



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB2442**

Introduced 2/17/2015, by Rep. Dwight Kay

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that on and after the effective date of this Act, contracts of \$250,000 or more between the State or any State agency and another state or the federal government may be entered into only by a separate Act of the General Assembly. Provides that a contract executed before the effective date of this amendatory Act valued at more than \$250,000 between the State or any State agency and another state or the federal government may be renewed or extended only by a separate Act of the General Assembly. Provides that copies of such contract shall be filed with the Index Department of the Office of the Secretary of State upon execution. Effective immediately.

LRB099 03812 SXM 23825 b

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 Section 1-10 as follows:

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

8 (a) This Code applies only to procurements for which  
9 bidders, offerors, potential contractors, or contractors were  
10 first solicited on or after July 1, 1998. This Code shall not  
11 be construed to affect or impair any contract, or any provision  
12 of a contract, entered into based on a solicitation prior to  
13 the implementation date of this Code as described in Article  
14 99, including but not limited to any covenant entered into with  
15 respect to any revenue bonds or similar instruments. All  
16 procurements for which contracts are solicited between the  
17 effective date of Articles 50 and 99 and July 1, 1998 shall be  
18 substantially in accordance with this Code and its intent.

19 (b) This Code shall apply regardless of the source of the  
20 funds with which the contracts are paid, including federal  
21 assistance moneys. This Code shall not apply to:

22 (1) Contracts between the State and its political  
23 subdivisions or units of local government ~~other~~

1 ~~governments~~, or between State governmental bodies except  
2 as specifically provided in this Code.

3 (2) Grants, except for the filing requirements of  
4 Section 20-80.

5 (3) Purchase of care.

6 (4) Hiring of an individual as employee and not as an  
7 independent contractor, whether pursuant to an employment  
8 code or policy or by contract directly with that  
9 individual.

10 (5) Collective bargaining contracts.

11 (6) Purchase of real estate, except that notice of this  
12 type of contract with a value of more than \$25,000 must be  
13 published in the Procurement Bulletin within 10 calendar  
14 days after the deed is recorded in the county of  
15 jurisdiction. The notice shall identify the real estate  
16 purchased, the names of all parties to the contract, the  
17 value of the contract, and the effective date of the  
18 contract.

19 (7) Contracts necessary to prepare for anticipated  
20 litigation, enforcement actions, or investigations,  
21 provided that the chief legal counsel to the Governor shall  
22 give his or her prior approval when the procuring agency is  
23 one subject to the jurisdiction of the Governor, and  
24 provided that the chief legal counsel of any other  
25 procuring entity subject to this Code shall give his or her  
26 prior approval when the procuring entity is not one subject

1 to the jurisdiction of the Governor.

2 (8) Contracts for services to Northern Illinois  
3 University by a person, acting as an independent  
4 contractor, who is qualified by education, experience, and  
5 technical ability and is selected by negotiation for the  
6 purpose of providing non-credit educational service  
7 activities or products by means of specialized programs  
8 offered by the university.

9 (9) Procurement expenditures by the Illinois  
10 Conservation Foundation when only private funds are used.

11 (10) Procurement expenditures by the Illinois Health  
12 Information Exchange Authority involving private funds  
13 from the Health Information Exchange Fund. "Private funds"  
14 means gifts, donations, and private grants.

15 (11) Public-private agreements entered into according  
16 to the procurement requirements of Section 20 of the  
17 Public-Private Partnerships for Transportation Act and  
18 design-build agreements entered into according to the  
19 procurement requirements of Section 25 of the  
20 Public-Private Partnerships for Transportation Act.

21 (12) Contracts for legal, financial, and other  
22 professional and artistic services entered into on or  
23 before December 31, 2018 by the Illinois Finance Authority  
24 in which the State of Illinois is not obligated. Such  
25 contracts shall be awarded through a competitive process  
26 authorized by the Board of the Illinois Finance Authority

1 and are subject to Sections 5-30, 20-160, 50-13, 50-20,  
2 50-35, and 50-37 of this Code, as well as the final  
3 approval by the Board of the Illinois Finance Authority of  
4 the terms of the contract.

5 Notwithstanding any other provision of law, contracts  
6 entered into under item (12) of this subsection (b) shall be  
7 published in the Procurement Bulletin within 14 calendar days  
8 after contract execution. The chief procurement officer shall  
9 prescribe the form and content of the notice. The Illinois  
10 Finance Authority shall provide the chief procurement officer,  
11 on a monthly basis, in the form and content prescribed by the  
12 chief procurement officer, a report of contracts that are  
13 related to the procurement of goods and services identified in  
14 item (12) of this subsection (b). At a minimum, this report  
15 shall include the name of the contractor, a description of the  
16 supply or service provided, the total amount of the contract,  
17 the term of the contract, and the exception to the Code  
18 utilized. A copy of each of these contracts shall be made  
19 available to the chief procurement officer immediately upon  
20 request. The chief procurement officer shall submit a report to  
21 the Governor and General Assembly no later than November 1 of  
22 each year that shall include, at a minimum, an annual summary  
23 of the monthly information reported to the chief procurement  
24 officer.

25 (c) This Code does not apply to the electric power  
26 procurement process provided for under Section 1-75 of the

1 Illinois Power Agency Act and Section 16-111.5 of the Public  
2 Utilities Act.

3 (d) Except for Section 20-160 and Article 50 of this Code,  
4 and as expressly required by Section 9.1 of the Illinois  
5 Lottery Law, the provisions of this Code do not apply to the  
6 procurement process provided for under Section 9.1 of the  
7 Illinois Lottery Law.

8 (e) This Code does not apply to the process used by the  
9 Capital Development Board to retain a person or entity to  
10 assist the Capital Development Board with its duties related to  
11 the determination of costs of a clean coal SNG brownfield  
12 facility, as defined by Section 1-10 of the Illinois Power  
13 Agency Act, as required in subsection (h-3) of Section 9-220 of  
14 the Public Utilities Act, including calculating the range of  
15 capital costs, the range of operating and maintenance costs, or  
16 the sequestration costs or monitoring the construction of clean  
17 coal SNG brownfield facility for the full duration of  
18 construction.

19 (f) This Code does not apply to the process used by the  
20 Illinois Power Agency to retain a mediator to mediate sourcing  
21 agreement disputes between gas utilities and the clean coal SNG  
22 brownfield facility, as defined in Section 1-10 of the Illinois  
23 Power Agency Act, as required under subsection (h-1) of Section  
24 9-220 of the Public Utilities Act.

25 (g) This Code does not apply to the processes used by the  
26 Illinois Power Agency to retain a mediator to mediate contract

1 disputes between gas utilities and the clean coal SNG facility  
2 and to retain an expert to assist in the review of contracts  
3 under subsection (h) of Section 9-220 of the Public Utilities  
4 Act. This Code does not apply to the process used by the  
5 Illinois Commerce Commission to retain an expert to assist in  
6 determining the actual incurred costs of the clean coal SNG  
7 facility and the reasonableness of those costs as required  
8 under subsection (h) of Section 9-220 of the Public Utilities  
9 Act.

10 (h) This Code does not apply to the process to procure or  
11 contracts entered into in accordance with Sections 11-5.2 and  
12 11-5.3 of the Illinois Public Aid Code.

13 (i) Each chief procurement officer may access records  
14 necessary to review whether a contract, purchase, or other  
15 expenditure is or is not subject to the provisions of this  
16 Code, unless such records would be subject to attorney-client  
17 privilege.

18 (j) This Code does not apply to the process used by the  
19 Capital Development Board to retain an artist or work or works  
20 of art as required in Section 14 of the Capital Development  
21 Board Act.

22 (k) This Code does not apply to the process to procure  
23 contracts, or contracts entered into, by the State Board of  
24 Elections or the State Electoral Board for hearing officers  
25 appointed pursuant to the Election Code.

26 (l) Contracts valued at more than \$250,000 between the

1 State or any State agency and another state or the federal  
2 government, or an agency thereof, may be entered into only by a  
3 separate Act of the General Assembly. A contract executed  
4 before the effective date of this amendatory Act of the 99th  
5 General Assembly valued at more than \$250,000 between the State  
6 or any State agency and another state or the federal  
7 government, or an agency thereof, may be entered into only by a  
8 separate Act of the General Assembly. Copies of such contracts  
9 shall be filed with the Index Department of the Office of the  
10 Secretary of State upon execution.

11 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,  
12 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;  
13 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;  
14 98-572, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1076, eff.  
15 1-1-15.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.