

# HB3077



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3077

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13  
30 ILCS 500/1-13.1 new

Amends the Illinois Procurement Code. Re-enacts a provision concerning the applicability of the Illinois Procurement Code to public institutions of higher education. Provides that the Code does not apply to procurements made by or on behalf of public institutions of higher education for supplies or services under an award made by the Midwestern Higher Education Compact for the use of members of the Compact. Effective immediately.

LRB099 09226 JWD 30989 b

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 re-enacting Section 1-13 and by adding Section 1-13.1 as  
6 follows:

7 (30 ILCS 500/1-13)

8 (Section scheduled to be repealed on December 31, 2016)

9 Sec. 1-13. Applicability to public institutions of higher  
10 education.

11 (a) This Code shall apply to public institutions of higher  
12 education, regardless of the source of the funds with which  
13 contracts are paid, except as provided in this Section.

14 (b) Except as provided in this Section, this Code shall not  
15 apply to procurements made by or on behalf of public  
16 institutions of higher education for any of the following:

17 (1) Memberships in professional, academic, research,  
18 or athletic organizations on behalf of a public institution  
19 of higher education, an employee of a public institution of  
20 higher education, or a student at a public institution of  
21 higher education.

22 (2) Procurement expenditures for events or activities  
23 paid for exclusively by revenues generated by the event or

1 activity, gifts or donations for the event or activity,  
2 private grants, or any combination thereof.

3 (3) Procurement expenditures for events or activities  
4 for which the use of specific potential contractors is  
5 mandated or identified by the sponsor of the event or  
6 activity, provided that the sponsor is providing a majority  
7 of the funding for the event or activity.

8 (4) Procurement expenditures necessary to provide  
9 artistic or musical services, performances, or productions  
10 held at a venue operated by a public institution of higher  
11 education.

12 (5) Procurement expenditures for periodicals and books  
13 procured for use by a university library or academic  
14 department, except for expenditures related to procuring  
15 textbooks for student use or materials for resale or  
16 rental.

17 (6) Procurement expenditures for placement of students  
18 in externships, practicums, field experiences, and medical  
19 residencies and rotations.

20 (7) Contracts for programming and broadcast license  
21 rights for university-operated radio and television  
22 stations.

23 (8) Procurement expenditures for supplies or services  
24 under an award made by the Midwestern Higher Education  
25 Compact for the use of members of the Compact.

26 Notice of each contract entered into by a public institution of

1 higher education that is related to the procurement of goods  
2 and services identified in items (1) through (8) ~~(7)~~ of this  
3 subsection shall be published in the Procurement Bulletin  
4 within 14 calendar days after contract execution. The Chief  
5 Procurement Officer shall prescribe the form and content of the  
6 notice. Each public institution of higher education shall  
7 provide the Chief Procurement Officer, on a monthly basis, in  
8 the form and content prescribed by the Chief Procurement  
9 Officer, a report of contracts that are related to the  
10 procurement of goods and services identified in this  
11 subsection. At a minimum, this report shall include the name of  
12 the contractor, a description of the supply or service  
13 provided, the total amount of the contract, the term of the  
14 contract, and the exception to the Code utilized. A copy of any  
15 or all of these contracts shall be made available to the Chief  
16 Procurement Officer immediately upon request. The Chief  
17 Procurement Officer shall submit a report to the Governor and  
18 General Assembly no later than November 1 of each year that  
19 shall include, at a minimum, an annual summary of the monthly  
20 information reported to the Chief Procurement Officer.

21 (b-5) Except as provided in this subsection, the provisions  
22 of this Code shall not apply to contracts for FDA-regulated  
23 supplies, and to contracts for medical services necessary for  
24 the delivery of care and treatment at medical, dental, or  
25 veterinary teaching facilities utilized by Southern Illinois  
26 University or the University of Illinois. Other supplies and

1 services needed for these teaching facilities shall be subject  
2 to the jurisdiction of the Chief Procurement Officer for Public  
3 Institutions of Higher Education who may establish expedited  
4 procurement procedures and may waive or modify certification,  
5 contract, hearing, process and registration requirements  
6 required by the Code. All procurements made under this  
7 subsection shall be documented and may require publication in  
8 the Illinois Procurement Bulletin.

9 (c) Procurements made by or on behalf of public  
10 institutions of higher education for any of the following shall  
11 be made in accordance with the requirements of this Code to the  
12 extent practical as provided in this subsection:

13 (1) Contracts with a foreign entity necessary for  
14 research or educational activities, provided that the  
15 foreign entity either does not maintain an office in the  
16 United States or is the sole source of the service or  
17 product.

18 (2) (Blank).

19 (3) (Blank).

20 (4) Procurements required for fulfillment of a grant.

21 Upon the written request of a public institution of higher  
22 education, the Chief Procurement Officer may waive  
23 registration, certification, and hearing requirements of this  
24 Code if, based on the item to be procured or the terms of a  
25 grant, compliance is impractical. The public institution of  
26 higher education shall provide the Chief Procurement Officer

1 with specific reasons for the waiver, including the necessity  
2 of contracting with a particular potential contractor, and  
3 shall certify that an effort was made in good faith to comply  
4 with the provisions of this Code. The Chief Procurement Officer  
5 shall provide written justification for any waivers. By  
6 November 1 of each year, the Chief Procurement Officer shall  
7 file a report with the General Assembly identifying each  
8 contract approved with waivers and providing the justification  
9 given for any waivers for each of those contracts. Notice of  
10 each waiver made under this subsection shall be published in  
11 the Procurement Bulletin within 14 calendar days after contract  
12 execution. The Chief Procurement Officer shall prescribe the  
13 form and content of the notice.

14 (d) Notwithstanding this Section, a waiver of the  
15 registration requirements of Section 20-160 does not permit a  
16 business entity and any affiliated entities or affiliated  
17 persons to make campaign contributions if otherwise prohibited  
18 by Section 50-37. The total amount of contracts awarded in  
19 accordance with this Section shall be included in determining  
20 the aggregate amount of contracts or pending bids of a business  
21 entity and any affiliated entities or affiliated persons.

22 (e) Notwithstanding subsection (e) of Section 50-10.5 of  
23 this Code, the Chief Procurement Officer, with the approval of  
24 the Executive Ethics Commission, may permit a public  
25 institution of higher education to accept a bid or enter into a  
26 contract with a business that assisted the public institution

1 of higher education in determining whether there is a need for  
2 a contract or assisted in reviewing, drafting, or preparing  
3 documents related to a bid or contract, provided that the bid  
4 or contract is essential to research administered by the public  
5 institution of higher education and it is in the best interest  
6 of the public institution of higher education to accept the bid  
7 or contract. For purposes of this subsection, "business"  
8 includes all individuals with whom a business is affiliated,  
9 including, but not limited to, any officer, agent, employee,  
10 consultant, independent contractor, director, partner,  
11 manager, or shareholder of a business. The Executive Ethics  
12 Commission may promulgate rules and regulations for the  
13 implementation and administration of the provisions of this  
14 subsection (e).

15 (f) As used in this Section:

16 "Grant" means non-appropriated funding provided by a  
17 federal or private entity to support a project or program  
18 administered by a public institution of higher education and  
19 any non-appropriated funding provided to a sub-recipient of the  
20 grant.

21 "Public institution of higher education" means Chicago  
22 State University, Eastern Illinois University, Governors State  
23 University, Illinois State University, Northeastern Illinois  
24 University, Northern Illinois University, Southern Illinois  
25 University, University of Illinois, Western Illinois  
26 University, and, for purposes of this Code only, the Illinois

1 Mathematics and Science Academy.

2 (g) This Section is repealed on December 31, 2016.

3 (Source: P.A. 97-643, eff. 12-20-11; 97-895, eff. 8-3-12;  
4 98-1076, eff. 1-1-15.)

5 (30 ILCS 500/1-13.1 new)

6 Sec. 1-13.1. Continuation of Section 1-13 of this Code;  
7 validation.

8 (a) The General Assembly finds and declares that:

9 (1) Public Act 98-1076, which took effect on January 1,  
10 2015, changed the repeal date set for Section 1-13 of this  
11 Code from December 31, 2014 to December 31, 2016.

12 (2) The Statute on Statutes sets forth general rules on  
13 the repeal of statutes and the construction of multiple  
14 amendments, but Section 1 of that Act also states that  
15 these rules will not be observed when the result would be  
16 "inconsistent with the manifest intent of the General  
17 Assembly or repugnant to the context of the statute".

18 (3) This amendatory Act of the 99th General Assembly  
19 manifests the intention of the General Assembly to extend  
20 the repeal of Section 1-13 of this Code and have Section  
21 1-13 of this Code continue in effect until December 31,  
22 2016.

23 (4) Section 1-13 of this Code was originally enacted to  
24 protect, promote, and preserve the general welfare. Any  
25 construction of Section 1-13 of this Code that results in



1 the repeal of that Section on December 31, 2014 would be  
2 inconsistent with the manifest intent of the General  
3 Assembly and repugnant to the context of this Code.

4 (b) It is hereby declared to have been the intent of the  
5 General Assembly that Section 1-13 of this Code not be subject  
6 to repeal on December 31, 2014.

7 (c) Section 1-13 of this Code shall be deemed to have been  
8 in continuous effect since December 20, 2011 (the effective  
9 date of Public Act 97-643), and it shall continue to be in  
10 effect henceforward until it is otherwise lawfully repealed.  
11 All previously enacted amendments to Section 1-13 of this Code  
12 taking effect on or after December 31, 2014, are hereby  
13 validated.

14 (d) All actions taken in reliance on or pursuant to Section  
15 1-13 of this Code by any public institution of higher  
16 education, person, or entity are hereby validated.

17 (e) In order to ensure the continuing effectiveness of  
18 Section 1-13 of this Code, it is set forth in full and  
19 re-enacted by this amendatory Act of the 99th General Assembly.  
20 This re-enactment is intended as a continuation of that  
21 Section. It is not intended to supersede any amendment to that  
22 Section that is enacted by the 99th General Assembly.

23 (f) In this amendatory Act of the 99th General Assembly,  
24 the base text of the reenacted Section is set forth as amended  
25 by Public Act 98-1076. Striking and underscoring is used only  
26 to show changes being made to the base text by this amendatory

1 Act of the 99th General Assembly.

2 (g) Section 1-13 of this Code applies to all procurements  
3 made on or before the effective date of this amendatory Act of  
4 the 99th General Assembly.

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