



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2903

Introduced 2/18/2016, by Sen. William E. Brady

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 500/1-10

Creates the Illinois State Fairgrounds Foundation Act. Establishes the Illinois State Fairgrounds Foundation under the authority of the Department of Agriculture. Sets forth the Foundation's purposes, organization, powers, and duties. Provides that the Foundation must provide a written notice to any entity providing a gift, grant, or bequest to the Foundation that the Foundation is not subject to the Public Funds Investment Act. Provides that the Foundation shall be considered a public body under the Prevailing Wage Act. Provides that any project, including but not limited to improvement, maintenance, and construction of infrastructure, that is funded in whole or in part by the Foundation shall be considered a public work as defined by the Prevailing Wage Act. Amends the Illinois Procurement Code. Provides that the Code does not apply to procurement expenditures by the Illinois State Fairgrounds Foundation when only private funds are used. Effective immediately.

LRB099 15954 MGM 40271 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois State Fairgrounds Foundation Act.

6 Section 5. Creation of Illinois State Fairgrounds  
7 Foundation.

8 (a) The General Assembly authorizes the Department of  
9 Agriculture, in accordance with Section 10 of the State Agency  
10 Entity Creation Act, to create the Illinois State Fairgrounds  
11 Foundation. Under this authority, the Department of  
12 Agriculture shall create the Illinois State Fairgrounds  
13 Foundation as a not-for-profit foundation. The Department  
14 shall file articles of incorporation as required under the  
15 General Not For Profit Corporation Act of 1986 to create the  
16 Foundation.

17 (b) The Foundation's Board of Directors shall be appointed  
18 as follows:

19 (1) 2 by the President of the Senate, 1 for a 2-year  
20 term and 1 for a 4-year term;

21 (2) 2 by the Minority Leader of the Senate, 1 for a  
22 2-year term and 1 for a 4-year term;

23 (3) 2 by the Speaker of the House of Representatives, 1

1 for a 2-year term and 1 for a 4-year term;

2 (4) 2 by the Minority Leader of the House of  
3 Representatives, 1 for a 2-year term and 1 for a 4-year  
4 term; and

5 (5) 4 by the Governor, 2 for a 2-year term each and 2  
6 for a 4-year term each.

7 (c) At the expiration of the 2-year terms and the 4-year  
8 terms, each successive appointment shall be for a 4-year term.  
9 Vacancies shall be filled by the official who made the prior  
10 appointment. The Director of Agriculture shall chair the Board  
11 of Directors of the Foundation. No member of the Board of  
12 Directors may receive compensation for his or her services to  
13 the Foundation.

14 Section 10. Foundation purposes. The purposes of the  
15 Foundation are: to promote, support, assist, sustain, and  
16 encourage the charitable, educational, scientific, and  
17 agricultural programs, projects, and policies of the  
18 Department of Agriculture and the Illinois State Fair; to  
19 solicit and accept aid or contributions consistent with the  
20 stated intent of the donor and the goals of the Foundation,  
21 including, but not limited to, capital funding for the  
22 improvement, maintenance, or construction of buildings and  
23 facilities at the Illinois State Fairgrounds located in  
24 Springfield and DuQuoin; to accept grants for the acquisition,  
25 construction, improvement, and development of potential

1 Foundation projects; to solicit and generate private funding  
2 and donations that assist in enhancing and preserving Illinois'  
3 agricultural heritage and State Fairgrounds, both in  
4 Springfield and DuQuoin, and the infrastructure, including  
5 roads, buildings, permanent exhibits, grounds, and facilities  
6 at both Fairgrounds; and to engage generally in other lawful  
7 endeavors consistent with the foregoing purposes. The  
8 Foundation shall operate within the provisions of the General  
9 Not For Profit Corporation Act of 1986.

10 Section 15. Organization, powers, and duties of the  
11 Foundation.

12 (a) As soon as practical after the Foundation is created,  
13 the Board of Directors shall meet, organize, and designate, by  
14 majority vote, a treasurer, secretary, and any additional  
15 officers that may be needed to carry out the activities of the  
16 Foundation, and shall adopt bylaws of the Foundation. The  
17 Department of Agriculture may adopt other rules deemed  
18 necessary to govern Foundation procedures.

19 (b) The Foundation may accept gifts or grants from the  
20 federal government, its agencies or officers, or from any  
21 person, firm, or corporation, and may expend receipts on  
22 activities that it considers suitable to the performance of its  
23 duties under this Act and consistent with any requirement of  
24 the grant, gift, or bequest. Funds collected by the Foundation  
25 shall be considered private funds, except those received from

1 public entities, and shall be held in an appropriate account  
2 outside of the State treasury. Private funds collected by the  
3 Foundation are not subject to the Public Funds Investment Act.  
4 Foundation procurement is exempt from the Illinois Procurement  
5 Code when only private funds are used for procurement  
6 expenditures. The treasurer of the Foundation shall be  
7 custodian of all Foundation funds. The Foundation's accounts  
8 and books shall be set up and maintained in a manner approved  
9 by the Auditor General; and the Foundation and its officers  
10 shall be responsible for the approval of recording of receipts,  
11 approval of payments, and the proper filing of required  
12 reports. The Foundation may be assisted in carrying out its  
13 functions by personnel of the Department of Agriculture. The  
14 Department shall provide reasonable assistance to the  
15 Foundation to achieve the purposes of the Foundation. The  
16 Foundation shall cooperate fully with the boards, commissions,  
17 agencies, departments, and institutions of the State. The funds  
18 held and made available by the Illinois State Fairgrounds  
19 Foundation shall be subject to financial and compliance audits  
20 by the Auditor General in compliance with the Illinois State  
21 Auditing Act.

22 (c) The Foundation shall not have any power of eminent  
23 domain.

24 (d) The Foundation shall be considered a public body under  
25 the Prevailing Wage Act. Any project, including but not limited  
26 to improvement, maintenance, and construction of

1 infrastructure, that is funded in whole or in part by the  
2 Foundation shall be considered a public work as defined by the  
3 Prevailing Wage Act.

4 Section 20. Disclosure to donors of exemption from Public  
5 Funds Investment Act. The Foundation must provide a written  
6 notice to any entity providing a gift, grant, or bequest to the  
7 Foundation that the Foundation is not subject to the provisions  
8 of the Public Funds Investment Act which places limitations on  
9 the types of securities in which a public agency may invest  
10 public funds.

11 Section 90. The Illinois Procurement Code is amended by  
12 changing Section 1-10 as follows:

13 (30 ILCS 500/1-10)

14 Sec. 1-10. Application.

15 (a) This Code applies only to procurements for which  
16 bidders, offerors, potential contractors, or contractors were  
17 first solicited on or after July 1, 1998. This Code shall not  
18 be construed to affect or impair any contract, or any provision  
19 of a contract, entered into based on a solicitation prior to  
20 the implementation date of this Code as described in Article  
21 99, including but not limited to any covenant entered into with  
22 respect to any revenue bonds or similar instruments. All  
23 procurements for which contracts are solicited between the

1 effective date of Articles 50 and 99 and July 1, 1998 shall be  
2 substantially in accordance with this Code and its intent.

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

6 (1) Contracts between the State and its political  
7 subdivisions or other governments, or between State  
8 governmental bodies except as specifically provided in  
9 this Code.

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

12 (3) Purchase of care.

13 (4) Hiring of an individual as employee and not as an  
14 independent contractor, whether pursuant to an employment  
15 code or policy or by contract directly with that  
16 individual.

17 (5) Collective bargaining contracts.

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

26 (7) Contracts necessary to prepare for anticipated

1 litigation, enforcement actions, or investigations,  
2 provided that the chief legal counsel to the Governor shall  
3 give his or her prior approval when the procuring agency is  
4 one subject to the jurisdiction of the Governor, and  
5 provided that the chief legal counsel of any other  
6 procuring entity subject to this Code shall give his or her  
7 prior approval when the procuring entity is not one subject  
8 to the jurisdiction of the Governor.

9 (8) Contracts for services to Northern Illinois  
10 University by a person, acting as an independent  
11 contractor, who is qualified by education, experience, and  
12 technical ability and is selected by negotiation for the  
13 purpose of providing non-credit educational service  
14 activities or products by means of specialized programs  
15 offered by the university.

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

18 (10) Procurement expenditures by the Illinois Health  
19 Information Exchange Authority involving private funds  
20 from the Health Information Exchange Fund. "Private funds"  
21 means gifts, donations, and private grants.

22 (11) Public-private agreements entered into according  
23 to the procurement requirements of Section 20 of the  
24 Public-Private Partnerships for Transportation Act and  
25 design-build agreements entered into according to the  
26 procurement requirements of Section 25 of the



1 Public-Private Partnerships for Transportation Act.

2 (12) Contracts for legal, financial, and other  
3 professional and artistic services entered into on or  
4 before December 31, 2018 by the Illinois Finance Authority  
5 in which the State of Illinois is not obligated. Such  
6 contracts shall be awarded through a competitive process  
7 authorized by the Board of the Illinois Finance Authority  
8 and are subject to Sections 5-30, 20-160, 50-13, 50-20,  
9 50-35, and 50-37 of this Code, as well as the final  
10 approval by the Board of the Illinois Finance Authority of  
11 the terms of the contract.

12 (13) Procurement expenditures by the Illinois State  
13 Fairgrounds Foundation when only private funds are used.

14 Notwithstanding any other provision of law, contracts  
15 entered into under item (12) of this subsection (b) shall be  
16 published in the Procurement Bulletin within 14 calendar days  
17 after contract execution. The chief procurement officer shall  
18 prescribe the form and content of the notice. The Illinois  
19 Finance Authority shall provide the chief procurement officer,  
20 on a monthly basis, in the form and content prescribed by the  
21 chief procurement officer, a report of contracts that are  
22 related to the procurement of goods and services identified in  
23 item (12) of this subsection (b). At a minimum, this report  
24 shall include the name of the contractor, a description of the  
25 supply or service provided, the total amount of the contract,  
26 the term of the contract, and the exception to the Code

1 utilized. A copy of each of these contracts shall be made  
2 available to the chief procurement officer immediately upon  
3 request. The chief procurement officer shall submit a report to  
4 the Governor and General Assembly no later than November 1 of  
5 each year that shall include, at a minimum, an annual summary  
6 of the monthly information reported to the chief procurement  
7 officer.

8 (c) This Code does not apply to the electric power  
9 procurement process provided for under Section 1-75 of the  
10 Illinois Power Agency Act and Section 16-111.5 of the Public  
11 Utilities Act.

12 (d) Except for Section 20-160 and Article 50 of this Code,  
13 and as expressly required by Section 9.1 of the Illinois  
14 Lottery Law, the provisions of this Code do not apply to the  
15 procurement process provided for under Section 9.1 of the  
16 Illinois Lottery Law.

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

1 construction.

2 (f) This Code does not apply to the process used by the  
3 Illinois Power Agency to retain a mediator to mediate sourcing  
4 agreement disputes between gas utilities and the clean coal SNG  
5 brownfield facility, as defined in Section 1-10 of the Illinois  
6 Power Agency Act, as required under subsection (h-1) of Section  
7 9-220 of the Public Utilities Act.

8 (g) This Code does not apply to the processes used by the  
9 Illinois Power Agency to retain a mediator to mediate contract  
10 disputes between gas utilities and the clean coal SNG facility  
11 and to retain an expert to assist in the review of contracts  
12 under subsection (h) of Section 9-220 of the Public Utilities  
13 Act. This Code does not apply to the process used by the  
14 Illinois Commerce Commission to retain an expert to assist in  
15 determining the actual incurred costs of the clean coal SNG  
16 facility and the reasonableness of those costs as required  
17 under subsection (h) of Section 9-220 of the Public Utilities  
18 Act.

19 (h) This Code does not apply to the process to procure or  
20 contracts entered into in accordance with Sections 11-5.2 and  
21 11-5.3 of the Illinois Public Aid Code.

22 (i) Each chief procurement officer may access records  
23 necessary to review whether a contract, purchase, or other  
24 expenditure is or is not subject to the provisions of this  
25 Code, unless such records would be subject to attorney-client  
26 privilege.

1           (j) This Code does not apply to the process used by the  
2 Capital Development Board to retain an artist or work or works  
3 of art as required in Section 14 of the Capital Development  
4 Board Act.

5           (k) This Code does not apply to the process to procure  
6 contracts, or contracts entered into, by the State Board of  
7 Elections or the State Electoral Board for hearing officers  
8 appointed pursuant to the Election Code.

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

14           Section 99. Effective date. This Act takes effect upon  
15 becoming law.