



Rep. Greg Harris

**Filed: 12/5/2012**

09700HB6237ham001

LRB097 23220 KMW 72655 a

1 AMENDMENT TO HOUSE BILL 6237

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6237 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by  
5 changing Sections 1-10 and 45-35 as follows:

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

8 (a) This Code applies only to procurements for which  
9 contractors were first solicited on or after July 1, 1998. This  
10 Code shall not be construed to affect or impair any contract,  
11 or any provision of a contract, entered into based on a  
12 solicitation prior to the implementation date of this Code as  
13 described in Article 99, including but not limited to any  
14 covenant entered into with respect to any revenue bonds or  
15 similar instruments. All procurements for which contracts are  
16 solicited between the effective date of Articles 50 and 99 and

1 July 1, 1998 shall be substantially in accordance with this  
2 Code and its intent.

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

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

10 (2) Grants, except that all grants are subject to for  
11 the filing requirements of Section 20-80. If a  
12 not-for-profit agency receives grants that would be exempt  
13 from this Code under this paragraph (2), then the  
14 not-for-profit agency must also submit to the committee a  
15 copy of the IRS Form 990, including the following sections  
16 that require the reporting of any ownership interests,  
17 operating agreements, partnerships, or other duties,  
18 activities, or transactions that exist between the  
19 not-for-profit agency, interested persons, and its related  
20 for-profit owners, subsidiaries, partners, or affiliates:

21 (A) Part IV, Line 28, Schedule L; (B) Part IV, Line 34,  
22 Schedule R; and (C) Part VI, Line 3, Schedule O. This  
23 disclosure shall at a minimum include business  
24 identification of the for-profit entity, a list of the  
25 business transactions between the related for-profit  
26 agency under the terms of the relationship, and whether

1 more than 50% of the not-for-profit provider's current or  
2 former officers, directors, trustees, family members, or  
3 key employees are delivered from the relationship.

4 (3) Purchase of care. However, if a not-for-profit  
5 agency provides services that would be exempt from this  
6 Code under this paragraph (3), then the not-for-profit  
7 agency must also submit to the committee a copy of the IRS  
8 Form 990, including the following sections that require the  
9 reporting of any ownership interests, operating  
10 agreements, partnerships, or other duties, activities, or  
11 transactions that exist between the not-for-profit agency,  
12 interested persons, and its related for-profit owners,  
13 subsidiaries, partners, or affiliates: (A) Part IV, Line  
14 28, Schedule L; (B) Part IV, Line 34, Schedule R; and (C)  
15 Part VI, Line 3, Schedule O. This disclosure shall at a  
16 minimum include business identification of the for-profit  
17 entity, a list of the business transactions between the  
18 related for-profit agency under the terms of the  
19 relationship, and whether more than 50% of the  
20 not-for-profit provider's current or former officers,  
21 directors, trustees, family members, or key employees are  
22 delivered from the relationship.

23 (4) Hiring of an individual as employee and not as an  
24 independent contractor, whether pursuant to an employment  
25 code or policy or by contract directly with that  
26 individual.

1           (5) Collective bargaining contracts.

2           (6) Purchase of real estate, except that notice of this  
3 type of contract with a value of more than \$25,000 must be  
4 published in the Procurement Bulletin within 7 days after  
5 the deed is recorded in the county of jurisdiction. The  
6 notice shall identify the real estate purchased, the names  
7 of all parties to the contract, the value of the contract,  
8 and the effective date of the contract.

9           (7) Contracts necessary to prepare for anticipated  
10 litigation, enforcement actions, or investigations,  
11 provided that the chief legal counsel to the Governor shall  
12 give his or her prior approval when the procuring agency is  
13 one subject to the jurisdiction of the Governor, and  
14 provided that the chief legal counsel of any other  
15 procuring entity subject to this Code shall give his or her  
16 prior approval when the procuring entity is not one subject  
17 to the jurisdiction of the Governor.

18           (8) Contracts for services to Northern Illinois  
19 University by a person, acting as an independent  
20 contractor, who is qualified by education, experience, and  
21 technical ability and is selected by negotiation for the  
22 purpose of providing non-credit educational service  
23 activities or products by means of specialized programs  
24 offered by the university.

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

1           (10) Procurement expenditures by the Illinois Health  
2 Information Exchange Authority involving private funds  
3 from the Health Information Exchange Fund. "Private funds"  
4 means gifts, donations, and private grants.

5           (11) Public-private agreements entered into according  
6 to the procurement requirements of Section 20 of the  
7 Public-Private Partnerships for Transportation Act and  
8 design-build agreements entered into according to the  
9 procurement requirements of Section 25 of the  
10 Public-Private Partnerships for Transportation Act.

11           (c) This Code does not apply to the electric power  
12 procurement process provided for under Section 1-75 of the  
13 Illinois Power Agency Act and Section 16-111.5 of the Public  
14 Utilities Act.

15           (d) Except for Section 20-160 and Article 50 of this Code,  
16 and as expressly required by Section 9.1 of the Illinois  
17 Lottery Law, the provisions of this Code do not apply to the  
18 procurement process provided for under Section 9.1 of the  
19 Illinois Lottery Law.

20           (e) This Code does not apply to the process used by the  
21 Capital Development Board to retain a person or entity to  
22 assist the Capital Development Board with its duties related to  
23 the determination of costs of a clean coal SNG brownfield  
24 facility, as defined by Section 1-10 of the Illinois Power  
25 Agency Act, as required in subsection (h-3) of Section 9-220 of  
26 the Public Utilities Act, including calculating the range of

1 capital costs, the range of operating and maintenance costs, or  
2 the sequestration costs or monitoring the construction of clean  
3 coal SNG brownfield facility for the full duration of  
4 construction.

5 (f) This Code does not apply to the process used by the  
6 Illinois Power Agency to retain a mediator to mediate sourcing  
7 agreement disputes between gas utilities and the clean coal SNG  
8 brownfield facility, as defined in Section 1-10 of the Illinois  
9 Power Agency Act, as required under subsection (h-1) of Section  
10 9-220 of the Public Utilities Act.

11 (g) This Code does not apply to the processes used by the  
12 Illinois Power Agency to retain a mediator to mediate contract  
13 disputes between gas utilities and the clean coal SNG facility  
14 and to retain an expert to assist in the review of contracts  
15 under subsection (h) of Section 9-220 of the Public Utilities  
16 Act. This Code does not apply to the process used by the  
17 Illinois Commerce Commission to retain an expert to assist in  
18 determining the actual incurred costs of the clean coal SNG  
19 facility and the reasonableness of those costs as required  
20 under subsection (h) of Section 9-220 of the Public Utilities  
21 Act.

22 (h) This Code does not apply to the process to procure or  
23 contracts entered into in accordance with Sections 11-5.2 and  
24 11-5.3 of the Illinois Public Aid Code.

25 (i) ~~(h)~~ Each chief procurement officer may access records  
26 necessary to review whether a contract, purchase, or other

1 expenditure is or is not subject to the provisions of this  
2 Code, unless such records would be subject to attorney-client  
3 privilege.

4 (Source: P.A. 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10;  
5 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502, eff. 8-23-11;  
6 97-689, eff. 6-14-12; 97-813, eff. 7-13-12; 97-895, eff.  
7 8-3-12; revised 8-23-12.)

8 (30 ILCS 500/45-35)

9 Sec. 45-35. Facilities for persons with severe  
10 disabilities.

11 (a) Qualification. Supplies and services may be procured  
12 without advertising or calling for bids from any qualified  
13 not-for-profit agency for persons with severe disabilities  
14 that:

15 (1) complies with Illinois laws governing private  
16 not-for-profit organizations;

17 (2) is certified as a sheltered workshop by the Wage  
18 and Hour Division of the United States Department of Labor  
19 or is an accredited vocational program that provides  
20 transition services to youth between the ages of 14 1/2 and  
21 22 in accordance with individualized education plans under  
22 Section 14-8.03 of the School Code and that provides  
23 residential services at a child care institution, as  
24 defined under Section 2.06 of the Child Care Act of 1969,  
25 or at a group home, as defined under Section 2.16 of the

1 Child Care Act of 1969; and

2 (3) meets the applicable Illinois Department of Human  
3 Services just standards.

4 (b) Participation. To participate, the not-for-profit  
5 agency must have indicated an interest in providing the  
6 supplies and services, must meet the specifications and needs  
7 of the using agency, and must set a fair market price. The  
8 not-for-profit agency must also submit to the committee a copy  
9 of the IRS Form 990, including the following sections that  
10 require the reporting of any ownership interests, operating  
11 agreements, partnerships, or other duties, activities, or  
12 transactions that exist between the not-for-profit agency,  
13 interested persons, and its related for-profit owners,  
14 subsidiaries, partners, or affiliates: (A) Part IV, Line 28,  
15 Schedule L; (B) Part IV, Line 34, Schedule R; and (C) Part VI,  
16 Line 3, Schedule O. This disclosure shall at a minimum include  
17 business identification of the for-profit entity, a list of the  
18 business transactions between the related for-profit agency  
19 under the terms of the relationship, and whether more than 50%  
20 of the not-for-profit provider's current or former officers,  
21 directors, trustees, family members, or key employees are  
22 delivered from the relationship.

23 (c) Committee. There is created within the Department of  
24 Central Management Services a committee to facilitate the  
25 purchase of products and services of persons so severely  
26 disabled by a physical, developmental, or mental disability or



1 a combination of any of those disabilities that they cannot  
2 engage in normal competitive employment. This committee is  
3 called the State Use Committee. The committee shall consist of  
4 the Director of the Department of Central Management Services  
5 or his or her designee, the Director of the Department of Human  
6 Services or his or her designee, one public member representing  
7 private business who is knowledgeable of the employment needs  
8 and concerns of persons with developmental disabilities, one  
9 public member representing private business who is  
10 knowledgeable of the needs and concerns of rehabilitation  
11 facilities, one public member who is knowledgeable of the  
12 employment needs and concerns of persons with developmental  
13 disabilities, one public member who is knowledgeable of the  
14 needs and concerns of rehabilitation facilities, and 2 public  
15 members from a statewide association that represents  
16 community-based rehabilitation facilities, all appointed by  
17 the Governor. The public members shall serve 2 year terms,  
18 commencing upon appointment and every 2 years thereafter. A  
19 public member may be reappointed, and vacancies shall be filled  
20 by appointment for the completion of the term. In the event  
21 there is a vacancy on the Committee, the Governor must make an  
22 appointment to fill that vacancy within 30 calendar days after  
23 the notice of vacancy. The members shall serve without  
24 compensation but shall be reimbursed for expenses at a rate  
25 equal to that of State employees on a per diem basis by the  
26 Department of Central Management Services. All members shall be

1 entitled to vote on issues before the committee.

2 The committee shall have the following powers and duties:

3 (1) To request from any State agency information as to  
4 product specification and service requirements in order to  
5 carry out its purpose.

6 (2) To meet quarterly or more often as necessary to  
7 carry out its purposes.

8 (3) To request a quarterly report from each  
9 participating qualified not-for-profit agency for persons  
10 with severe disabilities describing the volume of sales for  
11 each product or service sold under this Section.

12 (4) To prepare a report for the Governor annually.

13 (5) To prepare a publication that lists all supplies  
14 and services currently available from any qualified  
15 not-for-profit agency for persons with severe  
16 disabilities. This list and any revisions shall be  
17 distributed to all purchasing agencies.

18 (6) To encourage diversity in supplies and services  
19 provided by qualified not-for-profit agencies for persons  
20 with severe disabilities and discourage unnecessary  
21 duplication or competition among facilities.

22 (7) To develop guidelines to be followed by qualifying  
23 agencies for participation under the provisions of this  
24 Section. The guidelines shall be developed within 6 months  
25 after the effective date of this Code and made available on  
26 a nondiscriminatory basis to all qualifying agencies.

1           (8) To review all bids submitted under the provisions  
2 of this Section and reject any bid for any purchase that is  
3 determined to be substantially more than the purchase would  
4 have cost had it been competitively bid.

5           (9) To develop a 5-year plan for increasing the number  
6 of products and services purchased from qualified  
7 not-for-profit agencies for persons with severe  
8 disabilities, including the feasibility of developing  
9 mandatory set-aside contracts. This 5-year plan must be  
10 developed no later than 180 calendar days after the  
11 effective date of this amendatory Act of the 96th General  
12 Assembly.

13           (c-5) Conditions for Use. Each chief procurement officer  
14 shall, in consultation with the State Use Committee, determine  
15 which articles, materials, services, food stuffs, and supplies  
16 that are produced, manufactured, or provided by persons with  
17 severe disabilities in qualified not-for-profit agencies shall  
18 be given preference by purchasing agencies procuring those  
19 items.

20           (d) Former committee. The committee created under  
21 subsection (c) shall replace the committee created under  
22 Section 7-2 of the Illinois Purchasing Act, which shall  
23 continue to operate until the appointments under subsection (c)  
24 are made.

25           (Source: P.A. 96-634, eff. 8-24-09; 97-895, eff. 8-3-12.)

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