

# THE LEGISLATIVE PROCESS IN ILLINOIS

**How does the legislature *actually* function?** From the people to the process to the politics, the inner workings of the General Assembly are absolutely fascinating.

## **The People**

- There actions of the General Assembly are influenced by many different people:
  - Legislators (59 Senators, 118 Representatives)
  - Legislative staff
  - Executive officers & Executive agency liaisons, counsels, and staff
  - Lobbying entities & Lobbyists - in house and contractual
  - Entities or persons with legislative interests who do not register
  - Constituents

## **The Process**

- The Illinois Constitution of 1970 established the legislative, executive and judicial branches. While the Constitution grants specific powers to the executive and the judicial branches, it does not operate to grant the legislature power, but rather establishes limitations upon its authority. As a result, the legislature has sweeping powers and may enact any legislation not expressly prohibited by the constitution. The General Assembly can **pass** any legislation it chooses. Whether or not it is **enacted** is up to the Governor, or the General Assembly if the Governor vetoes a bill. Whether or not it is **enforced** is up to the judiciary, and in some cases the executive branch.
- There are certain constitutional requirements that must be met in order for a bill to become a law:
  - Three Readings - Every bill must be read by title on three different days in each chamber.
  - Enrolling - Each bill must be signed by the chamber's leader and presented to the Governor for signature or veto
- Each chamber has the ability to establish its own Rules and procedures. To some extent, each chamber is the equivalent of corporation, with the Senate President and the Speaker of the House serving as the respective CEO.

## **The Politics**

- Where do ideas for bills come from?
- How does each person's political view impact the process?
- How do you actually get a bill passed?
- How do you negotiate a bill?
- How do the ethics laws impact the politics of the General Assembly?

## **Ethics Laws**

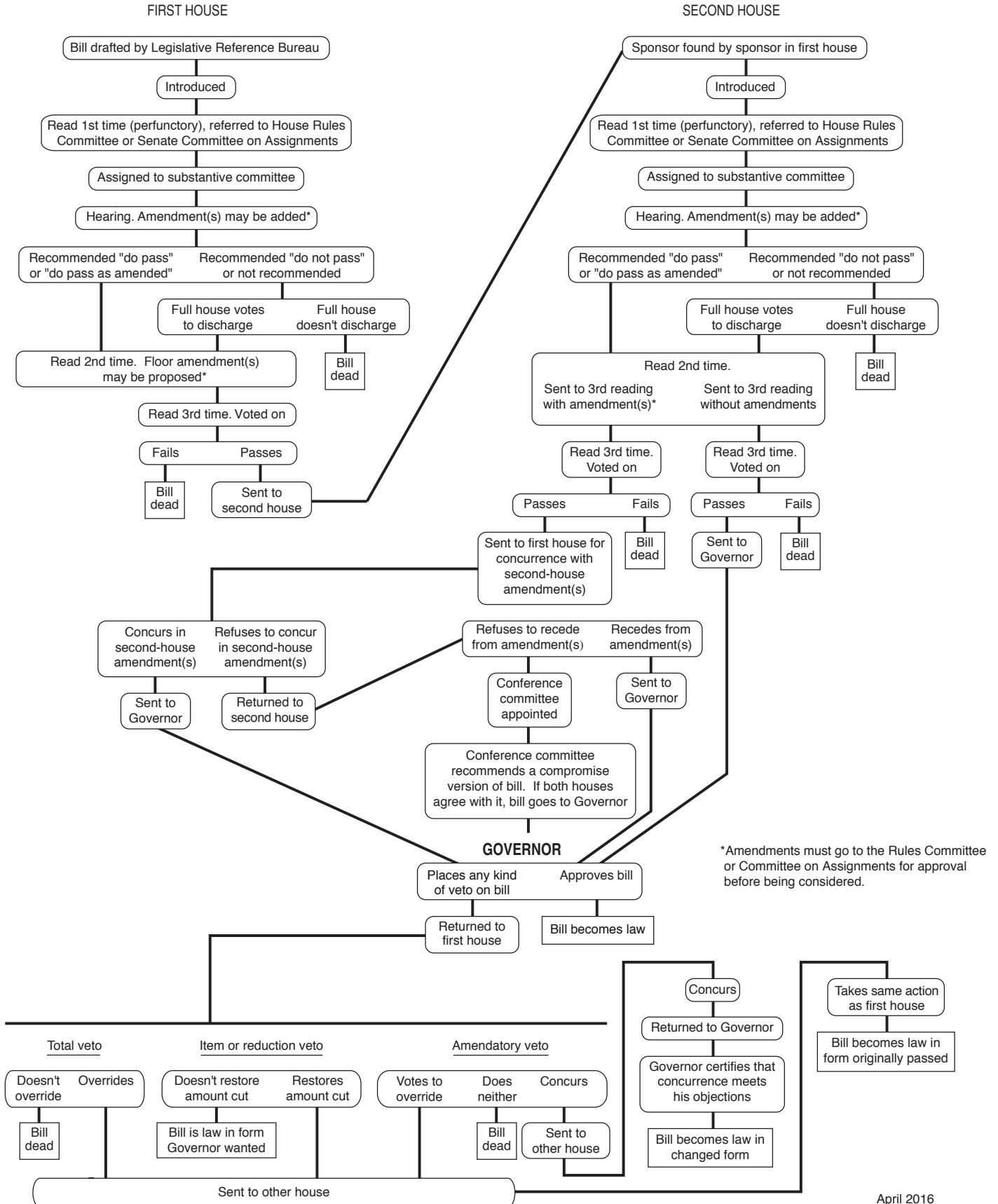
- State Officials and Employees Ethics Act - Personnel Policies, Prohibited Political Activities, Prohibited Offers & Gift Ban
- Illinois Governmental Ethics Act - Rules of Conduct for Legislators, Legislative Conflicts of Interest & Statement of Economic Interest
- Illinois Procurement Code & Conflicts of Interest
- Dual Compensation, Employment Restrictions & Compatibility of Offices
- Criminal Code of 2012



# ILLINOIS GENERAL ASSEMBLY LEGISLATIVE RESEARCH UNIT



## How A Bill Becomes Law in Illinois





# *Member Handbook*

## **Illinois Governmental Ethics Act**

### **Restricted Activities for Legislators**

Article 2 of the Illinois Governmental Ethics Act sets forth several additional restrictions on the activities of legislators. These restrictions must be followed in all instances and are subject to penalties.

#### **Lobbying prohibition**

Legislators may not engage in lobbying if they accept compensation (apart from their legislative salaries) specifically attributable to such lobbying. This prohibition does not apply to lobbying activities where the legislator receives no compensation in return. The Act defines “lobbying” to include “promoting or opposing in any manner the passage by the General Assembly of any legislative matter affecting the interests of any individual, association or corporation as distinct from those of the people of the State as a whole.” A violation is a Class A misdemeanor.

#### **Acceptance of additional compensation**

Legislators may not accept compensation other than their regular legislative salaries for the performance of their official legislative duties. Violation of this provision is a petty offense.

#### **Representation cases**

Legislators may not accept or participate in a “representation case” before the Court of Claims or the Illinois Workers’ Compensation Commission when the State of Illinois is the respondent. Violation of this provision is a Class A misdemeanor. This provision does not apply to cases before these two State agencies where the State of Illinois is not a party. The Act defines a “representation case” as follows:

“‘Representation case’ means the professional representation of any person, client or principal, with or without compensation, in any matter before any State agency where the action or non-action of the State agency involves the exercise of substantial discretion. However, the term shall not include inquiries for information or other services rendered in a legislative capacity on behalf of a constituent or other member of the public.”

The prohibition is a blanket prohibition and is not limited to situations in which a legislator intends to exercise improper

influence. Moreover, the prohibition does not prevent persons with whom a legislator has a “close economic association,” such as a law firm partner or colleague, from participating in these cases unless the association is used to influence or attempt to influence the State agency’s decision.

### **Honoraria**

Legislators may not accept any honorarium. “Honorarium” is defined as “payment of money to a member of the General Assembly for an appearance or speech, excluding any travel expenses incurred by the legislator and one relative.” The term “honorarium” does not include: (1) cash payments made in a legislator’s name to a nonprofit or charitable organization described under Section 501(c)(3) of the Internal Revenue Code; (2) agents’ fees or commissions; or (3) campaign contributions and expenditures reported under Article 9 of the Election Code. The Act does not attach a criminal penalty to violations of the honorarium prohibition, but it provides that any honorarium accepted in violation of this Section shall be surrendered to the State Treasurer and deposited in the General Revenue Fund.

## **Rules of Conduct for Legislators**

The following “rules of conduct” for legislators are contained in Part 1 of Article 3 of the Illinois Governmental Ethics Act. These “rules of conduct” must be followed in all instances but are not subject to penalties.

### **Economic opportunity**

Legislators must not accept any “economic opportunity” under circumstances where there is a substantial possibility that the opportunity is being afforded to influence a member’s conduct in the performance of official duties. Prohibited “economic opportunity” includes any type of monetary compensation to a legislator, a member or his or her family, or the legislator’s campaign fund. “Economic opportunity” also includes employment or contract offers to a legislator or a member of the legislator’s family. “Economic opportunity” does not include gifts. This provision is not intended to prohibit campaign contributions; however, members must be careful to avoid any implicit or explicit understandings that a contribution will influence their positions or votes on particular issues.

### **Sale or lease of property or furnishing of services**

Legislators may not charge or accept a price, fee, compensation, or other consideration for the sale or lease of property, or furnishing of services, that is substantially in excess of the amount that the legislator would charge in the ordinary course of business.

### **Disclosure of confidential information**

Legislators may not disclose confidential information acquired in the course of official business, in order to further either the legislator's own economic interests, or the economic interests of any other person.

### **Acceptance of representation case**

A legislator is prohibited from accepting a "representation case" (the definition is provided above) where there is substantial reason for him or her to believe that it is being offered with intent to obtain improper influence over a State agency. Based on the definition, it can be concluded that legislators are not prohibited from continuing to perform their traditional ombudsman functions of obtaining information from State agencies on behalf of constituents and representing the concerns of their constituents to the agencies. Legislators should avoid, however, representing clients in any State administrative proceeding. Further, it is prudent for legislators to avoid seeking to influence the outcome of a pending administrative proceeding in any manner, even if they are not officially representing a constituent before an administrative tribunal.

For purposes of this provision, a "State agency" is limited to an agency in the executive branch of State government. The prohibition thus has no bearing on the legal representation of a client before the judiciary.

### **Improper means to influence State agency in representation case**

Members of the General Assembly are prohibited from using improper means to influence a representation case in which either the legislator, or a person with whom the legislator maintains a close economic association, is participating. The Act defines "person with whom the legislator maintains a close economic association" as including a person associated with the legislator in a partnership or professional service corporation, whether as partner, officer, employee, associate, or otherwise. Accordingly, legislators should avoid any participation in an administrative proceeding in which one of their partners, associates, or employees is involved.

## **Conduct unbecoming a legislator or breach of the public trust**

This catch-all provision prohibits legislators from “[engaging] in other conduct which is unbecoming to a legislator or which constitutes a breach of the public trust.” There exist no definitions of the types of conduct that are prohibited.

## **Penalties**

The Illinois Governmental Ethics Act does not specify penalties for violation of the above provisions.

## **Legislative Conflicts of Interest**

Part 2 of Article 3 of the Illinois Governmental Ethics Act, entitled Ethical Principles for Legislators,” sets out guidelines for legislators in dealing with conflicts of interest. These principles are advisory and not subject to any penalties.

This part of the Act anticipates that a legislator is confronted with having to take “official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest.” In those circumstances, the guidelines advise that legislators should “consider the possibility of eliminating the conflict situation....[and] if that is not feasible, he should consider the possibility of abstaining from such official action.”

Nowhere does the Act direct a legislator to abstain from voting in a conflict situation or indicate that a failure to abstain from voting constitutes an ethical violation. Given the fundamental constitutional structure of Illinois government, the Act cannot issue mandates to legislators as to the proper way to vote. As representatives of an independent branch of government, legislators always retain complete voting discretion.

Section 3-203 of the Act specifically contemplates that legislators may vote on legislation despite the existence of a potential conflict of interest. This Section advises that:

“When, despite the existence of a conflict situation, a legislator chooses to take official action on a matter, he should serve the public interest, and not the interest of any person.”

Members identifying potential conflicts of interest may wish to consider formally acknowledging the same by filing a letter to that effect with the Clerk of the House of Representatives or the Ethics Officer. Again, this is a matter of discretion; it is not required by law.

## **Statements of Economic Interests**

All members of the General Assembly, as well as certain senior staff, are required to file annual statements of economic interest relating to interests and activities of the preceding calendar year. These statements must be submitted to the Secretary of State by May 1 of each year and will be posted publicly on the Secretary of State's website. Members and senior staff will be provided with economic disclosure forms well in advance of the May 1 deadline. State law requires that the designated ethics officer for each caucus review the statements of economic interest of all members, prior to their filing with the Secretary of State.

While the economic disclosure forms are largely self-explanatory, inquiries may be directed to the appropriate ethics officer.

Members should also be aware that among the disclosures required on this form is the identity of any single person or entity from which the member received anything of more than \$500 in value in the aggregate during the preceding calendar year. Accordingly, while it is possible that some gifts valued at more than \$500 may be permissible under the Gift Ban, members will be required to identify the provider of such gifts on their next year's statement of economic interest.

Members who inadvertently fail to make a disclosure or otherwise make a mistake in their statement should file an amended statement with the Secretary of State.

## **Penalties**

A person who willfully files a false or incomplete statement is guilty of a Class A misdemeanor. Failure to file a statement by May 1 may also result in ineligibility for, or forfeiture of, the person's office or position of employment.