



Rep. Jehan A. Gordon-Booth

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1 AMENDMENT TO HOUSE BILL 3232

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3232 by replacing  
3 everything after the enacting clause with the following:

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 and  
9 materials or work involving an expenditure in excess of \$25,000  
10 or a lower amount as required by board policy to the lowest  
11 responsible bidder, considering conformity with  
12 specifications, terms of delivery, quality and serviceability,  
13 after due advertisement, except the following: (i) contracts  
14 for the services of individuals possessing a high degree of  
15 professional skill where the ability or fitness of the  
16 individual plays an important part; (ii) contracts for the

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

1 an existing facility; (xii) contracts for goods or services  
2 procured from another governmental agency; (xiii) contracts  
3 for goods or services which are economically procurable from  
4 only one source, such as for the purchase of magazines, books,  
5 periodicals, pamphlets and reports, and for utility services  
6 such as water, light, heat, telephone or telegraph; (xiv) where  
7 funds are expended in an emergency and such emergency  
8 expenditure is approved by 3/4 of the members of the board;  
9 (xv) State master contracts authorized under Article 28A of  
10 this Code; ~~and~~ (xvi) contracts providing for the transportation  
11 of pupils, which contracts must be advertised in the same  
12 manner as competitive bids and awarded by first considering the  
13 bidder or bidders most able to provide safety and comfort for  
14 the pupils, stability of service, and any other factors set  
15 forth in the request for proposal regarding quality of service,  
16 and then price; and (xvii) contracts awarded to a contractor  
17 located in the county where the school district or any portion  
18 of the school district is situated who is not the lowest  
19 bidder, but who is a responsible bidder who qualifies under  
20 this Section and who has submitted a bid that does not exceed  
21 2% over the lowest responsible bid received by the board.  
22 However, at no time shall a cause of action lie against a  
23 school board for awarding a pupil transportation contract per  
24 the standards set forth in this subsection (a) unless the cause  
25 of action is based on fraudulent conduct.

26 All competitive bids for contracts involving an

1 expenditure in excess of \$25,000 or a lower amount as required  
2 by board policy must be sealed by the bidder and must be opened  
3 by a member or employee of the school board at a public bid  
4 opening at which the contents of the bids must be announced.  
5 Each bidder must receive at least 3 days' notice of the time  
6 and place of the bid opening. For purposes of this Section due  
7 advertisement includes, but is not limited to, at least one  
8 public notice at least 10 days before the bid date in a  
9 newspaper published in the district, or if no newspaper is  
10 published in the district, in a newspaper of general  
11 circulation in the area of the district. State master contracts  
12 and certified education purchasing contracts, as defined in  
13 Article 28A of this Code, are not subject to the requirements  
14 of this paragraph.

15 Under this Section, the acceptance of bids sealed by a  
16 bidder and the opening of these bids at a public bid opening  
17 may be permitted by an electronic process for communicating,  
18 accepting, and opening competitive bids. However, bids for  
19 construction purposes are prohibited from being communicated,  
20 accepted, or opened electronically. An electronic bidding  
21 process must provide for, but is not limited to, the following  
22 safeguards:

23 (1) On the date and time certain of a bid opening, the  
24 primary person conducting the competitive, sealed,  
25 electronic bid process shall log onto a specified database  
26 using a unique username and password previously assigned to

1 the bidder to allow access to the bidder's specific bid  
2 project number.

3 (2) The specified electronic database must be on a  
4 network that (i) is in a secure environment behind a  
5 firewall; (ii) has specific encryption tools; (iii)  
6 maintains specific intrusion detection systems; (iv) has  
7 redundant systems architecture with data storage back-up,  
8 whether by compact disc or tape; and (v) maintains a  
9 disaster recovery plan.

10 It is the legislative intent of Public Act 96-841 to maintain  
11 the integrity of the sealed bidding process provided for in  
12 this Section, to further limit any possibility of bid-rigging,  
13 to reduce administrative costs to school districts, and to  
14 effect efficiencies in communications with bidders.

15 (b) To require, as a condition of any contract for goods  
16 and services, that persons bidding for and awarded a contract  
17 and all affiliates of the person collect and remit Illinois Use  
18 Tax on all sales of tangible personal property into the State  
19 of Illinois in accordance with the provisions of the Illinois  
20 Use Tax Act regardless of whether the person or affiliate is a  
21 "retailer maintaining a place of business within this State" as  
22 defined in Section 2 of the Use Tax Act. For purposes of this  
23 Section, the term "affiliate" means any entity that (1)  
24 directly, indirectly, or constructively controls another  
25 entity, (2) is directly, indirectly, or constructively  
26 controlled by another entity, or (3) is subject to the control

1 of a common entity. For purposes of this subsection (b), an  
2 entity controls another entity if it owns, directly or  
3 individually, more than 10% of the voting securities of that  
4 entity. As used in this subsection (b), the term "voting  
5 security" means a security that (1) confers upon the holder the  
6 right to vote for the election of members of the board of  
7 directors or similar governing body of the business or (2) is  
8 convertible into, or entitles the holder to receive upon its  
9 exercise, a security that confers such a right to vote. A  
10 general partnership interest is a voting security.

11 To require that bids and contracts include a certification  
12 by the bidder or contractor that the bidder or contractor is  
13 not barred from bidding for or entering into a contract under  
14 this Section and that the bidder or contractor acknowledges  
15 that the school board may declare the contract void if the  
16 certification completed pursuant to this subsection (b) is  
17 false.

18 (b-5) To require all contracts and agreements that pertain  
19 to goods and services and that are intended to generate  
20 additional revenue and other remunerations for the school  
21 district in excess of \$1,000, including without limitation  
22 vending machine contracts, sports and other attire, class  
23 rings, and photographic services, to be approved by the school  
24 board. The school board shall file as an attachment to its  
25 annual budget a report, in a form as determined by the State  
26 Board of Education, indicating for the prior year the name of

1 the vendor, the product or service provided, and the actual net  
2 revenue and non-monetary remuneration from each of the  
3 contracts or agreements. In addition, the report shall indicate  
4 for what purpose the revenue was used and how and to whom the  
5 non-monetary remuneration was distributed.

6 (c) If the State education purchasing entity creates a  
7 master contract as defined in Article 28A of this Code, then  
8 the State education purchasing entity shall notify school  
9 districts of the existence of the master contract.

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

17 (Source: P.A. 96-392, eff. 1-1-10; 96-841, eff. 12-23-09;  
18 96-1000, eff. 7-2-10; 97-951, eff. 8-13-12.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law."