

AN ACT concerning regulation.

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

Section 5. The Department of Insurance Law is amended by adding Section 1405-50 as follows:

(20 ILCS 1405/1405-50 new)

Sec. 1405-50. Marketplace Director of the Illinois Health Benefits Exchange. The Governor shall appoint, with the advice and consent of the Senate, a person within the Department of Insurance to serve as the Marketplace Director of the Illinois Health Benefits Exchange. The Governor may make a temporary appointment until the next meeting of the Senate. This person may be an existing employee with other duties. The Marketplace Director shall receive an annual salary as set by the Governor and shall be paid out of the appropriations to the Department. The Marketplace Director shall not be subject to the Personnel Code. The Marketplace Director, under the direction of the Director, shall manage the operations and staff of the Illinois Health Benefits Exchange to ensure optimal exchange performance.

Section 10. The State Finance Act is amended by adding Section 5.990 as follows:

(30 ILCS 105/5.990 new)

Sec. 5.990. The Illinois Health Benefits Exchange Fund.

Section 15. The Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

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

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

- (1) Contracts between the State and its political subdivisions or other governments, or between State

governmental bodies, except as specifically provided in this Code.

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

(3) Purchase of care, except as provided in Section 5-30.6 of the Illinois Public Aid Code and this Section.

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

(5) Collective bargaining contracts.

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

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or

her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank).

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

(10) (Blank).

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

(12) (A) Contracts for legal, financial, and other professional and artistic services entered into by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Finance Authority of the terms of the contract.

(B) Contracts for legal and financial services entered into by the Illinois Housing Development Authority in connection with the issuance of bonds in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the

members of the Illinois Housing Development Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Housing Development Authority of the terms of the contract.

(13) Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.

On and after January 1, 2019, this paragraph (13), except for this sentence, is inoperative.

(14) Contracts for participation expenditures required by a domestic or international trade show or exhibition of an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that requires the State to reimburse the railroad or utilities

for the relocation of utilities for construction or other public purpose. Contracts included within this paragraph (15) shall include, but not be limited to, those associated with: relocations, crossings, installations, and maintenance. For the purposes of this paragraph (15), "railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways and "utility" means: (1) public utilities as defined in Section 3-105 of the Public Utilities Act, (2) telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (3) electric cooperatives as defined in Section 3.4 of the Electric Supplier Act, (4) telephone or telecommunications cooperatives as defined in Section 13-212 of the Public Utilities Act, (5) rural water or waste water systems with 10,000 connections or less, (6) a holder as defined in Section 21-201 of the Public Utilities Act, and (7) municipalities owning or operating utility systems consisting of public utilities as that term is defined in Section 11-117-2 of the Illinois Municipal Code.

(16) Procurement expenditures necessary for the Department of Public Health to provide the delivery of timely newborn screening services in accordance with the Newborn Metabolic Screening Act.

(17) Procurement expenditures necessary for the Department of Agriculture, the Department of Financial and

Professional Regulation, the Department of Human Services, and the Department of Public Health to implement the Compassionate Use of Medical Cannabis Program and Opioid Alternative Pilot Program requirements and ensure access to medical cannabis for patients with debilitating medical conditions in accordance with the Compassionate Use of Medical Cannabis Program Act.

(18) This Code does not apply to any procurements necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, the Department of Commerce and Economic Opportunity, and the Department of Public Health to implement the Cannabis Regulation and Tax Act if the applicable agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption and if the process is conducted in a manner substantially in accordance with the requirements of Sections 20-160, 25-60, 30-22, 50-5, 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35, 50-36, 50-37, 50-38, and 50-50 of this Code; however, for Section 50-35, compliance applies only to contracts or subcontracts over \$100,000. Notice of each contract entered into under this paragraph (18) that is related to the procurement of goods and services identified in paragraph (1) through (9) of this subsection shall be published in the Procurement Bulletin within 14 calendar

days after contract execution. The Chief Procurement Officer shall prescribe the form and content of the notice. Each agency shall provide the Chief Procurement Officer, on a monthly basis, in the form and content prescribed by the Chief Procurement Officer, a report of contracts that are related to the procurement of goods and services identified in this subsection. At a minimum, this report shall include the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to this Code utilized. A copy of any or all of these contracts shall be made available to the Chief Procurement Officer immediately upon request. The Chief Procurement Officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that includes, at a minimum, an annual summary of the monthly information reported to the Chief Procurement Officer. This exemption becomes inoperative 5 years after June 25, 2019 (the effective date of Public Act 101-27).

(19) Acquisition of modifications or adjustments, limited to assistive technology devices and assistive technology services, adaptive equipment, repairs, and replacement parts to provide reasonable accommodations (i) that enable a qualified applicant with a disability to complete the job application process and be considered for the position such qualified applicant desires, (ii) that

modify or adjust the work environment to enable a qualified current employee with a disability to perform the essential functions of the position held by that employee, (iii) to enable a qualified current employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities, and (iv) that allow a customer, client, claimant, or member of the public seeking State services full use and enjoyment of and access to its programs, services, or benefits.

For purposes of this paragraph (19):

"Assistive technology devices" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology services" means any service that directly assists an individual with a disability in selection, acquisition, or use of an assistive technology device.

"Qualified" has the same meaning and use as provided under the federal Americans with Disabilities Act when describing an individual with a disability.

(20) Procurement expenditures necessary for the Illinois Commerce Commission to hire third-party facilitators pursuant to Sections 16-105.17 and 16-108.18

of the Public Utilities Act or an ombudsman pursuant to Section 16-107.5 of the Public Utilities Act, a facilitator pursuant to Section 16-105.17 of the Public Utilities Act, or a grid auditor pursuant to Section 16-105.10 of the Public Utilities Act.

(21) Procurement expenditures for the purchase, renewal, and expansion of software, software licenses, or software maintenance agreements that support the efforts of the Illinois State Police to enforce, regulate, and administer the Firearm Owners Identification Card Act, the Firearm Concealed Carry Act, the Firearms Restraining Order Act, the Firearm Dealer License Certification Act, the Law Enforcement Agencies Data System (LEADS), the Uniform Crime Reporting Act, the Criminal Identification Act, the Uniform Conviction Information Act, and the Gun Trafficking Information Act, or establish or maintain record management systems necessary to conduct human trafficking investigations or gun trafficking or other stolen firearm investigations. This paragraph (21) applies to contracts entered into on or after the effective date of this amendatory Act of the 102nd General Assembly and the renewal of contracts that are in effect on the effective date of this amendatory Act of the 102nd General Assembly.

(22) Procurements necessary for the Department of Insurance to implement the Illinois Health Benefits

Exchange Law if the Department of Insurance has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption. The procurement process shall be conducted in a manner substantially in accordance with the requirements of Sections 20-160 and 25-60 and Article 50 of this Code. A copy of these contracts shall be made available to the Chief Procurement Officer immediately upon request. This paragraph is inoperative 5 years after the effective date of this amendatory Act of the 103rd General Assembly.

Notwithstanding any other provision of law, for contracts with an annual value of more than \$100,000 entered into on or after October 1, 2017 under an exemption provided in any paragraph of this subsection (b), except paragraph (1), (2), or (5), each State agency shall post to the appropriate procurement bulletin the name of the contractor, a description of the supply or service provided, the total amount of the contract, the term of the contract, and the exception to the Code utilized. The chief procurement officer shall submit a report to the Governor and General Assembly no later than November 1 of each year that shall include, at a minimum, an annual summary of the monthly information reported to the chief procurement officer.

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

Utilities Act.

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

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

(f) (Blank).

(g) (Blank).

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

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

privilege.

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

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

(l) This Code does not apply to the processes used by the Illinois Student Assistance Commission to procure supplies and services paid for from the private funds of the Illinois Prepaid Tuition Fund. As used in this subsection (l), "private funds" means funds derived from deposits paid into the Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(m) This Code shall apply regardless of the source of funds with which contracts are paid, including federal assistance moneys. Except as specifically provided in this Code, this Code shall not apply to procurement expenditures necessary for the Department of Public Health to conduct the Healthy Illinois Survey in accordance with Section 2310-431 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.

(Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff. 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,

eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22; 102-1116, eff. 1-10-23.)

Section 20. The Illinois Health Benefits Exchange Law is amended by changing Section 5-5 and by adding Sections 5-21, 5-22, 5-23, and 5-24 as follows:

(215 ILCS 122/5-5)

Sec. 5-5. State health benefits exchange. It is declared that this State, beginning October 1, 2013, in accordance with Section 1311 of the federal Patient Protection and Affordable Care Act, shall establish a State health benefits exchange to be known as the Illinois Health Benefits Exchange in order to help individuals and small employers with no more than 50 employees shop for, select, and enroll in qualified, affordable private health plans that fit their needs at competitive prices. The Exchange shall separate coverage pools for individuals and small employers and shall supplement and not supplant any existing private health insurance market for individuals and small employers. The Department of Insurance shall operate the Illinois Health Benefits Exchange as a State-based exchange using the federal platform by plan year 2025 and as a State-based exchange by plan year 2026. The Director of Insurance may require that all plans in the individual and small group markets, other than grandfathered health plans, be made available for comparison on the Illinois

Health Benefits Exchange, but may not require that all plans in the individual and small group markets be purchased exclusively on the Illinois Health Benefits Exchange. Through the adoption of rules, the Director of Insurance may require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost sharing for covered health services. Except when it is inconsistent with State law, the Department of Insurance shall enforce the coverage requirements under the federal Patient Protection and Affordable Care Act, including the coverage of all United States Preventive Services Task Force Grade A and B preventive services without cost sharing notwithstanding any federal overturning or repeal of 42 U.S.C. 300gg-13(a)(1), that apply to the individual and small group markets. The Director of Insurance may elect to add a small business health options program to the Illinois Health Benefits Exchange to help small employers enroll their employees in qualified health plans in the small group market. The General Assembly shall appropriate funds to establish the Illinois Health Benefits Exchange.

(Source: P.A. 97-142, eff. 7-14-11.)

(215 ILCS 122/5-21 new)

Sec. 5-21. Monthly assessments.

(a) The Director of Insurance may apply a monthly assessment to each health benefits plan sold on the Illinois Health Benefits Exchange. The assessment shall be paid by the

issuer and to the Department of Insurance and shall be used only for the purpose of supporting the exchange through exchange operations, outreach, and enrollment, including any efforts that may result in a benefit to policyholders. The assessment may be applied at a rate of:

(1) 0.5% of the total monthly premium charged by an issuer for each health benefits plan during any period that the State is on a State-based exchange using the federal platform; or

(2) 2.75% of the total monthly premium charged by an issuer for each health benefits plan during any period that the State is on the State-based exchange. The Director of Insurance shall adjust this rate to ensure that the Illinois Health Benefits Exchange is fully funded, but in no case shall the assessment be applied at a rate that exceeds 3.5% of the total monthly premium charged by a carrier. If the Director determines it is necessary to adjust the rate pursuant to this paragraph, the Director shall, in advance of the adjustment, post on the Department's website a report describing the reasons and justifications for the adjustment, which shall be consistent with the purposes of supporting the Illinois Health Benefits Exchange as provided in this Section, at least 120 days before the implementation of the rate adjustment.

(b) The Director of Insurance shall notify an issuer 120

days before the implementation of its assessment rate for the subsequent year. Issuers must remit the assessment due in monthly installments to the Department of Insurance.

(c) The assessment described in this Section shall be considered a special purpose obligation and may not be applied by issuers to vary premium rates at the plan level.

(d) There is created a special fund within the State treasury to be known as the Illinois Health Benefits Exchange Fund. The Illinois Health Benefits Exchange Fund shall be the repository for moneys collected pursuant to fees or assessments on exchange issuers, federal financial participation as appropriate, and other moneys received as grants or otherwise appropriated for the purposes of supporting health insurance outreach, enrollment efforts, and plan management operations through an exchange. All moneys in the Fund shall be used, subject to appropriation, only for the purpose of supporting the exchange through exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that may result in a benefit to policyholders.

(215 ILCS 122/5-22 new)

Sec. 5-22. State medical assistance program coordination.

(a) The Department of Insurance and the Department of Healthcare and Family Services shall coordinate the operations of the exchange with the operations of State medical

assistance programs. The Department of Healthcare and Family Services shall oversee and operate the exchange eligibility rules engine to ensure accurate assessments and determinations of exchange and State medical assistance program eligibility.

(b) The exchange may determine eligibility for State medical assistance programs that use the modified adjusted gross income methodology.

(c) The exchange may be used for enrollment into State medical assistance program health plans.

(d) The Department of Healthcare and Family Services shall request federal financial participation funds from the Centers for Medicare and Medicaid Services for any integrated eligibility and enrollment functions of the exchange.

(215 ILCS 122/5-23 new)

Sec. 5-23. Department of Insurance and Department of Healthcare and Family Services authority.

(a) The Department of Insurance and the Department of Healthcare and Family Services, in addition to the powers granted under the Illinois Insurance Code and the Illinois Public Aid Code, have the power necessary to establish and operate the Illinois Health Benefits Exchange, including, but not limited to, the authority to:

(1) adopt rules deemed necessary by the departments to implement this Law;

(2) employ or retain sufficient personnel to provide

administration, staffing, and necessary related support required to adequately discharge the duties described in this Law from funds held in the Illinois Health Benefits Exchange Fund;

(3) procure services, including a call center, and goods for the purpose of establishing the Illinois Health Benefits Exchange, including, but not limited to, procurements in conformance with paragraph (22) of subsection (b) of Section 1-10 of the Illinois Procurement Code; and

(4) require any exchange vendor to have experience operating a State-based exchange in another state.

(b) The Department of Insurance has the authority to employ a Marketplace Director of the Illinois Health Benefits Exchange.

(215 ILCS 122/5-24 new)

Sec. 5-24. Illinois Health Benefits Exchange Advisory Committee.

(a) The Director of Insurance shall establish the Illinois Health Benefits Exchange Advisory Committee no later than December 31, 2023. The Illinois Health Benefits Exchange Advisory Committee shall be tasked with making recommendations to the Marketplace Director of the Illinois Health Benefits Exchange concerning the operation of the exchange, and the Committee shall hold its first meeting no later than 90 days

following the establishment of the Committee and shall meet quarterly thereafter. The Marketplace Director shall make a quarterly report to the Committee.

(b) The Department of Insurance shall present regular and timely reports to the Illinois Health Benefits Exchange Advisory Committee regarding the progress in the development and ongoing operations of the Illinois Health Benefits Exchange before its establishment by plan year 2026. The reports shall be posted to the Department of Insurance's website and include information on the Department of Insurance's progress toward establishing and maintaining the Illinois Health Benefits Exchange with the goal of ensuring an effective and efficient transition from the federal platform to the State-based exchange for individuals, employers, and health insurance issuers while mitigating loss of health insurance coverage for any potential consumer. The Department of Insurance's progress reports shall provide information including, but not limited to, transparency, user understandability, plan compliance, outreach and education, systems operations, and annual fiscal projections. The Department of Insurance shall gather stakeholder input in developing operational plans and preparing the reports for the Illinois Health Benefits Exchange Advisory Committee.

(c) The Illinois Health Benefits Exchange Advisory Committee shall include the following members:

(1) The Director of Insurance, or the Director's

designee, who shall serve ex officio and as co-chair;

(2) The Director of Healthcare and Family Services, or the Director's designee, who shall serve ex officio and as co-chair;

(3) The Secretary of Human Services, or the Secretary's designee, who shall serve ex officio; and

(4) 10 public members, who shall be residents of this State, appointed by the Governor with the advice and consent of the Senate. The Governor may make temporary appointments until the next meeting of the Senate. The Governor shall consider the diversity of this State in the selection of the committee members. The public members shall include:

(A) one representative of a statewide organization representing a majority of Illinois hospitals;

(B) one representative of a statewide insurance producer professional trade association whose membership is primarily composed of individuals licensed under the Illinois Insurance Code;

(C) 2 representatives of a health insurance consumer advocacy group;

(D) one representative with expertise in enrollment and consumer assistance;

(E) 2 representatives of health insurance issuers or issuer trade associations, at least one of which represents a State-domiciled mutual health insurance

company, with a demonstrated expertise in the business of health insurance or health benefits administration;

(F) one representative of a statewide association representing small business owners;

(G) one representative of a statewide organization representing physicians; and

(H) one academic or research professional with expertise in health insurance.

(d) Members of the Illinois Health Benefits Exchange Advisory Committee shall serve for a term of 2 years, shall serve without compensation, and shall not be entitled to reimbursement. The Department of Insurance shall provide administrative support to the Illinois Health Benefits Exchange Advisory Committee.

(e) The Committee's quarterly meetings shall be open to the public and subject to the Open Meetings Act.

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