



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4990

by Rep. Tim Butler

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 500/1-10

Creates the Illinois State Fairgrounds Foundation Act. Establishes the Illinois State Fairgrounds Foundation under the authority of the Department of Agriculture. Sets forth the Foundation's purposes, organization, powers, and duties. Provides that the Foundation must provide a written notice to any entity providing a gift, grant, or bequest to the Foundation that the Foundation is not subject to the Public Funds Investment Act. Provides that the Foundation shall be considered a public body under the Prevailing Wage Act. Provides that any project, including but not limited to improvement, maintenance, and construction of infrastructure, that is funded in whole or in part by the Foundation shall be considered a public work as defined by the Prevailing Wage Act. Amends the Illinois Procurement Code. Provides that the Code does not apply to procurement expenditures by the Illinois State Fairgrounds Foundation when only private funds are used. Effective immediately.

LRB099 15953 MGM 40270 b

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois State Fairgrounds Foundation Act.

6 Section 5. Creation of Illinois State Fairgrounds
7 Foundation.

8 (a) The General Assembly authorizes the Department of
9 Agriculture, in accordance with Section 10 of the State Agency
10 Entity Creation Act, to create the Illinois State Fairgrounds
11 Foundation. Under this authority, the Department of
12 Agriculture shall create the Illinois State Fairgrounds
13 Foundation as a not-for-profit foundation. The Department
14 shall file articles of incorporation as required under the
15 General Not For Profit Corporation Act of 1986 to create the
16 Foundation.

17 (b) The Foundation's Board of Directors shall be appointed
18 as follows:

19 (1) 2 by the President of the Senate, 1 for a 2-year
20 term and 1 for a 4-year term;

21 (2) 2 by the Minority Leader of the Senate, 1 for a
22 2-year term and 1 for a 4-year term;

23 (3) 2 by the Speaker of the House of Representatives, 1

1 for a 2-year term and 1 for a 4-year term;

2 (4) 2 by the Minority Leader of the House of
3 Representatives, 1 for a 2-year term and 1 for a 4-year
4 term; and

5 (5) 4 by the Governor, 2 for a 2-year term each and 2
6 for a 4-year term each.

7 (c) At the expiration of the 2-year terms and the 4-year
8 terms, each successive appointment shall be for a 4-year term.
9 Vacancies shall be filled by the official who made the prior
10 appointment. The Director of Agriculture shall chair the Board
11 of Directors of the Foundation. No member of the Board of
12 Directors may receive compensation for his or her services to
13 the Foundation.

14 Section 10. Foundation purposes. The purposes of the
15 Foundation are: to promote, support, assist, sustain, and
16 encourage the charitable, educational, scientific, and
17 agricultural programs, projects, and policies of the
18 Department of Agriculture and the Illinois State Fair; to
19 solicit and accept aid or contributions consistent with the
20 stated intent of the donor and the goals of the Foundation,
21 including, but not limited to, capital funding for the
22 improvement, maintenance, or construction of buildings and
23 facilities at the Illinois State Fairgrounds located in
24 Springfield and DuQuoin; to accept grants for the acquisition,
25 construction, improvement, and development of potential

1 Foundation projects; to solicit and generate private funding
2 and donations that assist in enhancing and preserving Illinois'
3 agricultural heritage and State Fairgrounds, both in
4 Springfield and DuQuoin, and the infrastructure, including
5 roads, buildings, permanent exhibits, grounds, and facilities
6 at both Fairgrounds; and to engage generally in other lawful
7 endeavors consistent with the foregoing purposes. The
8 Foundation shall operate within the provisions of the General
9 Not For Profit Corporation Act of 1986.

10 Section 15. Organization, powers, and duties of the
11 Foundation.

12 (a) As soon as practical after the Foundation is created,
13 the Board of Directors shall meet, organize, and designate, by
14 majority vote, a treasurer, secretary, and any additional
15 officers that may be needed to carry out the activities of the
16 Foundation, and shall adopt bylaws of the Foundation. The
17 Department of Agriculture may adopt other rules deemed
18 necessary to govern Foundation procedures.

19 (b) The Foundation may accept gifts or grants from the
20 federal government, its agencies or officers, or from any
21 person, firm, or corporation, and may expend receipts on
22 activities that it considers suitable to the performance of its
23 duties under this Act and consistent with any requirement of
24 the grant, gift, or bequest. Funds collected by the Foundation
25 shall be considered private funds, except those received from

1 public entities, and shall be held in an appropriate account
2 outside of the State treasury. Private funds collected by the
3 Foundation are not subject to the Public Funds Investment Act.
4 Foundation procurement is exempt from the Illinois Procurement
5 Code when only private funds are used for procurement
6 expenditures. The treasurer of the Foundation shall be
7 custodian of all Foundation funds. The Foundation's accounts
8 and books shall be set up and maintained in a manner approved
9 by the Auditor General; and the Foundation and its officers
10 shall be responsible for the approval of recording of receipts,
11 approval of payments, and the proper filing of required
12 reports. The Foundation may be assisted in carrying out its
13 functions by personnel of the Department of Agriculture. The
14 Department shall provide reasonable assistance to the
15 Foundation to achieve the purposes of the Foundation. The
16 Foundation shall cooperate fully with the boards, commissions,
17 agencies, departments, and institutions of the State. The funds
18 held and made available by the Illinois State Fairgrounds
19 Foundation shall be subject to financial and compliance audits
20 by the Auditor General in compliance with the Illinois State
21 Auditing Act.

22 (c) The Foundation shall not have any power of eminent
23 domain.

24 (d) The Foundation shall be considered a public body under
25 the Prevailing Wage Act. Any project, including but not limited
26 to improvement, maintenance, and construction of

1 infrastructure, that is funded in whole or in part by the
2 Foundation shall be considered a public work as defined by the
3 Prevailing Wage Act.

4 Section 20. Disclosure to donors of exemption from Public
5 Funds Investment Act. The Foundation must provide a written
6 notice to any entity providing a gift, grant, or bequest to the
7 Foundation that the Foundation is not subject to the provisions
8 of the Public Funds Investment Act which places limitations on
9 the types of securities in which a public agency may invest
10 public funds.

11 Section 90. The Illinois Procurement Code is amended by
12 changing Section 1-10 as follows:

13 (30 ILCS 500/1-10)

14 Sec. 1-10. Application.

15 (a) This Code applies only to procurements for which
16 bidders, offerors, potential contractors, or contractors were
17 first solicited on or after July 1, 1998. This Code shall not
18 be construed to affect or impair any contract, or any provision
19 of a contract, entered into based on a solicitation prior to
20 the implementation date of this Code as described in Article
21 99, including but not limited to any covenant entered into with
22 respect to any revenue bonds or similar instruments. All
23 procurements for which contracts are solicited between the

1 effective date of Articles 50 and 99 and July 1, 1998 shall be
2 substantially in accordance with this Code and its intent.

3 (b) This Code shall apply regardless of the source of the
4 funds with which the contracts are paid, including federal
5 assistance moneys. This Code shall not apply to:

6 (1) Contracts between the State and its political
7 subdivisions or other governments, or between State
8 governmental bodies except as specifically provided in
9 this Code.

10 (2) Grants, except for the filing requirements of
11 Section 20-80.

12 (3) Purchase of care.

13 (4) Hiring of an individual as employee and not as an
14 independent contractor, whether pursuant to an employment
15 code or policy or by contract directly with that
16 individual.

17 (5) Collective bargaining contracts.

18 (6) Purchase of real estate, except that notice of this
19 type of contract with a value of more than \$25,000 must be
20 published in the Procurement Bulletin within 10 calendar
21 days after the deed is recorded in the county of
22 jurisdiction. The notice shall identify the real estate
23 purchased, the names of all parties to the contract, the
24 value of the contract, and the effective date of the
25 contract.

26 (7) Contracts necessary to prepare for anticipated

1 litigation, enforcement actions, or investigations,
2 provided that the chief legal counsel to the Governor shall
3 give his or her prior approval when the procuring agency is
4 one subject to the jurisdiction of the Governor, and
5 provided that the chief legal counsel of any other
6 procuring entity subject to this Code shall give his or her
7 prior approval when the procuring entity is not one subject
8 to the jurisdiction of the Governor.

9 (8) Contracts for services to Northern Illinois
10 University by a person, acting as an independent
11 contractor, who is qualified by education, experience, and
12 technical ability and is selected by negotiation for the
13 purpose of providing non-credit educational service
14 activities or products by means of specialized programs
15 offered by the university.

16 (9) Procurement expenditures by the Illinois
17 Conservation Foundation when only private funds are used.

18 (10) Procurement expenditures by the Illinois Health
19 Information Exchange Authority involving private funds
20 from the Health Information Exchange Fund. "Private funds"
21 means gifts, donations, and private grants.

22 (11) Public-private agreements entered into according
23 to the procurement requirements of Section 20 of the
24 Public-Private Partnerships for Transportation Act and
25 design-build agreements entered into according to the
26 procurement requirements of Section 25 of the

1 Public-Private Partnerships for Transportation Act.

2 (12) Contracts for legal, financial, and other
3 professional and artistic services entered into on or
4 before December 31, 2018 by the Illinois Finance Authority
5 in which the State of Illinois is not obligated. Such
6 contracts shall be awarded through a competitive process
7 authorized by the Board of the Illinois Finance Authority
8 and are subject to Sections 5-30, 20-160, 50-13, 50-20,
9 50-35, and 50-37 of this Code, as well as the final
10 approval by the Board of the Illinois Finance Authority of
11 the terms of the contract.

12 (13) Procurement expenditures by the Illinois State
13 Fairgrounds Foundation when only private funds are used.

14 Notwithstanding any other provision of law, contracts
15 entered into under item (12) of this subsection (b) shall be
16 published in the Procurement Bulletin within 14 calendar days
17 after contract execution. The chief procurement officer shall
18 prescribe the form and content of the notice. The Illinois
19 Finance Authority shall provide the chief procurement officer,
20 on a monthly basis, in the form and content prescribed by the
21 chief procurement officer, a report of contracts that are
22 related to the procurement of goods and services identified in
23 item (12) of this subsection (b). At a minimum, this report
24 shall include the name of the contractor, a description of the
25 supply or service provided, the total amount of the contract,
26 the term of the contract, and the exception to the Code

1 utilized. A copy of each of these contracts shall be made
2 available to the chief procurement officer immediately upon
3 request. The chief procurement officer shall submit a report to
4 the Governor and General Assembly no later than November 1 of
5 each year that shall include, at a minimum, an annual summary
6 of the monthly information reported to the chief procurement
7 officer.

8 (c) This Code does not apply to the electric power
9 procurement process provided for under Section 1-75 of the
10 Illinois Power Agency Act and Section 16-111.5 of the Public
11 Utilities Act.

12 (d) Except for Section 20-160 and Article 50 of this Code,
13 and as expressly required by Section 9.1 of the Illinois
14 Lottery Law, the provisions of this Code do not apply to the
15 procurement process provided for under Section 9.1 of the
16 Illinois Lottery Law.

17 (e) This Code does not apply to the process used by the
18 Capital Development Board to retain a person or entity to
19 assist the Capital Development Board with its duties related to
20 the determination of costs of a clean coal SNG brownfield
21 facility, as defined by Section 1-10 of the Illinois Power
22 Agency Act, as required in subsection (h-3) of Section 9-220 of
23 the Public Utilities Act, including calculating the range of
24 capital costs, the range of operating and maintenance costs, or
25 the sequestration costs or monitoring the construction of clean
26 coal SNG brownfield facility for the full duration of

1 construction.

2 (f) This Code does not apply to the process used by the
3 Illinois Power Agency to retain a mediator to mediate sourcing
4 agreement disputes between gas utilities and the clean coal SNG
5 brownfield facility, as defined in Section 1-10 of the Illinois
6 Power Agency Act, as required under subsection (h-1) of Section
7 9-220 of the Public Utilities Act.

8 (g) This Code does not apply to the processes used by the
9 Illinois Power Agency to retain a mediator to mediate contract
10 disputes between gas utilities and the clean coal SNG facility
11 and to retain an expert to assist in the review of contracts
12 under subsection (h) of Section 9-220 of the Public Utilities
13 Act. This Code does not apply to the process used by the
14 Illinois Commerce Commission to retain an expert to assist in
15 determining the actual incurred costs of the clean coal SNG
16 facility and the reasonableness of those costs as required
17 under subsection (h) of Section 9-220 of the Public Utilities
18 Act.

19 (h) This Code does not apply to the process to procure or
20 contracts entered into in accordance with Sections 11-5.2 and
21 11-5.3 of the Illinois Public Aid Code.

22 (i) Each chief procurement officer may access records
23 necessary to review whether a contract, purchase, or other
24 expenditure is or is not subject to the provisions of this
25 Code, unless such records would be subject to attorney-client
26 privilege.

1 (j) This Code does not apply to the process used by the
2 Capital Development Board to retain an artist or work or works
3 of art as required in Section 14 of the Capital Development
4 Board Act.

5 (k) This Code does not apply to the process to procure
6 contracts, or contracts entered into, by the State Board of
7 Elections or the State Electoral Board for hearing officers
8 appointed pursuant to the Election Code.

9 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,
10 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;
11 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;
12 98-572, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1076, eff.
13 1-1-15.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.