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LRB094 08426 NHT 49856 a

1 AMENDMENT TO SENATE BILL 293

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 293 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section  
5 10-20.21 as follows:

6 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)  
7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,  
9 materials or work or contracts with private carriers for  
10 transportation of pupils involving an expenditure in excess of  
11 \$10,000 to the lowest responsible bidder, considering  
12 conformity with specifications, terms of delivery, quality and  
13 serviceability, after due advertisement, except the following:  
14 (i) contracts for the services of individuals possessing a high  
15 degree of professional skill where the ability or fitness of  
16 the individual plays an important part; (ii) contracts for the  
17 printing of finance committee reports and departmental  
18 reports; (iii) contracts for the printing or engraving of  
19 bonds, tax warrants and other evidences of indebtedness; (iv)  
20 contracts for the purchase of perishable foods and perishable  
21 beverages; (v) contracts for materials and work which have been  
22 awarded to the lowest responsible bidder after due  
23 advertisement, but due to unforeseen revisions, not the fault  
24 of the contractor for materials and work, must be revised

1 causing expenditures not in excess of 10% of the contract  
2 price; (vi) contracts for the maintenance or servicing of, or  
3 provision of repair parts for, equipment which are made with  
4 the manufacturer or authorized service agent of that equipment  
5 where the provision of parts, maintenance, or servicing can  
6 best be performed by the manufacturer or authorized service  
7 agent; (vii) purchases and contracts for the use, purchase,  
8 delivery, movement, or installation of data processing  
9 equipment, software, or services and telecommunications and  
10 interconnect equipment, software, and services; (viii)  
11 contracts for duplicating machines and supplies; (ix)  
12 contracts for the purchase of natural gas when the cost is less  
13 than that offered by a public utility; (x) purchases of  
14 equipment previously owned by some entity other than the  
15 district itself; (xi) contracts for repair, maintenance,  
16 remodeling, renovation, or construction, or a single project  
17 involving an expenditure not to exceed \$20,000 and not  
18 involving a change or increase in the size, type, or extent of  
19 an existing facility; (xii) contracts for goods or services  
20 procured from another governmental agency; (xiii) contracts  
21 for goods or services which are economically procurable from  
22 only one source, such as for the purchase of magazines, books,  
23 periodicals, pamphlets and reports, and for utility services  
24 such as water, light, heat, telephone or telegraph; (xiv) where  
25 funds are expended in an emergency and such emergency  
26 expenditure is approved by 3/4 of the members of the board; and  
27 (xv) State master contracts authorized under Article 28A of  
28 this Code.

29 All competitive bids for contracts involving an  
30 expenditure in excess of \$10,000 must be sealed by the bidder  
31 and must be opened by a member or employee of the school board  
32 at a public bid opening at which the contents of the bids must  
33 be announced. Each bidder must receive at least 3 days' notice  
34 of the time and place of the bid opening. For purposes of this

1 Section due advertisement includes, but is not limited to, at  
2 least one public notice at least 10 days before the bid date in  
3 a newspaper published in the district, or if no newspaper is  
4 published in the district, in a newspaper of general  
5 circulation in the area of the district. State master contracts  
6 and certified education purchasing contracts, as defined in  
7 Article 28A of this Code, are not subject to the requirements  
8 of this paragraph.

9 (b) To require, as a condition of any contract for goods  
10 and services, that persons bidding for and awarded a contract  
11 and all affiliates of the person collect and remit Illinois Use  
12 Tax on all sales of tangible personal property into the State  
13 of Illinois in accordance with the provisions of the Illinois  
14 Use Tax Act regardless of whether the person or affiliate is a  
15 "retailer maintaining a place of business within this State" as  
16 defined in Section 2 of the Use Tax Act. For purposes of this  
17 Section, the term "affiliate" means any entity that (1)  
18 directly, indirectly, or constructively controls another  
19 entity, (2) is directly, indirectly, or constructively  
20 controlled by another entity, or (3) is subject to the control  
21 of a common entity. For purposes of this subsection (b), an  
22 entity controls another entity if it owns, directly or  
23 individually, more than 10% of the voting securities of that  
24 entity. As used in this subsection (b), the term "voting  
25 security" means a security that (1) confers upon the holder the  
26 right to vote for the election of members of the board of  
27 directors or similar governing body of the business or (2) is  
28 convertible into, or entitles the holder to receive upon its  
29 exercise, a security that confers such a right to vote. A  
30 general partnership interest is a voting security.

31 To require that bids and contracts include a certification  
32 by the bidder or contractor that the bidder or contractor is  
33 not barred from bidding for or entering into a contract under  
34 this Section and that the bidder or contractor acknowledges

1 that the school board may declare the contract void if the  
2 certification completed pursuant to this subsection (b) is  
3 false.

4 (b-5) To require all contracts and agreements that pertain  
5 to goods and services and that are intended to generate  
6 additional revenue and other remunerations for the school  
7 district in excess of \$1,000, including without limitation  
8 vending machine contracts, sports and other attire, class  
9 rings, and photographic services, to be approved by the school  
10 board. The school board shall file as an attachment to its  
11 annual budget a report, in a form as determined by the State  
12 Board of Education, indicating for the prior year the name of  
13 the vendor, the product or service provided, and the actual net  
14 revenue and non-monetary remuneration from each of the  
15 contracts or agreements. In addition, the report shall indicate  
16 for what purpose the revenue was used and how and to whom the  
17 non-monetary remuneration was distributed.

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

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

29 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04.)

30 Section 90. The State Mandates Act is amended by adding  
31 Section 8.29 as follows:

32 (30 ILCS 805/8.29 new)

1           Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8  
2 of this Act, no reimbursement by the State is required for the  
3 implementation of any mandate created by this amendatory Act of  
4 the 94th General Assembly.

5           Section 99. Effective date. This Act takes effect July 1,  
6 2006.".