



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2108

Introduced 2/7/2023, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-22.34c

Amends the School Code. Allows a board of education to enter into a contract, of no longer than 3 months in duration, with a third party for non-instructional services currently performed by an employee or bargaining unit member in an emergency situation that threatens the safety or health of the school district's students or staff or in the event of a disaster as defined in the Illinois Emergency Management Agency Act (instead of for the purpose of augmenting the current workforce in an emergency situation that threatens the safety or health of the school district's students). Provides that if, at the end of the contract, the Governor or the Director of Public Health has declared a disaster and all or part of the territory of the school district is covered by such a declaration, then the school board may renew the contract for a term of no longer than 3 months. Provides that changes made by Public Act 95-241 do not apply to a school board if the school district's most recent final percent of adequacy under the evidence-based funding formula provisions is less than 85%. Allows a school board whose most recent final percent of adequacy is less than 85% to enter into a third-party contract for non-instructional services currently performed by an employee or bargaining unit member or lay off an educational support personnel employee, provided that the affected employee receives written notice of the removal or dismissal at least 30 days before the employee is removed or dismissed.

LRB103 04726 RJT 49735 b

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 10-22.34c as follows:

6 (105 ILCS 5/10-22.34c)

7 Sec. 10-22.34c. Third party non-instructional services.

8 (a) Except as otherwise provided in subsection (d), a ~~A~~
9 board of education may enter into a contract with a third party
10 for non-instructional services currently performed by any
11 employee or bargaining unit member or lay off those
12 educational support personnel employees upon 90 days written
13 notice to the affected employees, provided that:

14 (1) a contract must not be entered into and become
15 effective during the term of a collective bargaining
16 agreement, as that term is set forth in the agreement,
17 covering any employees who perform the non-instructional
18 services;

19 (2) a contract may only take effect upon the
20 expiration of an existing collective bargaining agreement;

21 (3) any third party that submits a bid to perform the
22 non-instructional services shall provide the following:

23 (A) evidence of liability insurance in scope and

1 amount equivalent to the liability insurance provided
2 by the school board pursuant to Section 10-22.3 of
3 this Code;

4 (B) a benefits package for the third party's
5 employees who will perform the non-instructional
6 services comparable to the benefits package provided
7 to school board employees who perform those services;

8 (C) a list of the number of employees who will
9 provide the non-instructional services, the job
10 classifications of those employees, and the wages the
11 third party will pay those employees;

12 (D) a minimum 3-year cost projection, using
13 generally accepted accounting principles and which the
14 third party is prohibited from increasing if the bid
15 is accepted by the school board, for each and every
16 expenditure category and account for performing the
17 non-instructional services;

18 (E) composite information about the criminal and
19 disciplinary records, including alcohol or other
20 substance abuse, Department of Children and Family
21 Services complaints and investigations, traffic
22 violations, and license revocations or any other
23 licensure problems, of any employees who may perform
24 the non-instructional services, provided that the
25 individual names and other identifying information of
26 employees need not be provided with the submission of

1 the bid, but must be made available upon request of the
2 school board; and

3 (F) an affidavit, notarized by the president or
4 chief executive officer of the third party, that each
5 of its employees has completed a criminal background
6 check as required by Section 10-21.9 of this Code
7 within 3 months prior to submission of the bid,
8 provided that the results of such background checks
9 need not be provided with the submission of the bid,
10 but must be made available upon request of the school
11 board;

12 (4) a contract must not be entered into unless the
13 school board provides a cost comparison, using generally
14 accepted accounting principles, of each and every
15 expenditure category and account that the school board
16 projects it would incur over the term of the contract if it
17 continued to perform the non-instructional services using
18 its own employees with each and every expenditure category
19 and account that is projected a third party would incur if
20 a third party performed the non-instructional services;

21 (5) review and consideration of all bids by third
22 parties to perform the non-instructional services shall
23 take place in open session of a regularly scheduled school
24 board meeting, unless the exclusive bargaining
25 representative of the employees who perform the
26 non-instructional services, if any such exclusive

1 bargaining representative exists, agrees in writing that
2 such review and consideration can take place in open
3 session at a specially scheduled school board meeting;

4 (6) a minimum of one public hearing, conducted by the
5 school board prior to a regularly scheduled school board
6 meeting, to discuss the school board's proposal to
7 contract with a third party to perform the
8 non-instructional services must be held before the school
9 board may enter into such a contract; the school board
10 must provide notice to the public of the date, time, and
11 location of the first public hearing on or before the
12 initial date that bids to provide the non-instructional
13 services are solicited or a minimum of 30 days prior to
14 entering into such a contract, whichever provides a
15 greater period of notice;

16 (7) a contract shall contain provisions requiring the
17 contractor to offer available employee positions pursuant
18 to the contract to qualified school district employees
19 whose employment is terminated because of the contract;
20 and

21 (8) a contract shall contain provisions requiring the
22 contractor to comply with a policy of nondiscrimination
23 and equal employment opportunity for all persons and to
24 take affirmative steps to provide equal opportunity for
25 all persons.

26 (b) Notwithstanding subsection (a) of this Section, a

1 board of education may enter into a contract, of no longer than
2 3 months in duration, with a third party for non-instructional
3 services currently performed by an employee or bargaining unit
4 member ~~for the purpose of augmenting the current workforce~~ in
5 an emergency situation that threatens the safety or health of
6 the school district's students or staff or in the event of a
7 disaster as defined in Section 4 of the Illinois Emergency
8 Management Agency Act, provided that the school board meets
9 all of its obligations under the Illinois Educational Labor
10 Relations Act. However, if, at the end of a contract that was
11 entered into under this subsection (b), the Governor or the
12 Director of Public Health has declared a disaster and all or
13 part of the territory of the school district is covered by such
14 a declaration, then the school board may renew the contract
15 for a term of no longer than 3 months.

16 (c) The changes to this Section made by Public Act 95-241
17 ~~this amendatory Act of the 95th General Assembly~~ are not
18 applicable to non-instructional services of a school district
19 that ~~on the effective date of this amendatory Act of the 95th~~
20 ~~General Assembly~~ are performed for the school district by a
21 third party (i) on August 17, 2007 (the effective date of
22 Public Act 95-241) or (ii) pursuant to a contract entered into
23 during any fiscal year in which the changes made to this
24 Section by Public Act 95-241 do not apply pursuant to
25 subsection (d) of this Section.

26 (d) The changes to this Section made by Public Act 95-241

1 do not apply to a school board if the school district's most
2 recent Final Percent of Adequacy, as defined in paragraph (4)
3 of subsection (f) of Section 18-8.15 of this Code, is less than
4 85%. Notwithstanding any other provision of this Code to the
5 contrary, a school board whose most recent Final Percent of
6 Adequacy is less than 85% may enter into a third-party
7 contract for non-instructional services currently performed by
8 an employee or bargaining unit member or lay off an
9 educational support personnel employee in accordance with
10 Section 10-23.5 of this Code, provided that the affected
11 employee receives written notice of the removal or dismissal
12 at least 30 days before the employee is removed or dismissed.

13 (Source: P.A. 95-241, eff. 8-17-07; 96-328, eff. 8-11-09.)