



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2421

Introduced 2/17/2021, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

105 ILCS 5/34-21.3

from Ch. 122, par. 34-21.3

Amends the School Code. Provides that a school board may award contracts for the purchase of supplies and materials or work involving an expenditure in excess of \$50,000 or a lower amount as required by board policy to the lowest responsible and responsive bidder or to the bidder determined to best meet the needs of the board, considering such factors as conformity with specifications, terms of delivery, quality, and serviceability and such other performance criteria determined by board policy and included in the bid documents, and then price (rather than awarding contracts for the purchase of supplies and materials or work involving an expenditure in excess of \$25,000 or a lower amount as required by board policy to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality, and serviceability), after due advertisement. Provides for an exception for contracts for the repair, maintenance, remodeling, renovation, or construction or a single project involving an expenditure not to exceed \$100,000 (rather than \$50,000) and not involving a change or increase in the size, type, or extent of an existing facility. Makes related changes.

LRB102 12993 CMG 18336 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections
5 10-20.21 and 34-21.3 as follows:

6 (105 ILCS 5/10-20.21)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for the purchase of supplies
9 and materials or work involving an expenditure in excess of
10 \$50,000 ~~\$25,000~~ or a lower amount as required by board policy
11 to the lowest responsible and responsive bidder or to the
12 bidder determined to best meet the needs of the board,
13 considering such factors as conformity with specifications,
14 terms of delivery, quality, and serviceability and such other
15 performance criteria determined by board policy and included
16 in the bid documents, and then price, after due advertisement,
17 except the following: (i) contracts for the services of
18 individuals possessing a high degree of professional skill
19 where the ability or fitness of the individual plays an
20 important part; (ii) contracts for the printing of finance
21 committee reports and departmental reports; (iii) contracts
22 for the printing or engraving of bonds, tax warrants and other
23 evidences of indebtedness; (iv) contracts for the purchase of

1 perishable foods and perishable beverages; (v) contracts for
2 materials and work which have been awarded to the lowest
3 responsible bidder after due advertisement, but due to
4 unforeseen revisions, not the fault of the contractor for
5 materials and work, must be revised causing expenditures not
6 in excess of 10% of the contract price; (vi) contracts for the
7 maintenance or servicing of, or provision of repair parts for,
8 equipment which are made with the manufacturer or authorized
9 service agent of that equipment where the provision of parts,
10 maintenance, or servicing can best be performed by the
11 manufacturer or authorized service agent; (vii) purchases and
12 contracts for the use, purchase, delivery, movement, or
13 installation of data processing equipment, software, or
14 services and telecommunications and interconnect equipment,
15 software, and services; (viii) contracts for duplicating
16 machines and supplies; (ix) contracts for the purchase of
17 fuel, including diesel, gasoline, oil, aviation, natural gas,
18 or propane, lubricants, or other petroleum products; (x)
19 purchases of equipment previously owned by some entity other
20 than the district itself; (xi) contracts for repair,
21 maintenance, remodeling, renovation, or construction, or a
22 single project involving an expenditure not to exceed \$100,000
23 ~~\$50,000~~ and not involving a change or increase in the size,
24 type, or extent of an existing facility; (xii) contracts for
25 goods or services procured from another governmental agency;
26 (xiii) contracts for goods or services which are economically

1 procurable from only one source, such as for the purchase of
2 magazines, books, periodicals, pamphlets and reports, and for
3 utility services such as water, light, heat, telephone or
4 telegraph; (xiv) where funds are expended in an emergency and
5 such emergency expenditure is approved by 3/4 of the members
6 of the board; (xv) State master contracts authorized under
7 Article 28A of this Code; and (xvi) contracts providing for
8 the transportation of pupils, which contracts must be
9 advertised in the same manner as competitive bids and awarded
10 by first considering the bidder or bidders most able to
11 provide safety and comfort for the pupils, stability of
12 service, and any other factors set forth in the request for
13 proposal regarding quality of service, and then price.
14 However, at no time shall a cause of action lie against a
15 school board for awarding a pupil transportation contract per
16 the standards set forth in this subsection (a) unless the
17 cause of action is based on fraudulent conduct.

18 All competitive bids for contracts involving an
19 expenditure in excess of \$50,000 ~~\$25,000~~ or a lower amount as
20 required by board policy must be sealed by the bidder and must
21 be opened by a member or employee of the school board at a
22 public bid opening at which the contents of the bids must be
23 announced. Each bidder must receive at least 3 days' notice of
24 the time and place of the bid opening. For purposes of this
25 Section due advertisement includes, but is not limited to, at
26 least one public notice at least 10 days before the bid date in

1 a newspaper published in the district, or if no newspaper is
2 published in the district, in a newspaper of general
3 circulation in the area of the district. State master
4 contracts and certified education purchasing contracts, as
5 defined in Article 28A of this Code, are not subject to the
6 requirements of this paragraph.

7 Under this Section, the acceptance of bids sealed by a
8 bidder and the opening of these bids at a public bid opening
9 may be permitted by an electronic process for communicating,
10 accepting, and opening competitive bids. An electronic bidding
11 process must provide for, but is not limited to, the following
12 safeguards:

13 (1) On the date and time certain of a bid opening, the
14 primary person conducting the competitive, sealed,
15 electronic bid process shall log onto a specified database
16 using a unique username and password previously assigned
17 to the bidder to allow access to the bidder's specific bid
18 project number.

19 (2) The specified electronic database must be on a
20 network that (i) is in a secure environment behind a
21 firewall; (ii) has specific encryption tools; (iii)
22 maintains specific intrusion detection systems; (iv) has
23 redundant systems architecture with data storage back-up,
24 whether by compact disc or tape; and (v) maintains a
25 disaster recovery plan.

26 It is the legislative intent of Public Act 96-841 to maintain

1 the integrity of the sealed bidding process provided for in
2 this Section, to further limit any possibility of bid-rigging,
3 to reduce administrative costs to school districts, and to
4 effect efficiencies in communications with bidders.

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

1 To require that bids and contracts include a certification
2 by the bidder or contractor that the bidder or contractor is
3 not barred from bidding for or entering into a contract under
4 this Section and that the bidder or contractor acknowledges
5 that the school board may declare the contract void if the
6 certification completed pursuant to this subsection (b) is
7 false.

8 (b-5) To require all contracts and agreements that pertain
9 to goods and services and that are intended to generate
10 additional revenue and other remunerations for the school
11 district in excess of \$1,000, including without limitation
12 vending machine contracts, sports and other attire, class
13 rings, and photographic services, to be approved by the school
14 board. The school board shall file as an attachment to its
15 annual budget a report, in a form as determined by the State
16 Board of Education, indicating for the prior year the name of
17 the vendor, the product or service provided, and the actual
18 net revenue and non-monetary remuneration from each of the
19 contracts or agreements. In addition, the report shall
20 indicate for what purpose the revenue was used and how and to
21 whom the non-monetary remuneration was distributed.

22 (b-10) To prohibit any contract to purchase food with a
23 bidder or offeror if the bidder's or offeror's contract terms
24 prohibit the school from donating food to food banks,
25 including, but not limited to, homeless shelters, food
26 pantries, and soup kitchens.

1 (c) If the State education purchasing entity creates a
2 master contract as defined in Article 28A of this Code, then
3 the State education purchasing entity shall notify school
4 districts of the existence of the master contract.

5 (d) In purchasing supplies, materials, equipment, or
6 services that are not subject to subsection (c) of this
7 Section, before a school district solicits bids or awards a
8 contract, the district may review and consider as a bid under
9 subsection (a) of this Section certified education purchasing
10 contracts that are already available through the State
11 education purchasing entity.

12 (Source: P.A. 101-570, eff. 8-23-19; 101-632, eff. 6-5-20.)

13 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

14 Sec. 34-21.3. Contracts. The board shall by record vote
15 let all contracts (other than those excepted by Section
16 10-20.21 of The School Code) for supplies, materials, work,
17 and contracts with private carriers for transportation of
18 pupils, involving an expenditure in excess of \$50,000 ~~\$25,000~~
19 or a lower amount as required by board policy by competitive
20 bidding as provided in Section 10-20.21 of The School Code.

21 The board may delegate to the general superintendent of
22 schools, by resolution, the authority to approve contracts in
23 amounts of \$50,000 ~~\$25,000~~ or less.

24 For a period of one year from and after the expiration or
25 other termination of his or her term of office as a member of

1 the board: (i) the former board member shall not be eligible
2 for employment nor be employed by the board, a local school
3 council, an attendance center, or any other subdivision or
4 agent of the board or the school district governed by the
5 board, and (ii) neither the board nor the chief purchasing
6 officer shall let or delegate authority to let any contract
7 for services, employment, or other work to the former board
8 member or to any corporation, partnership, association, sole
9 proprietorship, or other entity other than publicly traded
10 companies from which the former board member receives an
11 annual income, dividends, or other compensation in excess of
12 \$1,500. Any contract that is entered into by or under a
13 delegation of authority from the board or the chief purchasing
14 officer shall contain a provision stating that the contract is
15 not legally binding on the board if entered into in violation
16 of the provisions of this paragraph.

17 In addition, the State Board of Education, in consultation
18 with the board, shall (i) review existing conflict of interest
19 and disclosure laws or regulations that are applicable to the
20 executive officers and governing boards of school districts
21 organized under this Article and school districts generally,
22 (ii) determine what additional disclosure and conflict of
23 interest provisions would enhance the reputation and fiscal
24 integrity of the board and the procedure under which contracts
25 for goods and services are let, and (iii) develop appropriate
26 reporting forms and procedures applicable to the executive

1 officers, governing board, and other officials of the school
2 district.

3 (Source: P.A. 95-990, eff. 10-3-08.)