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Reform for Illinois

Joint Commission on Ethics and Lobbying Reform

Re: Illinois Governmental Ethics Act

January 30, 2020

Leader Harris, Senator Sims, members of the Commission, thank you for the opportunity to testify today. My name is Alisa Kaplan and I am the Policy Director of Reform for Illinois. Reform for Illinois is dedicated to advocating for reforms that enhance the effectiveness, accountability, and integrity of Illinois government.

Reform for Illinois appreciates the Commission's attention to the issues of financial disclosure and conflicts of interest. Several of the scandals rocking our state in recent months have involved lawmakers whose outside employment or business interests have presented serious conflicts of interest and increased opportunities for corruption. These incidents have wounded Illinoisans' already fragile trust in their government and raised doubts about who, exactly, their representatives are serving. As long as lawmakers remain able to pursue outside employment, the best tools we have to restore trust and show that our officials are putting the public first are effective financial disclosure and meaningful conflicts oversight.

1. **Financial Disclosure**

Illinois' financial disclosure requirements lag badly behind other large states in the quality of information they provide. Disparagingly called "none sheets" because of the dearth of information they provide, Illinois' completed disclosure forms commonly contain little to no information, with individuals routinely writing "None," or "Not Applicable" in response to question after question. I encourage anyone who has not yet done so to download a few of these completed forms from the Illinois Secretary of State's office, and then to look at completed forms that officials have filled out in California, New York, or the federal government. The difference in how much useful information is provided is stark.

Reform for Illinois supports several of the revisions that were proposed in last year's veto session in SB1639. Positive proposed changes include requiring disclosure of certain types of

debtors and creditors and the amounts involved, requiring the disclosure of the types of gifts received, broadening the definition of reportable assets, including partnership interests in out-of-state entities, broadening the category of lobbyist relationships to be reported, and simplifying and expanding the reportable categories of income sources.

Along with these revisions, we believe the disclosure form would be significantly strengthened with three additional changes: 1) requiring individuals to disclose the amount of income they receive from various sources, 2) requiring individuals to disclose certain clients, and 3) simplifying the form's language.

For simplicity's sake, in the next sections I will refer to individuals filling out the financial disclosure form as "filers."

1. **The form should require more information about the value of income, assets, and gifts**

First, the form should require more specific information about the amounts of reportable income, assets, and gifts the filer receives. Currently, filers are only required to identify sources of income that exceed a certain amount - for example, $1200 in the case of non-professional service sources and $500 in the case of gifts. They are not required to disclose the actual amount they receive, just that a given income source meets this threshold. This omits essential information about how important these sources are to the person filling out the form and what kind of conflicts they might present. For example, someone receiving a $10,000 gift would probably feel much more indebted to the giver than to someone receiving a $500 gift. Similarly, a person who received a $5,000 consulting fee from ComEd would likely have a different sense of obligation to that company than one who received $300,000. These situations could give rise to very different types of potential conflicts, but would look the same on the current form.

Illinois has some options in how to execute this on its form. Some jurisdictions require the disclosure of actual amounts, while others use amount brackets, such as $10,000-$20,000, for ease of use and an added measure of confidentiality. If such brackets are used, however, they should not be so broad as to render them meaningless. A bracket of $10,000-$100,000, for example, would not provide sufficiently useful information. New York State provides a particularly good model for a useful set of brackets.

2. **Client disclosure**

Our second recommendation involves the disclosure of clients. In many businesses, clients are the true source of income and therefore a key source of potential conflict between an official's public and private interests; without them we may lack critical information about their interests. The disclosure form should thus require filers to disclose more information about clients who provide a significant portion of their income. There are several good models for client disclosure including New York State, California, and the federal government's form for new legislators.

We are sensitive to confidentiality considerations here, and note that jurisdictions requiring client information also include exemptions for certain types of clients who should not be identified because of attorney-client privilege, safety, or other reasons.

3. **Language simplification**

Finally, the financial disclosure form's language should be simplified and clarified so it is easier to understand. The current language is so convoluted that even the most diligent filers could struggle to fill it out correctly.

Conflicts oversight and enforcement

I'd like to turn away from financial disclosure now and briefly discuss the need to put teeth into Illinois' conflicts oversight rules. Disclosure is important, but it is no substitute for enforcement; it is necessary but not sufficient. In 2014, outgoing Legislative Inspector General and former state representative Tom Homer made a series of recommendations for how to strengthen ethics oversight in the legislature. One of his proposals was to make key parts of the Illinois Governmental Ethics Act - some of which are currently aspirational "guidelines" - mandatory and enforceable.

For example, currently the Ethics Act merely urges legislators to "consider the possibility of abstaining" from votes that implicate their private financial interests, leaving it up to the individual legislator to decide whether to vote or not. In other words, there is no official consequence if the legislator decides to vote on a matter presenting even the most brazen conflict of interest. Other jurisdictions, by contrast, use much stronger language and/or give their ethics commissions jurisdiction over recusals. For example, Florida law states that "A state public officer *may not* vote on any matter that the officer knows would inure to his or her special private gain or loss." Ann. § 112.3143 (emphasis added). Failure to abide by this rule could result in disciplinary hearings and, ultimately, censure by the Florida ethics commission. Other jurisdictions have similar rules and enforcement mechanisms.[1]

Reform for Illinois agrees with Mr. Homer that portions governing conflicts in the Ethics Act should be strengthened and, to the extent possible under our constitution, made enforceable by the Legislative Ethics Commission.

Conclusion

The people of Illinois deserve to know whose interests their representatives are putting first, and our state's honest public servants deserve the credibility that comes with a strong, transparent ethics regime. These measures would be a step towards restoring that credibility, and we hope the Commission will consider them. Thank you.

[1] California law states that "A public official shall not participate in any action or decision by the legislature, including votes, if a conflict of interest exists." Cal. Gov't Code § 87102.5. In Colorado, the rule reads "A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member and shall not vote thereon. Colo. Rev. Stat. Ann. § 24-18-107."