



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1426

Introduced 2/9/2007, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

from Ch. 122, par. 10-20.21

Amends the School Code. With respect to the exceptions to the requirement that a school board award contracts involving an expenditure in excess of \$10,000 to the lowest responsible bidder, removes the exceptions for contracts for the purchase of natural gas when the cost is less than that offered by a public utility and for utility services such as light and heat. Provides that a school board must award utility contracts, such as natural gas or electricity, involving an expenditure in excess of \$10,000 to the lowest responsible bidder. Provides that if a school district joins a utility consortium, then that consortium must award utility contracts involving an expenditure in excess of \$10,000 to the lowest responsible bidder. Effective immediately.

LRB095 11052 NHT 31374 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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) (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

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

1 expenditure is approved by 3/4 of the members of the board; and
2 (xv) State master contracts authorized under Article 28A of
3 this Code. A school board must award utility contracts, such as
4 natural gas or electricity, involving an expenditure in excess
5 of \$10,000 to the lowest responsible bidder, considering
6 conformity with specifications, terms of delivery, quality,
7 and serviceability, after due advertisement. If a school
8 district joins a utility consortium, then that consortium must
9 award utility contracts involving an expenditure in excess of
10 \$10,000 to the lowest responsible bidder, considering
11 conformity with specifications, terms of delivery, quality,
12 and serviceability, after due advertisement.

13 All competitive bids for contracts involving an
14 expenditure in excess of \$10,000 must be sealed by the bidder
15 and must be opened by a member or employee of the school board
16 at a public bid opening at which the contents of the bids must
17 be announced. Each bidder must receive at least 3 days' notice
18 of the time and place of the bid opening. For purposes of this
19 Section due advertisement includes, but is not limited to, at
20 least one public notice at least 10 days before the bid date in
21 a newspaper published in the district, or if no newspaper is
22 published in the district, in a newspaper of general
23 circulation in the area of the district. State master contracts
24 and certified education purchasing contracts, as defined in
25 Article 28A of this Code, are not subject to the requirements
26 of this paragraph.

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

23 To require that bids and contracts include a certification
24 by the bidder or contractor that the bidder or contractor is
25 not barred from bidding for or entering into a contract under
26 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

1 contracts that are already available through the State
2 education purchasing entity.

3 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
4 94-714, eff. 7-1-06.)

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