



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2293

Introduced 2/14/2008, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21	from Ch. 122, par. 10-20.21
105 ILCS 5/34-21.3	from Ch. 122, par. 34-21.3

Amends the School Code. Requires that certain contracts involving an expenditure in excess of \$25,000 or a lower amount as required by school board policy (rather than \$10,000) be awarded to the lowest responsible bidder. Changes an exception with respect to contracts for repair, maintenance, remodeling, renovation, or construction or a single project involving an expenditure not to exceed \$50,000 (rather than \$20,000). Effective immediately.

LRB095 18038 NHT 44121 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections
5 10-20.21 and 34-21.3 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 \$25,000 or a lower amount as required by board policy ~~\$10,000~~
12 to the lowest responsible bidder, considering conformity with
13 specifications, terms of delivery, quality and serviceability,
14 after due advertisement, except the following: (i) contracts
15 for the services of individuals possessing a high degree of
16 professional skill where the ability or fitness of the
17 individual plays an important part; (ii) contracts for the
18 printing of finance committee reports and departmental
19 reports; (iii) contracts for the printing or engraving of
20 bonds, tax warrants and other evidences of indebtedness; (iv)
21 contracts for the purchase of perishable foods and perishable
22 beverages; (v) contracts for materials and work which have been
23 awarded to the lowest responsible bidder after due

1 advertisement, but due to unforeseen revisions, not the fault
2 of the contractor for materials and work, must be revised
3 causing expenditures not in excess of 10% of the contract
4 price; (vi) contracts for the maintenance or servicing of, or
5 provision of repair parts for, equipment which are made with
6 the manufacturer or authorized service agent of that equipment
7 where the provision of parts, maintenance, or servicing can
8 best be performed by the manufacturer or authorized service
9 agent; (vii) purchases and contracts for the use, purchase,
10 delivery, movement, or installation of data processing
11 equipment, software, or services and telecommunications and
12 interconnect equipment, software, and services; (viii)
13 contracts for duplicating machines and supplies; (ix)
14 contracts for the purchase of natural gas when the cost is less
15 than that offered by a public utility; (x) purchases of
16 equipment previously owned by some entity other than the
17 district itself; (xi) contracts for repair, maintenance,
18 remodeling, renovation, or construction, or a single project
19 involving an expenditure not to exceed \$50,000 ~~\$20,000~~ and not
20 involving a change or increase in the size, type, or extent of
21 an existing facility; (xii) contracts for goods or services
22 procured from another governmental agency; (xiii) contracts
23 for goods or services which are economically procurable from
24 only one source, such as for the purchase of magazines, books,
25 periodicals, pamphlets and reports, and for utility services
26 such as water, light, heat, telephone or telegraph; (xiv) where

1 funds are expended in an emergency and such emergency
2 expenditure is approved by 3/4 of the members of the board; and
3 (xv) State master contracts authorized under Article 28A of
4 this Code.

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

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

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

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

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

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

11 (c) If the State education purchasing entity creates a
12 master contract as defined in Article 28A of this Code, then
13 the State education purchasing entity shall notify school
14 districts of the existence of the master contract.

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

22 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
23 94-714, eff. 7-1-06.)

24 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

25 Sec. 34-21.3. Contracts. The board shall by record vote let

1 all contracts (other than those excepted by Section 10-20.21 of
2 The School Code) for supplies, materials, work, and contracts
3 with private carriers for transportation of pupils, involving
4 an expenditure in excess of \$25,000 or a lower amount as
5 required by board policy ~~\$10,000~~ by competitive bidding as
6 provided in Section 10-20.21 of The School Code.

7 The board may delegate to the general superintendent of
8 schools, by resolution, the authority to approve contracts in
9 amounts of \$25,000 ~~\$10,000~~ or less.

10 For a period of one year from and after the expiration or
11 other termination of his or her term of office as a member of
12 the board: (i) the former board member shall not be eligible
13 for employment nor be employed by the board, a local school
14 council, an attendance center, or any other subdivision or
15 agent of the board or the school district governed by the
16 board, and (ii) neither the board nor the chief purchasing
17 officer shall let or delegate authority to let any contract for
18 services, employment, or other work to the former board member
19 or to any corporation, partnership, association, sole
20 proprietorship, or other entity other than publicly traded
21 companies from which the former board member receives an annual
22 income, dividends, or other compensation in excess of \$1,500.
23 Any contract that is entered into by or under a delegation of
24 authority from the board or the chief purchasing officer shall
25 contain a provision stating that the contract is not legally
26 binding on the board if entered into in violation of the

1 provisions of this paragraph.

2 In addition, the State Board of Education, in consultation
3 with the board, shall (i) review existing conflict of interest
4 and disclosure laws or regulations that are applicable to the
5 executive officers and governing boards of school districts
6 organized under this Article and school districts generally,
7 (ii) determine what additional disclosure and conflict of
8 interest provisions would enhance the reputation and fiscal
9 integrity of the board and the procedure under which contracts
10 for goods and services are let, and (iii) develop appropriate
11 reporting forms and procedures applicable to the executive
12 officers, governing board, and other officials of the school
13 district.

14 (Source: P.A. 89-15, eff. 5-30-95.)

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