



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5916

Introduced 2/16/2012, by Rep. Chapin Rose

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

Amends the School Code. With respect to contracts with private carriers for the transportation of pupils being awarded to the lowest responsible bidder, provides that the consideration of quality may include past performance in this State or any other state under a similar contract. Provides that a school board may, before awarding a contract to the lowest responsible bidder, give a private carrier located no more than 45 miles from the school district's boundaries the opportunity to offer the transportation services for the same amount as the lowest responsible bidder. If so, allows the board to award the contract to the local private carrier instead.

LRB097 18912 NHT 64150 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 Section  
5 10-20.21 as follows:

6 (105 ILCS 5/10-20.21)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,  
9 materials or work or contracts with private carriers for  
10 transportation of pupils involving an expenditure in excess of  
11 \$25,000 or a lower amount as required by board policy to the  
12 lowest responsible bidder, considering conformity with  
13 specifications, terms of delivery, quality (which, with  
14 respect to contracts with private carriers for the  
15 transportation of pupils, may include past performance in this  
16 State or any other state under a similar contract), and  
17 serviceability, after due advertisement, except the following:  
18 (i) contracts for the services of individuals possessing a high  
19 degree of professional skill where the ability or fitness of  
20 the individual plays an important part; (ii) contracts for the  
21 printing of finance committee reports and departmental  
22 reports; (iii) contracts for the printing or engraving of  
23 bonds, tax warrants and other evidences of indebtedness; (iv)

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

1 only one source, such as for the purchase of magazines, books,  
2 periodicals, pamphlets and reports, and for utility services  
3 such as water, light, heat, telephone or telegraph; (xiv) where  
4 funds are expended in an emergency and such emergency  
5 expenditure is approved by 3/4 of the members of the board;  
6 (xv) State master contracts authorized under Article 28A of  
7 this Code; and (xvi) contracts providing for the transportation  
8 of pupils with special needs or disabilities, which contracts  
9 must be advertised in the same manner as competitive bids and  
10 awarded by first considering the bidder or bidders most able to  
11 provide safety and comfort for the pupils with special needs or  
12 disabilities, stability of service, and any other factors set  
13 forth in the request for proposal regarding quality of service,  
14 and then price.

15 All competitive bids for contracts involving an  
16 expenditure in excess of \$25,000 or a lower amount as required  
17 by board policy must be sealed by the bidder and must be opened  
18 by a member or employee of the school board at a public bid  
19 opening at which the contents of the bids must be announced.  
20 Each bidder must receive at least 3 days' notice of the time  
21 and place of the bid opening. For purposes of this Section due  
22 advertisement includes, but is not limited to, at least one  
23 public notice at least 10 days before the bid date in a  
24 newspaper published in the district, or if no newspaper is  
25 published in the district, in a newspaper of general  
26 circulation in the area of the district. State master contracts

1 and certified education purchasing contracts, as defined in  
2 Article 28A of this Code, are not subject to the requirements  
3 of this paragraph.

4 Under this Section, the acceptance of bids sealed by a  
5 bidder and the opening of these bids at a public bid opening  
6 may be permitted by an electronic process for communicating,  
7 accepting, and opening competitive bids. However, bids for  
8 construction purposes are prohibited from being communicated,  
9 accepted, or opened electronically. An electronic bidding  
10 process must provide for, but is not limited to, the following  
11 safeguards:

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

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

25 It is the legislative intent of Public Act 96-841 to maintain  
26 the integrity of the sealed bidding process provided for in

1 this Section, to further limit any possibility of bid-rigging,  
2 to reduce administrative costs to school districts, and to  
3 effect efficiencies in communications with bidders.

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

26 To require that bids and contracts include a certification

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

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

21 (c) If the State education purchasing entity creates a  
22 master contract as defined in Article 28A of this Code, then  
23 the State education purchasing entity shall notify school  
24 districts of the existence of the master contract.

25 (d) In purchasing supplies, materials, equipment, or  
26 services that are not subject to subsection (c) of this

1 Section, before a school district solicits bids or awards a  
2 contract, the district may review and consider as a bid under  
3 subsection (a) of this Section certified education purchasing  
4 contracts that are already available through the State  
5 education purchasing entity.

6 (e) Notwithstanding any other provision of this Section,  
7 with respect to contracts with private carriers for the  
8 transportation of pupils, the board may, before awarding a  
9 contract to the lowest responsible bidder, give a private  
10 carrier located no more than 45 miles from the school  
11 district's boundaries the opportunity to offer the  
12 transportation services for the same amount as the lowest  
13 responsible bidder. If so, the board may award the contract to  
14 this local private carrier instead.

15 (Source: P.A. 95-990, eff. 10-3-08; 96-392, eff. 1-1-10;  
16 96-841, eff. 12-23-09; 96-1000, eff. 7-2-10.)