

1 AN ACT concerning education.

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

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  
10 \$25,000 or a lower amount as required by board policy to the  
11 lowest responsible bidder, considering conformity with  
12 specifications, terms of delivery, quality and serviceability,  
13 after due advertisement, except the following:

14 (i) contracts for the services of individuals  
15 possessing a high degree of professional skill where the  
16 ability or fitness of the individual plays an important  
17 part;

18 (ii) contracts for the printing of finance committee  
19 reports and departmental reports;

20 (iii) contracts for the printing or engraving of  
21 bonds, tax warrants and other evidences of indebtedness;

22 (iv) contracts for the purchase of perishable foods  
23 and perishable beverages;

1           (v) contracts for materials and work which have been  
2 awarded to the lowest responsible bidder after due  
3 advertisement, but due to unforeseen revisions, not the  
4 fault of the contractor for materials and work, must be  
5 revised causing expenditures not in excess of 10% of the  
6 contract price;

7           (vi) contracts for the maintenance or servicing of, or  
8 provision of repair parts for, equipment which are made  
9 with the manufacturer or authorized service agent of that  
10 equipment where the provision of parts, maintenance, or  
11 servicing can best be performed by the manufacturer or  
12 authorized service agent;

13           (vii) purchases and contracts for the use, purchase,  
14 delivery, movement, or installation of data processing  
15 equipment, software, or services and telecommunications  
16 and interconnect equipment, software, and services;

17           (viii) contracts for duplicating machines and  
18 supplies;

19           (ix) contracts for the purchase of fuel, including  
20 diesel, gasoline, oil, aviation, natural gas, or propane,  
21 lubricants, or other petroleum products;

22           (x) purchases of equipment previously owned by some  
23 entity other than the district itself;

24           (xi) contracts for repair, maintenance, remodeling,  
25 renovation, or construction, or a single project involving  
26 an expenditure not to exceed \$50,000 and not involving a

1 change or increase in the size, type, or extent of an  
2 existing facility;

3 (xii) contracts for goods or services procured from  
4 another governmental agency;

5 (xiii) contracts for goods or services which are  
6 economically procurable from only one source, such as for  
7 the purchase of magazines, books, periodicals, pamphlets  
8 and reports, and for utility services such as water,  
9 light, heat, telephone or telegraph;

10 (xiv) where funds are expended in an emergency and  
11 such emergency expenditure is approved by 3/4 of the  
12 members of the board;

13 (xv) State master contracts authorized under Article  
14 28A of this Code; ~~and~~

15 (xvi) contracts providing for the transportation of  
16 pupils, which contracts must be advertised in the same  
17 manner as competitive bids and awarded by first  
18 considering the bidder or bidders most able to provide  
19 safety and comfort for the pupils, stability of service,  
20 and any other factors set forth in the request for  
21 proposal regarding quality of service, and then price; and

22 (xvii) contracts for goods, services, or management in  
23 the operation of a school's food service, including a  
24 school that participates in any of the United States  
25 Department of Agriculture's child nutrition programs if a  
26 good faith effort is made on behalf of the school district

1 to give preference to:

2 (1) contracts that procure food that promotes the  
3 health and well-being of students, in compliance with  
4 United States Department of Agriculture nutrition  
5 standards for school meals. Contracts should also  
6 promote the production of scratch made, minimally  
7 processed foods;

8 (2) contracts that give a preference to State or  
9 regional suppliers that source local food products;

10 (3) contracts that give a preference to food  
11 suppliers that utilize producers that adopt hormone  
12 and pest management practices recommended by the  
13 United States Department of Agriculture;

14 (4) contracts that give a preference to food  
15 suppliers that value animal welfare; and

16 (5) contracts that increase opportunities for  
17 businesses owned and operated by minorities, women, or  
18 persons with disabilities.

19 Food supplier data shall be submitted to the school  
20 district at the time of the bid, to the best of the  
21 bidder's ability, and updated annually thereafter during  
22 the term of the contract. The contractor shall submit the  
23 updated food supplier data. The data required under this  
24 item (xvii) shall include the name and address of each  
25 supplier, distributor, processor, and producer involved in  
26 the provision of the products that the bidder is to

1       supply.

2       However, at no time shall a cause of action lie against a  
3       school board for awarding a pupil transportation contract per  
4       the standards set forth in this subsection (a) unless the  
5       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  
18      contracts and certified education purchasing contracts, as  
19      defined in Article 28A of this Code, are not subject to the  
20      requirements 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. An electronic bidding  
25      process must provide for, but is not limited to, the following  
26      safeguards:

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

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

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

19          (b) To require, as a condition of any contract for goods  
20          and services, that persons bidding for and awarded a contract  
21          and all affiliates of the person collect and remit Illinois  
22          Use Tax on all sales of tangible personal property into the  
23          State of Illinois in accordance with the provisions of the  
24          Illinois Use Tax Act regardless of whether the person or  
25          affiliate is a "retailer maintaining a place of business  
26          within this State" as defined in Section 2 of the Use Tax Act.

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

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

22 (b-5) To require all contracts and agreements that pertain  
23 to goods and services and that are intended to generate  
24 additional revenue and other remunerations for the school  
25 district in excess of \$1,000, including without limitation  
26 vending machine contracts, sports and other attire, class

1 rings, and photographic services, to be approved by the school  
2 board. The school board shall file as an attachment to its  
3 annual budget a report, in a form as determined by the State  
4 Board of Education, indicating for the prior year the name of  
5 the vendor, the product or service provided, and the actual  
6 net revenue and non-monetary remuneration from each of the  
7 contracts or agreements. In addition, the report shall  
8 indicate for what purpose the revenue was used and how and to  
9 whom the non-monetary remuneration was distributed.

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

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

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

26 (Source: P.A. 101-570, eff. 8-23-19; 101-632, eff. 6-5-20.)



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