



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4457

by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21
30 ILCS 805/8.32 new

from Ch. 122, par. 10-20.21

Amends the School Code. In provisions requiring certain contracts to be awarded by competitive bid, provides that the acceptance of bids sealed by a bidder and the opening of these bids at a public bid opening must be permitted by an electronic process for communicating, accepting, and opening competitive bids; requires certain safeguards. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB095 15691 NHT 41698 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section
5 10-20.21 as follows:

6 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)
7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,
9 materials or work or contracts with private carriers for
10 transportation of pupils involving an expenditure in excess of
11 \$10,000 to the lowest responsible bidder, considering
12 conformity with specifications, terms of delivery, quality and
13 serviceability, after due advertisement, except the following:
14 (i) contracts for the services of individuals possessing a high
15 degree of professional skill where the ability or fitness of
16 the individual plays an important part; (ii) contracts for the
17 printing of finance committee reports and departmental
18 reports; (iii) contracts for the printing or engraving of
19 bonds, tax warrants and other evidences of indebtedness; (iv)
20 contracts for the purchase of perishable foods and perishable
21 beverages; (v) contracts for materials and work which have been
22 awarded to the lowest responsible bidder after due
23 advertisement, but due to unforeseen revisions, not the fault

1 of the contractor for materials and work, must be revised
2 causing expenditures not in excess of 10% of the contract
3 price; (vi) contracts for the maintenance or servicing of, or
4 provision of repair parts for, equipment which are made with
5 the manufacturer or authorized service agent of that equipment
6 where the provision of parts, maintenance, or servicing can
7 best be performed by the manufacturer or authorized service
8 agent; (vii) purchases and contracts for the use, purchase,
9 delivery, movement, or installation of data processing
10 equipment, software, or services and telecommunications and
11 interconnect equipment, software, and services; (viii)
12 contracts for duplicating machines and supplies; (ix)
13 contracts for the purchase of natural gas when the cost is less
14 than that offered by a public utility; (x) purchases of
15 equipment previously owned by some entity other than the
16 district itself; (xi) contracts for repair, maintenance,
17 remodeling, renovation, or construction, or a single project
18 involving an expenditure not to exceed \$20,000 and not
19 involving a change or increase in the size, type, or extent of
20 an existing facility; (xii) contracts for goods or services
21 procured from another governmental agency; (xiii) contracts
22 for goods or services which are economically procurable from
23 only one source, such as for the purchase of magazines, books,
24 periodicals, pamphlets and reports, and for utility services
25 such as water, light, heat, telephone or telegraph; (xiv) where
26 funds are expended in an emergency and such emergency

1 expenditure is approved by 3/4 of the members of the board; and
2 (xv) State master contracts authorized under Article 28A of
3 this Code.

4 All competitive bids for contracts involving an
5 expenditure in excess of \$10,000 must be sealed by the bidder
6 and must be opened by a member or employee of the school board
7 at a public bid opening at which the contents of the bids must
8 be announced. Each bidder must receive at least 3 days' notice
9 of the time and place of the bid opening. For purposes of this
10 Section due advertisement includes, but is not limited to, at
11 least one public notice at least 10 days before the bid date in
12 a newspaper published in the district, or if no newspaper is
13 published in the district, in a newspaper of general
14 circulation in the area of the district. State master contracts
15 and certified education purchasing contracts, as defined in
16 Article 28A of this Code, are not subject to the requirements
17 of this paragraph.

18 Under this Section, the acceptance of bids sealed by a
19 bidder and the opening of these bids at a public bid opening
20 must be permitted by an electronic process for communicating,
21 accepting, and opening competitive bids. An electronic bidding
22 process must provide for, but is not limited to, the following
23 safeguards:

24 (1) On the date and time certain of a bid opening, the
25 primary person conducting the competitive, sealed,
26 electronic bid process shall log onto a specified database

1 using a unique username and password previously assigned to
2 the bidder to allow access to the bidder's specific bid
3 project number.

4 (2) The specified electronic database must be on a
5 network that (i) is in a secure environment behind a
6 firewall; (ii) has specific encryption tools; (iii)
7 maintains specific intrusion detection systems; (iv) has
8 redundant systems architecture with data storage back-up,
9 whether by compact disc or tape; and (v) maintains a
10 disaster recovery plan.

11 It is the legislative intent of this amendatory Act of the 95th
12 General Assembly to maintain the integrity of the sealed
13 bidding process provided for in this Section, to further limit
14 any possibility of bid-rigging, to reduce administrative costs
15 to school districts, and to effect efficiencies in
16 communications with bidders.

17 (b) To require, as a condition of any contract for goods
18 and services, that persons bidding for and awarded a contract
19 and all affiliates of the person collect and remit Illinois Use
20 Tax on all sales of tangible personal property into the State
21 of Illinois in accordance with the provisions of the Illinois
22 Use Tax Act regardless of whether the person or affiliate is a
23 "retailer maintaining a place of business within this State" as
24 defined in Section 2 of the Use Tax Act. For purposes of this
25 Section, the term "affiliate" means any entity that (1)
26 directly, indirectly, or constructively controls another

1 entity, (2) is directly, indirectly, or constructively
2 controlled by another entity, or (3) is subject to the control
3 of a common entity. For purposes of this subsection (b), an
4 entity controls another entity if it owns, directly or
5 individually, more than 10% of the voting securities of that
6 entity. As used in this subsection (b), the term "voting
7 security" means a security that (1) confers upon the holder the
8 right to vote for the election of members of the board of
9 directors or similar governing body of the business or (2) is
10 convertible into, or entitles the holder to receive upon its
11 exercise, a security that confers such a right to vote. A
12 general partnership interest is a voting security.

13 To require that bids and contracts include a certification
14 by the bidder or contractor that the bidder or contractor is
15 not barred from bidding for or entering into a contract under
16 this Section and that the bidder or contractor acknowledges
17 that the school board may declare the contract void if the
18 certification completed pursuant to this subsection (b) is
19 false.

20 (b-5) To require all contracts and agreements that pertain
21 to goods and services and that are intended to generate
22 additional revenue and other remunerations for the school
23 district in excess of \$1,000, including without limitation
24 vending machine contracts, sports and other attire, class
25 rings, and photographic services, to be approved by the school
26 board. The school board shall file as an attachment to its

1 annual budget a report, in a form as determined by the State
2 Board of Education, indicating for the prior year the name of
3 the vendor, the product or service provided, and the actual net
4 revenue and non-monetary remuneration from each of the
5 contracts or agreements. In addition, the report shall indicate
6 for what purpose the revenue was used and how and to whom the
7 non-monetary remuneration was distributed.

8 (c) If the State education purchasing entity creates a
9 master contract as defined in Article 28A of this Code, then
10 the State education purchasing entity shall notify school
11 districts of the existence of the master contract.

12 (d) In purchasing supplies, materials, equipment, or
13 services that are not subject to subsection (c) of this
14 Section, before a school district solicits bids or awards a
15 contract, the district may review and consider as a bid under
16 subsection (a) of this Section certified education purchasing
17 contracts that are already available through the State
18 education purchasing entity.

19 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
20 94-714, eff. 7-1-06.)

21 Section 90. The State Mandates Act is amended by adding
22 Section 8.32 as follows:

23 (30 ILCS 805/8.32 new)

24 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8

1 of this Act, no reimbursement by the State is required for the
2 implementation of any mandate created by this amendatory Act of
3 the 95th General Assembly.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.