



Sen. Patricia Van Pelt

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1 AMENDMENT TO SENATE BILL 279

2 AMENDMENT NO. _____. Amend Senate Bill 279 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 adding Section 55-20 as follows:

6 (30 ILCS 500/55-20 new)

7 Sec. 55-20. Contracts for food donation. After the
8 effective date of this amendatory Act of the 99th General
9 Assembly, a public entity shall not enter into a contract to
10 purchase food with a bidder or offeror if the bidder's or
11 offeror's contract terms prohibit the public entity from
12 donating food to food banks, including, but not limited to,
13 homeless shelters, food pantries, and soup kitchens.

14 Section 10. The School Code is amended by changing Section
15 10-20.21 as follows:

1 (105 ILCS 5/10-20.21)

2 Sec. 10-20.21. Contracts.

3 (a) To award all contracts for purchase of supplies and
4 materials or work involving an expenditure in excess of \$25,000
5 or a lower amount as required by board policy to the lowest
6 responsible bidder, considering conformity with
7 specifications, terms of delivery, quality and serviceability,
8 after due advertisement, except the following: (i) contracts
9 for the services of individuals possessing a high degree of
10 professional skill where the ability or fitness of the
11 individual plays an important part; (ii) contracts for the
12 printing of finance committee reports and departmental
13 reports; (iii) contracts for the printing or engraving of
14 bonds, tax warrants and other evidences of indebtedness; (iv)
15 contracts for the purchase of perishable foods and perishable
16 beverages; (v) contracts for materials and work which have been
17 awarded to the lowest responsible bidder after due
18 advertisement, but due to unforeseen revisions, not the fault
19 of the contractor for materials and work, must be revised
20 causing expenditures not in excess of 10% of the contract
21 price; (vi) contracts for the maintenance or servicing of, or
22 provision of repair parts for, equipment which are made with
23 the manufacturer or authorized service agent of that equipment
24 where the provision of parts, maintenance, or servicing can
25 best be performed by the manufacturer or authorized service

1 agent; (vii) purchases and contracts for the use, purchase,
2 delivery, movement, or installation of data processing
3 equipment, software, or services and telecommunications and
4 interconnect equipment, software, and services; (viii)
5 contracts for duplicating machines and supplies; (ix)
6 contracts for the purchase of natural gas when the cost is less
7 than that offered by a public utility; (x) purchases of
8 equipment previously owned by some entity other than the
9 district itself; (xi) contracts for repair, maintenance,
10 remodeling, renovation, or construction, or a single project
11 involving an expenditure not to exceed \$50,000 and not
12 involving a change or increase in the size, type, or extent of
13 an existing facility; (xii) contracts for goods or services
14 procured from another governmental agency; (xiii) contracts
15 for goods or services which are economically procurable from
16 only one source, such as for the purchase of magazines, books,
17 periodicals, pamphlets and reports, and for utility services
18 such as water, light, heat, telephone or telegraph; (xiv) where
19 funds are expended in an emergency and such emergency
20 expenditure is approved by 3/4 of the members of the board;
21 (xv) State master contracts authorized under Article 28A of
22 this Code; and (xvi) contracts providing for the transportation
23 of pupils, which contracts must be advertised in the same
24 manner as competitive bids and awarded by first considering the
25 bidder or bidders most able to provide safety and comfort for
26 the pupils, stability of service, and any other factors set

1 forth in the request for proposal regarding quality of service,
2 and then price. However, at no time shall a cause of action lie
3 against a school board for awarding a pupil transportation
4 contract per the standards set forth in this subsection (a)
5 unless the cause of action is based on fraudulent conduct.

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

21 Under this Section, the acceptance of bids sealed by a
22 bidder and the opening of these bids at a public bid opening
23 may be permitted by an electronic process for communicating,
24 accepting, and opening competitive bids. However, bids for
25 construction purposes are prohibited from being communicated,
26 accepted, or opened electronically. An electronic bidding

1 process must provide for, but is not limited to, the following
2 safeguards:

3 (1) On the date and time certain of a bid opening, the
4 primary person conducting the competitive, sealed,
5 electronic bid process shall log onto a specified database
6 using a unique username and password previously assigned to
7 the bidder to allow access to the bidder's specific bid
8 project number.

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

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

21 (b) To require, as a condition of any contract for goods
22 and services, that persons bidding for and awarded a contract
23 and all affiliates of the person collect and remit Illinois Use
24 Tax on all sales of tangible personal property into the State
25 of Illinois in accordance with the provisions of the Illinois
26 Use Tax Act regardless of whether the person or affiliate is a

1 "retailer maintaining a place of business within this State" as
2 defined in Section 2 of the Use Tax Act. For purposes of this
3 Section, the term "affiliate" means any entity that (1)
4 directly, indirectly, or constructively controls another
5 entity, (2) is directly, indirectly, or constructively
6 controlled by another entity, or (3) is subject to the control
7 of a common entity. For purposes of this subsection (b), an
8 entity controls another entity if it owns, directly or
9 individually, more than 10% of the voting securities of that
10 entity. As used in this subsection (b), the term "voting
11 security" means a security that (1) confers upon the holder the
12 right to vote for the election of members of the board of
13 directors or similar governing body of the business or (2) is
14 convertible into, or entitles the holder to receive upon its
15 exercise, a security that confers such a right to vote. A
16 general partnership interest is a voting security.

17 To require that bids and contracts include a certification
18 by the bidder or contractor that the bidder or contractor is
19 not barred from bidding for or entering into a contract under
20 this Section and that the bidder or contractor acknowledges
21 that the school board may declare the contract void if the
22 certification completed pursuant to this subsection (b) is
23 false.

24 (b-5) To require all contracts and agreements that pertain
25 to goods and services and that are intended to generate
26 additional revenue and other remunerations for the school

1 district in excess of \$1,000, including without limitation
2 vending machine contracts, sports and other attire, class
3 rings, and photographic services, to be approved by the school
4 board. The school board shall file as an attachment to its
5 annual budget a report, in a form as determined by the State
6 Board of Education, indicating for the prior year the name of
7 the vendor, the product or service provided, and the actual net
8 revenue and non-monetary remuneration from each of the
9 contracts or agreements. In addition, the report shall indicate
10 for what purpose the revenue was used and how and to whom the
11 non-monetary remuneration was distributed.

12 (b-10) To prohibit any contract to purchase food with a
13 bidder or offeror if the bidder's or offeror's contract terms
14 prohibit the school from donating food to food banks,
15 including, but not limited to, homeless shelters, food
16 pantries, and soup kitchens.

17 (c) If the State education purchasing entity creates a
18 master contract as defined in Article 28A of this Code, then
19 the State education purchasing entity shall notify school
20 districts of the existence of the master contract.

21 (d) In purchasing supplies, materials, equipment, or
22 services that are not subject to subsection (c) of this
23 Section, before a school district solicits bids or awards a
24 contract, the district may review and consider as a bid under
25 subsection (a) of this Section certified education purchasing
26 contracts that are already available through the State

1 education purchasing entity.

2 (Source: P.A. 96-392, eff. 1-1-10; 96-841, eff. 12-23-09;
3 96-1000, eff. 7-2-10; 97-951, eff. 8-13-12.)

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