

Ethical Considerations for County Boards

A presentation for the
Illinois Association of County Boards

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Ethics and Conflicts of Interest

- State Officers and Employee Ethics Act
 - Prohibited Political Activities
 - Gift Ban Act
- Public Officers Prohibited Activities Act
- Prohibited Interests in Contracts
- Illinois Governmental Ethics Act
- Bidding and Procurement
- Other Issues

State Officials and Employees Ethics Act

- Applicable to counties through 5 ILCS 430/70-5, this required every county to adopt an ordinance or resolution
 - Regulating the solicitation and acceptance of gifts
 - Regulating political activities of officers and employees
 - Amended later to also require the adoption of a sexual harassment policy

Expanded applicability

(5 ILCS 430/70-20)

Sec. 70-20. Members appointed by a county. In addition to any other applicable requirement of law, any member of a governmental entity appointed by the president or chairperson of the county board, or by any member or members of the county board, with or without the advice and consent of the county board, shall abide by the ethics laws applicable to, and the ethics policies of, that county and, if applicable, shall be subject to the jurisdiction of that county's ethics officer or inspector general.

The Gift Ban Act

- What is Banned?
- Who Must Comply?
- What is a “Gift”?
- Who is Restricted?

The Gift Ban Act

- The State Officials and Employees Ethics Act replaces the former Gift Ban Act.
- The gift ban provisions bar the solicitation or acceptance of any gift from a “prohibited source.”

Prohibited sources

Any person or entity who:

- (1) is seeking official action...
- (2) does business or seeks to do business...
- (3) conducts activities regulated by...
- (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 a lobbyist; or
- (6) is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source."

Gift Ban

- A “gift” is anything of value
- Applies to elected officials, government employees and their spouses or immediate family members.

What Gifts are Permitted?

Exceptions to the ban

- Opportunities, benefits and services to the general public, available on the same conditions as for the general public
- Example: During a parade, a local print shop that does business with the county is giving out coupons to everyone on the route

Exceptions

- Anything bought at market value
- Example: The print shop is having a sale on printers. A county board member buys a printer from the print shop.

Exceptions

- Political and fundraising contributions
- Example: The owner of the print shop makes a campaign contribution to a county board member, or donates paper to the county

Exceptions

- Educational missions
- Travel expenses for a meeting to discuss county business
- Gifts from relatives
- Bequests, inheritance and other transfers at death
- Interoffice and intraoffice gifts

Exceptions

- Gifts provided on the basis of a personal friendship
- Example: A county board member and the county's IT contractor were college roommates. The IT contractor gives the county board member a wedding present.

Exceptions

- Food or refreshments
 - Not exceeding \$75 per person on a single calendar day that are:
 - Consumed on the premises
 - Purchased ready to eat and delivered

Exceptions

- Items from any one prohibited source during any calendar year having a cumulative total value of less than \$100

What if someone gives me a gift in excess of the limits?

- An individual may avoid a violation of the Act by returning the prohibited gift to the donor or giving the gift (or its equivalent) to charity.

Prohibited Political Activities

- The State Officials and Employees Ethics Act prohibits the use of governmental funds, facilities and employees for political purposes.

Prohibited Political Activities

- No officer or employee may perform any prohibited political activity during “compensated time.” 5 ILCS 430/5-15
 - Employees cannot be required to perform political activities as a condition of county employment.
 - Employees can participate in political activities voluntarily while off work.

“Compensated Time”

- Does not include vacation, personal or compensatory time off.”
- Stickier as applied to public officials.
- Prohibits 15 different things – fundraising, circulating petitions, participating in a recount, etc.

Public Officer Prohibited Activities Act

- 50 ILCS 105/1 Prohibited dual offices
- 50 ILCS 105/3 – Prohibited interest in contracts

Prohibited dual offices

50 ILCS 105/1

No member of a county board can hold another elected or appointed office other than:

- Chair of county board
 - Member of regional planning commission
 - Alderman/trustee in a town with less than 1,000 inhabitants in a county with less than 50,000 inhabitants
 - Forest Preserve District trustee
 - County Extension Board
 - Emergency Telephone System Board
 - Board of Review
 - Public Administrator or Public Guardian
- Unless they first resign or unless otherwise permitted by law.

Except...

- This Does not 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.
- Beware of intergovernmental agreements!

Additional exceptions by population

- County board member in county with less than 550,000 inhabitants may serve as township highway commissioner. 50 ILCS 105/1.1
- County board member in county with less than 40,000 inhabitants may also serve as a member of the board of education, regional board of school trustees, board of school directors, board of a community college district, or board of school inspectors. 50 ILCS 105/1.2

Penalty

- Violation is a Class 4 felony and any office held by a convicted person shall be come vacant.

50 ILCS 105/4

Simultaneous Tenure

Public Officer Simultaneous Tenure Act. 50 ILCS 110/1

- County board member/township supervisor
- County board member and township trustee in counties with less than 100,000 population
- County board member/township assessor or township clerk, in counties with less than 300,000 population

Prohibited Interest in Contracts

- No trustee or employee of the County shall be directly or indirectly interested financially in any:
 - Contract work or business
 - The sale of any article paid for by the County
 - The purchase of real estate or other property sold by the County

Prohibited Interest in Contracts

- No elected or appointed official may be directly or indirectly financially interested (in his own name or a name of a corporation) in any contract or work regarding which the officer may be called upon to vote
- May not represent anyone before the board
- May not accept bribes

- 5 ILCS 105/3

Exceptions when interests in contracts are permitted

- Officer has less than 7½% ownership share in company; and
- Discloses interest; and
- Abstains from voting on the award; and
- Majority approves award; and
- Contract is awarded after a bid if over \$1,500; and
- The aggregate sum awarded to the company does not exceed \$25,000 per year.

Second Exception

- Or...
- Majority approves with member abstaining; and
- The contract amount does not exceed \$1,000; and
- Discloses interest; and
- The total contract amount does not exceed \$2,000 per year.

Third Exception

An elected or appointed officer can provide materials, merchandise, property, services or labor, if

- The official has less than a 1% ownership share in company; and
- Discloses interest; and
- Abstains from voting on the award; and
- Majority approves award.

Violations

- Are a Class 4 felony, and would result in the forfeiture of the office.

Bidding and Procurement

Bidding Statutes

- Must go out to bid for purchase of Supplies, materials or work in excess of \$20,000
- Except:
 - Certain Professional Services (but be mindful of the Local Governmental Professional Services Selection Act for architects, engineers and land surveyors)
 - Contracts for printing finance committee reports or departmental records
 - Printing or engraving of bonds
 - Contracts for maintenance or servicing of equipment where the manufacturer or authorized service agent can best provide the services.

Exceptions, continued

- Exceptions
 - Purchase/contracts for data processing equipment, software and telecommunications
 - Contracts for copying machines and supplies
 - Utility services
 - Contracts/goods from another governmental agency
 - Contracts/goods which are procurable from only one source.
 - Contracts for emergency expenditures if approved by $\frac{3}{4}$ of the board...but $\frac{3}{4}$ of 3 rounds up to 3!

Official Misconduct

- Criminal Code, 720 ILCS 5/33-3
 - A public officer or employee commits official misconduct when he/she
 - Intentionally or recklessly fails to perform a mandatory duty
 - Knowingly performs an act in excess of his/her authority
 - Solicits or accepts a fee or reward not authorized by law

Illinois Governmental Ethics Act

- Requires filing of statement of economic interests annually by May 1st
- Required of each officer and employee
- Required of each candidate (separately)
- Discloses financial interests

Other Things to Consider

- Access to Information/Dissemination of Confidential Information
- Sanctity of Closed Sessions
- Personnel Files

Questions?

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