

SB3802



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3802

Introduced 2/10/2012, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-15.30
30 ILCS 500/20-60
30 ILCS 500/40-25

Amends the Illinois Procurement Code. Provides that State agreements for performance contracting shall be included in the definition of "contract". Provides that a performance contract shall not be entered into for a period of time exceeding 20 years. Provides that installment payment performance contracts and performance-based lease purchase agreements that guarantee energy or operational cost savings shall be for a term not to exceed 20 years. Effective immediately.

LRB097 20447 PJG 65947 b

FISCAL NOTE ACT
MAY APPLY

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 changing Sections 1-15.30, 20-60, and 40-25 as follows:

6 (30 ILCS 500/1-15.30)

7 Sec. 1-15.30. Contract. "Contract" means all types of State
8 agreements, including change orders and renewals, regardless
9 of what they may be called, for the procurement, use, or
10 disposal of supplies, services, professional or artistic
11 services, or construction or for leases of real property,
12 whether the State is lessor or lessee, or capital improvements,
13 or performance contracting, and including master contracts,
14 contracts for financing through use of installment or
15 lease-purchase arrangements, renegotiated contracts,
16 amendments to contracts, and change orders.

17 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
18 for the effective date of changes made by P.A. 96-795).)

19 (30 ILCS 500/20-60)

20 Sec. 20-60. Duration of contracts.

21 (a) Maximum duration. A contract, other than a contract
22 entered into pursuant to the State University Certificates of

1 Participation Act or a performance contract that guarantees
2 energy or operational cost savings, may be entered into for any
3 period of time deemed to be in the best interests of the State
4 but not exceeding 10 years inclusive, beginning January 1,
5 2010, of proposed contract renewals. A performance contract
6 shall not be entered into for a period of time exceeding 20
7 years, beginning July 1, 2012. The length of a lease for real
8 property or capital improvements shall be in accordance with
9 the provisions of Section 40-25. A contract for bond or
10 mortgage insurance awarded by the Illinois Housing Development
11 Authority, however, may be entered into for any period of time
12 less than or equal to the maximum period of time that the
13 subject bond or mortgage may remain outstanding.

14 (b) Subject to appropriation. All contracts made or entered
15 into shall recite that they are subject to termination and
16 cancellation in any year for which the General Assembly fails
17 to make an appropriation to make payments under the terms of
18 the contract.

19 (c) The chief procurement officer shall file a proposed
20 extension or renewal of a contract with the Procurement Policy
21 Board prior to entering into any extension or renewal if the
22 cost associated with the extension or renewal exceeds \$249,999.
23 The Procurement Policy Board may object to the proposed
24 extension or renewal within 30 calendar days and require a
25 hearing before the Board prior to entering into the extension
26 or renewal. If the Procurement Policy Board does not object

1 within 30 calendar days or takes affirmative action to
2 recommend the extension or renewal, the chief procurement
3 officer may enter into the extension or renewal of a contract.
4 This subsection does not apply to any emergency procurement,
5 any procurement under Article 40, or any procurement exempted
6 by Section 1-10(b) of this Code. If any State agency contract
7 is paid for in whole or in part with federal-aid funds, grants,
8 or loans and the provisions of this subsection would result in
9 the loss of those federal-aid funds, grants, or loans, then the
10 contract is exempt from the provisions of this subsection in
11 order to remain eligible for those federal-aid funds, grants,
12 or loans, and the State agency shall file notice of this
13 exemption with the Procurement Policy Board prior to entering
14 into the proposed extension or renewal. Nothing in this
15 subsection permits a chief procurement officer to enter into an
16 extension or renewal in violation of subsection (a). By August
17 1 each year, the Procurement Policy Board shall file a report
18 with the General Assembly identifying for the previous fiscal
19 year (i) the proposed extensions or renewals that were filed
20 with the Board and whether the Board objected and (ii) the
21 contracts exempt from this subsection.

22 (Source: P.A. 95-344, eff. 8-21-07; 96-15, eff. 6-22-09;
23 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
24 effective date of changes made by P.A. 96-795); 96-920, eff.
25 7-1-10; 96-1478, eff. 8-23-10.)

1 (30 ILCS 500/40-25)

2 Sec. 40-25. Length of leases.

3 (a) Maximum term. Except for installment payment
4 performance contracts and performance-based lease purchase
5 agreements, leases ~~Leases~~ shall be for a term not to exceed 10
6 years inclusive, beginning January, 1, 2010, of proposed
7 contract renewals and shall include a termination option in
8 favor of the State after 5 years. Installment payment
9 performance contracts and performance-based lease purchase
10 agreements that guarantee energy or operational cost savings
11 shall be for a term not to exceed 20 years.

12 (b) Renewal. Leases may include a renewal option. An option
13 to renew may be exercised only when a State purchasing officer
14 determines in writing that renewal is in the best interest of
15 the State and notice of the exercise of the option is published
16 in the appropriate volume of the Procurement Bulletin at least
17 60 days prior to the exercise of the option.

18 (c) Subject to appropriation. All leases shall recite that
19 they are subject to termination and cancellation in any year
20 for which the General Assembly fails to make an appropriation
21 to make payments under the terms of the lease.

22 (d) Holdover. Beginning January 1, 2010, no lease may
23 continue on a month-to-month or other holdover basis for a
24 total of more than 6 months. Beginning July 1, 2010, the
25 Comptroller shall withhold payment of leases beyond this
26 holdover period.

1 (Source: P.A. 96-15, eff. 6-22-09; 96-795, eff. 7-1-10 (see
2 Section 5 of P.A. 96-793 for the effective date of changes made
3 by P.A. 96-795).)

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