurement officer a copy of the subcontract within 20 days after the execution of the subcontract.

(c) In addition to any other requirements of this Code, a subcontract subject to this Section must include all of the subcontractor's certifications required by Article 50 of the Code.

(d) This Section applies to procurements solicited on or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/20-150)

Sec. 20-150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.

(Source: P.A. 93-839, eff. 7-30-04.)

SOLICITATION AND CONTRACT DOCUMENTS

(30 ILCS 500/20-155)

Sec. 20-155. Solicitation and contract documents.

(a) After award of a contract and subject to provisions of the Freedom of Information Act, the procuring agency shall make available for public inspection and copying all pre-award, post-award, administration, and close-out documents relating to that particular contract.

(b) A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids and proposals, all evaluation materials, score sheets and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement file shall contain a written determination, signed by the chief procurement officer or State purchasing officer, setting forth the reasoning for the contract award decision. The procurement file shall be open to public inspection within 7 business days following award of the contract.

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

BUSINESS ENTITIES; CERTIFICATION; REGISTRATION WITH THE STATE BOARD OF ELECTIONS

(30 ILCS 500/20-160)

(Text of Section from P.A. 96-795)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid submitted to and every contract executed by the State on or after the effective date of this amendatory Act of the 95th General Assembly shall contain (1) a certification by the bidder or contractor that either (i) the bidder or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's or contractor's failure to comply with this Section.

(c) Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, each business entity (i) whose aggregate bids and proposals on State contracts annually total more than $50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than $50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection shall submit a copy of the certificate of registration to the applicable chief procurement officer within 90 days after the effective date of this amendatory Act of the 95th General Assembly. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier. A business entity required to register under this subsection due to item (iii) has a continuing duty to report any changes in information to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day.

(d) Any business entity, not required under subsection (c) to register within 30 days after the effective date of this amendatory Act of the 95th General Assembly, whose aggregate bids and proposals on State contracts annually total more than $50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than $50,000 must maintain its registration under this Section and

has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. Any change in information shall be reported to the State Board of Elections on the final day of January, April, July, and October of each year, or the first business day after such dates, if such dates do not fall on a business day. If a business entity required to register under this subsection has a pending bid or proposal, any change in information shall be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) A copy of a certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register under this Section. A chief procurement officer shall not accept a bid or proposal unless the certificate is submitted to the agency with the bid or proposal.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, proposal, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.

(Source: P.A. 95-971, eff. 1-1-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

(Text of Section from P.A. 96-848)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid submitted to and every contract executed by the State on or after January 1, 2009 (the effective date of Public Act 95-971) shall contain (1) a certification by the bidder or contractor that either (i) the bidder or contractor is not required to register as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's or contractor's failure to comply with this Section.

(c) Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, each business entity (i) whose aggregate bids and proposals on State contracts annually total more than $50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than $50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection shall submit a copy of the certificate of registration to the applicable chief procurement officer within 90 days after the effective

date of this amendatory Act of the 95th General Assembly. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections within 2 business days following such change. A business entity required to register under this subsection due to item (iii) has a continuing duty to ensure that the registration is accurate in accordance with subsection (e).

(d) Any business entity, not required under subsection (c) to register within 30 days after the effective date of this amendatory Act of the 95th General Assembly, whose aggregate bids and proposals on State contracts annually total more than $50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than $50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. A business entity, required to register under this subsection, has a continuing duty to report any changes on a quarterly basis to the State Board of Elections within 10 business days following the last day of January, April, July, and October of each year. Any update pursuant to this paragraph that is received beyond that date is presumed late and the civil penalty authorized by subsection (e) of Section 9-35 of the Election Code (10 ILCS 5/9-35) may be assessed.

Also, if a business entity required to register under this subsection has a pending bid or proposal, any change in information shall be reported to the State Board of Elections within 5 business days or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) A copy of a certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register under this Section. A chief procurement officer shall not accept a bid or proposal unless the certificate is submitted to the agency with the bid or proposal.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, proposal, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract.
(Source: P.A. 95-971, eff. 1-1-09; 96-848, eff. 1-1-10.)

ARTICLE 25
SUPPLIES AND SERVICES
(EXCLUDING PROFESSIONAL OR ARTISTIC)

APPLICABILITY

(30 ILCS 500/25-5)

Sec. 25-5. Applicability. All contracts for supplies and services, excluding professional or artistic services, shall be procured in accordance with the provisions of this Article.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/25-10)

Sec. 25-10. Authority. State purchasing officers shall have the authority to procure supplies and services, except as that authority may be limited by the chief procurement officer.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/25-15)

Sec. 25-15. Method of source selection.

(a) Competitive sealed bidding. Except as provided in subsection (b) and Sections 20-20, 20-25, and 20-30, all State contracts for supplies and services shall be awarded by competitive sealed bidding in accordance with Section 20-10.

(b) Other methods. The chief procurement officer may establish by rule (i) categories of purchases, including non-governmental joint purchases, that may be made without competitive sealed bidding and (ii) the most competitive alternate method of source selection that shall be used for each category of purchase.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

MORE FAVORABLE TERMS

(30 ILCS 500/25-30)

Sec. 25-30. More favorable terms. A supply or service contract may include, if determined by a State purchasing officer to be in the best interests of the State, a clause requiring that if more favorable terms are granted by the contractor to any similar state or local governmental agency in any state in a contemporaneous agreement let under the same or similar financial terms and circumstances for comparable supplies or services, the more favorable terms shall be applicable under the contract.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PURCHASE OF COAL AND POSTAGE STAMPS

(30 ILCS 500/25-35)

Sec. 25-35. Purchase of coal and postage stamps.

(a) Delivery of necessary supplies. To avoid interruption or impediment of delivery of necessary supplies, commodities, and coal, State purchasing officers may make purchases of or contracts for supplies and commodities after April 30 of a fiscal year when delivery of the supplies and commodities is to be made after June 30 of that fiscal year and payment for which is to be made from appropriations for the next fiscal year.

(b) Postage. All postage stamps purchased from State funds must be perforated for identification purposes. A General Assembly member may furnish the U.S. Post Office with a warrant so as to allow for the creation or continuation of a bulk rate mailing fund in the name of the General Assembly member or may furnish a postage meter company or post office with a warrant so as to facilitate the purchase of a postage meter and its stamps. Any postage meter so purchased must also contain a stamp that shall state "Official State Mail".
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

ENERGY CONSERVATION PROGRAM

(30 ILCS 500/25-45)

Sec. 25-45. Energy conservation program. State purchasing officers may enter into energy conservation program contracts that provide for utility cost savings. The chief procurement officer shall promulgate and adopt rules for the implementation of this Section. (Source: P.A. 90-572, eff. date -See Sec. 99-5.)

ANNUAL REPORTS

(30 ILCS 500/25-55)

Sec. 25-55. Annual reports. Every printed annual report produced by a State agency shall bear a statement indicating whether it was printed by the State of Illinois or by contract and indicating the printing cost per copy and the number of copies printed. The Department of Central Management Services shall prepare and submit to the General Assembly on the fourth Wednesday of January in each year a report setting forth with respect to each State agency for the calendar year immediately preceding the calendar year in which the report is filed the total quantity of annual reports printed, the total cost, and the cost per copy and the cost per page of the annual report of the State agency printed during the calendar year covered by the report.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PREVAILING WAGE REQUIREMENTS

(30 ILCS 500/25-60)

Sec. 25-60. Prevailing wage requirements.

(a) All services furnished under service contracts of $2,000 or more or $200 or more per month and under printing contracts shall be subject to the following prevailing wage requirements:

(1) Not less than the general prevailing wage rate of hourly wages for work of a similar character in the locality in which the work is produced shall be paid by the successful vendor to its employees who perform the work on the State contracts. The bidder or offeror, in order to be considered to be a responsible bidder or offeror for the purposes of this Code, shall certify to the purchasing agency that wages to be paid to its employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the contract is to be performed. Prevailing wages and working conditions shall be determined by the Director of the Illinois Department of Labor.

(2) Whenever a collective bargaining agreement is in effect between an employer, other than a governmental body, and service or printing employees as defined in this Section who are represented by a responsible organization that is in no way influenced or controlled by the management, that agreement and its provisions shall be considered as conditions prevalent in that locality and shall be the minimum requirements taken into consideration by the Director of Labor.

(b) As used in this Section, "services" means janitorial cleaning services, window cleaning services, building and grounds services, site technician services, natural

resources services, food services, and security services. "Printing" means and includes all processes and operations involved in printing, including but not limited to letterpress, offset, and gravure processes, the multilith method, photographic or other duplicating process, the operations of composition, platemaking, presswork, and binding, and the end products of those processes, methods, and operations. As used in this Code "printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or printed matter that is commonly available to the general public from contractor inventory.

(c) The terms "general prevailing rate of hourly wages", "general prevailing rate of wages", or "prevailing rate of wages" when used in this Section mean the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations, and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character.

(d) "Locality" shall have the meaning established by rule.

(e) This Section does not apply to services furnished under contracts for professional or artistic services.

(f) This Section does not apply to vocational programs of training for physically or mentally handicapped persons or to sheltered workshops for the severely disabled.
(Source: P.A. 93-370, eff. 1-1-04.)

CONTRACTS PERFORMED OUTSIDE THE UNITED STATES

(30 ILCS 500/25-65)

Sec. 25-65. Contracts performed outside the United States. Prior to contracting or as a requirement of solicitation of any State contracts for services as defined in Section 1-15.90, whichever is appropriate, prospective vendors shall disclose in a statement of work where services will be performed under that contract, including any subcontracts, and whether any services under that contract, including any subcontracts, are anticipated to be performed outside the United States.

In awarding the contract or evaluating the bid or offer, the chief procurement officer may consider such disclosure and the economic impact to the State of Illinois and its residents.

If the chief procurement officer awards a contract to a vendor based upon disclosure that work will be performed in the United States and during the term of the contract the contractor or a subcontractor proceeds to shift work outside of the United States, the contractor shall be deemed in breach of contract, unless the chief procurement officer shall have first determined in writing that circumstances require the shift of work or that termination of the contract would not be in the State's best interest.

Nothing in this Section is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

The Department of Central Management Services shall prepare and deliver to the General Assembly, no later than September 1, 2007, a report on the impact of outsourcing services on the State's cost of procurement that identifies those contracts where it was disclosed that services were provided outside of the United States and a description and value of those services.
(Source: P.A. 93-1081, eff. 6-1-05.)

ELECTRONIC MAIL SERVICE; SPAM FREE

(30 ILCS 500/25-70)

Sec. 25-70. Electronic mail service; spam free. Electronic mail service providers that provide electronic mail service under State contracts awarded on or after the effective date of this amendatory Act of the 94th General Assembly must take measures reasonably designed to provide a service that is free of unsolicited electronic mail

advertisements (sometimes known as “spam”). The electronic mail service provider is responsible for using software filters or other means to accomplish the requirements of this Section. In this Section, the terms “electronic mail service provider” and “unsolicited electronic mail advertisement” have the same meanings as those terms are defined in the Electronic Mail Act (815 ILCS 511/).
(Source: P.A. 94-413, eff. 1-1-06.)

PURCHASE OF MOTOR VEHICLES

(30 ILCS 500/25-75)

Sec. 25-75. Purchase of motor vehicles.

(a) Beginning on the effective date of this amendatory Act of the 94th General Assembly, all gasoline-powered vehicles purchased from State funds must be flexible fuel vehicles. Beginning July 1, 2007, all gasoline-powered vehicles purchased from State funds must be flexible fuel or fuel efficient hybrid vehicles. For purposes of this Section, “flexible fuel vehicles” are automobiles or light trucks that operate on either gasoline or E-85 (85% ethanol, 15% gasoline) fuel and “Fuel efficient hybrid vehicles” are automobiles or light trucks that use a gasoline or diesel engine and an electric motor to provide power and gain at least a 20% increase in combined US-EPA city-highway fuel economy over the equivalent or most-similar conventionally-powered model.

(b) On and after the effective date of this amendatory Act of the 94th General Assembly, any vehicle purchased from State funds that is fueled by diesel fuel shall be certified by the manufacturer to run on 5% biodiesel (B5) fuel.

(c) The Chief Procurement Officer may determine that certain vehicle procurements are exempt from this Section based on intended use or other reasonable considerations such as health and safety of Illinois citizens.
(Source: P.A. 94-1079, eff. 6-1-07.)

SUCCESSOR VENDOR

(30 ILCS 500/25-80)

Sec. 25-80. Successor vendor. All service contracts shall include a clause requiring the bidder or offeror, in order to be considered a responsible bidder or offeror for the purposes of this Code, to certify to the purchasing agency (i) that it shall offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer, and (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit performing substantially similar work that will be performed by the successor vendor.

This Section does not apply to heating and air conditioning service contracts, plumbing service contracts, and electrical service contracts.
(Source: P.A. 95-314, eff. 1-1-08.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/25-200)

Sec. 25-200. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.
(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 30
CONSTRUCTION AND
CONSTRUCTION-RELATED PROFESSIONAL SERVICES

APPLICABILITY

(30 ILCS 500/30-5)

Sec. 30-5. Applicability. Construction and construction-related professional services shall be procured in accordance with this Article.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/30-10)

Sec. 30-10. Authority. Construction agencies shall have the authority to procure construction and construction-related professional services.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/30-15)

Sec. 30-15. Method of source selection.

(a) Competitive sealed bidding. Except as provided in subsections (b), (c), and (d) and Sections 20-20, 20-25, and 20-30, all State construction contracts shall be procured by competitive sealed bidding in accordance with Section 20-10.

(b) Other methods. The Capital Development Board shall establish by rule construction purchases that may be made without competitive sealed bidding and the most competitive alternate method of source selection that shall be used.

(c) Construction-related professional services. All construction-related professional services contracts shall be awarded in accordance with the provisions of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. “Professional services” means those services within the scope of the practice of architecture, professional engineering, structural engineering, or registered land surveying, as defined by the laws of this State.

(d) Correctional facilities. Remodeling and rehabilitation projects at correctional facilities under $25,000 funded from the General Revenue Fund are exempt from the provisions of this Article. The Department of Corrections may use inmate labor for the remodeling or rehabilitation of correctional facilities on those projects under $25,000 funded from the General Revenue Fund.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PREQUALIFICATION

(30 ILCS 500/30-20)

Sec. 30-20. Prequalification.

(a) The Capital Development Board shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction-related professional services contracts over $25,000 may be awarded to any qualified suppliers.

(b) The Illinois Power Agency shall promulgate rules for the development of prequalified supplier lists for construction and construction-related professional services and the periodic updating of those lists. Construction and construction related professional services contracts over $25,000 may be awarded to any qualified suppliers, pursuant to a competitive bidding process.

(Source: P.A. 95-481, eff. 8-28-07.)

CONSTRUCTION CONTRACTS; RESPONSIBLE BIDDER REQUIREMENTS

(30 ILCS 500/30-22)

Sec. 30-22. Construction contracts; responsible bidder requirements. To be considered a responsible bidder on a construction contract for purposes of this Code, a bidder must comply with all of the following requirements and must present satisfactory evidence of that compliance to the appropriate construction agency:

(1) The bidder must comply with all applicable laws concerning the bidder's entitlement to conduct business in Illinois.

(2) The bidder must comply with all applicable provisions of the Prevailing Wage Act.

(3) The bidder must comply with Subchapter VI ("Equal Employment Opportunities") of Chapter 21 of Title 42 of the United States Code (42 U.S.C. 2000e and following) and with Federal Executive Order No. 11246 as amended by Executive Order No. 11375.

(4) The bidder must have a valid Federal Employer Identification Number or, if an individual, a valid Social Security Number.

(5) The bidder must have a valid certificate of insurance showing the following coverages: general liability, professional liability, product liability, workers' compensation, completed operations, hazardous occupation, and automobile.

(6) The bidder and all bidder's subcontractors must participate in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

(7) For contracts with the Illinois Power Agency, the Director of the Illinois Power Agency may establish additional requirements for responsible bidders. These additional requirements, if established, shall be set forth together with the other criteria contained in the invitation for bids, and shall appear in the appropriate volume of the Illinois Procurement Bulletin.

The provisions of this Section shall not apply to federally funded construction projects if such application would jeopardize the receipt or use of federal funds in support of such a project.

(Source: P.A. 95-481, eff. 8-28-07.)

RETENTION OF A PERCENTAGE OF CONTRACT PRICE

(30 ILCS 500/30-25)

Sec. 30-25. Retention of a percentage of contract price. Whenever any contract entered into by a construction agency for the repair, remodeling, renovation, or construction of a building or structure, for the construction or maintenance of a highway, as those terms are defined in Article 2 of the Illinois Highway Code, for the construction or maintenance of facilities as that term is defined under Section 1-10 of the Illinois Power Agency Act, or for the reclamation of abandoned lands as those terms are defined in Article I of the Abandoned Mined Lands and Water Reclamation Act provides for the retention of a percentage of the contract price until final completion and acceptance of the work, upon the request of the contractor and with the approval of the construction agency the amount so retained may be deposited under a trust agreement with an Illinois bank or financial institution of the contractor's choice and subject to the approval of the construction agency. The contractor shall receive any interest on the deposited amount. Upon application by the contractor, the trust agreement must contain, at a minimum, the following provisions:

(1) the amount to be deposited subject to the trust;

(2) the terms and conditions of payment in case of default by the contractor;

(3) the termination of the trust agreement upon completion of the contract; and

(4) the contractor shall be responsible for obtaining the written consent of the bank trustee and for any costs or service fees.

The trust agreement may, at the discretion of the construction agency and upon request of the contractor, become effective at the time of the first partial payment in accordance with existing statutes and rules.

(Source: P.A. 95-481, eff. 8-28-07.)

CONTRACTS IN EXCESS OF $250,000

(30 ILCS 500/30-30)

Sec. 30-30. Contracts in excess of $250,000. For building construction contracts in excess of $250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract. A contract may be let for one or more buildings in any project to the same contractor. The specifications shall require, however, that unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for each or all of the buildings included in the specifications.

Until a date 4 years after January 1, 2009 (the effective date of Public Act 95-758), the requirements of this Section do not apply to a construction project for which the Capital Development Board is the construction agency if: (i) the project budget is at least $20,000,000; (ii) the Capital Development Board has submitted to the Procurement Policy Board a written request for a public hearing on waiver of the application of the requirements of this Section to that project, including its reasons for seeking the waiver and why the waiver is in the best interest of the State; (iii) the Capital Development Board has posted notice of the waiver hearing on its procurement web page and on the online Procurement Bulletin at least 15 working days before the hearing; (iv) the Procurement Policy Board, after conducting the public hearing on the waiver request, reviews and approves the request in writing before the award of the contract; (v) the successful low bidder has prequalified with the Capital Development Board; (vi) the bid of the successful low bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section; and (vii) the contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the Capital Development Board. With respect to any construction project described in this paragraph, the Capital Development Board shall: (i) provide to the Auditor General an affidavit that the waiver of the application of the requirements of this Section is in

the best interest of the State; (ii) specify in writing as a public record that the project shall comply with the disadvantaged business practices of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and the equal employment practices of Section 2-105 of the Illinois Human Rights Act; and (iii) report annually to the Governor and the General Assembly on the bidding, award, and performance. On and after January 1, 2009 (the effective date of Public Act 95-758), the Capital Development Board may award in each year contracts with an aggregate total value of no more than $100,000,000 with respect to construction projects described in this paragraph.

Until a date 5 years after November 29, 2005 (the effective date of Public Act 94-699), the requirements of this Section do not apply to the Capitol Building HVAC upgrade project if (i) the bid of the successful bidder identifies the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section, and (ii) the contract entered into with the successful bidder provides that no identified subcontractor may be terminated without the written consent of the Capital Development Board.
(Source: P.A. 95-758, eff. 1-1-09; 96-1204, eff. 7-22-10.)

EXPENDITURE IN EXCESS OF CONTRACT PRICE

(30 ILCS 500/30-35)

Sec. 30-35. Expenditure in excess of contract price.

(a) Germaneness. No funds in excess of the contract price may be obligated or expended unless the additional work to be performed or materials to be furnished is germane to the original contract. Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amounts, be in excess of the percentages of the original contract amount set forth in subsection (b) unless they have received the prior written approval of the construction agency. In the event that the total of the combined additional expenditures or obligations exceeds the percentages of the original contract amount set forth in subsection (b), the construction agency shall investigate all the additional expenditures or obligations in excess of the original contract amount and shall in writing approve or disapprove subsequent expenditures or obligations and state in detail the reasons for the approval or disapproval.

(b) Written determination required. When the contract amount is no more than $75,000, the percentage shall be 9% (maximum $6,750). When the contract amount is between $75,001 and $200,000, the percentage shall be 7% of the amount above $75,000 plus $6,750, but not to exceed 7% of $200,000 (maximum $14,000). When the contract amount is between $200,001 and $500,000, the percentage shall be 5% of the amount above $200,000 plus $14,000, but not to exceed 5% of $500,000 (maximum $25,000). When the contract amount is in excess of $500,000, the percentage shall be 3% of the amount above $500,000 plus $25,000.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

REPEALED

(30 ILCS 500/30-43)

Sec. 30-43. (Repealed).
(Source: P.A. 92-11, eff. 6-11-01. Repealed by P.A. 93-632, eff. 2-1-04.)

OTHER ACTS

(30 ILCS 500/30-45)

Sec. 30-45. Other Acts. This Article is subject to applicable provisions of the following Acts:

(1) the Prevailing Wage Act;
(2) the Public Construction Bond Act;
(3) the Public Works Employment Discrimination Act;
(4) the Public Works Preference Act;
(5) the Employment of Illinois Workers on Public Works Act;
(6) the Public Contract Fraud Act; and
(7) the Illinois Construction Evaluation Act.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/30-150)

Sec. 30-150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.

(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 33
CONSTRUCTION MANAGEMENT SERVICES

DEFINITIONS

(30 ILCS 500/33-5)

Sec. 33-5. Definitions. In this Article:

"Construction management services" includes:

(1) services provided in the planning and pre-construction phases of a construction project including, but not limited to, consulting with, advising, assisting, and making recommendations to the Capital Development Board and architect, engineer, or licensed land surveyor on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs; making, reviewing, and refining budget estimates based on the Board's program and other available information; making recommendations to the Board and the architect or engineer regarding the division of work in the plans and specifications to facilitate the bidding and awarding of contracts; soliciting the interest of capable contractors and taking bids on the project; analyzing the bids received; and preparing and maintaining a progress schedule during the design phase of the project and preparation of a proposed construction schedule; and

(2) services provided in the construction phase of the project including, but not limited to, maintaining competent supervisory staff to coordinate and provide general direction of the work and progress of the contractors on the project; directing the work as it is being performed for general conformance with working drawings and specifications; establishing procedures for coordinating among the Board, architect or engineer, contractors, and construction manager with respect to all aspects of the project and implementing those procedures; maintaining job site records and making appropriate progress reports; implementing labor policy in conformance with the requirements of the public owner; reviewing the safety and equal opportunity programs of each contractor for conformance with the public owner's policy and making recommendations; reviewing and processing all applications for payment by involved contractors and material suppliers in accordance with the terms of the contract; making recommendations and processing requests for changes in the work and maintaining records of change orders; scheduling and conducting job meetings to ensure orderly progress of the work; developing and monitoring a project progress schedule, coordinating

and expediting the work of all contractors and providing periodic status reports to the owner and the architect or engineer; and establishing and maintaining a cost control system and conducting meetings to review costs.

"Construction manager" means any individual, sole proprietorship, firm, partnership, corporation, or other legal entity providing construction management services for the Board and prequalified by the State in accordance with 30 ILCS 500/33-10.

"Board" means the Capital Development Board.

(Source: P.A. 94-532, eff. 8-10-05.)

PREQUALIFICATION

(30 ILCS 500/33-10)

Sec. 33-10. Prequalification. The Board shall establish procedures to prequalify firms seeking to provide construction management services or may use prequalification lists from other State agencies to meet the requirements of this Section.

(Source: P.A. 94-532, eff. 8-10-05.)

PUBLIC NOTICE

(30 ILCS 500/33-15)

Sec. 33-15. Public notice. Whenever a project requiring construction management services is proposed for a State agency, the Board shall provide no less than a 14-day advance notice published in a request for proposals setting forth the projects and services to be procured. The request for proposals shall be mailed to each firm that is prequalified under Section 33-10. The request for proposals shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the request for proposals, a statement of qualifications.

(Source: P.A. 94-532, eff. 8-10-05.)

EVALUATION PROCEDURE

(30 ILCS 500/33-20)

Sec. 33-20. Evaluation procedure. The Board shall evaluate the construction managers submitting letters of interest and other prequalified construction managers, taking into account qualifications; and the Board may consider, but shall not be limited to considering, ability of personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the construction manager, and any other qualifications-based factors as the Board may determine in writing are applicable. The Board may conduct discussions with and require public presentations by construction managers deemed to be the most qualified regarding their qualifications, approach to the project, and ability to furnish the required services.

The Board shall establish a committee to select construction managers to provide construction management services. A selection committee may include at least one public member. The public member may not be employed or associated with any firm holding a contract with the Board nor may the public member's firm be considered for a contract with that Board while he or she is serving as a public member of the committee.

In no case shall the Board, prior to selecting a construction manager for negotiation under Section 33-30, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 94-532, eff. 8-10-05.)

SELECTION PROCEDURE

(30 ILCS 500/33-25)

Sec. 33-25. Selection Procedure. On the basis of evaluations, discussions, and any presentations, the Board shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The Board shall then contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the Board determines that one or both of those firms are so qualified, the Board may proceed to negotiate a contract under Section 33-30. The decision of the Board shall be final and binding.

(Source: P.A. 94-532, eff. 8-10-05.)

CONTRACT NEGOTIATION

(30 ILCS 500/33-30)

Sec. 33-30. Contract Negotiation.

(a) The Board shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest ranked construction management firm at compensation that the Board determines in writing to be fair and reasonable. In making this decision, the Board shall take into account the estimated value, scope, complexity, and nature of the services to be rendered. In no case may the Board establish a payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.

(b) If the Board is unable to negotiate a satisfactory contract with the firm that is highest ranked, negotiations with that firm shall be terminated. The Board shall then begin negotiations with the firm that is next highest ranked. If the Board is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The Board shall then begin negotiations with the firm that is next highest ranked.

(c) If the Board is unable to negotiate a satisfactory contract with any of the selected firms, the Board shall re-evaluate the construction management services requested, including the estimated value, scope, complexity, and fee requirements. The Board shall then compile a list of not less than 3 prequalified firms and proceed in accordance with the provisions of this Act.

(Source: P.A. 94-532, eff. 8-10-05.)

SMALL CONTRACTS

(30 ILCS 500/33-35)

Sec. 33-35. Small Contracts. The provisions of Sections 33-20, 33-25, and 33-30 do not apply to construction management contracts of less than $25,000.

(Source: P.A. 94-532, eff. 8-10-05.)

EMERGENCY SERVICES

(30 ILCS 500/33-40)

Sec. 33-40. Emergency services. Sections 33-20, 33-25, and 33-30 do not apply in the procurement of construction management services by the Board (i) when the Board determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm or (ii) in emergencies when immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.

(Source: P.A. 94-532, eff. 8-10-05.)

FIRM PERFORMANCE EVALUATION

(30 ILCS 500/33-45)

Sec. 33-45. Firm performance evaluation. The Board shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm and the firm may submit a written response, with the evaluation and response retained solely by the Board. The evaluation and response shall not be made available to any other person or firm and is exempt from disclosure under the Freedom of Information Act. The evaluation shall be based on the terms identified in the construction manager's contract.

(Source: P.A. 94-532, eff. 8-10-05.)

DUTIES OF CONSTRUCTION MANAGER

(30 ILCS 500/33-50)

Sec. 33-50. Duties of construction manager; additional requirements for persons performing construction work.

(a) Upon the award of a construction management services contract, a construction manager must contract with the Board to furnish his or her skill and judgment in cooperation with, and reliance upon, the services of the project architect or engineer. The construction manager must furnish business administration, management of the construction process, and other specified services to the Board and must perform his or her obligations in an expeditious and economical manner consistent with the interest of the Board. If it is in the State's best interest, the construction manager may provide or perform basic services for which reimbursement is provided in the general conditions to the construction management services contract.

(b) The actual construction work on the project must be awarded to contractors under this Code. The Capital Development Board may further separate additional divisions of work under this Article. This subsection is subject to the applicable provisions of the following Acts:

(1) the Prevailing Wage Act;

(2) the Public Construction Bond Act;

(3) the Public Works Employment Discrimination Act;

(4) the Public Works Preference Act;

(5) the Employment of Illinois Workers on Public Works Act;

(6) the Public Contract Fraud Act;

(7) the Illinois Construction Evaluation Act; and

(8) the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Illinois Professional Land Surveyor Act of 1989, and the Structural Engineering Practice Act of 1989.

(Source: P.A. 94-532, eff. 8-10-05.)

PROHIBITED CONDUCT

(30 ILCS 500/33-55)

Sec. 33-55. Prohibited conduct. No construction management services contract may be awarded by the Board on a negotiated basis as provided in this Article if the construction manager or an entity that controls, is controlled by, or shares common ownership or control with the construction manager (i) guarantees, warrants, or otherwise assumes financial responsibility for the work of others on the project; (ii) provides the Board with a guaranteed maximum price for the work of others on the project; or (iii) furnishes or guarantees a performance or payment bond for other contractors on the project. In any such case, the contract for construction management services must be let by competitive bidding as in the case of contracts for construction work.

(Source: P.A. 94-532, eff. 8-10-05.)

ARTICLE 35
PROCUREMENT OF PROFESSIONAL AND ARTISTIC SERVICES

APPLICATION

(30 ILCS 500/35-5)

Sec. 35-5. Application. All professional and artistic services shall be procured in accordance with the provisions of this Article.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/35-10)

Sec. 35-10. Authority. Each State purchasing officer, under the supervision of his or her respective chief procurement officer, has the authority to select, according to the provisions of this Article, his or her own professional and artistic services.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PREQUALIFICATION

(30 ILCS 500/35-15)

Sec. 35-15. Prequalification.

(a) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each develop appropriate and reasonable prequalification standards and categories of professional and artistic services.

(b) The prequalifications and categorizations shall be submitted to the Procurement Policy Board and published for public comment prior to their submission to the Joint Committee on Administrative Rules for approval.

(c) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each also assemble and maintain a comprehensive list of prequalified and categorized businesses and persons.

(d) Prequalification shall not be used to bar or prevent any qualified business or person for bidding or responding to invitations for bid or proposal.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

UNIFORMITY IN PROCUREMENT

(30 ILCS 500/35-20)

Sec. 35-20. Uniformity in procurement.

(a) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each develop, cause to be printed, and distribute uniform documents for the solicitation, review, and acceptance of all professional and artistic services.

(b) All chief procurement officers, State purchasing officers, and their designees shall use the appropriate uniform procedures and forms specified in this Code for all professional and artistic services.

(c) These forms shall include in detail, in writing, at least:

(1) a description of the goal to be achieved;

(2) the services to be performed;

(3) the need for the service;

(4) the qualifications that are necessary; and

(5) a plan for post-performance review.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

UNIFORMITY IN CONTRACT

(30 ILCS 500/35-25)

Sec. 35-25. Uniformity in contract.

(a) The chief procurement officer for matters other than construction and the higher education chief procurement officer shall each develop, cause to be printed, and distribute uniform documents for the contracting of professional and artistic services.

(b) All chief procurement officers, State purchasing officers, and their designees shall use the appropriate uniform contracts and forms in contracting for all professional and artistic services.

(c) These contracts and forms shall include in detail, in writing, at least:

(1) the detail listed in subsection (c) of Section 35-20;

(2) the duration of the contract, with a schedule of delivery, when applicable;

(3) the method for charging and measuring cost (hourly, per day, etc.);

(4) the rate of remuneration; and

(5) the maximum price.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

AWARDS

(30 ILCS 500/35-30)

Sec. 35-30. Awards.

(a) All State contracts for professional and artistic services, except as provided in this Section, shall be awarded using the competitive request for proposal process outlined in this Section.

(b) For each contract offered, the chief procurement officer, State purchasing officer, or his or her designee shall use the appropriate standard solicitation forms available from the chief procurement officer for matters other than construction or the higher education chief procurement officer.

(c) Prepared forms shall be submitted to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, for publication in its Illinois Procurement Bulletin and circulation to the chief procurement officer for matters other than construction or the higher education chief procurement officer's list of prequalified vendors. Notice of the offer or request for proposal shall appear at least 14 days before the response to the offer is due.

(d) All interested respondents shall return their responses to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, which shall open and record them. The chief procurement officer for matters other than construction or higher education chief procurement officer then shall forward the responses, together with any information it has available about the qualifications and other State work of the respondents.

(e) After evaluation, ranking, and selection, the responsible chief procurement officer, State purchasing officer, or his or her designee shall notify the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, of the successful respondent and shall forward a copy of the signed contract for the chief procurement officer for matters other than construction or higher education chief procurement officer's file. The chief procurement officer for matters other than construction or higher education chief procurement officer shall publish the names of the responsible procurement decision-maker, the agency letting the contract, the successful respondent, a contract reference, and value of the let contract in the next appropriate volume of the Illinois Procurement Bulletin.

(f) For all professional and artistic contracts with annualized value that exceeds $25,000, evaluation and ranking by price are required. Any chief procurement officer or State purchasing officer, but not their designees, may select an offeror other than the

lowest bidder by price. In any case, when the contract exceeds the $25,000 threshold and the lowest bidder is not selected, the chief procurement officer or the State purchasing officer shall forward together with the contract notice of who the low bidder was and a written decision as to why another was selected to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate. The chief procurement officer for matters other than construction or higher education chief procurement officer shall publish as provided in subsection (e) of Section 35-30, but shall include notice of the chief procurement officer's or State purchasing officer's written decision.

(g) The chief procurement officer for matters other than construction and higher education chief procurement officer may each refine, but not contradict, this Section by promulgating rules for submission to the Procurement Policy Board and then to the Joint Committee on Administrative Rules. Any refinement shall be based on the principles and procedures of the federal Architect-Engineer Selection Law, Public Law 92-582 Brooks Act, and the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act; except that pricing shall be an integral part of the selection process.

(Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

EXCEPTIONS

(30 ILCS 500/35-35)

Sec. 35-35. Exceptions.

(a) Exceptions to Section 35-30 are allowed for sole source procurements, emergency procurements, and at the discretion of the chief procurement officer or the State purchasing officer, but not their designees, for professional and artistic contracts that are nonrenewable, one year or less in duration, and have a value of less than $20,000.

(b) All exceptions granted under this Article must still be submitted to the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, and published as provided for in subsection (f) of Section 35-30, shall name the authorizing chief procurement officer or State purchasing officer, and shall include a brief explanation of the reason for the exception.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

SUBCONTRACTORS

(30 ILCS 500/35-40)

Sec. 35-40. Subcontractors.

(a) Any contract granted under this Article shall state whether the services of a subcontractor will be used. The contract shall include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract.

(b) If at any time during the term of a contract, a contractor adds or changes any subcontractors, he or she shall promptly notify, in writing, the chief procurement officer for matters other than construction or the higher education chief procurement officer, whichever is appropriate, and the responsible State purchasing officer, or their designee of the names and addresses and the expected amount of money each new or replaced subcontractor will receive.

(Source: P.A. 95-481, eff. 8-28-07; 96-920, eff. 7-1-10.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/35-150)

Sec. 35-150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.

(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 40
REAL PROPERTY AND CAPITAL IMPROVEMENT LEASES

APPLICABILITY

(30 ILCS 500/40-5)

Sec. 40-5. Applicability. All leases for real property or capital improvements, including office and storage space, buildings, and other facilities for State agencies, shall be procured in accordance with the provisions of this Article.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

AUTHORITY

(30 ILCS 500/40-10)

Sec. 40-10. Authority. State purchasing officers shall have the authority to procure leases for real property or capital improvements.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

METHOD OF SOURCE SELECTION

(30 ILCS 500/40-15)

Sec. 40-15. Method of source selection.

(a) Request for information. Except as provided in subsections (b) and (c), all State contracts for leases of real property or capital improvements shall be awarded by a request for information process in accordance with Section 40-20.

(b) Other methods. A request for information process need not be used in procuring any of the following leases:

(1) Property of less than 10,000 square feet with rent of less than $100,000 per year.

(2) (Blank).

(3) Duration of less than one year that cannot be renewed.

(4) Specialized space available at only one location.

(5) Renewal or extension of a lease; provided that: (i) the chief procurement officer determines in writing that the renewal or extension is in the best interest of the State; (ii) the chief procurement officer submits his or her written determination and the renewal or extension to the Board; (iii) the Board does not object in writing to the renewal or extension within 30 days after its submission; and (iv) the chief procurement officer publishes the renewal or extension in the appropriate volume of the Procurement Bulletin.

(c) Leases with governmental units. Leases with other governmental units may be negotiated without using the request for information process when deemed by the chief procurement officer to be in the best interest of the State.

(Source: P.A. 95-647, eff. 10-11-07; 96-920, eff. 7-1-10.)

REQUEST FOR INFORMATION

(30 ILCS 500/40-20)

Sec. 40-20. Request for information.

(a) Conditions for use. Leases shall be procured by request for information except as otherwise provided in Section 40-15.

(b) Form. A request for information shall be issued and shall include:

(1) the type of property to be leased;

(2) the proposed uses of the property;

(3) the duration of the lease;

(4) the preferred location of the property; and

(5) a general description of the configuration desired.

(c) Public notice. Public notice of the request for information for the availability of real property to lease shall be published in the appropriate volume of the Illinois Procurement Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the using agency is seeking space.

(d) Response. The request for information response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the request. State purchasing officers may enter into discussions with respondents for the purpose of clarifying State needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, a State purchasing officer shall make a written determination identifying the responses that meet the minimum criteria set forth in the request for information. Negotiations shall be entered into with all qualified respondents for the purpose of securing a lease that is in the best interest of the State. A written report of the negotiations shall be retained in the lease files and shall include the reasons for the final selection. All leases shall be reduced to writing and filed in accordance with the provisions of Section 20-80.

When the lowest response by price is not selected, the State purchasing officer shall forward to the chief procurement officer, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the selection of a different response. The chief procurement officer shall publish the written reasons in the next volume of the Illinois Procurement Bulletin.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

LENGTH OF LEASES

(30 ILCS 500/40-25)

Sec. 40-25. Length of leases.

(a) Maximum term. Leases shall be for a term not to exceed 10 years inclusive, beginning January, 1, 2010, of proposed contract renewals and shall include a termination option in favor of the State after 5 years.

(b) Renewal. Leases may include a renewal option. An option to renew may be exercised only when a State purchasing officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.

(c) Subject to appropriation. All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

(d) Holdover. Beginning January 1, 2010, no lease may continue on a month-to-month or other holdover basis for a total of more than 6 months. Beginning July 1, 2010, the Comptroller shall withhold payment of leases beyond this holdover period.

(Source: P.A. 96-15, eff. 6-22-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

PURCHASE OPTION

(30 ILCS 500/40-30)

Sec. 40-30. Purchase option. Initial leases of all space in entire, free-standing

buildings shall include an option to purchase exerciseable by the State, unless the purchasing officer determines that inclusion of such purchase option is not in the State's best interest and makes that determination in writing along with the reasons for making that determination and publishes the written determination in the appropriate volume of the Procurement Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

RENT WITHOUT OCCUPANCY

(30 ILCS 500/40-35)

Sec. 40-35. Rent without occupancy. Except when deemed by the Board to be in the best interest of the State, no State agency may incur rental obligations before occupying the space rented.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

LOCAL SITE PREFERENCES

(30 ILCS 500/40-40)

Sec. 40-40. Local site preferences. Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts, or redevelopment districts.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

LEASES EXEMPT FROM ARTICLE

(30 ILCS 500/40-45)

Sec. 40-45. Leases exempt from Article. A lease entered into by the State under Section 7.4 of the State Property Control Act is not subject to the provisions of this Article.
(Source: P.A. 93-19, eff. 6-20-03.)

LEASES EXEMPT FROM ARTICLE

(30 ILCS 500/40-46)

Sec. 40-46. Leases exempt from Article. A lease entered into under Section 7.5 of the State Property Control Act is not subject to the provisions of this Article.
(Source: P.A. 93-19, eff. 6-20-03.)

LESSOR'S FAILURE TO MAKE IMPROVEMENTS

(30 ILCS 500/40-55)

Sec. 40-55. Lessor's failure to make improvements. Each lease must provide for a penalty upon the lessor's failure to make improvements agreed upon in the lease. The penalty shall consist of a reduction in lease payments equal to the corresponding percentage of the improvement value to the lease value. The penalty shall continue until the lessor complies with the lease and the improvements are certified by the chief procurement officer and the leasing State agency.
(Source: P.A. 93-839, eff. 7-30-04.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/40-150)

Sec. 40-150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.
(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 45
PREFERENCES

PROCUREMENT PREFERENCES

(30 ILCS 500/45-5)

Sec. 45-5. Procurement preferences. To promote business and employment opportunities in Illinois, procurement preferences are established and shall be applicable to any procurement made under this Code.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

RESIDENT BIDDERS

(30 ILCS 500/45-10)

Sec. 45-10. Resident bidders.

(a) Amount of preference. When a contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a non-resident bidder from any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder. Further, if only non-resident bidders are bidding, the purchasing agency is within its right to specify that Illinois labor and manufacturing locations be used as a part of the manufacturing process, if applicable. This specification may be negotiated as part of the solicitation process.

(b) Residency. A resident bidder is a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State where it was actually transacting business on the date when any bid for a public contract is first advertised or announced. A resident bidder includes a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State where it was actually transacting business on the date when any bid for a public contract is first advertised or announced.

(c) Federal funds. This Section does not apply to any contract for any project as to which federal funds are available for expenditure when its provisions may be in conflict with federal law or federal regulation.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SOYBEAN OIL-BASED INK

(30 ILCS 500/45-15)

Sec. 45-15. Soybean oil-based ink. Contracts requiring the procurement of printing services shall specify the use of soybean oil-based ink unless a State purchasing officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

RECYCLED MATERIALS

(30 ILCS 500/45-20)

Sec. 45-20. Recycled supplies. When a public contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of products made of recycled supplies may be given preference over other bidders unable to do so, provided that the cost included in the bid of supplies made of recycled materials does not constitute an undue economic or practical hardship.

(Source: P.A. 96-197, eff. 1-1-10.)

RECYCLABLE PAPER

(30 ILCS 500/45-25)

Sec. 45-25. Recyclable supplies. All supplies purchased for use by State agencies must be recyclable paper unless a recyclable substitute cannot be used to meet the requirements of the State agencies or would constitute an undue economic or practical hardship.

(Source: P.A. 96-197, eff. 1-1-10.)

ENVIRONMENTALLY PREFERABLE PROCUREMENT

(30 ILCS 500/45-26)

Sec. 45-26. Environmentally preferable procurement.

(a) Definitions. For the purposes of this Section:

(1) "Supplies" means all personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.

(2) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

(3) "Environmentally preferable supplies" means supplies that are less harmful to the natural environment and human health than substantially similar supplies for the same purpose. Attributes of environmentally preferable supplies include, but are not limited to, the following:

(i) made of recycled materials, to the maximum extent feasible;

(ii) not containing, emitting, or producing toxic substances;

(iii) constituted so as to minimize the production of waste; and

(iv) constituted so as to conserve energy and water resources over the course of production, transport, intended use, and disposal.

(4) "Environmentally preferable services" means services that are less harmful to the natural environment and human health than substantially similar services for the same purpose. Attributes of "environmentally preferable services" include, but are not limited to, the following:

(i) use of supplies made of recycled materials, to the maximum extent feasible;

(ii) use of supplies that do not contain, emit, or produce toxic substances;

(iii) employment of methods that minimize the production of waste; and

(iv) employment of methods that conserve energy and water resources or use energy and water resources more efficiently than substantially similar methods.

(b) Award of contracts for environmentally preferable supplies or services. Notwithstanding any rule, regulation, statute, order, or policy of any kind, with the exceptions of Sections 45-20 and 45-25 of this Code, State agencies shall contract for supplies and services that are environmentally preferable.

If, however, contracting for an environmentally preferable supply or service would impose an undue economic or practical hardship on the contracting State agency, or if an environmentally preferable supply or service cannot be used to meet the requirements of the State agency, then the State agency need not contract for an environmentally preferable supply or service. Specifications for contracts, at the discretion of the contracting State agency, may include a price preference of up to 10% for environmentally preferable supplies or services.

(Source: P.A. 96-197, eff. 1-1-10.)

CORRECTIONAL INDUSTRIES

(30 ILCS 500/45-30)

Sec. 45-30. Illinois Correctional industries. Notwithstanding anything to the contrary in other law, the chief procurement officer of the Department of Central Management Services shall in consultation with Illinois Correctional Industries, a division of the Illinois Department of Corrections (referred to as the "Illinois Correctional Industries" or "ICI") determine for all State agencies which articles, materials, industry related services, food stuffs, and finished goods that are produced or manufactured by persons confined in institutions and facilities of the Department of Corrections who are participating in Illinois Correctional Industries programs shall be purchased from Illinois Correctional Industries. The chief procurement officer of Central Management Services shall develop and distribute to the various purchasing and using agencies a listing of all Illinois Correctional Industries products and procedures for implementing this Section.
(Source: P.A. 96-877, eff. 7-1-10; 96-943, eff. 7-1-10.)

SHELTERED WORKSHOPS FOR THE SEVERELY HANDICAPPED

(30 ILCS 500/45-35)

Sec. 45-35. Facilities for persons with severe disabilities.

(a) Qualification. Supplies and services may be procured without advertising or calling for bids from any qualified not-for-profit agency for persons with severe disabilities that:

(1) complies with Illinois laws governing private not-for-profit organizations;

(2) is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor; and

(3) meets the applicable Illinois Department of Human Services just standards.

(b) Participation. To participate, the not-for-profit agency must have indicated an interest in providing the supplies and services, must meet the specifications and needs of the using agency, and must set a fair market price.

(c) Committee. There is created within the Department of Central Management Services a committee to facilitate the purchase of products and services of persons so severely disabled by a physical, developmental, or mental disability or a combination of any of those disabilities that they cannot engage in normal competitive employment. This committee is called the State Use Committee. The committee shall consist of the Director of the Department of Central Management Services or his or her designee, the Director of the Department of Human Services or his or her designee, one public member representing private business who is knowledgeable of the employment needs and concerns of persons with developmental disabilities, one public member representing private business who is knowledgeable of the needs and concerns of rehabilitation facilities, one public member who is knowledgeable of the employment needs and concerns of persons with developmental disabilities, one public member who is knowledgeable of the needs and concerns of rehabilitation facilities, and 2 public members from a statewide association that represents community-based rehabilitation facilities, all appointed by the Governor. The public members shall serve 2 year terms, commencing upon appointment and every 2 years thereafter. A public member may be reappointed, and vacancies shall be filled by appointment for the completion of the term. In the event there is a vacancy on the Committee, the Governor must make an appointment to fill that vacancy within 30 calendar days after the notice of vacancy. The members shall serve without compensation but shall be reimbursed for expenses at a rate equal to that of State employees on a per diem basis by the Department of Central Management Services. All members shall be entitled to vote on issues before the committee.

The committee shall have the following powers and duties:

(1) To request from any State agency information as to product specification and service requirements in order to carry out its purpose.

(2) To meet quarterly or more often as necessary to carry out its purposes.

(3) To request a quarterly report from each participating qualified not-for-profit agency for persons with severe disabilities describing the volume of sales for each product or service sold under this Section.

(4) To prepare a report for the Governor annually.

(5) To prepare a publication that lists all supplies and services currently available from any qualified not-for-profit agency for persons with severe disabilities. This list and any revisions shall be distributed to all purchasing agencies.

(6) To encourage diversity in supplies and services provided by qualified not-for-profit agencies for persons with severe disabilities and discourage unnecessary duplication or competition among facilities.

(7) To develop guidelines to be followed by qualifying agencies for participation under the provisions of this Section. The guidelines shall be developed within 6 months after the effective date of this Code and made available on a nondiscriminatory basis to all qualifying agencies.

(8) To review all bids submitted under the provisions of this Section and reject any bid for any purchase that is determined to be substantially more than the purchase would have cost had it been competitively bid.

(9) To develop a 5-year plan for increasing the number of products and services purchased from qualified not-for-profit agencies for persons with severe disabilities, including the feasibility of developing mandatory set-aside contracts. This 5-year plan must be developed no later than 180 calendar days after the effective date of this amendatory Act of the 96th General Assembly.

(c-5) Conditions for Use. Each chief procurement officer shall, in consultation with the State Use Committee, determine which articles, materials, services, food stuffs, and supplies that are produced, manufactured, or provided by persons with severe disabilities in qualified not-for-profit agencies shall be given preference by purchasing agencies procuring those items.

(d) Former committee. The committee created under subsection (c) shall replace the committee created under Section 7-2 of the Illinois Purchasing Act, which shall continue to operate until the appointments under subsection (c) are made.

(Source: P.A. 96-634, eff. 8-24-09.)

GAS MILEAGE

(30 ILCS 500/45-40)

Sec. 45-40. Gas mileage.

(a) Specification. Contracts for the purchase or lease of new passenger automobiles, other than station wagons, vans, four-wheel drive vehicles, emergency vehicles, and police and fire vehicles, shall specify the procurement of a model that, according to the most current mileage study published by the U.S. Environmental Protection Agency, can achieve at least the minimum average fuel economy in miles per gallon imposed upon manufacturers of vehicles under Title V of The Motor Vehicle Information and Cost Savings Act.

(b) Exemptions. The State purchasing officer may exempt procurements from the requirement of subsection (a) when there is a demonstrated need, submitted in writing, for an automobile that does not meet the minimum average fuel economy standards. The chief procurement officer shall promulgate rules for determining need consistent with the intent of this Section.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SMALL BUSINESSES

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. The chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of employees and the dollar volume of business. When computing the size status of a bidder, annual sales and receipts of the bidder and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed $10,000,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed $6,000,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed $10,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal, all bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract shall then be awarded in accordance with this Code without the designation of small business set-aside.

(e) Small business specialist. The chief procurement officer shall designate a State purchasing officer who will be responsible for engaging an experienced contract negotiator to serve as its small business specialist, whose duties shall include:

(1) Compiling and maintaining a comprehensive bidders list of small businesses. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders on small business set-asides.

(f) Small business annual report. The State purchasing officer designated under subsection (e) shall annually before December 1 report in writing to the General

Assembly concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, females, and persons with disabilities, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.

(Source: P.A. 92-60, eff. 7-12-01; 93-769, eff. 1-1-05.)

ILLINOIS AGRICULTURAL PRODUCTS

(30 ILCS 500/45-50)

Sec. 45-50. Illinois agricultural products. In awarding contracts requiring the procurement of agricultural products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of agricultural products grown in Illinois.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

CORN-BASED PLASTICS

(30 ILCS 500/45-55)

Sec. 45-55. Corn-based plastics. In awarding contracts requiring the procurement of plastic products, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of plastic products made from Illinois corn by-products.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

DISABLED VETERANS

(30 ILCS 500/45-57)

Sec. 45-57. Disabled veterans.

(a) It is the goal of the State to promote and encourage the continued economic development of businesses owned and controlled by qualified service disabled veterans and that qualified service disabled veteran-owned businesses (referred to as SDVOB) participate in the State's procurement process as both prime and subcontractors. A Task Force shall be established, appointed by the Directors or Secretaries of, and made up of representatives of, the Illinois Department of Veterans' Affairs, the Illinois Department of Transportation, the Department of Central Management Services, the Business Enterprise Program, and the Business Enterprise Council. The Department of Central Management Services shall provide administrative support to the Task Force. The purpose of this Task Force shall be to determine the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to SDVOB. That portion of a contract under which the contractor subcontracts with a SDVOB may be counted toward the goal of this subsection. In making that determination the Task Force shall consult with statewide veterans' service organizations and the business community, including businesses owned by qualified disabled veterans. The Task Force shall submit its report to the General Assembly concerning its recommendations regarding the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to qualified service disabled veterans no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly.

(b) Once the appropriate goal is established, then by each September 1, each chief procurement officer shall report to the Department of Central Management

Services on all of the following for the immediately preceding fiscal year, and by each October 1 the Department of Central Management Services shall compile and report that information to the General Assembly:

(1) The number of SDVOB who submitted a bid for a contract under this Code.

(2) The number of SDVOB who entered into contracts with the State under this Code and the total value of those contracts.

(c) Each year, each chief procurement officer shall review the progress of all State agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide veterans' service organizations and from the business community, including businesses owned by qualified disabled veterans, and shall make recommendations to be included in the Department of Central Management Services' report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified disabled veterans and on the continued need to encourage and promote businesses owned by qualified disabled veterans.

(d) To assist the State in reaching the goal described in subsection (a), the Governor shall recommend to the General Assembly changes in programs to assist businesses owned by qualified disabled veterans.

(e) As used in this Section:

"Business" means a business that has average annual gross sales over the 3 most recent calendar years of less than $31,000,000 as evidenced by the federal income tax returns of the business.

"Control" means the exclusive, ultimate, majority, or sole control of the business, including but not limited to capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operation responsibilities, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business.

"Qualified service disabled veteran" means a veteran who has been found to have a service-connected disability by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified disabled veteran-owned business" means a business entity that is at least 51% owned by one or more qualified disabled veterans, or in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified disabled veterans; and the management and daily business operations of which are controlled by one or more of the qualified disabled veterans who own it.

"Service-connected disability" means a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Veteran" means a person who served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable.

(f) The Illinois Department of Veterans' Affairs and the Department of Central Management Services Business Enterprise Program shall work together to devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as qualified service disabled veteran-owned businesses.

(Source: P.A. 96-96, eff. 1-1-10.)

VEHICLES POWERED BY AGRICULTURAL COMMODITY-BASED FUEL

(30 ILCS 500/45-60)

Sec. 45-60. Vehicles powered by agricultural commodity-based fuel. In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified bidder or offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

ADDITIONAL PREFERENCES

(30 ILCS 500/45-65)

Sec. 45-65. Additional preferences. This Code is subject to applicable provisions of:

(1) the Public Purchases in Other States Act;

(2) the Illinois Mined Coal Act;

(3) the Steel Products Procurement Act;

(4) the Veterans Preference Act;

(5) the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; and

(6) the Procurement of Domestic Products Act.

(Source: P.A. 93-954, eff. 1-1-05.)

ENCOURAGEMENT TO HIRE QUALIFIED VETERANS

(30 ILCS 500/45-67)

Sec. 45-67. Encouragement to hire qualified veterans. A chief procurement officer may, as part of any solicitation, encourage prospective vendors to consider hiring qualified veterans and to notify them of any available financial incentives or other advantages associated with hiring such persons. In establishing internal guidelines in furtherance of this Section, the Department of Central Management Services may work with an interagency advisory committee consisting of representatives from the Department of Veterans Affairs, the Department of Employment Security, the Department of Commerce and Economic Opportunity, and the Department of Revenue and consisting of 8 members of the General Assembly, 2 of whom are appointed by the Speaker of the House of Representatives, 2 of whom are appointed by the President of the Senate, 2 of whom are appointed by the Minority Leader of the House of Representatives, and 2 of whom are appointed by the Minority Leader of the Senate.

For the purposes of this Section, “qualified veteran” means an Illinois resident who: (i) was a member of the Armed Forces of the United States, a member of the Illinois National Guard, or a member of any reserve component of the Armed Forces of the United States; (ii) served on active duty in connection with Operation Desert Storm, Operation Enduring Freedom, or Operation Iraqi Freedom; and (iii) was honorably discharged.

The Department of Central Management Services must report to the Governor and to the General Assembly by December 31 of each year on the activities undertaken by chief procurement officers and the Department of Central Management Services to encourage prospective vendors to consider hiring qualified veterans. The report must include the number of vendors who have hired qualified veterans.

(Source: P.A. 94-1067, eff. 8-1-06.)

ENCOURAGEMENT TO HIRE EX-OFFENDERS

(30 ILCS 500/45-70)

Sec. 45-70. Encouragement to hire ex-offenders. A chief procurement officer may, as part of any solicitation, encourage prospective vendors to consider hiring Illinois residents discharged from any Illinois adult correctional center, in appropriate circumstances, and to notify them of any available financial incentives or other advantages associated with hiring such persons. In establishing internal guidelines in furtherance of this Section, the Department of Central Management Services may work with an interagency advisory committee consisting of representatives from the Department of Corrections, the Department of Employment Security, the Department of Juvenile Justice, the Department of Commerce and Economic Opportunity, and the Department of Revenue and consisting of 8 members of the General Assembly, 2 of whom are appointed by the Speaker of the House of Representatives, 2 of whom are appointed by the President of the Senate, 2 of whom are appointed by the Minority Leader of the House of Representatives, and 2 of whom are appointed by the Minority Leader of the Senate.

The Department of Central Management Services must report to the Governor and to the General Assembly by December 31 of each year on the activities undertaken by chief procurement officers and the Department of Central Management Services to encourage prospective vendors to consider hiring Illinois residents who have been discharged from an Illinois adult correctional center. The report must include the number of vendors who have hired Illinois residents who have been discharged from any Illinois adult correctional center.

(Source: P.A. 94-1067, eff. 8-1-06.)

BIOBASED PRODUCTS

(30 ILCS 500/45-75)

Sec. 45-75. Biobased products. When a State contract is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of biobased products may be given preference over other bidders unable to do so, provided that the cost included in the bid of biobased products is not more than 5% greater than the cost of products that are not biobased.

For the purpose of this Section, a biobased product is defined as in the federal Biobased Products Preferred Procurement Program.

This Section does not apply to contracts for construction projects awarded by the Capital Development Board or the Department of Transportation.

(Source: P.A. 95-71, eff. 1-1-08; 95-876, eff. 8-21-08.)

HISTORIC AREA PREFERENCE

(30 ILCS 500/45-80)

Sec. 45-80. Historic area preference. State agencies with responsibilities for leasing, acquiring, or maintaining State facilities shall take all reasonable steps to minimize any regulations, policies, and procedures that impede the goals of Section 17 of the Capital Development Board Act.

(Source: P.A. 95-101, eff. 8-13-07; 95-876, eff. 8-21-08.)

ARTICLE 50
PROCUREMENT ETHICS AND DISCLOSURE

PURPOSE

(30 ILCS 500/50-1)

Sec. 50-1. Purpose. It is the express duty of all chief procurement officers, State purchasing officers, and their designees to maximize the value of the expenditure of

public moneys in procuring goods, services, and contracts for the State of Illinois and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the State of Illinois.
(Source: P.A. 90-572, eff. 2-6-98.)

CONTINUING DISCLOSURE; FALSE CERTIFICATION

(30 ILCS 500/50-2)

Sec. 50-2. Continuing disclosure; false certification. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible chief procurement officer whether it continues to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act for submission of a false claim.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-1304, eff. 7-27-10.)

BRIBERY

(30 ILCS 500/50-5)

Sec. 50-5. Bribery.

(a) Prohibition. No person or business shall be awarded a contract or subcontract under this Code who:

(1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

(2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

(b) Businesses. No business shall be barred from contracting with any unit of State or local government, or subcontracting under such a contract, as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

(1) the business has been finally adjudicated not guilty; or

(2) the business demonstrates to the governmental entity with which it seeks to contract or which is a signatory to the contract to which the subcontract relates, and that entity finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961.

(c) Conduct on behalf of business. For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

(d) Certification. Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the contractor or the subcontractor, respectively, that the contractor or subcontractor is not barred from being awarded a contract or subcontract under this Section and

acknowledges that the chief procurement officer may declare the related contract void if any certifications required by this Section are false. A contractor who makes a false statement, material to the certification, commits a Class 3 felony.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

FELONS

(30 ILCS 500/50-10)

Sec. 50-10. Felons.

(a) Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder or contractor or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications required by this Section are false.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

PROHIBITED BIDDERS AND CONTRACTORS

(30 ILCS 500/50-10.5)

Sec. 50-10.5. Prohibited bidders and contractors.

(a) Unless otherwise provided, no business shall bid or enter into a contract or subcontract under this Code if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer shall declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false.

(c) If a business is not a natural person, the prohibition in subsection (a) applies only if:

(1) the business itself is convicted of a felony referenced in subsection (a); or

(2) the business is ordered to pay punitive damages based on the conduct of any officer, director, partner, or other managerial agent who has been convicted of a felony referenced in subsection (a).

(d) A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

(e) No person or business shall bid or enter into a contract under this Code if the person or business:

(1) assisted the State of Illinois or a State agency in determining whether there is a need for a contract except as part of a response to a publicly issued request for information; or

(2) assisted the State of Illinois or a State agency by reviewing, drafting, or preparing any invitation for bids, a request for proposal, or request for information or provided similar assistance except as part of a publicly issued opportunity to review drafts of all or part of these documents.

This subsection does not prohibit a person or business from submitting a bid or proposal or entering into a contract if the person or business: (i) initiates a communication to provide general information about products, services, or industry best practices and, if applicable, that communication is documented in accordance with Section 50-39 or (ii) responds to a communication initiated by an employee of the State for the purposes of providing information to evaluate new products, trends, services, or technologies.

For purposes of this subsection (e), "business" includes all individuals with whom a business is affiliated, including, but not limited to, any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder of a business.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10.)

DEBT DELINQUENCY

(30 ILCS 500/50-11)

Sec. 50-11. Debt delinquency.

(a) No person shall submit a bid for or enter into a contract or subcontract under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt. For purposes of this Section, the phrase "delinquent in the payment of any debt" shall be determined by the Debt Collection Bureau. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), a person controls an entity if the person owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the contractor or the subcontractor and its affiliate is not barred from being awarded a contract or subcontract under this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false.

(Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective date of changes made by

P.A. 96-795); 96-1000, eff. 7-2-10.)

COLLECTION AND REMITTANCE OF ILLINOIS USE TAX

(30 ILCS 500/50-12)

Sec. 50-12. Collection and remittance of Illinois Use Tax.

(a) No person shall enter into a contract with a State agency or enter into a subcontract under this Code unless the person and all affiliates of the person collect and remit Illinois Use Tax on all sales of tangible personal property into the State

of Illinois in accordance with the provisions of the Illinois Use Tax Act regardless of whether the person or affiliate is a "retailer maintaining a place of business within this State" as defined in Section 2 of the Use Tax Act. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote. A general partnership interest is a voting security.

(b) Every bid submitted and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from bidding for or entering into a contract under subsection (a) of this Section and acknowledges that the chief procurement officer may declare the related contract void if any of the certifications completed pursuant to this subsection (b) are false.

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

CONFLICTS OF INTEREST

(30 ILCS 500/50-13)

Sec. 50-13. Conflicts of interest.

(a) Prohibition. It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

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

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

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

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

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child, or other immediate family member living in his or her residence or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

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

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

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

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

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

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

(Source: P.A. 95-331, eff. 8-21-07.)

ENVIRONMENTAL PROTECTION ACT VIOLATIONS

(30 ILCS 500/50-14)

Sec. 50-14. Environmental Protection Act violations.

(a) Unless otherwise provided, no person or business found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act shall do business with the State of Illinois or any State agency or enter into a subcontract that is subject to this Code from the date of the order containing the finding of violation until 5 years after that date, unless the person or business can show that no person involved in the violation continues to have any involvement with the business.

(b) A person or business otherwise barred from doing business with the State of Illinois or any State agency or subcontracting under this Code by subsection (a) may be allowed to do business with the State of Illinois or any State agency if it is shown that there is no practicable alternative to the State to contracting with that person or business.

(c) Every bid submitted to and contract executed by the State and every subcontract subject to Section 20-120 of this Code shall contain a certification by the bidder, contractor, or subcontractor, respectively, that the bidder, contractor, or subcontractor is not barred from being awarded a contract or subcontract under this Section and acknowledges that the contracting State agency may declare the related contract void if any of the certifications completed pursuant to this subsection (c) are false.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

LEAD POISONING PREVENTION ACT VIOLATIONS

(30 ILCS 500/50-14.5)

Sec. 50-14.5. Lead Poisoning Prevention Act violations. Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act are prohibited from doing business with the State of Illinois or any State agency, or subcontracting under this Code, until the violation is mitigated.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

NEGOTIATIONS

(30 ILCS 500/50-15)

Sec. 50-15. Negotiations.

(a) It is unlawful for any person employed in or on a continual contractual relationship with any of the offices or agencies of State government to participate in contract negotiations on behalf of that office or agency with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

(b) Any person convicted of a violation of this Section is guilty of a business offense and shall be fined not less than $1,000 nor more than $5,000.
(Source: P.A. 90-572, eff. 2-6-98.)

EXEMPTIONS

(30 ILCS 500/50-20)

Sec. 50-20. Exemptions. The appropriate chief procurement officer may file a request with the Executive Ethics Commission to exempt named individuals from the prohibitions of Section 50-13 when, in his or her judgment, the public interest in having the individual in the service of the State outweighs the public policy evidenced in that Section. The Executive Ethics Commission may grant an exemption after a public hearing at which any person may present testimony. The chief procurement officer shall publish notice of the date, time, and location of the hearing in the online electronic Bulletin at least 14 days prior to the hearing and provide notice to the individual subject to the waiver and the Procurement Policy Board. The Executive Ethics Commission shall also provide public notice of the date, time, and location of the hearing on its website. If the Commission grants an exemption, the exemption is effective only if it is filed with the Secretary of State and the Comptroller prior to the execution of any contract and includes a statement setting forth the name of the individual and all the pertinent facts that would make that Section applicable, setting forth the reason for the exemption, and declaring the individual exempted from that Section. Notice of each exemption shall be published in the Illinois Procurement Bulletin. A contract for which a waiver has been issued but has not been filed in accordance with this Section is voidable by the State. The changes to this Section made by this amendatory Act of the 96th General Assembly shall apply to exemptions granted on or after its effective date.

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

BOND ISSUANCES

(30 ILCS 500/50-21)

Sec. 50-21. Bond issuances.

(a) A State agency shall not enter into a contract with respect to the issuance of bonds or other securities by the State or a State agency with any entity that uses an independent consultant.

As used in this subsection, "independent consultant" means a person used by the entity to obtain or retain securities business through direct or indirect communication by the person with a State official or employee on behalf of the entity when the communication is undertaken by the person in exchange for or with the understanding of receiving payment from the entity or another person. "Independent consultant" does not include (i) a finance professional employed by the entity or (ii) a person whose sole basis of compensation from the entity is the actual provision of legal, accounting, or engineering advice, services, or assistance in connection with the securities business that the entity seeks to obtain or retain.

(b) Prior to entering into a contract with a State agency with respect to the issuance of bonds or other securities by the State or a State agency, a contracting party subject to the Municipal Securities Rulemaking Board's Rule G-37, or a successor rule, shall include a certification that the contracting entity is and shall remain for the duration of the contract in compliance with the Rule's requirements for reporting political contributions. Subsequent failure to remain in compliance shall make the contract voidable by the State.

(c) If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-37 (or any successor rule) with respect to the making of prohibited political contributions or payments, then the chief procurement officer shall impose a penalty that is at least twice the fine assessed against that entity by the federal agency. The chief procurement officer shall also bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

If a federal agency finds that an entity has knowingly violated in Illinois the Municipal Securities Rulemaking Board's Rule G-38 (or any successor rule) with respect to the prohibition on obtaining or retaining municipal securities business, then the chief procurement officer shall bar that entity from participating in any State agency contract with respect to the issuance of bonds or other securities for a period of one year. The one-year period shall begin upon the expiration of any debarment period imposed by a federal agency. If no debarment is imposed by a federal agency, then the one-year period shall begin on the date the chief procurement officer is advised of the violation.

(d) Nothing in this Section shall be construed to apply retroactively, but shall apply prospectively on and after the effective date of this amendatory Act of the 96th General Assembly.

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

INDUCEMENT

(30 ILCS 500/50-25)

Sec. 50-25. Inducement. Any person who offers or pays any money or other valuable thing to any person to induce him or her not to bid for a State contract or as recompense for not having bid on a State contract is guilty of a Class 4 felony. Any person who accepts any money or other valuable thing for not bidding for a State contract or who withholds a bid in consideration of the promise for the payment of money or other valuable thing is guilty of a Class 4 felony.

(Source: P.A. 90-572, eff. 2-6-98.)

REVOLVING DOOR PROHIBITION

(30 ILCS 500/50-30)

Sec. 50-30. Revolving door prohibition.

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

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

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

FINANCIAL DISCLOSURE AND POTENTIAL CONFLICTS OF INTEREST

(30 ILCS 500/50-35)

Sec. 50-35. Financial disclosure and potential conflicts of interest.

(a) All offers from responsive bidders or offerors with an annual value of more than $25,000, and all subcontracts identified as provided by Section 20-120 of this Code, shall be accompanied by disclosure of the financial interests of the contractor, bidder, or proposer and each subcontractor to be used. The financial disclosure of each successful bidder or offeror and its subcontractors shall be incorporated as a material term of the contract and shall become part of the publicly available contract or procurement file maintained by the appropriate chief procurement officer. Each disclosure under this Section and Section 50-34 shall be signed and made under penalty of perjury by an authorized officer or employee on behalf of the bidder or offeror, and must be filed with the Procurement Policy Board.

(b) Disclosure shall include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the disclosing entity or its parent entity, whichever is less, unless the contractor, bidder, or subcontractor (i) is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure, or (ii) is a privately held entity that is exempt from Federal 10k reporting but has more than 400 shareholders, in which case it may submit the information that Federal 10k reporting companies are required to report under 17 CFR 229.401 and list the names of any person or entity holding any ownership share that is in excess of 5% in place of the prescribed disclosure. The form of disclosure shall be prescribed by the applicable chief procurement officer and must include at least the names, addresses, and dollar

or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:

(1) State employment, currently or in the previous 3 years, including contractual employment of services.

(2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.

(3) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.

(4) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(5) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

(6) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter.

(7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.

(8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter.

(9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(10) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.

(b-1) The disclosure required under this Section must also include the name and address of each lobbyist required to register under the Lobbyist Registration Act and other agent of the bidder or offeror who is not identified under subsections (a) and (b) and who has communicated, is communicating, or may communicate with any State officer or employee concerning the bid or offer. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(b-2) The disclosure required under this Section must also include, for each of the persons identified in subsection (b) or (b-1), each of the following that occurred within the previous 10 years: debarment from contracting with any governmental entity; professional licensure discipline; bankruptcies; adverse civil judgments and administrative findings; and criminal felony convictions. The disclosure under this subsection is a continuing obligation and must be promptly supplemented for accuracy throughout the process and throughout the term of the contract if the bid or offer is successful.

(c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the chief procurement officers, State purchasing officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.

(d) When a potential for a conflict of interest is identified, discovered, or reasonably suspected, the chief procurement officer or State procurement officer shall send the contract to the Procurement Policy Board. The Board shall recommend, in writing, whether to allow or void the contract, bid, offer, or subcontract weighing the best interest of the State of Illinois. All recommendations shall be submitted to the chief procurement officer. The chief procurement officer must hold a public hearing if the Procurement Policy Board makes a recommendation to (i) void a contract or (ii) void a bid or offer and the chief procurement officer selected or intends to award the contract to the bidder or offeror. A chief procurement officer is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer. The recommendation and proceedings of any hearing, if applicable, shall become part of the contract, bid, or proposal file and shall be available to the public.

(e) These thresholds and disclosure do not relieve the chief procurement officer, the State purchasing officer, or their designees from reasonable care and diligence for any contract, bid, offer, or proposal. The chief procurement officer, the State purchasing officer, or their designees shall be responsible for using any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.

(f) Inadvertent or accidental failure to fully disclose shall render the contract, bid, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and, at his or her discretion, may be cause for barring from future contracts, bids, proposals, subcontracts, or relationships with the State for a period of up to 2 years.

(g) Intentional, willful, or material failure to disclose shall render the contract, bid, proposal, subcontract, or relationship voidable by the chief procurement officer if he or she deems it in the best interest of the State of Illinois and shall result in debarment from future contracts, bids, proposals, subcontracts, or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Governor of the State of Illinois, or by an executive ethics board or commission he or she might designate. The comment shall be returned to the responsible chief procurement officer who must rule in writing whether and when to reinstate.

(h) In addition, all disclosures shall note any other current or pending contracts, proposals, subcontracts, leases, or other ongoing procurement relationships the bidding, proposing, offering, or subcontracting entity has with any other unit of State government and shall clearly identify the unit and the contract, proposal, lease, or other relationship.

(i) The contractor or bidder has a continuing obligation to supplement the disclosure required by this Section throughout the bidding process or during the term of any contract.

(Source: P.A. 95-331, eff. 8-21-07; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10.)

DISCLOSURE OF BUSINESS IN IRAN

(30 ILCS 500/50-36)

Sec. 50-36. Disclosure of business in Iran.

(a) As used in this Section:

"Business operations" means engaging in commerce in any form in Iran, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

"Company" means any sole proprietorship, organization, association,

corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exists for the purpose of making profit.

"Mineral-extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

"Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; and constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure. The mere retail sale of gasoline and related consumer products is not considered an oil-related activity.

"Petroleum resources" means petroleum, petroleum byproducts, or natural gas.

"Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations.

(b) Each bid, offer, or proposal submitted for a State contract, other than a small purchase defined in Section 20-20, shall include a disclosure of whether or not the bidder, offeror, or proposing entity, or any of its corporate parents or subsidiaries, within the 24 months before submission of the bid, offer, or proposal had business operations that involved contracts with or provision of supplies or services to the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran, or companies involved in consortiums or projects commissioned by the Government of Iran and:

(1) more than 10% of the company's revenues produced in or assets located in Iran involve oil-related activities or mineral-extraction activities; less than 75% of the company's revenues produced in or assets located in Iran involve contracts with or provision of oil-related or mineral-extraction products or services to the Government of Iran or a project or consortium created exclusively by that government; and the company has failed to take substantial action; or

(2) the company has, on or after August 5, 1996, made an investment of $20 million or more, or any combination of investments of at least $10 million each that in the aggregate equals or exceeds $20 million in any 12-month period, that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran.

(c) A bid, offer, or proposal that does not include the disclosure required by subsection (b) shall not be considered responsive. A chief procurement officer may consider the disclosure when evaluating the bid, offer, or proposal or awarding the contract.

(d) Each chief procurement officer shall provide the State Comptroller with the name of each entity disclosed under subsection (b) as doing business or having done business in Iran. The State Comptroller shall post that information on his or her official website.

(Source: P.A. 95-616, eff. 1-1-08.)

PROHIBITION OF POLITICAL CONTRIBUTIONS

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and

a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse of any such persons. "Affiliated person" does not include a person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity. "Affiliated entity" does not include an entity prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief

Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition. "Executive employee" does not include any person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than $50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and proposals on State contracts total more than $50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed $50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or proposal during the period beginning on the date the invitation for bids or request for proposals is issued and ending on the day after the date the contract is awarded.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-848, eff. 1-1-10.)

LOBBYING RESTRICTIONS

(30 ILCS 500/50-38)

Sec. 50-38. Lobbying restrictions.

(a) A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder.

(b) Any bidder or offeror on a State contract that hires a person required to register under the Lobbyist Registration Act to assist in obtaining a contract shall (i) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract, (ii) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration, and (iii) sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration were billed to the State. This information, along with all supporting documents, shall be filed with the agency awarding the contract and with the Secretary of State. The chief procurement officer shall post this information, together with the contract award notice, in the online Procurement Bulletin.

(c) Ban on contingency fee. No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision made under this Code for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than $10,000.
(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

PROCUREMENT COMMUNICATIONS REPORTING REQUIREMENT

(30 ILCS 500/50-39)

Sec. 50-39. Procurement communications reporting requirement.

(a) Any written or oral communication received by a State employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board. These communications do not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency or to the employees of the Executive Ethics Commission. The provisions of this Section shall not apply to communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of a contract.

(b) The report required by subsection (a) shall be submitted monthly and include at least the following: (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

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

(d) The Procurement Policy Board shall make each report submitted pursuant to this Section available on its website within 7 days after its receipt of the report.

The Procurement Policy Board may promulgate rules to ensure compliance with this Section.

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

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

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-920, eff. 7-1-10.)

REPORTING ANTICOMPETITIVE PRACTICES

(30 ILCS 500/50-40)

Sec. 50-40. Reporting anticompetitive practices. When, for any reason, any vendor, bidder, contractor, chief procurement officer, State purchasing officer, designee, elected official, or State employee suspects collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State, a notice of the relevant facts shall be transmitted to the Attorney General and the chief procurement officer.

(Source: P.A. 90-572, eff. 2-6-98.)

CONFIDENTIALITY

(30 ILCS 500/50-45)

Sec. 50-45. Confidentiality. Any chief procurement officer, State purchasing officer, designee, or executive officer who willfully uses or allows the use of specifications, competitive bid documents, proprietary competitive information, proposals, contracts, or selection information to compromise the fairness or integrity of the procurement, bidding, or contract process shall be subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement, and may in addition be subject to criminal prosecution.

(Source: P.A. 90-572, eff. 2-6-98.)

INSIDER INFORMATION

(30 ILCS 500/50-50)

Sec. 50-50. Insider information. It is unlawful for any current or former elected or appointed State official or State employee to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

(Source: P.A. 90-572, eff. 2-6-98.)

SUPPLY INVENTORY

(30 ILCS 500/50-55)

Sec. 50-55. Supply inventory. Every State agency shall inventory or stock no more than a 12-month need of equipment, supplies, commodities, articles, and other items, except as otherwise authorized by the State agency's regulations. Every State agency shall periodically review its inventory to ensure compliance with this Section. If, upon review, an agency determines it has more than a 12-month supply of any equipment, supplies, commodities, or other items, the agency shall undertake transfers of the oversupplied items or other action necessary to maintain compliance with this Section. This Section shall not apply to lifesaving medications, mechanical spare parts, and items for which the supplier requires a minimum order stipulation.

(Source: P.A. 90-572, eff. 2-6-98.)

VOIDABLE CONTRACTS

(30 ILCS 500/50-60)

Sec. 50-60. Voidable contracts.

(a) If any contract or amendment thereto is entered into or purchase or expenditure of funds is made at any time in violation of this Code or any other law, the contract or amendment thereto may be declared void by the chief procurement officer or may be ratified and affirmed, provided the chief procurement officer determines that ratification is in the best interests of the State. If the contract is ratified and affirmed, it shall be without prejudice to the State's rights to any appropriate damages.

(b) If, during the term of a contract, the chief procurement officer determines that the contractor is delinquent in the payment of debt as set forth in Section 50-11 of this Code, the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State. The Debt Collection Bureau shall adopt rules for the implementation of this subsection (b).

(c) If, during the term of a contract, the chief procurement officer determines that the contractor is in violation of Section 50-10.5 of this Code, the chief procurement officer shall declare the contract void.

(d) If, during the term of a contract, the contracting agency learns from an annual certification or otherwise determines that the contractor no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the contract void if it determines that voiding the contract is in the best interests of the State.

(e) If, during the term of a contract, the chief procurement officer learns from an annual certification or otherwise determines that a subcontractor subject to Section 20-120 no longer qualifies to enter into State contracts by reason of Section 50-5, 50-10, 50-10.5, 50-11, 50-12, 50-14, or 50-14.5 of this Article, the chief procurement officer may declare the related contract void if it determines that voiding the contract is in the best interests of the State.

(f) The changes to this Section made by Public Act 96-795 apply to actions taken by the chief procurement officer on or after July 1, 2010.

(Source: P.A. 96-493, eff. 1-1-10; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

CONTRACTOR OR SUBCONTRACTOR SUSPENSION

(30 ILCS 500/50-65)

Sec. 50-65. Suspension. Any contractor or subcontractor may be suspended for violation of this Code or for failure to conform to specifications or terms of delivery. Suspension shall be for cause and may be for a period of up to 10 years at the discretion of the applicable chief procurement officer. Contractors or subcontractors may be debarred in accordance with rules promulgated by the chief procurement officer or as otherwise provided by law.

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

ADDITIONAL PROVISIONS

(30 ILCS 500/50-70)

Sec. 50-70. Additional provisions. This Code is subject to applicable provisions of the following Acts:

(1) Article 33E of the Criminal Code of 1961;

(2) the Illinois Human Rights Act;

(3) the Discriminatory Club Act;

(4) the Illinois Governmental Ethics Act;

(5) the State Prompt Payment Act;
(6) the Public Officer Prohibited Activities Act;
(7) the Drug Free Workplace Act;
(8) the Illinois Power Agency Act;
(9) the Employee Classification Act; and
(10) the State Officials and Employees Ethics Act.

(Source: P.A. 95-26, eff. 1-1-08; 95-481, eff. 8-28-07; 95-876, eff. 8-21-08; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

OTHER VIOLATIONS

(30 ILCS 500/50-75)

Sec. 50-75. Other violations.

(a) Any chief procurement officer, State purchasing officer, or designee who willfully violates or allows the violation of this Code shall be subject to immediate dismissal, regardless of the Personnel Code, any contract, or any collective bargaining agreement.

(b) Except as otherwise provided in this Code, whoever violates this Code or the rules promulgated under it is guilty of a Class A misdemeanor.

(Source: P.A. 90-572, eff. 2-6-98.)

ARTICLE 53
CONCESSIONS

CONCESSIONS AND LEASES OF STATE PROPERTY

(30 ILCS 500/53-10)

Sec. 53-10. Concessions and leases of State property.

(a) Except for property under the jurisdiction of a public institution of higher education, concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the State agency with jurisdiction over the property, whether tangible or intangible.

(b) Except for property under the jurisdiction of a public institution of higher education, all leases of State property and concessions shall be reduced to writing and shall be awarded under the provisions of Article 20, except that the contract shall be awarded to the highest and best bidder or offeror.

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

CONTRACT DURATION AND TERMS

(30 ILCS 500/53-20)

Sec. 53-20. Contract duration and terms. Except for property under the jurisdiction of a public institution of higher education, the duration and terms of concessions and leases of State property shall be in accordance with this Code or other applicable law.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(30 ILCS 500/53-25)

Sec. 53-25. Public institutions of higher education. Each public institution of higher education may enter into concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, for property, whether tangible or intangible, over which it has jurisdiction. Concessions shall be reduced to writing and shall be awarded at the discretion of the

institution with jurisdiction over the property. The duration and terms of concessions and leases shall be at the discretion of the institution with jurisdiction over the property. Notice of the award of a concession shall be published in the higher education volume of the Illinois Procurement Bulletin.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

TOLL HIGHWAY AUTHORITY

(30 ILCS 500/53-30)

Sec. 53-30. Illinois State Toll Highway Authority. The

Illinois State Toll Highway Authority may enter into contracts, leases, licenses, or agreements for a term not to exceed 25 years that relate to the grant of concessions or the leasing of any part of a toll highway for motor fuel service stations and facilities, garages, stores, or restaurants. Nothing in this Section shall be construed to apply to properties in which the Illinois State Toll Highway Authority is the lessee.
(Source: P.A. 91-684, eff. 1-26-00.)

PROPOSED CONTRACTS; PROCUREMENT POLICY BOARD

(30 ILCS 500/53-150)

Sec. 53-150. Proposed contracts; Procurement Policy Board. This Article is subject to Section 5-30 of this Code.
(Source: P.A. 93-839, eff. 7-30-04.)

ARTICLE 55
MISCELLANEOUS PROVISIONS

REFERENCES TO REPEALED PROVISIONS

(30 ILCS 500/55-5)

Sec. 55-5. References to repealed provisions. After the effective date of this Act, all references to the provisions of law repealed by this Act shall be construed, where necessary and appropriate, as references to the Illinois Procurement Code.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

EXCLUSIVE EXERCISE OF POWERS

(30 ILCS 500/55-10)

Sec. 55-10. Exclusive exercise of powers. On and after 120 days following the effective date of this Act, the powers granted under this Code shall be exercised exclusively as granted under this Code, and no State agency may concurrently exercise any such power, unless specifically authorized otherwise by a later enacted law. This Code is not intended to impair any contract entered into before the effective date of this Act.
(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

SEVERABILITY

(30 ILCS 500/55-15)

Sec. 55-15. Severability. If any provision of this Code or any application of it to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Code that can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable.

(Source: P.A. 90-572, eff. date -See Sec. 99-5.)

ARTICLE 99
EFFECTIVE DATE

EFFECTIVE DATE AND TRANSITION

(30 ILCS 500/99-5)

Sec. 99-5. Effective date and transition. This Article, Sections 1-15 through 1-15.115 of Article 1, and Article 50 take effect upon becoming law. Articles 1 through 45 and 53 through 95 take effect January 1, 1998, solely for the purpose of allowing the promulgation of rules to implement the Illinois Procurement Code. The Procurement Policy Board established in Article 5 may be appointed as of January 1, 1998, and until July 1, 1998, shall act only to review proposed purchasing rules. Articles 1 through 45 and 53 through 95 for all other purposes take effect on July 1, 1998.

(Source: P.A. 90-572, eff. 2-6-98.)

PROCUREMENT OF DOMESTIC PRODUCTS ACT
30 ILCS 517/

SHORT TITLE

(30 ILCS 517/1)

Sec. 1. Short title. This Act may be cited as the Procurement of Domestic Products Act. (Source: P.A. 93-954, eff. 1-1-05.)

DEFINITIONS

(30 ILCS 517/5)

Sec. 5. Definitions. As used in this Act:

"Manufactured in the United States" means, in the case of assembled articles, materials, or supplies, that design, final assembly, processing, packaging, testing, or other process that adds value, quality, or reliability occurs in the United States.

"Procured products" means assembled articles, materials, or supplies purchased by a State agency.

"Purchasing agency" means a State agency.

"State agency" means each agency, department authority, board, commission of the executive branch of State government, including each university, whether created by statute or by executive order of the Governor.

"United States" means the United States and any place subject to the jurisdiction of the United States.

(Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

UNITED STATES PRODUCTS

(30 ILCS 517/10)

Sec. 10. United States products. Each purchasing agency making purchases of procured products shall promote the purchase of and give preference to manufactured articles, materials, and supplies that have been manufactured in the United States. Procured products manufactured in the United States shall be specified and purchased unless the purchasing agency determines that any of the following applies:

(1) The procured products are not manufactured in the United States in reasonably available quantities.

(2) The price of the procured products manufactured in the United States exceeds by an unreasonable amount the price of available and comparable procured products manufactured outside the United States.

(3) The quality of the procured products manufactured in the United States is substantially less than the quality of the comparably priced, available, and comparable procured products manufactured outside the United States.

(4) The purchase of the procured products manufactured outside the United States better serves the public interest by helping to protect or save life, property, or the environment.

(5) The purchase of the procured products is made in conjunction with contracts or offerings of telecommunications, fire suppression, security systems, communications services, Internet services, or information services.

(6) The purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act.

In determining the price of procured products for purposes of this Section, consideration shall be given to the life-cycle cost, including maintenance and repair of those procured products.

(Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

CONTRACTS; PREQUALIFICATION

(30 ILCS 517/15)

Sec. 15. Contracts; prequalification.

(a) Each contract awarded by a purchasing agency on or after the effective date of this Act through the use of the preference required under Section 10 shall contain the contractor's certification that procured products provided pursuant to the contract or a subcontract shall be manufactured in the United States.

(b) Chief procurement officers, as provided in Section 20-45 of the Illinois Procurement Code, and the Capital Development Board, as provided in Section 30-20 of the Illinois Procurement Code, must promulgate rules for prequalification of suppliers and contractors under this Section.

(Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

FEDERAL AND STATE LAW

(30 ILCS 517/20)

Sec. 20. Federal and State law.

(a) Nothing in this Act is intended to contravene any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or regulation of the United States shall not be in violation of this Act to the extent of that accordance. No preference shall be granted under this Act if that preference would contravene any treaty, law, agreement, or regulation of the United States.

(b) The preference required by this Act is in addition to any other preference afforded by State law.

(Source: P.A. 93-954, eff. 1-1-05.)

PENALTIES

(30 ILCS 517/25)

Sec. 25. Penalties. If a contractor is awarded a contract through the use of a preference under this Act and knowingly supplies procured products under that contract that are not manufactured in the United States, then (i) the contractor is barred from obtaining any State contract for a period of 5 years after the violation is discovered by the purchasing agency, (ii) the purchasing agency may void the contract, and (iii) the purchasing agency may recover damages in a civil action in an amount 3 times the value of the preference.

(Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

CAPITAL DEVELOPMENT BOARD; EXEMPTION

(30 ILCS 517/30)

Sec. 30. Capital Development Board; exemption. The Capital Development Board (CDB) is exempt from the requirements of this Act with respect to a specific project if (i) CDB determines that the project is too complex for the 5 major construction building trades to identify the numerous individual procured products required for the project or (ii) CDB determines that procured products required for the project are too numerous or complex to be able to efficiently assess the sites where manufactured.

(Source: P.A. 93-954, eff. 1-1-05; 94-540, eff. 1-1-06.)

AMENDATORY PROVISIONS; TEXT OMITTED

(30 ILCS 517/90)

Sec. 90. (Amendatory provisions; text omitted).

(Source: P.A. 93-954, eff. 1-1-05; text omitted.)

PUBLIC PURCHASES IN OTHER STATES ACT
30 ILCS 520/

SHORT TITLE

(30 ILCS 520/0.01) (from Ch. 29, par. 39.9)

Sec. 0.01. Short title. This Act may be cited as the Public Purchases in Other States Act.

(Source: P.A. 86-1324.)

DEFINITION

(30 ILCS 520/1) (from Ch. 29, par. 40)

Sec. 1. The term "institution," as used in this Act, means all institutions maintained by the State or any political subdivision thereof or municipal corporation therein, including municipally-owned public utility plants.

(Source: Laws 1939, p. 1155.)

PURCHASE OF COMMODITIES FROM OTHER STATES

(30 ILCS 520/2) (from Ch. 29, par. 41)

Sec. 2. The board of trustees or other officer or officers in charge of every institution in the State of Illinois, which is supported in whole or in part by public funds, who are authorized or required to purchase commodities for use in the operation of any such institution, shall, in purchasing such commodities from vendors in any other state, give preference to vendors in those states whose preference laws do not prohibit the purchase by the public institutions of such states of commodities grown or produced in Illinois.

(Source: Laws 1939, p. 1155.)

VIOLATION

(30 ILCS 520/3) (from Ch. 29, par. 42)

Sec. 3.

Any trustee or officer who violates any provision of this Act shall be guilty of a petty offense.

(Source: P.A. 77-2368.)

GOVERNMENTAL JOINT PURCHASING ACT
30 ILCS 525/

SHORT TITLE

(30 ILCS 525/0.01) (from Ch. 85, par. 1600)

Sec. 0.01. Short title. This Act may be cited as the Governmental Joint Purchasing Act.

(Source: P.A. 86-1324.)

DEFINITION

(30 ILCS 525/1) (from Ch. 85, par. 1601)

Sec. 1. For the purposes of this Act, "governmental unit" means State of Illinois, any public authority which has the power to tax, or any other public entity created by statute.

(Source: P.A. 86-769.)

PROVISIONS OF JOINT PURCHASES

(30 ILCS 525/2) (from Ch. 85, par. 1602)

Sec. 2. Joint purchasing authority.

(a) Any governmental unit may purchase personal property, supplies and services jointly with one or more other governmental units. All such joint purchases shall be by competitive bids as provided in Section 4 of this Act. The provisions of any other acts under which a governmental unit operates which refer to purchases and procedures in connection therewith shall be superseded by the provisions of this Act when the governmental units are exercising the joint powers created by this Act.

(a-5) The Department of Central Management Services may purchase personal property, supplies, and services jointly with a governmental entity of another state or with a consortium of governmental entities of one or more other states. Subject to provisions of the joint purchasing solicitation, the Department of Central Management Services may designate the resulting contract as available to governmental units in Illinois.

(b) Any not-for-profit agency that qualifies under Section 45-35 of the Illinois Procurement Code and that either (1) acts pursuant to a board established by or controlled by a unit of local government or (2) receives grant funds from the State or from a unit of local government, shall be eligible to participate in contracts established by the State.

(Source: P.A. 96-584, eff. 1-1-10.)

AGREEMENT, DISTRIBUTION, AND CREDIT OR LIABILITY

(30 ILCS 525/3) (from Ch. 85, par. 1603)

Sec. 3. Conduct of bid-letting. Under any agreement of governmental units that desire to make joint purchases pursuant to subsection (a) of Section 2, one of the governmental units shall conduct the letting of bids. Where the State of Illinois is a party to the joint purchase agreement, the Department of Central Management Services shall conduct the letting of bids. Expenses of such bid-letting may be shared by the participating governmental units in proportion to the amount of personal property, supplies or services each unit purchases.

When the State of Illinois is a party to the joint purchase agreement pursuant to subsection (a) of Section 2, the acceptance of bids shall be in accordance with the Illinois Procurement Code and rules promulgated under that Code. When the State of Illinois is not a party to the joint purchase agreement, the acceptance of bids shall be governed by the agreement.

When the State of Illinois is a party to a joint purchase agreement pursuant to subsection (a-5) of Section 2, the State may act as the lead state or as a participant state. When the State of Illinois is the lead state, all such joint purchases shall be conducted in accordance with the Illinois Procurement Code. When Illinois is a participant state, all such joint purchases shall be conducted in accordance with the procurement laws of the lead state; provided that all such joint procurements must be by competitive sealed bid. All resulting awards shall be published in the appropriate volume of the Illinois Procurement Bulletin as may be required by Illinois law governing publication of the solicitation, protest, and award of Illinois State contracts. Contracts resulting from a joint purchase shall contain all provisions required by Illinois law and rule.

The personal property, supplies or services involved shall be distributed or rendered directly to each governmental unit taking part in the purchase. The person selling the personal property, supplies or services may bill each governmental unit separately for its proportionate share of the cost of the personal property, supplies or services purchased.

The credit or liability of each governmental unit shall remain separate and distinct. Disputes between bidders and governmental units shall be resolved between the immediate parties.

(Source: P.A. 96-584, eff. 1-1-10.)

REQUIREMENTS OF COMPETITIVE SEALED BIDS

(30 ILCS 525/4) (from Ch. 85, par. 1604)

Sec. 4. Bids. The purchases of all personal property, supplies and services under this Act shall be based on competitive, sealed bids. For purchases pursuant to subsection (a) of Section 2, bids shall be solicited by public notice inserted at least once in a newspaper of general circulation in one of the counties where the materials are to be used and at least 5 calendar days before the final date of submitting bids. Where the State of Illinois is a party to the joint purchase agreement, public notice soliciting the bids shall be inserted in the appropriate volume of the Illinois Procurement Bulletin. Such notice shall include a general description of the personal property, supplies or services to be purchased and shall state where all blanks and specifications may be obtained and the time and place for the opening of bids. The governmental unit conducting the bid-letting may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notices on a public bulletin board in its office.

All purchases, orders or contracts shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms.

Where the State of Illinois is not a party, all bids may be rejected and new bids solicited if one or more of the participating governmental units believes the public interest may be served thereby. Each bid, with the name of the bidder, shall be entered on a record, which record with the successful bid indicated thereon shall, after the award of the purchase or order or contract, be open to public inspection. A copy of all contracts shall be filed with the purchasing agent or clerk or secretary of each participating governmental unit.

(Source: P.A. 96-584, eff. 1-1-10.)

COMPLIANCE WITH "LOCAL GOVERNMENT PROMPT PAYMENT ACT"

(30 ILCS 525/4.1) (from Ch. 85, par. 1604.1)

Sec. 4.1. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.

(Source: P.A. 84-731.)

PROCUREMENT PROCEDURES

(30 ILCS 525/4.2) (from Ch. 85, par. 1604.2)

Sec. 4.2. Any governmental unit may, without violating any bidding requirement otherwise applicable to it, procure personal property, supplies and services under any contract let by the State pursuant to lawful procurement procedures.

(Source: P.A. 87-960.)

APPLICABILITY

(30 ILCS 525/5) (from Ch. 85, par. 1605)

Sec. 5. The provisions of this Act shall not apply to public utility services.

(Source: Laws 1961, p. 3382.)

POWERS AND AUTHORITY

(30 ILCS 525/6) (from Ch. 85, par. 1606)

Sec. 6. The powers and authority conferred by this Act shall be construed as in addition and supplemental to powers or authority conferred by any other law and nothing in this Act shall be construed as limiting any other powers or authority of any public agency.

(Source: P.A. 76-641.)

ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING QUALIFICATIONS BASED SELECTION ACT
30 ILCS 535/

SHORT TITLE

(30 ILCS 535/1) (from Ch. 127, par. 4151-1)

Sec. 1. Short title. This Act may be cited as the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

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

STATE POLICY ON PROCUREMENT OF ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES

(30 ILCS 535/5) (from Ch. 127, par. 4151-5)

Sec. 5. State policy on procurement of architectural, engineering, and land surveying services. It is the policy of State agencies of this State to publicly announce all requirements for architectural, engineering, and land surveying services, to procure these services on the basis of demonstrated competence and qualifications, to negotiate contracts at fair and reasonable prices, and to authorize the Department of Professional Regulation to enforce the provisions of Section 65 of this Act.

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

FEDERAL REQUIREMENTS

(30 ILCS 535/10) (from Ch. 127, par. 4151-10)

Sec. 10. Federal requirements. In the procurement of architectural, engineering, and land surveying services and in the awarding of contracts, a State agency may comply with federal law and regulations including, but not limited to, Public Law 92-582 (Federal Architect-Engineer Selection Law, Brooks Law, 40 U.S.C. 541) and take all necessary steps to adapt its rules, specifications, policies, and procedures accordingly to remain eligible for federal aid.

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

DEFINITIONS

(30 ILCS 535/15) (from Ch. 127, par. 4151-15)

Sec. 15. Definitions. As used in this Act:

"Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.

"Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.

"Firm" means any individual, sole proprietorship, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, or land surveying and provide those services.

"Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.

"Project" means any capital improvement project or any design, study, plan, survey, or new or existing program activity of a State agency, including development of new or existing programs that require architectural, engineering, or land surveying services.

"State agency" means any department, commission, council, board, bureau, committee, institution, agency, university, government corporation, authority, or other establishment or official of this State.

(Source: P.A. 91-91, eff. 1-1-00.)

PREQUALIFICATION

(30 ILCS 535/20) (from Ch. 127, par. 4151-20)

Sec. 20. Prequalification. A State agency shall establish procedures to prequalify firms seeking to provide architectural, engineering, and land surveying services or may use prequalification lists from other State agencies to meet the requirements of this Section.

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

PUBLIC NOTICE

(30 ILCS 535/25) (from Ch. 127, par. 4151-25)

Sec. 25. Public notice. Whenever a project requiring architectural, engineering, or land surveying services is proposed for a State agency, the State agency shall provide no less than a 14 day advance notice published in a professional services bulletin or advertised within the official State newspaper setting forth the projects and services to be procured. The professional services bulletin shall be available electronically and may be available in print. The professional services bulletin shall include a description of each project and shall state the time and place for interested firms to submit a letter of interest and, if required by the public notice, a statement of qualifications.

(Source: P.A. 92-345, eff. 8-10-01.)

EVALUATION PROCEDURE

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

Sec. 30. Evaluation procedure. A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

A State agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services. A selection committee may include at least one public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the State agency nor may the public member's firm be considered for a contract with that State agency while he or she is serving as a public member of the committee.

In addition, the Department of Transportation may appoint public members to selection committees that represent the geographic, ethnic, and cultural diversity of the population of the State, including persons nominated by associations representing minority and female-owned business associations. Public members shall be licensed in or have received a degree from an accredited college or university in one of the professions affected and shall not be employed by, associated with, or have an ownership interest in any firm holding or seeking to hold a contract while serving as a public member of the committee.

In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 96-37, eff. 7-13-09; 96-849, eff. 12-23-09.)

SELECTION PROCEDURE

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

Sec. 35. Selection procedure. On the basis of evaluations, discussions, and any presentations, the State agency shall select no less than 3 firms it determines to be qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The State agency shall then contact the firm ranked most preferred to negotiate a contract at a fair and reasonable compensation. If fewer than 3 firms submit letters of interest and the State agency determines that one or both of those firms are so qualified, the State agency may proceed to negotiate a contract under Section 40. The decision of the State agency shall be final and binding.
(Source: P.A. 87-673.)

CONTRACT NEGOTIATION

(30 ILCS 535/40) (from Ch. 127, par. 4151-40)

Sec. 40. Contract negotiation.

(a) The State agency shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the State agency determines in writing to be fair and reasonable. In making this decision, the State agency shall take into account the estimated value, scope, complexity, and professional nature of the services to be rendered. In no case may a State agency establish a maximum overhead rate or other payment formula designed to eliminate firms from contention or restrict competition or negotiation of fees.

(b) If the State agency is unable to negotiate a satisfactory contract with the firm that is most preferred, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred. If the State agency is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The State agency shall then begin negotiations with the firm that is next preferred.

(c) If the State agency is unable to negotiate a satisfactory contract with any of the selected firms, the State agency shall re-evaluate the architectural, engineering, or land surveying services requested, including the estimated value, scope, complexity, and fee requirements. The State agency shall then compile a second list of not less than 3 qualified firms and proceed in accordance with the provisions of this Act.

(d) A firm negotiating a contract with a State agency shall negotiate subcontracts for architectural, engineering, and land surveying services at compensation that the firm determines in writing to be fair and reasonable based upon a written description of the scope of the proposed services.
(Source: P.A. 87-673.)

SMALL CONTRACTS

(30 ILCS 535/45) (from Ch. 127, par. 4151-45)

Sec. 45. Small contracts. The provisions of Sections 25, 30, and 35 do not apply to architectural, engineering, and land surveying contracts with an estimated basic professional services fee of less than $25,000.
(Source: P.A. 92-861, eff. 1-3-03.)

EMERGENCY SERVICES

(30 ILCS 535/50) (from Ch. 127, par. 4151-50)

Sec. 50. Emergency services. Sections 25, 30, and 35 do not apply in the procurement of architectural, engineering, and land surveying services by State agencies (i) when an agency determines in writing that it is in the best interest of the State to proceed with the immediate selection of a firm or (ii) in emergencies when

immediate services are necessary to protect the public health and safety, including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.
(Source: P.A. 87-673.)

FIRM PERFORMANCE EVALUATION

(30 ILCS 535/55) (from Ch. 127, par. 4151-55)

Sec. 55. Firm performance evaluation. Each State agency shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm who may submit a written response, with the evaluation and response retained solely by the agency. The evaluation and response shall not be made available to any other person or firm and is exempt from disclosure under the Freedom of Information Act.
(Source: P.A. 87-673.)

CERTIFICATE OF COMPLIANCE

(30 ILCS 535/60) (from Ch. 127, par. 4151-60)

Sec. 60. Certificate of compliance. Each contract for architectural, engineering, and land surveying services by a State agency shall contain a certificate signed by a representative of the State agency and the firm that the provisions of this Act were complied with.
(Source: P.A. 87-673.)

SCOPE

(30 ILCS 535/65) (from Ch. 127, par. 4151-65)

Sec. 65. Scope. No person, corporation, or partnership licensed or registered under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989 shall engage in any act or conduct, or be a party to any contract, or agreement, in violation of the provisions of this Act.
(Source: P.A. 91-91, eff. 1-1-00.)

ENFORCEMENT

(30 ILCS 535/70) (from Ch. 127, par. 4151-70)

Sec. 70. Enforcement. Any contract or agreement made in violation of this Act after the effective date of this Act, except a supplement or extension of an existing contract, is void and unenforceable, and the Comptroller and Treasurer of the State of Illinois shall not process any payment claims or checks for any contract or agreement made in violation of this Act.
(Source: P.A. 87-673.)

CONTRACTING A DESIGN/BUILD PROJECT

(30 ILCS 535/75) (from Ch. 127, par. 4151-75)

Sec. 75. Nothing in this Act shall be deemed to prohibit a State agency from contracting for a design/build project.
(Source: P.A. 87-673.)

AFFIRMATIVE ACTION

(30 ILCS 535/80) (from Ch. 127, par. 4151-80)

Sec. 80. Affirmative action. Nothing in this Act shall be deemed to prohibit or restrict agencies from establishing or maintaining affirmative action contracting goals for minorities or women, or small business setaside programs, now or hereafter established by law, rules and regulations, or executive order.
(Source: P.A. 87-673.)

DESIGN-BUILD PROCUREMENT ACT
30 ILCS 537/

SHORT TITLE

(30 ILCS 537/1)

(Section scheduled to be repealed on July 1, 2014)

Sec. 1. Short title. This Act may be cited as the Design-Build Procurement Act.
(Source: P.A. 94-716, eff. 12-13-05.)

LEGISLATIVE POLICY

(30 ILCS 537/5)

(Section scheduled to be repealed on July 1, 2014)

Sec. 5. Legislative policy. It is the intent of the General Assembly that the Capital Development Board be allowed to use the design-build delivery method for public projects if it is shown to be in the State's best interest for that particular project. It shall be the policy of the Capital Development Board in the procurement of design-build services to publicly announce all requirements for design-build services and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The Capital Development Board shall, prior to issuing requests for proposals, promulgate and publish procedures for the solicitation and award of contracts pursuant to this Act.

The Capital Development Board shall, for each public project or projects permitted under this Act, make a written determination, including a description as to the particular advantages of the design-build procurement method, that it is in the best interests of this State to enter into a design-build contract for the project or projects. In making that determination, the following factors shall be considered:

(1) The probability that the design-build procurement method will be in the best interests of the State by providing a material savings of time or cost over the design-bid-build or other delivery system.

(2) The type and size of the project and its suitability to the design-build procurement method.

(3) The ability of the State construction agency to define and provide comprehensive scope and performance criteria for the project.

No State construction agency may use a design-build procurement method unless the agency determines in writing that the project will comply with the disadvantaged business and equal employment practices of the State as established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

The Capital Development Board shall within 15 days after the initial determination provide an advisory copy to the Procurement Policy Board and maintain the full record of determination for 5 years.
(Source: P.A. 94-716, eff. 12-13-05.)

DEFINITIONS

(30 ILCS 537/10)

(Section scheduled to be repealed on July 1, 2014)

Sec. 10. Definitions. As used in this Act:

"State construction agency" means the Capital Development Board.

"Delivery system" means the design and construction approach used to develop and construct a project.

"Design-bid-build" means the traditional delivery system used on public projects in this State that incorporates the Architectural, Engineering, and Land Surveying

Qualification Based Selection Act (30 ILCS 535/) and the principles of competitive selection in the Illinois Procurement Code (30 ILCS 500/).

"Design-build" means a delivery system that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying and related services as required, and the labor, materials, equipment, and other construction services for the project.

"Design-build contract" means a contract for a public project under this Act between the State construction agency and a design-build entity to furnish architecture, engineering, land surveying, and related services as required, and to furnish the labor, materials, equipment, and other construction services for the project. The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the State construction agency to make modifications in the project scope without invalidating the design-build contract.

"Design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Act. A design-build entity and associated design-build professionals shall conduct themselves in accordance with the laws of this State and the related provisions of the Illinois Administrative Code, as referenced by the licensed design professionals Acts of this State.

"Design professional" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989 (225 ILCS 305/), the Professional Engineering Practice Act of 1989 (225 ILCS 325/), the Structural Engineering Licensing Act of 1989 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act of 1989 (225 ILCS 330/).

"Evaluation criteria" means the requirements for the separate phases of the selection process as defined in this Act and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors. Price may not be used as a factor in the evaluation of Phase I proposals.

"Proposal" means the offer to enter into a design-build contract as submitted by a design-build entity in accordance with this Act.

"Request for proposal" means the document used by the State construction agency to solicit proposals for a design-build contract.

"Scope and performance criteria" means the requirements for the public project, including but not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.

(Source: P.A. 94-716, eff. 12-13-05.)

SOLICITATION OF PROPOSALS

(30 ILCS 537/15)

(Section scheduled to be repealed on July 1, 2014)

Sec. 15. Solicitation of proposals.

(a) When the State construction agency elects to use the design-build delivery method, it must issue a notice of intent to receive requests for proposals for the project at least 14 days before issuing the request for the proposal. The State construction agency must publish the advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service

publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The State construction agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the use of additional prequalification criteria by the State construction agency.

(5) Material requirements of the contract, including but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The State construction agency may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $10 million, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The State construction agency shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 94-716, eff. 12-13-05.)

DEVELOPMENT OF SCOPE AND PERFORMANCE CRITERIA

(30 ILCS 537/20)

(Section scheduled to be repealed on July 1, 2014)

Sec. 20. Development of scope and performance criteria.

(a) The State construction agency shall develop, with the assistance of a licensed design professional, a request for proposal, which shall include scope and performance criteria. The scope and performance criteria must be in sufficient detail and contain adequate information to reasonably apprise the qualified design-build entities of the State construction agency's overall programmatic needs and goals, including criteria and preliminary design plans, general budget parameters, schedule, and delivery requirements.

(b) Each request for proposal shall also include a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the State construction agency to be produced by the design-build entities.

(c) The scope and performance criteria shall be prepared by a design professional who is an employee of the State construction agency, or the State construction agency may contract with an independent design professional selected under the Architectural, Engineering and Land Surveying Qualification Based Selection Act (30 ILCS 535/) to provide these services.

(d) The design professional that prepares the scope and performance criteria is prohibited from participating in any design-build entity proposal for the project.
(Source: P.A. 94-716, eff. 12-13-05.)

SELECTION COMMITTEE

(30 ILCS 537/25)

(Section scheduled to be repealed on July 1, 2014)

Sec. 25. Selection committee.

(a) When the State construction agency elects to use the design-build delivery method, it shall establish a committee to evaluate and select the design-build entity. The committee, under the discretion of the State construction agency, shall consist of 5 or 7 members and shall include at least one licensed design professional and 2 members of the public. Public members may not be employed or associated with any firm holding a contract with the State construction agency. One public member shall be nominated by associations representing the general design or construction industry and one member shall be nominated by associations that represent minority or female-owned design or construction industry businesses. The selection committee may be designated for a set term or for the particular project subject to the request for proposal.

(b) The members of the selection committee must certify for each request for proposal that no conflict of interest exists between the members and the design-build entities submitting proposals. If a conflict exists, the member must be replaced before any review of proposals.
(Source: P.A. 94-716, eff. 12-13-05.)

PROCEDURES FOR SELECTION

(30 ILCS 537/30)

(Section scheduled to be repealed on July 1, 2014)

Sec. 30. Procedures for Selection.

(a) The State construction agency must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The State construction agency shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the agency has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase I evaluation of design-build entities: (1) experience of personnel; (2) successful experience with similar project types; (3) financial capability; (4) timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm; (7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and

with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided however, no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The State construction agency must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the State agency.

(c) The State construction agency shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase II technical evaluation of design-build entities: (1) compliance with objectives of the project; (2) compliance of proposed services to the request for proposal requirements; (3) quality of products or materials proposed; (4) quality of design parameters; (5) design concepts; (6) innovation in meeting the scope and performance criteria; and (7) constructability of the proposed project. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The State construction agency shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighing factor shall be 25%.

The State construction agency shall directly employ or retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the State construction agency may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 96-21, eff. 6-30-09.)

SMALL PROJECTS

(30 ILCS 537/35)

(Section scheduled to be repealed on July 1, 2014)

Sec. 35. Small projects. In any case where the total overall cost of the project is estimated to be less than $10 million, the State construction agency may combine the two-phase procedure for selection described in Section 30 into one combined step, provided that all the requirements of evaluation are performed in accordance with Section 30.

(Source: P.A. 94-716, eff. 12-13-05.)

SUBMISSION OF PROPOSALS

(30 ILCS 537/40)

(Section scheduled to be repealed on July 1, 2014)

Sec. 40. Submission of proposals. Proposals must be properly identified and sealed. Proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for proposals. All design-build entities submitting proposals shall be disclosed after the deadline for submission, and all design-build entities who are selected for Phase II evaluation shall also be disclosed at the time of that determination.

Proposals shall include a bid bond in the form and security as designated in the request for proposals. Proposals shall also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals shall include a list of all design professionals and other entities as defined in Section 30-30 of the Illinois Procurement Code to which any work may be subcontracted during the performance of the contract. Any entity that will perform any of the 5 subdivisions of work defined in Section 30-30 of the Illinois Procurement Code must meet prequalification standards of the State construction agency.

Proposals must meet all material requirements of the request for proposal or they may be rejected as non-responsive. The State construction agency shall have the right to reject any and all proposals.

The drawings and specifications of the proposal shall remain the property of the design-build entity.

The State construction agency shall review the proposals for compliance with the performance criteria and evaluation factors.

Proposals may be withdrawn prior to evaluation for any cause. After evaluation begins by the State construction agency, clear and convincing evidence of error is required for withdrawal.

(Source: P.A. 94-716, eff. 12-13-05.)

AWARD

(30 ILCS 537/45)

(Section scheduled to be repealed on July 1, 2014)

Sec. 45. Award. The State construction agency may award the contract to the highest overall ranked entity. Notice of award shall be made in writing. Unsuccessful entities shall also be notified in writing. The State construction agency may not request a best and final offer after the receipt of proposals. The State construction agency may negotiate with the selected design-build entity after award but prior to contract execution for the purpose of securing better terms than originally proposed, provided that the salient features of the request for proposal are not diminished.

(Source: P.A. 94-716, eff. 12-13-05.)

REPORTS AND EVALUATION

(30 ILCS 537/46)

(Section scheduled to be repealed on July 1, 2014)

Sec. 46. Reports and evaluation. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the proposal process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to what degree each design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act. (Source: P.A. 94-716, eff. 12-13-05.)

ADMINISTRATIVE PROCEDURE ACT

(30 ILCS 537/50)

(Section scheduled to be repealed on July 1, 2014)

Sec. 50. Administrative Procedure Act. The Illinois

Administrative Procedure Act (5 ILCS 100/) applies to all administrative rules and procedures of the State construction agency under this Act except that nothing herein shall be construed to render any prequalification or other responsibility criteria as a "license" or "licensing" under that Act.

(Source: P.A. 94-716, eff. 12-13-05.)

FEDERAL REQUIREMENTS

(30 ILCS 537/53)

(Section scheduled to be repealed on July 1, 2014)

Sec. 53. Federal requirements. In the procurement of design-build contracts, the State construction agency shall comply with federal law and regulations and take all necessary steps to adapt their rules, policies, and procedures to remain eligible for federal aid.

(Source: P.A. 94-716, eff. 12-13-05.)

REPEALER

(30 ILCS 537/90)

(Section scheduled to be repealed on July 1, 2014)

Sec. 90. Repealer. This Act is repealed on July 1, 2014.

(Source: P.A. 96-21, eff. 6-30-09.)

SEVERABILITY

(30 ILCS 537/95)

(Section scheduled to be repealed on July 1, 2014) Sec. 95. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 94-716, eff. 12-13-05.)

EFFECTIVE DATE

(30 ILCS 537/99)

(Section scheduled to be repealed on July 1, 2014)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 94-716, eff. 12-13-05.)

STATE PROMPT PAYMENT ACT
30 ILCS 540/

SHORT TITLE

(30 ILCS 540/0.01) (from Ch. 127, par. 132.400)

Sec. 0.01. Short title. This Act may be cited as the State Prompt Payment Act.
(Source: P.A. 86-1324.)

DEFINITIONS

(30 ILCS 540/1) (from Ch. 127, par. 132.401)

Sec. 1. This Act applies to any State official or agency authorized to provide for payment from State funds, by virtue of any appropriation of the General Assembly, for goods or services furnished to the State.

For purposes of this Act, "goods or services furnished to the State" include but are not limited to (i) covered health care provided to eligible members and their covered dependents in accordance with the State Employees Group Insurance Act of 1971, including coverage through a physician-owned health maintenance organization under Section 6.1 of that Act, and (ii) prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental health services, alcohol and substance abuse services, rehabilitation services, and early intervention services provided by a vendor. For the purposes of item (ii), a vendor includes but is not limited to sellers of goods and services, including community-based organizations that are licensed to provide prevention, intervention, or treatment services and supports for persons with developmental disabilities, mental illness, and substance abuse problems.

For the purposes of this Act, "appropriate State official or agency" is defined as the Director or Chief Executive or his designee of that State agency or department or facility of such agency or department. With respect to covered health care provided to eligible members and their dependents in accordance with the State Employees Group Insurance Act of 1971, "appropriate State official or agency" also includes an administrator of a program of health benefits under that Act.

As used in this Act, "eligible member" means a member who is eligible for health benefits under the State Employees Group Insurance Act of 1971, and "member" and "dependent" have the meanings ascribed to those terms in that Act.

As used in this Act, "a proper bill or invoice" means a bill or invoice that includes the information necessary for processing the payment as may be specified by a State agency and in rules adopted in accordance with this Act.
(Source: P.A. 96-802, eff. 1-1-10.)

REPEALED

(30 ILCS 540/2) (from Ch. 127, par. 132.402)

Sec. 2. (Repealed).
(Source: Repealed by P.A. 87-1232.)

REPEALED

(30 ILCS 540/2.1) (from Ch. 127, par. 132.402.1)

Sec. 2.1. (Repealed).
(Source: Repealed by P.A. 87-1232.)

REPEALED

(30 ILCS 540/3) (from Ch. 127, par. 132.403)

Sec. 3. (Repealed).
(Source: Repealed by P.A. 87-1232.)

INTEREST PENALTIES

(30 ILCS 540/3-1) (from Ch. 127, par. 132.403-1)

Sec. 3-1. The Illinois Court of Claims shall, in its investigation of payments due claimants, provide for interest penalties as prescribed in this Act; however, interest penalties in claims pursuant to the Line of Duty Compensation Act shall be paid in accordance with subsection (3) of Section 24 of the Court of Claims Act.

(Source: P.A. 95-928, eff. 8-26-08.)

LATE PAYMENTS AND INTEREST PENALTIES

(30 ILCS 540/3-2)

Sec. 3-2. Beginning July 1, 1993, in any instance where a State official or agency is late in payment of a vendor's bill or invoice for goods or services furnished to the State, as defined in Section 1, properly approved in accordance with rules promulgated under Section 3-3, the State official or agency shall pay interest to the vendor in accordance with the following:

(1) Any bill, except a bill submitted under Article V of the Illinois Public Aid Code, approved for payment under this Section must be paid or the payment issued to the payee within 60 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 60 day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60 day period, until final payment is made. Any bill submitted under Article V of the Illinois Public Aid Code approved for payment under this Section must be paid or the payment issued to the payee within 60 days after receipt of a proper bill or invoice, and, if payment is not issued to the payee within this 60-day period, an interest penalty of 2.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60-day period, until final payment is made.

(1.1) A State agency shall review in a timely manner each bill or invoice after its receipt. If the State agency determines that the bill or invoice contains a defect making it unable to process the payment request, the agency shall notify the vendor requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under Section 3-3; provided, however, that the notice for construction related bills or invoices must be given not later than 30 days after the bill or invoice was first submitted. The notice shall identify the defect and any additional information necessary to correct the defect. If one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid.

(2) Where a State official or agency is late in payment of a vendor's bill or invoice properly approved in accordance with this Act, and different late payment terms are not reduced to writing as a contractual agreement, the State official or agency shall automatically pay interest penalties required by this Section amounting to $50 or more to the appropriate vendor. Each agency shall be responsible for determining whether an interest penalty is owed and for paying the interest to the vendor. Interest due to a vendor that amounts to less than $50 shall not be paid but shall be accrued until all interest due the vendor for all similar warrants exceeds $50, at which time the accrued interest shall be payable and interest will begin accruing again, except that interest accrued as of the end of the fiscal year that does not exceed $50 shall be payable at that time. In the event an individual has paid a vendor for services in advance, the provisions of this Section shall apply until payment is made to that individual.

(Source: P.A. 96-555, eff. 8-18-09; 96-802, eff. 1-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10.)

INTEREST PENALTY REPORT

(30 ILCS 540/3-2.1)

Sec. 3-2.1. Interest penalty report. The State Comptroller, in conjunction with the Department of Central Management Services, shall submit a report to the General Assembly no later than January 31, 2011. The report shall include the following information, which shall be broken down by State agency and vendor:

(1) the number and total dollar amount of interest penalty payment vouchers submitted to the Comptroller's office on or after August 18, 2009 and before January 1, 2011 for interest payments of less than $5;

(2) the number and total dollar amount of interest penalty payment vouchers submitted to the Comptroller's office on or after August 18, 2009 and before January 1, 2011 for interest payments of at least $5 but less than $50; the report shall indicate the number and total dollar amount of (i) those paid automatically and (ii) those initiated by written request of the vendor; and

(3) the aggregate cost of processing the interest penalty payment vouchers referenced in items (1) and (2).

The report shall also include recommendations regarding establishing a minimum threshold for payment of interest penalties to vendors and increased efficiencies, including, but not limited to, consolidation of multiple payments to the same vendor.
(Source: P.A. 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10.)

ADVANCE PAYMENT REIMBURSEMENT AND INTEREST

(30 ILCS 540/3-2.5)

Sec. 3-2.5. Advance payment reimbursement and interest. If a vendor provides goods or services to an individual and requires that individual to pay all or part of the cost of the goods or services in advance of the vendor being paid for those goods or services by the State, then the amount of the individual's advance payment, and any interest under this Act attributable to the advance payment, that is paid by the State to the vendor is the property of the individual and, to the extent received by the vendor, must be promptly disbursed by the vendor to that individual.
(Source: P.A. 96-1085, eff. 1-1-11.)

RULES AND POLICIES

(30 ILCS 540/3-3) (from Ch. 127, par. 132.403-3)

Sec. 3-3. The State Comptroller and the Department of Central Management Services shall jointly promulgate rules and policies to govern the uniform application of this Act. These rules and policies shall include procedures and time frames for approving a bill or invoice from a vendor for goods or services furnished to the State. These rules and policies shall provide for procedures and time frames applicable to payment plans as may be agreed upon between State agencies and vendors. These rules and policies shall be binding on all officials and agencies under this Act's jurisdiction. These rules and policies may be made effective no earlier than July 1, 1993.
(Source: P.A. 92-384, eff. 7-1-02.)

RECORDING INTEREST PENALTY PAYMENTS

(30 ILCS 540/3-4)

Sec. 3-4. The State Comptroller must specify the manner in which State agencies shall record interest penalty payments made under this Act. The State Comptroller may require vouchers submitted for payment, including submission by electronic or other means approved by the Comptroller, to indicate the appropriate date from which interest penalties may be calculated as required under this Act.
(Source: P.A. 92-384, eff. 7-1-02.)

POWER TO EXAMINE VOUCHERS

(30 ILCS 540/4) (from Ch. 127, par. 132.404)

Sec. 4. Nothing in this Act shall be construed to deprive the Comptroller of his power to examine vouchers as specified in the State Comptroller Act.

(Source: P.A. 92-384, eff. 7-1-02.)

INDICATION OF INTEREST ON INVOICE OR VOUCHER

(30 ILCS 540/5) (from Ch. 127, par. 132.405)

Sec. 5. The State remittance shall indicate that payment of interest may be available for failure to comply with this Act.

(Source: P.A. 92-384, eff. 7-1-02.)

WAIVER OF LATE PAYMENT PENALTY; VENDOR

(30 ILCS 540/6) (from Ch. 127, par. 132.406)

Sec. 6. A State official or agency may not request any vendor or contractor to waive his rights, under this Act, to recover a penalty for late payment as a condition of, or inducement to enter into, any contract for goods or services.

(Source: P.A. 87-773.)

PAYMENTS TO SUBCONTRACTORS AND MATERIAL SUPPLIERS

(30 ILCS 540/7) (from Ch. 127, par. 132.407)

Sec. 7. Payments to subcontractors and material suppliers.

(a) When a State official or agency responsible for administering a contract submits a voucher to the Comptroller for payment to a contractor, that State official or agency shall promptly make available electronically the voucher number, the date of the voucher, and the amount of the voucher. The State official or agency responsible for administering the contract shall provide subcontractors and material suppliers, known to the State official or agency, with instructions on how to access the electronic information. When a contractor receives any payment, the contractor shall pay each subcontractor and material supplier in proportion to the work completed by each subcontractor and material supplier their application, plus interest received under this Act, less any retention. If the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a pro rata basis those funds received, plus interest received under this Act, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount of payment. When, however, the public owner does not release the full payment due under the contract because there are specific areas of work or materials the contractor is rejecting or because the contractor has otherwise determined such areas are not suitable for payment, then those specific subcontractors or suppliers involved shall not be paid for that portion of work rejected or deemed not suitable for payment and all other subcontractors and suppliers shall be paid in full, plus interest received under this Act.

(b) If the contractor, without reasonable cause, fails to make full payment of amounts due under subsection (a) to his subcontractors and material suppliers within 15 days after receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 15-day period until fully paid. This subsection shall also apply to any payments made by subcontractors and material suppliers to their subcontractors and material suppliers and to all payments made to lower tier subcontractors and material suppliers throughout the contracting chain.

(1) If a contractor, without reasonable cause, fails to make payment in full as provided in subsection (a) within 15 days after receipt of payment under the public construction contract, any subcontractor or material supplier to whom payments are owed may file a written notice with the State official or agency setting forth the amount owed by the contractor and the contractor's failure to timely pay the amount owed.

(2) The State official or agency, within 15 days after receipt of a subcontractor's or material supplier's written notice of the failure to receive payment from the contractor, shall hold a hearing convened by an administrative law judge to determine whether the contractor withheld payment, without reasonable cause, from the subcontractors and material suppliers and what amount, if any, is due to the subcontractors and material suppliers. The State official or agency shall provide appropriate notice to the parties of the date, time, and location of the hearing. Each contractor, subcontractor, and material supplier has the right to be represented by counsel at the hearing and to cross-examine witnesses and challenge documents.

(3) If there is a finding by the administrative law judge that the contractor failed to make payment in full, without reasonable cause, as provided in subsection (a), then the administrative law judge shall, in writing, direct the contractor to pay the amount owed to the subcontractors and material suppliers plus interest within 15 days after the finding.

(4) If a contractor fails to make full payment within 15 days after the administrative law judge's finding, then the contractor shall be barred from entering into a State public construction contract for a period of one year beginning on the date of the administrative law judge's finding.

(Source: P.A. 94-672, eff. 1-1-06; 94-972, eff. 7-1-07.)

PUBLIC CONTRACT FRAUD ACT
30 ILCS 545/

SHORT TITLE

(30 ILCS 545/0.01) (from Ch. 127, par. 132.50)

Sec. 0.01. Short title. This Act may be cited as the Public Contract Fraud Act.
(Source: P.A. 86-1324.)

UNLAWFUL CHANGES FOR CONSTRUCTION OR REPAIR WORK

(30 ILCS 545/1) (from Ch. 127, par. 132.51)

Sec. 1. Whenever the General Assembly shall pass any enactment for the construction or repair or any public work or improvement, of the state, of any character or name whatsoever, and the said enactment, shall have become a law, and plans, specifications and estimates for the construction or repair of said public work or improvement have been submitted to and approved by the authorities designated in said law, and an appropriation has been made to defray the estimated expense thereof; any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the execution of said public work or improvement, who shall so change, alter or modify, or permit or connive at such change, alteration or modification by any person or persons under his or their direction or control, directly or indirectly, so as to incur a greater cost and expense in the construction or repair of such public work or improvement, than was specified by the law authorizing it, and the appropriation made in pursuance thereof, shall be deemed guilty of a Class A misdemeanor.

(Source: P.A. 77-2596.)

SPENDING MONEY WITHOUT OBTAINING TITLE TO LAND; APPROVAL OF TITLE BY ATTORNEY GENERAL

(30 ILCS 545/2) (from Ch. 127, par. 132.52)

Sec. 2. Spending money without obtaining title to land; approval of title by Attorney General.

(a) Except as otherwise provided in Section 2 of the Superconducting Super Collider Act or for projects constructed under the Bikeway Act, any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or any part of the moneys appropriated therefor, or who shall commence work, or in any way authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; such title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor.

(b) Approval of title by the Attorney General for all lands needed for a public work or improvement shall not be required as established under subsection (a) of this Section and the State Comptroller may draw warrant in payment of consideration for all such lands without requiring approval of title by the Attorney General if consideration to be paid does not exceed $10,000 and the title acquired for such lands is for:

(1) a fee simple title or easement acquired by the State for highway right-of-way; or

(2) an acquisition of rights or easements of access, crossing, light, air or view to, from or over a freeway vested in abutting property; or

(3) a fee simple title or easement used to place utility lines and connect a permanent public work or improvement owned by the State to main utility lines; or

(4) for the purpose of flood relief or other water resource projects.

(c) This Section does not apply to any otherwise lawful expenditures for the construction, completion, remodeling, maintenance and equipment of buildings and other facilities made in connection with and upon premises owned by the Illinois Building Authority, nor shall this Section apply to improvements to real estate leased by any State agency as defined in the Illinois State Auditing Act, provided the leasehold improvements were contracted for by an agency with leasing authority and in compliance with the rules and regulations promulgated by such agency for that purpose.
(Source: P.A. 88-676, eff. 12-14-94; 89-78, eff. 6-30-95.)

PROSECUTION

(30 ILCS 545/3) (from Ch. 127, par. 132.53)

Sec. 3. Any person or persons, commissioner or commissioners, or other officer or officers, as aforesaid, may be prosecuted in any circuit court of this state, on complaint of 2 or more reputable citizens being filed in the office of the clerk of said court; such complaint to be verified by affidavits.
(Source: Laws 1965, p. 3749.)

INDICTMENT

(30 ILCS 545/4) (from Ch. 127, par. 132.54)

Sec. 4. It shall be the duty of the State's attorney of the county in which such complaint and affidavits are filed, to present the same to the grand jury, next constituted for such court after the filing thereof, and if said grand jury shall indict the person or persons so complained of it shall further be the duty of said State's attorney to prosecute and try the alleged offender or offenders.
(Source: Laws 1933, p. 475.)

PUBLIC CONSTRUCTION BOND ACT
30 ILCS 550/

SHORT TITLE

(30 ILCS 550/0.01) (from Ch. 29, par. 14.9)

Sec. 0.01. Short title. This Act may be cited as the Public Construction Bond Act. (Source: P.A. 86-1324.)

BOND AGREEMENT

(30 ILCS 550/1) (from Ch. 29, par. 15)

Sec. 1. Except as otherwise provided by this Act, all officials, boards, commissions, or agents of this State in making contracts for public work of any kind costing over $50,000 to be performed for the State, and all officials, boards, commissions, or agents of any political subdivision of this State in making contracts for public work of any kind costing over $5,000 to be performed for the political subdivision, shall require every contractor for the work to furnish, supply and deliver a bond to the State, or to the political subdivision thereof entering into the contract, as the case may be, with good and sufficient sureties. The amount of the bond shall be fixed by the officials, boards, commissions, commissioners or agents, and the bond, among other conditions, shall be conditioned for the completion of the contract, for the payment of material used in the work and for all labor performed in the work, whether by subcontractor or otherwise.

If the contract is for emergency repairs as provided in the Illinois Procurement Code, proof of payment for all labor, materials, apparatus, fixtures, and machinery may be furnished in lieu of the bond required by this Section.

Each such bond is deemed to contain the following provisions whether such provisions are inserted in such bond or not:

"The principal and sureties on this bond agree that all the undertakings, covenants, terms, conditions and agreements of the contract or contracts entered into between the principal and the State or any political subdivision thereof will be performed and fulfilled and to pay all persons, firms and corporations having contracts with the principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this bond is given, when such claims are not satisfied out of the contract price of the contract on account of which this bond is given, after final settlement between the officer, board, commission or agent of the State or of any political subdivision thereof and the principal has been made.".

Each bond securing contracts between the Capital Development Board or any board of a public institution of higher education and a contractor shall contain the following provisions, whether the provisions are inserted in the bond or not:

"Upon the default of the principal with respect to undertakings, covenants, terms, conditions, and agreements, the termination of the contractor's right to proceed with the work, and written notice of that default and termination by the State or any political subdivision to the surety ("Notice"), the surety shall promptly remedy the default by taking one of the following actions:

(1) The surety shall complete the work pursuant to a written takeover agreement, using a completing contractor jointly selected by the surety and the State or any political subdivision; or

(2) The surety shall pay a sum of money to the obligee, up to the penal sum of the bond, that represents the reasonable cost to complete the work that exceeds the unpaid balance of the contract sum.

The surety shall respond to the Notice within 15 working days of receipt indicating the course of action that it intends to take or advising that it requires more

time to investigate the default and select a course of action. If the surety requires more than 15 working days to investigate the default and select a course of action or if the surety elects to complete the work with a completing contractor that is not prepared to commence performance within 15 working days after receipt of Notice, and if the State or any political subdivision determines it is in the best interest of the State to maintain the progress of the work, the State or any political subdivision may continue to work until the completing contractor is prepared to commence performance. Unless otherwise agreed to by the procuring agency, in no case may the surety take longer than 30 working days to advise the State or political subdivision on the course of action it intends to take. The surety shall be liable for reasonable costs incurred by the State or any political subdivision to maintain the progress to the extent the costs exceed the unpaid balance of the contract sum, subject to the penal sum of the bond.".

The surety bond required by this Section may be acquired from the company, agent or broker of the contractor's choice. The bond and sureties shall be subject to the right of reasonable approval or disapproval, including suspension, by the State or political subdivision thereof concerned. In the case of State construction contracts, a contractor shall not be required to post a cash bond or letter of credit in addition to or as a substitute for the surety bond required by this Section.

When other than motor fuel tax funds, federal-aid funds, or other funds received from the State are used, a political subdivision may allow the contractor to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond required by this Section, on contracts under $100,000 to comply with the requirements of this Section. Any such bank letter of credit shall contain all provisions required for bonds by this Section.

(Source: P.A. 95-1011, eff. 12-15-08; 96-1000, eff. 7-2-10.)

PUBLIC PRIVATE AGREEMENTS

(30 ILCS 550/1.5)

Sec. 1.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.

(Source: P.A. 96-913, eff. 6-9-10.)

RECOVERY ON BOND OR LETTER OF CREDIT; CLAIMS

(30 ILCS 550/2) (from Ch. 29, par. 16)

Sec. 2. Every person furnishing material or performing labor, either as an individual or as a sub-contractor for any contractor, with the State, or a political subdivision thereof where bond or letter of credit shall be executed as provided in this Act, shall have the right to sue on such bond or letter of credit in the name of the State, or the political subdivision thereof entering into such contract, as the case may be, for his use and benefit, and in such suit the plaintiff shall file a copy of such bond or letter of credit, certified by the party or parties in whose charge such bond or letter of credit shall be, which copy shall, unless execution thereof be denied under oath, be prima facie evidence of the execution and delivery of the original; provided, however, that this Act shall not be taken to in any way make the State, or the political subdivision thereof entering into such contract, as the case may be, liable to such sub-contractor, materialman or laborer to any greater extent than it was liable under the law as it stood before the adoption of this Act. Provided, however, that any person having a claim for labor, and material as aforesaid shall have no such right of action unless he shall have filed a verified notice of said claim with the officer, board, bureau or department awarding the contract, within 180 days after the date of the last item of work or the furnishing of the last item of materials, and shall have furnished a copy of

such verified notice to the contractor within 10 days of the filing of the notice with the agency awarding the contract.

The claim shall be verified and shall contain (1) the name and address of the claimant; the business address of the claimant within this State and if the claimant shall be a foreign corporation having no place of business within the State, the notice shall state the principal place of business of said corporation and in the case of a partnership, the notice shall state the names and residences of each of the partners; (2) the name of the contractor for the government; (3) the name of the person, firm or corporation by whom the claimant was employed or to whom he or it furnished materials; (4) the amount of the claim; (5) a brief description of the public improvement sufficient for identification.

No defect in the notice herein provided for shall deprive the claimant of his right of action under this article unless it shall affirmatively appear that such defect has prejudiced the rights of an interested party asserting the same.

Provided, further, that no action shall be brought until the expiration of 120 days after the date of the last item of work or the furnishing of the last item of materials, except in cases where the final settlement between the officer, board, bureau or department of municipal corporation and the contractor shall have been made prior to the expiration of the 120 day period, in which case action may be taken immediately following such final settlement; nor shall any action of any kind be brought later than 6 months after the acceptance by the State or political subdivision thereof of the building project or work. Such action shall be brought only in the circuit court of this State in the judicial circuit in which the contract is to be performed.

The remedy provided in this Section is in addition to and independent of any other rights and remedies provided at law or in equity. A waiver of rights under the Mechanics Lien Act shall not constitute a waiver of rights under this Section unless specifically stated in the waiver.

(Source: P.A. 93-562, eff. 8-20-03.)

CASH BOND OR OTHER SURETY

(30 ILCS 550/3)

Sec. 3. Builder or developer cash bond or other surety.

(a) A county or municipality may not require a cash bond, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company from a builder or developer to guarantee completion of a project improvement when the builder or developer has filed with the county or municipal clerk a current, irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality accepting such security, in an amount equal to or greater than 110% of the amount of the bid on each project improvement. A builder or developer has the option to utilize a cash bond, irrevocable letter of credit, surety bond, or letter of commitment, issued by a bank, savings and loan association, surety, or insurance company, deemed good and sufficient by the county or municipality, to satisfy any cash bond requirement established by a county or municipality. Except for a municipality or county with a population of 1,000,000 or more, the county or municipality must approve and deem a surety or insurance company good and sufficient for the purposes set forth in this Section if the surety or insurance company is authorized by the Illinois Department of Insurance to sell and issue sureties in the State of Illinois.

(b) If a county or municipality receives a cash bond, irrevocable letter of credit, or surety bond from a builder or developer to guarantee completion of a project improvement, the county or municipality shall (i) register the bond under the address of

the project and the construction permit number and (ii) give the builder or developer a receipt for the bond. The county or municipality shall establish and maintain a separate account for all cash bonds received from builders and developers to guarantee completion of a project improvement.

(c) The county or municipality shall refund a cash bond to a builder or developer, or release the irrevocable letter of credit or surety bond, within 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement for which the bond was required. For these purposes, "completion" means that the county or municipality has determined that the project improvement for which the bond was required is complete or a licensed engineer or licensed architect has certified to the builder or developer and the county or municipality that the project improvement has been completed to the applicable codes and ordinances. The county or municipality shall pay interest to the builder or developer, beginning 60 days after the builder or developer notifies the county or municipality in writing of the completion of the project improvement, on any bond not refunded to a builder or developer, at the rate of 1% per month.

(d) A home rule county or municipality may not require or maintain cash bonds, irrevocable letters of credit, surety bonds, or letters of commitment issued by a bank, savings and loan association, surety, or insurance company from builders or developers in a manner inconsistent with this Section. This Section supersedes and controls over other provisions of the Counties Code or Illinois Municipal Code as they apply to and guarantee completion of a project improvement that is required by the county or municipality, regardless of whether the project improvement is a condition of annexation agreements. This Section is a denial and limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by a home rule county or municipality of powers and functions exercised by the State.

(Source: P.A. 96-1000, eff. 7-2-10.)

ILLINOIS MINED COAL ACT
30 ILCS 555/

SHORT TITLE

(30 ILCS 555/0.01) (from Ch. 29, par. 35.9)

Sec. 0.01. Short title. This Act may be cited as the Illinois Mined Coal Act.
(Source: P.A. 86-1324.)

GUIDELINES FOR PURCHASING ILLINOIS COAL

(30 ILCS 555/1) (from Ch. 29, par. 36)

Sec. 1. The board of trustees or other officer in charge of every institution in the State of Illinois which is supported in whole or in part by public funds or which is owned by any municipal corporation or political subdivision of this State, who are authorized and required to purchase coal for fuel purposes in the operation of any such institution, shall be required to purchase and use coal which is mined in the State of Illinois, if the cost of coal mined in the State of Illinois is not more than ten per cent (10%) greater than the cost of coal mined in any other State or States, including the cost of transportation.
(Source: Laws 1937, p. 1207.)

DEFINITION

(30 ILCS 555/2) (from Ch. 29, par. 37)

Sec. 2. The term "institution" as used in this Act shall mean all institutions maintained by the State or by any municipal corporation or political subdivision thereof, including municipally owned public utility plants.
(Source: Laws 1937, p. 1207.)

VIOLATIONS

(30 ILCS 555/3) (from Ch. 29, par. 38) Sec. 3.

Any trustee or officer who shall violate any of the provisions of this Act shall be deemed guilty of a petty offense.
(Source: P.A. 77-2367.)

INVESTIGATION OF VIOLATIONS

(30 ILCS 555/4) (from Ch. 29, par. 39)

Sec. 4. The Department of Natural Resources shall, upon its own motion or upon complaint, investigate any violations of this Act. If after any such investigation such Department is satisfied that any of the provisions of this Act have been violated, it shall institute proceedings for the prosecution of such violators in the circuit court.
(Source: P.A. 89-445, eff. 2-7-96.)

STEEL PRODUCTS PROCUREMENT ACT
30 ILCS 565/

SHORT TITLE

(30 ILCS 565/1) (from Ch. 48, par. 1801)

Sec. 1. This Act shall be known and may be cited as the "Steel Products Procurement Act".

(Source: P.A. 83-1030.)

DECLARATION OF ACT

(30 ILCS 565/2) (from Ch. 48, par. 1802)

Sec. 2. It is hereby found and declared by the Illinois General Assembly that

(1) The production of steel products provides the jobs and family incomes of hundreds of thousands of people in this State and, in turn, the jobs and family incomes of millions of persons in the United States;

(2) The taxes paid to the State and its political subdivisions by employers and employees engaged in the production and sale of steel products are a large source of public revenues in the State;

(3) The economy and general welfare of this State and its people, as well as the economy and general welfare of the United States, are inseparably related to the preservation and development of industry in this State, as well as all the other states of this nation.

The General Assembly therefore declares it to be the policy of the State of Illinois that all public officers and agencies should aid and promote the economy of the State and the United States by specifying steel products produced in the United States in all contracts for construction, reconstruction, repair, improvement or maintenance of public works.

(Source: P.A. 83-1030.)

DEFINITIONS

(30 ILCS 565/3) (from Ch. 48, par. 1803)

Sec. 3. For the purposes of this Act, the following words have the meanings ascribed to them in this Section unless the context clearly requires otherwise.

(a) "Public agency" means the State of Illinois, its departments, agencies, boards, commissions and institutions, and all units of local government, including school districts.

(b) "United States" means the United States and any place subject to the jurisdiction thereof.

(c) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.

(Source: P.A. 83-1030.)

PROVISIONS

(30 ILCS 565/4) (from Ch. 48, par. 1804)

Sec. 4. Each contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works made by a public agency shall contain a provision that steel products used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.

The provisions of this Section shall not apply:

(1) Where the contract involves an expenditure of less than $500.

(2) Where the executive head of the public agency certifies in writing that (a) the specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements, or (b) obtaining the specified products, manufactured or produced in the United States would increase the cost of the contract by more than 10%.

(3) When its application is not in the public interest.

(Source: P.A. 83-1030.)

VIOLATIONS

(30 ILCS 565/5) (from Ch. 48, par. 1805)

Sec. 5. No public agency may authorize, provide for or make any payment to any vendor or contractor upon any contract in violation of Section 4. It shall be a business offense for any vendor or contractor to knowingly enter into any contract in violation of Section 4 or to knowingly violate contract provisions required by Section 4. Each such violation shall subject the violator to a fine of the greater of $5,000 or the payment price received by him as a result of such violation. The Attorney General is authorized to file and prosecute a complaint in the circuit court of any county in which the contract was in whole or in part executed or performed.

(Source: P.A. 83-1030.)

EFFECTIVE DATES

(30 ILCS 565/6) (from Ch. 48, par. 1806)

Sec. 6. This Act shall apply only to contracts and subcontracts entered into after the effective date of this Act, and shall not limit the use or supply of steel products purchased or leased prior to the effective date of this Act.

(Source: P.A. 83-1030.)

EXISTING TREATY, LAW, AGREEMENT OR REGULATION

(30 ILCS 565/7) (from Ch. 48, par. 1807)

Sec. 7. Nothing in this Act is intended to contravene any existing treaty, law, agreement or regulation of the United States. Contracts entered into in accordance with an existing treaty, law, agreement or regulation of the United States shall not be in violation of this Act to the extent of such accordance.

(Source: P.A. 83-1030.)

EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT 30 ILCS 570/

SHORT TITLE

(30 ILCS 570/0.01) (from Ch. 48, par. 2200)

Sec. 0.01. Short title. This Article 2 may be cited as the Employment of Illinois Workers on Public Works Act. In this Article 2, references to this Act mean this Article 2.
(Source: P.A. 96-929, eff. 6-16-10.)

DEFINITIONS

(30 ILCS 570/1) (from Ch. 48, par. 2201)

Sec. 1. Definitions. For the purposes of this Act, the following words have the meanings ascribed to them in this Section.

(1) "Illinois laborer" refers to any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident.

(2) "A period of excessive unemployment" means any month immediately following 2 consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

(3) "Hazardous waste" has the definition ascribed to it in Section 3.220 of the Illinois Environmental Protection Act, approved June 29, 1970, as amended.

(4) "Interested party" means a person or entity with an interest in compliance with this Act.

(5) "Entity" means any sole proprietor, partnership, firm, corporation, limited liability company, association, or other business enterprise; however, the term "entity" does not include (i) the State of Illinois or its officers, agencies, or political subdivisions or (ii) the federal government.

(6) "Public works" means any fixed work construction or improvement for the State of Illinois or any political subdivision of the State if that fixed work construction or improvement is funded or financed in whole or in part with State funds or funds administered by the State of Illinois.
(Source: P.A. 96-929, eff. 6-16-10.)

PURPOSE

(30 ILCS 570/1.1) (from Ch. 48, par. 2201.1)

Sec. 1.1. Findings. The General Assembly finds and declares that unemployment in the Illinois construction industry has traditionally tended to be higher in those counties which border upon other states. Further, the General Assembly finds and declares that the over-utilization of out-of-state laborers on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof is a contributing factor to higher levels of unemployment both in the border counties and throughout Illinois. It is the public policy of this State and the objective of this Act to promote the general welfare of the people of this State by ensuring that Illinois laborers are utilized to the greatest extent possible on public works projects or improvements for the State of Illinois or any political subdivision, municipal corporation or other governmental units thereof. To this end, this Act shall be liberally construed to effectuate its purpose.
(Source: P.A. 96-929, eff. 6-16-10.)

HAZARDOUS WASTE

(30 ILCS 570/2) (from Ch. 48, par. 2202)

Sec. 2. Applicability. This Act applies to all labor on public works projects or improvements, including projects involving the clean-up and on-site disposal of hazardous waste, but excluding emergency response or immediate removal activities, whether skilled, semi-skilled or unskilled, whether manual or non-manual.
(Source: P.A. 96-929, eff. 6-16-10.)

PUBLIC PRIVATE AGREEMENTS

(30 ILCS 570/2.5)

Sec. 2.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.
(Source: P.A. 96-913, eff. 6-9-10.)

EXCESSIVE UNEMPLOYMENT

(30 ILCS 570/3) (from Ch. 48, par. 2203)

Sec. 3. Employment of Illinois laborers. Whenever there is a period of excessive unemployment in Illinois, if a person or entity is charged with the duty, either by law or contract, of

(1) constructing or building any public works, as defined in this Act, or (2) the clean-up and on-site disposal of hazardous waste for the State of Illinois or any political subdivision of the State, and that clean-up or on-site disposal is funded or financed in whole or in part with State funds or funds administered by the State of Illinois, then that person or entity shall employ at least 90% Illinois laborers on such project. Any public works project financed in whole or in part by federal funds administered by the State of Illinois is covered under the provisions of this Act, to the extent permitted by any applicable federal law or regulation. Every public works contract let by any such person shall contain a provision requiring that such labor be used: Provided, that other laborers may be used when Illinois laborers as defined in this Act are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.
(Source: P.A. 96-929, eff. 6-16-10.)

NON-RESIDENT EMPLOYEES

(30 ILCS 570/4) (from Ch. 48, par. 2204)

Sec. 4. Non-resident executive and technical experts. Every contractor on a public works project or improvement or hazardous waste clean-up and on-site disposal project in this State may place on such work no more than 3, or 6 in the case of a hazardous waste clean-up and on-site disposal project, of his regularly employed non-resident executive and technical experts, even though they do not qualify as Illinois laborers as defined in Section 1 of this Act.
(Source: P.A. 96-929, eff. 6-16-10.)

FEDERAL FUNDS AND EXPENDITURES

(30 ILCS 570/5) (from Ch. 48, par. 2205)

Sec. 5. Expenditure of federal funds.

(a) In all contracts involving the expenditure of federal aid funds in relation to a public works project or improvement, this Act shall not be enforced in such manner as to conflict with any federal statutes or rules and regulations.

(b) When federal expenditures are used in combination with State expenditures for clean-up and on-site disposal of hazardous waste, it shall be the responsibility of

the Illinois Environmental Protection Agency to notify, with respect to such project, any Illinois hazardous waste cleanup contractor who has requested such notification of the date when bids will be accepted for such projects and the requirements necessary to successfully compete for such projects.
(Source: P.A. 96-929, eff. 6-16-10.)

PENALTY FOR FAILURE TO USE ILLINOIS LABORERS

(30 ILCS 570/6) (from Ch. 48, par. 2206)

Sec. 6. Penalties. Any person or entity that violates the provisions of this Act is subject to a civil penalty in an amount not to exceed $1,000 for each violation found in the first investigation by the Department, not to exceed $5,000 for each violation found in the second investigation by the Department, and not to exceed $15,000 for a third or subsequent violation found in any subsequent investigation by the Department. Each violation of this Act for each worker and for each day the violation continues constitutes a separate and distinct violation. In determining the amount of the penalty, the Department shall consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violations. The collection of these penalties shall be enforced in a civil action brought by the Attorney General on behalf of the Department.
(Source: P.A. 96-929, eff. 6-16-10.)

ENFORCEMENT BY THE DEPARTMENT OF LABOR

(30 ILCS 570/7) (from Ch. 48, par. 2207)

Sec. 7. Enforcement. It is the duty of the Department of Labor to enforce the provisions of this Act. The Department has the power to conduct investigations in connection with the administration and enforcement of this Act, and any investigator with the Department is authorized to visit and inspect, at all reasonable times, any places covered by this Act and is authorized to inspect, at all reasonable times, documents related to the determination of whether a violation of the Act exists. The Department may compel, by subpoena, the attendance and testimony of witnesses and the production of books, payrolls, records, papers, and other evidence in any investigation and may administer oaths to witnesses. The Department of Labor, as represented by the Attorney General, is empowered to: (i) issue and cause to be served on any person or entity an order to cease and desist from further violation of this Act, (ii) take affirmative or other action as deemed reasonable to eliminate the effect of the violation, (iii) collect any civil penalties assessed by the Department pursuant to Section 6 of this Act, and (iv) sue for injunctive relief against the awarding of any contract or the continuation of any work under any contract for public works or improvements or for the clean-up and on-site disposal of hazardous waste at a time when the provisions of this Act are not being met.
(Source: P.A. 96-929, eff. 6-16-10.)

REVIEW

(30 ILCS 570/7.05)

Sec. 7.05. Review. Any party seeking review of the Department's determination may file a written request for an informal conference. The request must be received by the Department within 15 calendar days after the date of issuance of the Department's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the Department's determination should be amended or vacated. The Department shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the conference.
(Source: P.A. 96-929, eff. 6-16-10.)

EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS PROJECTS FUND

(30 ILCS 570/7.10)

Sec. 7.10. Employment of Illinois Workers on Public Works Projects Fund. All moneys received by the Department as civil penalties under this Act shall be deposited into the Employment of Illinois Workers on Public Works Projects Fund and shall be used, subject to appropriation by the General Assembly, by the Department for administration, investigation, and other expenses incurred in carrying out its powers and duties under this Act. The Department shall hire as many investigators and other personnel as may be necessary to carry out the purposes of this Act. Any moneys in the Fund at the end of a fiscal year in excess of those moneys necessary for the Department to carry out its powers and duties under this Act shall be available for appropriation to the Department for the next fiscal year for any of the Department's duties.

(Source: P.A. 96-929, eff. 6-16-10.)

PRIVATE RIGHT OF ACTION

(30 ILCS 570/7.15)

Sec. 7.15. Private right of action.

(a) Any interested party or person aggrieved by a violation of this Act or any rule adopted under this Act may file suit in circuit court, in the county where the alleged offense occurred or where any party to the action resides, without regard to exhaustion of any alternative administrative remedies provided in this Act. Actions may only be brought (i) 30 days or more after a complaint has been filed with the Department of Labor by any interested party or person aggrieved by a violation of this Act or (ii) any time after the filing of a complaint if the Department of Labor notifies any interested party or person aggrieved by a violation of this Act that the Department will not proceed with the complaint. Actions may be brought by one or more persons or entities for and on behalf of themselves and other persons or entities similarly situated. A person or entity whose rights have been violated under this Act is entitled to collect:

(1) attorney's fees and costs; and

(2) compensatory damages in an amount not to exceed $500 for each violation of this Act or any rule adopted under this Act. Each violation of this Act for each worker and for each day the violation continues constitutes a separate and distinct violation.

(b) The right of an interested party or aggrieved person to bring an action under this Section terminates upon the passing of 3 years from the date of completion and acceptance of the public works project in question.

(Source: P.A. 96-929, eff. 6-16-10.)

RULEMAKING

(30 ILCS 570/7.20)

Sec. 7.20. Rulemaking. The Department may adopt reasonable rules to implement and administer this Act. For purposes of this Act, the General Assembly finds that the adoption of rules to implement this Act is deemed an emergency and necessary for the public interest and welfare.

(Source: P.A. 96-929, eff. 6-16-10.)

BUSINESS ENTERPRISE FOR MINORITIES, FEMALES, AND PERSONS WITH DISABILITIES ACT
30 ILCS 575/

SHORT TITLE

(30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

(Section scheduled to be repealed on June 30, 2012)

Sec. 0.01. Short title. This Act may be cited as the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(Source: P.A. 88-597, eff. 8-28-94.)

PURPOSE

(30 ILCS 575/1) (from Ch. 127, par. 132.601)

(Section scheduled to be repealed on June 30, 2012)

Sec. 1. Purpose. The State of Illinois declares that it is the public policy of the State to promote and encourage the continuing economic development of minority and female owned and operated businesses and that minority and female owned and operated businesses participate in the State's procurement process as both prime and subcontractors. The State of Illinois has observed that the goals established in this Act have served to increase the participation of minority and female businesses in contracts awarded by the State. The State hereby declares that the adoption of this amendatory Act of 1989 shall serve the State's continuing interest in promoting open access in the awarding of State contracts to disadvantaged small business enterprises victimized by discriminatory practices. Furthermore, after reviewing evidence of the high level of attainment of the 10% minimum goals established under this Act, and, after considering evidence that minority and female businesses, as established in 1982, constituted and continue to constitute more than 10% of the businesses operating in this State, the State declares that the continuation of such 10% minimum goals under this amendatory Act of 1989 is a narrowly tailored means of promoting open access and thus the further growth and development of minority and female businesses.

The State of Illinois further declares that it is the public policy of this State to promote and encourage the continuous economic development of businesses owned by persons with disabilities and a 2% contracting goal is a narrowly tailored means of promoting open access and thus the further growth and development of those businesses.

(Source: P.A. 88-597, eff. 8-28-94.)

DEFINITIONS

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2012)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

(a) African American (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:
amputation,
arthritis,
autism,
blindness,
burn injury,
cancer,
cerebral palsy,
Crohn's disease,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
mental retardation,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose. A business owned and controlled by females shall select and designate whether such business is to be certified as a "Female-owned business" or "Minority-owned business" if the females are also minorities.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business that has annual gross sales of less than $75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for

certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business concern.

(Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

PUBLIC PRIVATE AGREEMENTS

(30 ILCS 575/2.5)

(Section scheduled to be repealed on June 30, 2012)

Sec. 2.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act.

(Source: P.A. 96-913, eff. 6-9-10.)

IMPLEMENTATION AND APPLICABILITY

(30 ILCS 575/3) (from Ch. 127, par. 132.603)

(Section scheduled to be repealed on June 30, 2012)

Sec. 3. Implementation and applicability. This Act shall be applied to all State agencies and State universities.

(Source: P.A. 85-729.)

AWARD OF STATE CONTRACTS

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on June 30, 2012)

Sec. 4. Award of State contracts.

(a) Except as provided in subsections (b) and (c), not less than 20% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as a goal to be awarded to businesses owned by minorities, females, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, females, and persons with disabilities pursuant to this Section, contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to female-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or university which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, females, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. Not less than 10% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority and

female owned businesses, and contracts representing 50% of the amount of all State construction contracts awarded to minority and female owned businesses shall be awarded to female owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization, and staging of the games, the University of Illinois shall establish a goal of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to female-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(d) Within one year after April 28, 2009 (the effective date of Public Act 96-8), the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and female business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8), the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and female participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

(e) Those who submit bids or proposals for State contracts shall not be given a period after the bid or proposal is submitted to cure deficiencies in the bid or proposal under this Act unless mandated by federal law or regulation.

(Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; 96-706, eff. 8-25-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

BUSINESS ENTERPRISE COUNCIL

(30 ILCS 575/5) (from Ch. 127, par. 132.605)

(Section scheduled to be repealed on June 30, 2012)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Females, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives. Ten individuals representing businesses that are minority or female owned or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public universities shall be appointed by the Governor. These members shall serve 2 year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Director of the Department of Central Management Services shall serve as the Council chairperson and shall select, subject to approval of the council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Females, and Persons with Disabilities Division of the Department of Central Management Services.

The Director of each State agency and the chief executive officer of each State university shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be to:

(a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, females, or persons with disabilities.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, females, or persons with disabilities to provide to State agencies and State universities.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, females, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and State university pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of all pending State contracts upon which businesses owned by minorities, females, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll free telephone number to facilitate information requests concerning the certification process and pending contracts.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, female, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be written for a business not owned by a minority, female, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, females, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, females, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council.

(d) To devise appropriate policies, regulations and procedures for including participation by businesses owned by minorities, females, and persons with disabilities as prime contractors including, but not limited to, (i) encouraging the inclusions of qualified businesses owned by minorities, females, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Director of Central Management Services, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the program.

(Source: P.A. 94-793, eff. 5-19-06.)

AGENCY COMPLIANCE PLANS

(30 ILCS 575/6) (from Ch. 127, par. 132.606)

(Section scheduled to be repealed on June 30, 2012)

Sec. 6. Agency compliance plans. Each State agency and State university under the jurisdiction of this Act shall file with the Council an annual compliance plan which shall outline the goals of the State agency or State university for contracting with businesses owned by minorities, females, and persons with disabilities for the then current fiscal year, the manner in which the agency intends to reach these goals and a timetable for reaching these goals. The Council shall review and approve the plan of each State agency and State university and may reject any plan that does not comply with this Act or any rules or regulations promulgated pursuant to this Act.

(a) The compliance plan shall also include, but not be limited to, (1) a policy statement, signed by the State agency or State university head, expressing a commitment to encourage the use of businesses owned by minorities, females, and persons with disabilities, (2) the designation of the liaison officer provided for in Section 5 of this Act, (3) procedures to distribute to potential contractors and vendors the list of all businesses legitimately classified as businesses owned by minorities, females, and persons with disabilities and so certified under this Act, (4) procedures to set separate contract goals on specific prime contracts and purchase orders with subcontracting possibilities based upon the type of work or services and subcontractor availability, (5) procedures to assure that contractors and vendors make good faith efforts to meet contract goals, (6) procedures for contract goal exemption, modification and waiver, and (7) the delineation of separate contract goals for businesses owned by minorities, females, and persons with disabilities.

(b) Approval of the compliance plans shall include such delegation of responsibilities to the requesting State agency or State university as the Council deems necessary and appropriate to fulfill the purpose of this Act. Such responsibilities may include, but need not be limited to those outlined in subsections (1), (2) and (3) of Section 7 and paragraph (a) of Section 8.

(c) Each State agency and State university under the jurisdiction of this Act shall file with the Council an annual report of its utilization of businesses owned by minorities, females, and persons with disabilities during the preceding fiscal year including lapse period spending and a mid-fiscal year report of its utilization to date for the then current fiscal year. The reports shall include a self-evaluation of the efforts of the State agency or State university to meet its goals under the Act.

(d) Notwithstanding any provisions to the contrary in this Act, any State agency or State university which administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of minority, disadvantaged, and female-owned business, shall implement a disadvantaged business enterprise program to include minority, disadvantaged and female-owned businesses, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the

program. In such cases, these goals shall not exceed those established pursuant to the relevant federal statutes or regulations. Notwithstanding the provisions of Section 8b, the Illinois Department of Transportation is authorized to establish sheltered markets for the State-funded portions of the program consistent with federal law and regulations. Additionally, a compliance plan which is filed by such State agency or State university pursuant to this Act, which incorporates equivalent terms and conditions of its federally-approved compliance plan, shall be deemed approved under this Act.
(Source: P.A. 88-377; 88-597, eff. 8-28-94.)

NOTICE OF CONTRACTS TO COUNCIL

(30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

(Section scheduled to be repealed on June 30, 2012)

Sec. 6a. Notice of contracts to Council. Except in case of emergency as defined in the Illinois Purchasing Act, or as authorized by rule promulgated by the Department of Central Management Services, each agency and State university under the jurisdiction of this Act shall notify the Secretary of the Council of proposed contracts for professional and artistic services and provide the information in the form and detail as required by rule promulgated by the Department of Central Management Services. Notification may be made through direct written communication to the Secretary to be received at least 14 days before execution of the contract (or the solicitation response date, if applicable) or by advertising in the official State newspaper for at least 3 days, the last of which must be at least 10 days after the first publication. The agency or university must consider any vendor referred by the Secretary before execution of the contract. The provisions of this Section shall not apply to any State agency or State university that has awarded contracts for professional and artistic services to businesses owned by minorities, females, and persons with disabilities totalling in the aggregate $5,000,000 or more during the preceding fiscal year.
(Source: P.A. 87-628; 88-377; 88-597, eff. 8-28-94.)

EXEMPTIONS AND WAIVERS

(30 ILCS 575/7) (from Ch. 127, par. 132.607)

(Section scheduled to be repealed on June 30, 2012)

Sec. 7. Exemptions and waivers; publication of data.

(1) Individual contract exemptions. The Council, on its own initiative or at the request of the affected agency, university, or recipient of a grant or loan of State funds of $250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, females, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question.

(2) Class exemptions.

(a) Creation. The Council, on its own initiative or at the request of the affected agency or university, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, females, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of qualified businesses owned by minorities,

females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request a waiver from such requirements. The Council shall grant the waiver where the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, females, and persons with disabilities.

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract shall be interpreted and enforced accordingly.

(5) Each chief procurement officer, as defined in the Illinois Procurement Code, shall maintain on his or her official Internet website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database, which shall be updated periodically as necessary, shall be searchable by contractor name and by contracting State agency.

Each public notice required by law of the award of a State contract shall include for each bid submitted for that contract the following: (i) the bidder's name, (ii) the bid amount, (iii) the bid's percentage of disadvantaged business utilization plan, and (iv) the bid's percentage of business enterprise program utilization plan.

(Source: P.A. 96-1064, eff. 7-16-10.)

ENFORCEMENT

(30 ILCS 575/8) (from Ch. 127, par. 132.608)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8. Enforcement. The Council shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Council determines that its goals and policies are not being met by any State agency or State university, the Council may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Council may recommend to the appropriate State agency, State university, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or State university. State agencies and State universities shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved, (2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Council concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, females, and persons with disabilities within the then current fiscal year, the Council may recommend that the State agency or State university revise its plan to provide additional opportunities for participation by businesses owned by minorities, females, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, females, and persons with disabilities as potential sources of supply;

(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, females, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, females, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by businesses owned by minorities, females, and persons with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(Source: P.A. 88-377; 88-597, eff. 8-28-94.)

ADVANCE AND PROGRESS PAYMENTS

(30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8a. Advance and progress payments. Any contract awarded to a business owned by a minority, female, or person with a disability pursuant to this Act may contain a provision for advance or progress payments, or both, except that a State construction contract awarded to a minority or female owned business pursuant to this Act may contain a provision for progress payments but may not contain a provision for advance payments.

(Source: P.A. 88-597, eff. 8-28-94.)

SCHEDULED COUNCIL MEETINGS; SHELTERED MARKET

(30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8b. Scheduled council meetings; sheltered market. The Council shall conduct regular meetings to carry out its responsibilities under this Act. At each of the regularly scheduled meetings, time shall be allocated for the Council to receive, review and discuss any evidence regarding past or present racial, ethnic or gender based discrimination which directly impacts State contracting with businesses owned by minorities, females, and persons with disabilities. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings.

"Sheltered market" shall mean a procurement procedure whereby certain contracts are selected and specifically set aside for businesses owned by minorities, females, and persons with disabilities on a competitive bid or negotiated basis.

As part of the annual report which the Council must file pursuant to paragraph (e) of subsection (2) of Section 5, the Council shall report on any findings made pursuant to this Section.

(Source: P.A. 88-597, eff. 8-28-94.)

RECOMMENDED RULES AND REGULATIONS

(30 ILCS 575/8c) (from Ch. 127, par. 132.608c)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8c. Recommended rules and regulations for the establishment and continuation of narrowly tailored sheltered markets under Section 8b shall be approved by the Council prior to submission by the Department of Central Management Services to the Joint Committee on Administrative Rules. These rules shall include but not be

limited to agency goals, waivers and procedures for use of sheltered markets.
(Source: P.A. 86-269; 86-270.)

REPRESENTATION AND INDEMNIFICATION IN CIVIL LAW SUITS

(30 ILCS 575/8d) (from Ch. 127, par. 132.608d)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8d. In the event any proceeding is commenced against any State employee alleging deprivation of a civil or constitutional right under State or federal law arising out of any act or omission occurring within the scope of the enforcement of this Act, the Attorney General shall upon timely and appropriate notice in accordance with "An Act to provide for representation and indemnification in certain civil law suits", approved December 3, 1977, as now or hereafter amended, appear on behalf of such employee and defend the action. The State shall indemnify the State employee for any damages awarded and court costs and attorneys' fees assessed as part of any final and unreversed judgment or shall pay such judgment. All other provisions of "An Act to provide for representation and indemnification in certain civil law suits", approved December 3, 1977, as now or hereafter amended, shall apply to the representation and indemnification provided for in this Section.
(Source: P.A. 86-269; 86-270.)

PROCEEDS OF CONTRACT AWARDED

(30 ILCS 575/8e) (from Ch. 127, par. 132.608e)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8e. The proceeds of a contract awarded under this Act may be assigned to secure financing necessary to enable performance of the contract.
(Source: P.A. 87-369.)

ANNUAL REPORT

(30 ILCS 575/8f)

(Section scheduled to be repealed on June 30, 2012)

Sec. 8f. Annual report. The Council shall file no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Act over the 3 most recent fiscal years. The annual report shall include, but need not be limited to the following:

(1) a summary detailing State appropriations subject to the goals, the actual goals specified, and the goals attained by each State agency and State university;

(2) a summary of the number of contracts awarded and the average contract amount by each State agency and State university;

(3) an analysis of the level of overall goal achievement concerning purchases from minority businesses, female-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of businesses owned by minorities, females, and persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to businesses with annual gross sales of less than $1,000,000; of $1,000,000 or more, but less than $5,000,000; of $5,000,000 or more, but less than $10,000,000; and of $10,000,000 or more.

(Source: P.A. 88-597, eff. 8-28-94.)

REPEALED

(30 ILCS 575/9) (from Ch. 127, par. 132.609)

(Section scheduled to be repealed on June 30, 2012)

Sec. 9. This Act is repealed June 30, 2012.

(Source: P.A. 95-776, eff. 8-4-08; 96-949, eff. 6-25-10; 96-1444, eff. 8-20-10.)

STATE CONSTRUCTION MINORITY AND FEMALE BUILDING TRADES ACT
30 ILCS 577/
ARTICLE 35

SHORT TITLE

(30 ILCS 577/35-1)

Sec. 35-1. Short title. This Article may be cited as the State Construction Minority and Female Building Trades Act.

(Source: P.A. 96-37, eff. 7-13-09.)

DEFINITIONS

(30 ILCS 577/35-5)

Sec. 35-5. Definitions. For the purposes of this Article:

"Under-represented minority" means African-American, Hispanic, and Asian-American as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

"Construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site to or from the job site.

(Source: P.A. 96-37, eff. 7-13-09.)

APPRENTICESHIP REPORTS

(30 ILCS 577/35-10)

Sec. 35-10. Apprenticeship reports. Each labor organization and other entity in Illinois with one or more apprenticeship programs for construction trades, whether or not recognized and certified by the United States Department of Labor, Bureau of Apprenticeship and Training, must report to the Illinois Department of Labor the information required to be reported to the Bureau of Apprenticeship and Training by labor organizations with recognized and certified apprenticeship programs that lists the race, gender, ethnicity, and national origin of apprentices in that labor organization or entity. The information must be submitted to the Illinois Department of Labor as provided by rules adopted by the Department. For labor organizations with recognized and certified apprentice programs, the reporting requirement of this Section may be met by providing the Illinois Department of Labor, on a schedule adopted by the Department by rule, copies of the reports submitted to the Bureau of Apprenticeship and Training.

(Source: P.A. 96-37, eff. 7-13-09.)

COMPILATION OF BUILDING TRADE DATA

(30 ILCS 577/35-15)

Sec. 35-15. Compilation of building trade data. By March 1 of each year, the Illinois Department of Labor shall publish and make available on its official website a report compiling and summarizing demographic trends in the State's building trades apprenticeship programs, with particular attention to race, gender, ethnicity, and

national origin of apprentices in labor organizations and other entities in Illinois based on the information submitted to the Department under Section 35-10.
(Source: P.A. 96-37, eff. 7-13-09.)

CONSTRUCTION EMPLOYMENT INITIATIVE

(30 ILCS 577/35-20)

Sec. 35-20. Construction employment initiative.

(a) Each fiscal year, the Department of Commerce and Economic Opportunity shall identify construction projects that are:

(1) funded by the State or the American Recovery and Reinvestment Act or funded in part by the State and in part by the American Recovery and Reinvestment Act;

(2) equal to or greater than $5,000,000 in total value; and

(3) located in or within 5 miles of Cook County, Aurora, Elgin, Joliet, Kankakee, Peoria, Decatur, Champaign-Urbana, Springfield, East St. Louis, Rockford, Waukegan, or Cairo.

In addition, the Director of Commerce and Economic Opportunity may designate any other construction project as a construction employment initiative project if the local available workforce is sufficient to meet the goals of this Section.

(b) Not less than 20% of the total apprenticeship hours performed on projects identified pursuant to subsection (a) is established as a goal of those projects to be completed by members of minority groups currently under-represented in skilled building trades.

(c) Not less than 10% of the total apprenticeship hours performed on projects identified pursuant to subsection (a) is established as a goal of those projects to be performed by women. A woman who is also a member of a minority group shall be designated to one category or the other by the Department of Commerce and Economic Opportunity for purposes of this subsection and subsection (b).

(d) An advisory committee for the purposes of this Section is established as follows:

(1) Eight members appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

(2) The Director of Commerce and Economic Opportunity, or his or her designee.

(3) The Illinois Secretary of Transportation, or his or her designee.

(4) The executive director of the Capital Development Board, or his or her designee.

(5) Three members representing building trades labor organizations, appointed by the Governor.

(6) One member representing vertical construction, appointed by the Governor.

(7) One member representing road builders, appointed by the Governor.

(8) One member representing an association of African-American owned construction companies, appointed by the Governor.

(9) One member representing an association of Latino owned construction companies, appointed by the Governor.

(10) One member representing an association of women in the building trades, appointed by the Governor.

(11) One member representing an association of female-owned construction companies, appointed by the Governor.

The Department of Commerce and Economic Opportunity shall provide administrative support staff for the advisory committee.
(Source: P.A. 96-37, eff. 7-13-09.)

DRUG FREE WORKPLACE ACT
30 ILCS 580/

SHORT TITLE

(30 ILCS 580/1) (from Ch. 127, par. 132.311)

Sec. 1. This Act shall be known and may be cited as the Drug Free Workplace Act.

(Source: P.A. 86-1459.)

DEFINITIONS

(30 ILCS 580/2) (from Ch. 127, par. 132.312)

Sec. 2. As used in this Act:

(a) "Drug free workplace" means a site for the performance of work done in connection with a specific grant or contract of an entity whose employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act.

(b) "Employee" means an employee of a grantee or contractor directly engaged in the specific performance of work pursuant to the provisions of a grant or contract with the State, except that for the purpose of determining the number of employees of a grantee or a contractor under subsections (f) and (g) of this Section, an "employee" shall include any employee of the contractor or grantee.

(c) "Controlled substance" means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act.

(d) "Conviction" means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(e) "Criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(f) "Grantee" means a corporation, partnership, or other entity with 25 or more employees at the time of issuing the grant, or a department, division, or other unit thereof, directly responsible for the specific performance under a grant of $5,000 or more from the State. For purposes of this Act, "grantee" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois Environmental Protection Act; the lease or rental of real property; or grants or loans made for the purpose of solid waste management or reduction. The term "grantee" does not include subcontractors of a grantee. The term "grantee" does not include a railroad that is subject to a federally mandated drug testing program.

(g) "Contractor" means a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of $5,000 or more. For purposes of this Act, "contractor" does not include corporations, partnerships, or other entities that receive public funds in connection with the WIC Vendor Management Act; medical assistance reimbursements to pharmacies for prescribed drugs and reimbursements for durable medical supplies covered under Article V of the Illinois Public Aid Code; the vendor's discount for collection of use and occupation taxes pursuant to the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, or the Retailers' Occupation Tax Act; the Superfund program contained in the Illinois

Environmental Protection Act; the lease or rental of real property; or grants or loans made for the purpose of solid waste management or reduction. The term "contractor" does not include subcontractors of a contractor. The term "contractor" does not include a railroad that is subject to a federally mandated drug testing program.

(h) "State" means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths of the State government which are created by or pursuant to statute.
(Source: P.A. 86-1459.)

CONTRACTS AND GRANTS

(30 ILCS 580/3) (from Ch. 127, par. 132.313)

Sec. 3. Contracts and grants. No grantee or contractor shall receive a grant or be considered for the purposes of being awarded a contract for the procurement of any property or services from the State unless that grantee or contractor has certified to the granting or contracting agency that it will provide a drug free workplace by:

(a) Publishing a statement:

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's or contractor's workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:

(A) abide by the terms of the statement; and

(B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(b) Establishing a drug free awareness program to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the grantee's or contractor's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

(c) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.

(d) Notifying the contracting or granting agency within 10 days after receiving notice under part (B) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.

(e) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by Section 5.

(f) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.
(Source: P.A. 86-1459.)

REQUIREMENT FOR INDIVIDUALS

(30 ILCS 580/4) (from Ch. 127, par. 132.314)

Sec. 4. Requirement for individuals. The State shall not enter into a contract for more than $5,000 or make a grant of more than $5,000 with any individual unless the contract or grant includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.
(Source: P.A. 86-1459.)

EMPLOYEE SANCTIONS AND REMEDIES

(30 ILCS 580/5) (from Ch. 127, par. 132.315)

Sec. 5. Employee sanctions and remedies. A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace:

(a) Take appropriate personnel action against such employee up to and including termination; or

(b) Require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State, or local health, law enforcement, or other appropriate agency.
(Source: P.A. 86-1459.)

SUSPENSION, TERMINATION OR DEBARMENT OF THE CONTRACTOR OR GRANTEE

(30 ILCS 580/6) (from Ch. 127, par. 132.316)

Sec. 6. Suspension, termination or debarment of the contractor or grantee. Each contract or grant awarded by the State shall be subject to suspension of payments or termination, or both, and the contractor or grantee thereunder or the individual who entered the contract with or received the grant from the State shall be subject to suspension or debarment in accordance with the requirements of this Section if the head of the agency determines that:

(a) the contractor, grantee, or individual has made a false certification under Section 3 or 4;

(b) the contractor or grantee violates such certification by failing to carry out the requirements of Section 3;

(c) the contractor or grantee does not take appropriate remedial action against employees convicted on drug offenses as specified in Section 5; or

(d) such a number of employees of the contractor or grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor or grant recipient has failed to make a good faith effort to provide a drug free workplace as required by this Act.
(Source: P.A. 86-1459; 87-895.)

SUSPENSION, TERMINATION OR DEBARMENT PROCEEDINGS

(30 ILCS 580/7) (from Ch. 127, par. 132.317)

Sec. 7. Suspension, termination or debarment proceedings. Any determination proceedings for suspension of payments, termination, or debarment pursuant to this Act shall be conducted in accordance with The Illinois Administrative Procedure Act.
(Source: P.A. 86-1459.)

EFFECT OF DEBARMENT

(30 ILCS 580/8) (from Ch. 127, par. 132.318)

Sec. 8. Effect of debarment. Upon issuance of any final decision under this Act requiring debarment of a contractor, grantee or individual, such contractor, grantee or individual shall be ineligible for award of any contract or grant by the State for at least one year but not more than 5 years, as specified in the decision.
(Source: P.A. 86-1459.)

WAIVER

(30 ILCS 580/9) (from Ch. 127, par. 132.319)

Sec. 9. Waiver. A termination, suspension of payments, or suspension or debarment under this Act may be waived by the head of an agency with respect to a particular contract or grant if the head of the agency determines that suspension of payments, termination of the contract or grant, or suspension or debarment of the contractor, grantee, or individual, as the case may be, would severely disrupt the operation of such agency to the detriment of the general public or would not be in the public interest.
(Source: P.A. 86-1459.)

APPLICATION AND COMPLIANCE

(30 ILCS 580/10) (from Ch. 127, par. 132.320)

Sec. 10. At the time of entering into a contract or issuing a grant that results in the application of this Act, the State agency letting the contract or issuing the grant must notify the corporation, partnership, or other entity with 25 or more employees or the department, division, or unit of the corporation, partnership, or other entity of the application of this Act and of the necessity of compliance.
(Source: P.A. 86-1459.)

REBUTTABLE PRESUMPTION

(30 ILCS 580/11) (from Ch. 127, par. 132.321)

Sec. 11. Any actions undertaken by a contractor or grantee in compliance with this Act and in establishing a drug-free workplace shall create a rebuttable presumption of good faith compliance with this Act and shall not be considered a violation of the Illinois Human Rights Act.
(Source: P.A. 86-1459.)

STATE PROHIBITION OF GOODS FROM FORCED LABOR ACT
30 ILCS 583/

SHORT TITLE

(30 ILCS 583/1)

Sec. 1. Short title. This Act may be cited as the State Prohibition of Goods from Forced Labor Act.

(Source: P.A. 93-307, eff. 1-1-04.)

POLICY

(30 ILCS 583/5)

Sec. 5. Policy. The General Assembly hereby finds and declares as follows:

(a) The people of Illinois do not support the import of any goods made by forced, convict, or indentured labor, not only because it is a cruel suppression of the human right of free labor and employment practices, but also because it creates an unfair trade advantage for the forced, convict, or indentured labor country.

(b) The federal Tariff Act of 1930, while prohibiting the importation of any goods produced in whole or in part by forced, convict, or indentured labor, does not require importers to provide certificates of origin at the time of importation to affirm and guarantee no forced, convict, or indentured labor content.

(c) The federal Tariff Act of 1930 also does not require the United States Customs Service to have an active, self-initiated foreign surveillance program of detecting forced, convict, or indentured labor-made goods and preventing their entry into the United States, but relies primarily upon complaints made by the public or other interested groups.

(d) The State of Illinois wholeheartedly supports the prohibition on imports produced in whole or in part by forced, convict, or indentured labor and shall not knowingly acquire any of those goods.

(Source: P.A. 93-307, eff. 1-1-04.)

CONTRACT CERTIFICATION

(30 ILCS 583/10)

Sec. 10. Contract certification.

(a) Every contract entered into by any State agency for the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, must specify that no foreign-made equipment, materials, or supplies furnished to the State under the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. The contractor must agree to comply with this provision of the contract.

(b) Any contractor contracting with the State who knew that the foreign-made equipment, materials, or supplies furnished to the State were produced in whole or part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract under subsection (a), may, subject to subsection (c), have any or all of the following sanctions imposed:

(1) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the State agency to which the equipment, materials, or supplies were provided.

(2) The contractor may be assessed a penalty which must be the greater of $1,000 or an amount equaling 20% of the value of the equipment, materials, or supplies that the State agency demonstrates were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction and that were supplied to the State agency under the contract.

(3) The contractor may be suspended from bidding on a State contract for a period not to exceed 360 days.

Any moneys collected under this subsection shall be deposited into the General Revenue Fund.

(c) When imposing the sanctions described in subsection (b), the contracting agency must notify the contractor of the right to a hearing if requested within 15 days after the date of the notice. The hearing must be before an administrative law judge according to the Illinois Administrative Procedure Act. The administrative law judge must consider any measures the contractor has taken to ensure compliance with this Section and may waive any or all of the sanctions if it is determined that the contractor has acted in good faith.

The agency must be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.

(d) Any State agency that investigates a complaint against a contractor for violation of this Section must limit its investigation to evaluating the information provided by the person or entity submitting the complaint and the information provided by the contractor.

(e) For purposes of this Section, the term “forced labor” has the same meaning as in the federal Tariff Act of 1930.

(Source: P.A. 93-307, eff. 1-1-04.)

STATE PROHIBITION OF GOODS FROM CHILD LABOR ACT
30 ILCS 584/

SHORT TITLE

(30 ILCS 584/1)

Sec. 1. Short title. This Act may be cited as the State Prohibition of Goods from Child Labor Act.

(Source: P.A. 94-264, eff. 7-19-05.)

POLICY

(30 ILCS 584/5)

Sec. 5. Policy. The General Assembly hereby finds and declares as follows:

(a) The people of Illinois do not support the import of any goods made by child labor, not only because it is a cruel suppression of the human rights of children, but also because it creates an unfair trade advantage for the child labor country.

(b) Current trade regulations do not require importers to provide certificates of origin at the time of importation to affirm and guarantee no child labor content.

(c) Federal law also does not require the United States Customs Service to have an active, self-initiated foreign surveillance program of detecting child labor-made goods and preventing their entry into the United States.

(d) The State of Illinois wholeheartedly condemns the importation of goods made in whole or in part by child labor and shall not knowingly acquire any of those goods.

(Source: P.A. 94-264, eff. 7-19-05.)

CONTRACT CERTIFICATION

(30 ILCS 584/10)

Sec. 10. Contract certification.

(a) Every contract entered into by any State agency for the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, must specify that no foreign-made equipment, materials, or supplies furnished to the State under the contract may be produced in whole or in part by the labor of any child under the age of 12. The contractor must agree to comply with this provision of the contract.

(b) Any contractor contracting with the State who knew that the foreign-made equipment, materials, or supplies furnished to the State were produced in whole or part by the labor of any child under the age of 12 when entering into a contract under subsection (a), may, subject to subsection (c), have any or all of the following sanctions imposed:

(1) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the State agency to which the equipment, materials, or supplies were provided.

(2) The contractor may be assessed a penalty which must be the greater of $1,000 or an amount equaling 20% of the value of the equipment, materials, or supplies that the State agency demonstrates were produced in whole or in part by child labor and that were supplied to the State agency under the contract.

(3) The contractor may be suspended from bidding on a State contract for a period not to exceed 360 days.

Any moneys collected under this subsection shall be deposited into the General Revenue Fund.

(c) When imposing the sanctions described in subsection (b), the contracting agency must notify the contractor of the right to a hearing if requested within 15 days after the date of the notice. The hearing must be before an administrative law judge

according to the Illinois Administrative Procedure Act. The administrative law judge must consider any measures the contractor has taken to ensure compliance with this Section and may waive any or all of the sanctions if it is determined that the contractor has acted in good faith.

The agency must be assessed the cost of the administrative hearing, unless the agency has prevailed in the hearing, in which case the contractor shall be assessed the cost of the hearing.

(d) Any State agency that investigates a complaint against a contractor for violation of this Section must limit its investigation to evaluating the information provided by the person or entity submitting the complaint and the information provided by the contractor.

(Source: P.A. 94-264, eff. 7-19-05.)

EFFECTIVE DATE

(30 ILCS 584/99)

Sec. 99. Effective date. This Act takes effect upon becoming law. (Source: P.A. 94-264, eff. 7-19-05.)

LOCAL FOOD, FARMS, AND JOBS ACT
30 ILCS 595/

PROCUREMENT GOALS FOR LOCAL FARM OR FOOD PRODUCTS

(30 ILCS 595/10)

Sec. 10. Procurement goals for local farm or food products.

(a) In order to create, strengthen, and expand local farm and food economies throughout Illinois, it shall be the goal of this State that 20% of all food and food products purchased by State agencies and State-owned facilities, including, without limitation, facilities for persons with mental health and developmental disabilities, correctional facilities, and public universities, shall, by 2020, be local farm or food products.

(b) The Local Food, Farms, and Jobs Council established under this Act shall support and encourage that 10% of food and food products purchased by entities funded in part or in whole by State dollars, which spend more than $25,000 per year on food or food products for its students, residents, or clients, including, without limitation, public schools, child care facilities, after-school programs, and hospitals, shall, by 2020, be local farm or food products.

(c) To meet the goals set forth in this Section, when a State contract for purchase of food or food products is to be awarded to the lowest responsible bidder, an otherwise qualified bidder who will fulfill the contract through the use of local farm or food products may be given preference over other bidders, provided that the cost included in the bid of local farm or food products is not more than 10% greater than the cost included in a bid that is not for local farm or food products.

(d) All State agencies and State-owned facilities that purchase food and food products shall, with the assistance of the Local Food, Farms, and Jobs Council, develop a system for (i) identifying the percentage of local farm or food products purchased for fiscal year 2011 as the baseline; and (ii) tracking and reporting local farm or food products purchases on an annual basis.

(Source: P.A. 96-579, eff. 8-18-09.)

PUBLIC OFFICER PROHIBITED ACTIVITIES ACT
50 ILCS 105/

SHORT TITLE

(50 ILCS 105/0.01) (from Ch. 102, par. 0.01)

Sec. 0.01. Short title. This Act may be cited as the Public Officer Prohibited Activities Act.
(Source: P.A. 86-1324.)

COUNTY BOARD; RESTRICTIONS

(50 ILCS 105/1) (from Ch. 102, par. 1)

Sec. 1. County board. No member of a county board, during the term of office for which he or she is elected, may be appointed to, accept, or hold any office other than (i) chairman of the county board or member of the regional planning commission by appointment or election of the board of which he or she is a member, (ii) alderman of a city or member of the board of trustees of a village or incorporated town if the city, village, or incorporated town has fewer than 1,000 inhabitants and is located in a county having fewer than 50,000 inhabitants, or (iii) trustee of a forest preserve district created under Section 18.5 of the Conservation District Act, unless he or she first resigns from the office of county board member or unless the holding of another office is authorized by law. Any such prohibited appointment or election is void. This Section shall not preclude a member of the county board from being selected or from serving as a member of a County Extension Board as provided in Section 7 of the County Cooperative Extension Law, as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act, or as appointed members of the board of review as provided in Section 6-30 of the Property Tax Code. Nothing in this Act shall be construed to prohibit an elected county official from holding elected office in another unit of local government so long as there is no contractual relationship between the county and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.
(Source: P.A. 94-617, eff. 8-18-05.)

COUNTY BOARD; HIGHWAY COMMISSIONER

(50 ILCS 105/1.1) (from Ch. 102, par. 1.1)

Sec. 1.1. A member of the county board in a county having fewer than 550,000 inhabitants, during the term of office for which he is elected, may also hold the office of township highway commissioner. (Source: P.A. 86-1330.)

COUNTY BOARD MEMBER; EDUCATION OFFICE

(50 ILCS 105/1.2)

Sec. 1.2. County board member; education office. A member of the county board in a county having fewer than 40,000 inhabitants, during the term of office for which he or she is elected, may also hold the office of member of the board of education, regional board of school trustees, board of school directors, or board of school inspectors.
(Source: P.A. 88-471.)

EDUCATION OFFICE

(50 ILCS 105/1.3)

Sec. 1.3. Municipal board member; education office. In a city, village, or incorporated town with fewer than 2,500 inhabitants, an alderman of the city or a member of the board of trustees of a village or incorporated town, during the term of office for which he or she is elected, may also hold the office of member of the board

of education, regional board of school trustees, board of school directors, or board of school inspectors.
(Source: P.A. 91-161, eff. 7-16-99.)

RESTRICTIONS OF APPOINTMENTS BY MAYOR OR PRESIDENT OF THE BOARD OF TRUSTEES

(50 ILCS 105/2) (from Ch. 102, par. 2)

Sec. 2. No alderman of any city, or member of the board of trustees of any village, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the mayor or president of the board of trustees, unless the alderman or board member is granted a leave of absence from such office, or unless he or she first resigns from the office of alderman or member of the board of trustees, or unless the holding of another office is authorized by law. The alderman or board member may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected municipal official from holding elected office in another unit of local government as long as there is no contractual relationship between the municipality and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.
(Source: P.A. 89-89, eff. 6-30-95.)

TOWNSHIP SUPERVISORS AND TRUSTEES

(50 ILCS 105/2a) (from Ch. 102, par. 2a)

Sec. 2a. Township supervisors and trustees. No township supervisor or trustee, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law. A supervisor or trustee may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. Nothing in this Act shall be construed to prohibit an elected township official from holding elected office in another unit of local government as long as there is no contractual relationship between the township and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment.
(Source: P.A. 89-89, eff. 6-30-95.)

PROHIBITED INTEREST IN CONTRACTS

(50 ILCS 105/3) (from Ch. 102, par. 3)

Sec. 3. Prohibited interest in contracts.

(a) No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. This Section shall not apply to any person serving on an advisory panel or commission or to any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law.

(b) However, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor, subject to the following provisions under either paragraph (1) or (2):

(1) If:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which such interested member of the governing body of the municipality has less than a 7 1/2% share in the ownership; and

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

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

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

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

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

(2) If:

A. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed $2,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed $4,000; and

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

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(b-5) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

B. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

C. such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

D. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(c) A contract for the procurement of public utility services by a public entity with a public utility company is not barred by this Section by one or more members of the governing body of the public entity being an officer or employee of the public utility company or holding an ownership interest of no more than 7 1/2% in the public utility company, or holding an ownership interest of any size if the public entity is a municipality with a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body of the public entity having such an interest shall be deemed not to have a prohibited interest under this Section.

(d) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under 20,000 may purchase real estate from the municipality, at a price of not less than 100% of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(e) For the purposes of this Section only, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of 1% or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member: (i) publicly discloses the fact that he or she is an employee or holds an interest of 1% or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund or exchange-traded fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

(f) Under either of the following circumstances, a municipal officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality:

(1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the non-for-profit board for expenses incurred as the result of membership on the non-for-profit board.

(2) If the municipal officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body.

(Source: P.A. 96-277, eff. 1-1-10; 96-1058, eff. 7-14-10.)

CONTRACTS RELATING TO OWNERSHIP OR USE OF REAL PROPERTY

(50 ILCS 105/3.1) (from Ch. 102, par. 3.1)

Sec. 3.1. Before any contract relating to the ownership or use of real property is entered into by and between the State or any local governmental unit or any agency of either the identity of every owner and beneficiary having any interest, real or personal, in such property, and every member, shareholder, limited partner, or general partner entitled to receive more than 7 1/2% of the total distributable income of any limited liability company, corporation, or limited partnership having any interest, real or personal, in such property must be disclosed. The disclosure shall be in writing and shall be subscribed by a member, owner, authorized trustee, corporate official, general partner, or managing agent, or his or her authorized attorney, under oath. However, if the interest, stock, or shares in a limited liability company, corporation, or general partnership is publicly traded and there is no readily known individual having greater than a 7 1/2% interest, then a statement to that effect, subscribed to under oath by a member, officer of the corporation, general partner, or managing agent, or his or her authorized attorney, shall fulfill the disclosure statement requirement of this Section.

As a condition of contracts entered into on or after the effective date of this amendatory Act of 1995, the beneficiaries of a lease shall furnish the trustee of a trust subject to disclosure under this Section with a binding non-revocable letter of direction authorizing the trustee to provide the State with an up-to-date disclosure whenever requested by the State. The letter of direction shall be binding on beneficiaries' heirs, successors, and assigns during the term of the contract. This Section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of real property thereby.

For any entity that is wholly or partially owned by another entity, the names of the owners of the wholly or partially owning entity shall be disclosed under this Section, as well as the names of the owners of the wholly or partially owned entity.

(Source: P.A. 91-361, eff. 7-29-99.)

PECUNIARY INTEREST

(50 ILCS 105/3.2) (from Ch. 102, par. 3.2)

Sec. 3.2. Pecuniary interest allowed in contracts of deposit and financial service with local banks and savings and loan associations. Nothing contained in this Act, including the restrictions set forth in subsections (b), (c), and (d) of Section 3, shall preclude a contract of deposit of monies, loans, or other financial services by a unit of local government, school district, community college district, State university, or a police or firefighter's pension fund established under Article 3 or 4 of the Illinois Pension Code with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the unit (including any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law) are interested in the bank or savings and loan association as a director, an officer, employee, or holder of less than 7 1/2% of the total ownership interest. A member or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. The interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. The interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently

holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the unit or district.
(Source: P.A. 90-197, eff. 1-1-98.)

VIOLATIONS OF PROVISIONS OF THIS ACT

(50 ILCS 105/4) (from Ch. 102, par. 4)

Sec. 4. Any alderman, member of a board of trustees, supervisor or county commissioner, or other person holding any office, either by election or appointment under the laws or constitution of this state, who violates any provision of the preceding sections, is guilty of a Class 4 felony and in addition thereto, any office or official position held by any person so convicted shall become vacant, and shall be so declared as part of the judgment of court.
(Source: P.A. 77-2721.)

FALSE VERIFICATION; PERJURY

(50 ILCS 105/4.5)

Sec. 4.5. False verification; perjury. A person is guilty of perjury who:

(1) In swearing on oath or otherwise affirming a statement in writing as required under this Act, knowingly makes a false statement as to, or knowingly omits a material fact relating to, the identification of an individual or entity that has an ownership interest in real property, or that is material to an issue or point in question in the written disclosure pertaining to a contract for the ownership or use of real property.

(2) Having taken a lawful oath or made affirmation, testifies willfully and falsely as to any of those matters for the purpose of inducing the State or any local governmental unit or any agency of either to enter into a contract for the ownership or use of real property.

(3) Suborns any other person to so swear, affirm, or testify.

Upon conviction of perjury, a person shall be sentenced as provided in Section 32-2 or 32-3, respectively, of the Criminal Code of 1961 for those offenses.

This Section applies to written statements made or testimony given on or after the effective date of this amendatory Act of 1995.
(Source: P.A. 89-91, eff. 6-30-95.)

LOCAL GOVERNMENT PROFESSIONAL SERVICES SELECTION ACT
50 ILCS 510/

SHORT TITLE

(50 ILCS 510/0.01) (from Ch. 85, par. 6400)

Sec. 0.01. Short title. This Act may be cited as the Local Government Professional Services Selection Act.

(Source: P.A. 86-1324.)

POLICY

(50 ILCS 510/1) (from Ch. 85, par. 6401)

Sec. 1. Policy. It shall be the policy of the political subdivisions of the State of Illinois to negotiate and enter into contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable compensation.

(Source: P.A. 85-854.)

FEDERAL REQUIREMENTS

(50 ILCS 510/2) (from Ch. 85, par. 6402)

Sec. 2. Federal Requirements. In the procurement of architectural, engineering and land surveying services and in the awarding of contracts, a political subdivision of the State of Illinois may comply with federal law and regulations and take all necessary steps to adapt its rules, specifications, policies and procedures accordingly to remain eligible for federal aid.

(Source: P.A. 85-854.)

DEFINITIONS

(50 ILCS 510/3) (from Ch. 85, par. 6403)

Sec. 3. Definitions. As used in this Act unless the context specifically requires otherwise:

(1) "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide architectural, engineering or land surveying services.

(2) "Architectural services" means any professional service as defined in Section 5 of the Illinois Architecture Practice Act of 1989.

(3) "Engineering services" means any professional service as defined in Section 4 of the Professional Engineering Practice Act of 1989 or Section 5 of the Structural Engineering Practice Act of 1989.

(4) "Land surveying services" means any professional service as defined in Section 5 of the Illinois Professional Land Surveyor Act of 1989.

(5) "Political subdivision" means any school district and any unit of local government of fewer than 3,000,000 inhabitants, except home rule units.

(6) "Project" means any capital improvement project or any study, plan, survey or new or existing program activity of a political subdivision, including development of new or existing programs which require architectural, engineering or land surveying services.

(Source: P.A. 91-91, eff. 1-1-00.)

PUBLIC NOTICE

(50 ILCS 510/4) (from Ch. 85, par. 6404)

Sec. 4. Public notice. Present provisions of law notwithstanding, in the

procurement of architectural, engineering or land surveying services, each political subdivision which utilizes architectural, engineering or land surveying services shall permit firms engaged in the lawful practice of their professions to annually file a statement of qualifications and performance data with the political subdivision. Whenever a project requiring architectural, engineering or land surveying services is proposed for a political subdivision, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms:

(1) Mail a notice requesting a statement of interest in the specific project to all firms who have a current statement of qualifications and performance data on file with the political subdivision; or

(2) Place an advertisement in a secular English language daily newspaper of general circulation throughout such political subdivision, requesting a statement of interest in the specific project and further requesting statements of qualifications and performance data from those firms which do not have such a statement on file with the political subdivision. Such advertisement shall state the day, hour and place the statement of interest and the state ments of qualifications and performance data shall be due.

(Source: P.A. 85-854.)

EVALUATION PROCEDURE

(50 ILCS 510/5) (from Ch. 85, par. 6405)

Sec. 5. Evaluation Procedure. A political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, evaluate the firms submitting letters of interest, taking into account qualifications, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm, and such other qualifications-based factors as the political subdivision may determine in writing are applicable. The political subdivision may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project, and ability to furnish the required services. In no case shall a political subdivision, prior to selecting a firm for negotiation under Section 7, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 94-1097, eff. 2-2-07.)

SELECTION PROCEDURE

(50 ILCS 510/6) (from Ch. 85, par. 6406)

Sec. 6. Selection procedure. On the basis of evaluations, discussions and presentations, the political subdivision shall, unless it has a satisfactory relationship for services with one or more firms, select no less than 3 firms which it determines to be the most qualified to provide services for the project and rank them in order of qualifications to provide services regarding the specific project. The political subdivision shall then contact the firm ranked most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. If fewer than 3 firms submit letters of interest and the political subdivision determines that one or both of those firms are so qualified, the political subdivision may proceed to negotiate a contract pursuant to this Section and Section 7.

(Source: P.A. 85-854.)

CONTRACT NEGOTIATION

(50 ILCS 510/7) (from Ch. 85, par. 6407)

Sec. 7. Contract negotiation. (1) The political subdivision shall prepare a written description of the scope of the proposed services to be used as a basis for negotiations and shall negotiate a contract with the highest qualified firm at compensation that the political subdivision determines in writing to be fair and reasonable. In making this decision the political subdivision shall take into account the estimated value, scope, complexity and professional nature of the services to be rendered.

(2) If the political subdivision is unable to negotiate a satisfactory contract with the firm which is most preferred, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred. If the political subdivision is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be terminated. The political subdivision shall then begin negotiations with the firm which is next preferred.

(3) If the political subdivision is unable to negotiate a satisfactory contract with any of the selected firms, the political subdivision shall re-evaluate the architectural, engineering or land surveying services requested, including the estimated value, scope, complexity and fee requirements. The political subdivision shall then compile a second list of not less than three qualified firms and proceed in accordance with the provisions of this Act.

(Source: P.A. 85-854.)

WAIVER OF COMPETITION

(50 ILCS 510/8) (from Ch. 85, par. 6408)

Sec. 8. Waiver of competition. A political subdivision may waive the requirements of Sections 4, 5, and 6 if it determines, by resolution, that an emergency situation exists and a firm must be selected in an expeditious manner, or the cost of architectural, engineering, and land surveying services for the project is expected to be less than $25,000.

(Source: P.A. 87-1034.)

SOYBEAN INK ACT
50 ILCS 520/

SHORT TITLE

(50 ILCS 520/1)

Sec. 1. Short title. This Act may be known as the Soybean Ink Act.
(Source: P.A. 90-146, eff. 1-1-98.)

DEFINITION

(50 ILCS 520/5)

Sec. 5. Definition. As used in this Act, "printing" means and includes all processes and operations involved in printing and any type of photographic reproduction or other duplicating process, including but not limited to letterpress, offset, and gravure processes, the multilith method, any type of photographic or other duplicating process, and the operations of composition, platemaking, presswork, and binding. "Printing" also means the end products of those processes, methods, and operations. "Printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or preprinted matter or printed matter that is commonly available to the general public from vendor inventory.
(Source: P.A. 90-146, eff. 1-1-98.)

USE OF SOYBEAN INK

(50 ILCS 520/10)

Sec. 10. Use of soybean ink. Contractors shall use soybean oil-based ink when providing printing services to units of local government and school districts unless the unit of local government or school district determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.
(Source: P.A. 90-146, eff. 1-1-98.)

PUBLIC WORKS CONTRACT CHANGE ORDER ACT
50 ILCS 525/

SHORT TITLE

(50 ILCS 525/1)

Sec. 1. Short title. This Act may be cited as the Public Works Contract Change Order Act.

(Source: P.A. 93-656, eff. 6-1-04.)

CHANGE ORDERS; BIDDING

(50 ILCS 525/5)

Sec. 5. Change orders; bidding. If a change order for any public works contract (i) is entered into by a unit of local government or school district, (ii) is not procured in accordance with the Illinois Procurement Code and the State Finance Act, and (iii) authorizes or necessitates any increase in the contract price that is 50% or more of the original contract price or that authorizes or necessitates any increase in the price of a subcontract under the contract that is 50% or more of the original subcontract price, then the portion of the contract that is covered by the change order must be resubmitted for bidding in the same manner for which the original contract was bid. Bidding for the portion of the contract covered by the change order is subject to any requirements to employ females and minorities on the public works project that existed at the bidding for the original contract, together with any later requirements imposed by law.

(Source: P.A. 93-656, eff. 6-1-04; 94-460, eff. 8-4-05.)

HOME RULE

(50 ILCS 525/10)

Sec. 10. Home rule. A home rule unit may not regulate its public works contracts in a manner that is inconsistent with this Act. This Section is a limitation of home rule powers under subsection (i) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 93-656, eff. 6-1-04.)

MANDATES

(50 ILCS 525/15)

Sec. 15. Mandates. This Act is exempt from the reimbursement requirements of the State Mandates Act.

(Source: P.A. 93-656, eff. 6-1-04.)

AMENDATORY PROVISIONS; TEXT OMITTED

(50 ILCS 525/90)

Sec. 90. (Amendatory provisions; text omitted).

(Source: P.A. 93-656, eff. 6-1-04.)

LOCAL GOVERNMENT FACILITY LEASE ACT
50 ILCS 615/

SHORT TITLE

(50 ILCS 615/1)

Sec. 1. Short title. This Act may be cited as the Local Government Facility Lease Act.

(Source: P.A. 94-750, eff. 5-9-06.)

DEFINITIONS

(50 ILCS 615/5)

Sec. 5. Definitions. As used in this Act:

"Facility property" means property owned by a municipality with a population of over 500,000 inhabitants, or a unit of local government whose jurisdiction includes territory located in whole or in part within a municipality with a population of over 500,000 inhabitants, that is used by the municipality or other unit of local government for the purpose of an airport, parking, or waste disposal or processing. "Airport", however, does not include any airport property, as defined under Section 10 of the O'Hare Modernization Act.

"Leased facility property" means facility property that is leased to a private entity for continued use for the same airport, parking, or waste disposal or processing purpose.

(Source: P.A. 94-750, eff. 5-9-06.)

COMPLIANCE WITH APPLICABLE ORDINANCES

(50 ILCS 615/10)

Sec. 10. Compliance with applicable ordinances. Each party to whom facility property is leased shall comply with all applicable ordinances of the municipality in which the property is located governing contracting with minority-owned and women-owned businesses and prohibiting discrimination and requiring appropriate affirmative action, to the extent permitted by law and federal funding restrictions, as if the party to whom the property is leased were that municipality.

(Source: P.A. 94-750, eff. 5-9-06.)

LIMITATION ON THE EXPANSION OF AIRPORT PROPERTY

(50 ILCS 615/15)

Sec. 15. Limitation on the expansion of airport property. Chicago Midway International Airport is facility property used for airport purposes under this Act. No runway of Chicago Midway International Airport shall be expanded beyond the territory bounded by 55th Street on the north, Cicero Avenue on the east, 63rd Street on the south, and Central Avenue on the west, as those avenues and streets are situated on the effective date of this Act.

(Source: P.A. 94-750, eff. 5-9-06.)

USE OF LEASE PROCEEDS BY LESSOR

(50 ILCS 615/20)

Sec. 20. Use of lease proceeds by lessor.

(a) With respect to any leased facility property used for airport purposes, at least 90% of the net proceeds of the lease shall be expended or obligated by the lessor municipality for:

(i) the construction and maintenance of infrastructure within the municipality;

(ii) contributions to pension funds created for municipal employees; or

(iii) any combination of (i) or (ii).

(b) The amount of net proceeds expended or obligated for item (ii) in subsection (a) may not exceed the amount of net proceeds expended or obligated for item (i) in subsection (a). As used in this Section, "net proceeds" means the gross proceeds less any debt service payments on, and payments to retire, debt that is specifically associated with the leased facility property or otherwise required to be paid out of lease proceeds.

(Source: P.A. 94-750, eff. 5-9-06.)

PROJECT LABOR AGREEMENTS; AIRPORT LEASE FUNDING

(50 ILCS 615/25)

Sec. 25. Project labor agreements for projects funded by airport lease proceeds. With respect to the construction of public works funded by the proceeds described in Section 20, where the project has an estimated contract value of $500,000 or more, where there has been a written determination that the public interest in cost, timely and orderly construction, labor stability, and advancement of minority-owned and women-owned businesses and minority and female employment would be served by a project labor agreement, and where not otherwise prohibited by applicable law, the municipality or municipal corporation responsible for implementing the project shall in good faith negotiate a project labor agreement with labor organizations engaged in the construction industry. Any project labor agreement shall:

(1) set forth effective, immediate, and mutually binding procedures for resolving jurisdictional disputes and grievances arising before completion of work;

(2) contain guarantees against strikes, lockouts, or similar actions;

(3) ensure a reliable source of skilled and experienced labor;

(4) further public policy objectives as to improved employment opportunities for minorities and women in the construction industry to the extent permitted by State and federal law;

(5) be made binding on all contractors and subcontractors on the public works project through inclusion of appropriate bid specifications in all relevant bid documents; and

(6) include such other terms as the parties deem appropriate.

(Source: P.A. 94-750, eff. 5-9-06.)

LABOR NEUTRALITY AND CARD CHECK PROCEDURE AGREEMENT

(50 ILCS 615/30)

Sec. 30. Labor neutrality and card check procedure agreement at the leased property. With respect to employees assigned to work on the premises of leased facility property used for airport purposes and who are not otherwise members of an existing bargaining unit cognizable under the National Labor Relations Act, and where not otherwise prohibited by applicable law, the lessee shall negotiate in good faith, with any union that seeks to represent its employees, for a labor neutrality and card check procedure agreement. The agreement shall apply only to employees actually assigned to work on the premises of the leased facility property used for airport purposes and shall have no applicability to employees not so assigned. The agreement shall contain provisions accomplishing the following objectives: resolution by a third party neutral of disagreements regarding bargaining unit scope, inclusions, and exclusions; determination of the existence of majority support for a bargaining agent by means of a card check procedure; employer neutrality; prohibition of coercion or intimidation of employees by either the employer or the union; and a prohibition on strikes, work stoppages, or picketing for the duration of the agreement.

(Source: P.A. 94-750, eff. 5-9-06.)

WAGE REQUIREMENTS

(50 ILCS 615/35)

Sec. 35. Wage requirements. In order to protect the wages, working conditions, and job opportunities of employees employed by the lessee of leased facility property used for airport purposes to perform work on the site of the leased premises previously performed by employees of the lessor on the site of the leased premises and who were in recognized bargaining units at the time of the lease, the lessee, and any subcontractor retained by the lessee to perform such work on the site of the leased premises, shall be required to pay to those employees an amount not less than the economic equivalent of the standard of wages and benefits enjoyed by the lessor's employees who previously performed that work. The lessor shall certify to the lessee the amount of wages and benefits (or their equivalent) as of the time of the lease, and any changes to those amounts as they may occur during the term of the lease. All projects at the leased facility property used for airport purposes shall be considered public works for purposes of the Prevailing Wage Act.

(Source: P.A. 94-750, eff. 5-9-06.)

REQUIRED OFFERS OF EMPLOYMENT

(50 ILCS 615/40)

Sec. 40. Required offers of employment. As part of any transaction to lease facility property that is used for airport purposes:

(1) the lessee must offer employment, under substantially similar terms and conditions, to the employees of the municipality who are employed, at the time of the lease, with respect to the facility property used for airport purposes; and

(2) the municipality must offer employment in another department, division, or unit of the municipality, under substantially similar terms and conditions, to employees of the municipality who are employed, at the time of the lease, with respect to the facility property used for airport purposes.

(Source: P.A. 94-750, eff. 5-9-06.)

JUDICIAL ENFORCEMENT

(50 ILCS 615/45)

Sec. 45. Judicial enforcement. The provisions of this Act are judicially enforceable by injunctive relief and an award of actual damages.

(Source: P.A. 94-750, eff. 5-9-06.)

HOME RULE; STATE MANDATES ACT

(50 ILCS 615/50)

Sec. 50. Home rule preemption; exemption from State Mandates Act.

(a) A home rule unit may not exercise its home rule powers and functions in a manner that is inconsistent with this Act. This subsection is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(b) Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Act.

(Source: P.A. 94-750, eff. 5-9-06.)

AMENDATORY PROVISIONS; TEXT OMITTED

(50 ILCS 615/900)

Sec. 900. (Amendatory provisions; text omitted).

(Source: P.A. 94-750, eff. 5-9-06; text omitted.)

AMENDATORY PROVISIONS; TEXT OMITTED

(50 ILCS 615/905)

Sec. 905. (Amendatory provisions; text omitted).

(Source: P.A. 94-750, eff. 5-9-06; text omitted.)

AMENDATORY PROVISIONS; TEXT OMITTED

(50 ILCS 615/910)

Sec. 910. (Amendatory provisions; text omitted).

(Source: P.A. 94-750, eff. 5-9-06; text omitted.)

AMENDATORY PROVISIONS; TEXT OMITTED

(50 ILCS 615/915)

Sec. 915. (Amendatory provisions; text omitted).

(Source: P.A. 94-750, eff. 5-9-06; text omitted.)

EFFECTIVE DATE

(50 ILCS 615/999)

Sec. 999. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 94-750, eff. 5-9-06.)

CONTRACTOR UNIFIED LICENSE AND PERMIT BOND ACT 50 ILCS 830/

SHORT TITLE

(50 ILCS 830/1)

Sec. 1. This Act may be cited as the Contractor Unified License and Permit Bond Act.

(Source: P.A. 90-712, eff. 8-7-98.)

APPLICATION

(50 ILCS 830/5)

Sec. 5. Application. Except for the City of Chicago, this Act applies to all counties, municipalities, and home rule units.

(Source: P.A. 90-712, eff. 8-7-98.)

DEFINITIONS

(50 ILCS 830/10)

Sec. 10. Definitions. As used in this Act,

"Contractor" means any person who, in any capacity other than as the employee of another for wages as the sole compensation, undertakes to construct, alter, repair, move, wreck, or demolish any fixture or structure. The term includes a subcontractor or specialty contractor, but does not include a person who furnishes only materials or supplies.

"Home rule unit" has the meaning provided in Section 6 of Article VII of the Illinois Constitution.

"Municipality" means a city, village, incorporated town, or township.

"Unified license and permit bond" means a single bond combining what are commonly known as a license bond and a permit bond, issued on a uniform document prescribed by the county board or board of county commissioners that includes the name of the county, the name and address of the contractor, the amount of the unified bond, the time period covered by the unified bond, and other required terms and conditions of the unified bond.

(Source: P.A. 90-712, eff. 8-7-98.)

RULES

(50 ILCS 830/15)

Sec. 15. Rules. The county board or county board of commissioners may adopt rules and enter into intergovernmental agreements to implement this Act.

(Source: P.A. 90-712, eff. 8-7-98.)

UNIFIED LICENSE AND PERMIT BOND

(50 ILCS 830/20)

Sec. 20. Unified license and permit bond.

(a) A contractor seeking to do work or doing work in a county or municipality may obtain a unified license and permit bond. This unified license and permit bond may be used by the contractor, at the contractor's discretion, instead of any other license or permit bond, or both, required of a contractor by the county or a municipality within that county. The bond shall be in the amount of at least $50,000 for counties included within the provisions of the Northeastern Illinois Planning Act (now repealed) and in the amount of at least $25,000 for all other counties.

(b) The unified license and permit bond shall be held for compliance with the ordinances and regulations governing contractors in the county or any municipality within that county where the contractor seeks to do work or is doing work. The unified bond required by this Act shall be filed by the contractor with the county clerk. At the time of filing, the county clerk may charge a reasonable administration fee, determined by the county board or board of county commissioners.

(c) If a contractor elects to use a unified license and permit bond under this Act and the territory of a municipality where a contractor seeks to do or is doing work is included within more than one county, then the contractor shall obtain a unified license and permit bond from each county and shall file a unified bond with each of the respective county clerks whether or not the contractor seeks to do or is doing work in that part of the municipality included in only one of the counties.

In addition, the contractor shall file a certified copy of the unified bond with the clerk in the municipality within that county where the contractor seeks to do work or is doing work. At the time of the filing, the clerk may charge a reasonable administration fee, determined by the corporate authorities of the municipality.
(Source: P.A. 96-328, eff. 8-11-09.)

LOCAL PERMITS, LICENSES, OR PERFORMANCE BONDS

(50 ILCS 830/25)

Sec. 25. Local permits, licenses, or performance bonds. This Act does not prohibit a county or municipality within that county from requiring local permits, licenses, or performance bonds for contractors to do business in that county or municipality or from charging reasonable permit or license fees or reasonable amounts for performance bonds.
(Source: P.A. 90-712, eff. 8-7-98.)

HOME RULE

(50 ILCS 830/30)

Sec. 30. Home rule. A home rule unit may not regulate unified license and permit bonds for contractors in a manner inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.
(Source: P.A. 90-712, eff. 8-7-98.)

EFFECTIVE DATE

(50 ILCS 830/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 90-712, eff. 8-7-98.)

GREEN CLEANING SCHOOLS ACT
105 ILCS 140/

SHORT TITLE

(105 ILCS 140/1)

Sec. 1. Short title. This Act may be cited as the Green Cleaning Schools Act.
(Source: P.A. 95-84, eff. 8-13-07.)

LEGISLATIVE FINDINGS

(105 ILCS 140/5)

Sec. 5. Legislative findings. Both children and adults are vulnerable to and may be severely affected by exposure to chemicals, hazardous waste, and other environmental hazards. The Federal Environmental Protection Agency estimates that human exposure to indoor air pollutants can be 2 to 5 times and up to 100 times higher than outdoor levels. Children, workers, teachers, janitors, and other staff members spend a significant amount of time inside school and other institutional buildings and are continuously exposed to chemicals from cleaners, waxes, deodorizers, and other maintenance products.
(Source: P.A. 95-84, eff. 8-13-07; 96-75, eff. 7-24-09.)

USE OF GREEN CLEANING SUPPLIES

(105 ILCS 140/10)

Sec. 10. Use of green cleaning supplies. By no later than 90 days after implementation of the guidelines and specifications established under Section 15 of this Act or thereafter when it is economically feasible, all elementary and secondary public schools and all elementary and secondary non-public schools with 50 or more students shall establish a green cleaning policy and exclusively purchase and use environmentally-sensitive cleaning products pursuant to the guidelines and specifications established under Section 15 of this Act. However, a school may deplete its existing cleaning and maintenance supply stocks and implement the new requirements in the procurement cycle for the following school year.

For the purposes of this Section, adopting a green cleaning policy is not economically feasible if such adoption would result in an increase in the cleaning costs of the school. If adopting a green cleaning policy is not economically feasible, the school must provide annual written notification to the Illinois Green Government Coordinating Council (IGGCC), on a form provided by the IGGCC, that the development and implementation of a green cleaning policy is not economically feasible until such time that it is economically feasible.
(Source: P.A. 95-84, eff. 8-13-07.)

GREEN CLEANING SUPPLY GUIDELINES AND SPECIFICATIONS

(105 ILCS 140/15)

Sec. 15. Green cleaning supply guidelines and specifications. The Illinois Green Government Coordinating Council (IGGCC) shall, in consultation with the Department of Public Health, the State Board of Education, regional offices of education, the Illinois Environmental Protection Agency, and a panel of interested stakeholders, including cleaning product industry representatives, non-governmental organizations, and others, establish and amend on an annual basis guidelines and specifications for environmentally-sensitive cleaning and maintenance products for use in school facilities as well as State-owned buildings under Section 405-216 of the Department of Central Management Services Law of the Civil Administrative Code of Illinois. The IGGCC shall provide multiple avenues by which cleaning products may be determined to be

environmentally-sensitive under the guidelines. Guidelines and specifications must be established after a review and evaluation of existing research and must be completed no later than 180 days after the effective date of this Act. Guidelines and specifications may include implementation practices, including inspection. The completed guidelines and specifications must be posted on the IGGCC's Internet website.
(Source: P.A. 95-84, eff. 8-13-07; 96-75, eff. 7-24-09.)

DISSEMINATION TO SCHOOLS

(105 ILCS 140/20)

Sec. 20. Dissemination to schools.

(a) Upon the completion of the guidelines and specifications under Section 15 of this Act, the IGGCC shall provide each regional office of education and each elementary or secondary non-public school with 50 or more students in this State with the guidelines and specifications. Each regional office of education shall immediately disseminate the guidelines and specifications to every public school in the educational service region. Regional offices of education and the IGGCC shall provide on-going assistance to schools to carry out the requirements of this Act.

(b) In the event that the guidelines and specifications under Section 15 of this Act are updated by the IGGCC, the IGGCC shall provide the updates to each regional office of education for immediate dissemination to each public school. Additionally, the IGGCC shall post all updated materials on its Internet website.
(Source: P.A. 95-84, eff. 8-13-07.)

AMENDATORY PROVISIONS; TEXT OMITTED

(105 ILCS 140/90)

Sec. 90. (Amendatory provisions; text omitted).
(Source: P.A. 95-84, eff. 8-13-07; text omitted.)

EFFECTIVE DATE

(105 ILCS 140/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 95-84, eff. 8-13-07.)

SERVICE CONTRACT ACT
215 ILCS 152/

SHORT TITLE

(215 ILCS 152/1)

Sec. 1. Short title. This Act may be cited as the Service Contract Act.
(Source: P.A. 90-711, eff. 8-7-98.)

DEFINITIONS

(215 ILCS 152/5)

Sec. 5. Definitions.

"Department" means the Department of Insurance.

"Director" means the Director of Insurance.

"Service Contract" means a contract or agreement whereby a service contract provider undertakes for a specified period of time, for separate and identifiable consideration, to perform the repair, replacement, or maintenance, or indemnification for such services, of any automobile, system, or consumer product in connection with the operational or structural failure due to a defect in materials or workmanship, or normal wear and tear, with or without additional provision for incidental payment or indemnity under limited circumstances, for related expenses, including, but not limited to, towing, rental, and emergency road service. Service contracts may provide for the repair, replacement, or maintenance of such property for damage resulting from power surges and accidental damage from handling. Service contracts shall not include contracts of limited duration that provide for scheduled maintenance only.

"Service contract holder" means the person who purchases a service contract or a permitted transferee.

"Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract. A service contract provider does not include an insurer.

"Service contract reimbursement insurance policy" means a policy of insurance that is issued to the service contract provider to provide reimbursement to the service contract provider or to pay on behalf of the service contract provider all covered contractual obligations incurred by the service contract provider under the terms and conditions of the insured service contracts issued or sold by the service contract provider.

"System" means the heating, cooling, plumbing, electrical, ventilation, or any other similar system of a home.
(Source: P.A. 90-711, eff. 8-7-98.)

EXEMPTIONS

(215 ILCS 152/10)

Sec. 10. Exemptions. Service contract providers and related service contract sellers and administrators complying with this Act are not required to comply with and are not subject to any provision of the Illinois Insurance Code. A service contract provider who is the manufacturer or a wholly-owned subsidiary of the manufacturer of the product or the builder, seller, or lessor of the product that is the subject of the service contract is required to comply only with Sections 30, 35, 45, and 50 of this Act; except that, a service contract provider who sells a motor vehicle, excluding a motorcycle as defined in Section 1-147 of the Illinois Vehicle Code, or who leases, but is not the manufacturer of, the motor vehicle, excluding a motorcycle as defined in Section 1-147 of the Illinois Vehicle Code, that is the subject of the service contract must comply with this Act in its entirety. Contracts for the repair and monitoring of private alarm or

private security systems regulated under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 are not required to comply with this Act and are not subject to any provision of the Illinois Insurance Code.
(Source: P.A. 95-613, eff. 9-11-07.)

FINANCIAL REQUIREMENTS

(215 ILCS 152/15)

Sec. 15. Financial requirements. No service contract shall be issued, sold, or offered for sale in this State unless one of the following conditions are satisfied:

(1) (A) The service contract provider is insured under a service contract reimbursement insurance policy issued by an insurer authorized to do business in this State and providing that the insurer will pay to, or on behalf of, the service contract provider all sums that the service contract provider is legally obligated to pay according to the service contract provider's contractual obligations under the service contracts issued or sold by the service contract provider;

(B) a true and correct copy of the service contract reimbursement insurance policy has been filed with the Director by the service contract provider;

(C) the service contract states that the obligations of the service contract provider to the service contract holder are covered under a service contract reimbursement insurance policy; and

(D) the service contract states the name and address of the issuer of the service contract reimbursement insurance policy and states that in the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the service contract holder may file directly with the service contract reimbursement insurance company.

(2) (A) The service contract provider maintains a funded reserve account for its obligations under its service contracts issued and outstanding in this State. The reserves shall not be less than 40% of the gross consideration received, less claims paid, for all service contracts sold and then in force;

(B) the service contract provider places in trust with the Director a financial security deposit, having a value of not less than 5% of the gross consideration received, less claims paid, for all service contracts sold and then in force, but not less than $25,000, consisting of securities of the type eligible for deposit by authorized insurers in this State and;

(C) the service contract provider provides the Director with an audited financial statement annually of the service contract revenues and claims.

(3) (A) The service contract provider, or its parent company in accordance with subdivision (3)(B), maintains a net worth or stockholders' equity of $100,000,000; and

(B) the service contract provider provides the Director with a copy of the service contract provider's or the service contract provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year or, if the service contract provider does not file with the Securities and Exchange Commission, a copy of the service contract provider's or the service contract provider's parent company's audited financial statements that shows a net worth of the service contract provider or its parent company of at least $100,000,000. If the service contract provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the service provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts issued by the service contract provider in this State.
(Source: P.A. 90-711, eff. 8-7-98.)

REIMBURSEMENT POLICY; REQUIRED PROVISIONS

(215 ILCS 152/20)

Sec. 20. Reimbursement policy; required provisions.

(a) No service contract reimbursement insurance policy shall be issued, sold, or offered for sale in this State unless the policy states that the issuer of the policy will reimburse or pay on behalf of the service contract provider all covered sums which the service contract provider is legally obligated to pay or will provide the service that the service contract provider is legally obligated to perform according to the service contract provider's contractual obligations under the provisions of the insured service contracts issued or sold by the service contract provider.

(b) If covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the service contract holder may file directly with the insurance company writing the service contract reimbursement insurance policy.

(c) A service contract reimbursement insurance company that insures a service contract shall be deemed to have received payment of the premium if the service contract holder paid for the service contract coverage.

(d) If a service contract is canceled by a service contract holder, the service contract reimbursement insurance company shall be required to return the unearned service contract reimbursement insurance premium for that contract to the insured service contract provider. If the service contract provider fails to refund the amounts required under Section 35 of this Act, the service contract reimbursement insurance company shall be responsible for the refund to the service contract holder.

(Source: P.A. 90-711, eff. 8-7-98.)

REGISTRATION REQUIREMENTS FOR SERVICE CONTRACT PROVIDERS

(215 ILCS 152/25)

Sec. 25. Registration requirements for service contract providers.

(a) No service contract shall be issued or sold in this State until the following information has been submitted to the Department:

(1) the name of the service contract provider;

(2) a list identifying the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business;

(3) the name and address of the service contract provider's agent for service of process in this State, if other than the service contract provider;

(4) a true and accurate copy of all service contracts to be sold in this State; and

(5) a statement indicating under which provision of Section 15 the service contract provider qualifies to do business in this State as a service contract provider.

(b) The service contract provider shall pay an initial registration fee of $1,000 and a renewal fee of $150 each year thereafter. All fees and penalties collected under this Act shall be paid to the Director and deposited in the Insurance Financial Regulation Fund.

(Source: P.A. 93-32, eff. 7-1-03.)

REQUIRED SERVICE CONTRACT DISCLOSURES

(215 ILCS 152/30)

Sec. 30. Required service contract disclosures. All service contracts issued or sold in this State shall contain the following disclosures written in clear and understandable language.

(1) the name and address of the service contract provider;

(2) the total consideration for the service contract paid by the service contract holder;

(3) the conditions and procedures for obtaining service under the service contract, including the name, address, and local or toll-free telephone number of any person from whom approval is required before covered repairs may be commenced;

(4) the existence and amount of a deductible, if any;

(5) merchandise and services to be provided and any limitations, exceptions, or exclusions;

(6) the terms, conditions, and restrictions governing transferability of the service contract, if any;

(7) the provisions governing cancellation and refunds in accordance with Section 35 of this Act; and

(8) whether or not the service contract covers failure resulting from normal wear and tear.

(Source: P.A. 90-711, eff. 8-7-98.)

CANCELLATION AND REFUNDS

(215 ILCS 152/35)

Sec. 35. Cancellation and refunds. No service contract may be issued, sold, or offered for sale in this State unless the service contract clearly states that the service contract holder is allowed to cancel the service contract. If the service contract holder elects cancellation, the service contract provider may retain a cancellation fee not to exceed the lesser of 10% of the service contract price or $50. The service contract cancellation provision must provide that the service contract may be cancelled:

(1) within 30 days after its purchase if no service has been provided and that a full refund of the service contract consideration, less any cancellation fee stated in the service contract will be paid to the service contract holder; or

(2) at any other time and a pro rata refund of the service contract consideration for the unexpired term of the service contract, based on the number of elapsed months, miles, hours, or such other reasonably applicable measure which is clearly disclosed in the service contract, less the value of any service received, and any cancellation fee stated in the service contract will be paid to the service contract holder.

(Source: P.A. 90-711, eff. 8-7-98.)

INCIDENTAL BENEFITS

(215 ILCS 152/40)

Sec. 40. Incidental benefits. A service contract may provide full or partial reimbursement for other expenses incurred by the service contract holder as a direct and proximate result of an operational or structural failure if covered by the service contract. A reimbursement for these expenses shall not exceed the purchase price of the property serviced per incident.

(Source: P.A. 90-711, eff. 8-7-98.)

RECORD KEEPING REQUIREMENTS

(215 ILCS 152/45)

Sec. 45. Record keeping requirements.

(a) The service contract provider shall keep accurate accounts, books, and records concerning transactions regulated under this Act.

(b) The service contract provider's accounts, books, and records shall include the following:

(1) copies of each type of service contract sold;

(2) the name and address of each service contract holder, to the extend that the name and address has been furnished by the service contract holder;

(3) a list of the locations where service contracts are marketed, sold, or offered for sale; and

(4) written claims files which shall contain at least the date and description of claims related to the service contracts.

(c) Except as provided in subsection (e) of this Section, the service contract provider shall retain all records required to be maintained by Section 45 for at least 3 years after the specified period of coverage has expired.

(d) The records required under this Act may be, but are not required to be, maintained on a computer disk or other record keeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy at the request of the Director.

(e) A service contract provider discontinuing business in this State shall maintain its records until it furnishes the Director satisfactory proof that it has discharged all obligations to service contract holders in this State.

(Source: P.A. 90-711, eff. 8-7-98.)

EXAMINATIONS AND ENFORCEMENT PROVISIONS

(215 ILCS 152/50)

Sec. 50. Examinations and enforcement provisions.

(a) The Director may conduct examinations of service contract providers, administrators, or other persons to enforce this Act and protect service contract holders in this State. Upon request of the Director, a service contract provider shall make available to the Director all accounts, books, and records concerning service contracts sold by the service contract provider that are necessary to enable the Director to reasonably determine compliance or noncompliance with this Act.

(b) The Director may take action that is necessary or appropriate to enforce the provisions of this Act and the Director's rules and orders and to protect service contract holders in this State. If a service contract provider engages in a pattern or practice of conduct that violates this Act and that the Director reasonably believes threatens to render the service contract provider insolvent or cause irreparable loss or injury to the property or business of any person or company located in this State, the Director may (i) issue an order directed to that service contract provider to cease and desist from engaging in further acts, practices, or transactions that are causing the conduct; (ii) issue an order prohibiting that service contract provider from selling or offering for sale service contracts in violation of this Act; (iii) issue an order imposing a civil penalty on that service contract provider; or (iv) issue any combination of the foregoing, as applicable. Prior to the effective date of any order issued pursuant to this subsection, the Director must provide written notice of the order to the service contract provider and the opportunity for a hearing to be held within 10 business days after receipt of the notice, except prior notice and hearing shall not be required if the Director reasonably believes that the service contract provider has become, or is about to become, insolvent.

A person aggrieved by an order issued under this Section may request a hearing before the Director. The hearing request shall be filed with the Director within 20 days after the date the Director's order is effective, and the Director must hold such a hearing within 15 days after receipt of the hearing request.

(c) At the hearing, the burden shall be on the Director to show why the order issued pursuant to this Section is justified. The provisions of Section 10-25 of the Illinois Administrative Procedure Act shall apply to a hearing request under this Section.

(d) The Director may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of this

Act or of the Director's orders or rules. An action filed under this Section also may seek restitution on behalf of persons aggrieved by a violation of this Act or orders or rules of the Director.

(e) A person who is found to have violated this Act or orders or rules of the Director may be ordered to pay to the Director a civil penalty in an amount, determined by the Director, of not more than $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this Section, violations shall be of a similar nature if the violation consists of the same or similar course of conduct, action, or practice, irrespective of the number of times the conduct, action, or practice that is determined to be a violation of this Act occurred.
(Source: P.A. 90-711, eff. 8-7-98.)

RULEMAKING POWER

(215 ILCS 152/55)

Sec. 55. Rulemaking power. The Director may adopt such administrative rules as are necessary to implement the provisions of this Act.
(Source: P.A. 90-711, eff. 8-7-98.)

APPLICABILITY

(215 ILCS 152/60)

Sec. 60. Applicability. This Act applies to all service contracts sold or offered for sale 90 or more days after the effective date of this Act.
(Source: P.A. 90-711, eff. 8-7-98.)

EFFECTIVE DATE

(215 ILCS 152/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 90-711, eff. 8-7-98.)

VETERANS PREFERENCE ACT
330 ILCS 55/

SHORT TITLE

(330 ILCS 55/0.01) (from Ch. 126 1/2, par. 22.9)

Sec. 0.01. Short title. This Act may be cited as the Veterans Preference Act.
(Source: P.A. 86-1324.)

DEFINITIONS

(330 ILCS 55/1) (from Ch. 126 1/2, par. 23)

Sec. 1. In the employment and appointment to fill positions in the construction, addition to, or alteration of all public works undertaken or contracted for by the State, or by any political subdivision thereof, preference shall be given to persons who have been members of the armed forces of the United States or who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country, and have served under one or more of the following conditions:

(1) The veteran served a total of at least 6 months, or

(2) The veteran served for the duration of hostilities regardless of the length of engagement, or

(3) The veteran served in the theater of operations but was discharged on the basis of a hardship, or

(4) The veteran was released from active duty because of a service connected disability and was honorably discharged. But such preference shall be given only to those persons who are found to possess the business capacity necessary for the proper discharge of the duties of such employment. No political subdivision or person contracting for such public works is required to give preference to veterans, not residents of such district, over residents thereof, who are not veterans. As used in this Section:

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, United States Reserve Forces, or Illinois National Guard. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Law 95-202 shall also be considered service in the Armed Forces of the United States for purposes of this Section.
(Source: P.A. 95-566, eff. 8-31-07.)

TERM OF PREFERENCE

(330 ILCS 55/2) (from Ch. 126 1/2, par. 24)

Sec. 2. Every contract for such work shall contain a term providing for the preference given in Section 1.
(Source: Laws 1935, p. 1411.)

VIOLATIONS

(330 ILCS 55/3) (from Ch. 126 1/2, par. 25)

Sec. 3. Any person who knowingly and wilfully violates the provisions of this Act, is guilty of a petty offense and shall be fined not less than $75, nor more than $300 for each offense.
(Source: P.A. 95-566, eff. 8-31-07.)

CONSTRUCTION SITE TEMPORARY RESTROOM FACILITY ACT 410 ILCS 37/

SHORT TITLE

(410 ILCS 37/1)

Sec. 1. Short title. This Act may be cited as the Construction Site Temporary Restroom Facility Act.

(Source: P.A. 94-42, eff. 6-17-05.)

LEGISLATIVE FINDING

(410 ILCS 37/5)

Sec. 5. Legislative finding. It has been established by scientific evidence that improper plumbing can result in the introduction of pathogenic organisms into the potable water supply, result in the escape of toxic gases into the environment, and result in potentially lethal disease and epidemic. It is further found that minimum numbers of plumbing facilities and fixtures are necessary for the comfort and convenience of workers and persons in public places.

(Source: P.A. 94-42, eff. 6-17-05.)

TEMPORARY RESTROOM FACILITY

(410 ILCS 37/10)

Sec. 10. Temporary restroom facility. The owner or the owner's representative of a temporary building or building under construction, that is not yet occupied for its intended purpose, shall ensure that employees working on the construction site have access to restroom facilities which meet the following requirements:

(1) Toileting facilities shall be enclosed and discharged into a sanitary sewer. In lieu of connecting to a sewer, the sanitary facility may be a portable, enclosed, chemically-treated tank-tight unit.

(2) If individual portable units are used, separate toileting facilities are not required for males and females. Toileting facilities shall be provided based on the Occupational Safety and Health Administration construction sanitation standards, which are as follows:

(A) For 20 employees or less, one toilet facility shall be provided.

(B) For 20 employees or more, one toilet facility and one urinal per 40 workers shall be provided.

(C) For 200 or more employees, one toilet facility and one urinal per 50 workers shall be provided.

(3) Hand cleansing units shall be provided.

(4) All non-sewered units shall be pumped and cleansed regularly to ensure adequate working facilities.

(5) For non-residential temporary buildings or non-residential buildings, the restroom facilities shall be located within 300 feet of the entrance of the building under construction.

(6) For residential temporary buildings or residential buildings, the restroom facilities shall be made readily available in nearby areas.

(Source: P.A. 94-42, eff. 6-17-05.)

ENFORCEMENT

(410 ILCS 37/15)

Sec. 15. Enforcement. Inspectors employed by municipalities and counties may inspect construction sites to ensure compliance with this Act.

(Source: P.A. 94-42, eff. 6-17-05.)

PENALTY

(410 ILCS 37/20)

Sec. 20. Penalty.

(a) Any owner who fails or refuses to comply with the provisions of this Act shall be deemed guilty of a petty offense.

(b) Any owner convicted of violating the provisions of this Act shall be subject to a conviction for succeeding offenses for each day he or she fails or refuses to comply with the provisions of this Act.

(Source: P.A. 94-42, eff. 6-17-05.)

EFFECTIVE DATE

(410 ILCS 37/99)

Sec. 99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 94-42, eff. 6-17-05.)

TOLL HIGHWAY ACT
605 ILCS 10/

CONTRACTS LET FOR CONSTRUCTION IN EXCESS OF $10,000

(605 ILCS 10/16) (from Ch. 121, par. 100-16)

Sec. 16. All contracts let for the construction of any work authorized to be done under the provisions of the Act, where the amount thereof is in excess of a small purchase amount, as defined in Section 20-20 of the Illinois Procurement Code, shall be let to the lowest responsible bidder, or bidders, on open, competitive bidding after public advertisement made at least 15 days prior to the opening of bids, in the Illinois Procurement Bulletin, in such manner and at such intervals, as may be prescribed by the Authority except for contracts for the completion of a terminated or defaulted contract. The successful bidders for such work shall enter into contracts furnished and prescribed by the Authority. Such contracts shall contain a provision that such successful bidder shall indemnify and save harmless the State of Illinois for any accidental injuries or damages arising out of his negligence in the performance of such contract, and shall, and in addition, execute and give bonds, payable to the Authority, with a corporate surety authorized to do business under the laws of the State of Illinois, equal to at least 50% of the contract price, one conditioned upon faithful performance of the contract and the other for the payment of all labor furnished and materials supplied in the prosecution of the contracted work.
(Source: P.A. 96-592, eff. 8-18-09.)

CONTRACTS FOR SERVICES OR SUPPLIES IN EXCESS OF $7,500

(605 ILCS 10/16.1) (from Ch. 121, par. 100-16.1)

Sec. 16.1. (A) All contracts for services or supplies required from time to time by the Authority in the maintenance and operation of any toll highway or part thereof under the provisions of this Act or all direct contracts for supplies to be used in the construction of any toll highway or part thereof to be awarded under this Section, rather than as a part of a contract pursuant to Section 16 of this Act, when the amount of any such supplies or services is in excess of a small purchase amount, as defined in Section 20-20 of the Illinois Procurement Code, shall be let to the lowest responsible bidder or bidders, on open, competitive bidding after public advertisement made at least 5 days prior to the opening of bids, in the Illinois Procurement Bulletin, in such manner and on one or more occasions as may be prescribed by the Authority, except that bidding shall not be required in the following cases:

1. Where the goods or services to be procured are economically procurable from only one source, such as contracts for telephone service, electric energy and other public utility services, housekeeping services, books, pamphlets and periodicals and specially designed business equipment and software.

2. Where the services required are for professional, technical or artistic skills.

3. Where the services required are for advertising, promotional and public relations services.

4. In emergencies, provided that an affidavit of the person or persons authorizing the expenditure shall be filed with the Authority and the Auditor General within 10 days after such authorization setting forth the conditions and circumstances requiring the emergency purchase, the amount expended and the name of the vendor or contractor involved; if only an estimate is available, however, within the 10 days allowed for filing the affidavit, the actual cost shall be reported immediately after it is determined.

5. In case of expenditures for personal services.

6. Contracts for equipment and spare parts in support thereof for the maintenance and operation of any toll highway, or any part thereof, whenever, the Authority shall, by resolution, declare and find that a particular make and type of equipment is required for efficient maintenance and operation and proper servicing, for uniformity in and integration with the spare parts program and inventory control, or for other reasons peculiar to the problems of the toll highway or its previously acquired equipment; however, competition and competitive bids shall be obtained by the Authority with respect to such specified equipment or spare parts, insofar as possible, and when effective, pursuant to public advertisement as hereinbefore provided.

7. Contracts for insurance, fidelity and surety bonds.

8. Contracts or agreements for the completion of a terminated or defaulted contract or agreement.

(B) The solicitation for bids shall be in conformance with accepted business practices and the method of solicitation shall be set out in detail in the rules and regulations of the Authority.

(C) Proposals received pursuant to public advertisement shall be publicly opened at the day and hour and at the place specified in the solicitation for such bids.

(D) Successful bidders for such services and supplies shall enter into contracts furnished and prescribed by the Authority.

(E) All purchases, contracts or other obligations or expenditures of funds by the Authority shall be in accordance with rules and regulations governing the Authority's procurement practice and procedures and the Authority shall promulgate and publish such practices and procedures in sufficient number for distribution to persons interested in bidding on purchases or contracts to be let by the Authority. Such rules and regulations shall be kept on file with the Secretary of the Authority at all times and shall be available for inspection by members of the public at all reasonable times and hours.

Such rules and regulations shall be filed and become effective in connection with the Illinois Administrative Procedure Act.

(F) Any contract entered into for purchase or expenditure of funds of the Authority made in violation of this Act or the rules and regulations in pursuance thereof is void and of no effect.

(G) Warrant. All sellers to the Authority shall attach a statement to the delivery invoice attesting that the standards set forth in the contracts have been met. The statement shall be substantially in the following form:

"The Seller,.... hereby certifies that the goods, merchandise and wares shipped in accordance with the attached delivery invoice have met all the required standards set forth in the purchasing contract.

....(Seller)."

(H) Whoever violates the provisions of this Section, or the rules and regulations adopted in pursuance thereof, is guilty of a Class A misdemeanor.

(Source: P.A. 96-592, eff. 8-18-09.)

FINANCIAL BENEFIT PROHIBITED

(605 ILCS 10/16.2)

Sec. 16.2. Financial benefit prohibited.

(a) A director, employee, or agent of the Authority may not receive a financial benefit from a contract let by the Authority during his or her term of service with the Authority and for a period of one year following the termination of his or her term of service as a director of the Authority or as an employee or agent of the Authority.

(b) A member of the immediate family or household of a director, employee, or agent of the Authority may not receive a financial benefit from a contract let by the Authority during the immediate family or household member's term of service with the Authority and for a period of one year following the termination of the immediate family or household member's term of service as a director of the Authority or as an employee or agent of the Authority.

(c) A director, employee, or agent of the Authority may not use material non-public information for personal financial gain nor may he or she disclose that information to any other person for that person's personal financial gain when that information was obtained as a result of his or her directorship, employment, or agency with the Authority.

(d) A member of the immediate family or household of a director, employee, or agent of the Authority may not use material non-public information for personal financial gain nor may he or she disclose that information to any other person for that person's personal financial gain when that information was obtained as a result of his or her immediate family or household member's directorship, employment, or agency with the Authority.

(e) For purposes of this Section, "immediate family or household member" means the spouse, child, parent, brother, sister, grandparent, or grandchild, whether of the whole blood or half blood or by adoption, or a person who shares a common dwelling with a director of the Authority or with an employee or agent of the Authority.
(Source: P.A. 94-636, eff. 8-22-05.)

CONTRACTING DUTIES OF THE AUTHORITY

(605 ILCS 10/16.3)

Sec. 16.3. Consistent with general law, the Authority shall:

(a) set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals;

(b) attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the Authority;

(c) give disadvantaged businesses full access to the Authority's contact bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify and take all reasonable steps to remove barriers to the businesses' participation in the process.

(Source: P.A. 94-636, eff. 8-22-05.)

CRIMINAL CODE OF 1961
720 ILCS 5/

ARTICLE 33E
PUBLIC CONTRACTS

INTERFERENCE WITH PUBLIC CONTRACTING

(720 ILCS 5/33E-1) (from Ch. 38, par. 33E-1)

Sec. 33E-1. Interference with public contracting. It is the finding of the General Assembly that the cost to the public is increased and the quality of goods, services and construction paid for by public monies is decreased when contracts for such goods, services or construction are obtained by any means other than through independent noncollusive submission of bids or offers by individual contractors or suppliers, and the evaluation of those bids or offers by the governmental unit pursuant only to criteria publicly announced in advance. (
Source: P.A. 85-1295.)

DEFINITIONS

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract

or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

(Source: P.A. 92-16, eff. 6-28-01.)

BID-RIGGING

(720 ILCS 5/33E-3) (from Ch. 38, par. 33E-3)

Sec. 33E-3. Bid-rigging. A person commits the offense of bid-rigging when he knowingly agrees with any person who is, or but for such agreement would be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of State or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent noncollusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted.

Bid-rigging is a Class 3 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be barred for 5 years from the date of conviction from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of this Code.

(Source: P.A. 86-150.)

BID ROTATING

(720 ILCS 5/33E-4) (from Ch. 38, par. 33E-4)

Sec. 33E-4. Bid rotating. A person commits the offense of bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes of this Section, shall include at least 3 contract bids within a period of 10 years, the most recent of which occurs after the effective date of this amendatory Act of 1988) of submitting sealed bids to units of State or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. Bid rotating is a Class 2 felony. Any person convicted of this offense or any similar offense of any state or the United States which contains the same elements as this offense shall be permanently barred from contracting with any unit of State or local government. No corporation shall be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) if it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent in behalf of the corporation

as provided in paragraph (2) of subsection (a) of Section 5-4 of this Code.
(Source: P.A. 86-150.)

ACQUISITION OR DISCLOSURE OF BIDDING INFORMATION BY PUBLIC OFFICIAL

(720 ILCS 5/33E-5) (from Ch. 38, par. 33E-5)

Sec. 33E-5. Acquisition or disclosure of bidding information by public official.

(a) Any person who is an official of or employed by any unit of State or local government who knowingly opens a sealed bid at a time or place other than as specified in the invitation to bid or as otherwise designated by the State or unit of local government, or outside the presence of witnesses required by the applicable statute or ordinance, commits a Class 4 felony.

(b) Any person who is an official of or employed by any unit of State or local government who knowingly discloses to any interested person any information related to the terms of a sealed bid whether that information is acquired through a violation of subsection (a) or by any other means except as provided by law or necessary to the performance of such official's or employee's responsibilities relating to the bid, commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (b) of this Section for any person who is an official of or employed by any unit of State or local government to make any disclosure to any interested person where such disclosure is also made generally available to the public.

(d) This Section only applies to contracts let by sealed bid.
(Source: P.A. 86-150.)

INTERFERENCE WITH CONTRACT SUBMISSION AND AWARD BY PUBLIC OFFICIAL

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and award by public official.

(a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this Section where any person who is an official of or employed by any unit of State or local government follows procedures established by federal, State or local minority or female owned business enterprise programs.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.
(Source: P.A. 86-150.)

KICKBACKS

(720 ILCS 5/33E-7) (from Ch. 38, par. 33E-7)

Sec. 33E-7. Kickbacks.

(a) A person violates this Section when he knowingly either:

(1) provides, attempts to provide or offers to provide any kickback;

(2) solicits, accepts or attempts to accept any kickback; or

(3) includes, directly or indirectly, the amount of any kickback prohibited by paragraphs (1) or (2) of this subsection (a) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to any unit of State or local government for a public contract.

(b) Any person violates this Section when he has received an offer of a kickback, or has been solicited to make a kickback, and fails to report it to law enforcement officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is to be performed.

(c) A violation of subsection (a) is a Class 3 felony. A violation of subsection (b) is a Class 4 felony.

(d) Any unit of State or local government may, in a civil action, recover a civil penalty from any person who knowingly engages in conduct which violates paragraph (3) of subsection (a) of this Section in twice the amount of each kickback involved in the violation. This subsection (d) shall in no way limit the ability of any unit of State or local government to recover monies or damages regarding public contracts under any other law or ordinance. A civil action shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the conduct establishing the cause of action occurred or (2) the date on which the unit of State or local government knew or should have known that the conduct establishing the cause of action occurred.
(Source: P.A. 85-1295.)

BRIBERY OF INSPECTOR EMPLOYED BY CONTRACTOR

(720 ILCS 5/33E-8) (from Ch. 38, par. 33E-8)

Sec. 33E-8. Bribery of inspector employed by contractor.

(a) A person commits bribery of an inspector when he offers to any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government any property or other thing of value with the intent that such offer is for the purpose of obtaining wrongful certification or approval of the quality or completion of any goods or services supplied or performed in the course of work on such project. Violation of this subsection is a Class 4 felony.

(b) Any person employed by a contractor or subcontractor on any public project contracted for by any unit of State or local government who accepts any property or other thing of value knowing that such was intentionally offered for the purpose of influencing the certification or approval of the quality or completion of any goods or

services supplied or performed under subcontract to that contractor, and either before or afterwards issues such wrongful certification, commits a Class 3 felony. Failure to report such offer to law enforcement officials, including but not limited to the Attorney General or the State's Attorney for the county in which the contract is performed, constitutes a Class 4 felony.
(Source: P.A. 85-1295.)

CHANGE ORDERS

(720 ILCS 5/33E-9) (from Ch. 38, par. 33E-9)

Sec. 33E-9. Change orders. Any change order authorized under this Section shall be made in writing. Any person employed by and authorized by any unit of State or local government to approve a change order to any public contract who knowingly grants that approval without first obtaining from the unit of State or local government on whose behalf the contract was signed, or from a designee authorized by that unit of State or local government, a determination in writing that (1) the circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed, or (2) the change is germane to the original contract as signed, or (3) the change order is in the best interest of the unit of State or local government and authorized by law, commits a Class 4 felony. The written determination and the written change order resulting from that determination shall be preserved in the contract's file which shall be open to the public for inspection. This Section shall only apply to a change order or series of change orders which authorize or necessitate an increase or decrease in either the cost of a public contract by a total of $10,000 or more or the time of completion by a total of 30 days or more.
(Source: P.A. 86-150; 87-618.)

RULES OF EVIDENCE

(720 ILCS 5/33E-10) (from Ch. 38, par. 33E-10)

Sec. 33E-10. Rules of evidence.

(a) The certified bid is prima facie evidence of the bid.

(b) It shall be presumed that in the absence of practices proscribed by this Article 33E, all persons who submit bids in response to an invitation to bid by any unit of State or local government submit their bids independent of all other bidders, without information obtained from the governmental entity outside the invitation to bid, and in a good faith effort to obtain the contract.
(Source: P.A. 85-1295.)

CERTIFICATION BY PRIME CONTRACTOR

(720 ILCS 5/33E-11) (from Ch. 38, par. 33E-11)

Sec. 33E-11. (a) Every bid submitted to and public contract executed pursuant to such bid by the State or a unit of local government shall contain a certification by the prime contractor that the prime contractor is not barred from contracting with any unit of State or local government as a result of a violation of either Section 33E-3 or 33E-4 of this Article. The State and units of local government shall provide the appropriate forms for such certification.

(b) A contractor who makes a false statement, material to the certification, commits a Class 3 felony.
(Source: P.A. 86-150.)

VIOLATIONS

(720 ILCS 5/33E-12) (from Ch. 38, par. 33E-12)

Sec. 33E-12. It shall not constitute a violation of any provisions of this Article for

any person who is an official of or employed by a unit of State or local government to (1) disclose the name of any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid or who has been awarded a public contract to any person or, (2) to convey information concerning acceptable alternatives or substitute to plans or specifications if such information is also made generally available to the public and mailed to any person who has submitted a bid in response to or requested plans or specifications regarding an invitation to bid on a public contract or, (3) to negotiate with the lowest responsible bidder a reduction in only the price term of the bid.
(Source: P.A. 86-150.)

CONTRACT NEGOTIATIONS

(720 ILCS 5/33E-13) (from Ch. 38, par. 33E-13)

Sec. 33E-13. Contract negotiations under the Local

Government Professional Services Selection Act shall not be subject to the provisions of this Article.
(Source: P.A. 87-855.)

FALSE STATEMENTS ON VENDOR APPLICATIONS

(720 ILCS 5/33E-14)

Sec. 33E-14. False statements on vendor applications. Whoever knowingly makes any false statement or report, for the purpose of influencing in any way the action of any unit of local government or school district in considering a vendor application, is guilty of a Class 3 felony.
(Source: P.A. 90-800, eff. 1-1-99.)

FALSE ENTRIES

(720 ILCS 5/33E-15)

Sec. 33E-15. False entries. Any officer, agent, or employee of, or anyone who is affiliated in any capacity with any unit of local government or school district and makes a false entry in any book, report, or statement of any unit of local government or school district with the intent to defraud the unit of local government or school district, is guilty of a Class 3 felony.
(Source: P.A. 90-800, eff. 1-1-99.)

MISAPPLICATION OF FUNDS

(720 ILCS 5/33E-16)

Sec. 33E-16. Misapplication of funds. Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district, willfully misapplies any of the moneys, funds, or credits of the unit of local government or school district is guilty of a Class 3 felony.
(Source: P.A. 90-800, eff. 1-1-99.)

UNLAWFUL PARTICIPATION

(720 ILCS 5/33E-17)

Sec. 33E-17. Unlawful participation. Whoever, being an officer, director, agent, or employee of, or affiliated in any capacity with any unit of local government or school district participates, shares in, or receiving directly or indirectly any money, profit, property, or benefit through any contract with the unit of local government or school district, with the intent to defraud the unit of local government or school district is guilty of a Class 3 felony.
(Source: P.A. 90-800, eff. 1-1-99.)

UNLAWFUL STRINGING OF BIDS

(720 ILCS 5/33E-18)

Sec. 33E-18. Unlawful stringing of bids.

(a) No person for the purpose of evading the bidding requirements of any unit of local government or school district shall knowingly string or assist in stringing, or attempt to string any contract or job order with the unit of local government or school district.

(b) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 90-800, eff. 1-1-99.)

UNIFIED CODE OF CORRECTIONS
730 ILCS 5/

FINES; THEFT OFFENSES; LOCAL GOVERNMENT; SCHOOLS

(730 ILCS 5/5-9-1.3) (from Ch. 38, par. 1005-9-1.3)

Sec. 5-9-1.3. Fines for offenses involving theft, deceptive practices, and offenses against units of local government or school districts.

(a) When a person has been adjudged guilty of a felony under Section 16-1, 16D-3, 16D-4, 16D-5, 16D-5.5, or 17-1 of the Criminal Code of 1961, a fine may be levied by the court in an amount which is the greater of $25,000 or twice the value of the property which is the subject of the offense.

(b) When a person has been convicted of a felony under Section 16-1 of the Criminal Code of 1961 and the theft was committed upon any unit of local government or school district, or the person has been convicted of any violation of Sections 33C-1 through 33C-4 or Sections 33E-3 through 33E-18 of the Criminal Code of 1961, a fine may be levied by the court in an amount that is the greater of $25,000 or treble the value of the property which is the subject of the offense or loss to the unit of local government or school district.

(c) All fines imposed under subsection (b) of this Section shall be distributed as follows:

(1) An amount equal to 30% shall be distributed to the unit of local government or school district that was the victim of the offense;

(2) An amount equal to 30% shall be distributed to the unit of local government whose officers or employees conducted the investigation into the crimes against the unit of local government or school district. Amounts distributed to units of local government shall be used solely for the enforcement of criminal laws protecting units of local government or school districts;

(3) An amount equal to 30% shall be distributed to the State's Attorney of the county in which the prosecution resulting in the conviction was instituted. The funds shall be used solely for the enforcement of criminal laws protecting units of local government or school districts; and

(4) An amount equal to 10% shall be distributed to the circuit court clerk of the county where the prosecution resulting in the conviction was instituted.

(d) A fine order under subsection (b) of this Section is a judgment lien in favor of the victim unit of local government or school district, the State's Attorney of the county where the violation occurred, the law enforcement agency that investigated the violation, and the circuit court clerk.

(Source: P.A. 96-1200, eff. 7-22-10.)

HUMAN RIGHTS ACT
775 ILCS 5/

EQUAL EMPLOYMENT OPPORTUNITIES; AFFIRMATIVE ACTION

(775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

Sec. 2-105. Equal Employment Opportunities; Affirmative Action.

(A) Public Contracts. Every party to a public contract and every eligible bidder shall:

(1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

(2) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;

(3) Provide such information, with respect to its employees and applicants for employment, and assistance as the Department may reasonably request;

(4) Have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the vendor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. A copy of the policies shall be provided to the Department upon request.

(B) State Agencies. Every State executive department, State agency, board, commission, and instrumentality shall:

(1) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;

(2) Provide such information and assistance as the Department may request.

(3) Establish, maintain, and carry out a continuing affirmative action plan consistent with this Act and the regulations of the Department designed to promote equal opportunity for all State residents in every aspect of agency personnel policy and practice. For purposes of these affirmative action plans, the race and national origin categories to be included in the plans are: African American, Hispanic or Latino, Native American, Asian, and any other category as required by Department rule. This plan shall include a current detailed status report:

(a) indicating, by each position in State service, the number, percentage, and average salary of individuals employed by race, national origin, sex and disability, and any other category that the Department may require by rule;

(b) identifying all positions in which the percentage of the people employed by race, national origin, sex and disability, and any other category that the Department may require by rule, is less than four-fifths of the percentage of each of those components in the State work force;

(c) specifying the goals and methods for increasing the percentage by race, national origin, sex and disability, and any other category that the Department may require by rule, in State positions;

(d) indicating progress and problems toward meeting equal employment opportunity goals, including, if applicable, but not limited to, Department of Central Management Services recruitment efforts, publicity, promotions, and use of options designating positions by linguistic abilities;

(e) establishing a numerical hiring goal for the employment of qualified persons with disabilities in the agency as a whole, to be based on the proportion of people with work disabilities in the Illinois labor force as reflected in the most recent decennial Census.

(4) If the agency has 1000 or more employees, appoint a full-time Equal Employment Opportunity officer, subject to the Department's approval, whose duties shall include:

(a) Advising the head of the particular State agency with respect to the preparation of equal employment opportunity programs, procedures, regulations, reports, and the agency's affirmative action plan.

(b) Evaluating in writing each fiscal year the sufficiency of the total agency program for equal employment opportunity and reporting thereon to the head of the agency with recommendations as to any improvement or correction in recruiting, hiring or promotion needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed to cooperate fully or who are in violation of the program.

(c) Making changes in recruitment, training and promotion programs and in hiring and promotion procedures designed to eliminate discriminatory practices when authorized.

(d) Evaluating tests, employment policies, practices and qualifications and reporting to the head of the agency and to the Department any policies, practices and qualifications that have unequal impact by race, national origin as required by Department rule, sex or disability or any other category that the Department may require by rule, and to assist in the recruitment of people in underrepresented classifications. This function shall be performed in cooperation with the State Department of Central Management Services.

(e) Making any aggrieved employee or applicant for employment aware of his or her remedies under this Act.

In any meeting, investigation, negotiation, conference, or other proceeding between a State employee and an Equal Employment Opportunity officer, a State employee (1) who is not covered by a collective bargaining agreement and (2) who is the complaining party or the subject of such proceeding may be accompanied, advised and represented by (1) an attorney licensed to practice law in the State of Illinois or (2) a representative of an employee organization whose membership is composed of employees of the State and of which the employee is a member. A representative of an employee, other than an attorney, may observe but may not actively participate, or advise the State employee during the course of such meeting, investigation, negotiation, conference or other proceeding. Nothing in this Section shall be construed to permit any person who is not licensed to practice law in Illinois to deliver any legal services or otherwise engage in any activities that would constitute the unauthorized practice of law. Any representative of an employee who is present with the consent of the employee, shall not, during or after termination of the relationship permitted by this Section with the State employee, use or reveal any information obtained during the course of the meeting, investigation, negotiation, conference or other proceeding without the consent of the complaining party and any State employee who is the subject of the proceeding and pursuant to rules and regulations governing confidentiality of such information as promulgated by the appropriate State agency. Intentional or reckless disclosure of information in violation of these confidentiality requirements shall constitute a Class B misdemeanor.

(5) Establish, maintain and carry out a continuing sexual harassment

program that shall include the following:

(a) Develop a written sexual harassment policy that includes at a minimum the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the agency's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. The policy shall be reviewed annually.

(b) Post in a prominent and accessible location and distribute in a manner to assure notice to all agency employees without exception the agency's sexual harassment policy. Such documents may meet, but shall not exceed, the 6th grade literacy level. Distribution shall be effectuated within 90 days of the effective date of this amendatory Act of 1992 and shall occur annually thereafter.

(c) Provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

(6) Notify the Department 30 days before effecting any layoff. Once notice is given, the following shall occur:

(a) No layoff may be effective earlier than 10 working days after notice to the Department, unless an emergency layoff situation exists.

(b) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur must notify each employee targeted for layoff, the employee's union representative (if applicable), and the State Dislocated Worker Unit at the Department of Commerce and Economic Opportunity.

(c) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur must conform to applicable collective bargaining agreements.

(d) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur should notify each employee targeted for layoff that transitional assistance may be available to him or her under the Economic Dislocation and Worker Adjustment Assistance Act administered by the Department of Commerce and Economic Opportunity. Failure to give such notice shall not invalidate the layoff or postpone its effective date.

As used in this subsection (B), "disability" shall be defined in rules promulgated under the Illinois Administrative Procedure Act.

(C) Civil Rights Violations. It is a civil rights violation for any public contractor or eligible bidder to:

(1) fail to comply with the public contractor's or eligible bidder's duty to refrain from unlawful discrimination and discrimination based on citizenship status in employment under subsection (A)(1) of this Section; or

(2) fail to comply with the public contractor's or eligible bidder's duties of affirmative action under subsection (A) of this Section, provided however, that the Department has notified the public contractor or eligible bidder in writing by certified mail that the public contractor or eligible bidder may not be in compliance with affirmative action requirements of subsection (A). A minimum of 60 days to comply with the requirements shall be afforded to the public contractor or eligible bidder before the Department may issue formal notice of non-compliance.

(Source: P.A. 94-793, eff. 5-19-06.)

PUBLIC WORKS EMPLOYMENT DISCRIMINATION ACT
775 ILCS 10/

SHORT TITLE

(775 ILCS 10/0.01) (from Ch. 29, par. 16.9)

Sec. 0.01. Short title. This Act may be cited as the Public Works Employment Discrimination Act.

(Source: P.A. 86-1324.)

UNLAWFUL DISCRIMINATION

(775 ILCS 10/1) (from Ch. 29, par. 17)

Sec. 1. (a) No person shall be refused or denied employment in any capacity on the ground of unlawful discrimination, as that term is defined in the Illinois Human Rights Act, nor be subjected to unlawful discrimination in any manner, in connection with the contracting for or the performance of any work or service of any kind, by, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, or other political subdivision or agency thereof.

(b) The Illinois Human Rights Act applies to all contracts identified in subsection (a).

(Source: P.A. 81-1216.)

PERFORMANCE OF CONTRACT

(775 ILCS 10/2) (from Ch. 29, par. 18)

Sec. 2. The provisions of this Act shall automatically enter into and become a part of each and every contract or other agreement hereafter entered into by, with, for, on behalf of, or for the benefit of this State, or of any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, providing for or relating to the performance of any of the said work or services or of any part thereof.

(Source: Laws 1933, p. 296.)

APPLICATION TO INDEPENDENT CONTRACTORS OR SUBCONTRACTORS

(775 ILCS 10/3) (from Ch. 29, par. 19)

Sec. 3. The provisions of this Act also shall apply to all contracts entered into by or on behalf of all independent contractors, subcontractors, and any and all other persons, associations or corporations, providing for or relating to the doing of any of the said work or the performance of any of the said services, or any part thereof.

(Source: Laws 1933, p. 296.)

DISCRIMINATION AND INTIMIDATION

(775 ILCS 10/4) (from Ch. 29, par. 20)

Sec. 4. No contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work for the benefit of the State or for any department, bureau, commission, board, other political subdivision or agency, officer or agent thereof, on account of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin; and there may be deducted from the amount payable to the contractor by the State of Illinois or by any municipal corporation thereof, under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Act.

(Source: P.A. 80-336.)

PETTY OFFENSE VIOLATION

(775 ILCS 10/5) (from Ch. 29, par. 21)

Sec. 5. Any person, agency, corporation or association who violates any of the provisions of this Act, or who aids, abets, incites or otherwise participates in the violation of any of the provisions, whether the violation or participation therein occurs through action in a private, public or in any official capacity, shall be guilty of a petty offense for each and every violation or participation therein with respect to each person aggrieved thereby, to be recovered by each such aggrieved person, or by any other person to whom such aggrieved person shall assign his cause of action, in the circuit court in the county in which the plaintiff or the defendant shall reside.
(Source: P.A. 79-1360.)

VIOLATIONS; PUNISHMENT

(775 ILCS 10/6) (from Ch. 29, par. 22)

Sec. 6. Any person who or any agency, corporation or association which shall violate any of the provisions of the foregoing sections, or who or which shall aid, abet, incite or otherwise participate in the violation of any of the said provisions, whether the said violation or participation therein shall occur through action in a private, in a public, or in any official capacity, shall also be deemed guilty of a petty offense for each and every said violation or participation or, in the case of non-corporate violators, or participators, of a Class B misdemeanor.
(Source: P.A. 77-2365.)

INSCRIPTION ON CONTRACT

(775 ILCS 10/7) (from Ch. 29, par. 23)

Sec. 7. The provisions of this Act shall be printed or otherwise inscribed on the face of each contract to which it shall be applicable, but their absence therefrom shall in no wise prevent or affect the application of the said provisions to the said contract.
(Source: Laws 1933, p. 296.)

INVALIDITY OR UNCONSTITUTIONALITY OF PROVISIONS

(775 ILCS 10/8) (from Ch. 29, par. 24)

Sec. 8. The invalidity or unconstitutionality of any one or more provisions, parts, or sections of this Act shall not be held or construed to invalidate the whole or any other provision, part, or section thereof, it being intended that this Act shall be sustained and enforced to the fullest extent possible and that it shall be construed as liberally as possible to prevent refusals, denials, and discriminations of and with reference to the award of contracts and employment thereunder, on the ground of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin.
(Source: P.A. 80-336.)

DISCRIMINATORY CLUB ACT
775 ILCS 25/

SHORT TITLE

(775 ILCS 25/0.01) (from Ch. 68, par. 100)

Sec. 0.01. Short title. This Act may be cited as the Discriminatory Club Act.
(Source: P.A. 86-1324.)

DEFINITIONS

(775 ILCS 25/1) (from Ch. 68, par. 101)

Sec. 1. Definitions. (1) "Discrimination" means "unlawful discrimination" as defined by the Illinois Human Rights Act; (2) "discriminatory club" means a membership club, organization, association, or society, or the premises thereof, which practices discrimination in its membership policy or in access to its services and facilities, except any facility, as to discrimination based on sex, which is distinctly private in nature such as restrooms, shower rooms, bath houses, health clubs and other similar facilities for which the Illinois Department of Human Rights, in its rules and regulations, may grant exemptions based on bona fide considerations of public policy; (3) "meeting" means "meeting" as defined by the Open Meetings Act; (4) "official or employee of the State of Illinois" means any elected public official, any person appointed by an elected public official, or any other employee or agent (whether salaried or contractual), in service to the State of Illinois; (5) "public body" means "public body" as defined by the Open Meetings Act in addition to the General Assembly and committees and commissions thereof; (6) "private organization" means any person, partnership, corporation, association or agency which is not a public body.
(Source: P.A. 85-909.)

RESTRICTIONS OF PAYMENT OF DUES OR FEES

(775 ILCS 25/2) (from Ch. 68, par. 102)

Sec. 2. No private organization which sells goods or services to the State pursuant to The Illinois Purchasing Act, nor any private organization which receives any award or grant from the State, nor any public body may pay any dues or fees on behalf of its employees or agents or may subsidize or otherwise reimburse them for payments of their dues or fees to any discriminating club. The Illinois Department of Human Rights shall enforce this Section.
(Source: P.A. 85-909.)

MEETINGS AT DISCRIMINATORY CLUBS

(775 ILCS 25/3) (from Ch. 68, par. 103)

Sec. 3. No meeting may be held at any discriminatory club; however, a meeting may be held at any private club that is a fraternal or religious organization normally restrictive in its membership to persons of a specific group, provided that such organization does not discriminate unlawfully, within the meaning of the Illinois Human Rights Act, in its making available its facilities to non-member groups or agencies for the purposes of holding meetings. (
Source: P.A. 85-909.)

STATE OBLIGATIONS

(775 ILCS 25/4) (from Ch. 68, par. 104)

Sec. 4. No official or employee of the State of Illinois may obligate the State to any discriminatory club. The Comptroller shall enforce this Section upon notification from the Department of Human Rights.
(Source: P.A. 85-909.)

CONTRACTOR PROMPT PAYMENT ACT
815 ILCS 603/

SHORT TITLE

(815 ILCS 603/1)

Sec. 1. Short title. This Act may be cited as the Contractor Prompt Payment Act.
(Source: P.A. 95-567, eff. 8-31-07.)

DEFINITIONS

(815 ILCS 603/5)

Sec. 5. Definitions. In this Act:

(a) "Payment application" means, in accordance with the terms and definitions of the applicable contract, any invoice, bill or other request for periodic payment, final payment, payment of change order or request for release of retainage from the contractor to the owner.

(b) "Construction contract" means a contract or subcontract, entered into after the effective date of this Act, for the design, construction, alteration, improvement, or repair of Illinois real property, except for contracts that require the expenditure of public funds and contracts for the design, construction, alteration, improvement, or repair of single family residences or multiple family residences with 12 or fewer units in a single building.

(c) "Contractor" and "subcontractor" shall have the meanings ascribed to them by the Illinois Mechanics Lien Act and cases decided under that Act.
(Source: P.A. 95-567, eff. 8-31-07.)

CONSTRUCTION CONTRACTS

(815 ILCS 603/10)

Sec. 10. Construction contracts. All construction contracts shall be deemed to provide the following:

(1) If a contractor has performed in accordance with the provisions of a construction contract and the payment application has been approved by the owner or the owner's agent, the owner shall pay the amount due to the contractor pursuant to the payment application not more than 15 calendar days after the approval. The payment application shall be deemed approved 25 days after the owner receives it unless the owner provides, before the end of the 25-day period, a written statement of the amount withheld and the reason for withholding payment. If the owner finds that a portion of the work not in accordance with the contract, payment may be withheld for the reasonable value of that portion only. Payment shall be made for any portion of the contract for which the work has been performed in accordance with the provisions of the contract. Instructions or notification from an owner to his or her lender or architect to process or pay a payment application does not constitute approval of the payment application under this Act.

(2) If a subcontractor has performed in accordance with the provisions of his or her contract with the contractor or subcontractor and the work has been accepted by the owner, the owner's agent, or the contractor, the contractor shall pay to his or her subcontractor and the subcontractor shall pay to his or her subcontractor, within 15 calendar days of the contractor's receipt from the owner or the subcontractor's receipt from the contractor of each periodic payment, final payment, or receipt of retainage monies, the full amount received for the work of the subcontractor based on the work completed or the services rendered under the construction contract.

(Source: P.A. 95-567, eff. 8-31-07.)

INTEREST; SUSPENSION OF PERFORMANCE

(815 ILCS 603/15)

Sec. 15. Interest; suspension of performance.

(a) If a payment due pursuant to the provisions of this Act is not made in a timely manner, the delinquent party shall be liable for the amount of that payment, plus interest at a rate equal to 10% per annum.

(b) A contractor or subcontractor who is not paid as required by this Act may, after providing 7 calendar days' written notice to the party failing to make the required payment, suspend performance of a construction contract without penalty for breach of contract, until the payment required pursuant to this Act is made.

(c) The interest imposed by this Act shall not be duplicative of the interest charged under the Mechanics Lien Act.

(Source: P.A. 95-567, eff. 8-31-07.)

EFFECTIVE DATE

(815 ILCS 603/99)

Sec. 99. Effective date. This Act shall take effect upon becoming law.

(Source: P.A. 95-567, eff. 8-31-07.)

PREVAILING WAGE ACT
820 ILCS 130/

SHORT TITLE

(820 ILCS 130/0.01) (from Ch. 48, par. 39s-0.01)

Sec. 0.01. Short title. This Act may be cited as the Prevailing Wage Act.
(Source: P.A. 86-1324.)

POLICY OF THE STATE OF ILLINOIS

(820 ILCS 130/1) (from Ch. 48, par. 39s-1)

Sec. 1. It is the policy of the State of Illinois that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works.
(Source: P.A. 83-443.)

DEFINITIONS

(820 ILCS 130/2) (from Ch. 48, par. 39s-2)

Sec. 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As used in this Act, unless the context indicates otherwise:

"Public works" means all fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the State or any of its political subdivisions, including but not limited to: bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act; loans or other funds made available pursuant to the Build Illinois Act; or funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes (i) all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement and (ii) all work performed pursuant to a public private agreement under the Public Private Agreements for the Illiana Expressway Act. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act. "Public works" also includes the construction of a new wind power facility by a business designated as a High Impact Business under Section 5.5(a)(3)(E) of the Illinois Enterprise Zone Act. "Public works" does not include work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" does not include projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence.

"Construction" means all work on public works involving laborers, workers or mechanics. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.
(Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58, eff. 1-1-10; 96-186, eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000, eff. 7-2-10.)

CONSTRUCTION OF PUBLIC WORKS

(820 ILCS 130/3) (from Ch. 48, par. 39s-3)

Sec. 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented. Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body shall be deemed to be employed upon public works. The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction or demolition.
(Source: P.A. 95-341, eff. 8-21-07; 96-186, eff. 1-1-10.)

ASCERTAINING PREVAILING WAGES

(820 ILCS 130/4) (from Ch. 48, par. 39s-4)

Sec. 4. Ascertaining prevailing wage.

(a) The public body awarding any contract for public work or otherwise undertaking any public works, shall ascertain the general prevailing rate of hourly wages in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract, and where the public body performs the work without letting a contract therefor, shall ascertain the prevailing rate of wages on a per hour

basis in the locality, and such public body shall specify in the resolution or ordinance and in the call for bids for the contract, that the general prevailing rate of wages in the locality for each craft or type of worker or mechanic needed to execute the contract or perform such work, also the general prevailing rate for legal holiday and overtime work, as ascertained by the public body or by the Department of Labor shall be paid for each craft or type of worker needed to execute the contract or to perform such work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, and where the public body performs the work, upon the public body, to pay not less than the specified rates to all laborers, workers and mechanics employed by them in the execution of the contract or such work; provided, however, that if the public body desires that the Department of Labor ascertain the prevailing rate of wages, it shall notify the Department of Labor to ascertain the general prevailing rate of hourly wages for work under contract, or for work performed by a public body without letting a contract as required in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. Upon such notification the Department of Labor shall ascertain such general prevailing rate of wages, and certify the prevailing wage to such public body.

(a-1) The public body or other entity awarding the contract shall cause to be inserted in the project specifications and the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers and mechanics performing work under the contract.

(a-2) When a public body or other entity covered by this Act has awarded work to a contractor without a public bid, contract or project specification, such public body or other entity shall comply with subsection (a-1) by providing the contractor with written notice on the purchase order related to the work to be done or on a separate document indicating that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers, and mechanics performing work on the project.

(a-3) Where a complaint is made and the Department of Labor determines that a violation occurred, the Department of Labor shall determine if proper written notice under this Section 4 was given. If proper written notice was not provided to the contractor by the public body or other entity, the Department of Labor shall order the public body or other entity to pay any interest, penalties or fines that would have been owed by the contractor if proper written notice were provided. The failure by a public body or other entity to provide written notice does not relieve the contractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required to be paid for the project. The failure of a public body or other entity to provide written notice under this Section 4 does not diminish the right of a laborer, worker, or mechanic to the prevailing rate of wages as determined under this Act.

(b) It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. It shall also be mandatory upon each subcontractor to cause to be inserted into each lower tiered subcontract and into the project specifications for each lower tiered subcontract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. A contractor or subcontractor who fails to comply with this subsection (b) is in violation of this Act.

(b-1) When a contractor has awarded work to a subcontractor without a contract or contract specification, the contractor shall comply with subsection (b) by providing a subcontractor with a written statement indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. A contractor or subcontractor who fails to comply with this subsection (b-1) is in violation of this Act.

(b-2) Where a complaint is made and the Department of Labor determines that a violation has occurred, the Department of Labor shall determine if proper written notice under this Section 4 was given. If proper written notice was not provided to the subcontractor by the contractor, the Department of Labor shall order the contractor to pay any interest, penalties, or fines that would have been owed by the subcontractor if proper written notice were provided. The failure by a contractor to provide written notice to a subcontractor does not relieve the subcontractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required for the project. However, if proper written notice was not provided to the contractor by the public body or other entity under this Section 4, the Department of Labor shall order the public body or other entity to pay any interest, penalties, or fines that would have been owed by the subcontractor if proper written notice were provided. The failure by a public body or other entity to provide written notice does not relieve the subcontractor of the duty to comply with the prevailing wage rate, nor of the obligation to pay any back wages, as determined under this Act. For the purposes of this subsection, back wages shall be limited to the difference between the actual amount paid and the prevailing rate of wages required for the project. The failure to provide written notice by a public body, other entity, or contractor does not diminish the right of a laborer, worker, or mechanic to the prevailing rate of wages as determined under this Act.

(c) A public body or other entity shall also require in all contractor's and subcontractor's bonds that the contractor or subcontractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract or other written instrument. All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract.

(d) If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate.

(e) Two or more investigatory hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate investigatory hearing is conducted by a public body or the Department. The party requesting a consolidated investigatory hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration.

(f) It shall be mandatory upon the contractor or construction manager to whom a contract for public works is awarded to post, at a location on the project site of the public works that is easily accessible to the workers engaged on the project, the prevailing wage rates for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. In lieu of posting on the project site of the public works, a contractor which has a business location where laborers, workers, and mechanics regularly visit may: (1) post in a conspicuous location at that business the current prevailing wage rates for each county in which the contractor is performing

work; or (2) provide such laborer, worker, or mechanic engaged on the public works project a written notice indicating the prevailing wage rates for the public works project. A failure to post or provide a prevailing wage rate as required by this Section is a violation of this Act.
(Source: P.A. 95-331, eff. 8-21-07; 96-437, eff. 1-1-10.)

RECORD KEEPING OF LABORERS AND HOURLY WAGES PAID

(820 ILCS 130/5) (from Ch. 48, par. 39s-5)

Sec. 5. Certified payroll.

(a) While participating on public works, the contractor and each subcontractor shall:

(1) make and keep, for a period of not less than 3 years, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include each worker's name, address, telephone number when available, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day, and the starting and ending times of work each day; and

(2) submit monthly, in person, by mail, or electronically a certified payroll to the public body in charge of the project. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor which avers that: (i) such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class B misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act who fails to submit a certified payroll or knowingly files a false certified payroll is in violation of this Act and guilty of a Class B misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) for a period of not less than 3 years. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

(b) Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, and to the Director of Labor and his deputies and agents. Upon 7 business days' notice, the contractor and each subcontractor shall make such records available at all reasonable hours at a location within this State.
(Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05; 94-1023, eff. 7-12-06.)

RECORD VIOLATIONS

(820 ILCS 130/6) (from Ch. 48, par. 39s-6)

Sec. 6. Any officer, agent or representative of any public body who wilfully violates, or omits to comply with, any of the provisions of this Act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who neglects to keep, or cause to be kept, an accurate record of the names, occupation

and actual wages paid to each laborer, worker and mechanic employed by him, in connection with the public work or who refuses to allow access to same at any reasonable hour to any person authorized to inspect same under this Act, is guilty of a Class A misdemeanor.

The Department of Labor shall inquire diligently as to any violation of this Act, shall institute actions for penalties herein prescribed, and shall enforce generally the provisions of this Act. The Attorney General shall prosecute such cases upon complaint by the Department or any interested person.
(Source: P.A. 94-488, eff. 1-1-06.)

FINDING AS TO PREVAILING WAGE

(820 ILCS 130/7) (from Ch. 48, par. 39s-7)

Sec. 7. The finding of the public body awarding the contract or authorizing the work or the Department of Labor ascertaining and declaring the general prevailing rate of hourly wages shall be final for all purposes of the contract for public work then being considered, unless reviewed under the provisions of this Act. Nothing in this Act, however, shall be construed to prohibit the payment to any laborer, worker or mechanic employed on any public work, as aforesaid, of more than the prevailing rate of wages; provided further that nothing in this Act shall be construed to limit the hours of work which may be performed by any person in any particular period of time.
(Source: P.A. 81-992.)

INABILITY OF THE DEPARTMENT OF LABOR TO ASCERTAIN PREVAILING RATE OF WAGE

(820 ILCS 130/8) (from Ch. 48, par. 39s-8)

Sec. 8. In the event the public body authorizing the work or the Department of Labor is unable to ascertain the prevailing rate of wage of any class of work required to be performed under the proposed contract, it is the duty of the Department of Labor where the determination of said prevailing rate has been referred to it to so notify the public body authorizing the proposed work, and it is the duty of the public body in either case to state the fact of inability to ascertain said prevailing rate in its resolution, ordinance or notice for bids in which event the clause specifying the prevailing wage as to such class of work may be excluded from the contract unless such wage may be determined by the court on appeal as provided by this Act.
(Source: Laws 1957, p. 2662.)

POSTING PREVAILING RATES; OBJECTIONS; APPEAL

(820 ILCS 130/9) (from Ch. 48, par. 39s-9)

Sec. 9. To effectuate the purpose and policy of this Act each public body shall, during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages as defined in this Act and publicly post or keep available for inspection by any interested party in the main office of such public body its determination of such prevailing rate of wage and shall promptly file, no later than July 15 of each year, a certified copy thereof in the office of the Secretary of State at Springfield and the office of the Illinois Department of Labor.

The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State. If a public body does not investigate and ascertain the prevailing rate of wages during the month of June as required by the previous paragraph, then the prevailing rate of wages for that public body shall be the rate as determined by the Department under this paragraph for the county in which such public body is located.

Where the Department of Labor ascertains the prevailing rate of wages, it is the duty of the Department of Labor within 30 days after receiving a notice from the public body authorizing the proposed work, to conduct an investigation to ascertain the prevailing rate of wages as defined in this Act and such investigation shall be conducted in the locality in which the work is to be performed. The Department of Labor shall send a certified copy of its findings to the public body authorizing the work and keep a record of its findings available for inspection by any interested party in the office of the Department of Labor at Springfield.

The public body except for the Department of Transportation with respect to highway contracts shall within 30 days after filing with the Secretary of State, or the Department of Labor shall within 30 days after filing with such public body, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination and shall promptly mail a copy of its determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

At any time within 30 days after the Department of Labor has published on its official web site a prevailing wage schedule, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body or Department of Labor, whichever has made such determination, stating the specified grounds of the objection. It shall thereafter be the duty of the public body or Department of Labor to set a date for a hearing on the objection after giving written notice to the objectors at least 10 days before the date of the hearing and said notice shall state the time and place of such hearing. Such hearing by a public body shall be held within 45 days after the objection is filed, and shall not be postponed or reset for a later date except upon the consent, in writing, of all the objectors and the public body. If such hearing is not held by the public body within the time herein specified, the Department of Labor may, upon request of the objectors, conduct the hearing on behalf of the public body.

The public body or Department of Labor, whichever has made such determination, is authorized in its discretion to hear each written objection filed separately or consolidate for hearing any one or more written objections filed with them. At such hearing the public body or Department of Labor shall introduce in evidence the investigation it instituted which formed the basis of its determination, and the public body or Department of Labor, or any interested objectors may thereafter introduce such evidence as is material to the issue. Thereafter, the public body or Department of Labor, must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with such public body and the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceedings. The final determination by the Department of Labor or a public body shall be rendered within 30 days after the conclusion of the hearing.

If proceedings to review judicially the final determination of the public body or Department of Labor are not instituted as hereafter provided, such determination shall be final and binding.

The provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of any public body or the Department of Labor hereunder. The term “administrative decision” is defined as in Section 3-101 of the Code of Civil Procedure.

Appeals from all final orders and judgments entered by the court in review of the final administrative decision of the public body or Department of Labor, may be taken by any party to the action.

Any proceeding in any court affecting a determination of the Department of Labor or public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the Department of Labor, and defend its determination. The Attorney General shall not represent any public body, except the State, in any such review or appeal.

(Source: P.A. 93-38, eff. 6-1-04.)

COMPLIANCE WITH THE ISSUANCE OF A SUBPOENA

(820 ILCS 130/10) (from Ch. 48, par. 39s-10)

Sec. 10. The presiding officer of the public body, or his or her authorized representative and the Director of the Department of Labor, or his or her authorized representative may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the production of all books, records, and other evidence relative to the matter under investigation or hearing. Such subpoena shall be signed and issued by such presiding officer or his or her authorized representative, or the Director or his or her authorized representative.

Upon request by the Director of Labor or his or her deputies or agents, records shall be copied and submitted for evidence at no cost to the Department of Labor. Every employer upon request shall furnish to the Director or his or her authorized representative, on demand, a sworn statement of the accuracy of the records. Any employer who refuses to furnish a sworn statement of the records is in violation of this Act.

In case of failure of any person to comply with any subpoena lawfully issued under this section or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it is the duty of any circuit court, upon application of such presiding officer or his or her authorized representative, or the Director or his or her authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. Such presiding officer and the Director may certify to official acts.

(Source: P.A. 93-38, eff. 6-1-04.)

PREREQUISITES OF PREVAILING WAGES; RECOVERY OF DIFFERENCE

(820 ILCS 130/11) (from Ch. 48, par. 39s-11)

Sec. 11. No public works project shall be instituted unless the provisions of this Act have been complied with. The provisions of this Act shall not be applicable to Federal construction projects which require a prevailing wage determination by the United States Secretary of Labor. The Illinois Department of Labor represented by the Attorney General is empowered to sue for injunctive relief against the awarding of any contract or the continuation of work under any contract for public works at a time when the prevailing wage prerequisites have not been met. Any contract for public works awarded at a time when the prevailing wage prerequisites had not been met shall be void as against public policy and the contractor is prohibited from recovering any damages for the voiding of the contract or pursuant to the terms of the contract. The contractor is limited to a claim for amounts actually paid for labor and materials supplied to the public body. Where objections to a determination of the prevailing rate of wages or a court action relative thereto is pending, the public body shall not continue work on the project unless sufficient funds are available to pay increased wages if such

are finally determined or unless the Department of Labor certifies such determination of the prevailing rate of wages as correct.

Any laborer, worker or mechanic employed by the contractor or by any subcontractor under him who is paid for his services in a sum less than the stipulated rates for work done under such contract, shall have a right of action for whatever difference there may be between the amount so paid, and the rates provided by the contract together with costs and such reasonable attorney's fees as shall be allowed by the court. Such contractor or subcontractor shall also be liable to the Department of Labor for 20% of such underpayments and shall be additionally liable to the laborer, worker or mechanic for punitive damages in the amount of 2% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid. Where a second or subsequent action to recover underpayments is brought against a contractor or subcontractor and the contractor or subcontractor is found liable for underpayments to any laborer, worker, or mechanic, the contractor or subcontractor shall also be liable to the Department of Labor for 50% of the underpayments payable as a result of the second or subsequent action, and shall be additionally liable for 5% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which the underpayments remain unpaid. The Department shall also have a right of action on behalf of any individual who has a right of action under this Section. An action brought to recover same shall be deemed to be a suit for wages, and any and all judgments entered therein shall have the same force and effect as other judgments for wages. At the request of any laborer, workman or mechanic employed by the contractor or by any subcontractor under him who is paid less than the prevailing wage rate required by this Act, the Department of Labor may take an assignment of such wage claim in trust for the assigning laborer, workman or mechanic and may bring any legal action necessary to collect such claim, and the contractor or subcontractor shall be required to pay the costs incurred in collecting such claim.
(Source: P.A. 94-488, eff. 1-1-06.)

PUBLICATION OF VIOLATORS

(820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

Sec. 11a. The Director of the Department of Labor shall publish in the Illinois Register no less often than once each calendar quarter a list of contractors or subcontractors found to have disregarded their obligations to employees under this Act. The Department of Labor shall determine the contractors or subcontractors who, on 2 separate occasions within 5 years, have been determined to have violated the provisions of this Act. Upon such determination the Department shall notify the violating contractor or subcontractor. Such contractor or subcontractor shall then have 10 working days to request a hearing by the Department on the alleged violations. Failure to respond within the 10 working day period shall result in automatic and immediate placement and publication on the list. If the contractor or subcontractor requests a hearing within the 10 working day period, the Director shall set a hearing on the alleged violations. Such hearing shall take place no later than 45 calendar days after the receipt by the Department of Labor of the request for a hearing. The Department of Labor is empowered to promulgate, adopt, amend and rescind rules and regulations to govern the hearing procedure. No contract shall be awarded to a contractor or subcontractor appearing on the list, or to any firm, corporation, partnership or association in which such contractor or subcontractor has an interest until 4 years have elapsed from the date of publication of the list containing the name of such contractor or subcontractor.
(Source: P.A. 93-38, eff. 6-1-04; 94-488, eff. 1-1-06.)

DISCHARGE OR DISCIPLINE OF "WHISTLE BLOWERS" PROHIBITED

(820 ILCS 130/11b)

Sec. 11b. Discharge or discipline of "whistle blowers" prohibited.

(a) No person shall discharge, discipline, or in any other way discriminate against, or cause to be discharged, disciplined, or discriminated against, any employee or any authorized representative of employees by reason of the fact that the employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of this Act, or offers any evidence of any violation of this Act.

(b) Any employee or a representative of employees who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) of this Section may, within 30 days after the alleged violation occurs, apply to the Director of Labor for a review of the discharge, discipline, or alleged discrimination. A copy of the application shall be sent to the person who allegedly committed the violation, who shall be the respondent. Upon receipt of an application, the Director shall cause such investigation to be made as he or she deems appropriate. The investigation shall provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least 5 days before the hearing. Upon receiving the report of the investigation, the Director shall make findings of fact. If the Director finds that a violation did occur, he or she shall issue a decision incorporating his or her findings and requiring the party committing the violation to take such affirmative action to abate the violation as the Director deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his or her former position and compensating him or her for the time he or she was unemployed. The party committing the violation shall also be liable to the Department of Labor for a penalty of $5,000 for each violation of this Section. If the Director finds that there was no violation, he or she shall issue an order denying the application. An order issued by the Director under this Section shall be subject to judicial review under the Administrative Review Law.

(c) The Director shall adopt rules implementing this Section in accordance with the Illinois Administrative Procedure Act.

(Source: P.A. 94-488, eff. 1-1-06.)

SEVERABILITY

(820 ILCS 130/12) (from Ch. 48, par. 39s-12)

Sec. 12. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The General Assembly hereby declares that it would have passed this Act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts might be declared unconstitutional.

(Source: Laws 1941, vol. 1, p. 703.)

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SEVERABILITY
(820 ILCS 130/12) (from Ch. 48, par. 39s-12) 300