



Sen. Cristina Castro

Filed: 4/10/2024

10300SB3907sam001

LRB103 38581 HLH 71924 a

1 AMENDMENT TO SENATE BILL 3907

2 AMENDMENT NO. _____. Amend Senate Bill 3907 by replacing
3 everything after the enacting clause with the following:

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
12 provision of a contract, entered into based on a solicitation
13 prior to the implementation date of this Code as described in
14 Article 99, including, but not limited to, any covenant
15 entered into with respect to any revenue bonds or similar
16 instruments. All procurements for which contracts are

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

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

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

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

13 (3) Purchase of care, except as provided in Section
14 5-30.6 of the Illinois Public Aid Code and this Section.

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

19 (5) Collective bargaining contracts.

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

1 contract.

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

11 (8) (Blank).

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

14 (10) (Blank).

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) (A) Contracts for legal, financial, and other
22 professional and artistic services entered into by the
23 Illinois Finance Authority in which the State of Illinois
24 is not obligated. Such contracts shall be awarded through
25 a competitive process authorized by the members of the
26 Illinois Finance Authority and are subject to Sections

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

4 (B) Contracts for legal and financial services entered
5 into by the Illinois Housing Development Authority in
6 connection with the issuance of bonds in which the State
7 of Illinois is not obligated. Such contracts shall be
8 awarded through a competitive process authorized by the
9 members of the Illinois Housing Development Authority and
10 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
11 and 50-37 of this Code, as well as the final approval by
12 the members of the Illinois Housing Development Authority
13 of the terms of the contract.

14 (C) Contracts for bond underwriting services entered
15 into by the Illinois State Toll Highway Authority in
16 connection with the issuance of bonds in which the State
17 is not obligated. Such contracts shall be awarded through
18 a competitive process authorized by the members of the
19 Illinois State Toll Highway Authority and are subject to
20 Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of
21 this Code as well as the final approval by the members of
22 the Illinois State Toll Highway Authority of the terms of
23 the contract.

24 (13) Contracts for services, commodities, and
25 equipment to support the delivery of timely forensic
26 science services in consultation with and subject to the

1 approval of the Chief Procurement Officer as provided in
2 subsection (d) of Section 5-4-3a of the Unified Code of
3 Corrections, except for the requirements of Sections
4 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
5 Code; however, the Chief Procurement Officer may, in
6 writing with justification, waive any certification
7 required under Article 50 of this Code. For any contracts
8 for services which are currently provided by members of a
9 collective bargaining agreement, the applicable terms of
10 the collective bargaining agreement concerning
11 subcontracting shall be followed.

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

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

17 (15) Contracts with a railroad or utility that
18 requires the State to reimburse the railroad or utilities
19 for the relocation of utilities for construction or other
20 public purpose. Contracts included within this paragraph
21 (15) shall include, but not be limited to, those
22 associated with: relocations, crossings, installations,
23 and maintenance. For the purposes of this paragraph (15),
24 "railroad" means any form of non-highway ground
25 transportation that runs on rails or electromagnetic
26 guideways and "utility" means: (1) public utilities as

1 defined in Section 3-105 of the Public Utilities Act, (2)
2 telecommunications carriers as defined in Section 13-202
3 of the Public Utilities Act, (3) electric cooperatives as
4 defined in Section 3.4 of the Electric Supplier Act, (4)
5 telephone or telecommunications cooperatives as defined in
6 Section 13-212 of the Public Utilities Act, (5) rural
7 water or waste water systems with 10,000 connections or
8 less, (6) a holder as defined in Section 21-201 of the
9 Public Utilities Act, and (7) municipalities owning or
10 operating utility systems consisting of public utilities
11 as that term is defined in Section 11-117-2 of the
12 Illinois Municipal Code.

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

17 (17) Procurement expenditures necessary for the
18 Department of Agriculture, the Department of Financial and
19 Professional Regulation, the Department of Human Services,
20 and the Department of Public Health to implement the
21 Compassionate Use of Medical Cannabis Program and Opioid
22 Alternative Pilot Program requirements and ensure access
23 to medical cannabis for patients with debilitating medical
24 conditions in accordance with the Compassionate Use of
25 Medical Cannabis Program Act.

26 (18) This Code does not apply to any procurements

1 necessary for the Department of Agriculture, the
2 Department of Financial and Professional Regulation, the
3 Department of Human Services, the Department of Commerce
4 and Economic Opportunity, and the Department of Public
5 Health to implement the Cannabis Regulation and Tax Act if
6 the applicable agency has made a good faith determination
7 that it is necessary and appropriate for the expenditure
8 to fall within this exemption and if the process is
9 conducted in a manner substantially in accordance with the
10 requirements of Sections 20-160, 25-60, 30-22, 50-5,
11 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
12 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
13 Section 50-35, compliance applies only to contracts or
14 subcontracts over \$100,000. Notice of each contract
15 entered into under this paragraph (18) that is related to
16 the procurement of goods and services identified in
17 paragraph (1) through (9) of this subsection shall be
18 published in the Procurement Bulletin within 14 calendar
19 days after contract execution. The Chief Procurement
20 Officer shall prescribe the form and content of the
21 notice. Each agency shall provide the Chief Procurement
22 Officer, on a monthly basis, in the form and content
23 prescribed by the Chief Procurement Officer, a report of
24 contracts that are related to the procurement of goods and
25 services identified in this subsection. At a minimum, this
26 report shall include the name of the contractor, a

1 description of the supply or service provided, the total
2 amount of the contract, the term of the contract, and the
3 exception to this Code utilized. A copy of any or all of
4 these contracts shall be made available to the Chief
5 Procurement Officer immediately upon request. The Chief
6 Procurement Officer shall submit a report to the Governor
7 and General Assembly no later than November 1 of each year
8 that includes, at a minimum, an annual summary of the
9 monthly information reported to the Chief Procurement
10 Officer. This exemption becomes inoperative 5 years after
11 June 25, 2019 (the effective date of Public Act 101-27).

12 (19) Acquisition of modifications or adjustments,
13 limited to assistive technology devices and assistive
14 technology services, adaptive equipment, repairs, and
15 replacement parts to provide reasonable accommodations (i)
16 that enable a qualified applicant with a disability to
17 complete the job application process and be considered for
18 the position such qualified applicant desires, (ii) that
19 modify or adjust the work environment to enable a
20 qualified current employee with a disability to perform
21 the essential functions of the position held by that
22 employee, (iii) to enable a qualified current employee
23 with a disability to enjoy equal benefits and privileges
24 of employment as are enjoyed by other similarly situated
25 employees without disabilities, and (iv) that allow a
26 customer, client, claimant, or member of the public

1 seeking State services full use and enjoyment of and
2 access to its programs, services, or benefits.

3 For purposes of this paragraph (19):

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

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

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

16 (20) Procurement expenditures necessary for the
17 Illinois Commerce Commission to hire third-party
18 facilitators pursuant to Sections 16-105.17 and 16-108.18
19 of the Public Utilities Act or an ombudsman pursuant to
20 Section 16-107.5 of the Public Utilities Act, a
21 facilitator pursuant to Section 16-105.17 of the Public
22 Utilities Act, or a grid auditor pursuant to Section
23 16-105.10 of the Public Utilities Act.

24 (21) Procurement expenditures for the purchase,
25 renewal, and expansion of software, software licenses, or
26 software maintenance agreements that support the efforts

1 of the Illinois State Police to enforce, regulate, and
2 administer the Firearm Owners Identification Card Act, the
3 Firearm Concealed Carry Act, the Firearms Restraining
4 Order Act, the Firearm Dealer License Certification Act,
5 the Law Enforcement Agencies Data System (LEADS), the
6 Uniform Crime Reporting Act, the Criminal Identification
7 Act, the Illinois Uniform Conviction Information Act, and
8 the Gun Trafficking Information Act, or establish or
9 maintain record management systems necessary to conduct
10 human trafficking investigations or gun trafficking or
11 other stolen firearm investigations. This paragraph (21)
12 applies to contracts entered into on or after January 10,
13 2023 (the effective date of Public Act 102-1116) and the
14 renewal of contracts that are in effect on January 10,
15 2023 (the effective date of Public Act 102-1116).

16 (22) Contracts for project management services and
17 system integration services required for the completion of
18 the State's enterprise resource planning project. This
19 exemption becomes inoperative 5 years after June 7, 2023
20 (the effective date of the changes made to this Section by
21 Public Act 103-8). This paragraph (22) applies to
22 contracts entered into on or after June 7, 2023 (the
23 effective date of the changes made to this Section by
24 Public Act 103-8) and the renewal of contracts that are in
25 effect on June 7, 2023 (the effective date of the changes
26 made to this Section by Public Act 103-8).

1 (23) Procurements necessary for the Department of
2 Insurance to implement the Illinois Health Benefits
3 Exchange Law if the Department of Insurance has made a
4 good faith determination that it is necessary and
5 appropriate for the expenditure to fall within this
6 exemption. The procurement process shall be conducted in a
7 manner substantially in accordance with the requirements
8 of Sections 20-160 and 25-60 and Article 50 of this Code. A
9 copy of these contracts shall be made available to the
10 Chief Procurement Officer immediately upon request. This
11 paragraph is inoperative 5 years after June 27, 2023 (the
12 effective date of Public Act 103-103).

13 (24) ~~(22)~~ Contracts for public education programming,
14 noncommercial sustaining announcements, public service
15 announcements, and public awareness and education
16 messaging with the nonprofit trade associations of the
17 providers of those services that inform the public on
18 immediate and ongoing health and safety risks and hazards.

19 Notwithstanding any other provision of law, for contracts
20 with an annual value of more than \$100,000 entered into on or
21 after October 1, 2017 under an exemption provided in any
22 paragraph of this subsection (b), except paragraph (1), (2),
23 or (5), each State agency shall post to the appropriate
24 procurement bulletin the name of the contractor, a description
25 of the supply or service provided, the total amount of the
26 contract, the term of the contract, and the exception to the

1 Code utilized. The chief procurement officer shall submit a
2 report to the Governor and General Assembly no later than
3 November 1 of each year that shall include, at a minimum, an
4 annual summary of the monthly information reported to the
5 chief procurement officer.

6 (c) This Code does not apply to the electric power
7 procurement process provided for under Section 1-75 of the
8 Illinois Power Agency Act and Section 16-111.5 of the Public
9 Utilities Act. This Code does not apply to the procurement of
10 technical and policy experts pursuant to Section 1-129 of the
11 Illinois Power Agency 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
20 to 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
23 of the Public Utilities Act, including calculating the range
24 of capital costs, the range of operating and maintenance
25 costs, or the sequestration costs or monitoring the
26 construction of clean coal SNG brownfield facility for the

1 full duration of construction.

2 (f) (Blank).

3 (g) (Blank).

4 (h) This Code does not apply to the process to procure or
5 contracts entered into in accordance with Sections 11-5.2 and
6 11-5.3 of the Illinois Public Aid Code.

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

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

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

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

26 (m) This Code shall apply regardless of the source of

1 funds with which contracts are paid, including federal
2 assistance moneys. Except as specifically provided in this
3 Code, this Code shall not apply to procurement expenditures
4 necessary for the Department of Public Health to conduct the
5 Healthy Illinois Survey in accordance with Section 2310-431 of
6 the Department of Public Health Powers and Duties Law of the
7 Civil Administrative Code of Illinois.

8 (Source: P.A. 102-175, eff. 7-29-21; 102-483, eff 1-1-22;
9 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff.
10 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
11 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-103, eff.
12 6-27-23; 103-570, eff. 1-1-24; 103-580, eff. 12-8-23; revised
13 1-2-24.)".