



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5491

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

30 ILCS 500/5-5
30 ILCS 500/20-50
30 ILCS 500/40-5

Amends the Illinois Procurement Code. Provides that every 3 years, beginning July 1, 2014, the Policy Procurement Board shall contract with an outside vendor to conduct a procurement efficiency review, and shall report the findings from its review together with recommendations for improvement to the Governor and the General Assembly. Provides that "prohibited conduct" includes requested payments or other consideration to a third party by the University or State Agency that is not part of the solicitation or that is unrelated to the subject matter or purpose of the solicitation. Provides that all State agencies shall, in consultation with the Department of Central Management Services, evaluate the State's existing lease portfolio prior to engaging in a procurement for real property or capital improvements. Effective immediately.

LRB098 18402 JWD 53539 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 5-5, 20-50, and 40-5 as follows:

6 (30 ILCS 500/5-5)

7 Sec. 5-5. Procurement Policy Board.

8 (a) Creation. There is created a Procurement Policy Board,
9 an agency of the State of Illinois.

10 (b) Authority and duties. The Board shall have the
11 authority and responsibility to review, comment upon, and
12 recommend, consistent with this Code, rules and practices
13 governing the procurement, management, control, and disposal
14 of supplies, services, professional or artistic services,
15 construction, and real property and capital improvement leases
16 procured by the State. The Board shall also have the authority
17 to recommend a program for professional development and provide
18 opportunities for training in procurement practices and
19 policies to chief procurement officers and their staffs in
20 order to ensure that all procurement is conducted in an
21 efficient, professional, and appropriately transparent manner.

22 Upon a three-fifths vote of its members, the Board may
23 review a contract. Upon a three-fifths vote of its members, the

1 Board may propose procurement rules for consideration by chief
2 procurement officers. These proposals shall be published in
3 each volume of the Procurement Bulletin. Except as otherwise
4 provided by law, the Board shall act upon the vote of a
5 majority of its members who have been appointed and are
6 serving.

7 (b-5) Reviews, studies, and hearings. The Board may review,
8 study, and hold public hearings concerning the implementation
9 and administration of this Code. Each chief procurement
10 officer, State purchasing officer, procurement compliance
11 monitor, and State agency shall cooperate with the Board,
12 provide information to the Board, and be responsive to the
13 Board in the Board's conduct of its reviews, studies, and
14 hearings.

15 (c) Members. The Board shall consist of 5 members appointed
16 one each by the 4 legislative leaders and the Governor. Each
17 member shall have demonstrated sufficient business or
18 professional experience in the area of procurement to perform
19 the functions of the Board. No member may be a member of the
20 General Assembly.

21 (d) Terms. Of the initial appointees, the Governor shall
22 designate one member, as Chairman, to serve a one-year term,
23 the President of the Senate and the Speaker of the House shall
24 each appoint one member to serve 3-year terms, and the Minority
25 Leader of the House and the Minority Leader of the Senate shall
26 each appoint one member to serve 2-year terms. Subsequent terms

1 shall be 4 years. Members may be reappointed for succeeding
2 terms.

3 (e) Reimbursement. Members shall receive no compensation
4 but shall be reimbursed for any expenses reasonably incurred in
5 the performance of their duties.

6 (f) Staff support. Upon a three-fifths vote of its members,
7 the Board may employ an executive director. Subject to
8 appropriation, the Board also may employ a reasonable and
9 necessary number of staff persons.

10 (g) Meetings. Meetings of the Board may be conducted
11 telephonically, electronically, or through the use of other
12 telecommunications. Written minutes of such meetings shall be
13 created and available for public inspection and copying.

14 (h) Procurement recommendations. Upon a three-fifths vote
15 of its members, the Board may review a proposal, bid, or
16 contract and issue a recommendation to void a contract or
17 reject a proposal or bid based on any violation of this Code or
18 the existence of a conflict of interest as described in
19 subsections (b) and (d) of Section 50-35. A chief procurement
20 officer or State purchasing officer shall notify the Board if
21 an alleged conflict of interest or violation of the Code is
22 identified, discovered, or reasonably suspected to exist. Any
23 person or entity may notify the Board of an alleged conflict of
24 interest or violation of the Code. A recommendation of the
25 Board shall be delivered to the appropriate chief procurement
26 officer and Executive Ethics Commission within 5 days and must

1 be published in the next volume of the Procurement Bulletin. In
2 the event that an alleged conflict of interest or violation of
3 the Code that was not originally disclosed with the bid, offer,
4 or proposal is identified and filed with the Board, the Board
5 shall provide written notice of the alleged conflict of
6 interest or violation to the contractor or subcontractor on
7 that contract. If the alleged conflict of interest or violation
8 is by the subcontractor, written notice shall also be provided
9 to the contractor. The contractor or subcontractor shall have
10 15 days to provide a written response to the notice, and a
11 hearing before the Board on the alleged conflict of interest or
12 violation shall be held upon request by the contractor or
13 subcontractor. The requested hearing date and time shall be
14 determined by the Board, but in no event shall the hearing
15 occur later than 15 days after the date of the request.

16 (i) After providing notice and a hearing as required by
17 subsection (h), the Board shall refer any alleged violations of
18 this Code to the Executive Inspector General in addition to or
19 instead of issuing a recommendation to void a contract.

20 (j) Procurement Efficiency Study. On or after July 1, 2014,
21 and on and after July 1 of every 3 years after that date, the
22 Board will solicit, and work in consultation with, an outside
23 vendor to review current procurement laws and statewide
24 practices, including any process inefficiencies. The Board
25 will report the findings from its review together with the
26 Board's recommendations to correct found inefficiencies to the

1 Governor and the General Assembly no later than June 30 of the
2 year following the solicitation of the study. Each chief
3 procurement officer, State purchasing officer, procurement
4 compliance monitor, and State agency shall cooperate with the
5 Board, including providing information to the Board upon
6 request and being otherwise responsive to the Board in the
7 Board's conduct of its review.

8 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
9 for the effective date of changes made by P.A. 96-795); 97-895,
10 eff. 8-3-12.)

11 (30 ILCS 500/20-50)

12 Sec. 20-50. Specifications. Specifications shall be
13 prepared in accordance with consistent standards that are
14 promulgated by the chief procurement officer and reviewed by
15 the Board and the Joint Committee on Administrative Rules.
16 Those standards shall include a prohibition against the use of
17 brand-name only products, except for products intended for
18 retail sale or as specified by rule. All specifications shall
19 seek to promote overall economy for the purposes intended and
20 encourage competition in satisfying the State's needs and shall
21 not be unduly restrictive.

22 A solicitation or specification for a contract or a
23 contract, including a contract but not limited to of a college,
24 university, or institution under the jurisdiction of a
25 governing board listed in Section 1-15.100, may not require,

1 stipulate, suggest, or encourage a monetary or other financial
2 contribution or donation, cash bonus or incentive, ~~or~~ economic
3 investment, or other prohibited conduct as an explicit or
4 implied term or condition for awarding or completing the
5 contract. The contract, solicitation, or specification also
6 may not include a requirement that an individual or individuals
7 employed by such a college, university, or institution receive
8 a consulting contract for professional services.

9 As used in this Section, "prohibited conduct" includes
10 requested payments or other consideration to a third party by
11 the university or State agency that is not part of the
12 solicitation or that is unrelated to the subject matter or
13 purpose of the solicitation. "Prohibited conduct" does not
14 include a payment from the vendor that is supported by
15 additional consideration (such as exclusive rights to sell
16 items or rights to advertise), other than the consideration of
17 the State's awarding a contract to purchase of goods and
18 services.

19 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
20 for the effective date of changes made by P.A. 96-795).)

21 (30 ILCS 500/40-5)

22 Sec. 40-5. Applicability. All leases for real property or
23 capital improvements, including office and storage space,
24 buildings, and other facilities for State agencies, shall be
25 procured in accordance with the provisions of this Article. All

1 State agencies shall, in consultation with the Department of
2 Central Management Services, evaluate the State's existing
3 lease portfolio prior to engaging in a procurement for real
4 property or capital improvements.

5 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.