

HB4440



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4440

Introduced 1/16/2024, by Rep. William "Will" Davis

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1022

Amends the Counties Code. Provides that a county may establish goals to promote minority-owned and operated businesses, women-owned and operated businesses, businesses owned and operated by persons with disabilities, and businesses located within the county.

LRB103 34754 AWJ 64603 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Section 5-1022 as follows:

6 (55 ILCS 5/5-1022)

7 (Text of Section before amendment by P.A. 103-14)

8 Sec. 5-1022. Competitive bids.

9 (a) Any purchase by a county with fewer than 2,000,000
10 inhabitants of services, materials, equipment or supplies in
11 excess of \$30,000, other than professional services, shall be
12 contracted for in one of the following ways:

13 (1) by a contract let to the lowest responsible bidder
14 after advertising for bids in a newspaper published within
15 the county or, if no newspaper is published within the
16 county, then a newspaper having general circulation within
17 the county; ~~or~~

18 (2) by a contract let without advertising for bids in
19 the case of an emergency if authorized by the county
20 board; or-

21 (3) by a contract let without advertising for bids in
22 the case of the expedited replacement of a disabled,
23 inoperable, or damaged patrol vehicle of the sheriff's

1 department if authorized by the county board.

2 (b) In determining the lowest responsible bidder, the
3 county board shall take into consideration the qualities of
4 the articles supplied; their conformity with the
5 specifications; their suitability to the requirements of the
6 county, availability of support services; uniqueness of the
7 service, materials, equipment, or supplies as it applies to
8 networked, integrated computer systems; compatibility to
9 existing equipment; and the delivery terms. The county board
10 also may take into consideration whether a bidder is a private
11 enterprise or a State-controlled enterprise and,
12 notwithstanding any other provision of this Section or a lower
13 bid by a State-controlled enterprise, may let a contract to
14 the lowest responsible bidder that is a private enterprise.

15 (c) This Section does not apply to contracts by a county
16 with the federal government or to purchases of used equipment,
17 purchases at auction or similar transactions which by their
18 very nature are not suitable to competitive bids, pursuant to
19 an ordinance adopted by the county board.

20 (d) Notwithstanding the provisions of this Section, a
21 county may let without advertising for bids in the case of
22 purchases and contracts, when individual orders do not exceed
23 \$35,000, for the use, purchase, delivery, movement, or
24 installation of data processing equipment, software, or
25 services and telecommunications and inter-connect equipment,
26 software, and services.

1 (e) A county may require, as a condition of any contract
2 for goods and services, that persons awarded a contract with
3 the county and all affiliates of the person collect and remit
4 Illinois Use Tax on all sales of tangible personal property
5 into the State of Illinois in accordance with the provisions
6 of the Illinois Use Tax Act regardless of whether the person or
7 affiliate is a "retailer maintaining a place of business
8 within this State" as defined in Section 2 of the Use Tax Act.
9 For purposes of this subsection (e), the term "affiliate"
10 means any entity that (1) directly, indirectly, or
11 constructively controls another entity, (2) is directly,
12 indirectly, or constructively controlled by another entity, or
13 (3) is subject to the control of a common entity. For purposes
14 of this subsection (e), an entity controls another entity if
15 it owns, directly or individually, more than 10% of the voting
16 securities of that entity. As used in this subsection (e), the
17 term "voting security" means a security that (1) confers upon
18 the holder the right to vote for the election of members of the
19 board of directors or similar governing body of the business
20 or (2) is convertible into, or entitles the holder to receive
21 upon its exercise, a security that confers such a right to
22 vote. A general partnership interest is a voting security.

23 (f) Bids submitted to, and contracts executed by, the
24 county may require a certification by the bidder or contractor
25 that the bidder or contractor is not barred from bidding for or
26 entering into a contract under this Section and that the

1 bidder or contractor acknowledges that the county may declare
2 the contract void if the certification completed pursuant to
3 this subsection (f) is false.

4 (Source: P.A. 103-286, eff. 7-28-23; revised 9-7-23.)

5 (Text of Section after amendment by P.A. 103-14)

6 Sec. 5-1022. Competitive bids.

7 (a) Any purchase by a county with fewer than 2,000,000
8 inhabitants of services, materials, equipment or supplies in
9 excess of \$30,000, other than professional services, shall be
10 contracted for in one of the following ways:

11 (1) by a contract let to the lowest responsible bidder
12 after advertising for bids in a newspaper published within
13 the county or, if no newspaper is published within the
14 county, then a newspaper having general circulation within
15 the county; ~~or~~

16 (2) by a contract let without advertising for bids in
17 the case of an emergency if authorized by the county
18 board; or ~~or~~

19 (3) by a contract let without advertising for bids in
20 the case of the expedited replacement of a disabled,
21 inoperable, or damaged patrol vehicle of the sheriff's
22 department if authorized by the county board.

23 (b) In determining the lowest responsible bidder, the
24 county board shall take into consideration the qualities of
25 the articles supplied; their conformity with the

1 specifications; their suitability to the requirements of the
2 county; the availability of support services; the uniqueness
3 of the service, materials, equipment, or supplies as it
4 applies to networked, integrated computer systems; the
5 compatibility to existing equipment; and the delivery terms.
6 In addition, the county board may take into consideration the
7 bidder's active participation in an applicable apprenticeship
8 program registered with the United States Department of Labor.
9 The county board also may take into consideration whether a
10 bidder is a private enterprise or a State-controlled
11 enterprise and, notwithstanding any other provision of this
12 Section or a lower bid by a State-controlled enterprise, may
13 let a contract to the lowest responsible bidder that is a
14 private enterprise.

15 (c) This Section does not apply to contracts by a county
16 with the federal government or to purchases of used equipment,
17 purchases at auction or similar transactions which by their
18 very nature are not suitable to competitive bids, pursuant to
19 an ordinance adopted by the county board.

20 (d) Notwithstanding the provisions of this Section, a
21 county may let without advertising for bids in the case of
22 purchases and contracts, when individual orders do not exceed
23 \$35,000, for the use, purchase, delivery, movement, or
24 installation of data processing equipment, software, or
25 services and telecommunications and inter-connect equipment,
26 software, and services.

1 (e) A county may require, as a condition of any contract
2 for goods and services, that persons awarded a contract with
3 the county and all affiliates of the person collect and remit
4 Illinois Use Tax on all sales of tangible personal property
5 into the State of Illinois in accordance with the provisions
6 of the Illinois Use Tax Act regardless of whether the person or
7 affiliate is a "retailer maintaining a place of business
8 within this State" as defined in Section 2 of the Use Tax Act.
9 For purposes of this subsection (e), the term "affiliate"
10 means any entity that (1) directly, indirectly, or
11 constructively controls another entity, (2) is directly,
12 indirectly, or constructively controlled by another entity, or
13 (3) is subject to the control of a common entity. For purposes
14 of this subsection (e), an entity controls another entity if
15 it owns, directly or individually, more than 10% of the voting
16 securities of that entity. As used in this subsection (e), the
17 term "voting security" means a security that (1) confers upon
18 the holder the right to vote for the election of members of the
19 board of directors or similar governing body of the business
20 or (2) is convertible into, or entitles the holder to receive
21 upon its exercise, a security that confers such a right to
22 vote. A general partnership interest is a voting security.

23 (f) Bids submitted to, and contracts executed by, the
24 county may require a certification by the bidder or contractor
25 that the bidder or contractor is not barred from bidding for or
26 entering into a contract under this Section and that the

1 bidder or contractor acknowledges that the county may declare
2 the contract void if the certification completed pursuant to
3 this subsection (f) is false.

4 (g) A county may establish goals for the procurement of
5 goods and services to promote and encourage the continuing
6 economic development of:

7 (1) minority-owned and operated businesses;

8 (2) women-owned and operated businesses;

9 (3) businesses owned and operated by persons with
10 disabilities; and

11 (4) businesses located within the county.

12 (Source: P.A. 103-14, eff. 1-1-24; 103-286, eff. 7-28-23;
13 revised 9-7-23.)

14 Section 95. No acceleration or delay. Where this Act makes
15 changes in a statute that is represented in this Act by text
16 that is not yet or no longer in effect (for example, a Section
17 represented by multiple versions), the use of that text does
18 not accelerate or delay the taking effect of (i) the changes
19 made by this Act or (ii) provisions derived from any other
20 Public Act.