

# SB3157



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3157

Introduced 2/11/2020, by Sen. Scott M. Bennett

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13

Amends the Illinois Procurement Code. Provides that the Code does not apply to procurements made by or on behalf of public institutions of higher education for (1) procurement expenditures for investments, investment management, investment services, investment banking, and custodial services and (2) procurement expenditures for bonding, bond issuance, and bond custodians and trustees.

LRB101 17341 RJF 66746 b

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Section 1-13 as follows:

6 (30 ILCS 500/1-13)

7 Sec. 1-13. Applicability to public institutions of higher  
8 education.

9 (a) This Code shall apply to public institutions of higher  
10 education, regardless of the source of the funds with which  
11 contracts are paid, except as provided in this Section.

12 (b) Except as provided in this Section, this Code shall not  
13 apply to procurements made by or on behalf of public  
14 institutions of higher education for any of the following:

15 (1) Memberships in professional, academic, research,  
16 or athletic organizations on behalf of a public institution  
17 of higher education, an employee of a public institution of  
18 higher education, or a student at a public institution of  
19 higher education.

20 (2) Procurement expenditures for events or activities  
21 paid for exclusively by revenues generated by the event or  
22 activity, gifts or donations for the event or activity,  
23 private grants, or any combination thereof.

1           (3) Procurement expenditures for events or activities  
2           for which the use of specific potential contractors is  
3           mandated or identified by the sponsor of the event or  
4           activity, provided that the sponsor is providing a majority  
5           of the funding for the event or activity.

6           (4) Procurement expenditures necessary to provide  
7           athletic, artistic or musical services, performances,  
8           events, or productions by or for a public institution of  
9           higher education.

10          (5) Procurement expenditures for periodicals, books,  
11          subscriptions, database licenses, and other publications  
12          procured for use by a university library or academic  
13          department, except for expenditures related to procuring  
14          textbooks for student use or materials for resale or  
15          rental.

16          (6) Procurement expenditures for placement of students  
17          in externships, practicums, field experiences, and for  
18          medical residencies and rotations.

19          (7) Contracts for programming and broadcast license  
20          rights for university-operated radio and television  
21          stations.

22          (8) Procurement expenditures necessary to perform  
23          sponsored research and other sponsored activities under  
24          grants and contracts funded by the sponsor or by sources  
25          other than State appropriations.

26          (9) Contracts with a foreign entity for research or

1 educational activities, provided that the foreign entity  
2 either does not maintain an office in the United States or  
3 is the sole source of the service or product.

4 (10) Procurement expenditures for investments,  
5 investment management, investment services, investment  
6 banking, and custodial services.

7 (11) Procurement expenditures for bonding, bond  
8 issuance, and bond custodians and trustees.

9 Notice of each contract entered into by a public institution of  
10 higher education that is related to the procurement of goods  
11 and services identified in items (1) through (9) of this  
12 subsection shall be published in the Procurement Bulletin  
13 within 14 calendar days after contract execution. The Chief  
14 Procurement Officer shall prescribe the form and content of the  
15 notice. Each public institution of higher education shall  
16 provide the Chief Procurement Officer, on a monthly basis, in  
17 the form and content prescribed by the Chief Procurement  
18 Officer, a report of contracts that are related to the  
19 procurement of goods and services identified in this  
20 subsection. At a minimum, this report shall include the name of  
21 the contractor, a description of the supply or service  
22 provided, the total amount of the contract, the term of the  
23 contract, and the exception to the Code utilized. A copy of any  
24 or all of these contracts shall be made available to the Chief  
25 Procurement Officer immediately upon request. The Chief  
26 Procurement Officer shall submit a report to the Governor and

1 General Assembly no later than November 1 of each year that  
2 shall include, at a minimum, an annual summary of the monthly  
3 information reported to the Chief Procurement Officer.

4 (b-5) Except as provided in this subsection, the provisions  
5 of this Code shall not apply to contracts for medical supplies,  
6 and to contracts for medical services necessary for the  
7 delivery of care and treatment at medical, dental, or  
8 veterinary teaching facilities utilized by Southern Illinois  
9 University or the University of Illinois and at any  
10 university-operated health care center or dispensary that  
11 provides care, treatment, and medications for students,  
12 faculty and staff. Other supplies and services needed for these  
13 teaching facilities shall be subject to the jurisdiction of the  
14 Chief Procurement Officer for Public Institutions of Higher  
15 Education who may establish expedited procurement procedures  
16 and may waive or modify certification, contract, hearing,  
17 process and registration requirements required by the Code. All  
18 procurements made under this subsection shall be documented and  
19 may require publication in the Illinois Procurement Bulletin.

20 (c) Procurements made by or on behalf of public  
21 institutions of higher education for the fulfillment of a grant  
22 shall be made in accordance with the requirements of this Code  
23 to the extent practical.

24 Upon the written request of a public institution of higher  
25 education, the Chief Procurement Officer may waive contract,  
26 registration, certification, and hearing requirements of this

1 Code if, based on the item to be procured or the terms of a  
2 grant, compliance is impractical. The public institution of  
3 higher education shall provide the Chief Procurement Officer  
4 with specific reasons for the waiver, including the necessity  
5 of contracting with a particular potential contractor, and  
6 shall certify that an effort was made in good faith to comply  
7 with the provisions of this Code. The Chief Procurement Officer  
8 shall provide written justification for any waivers. By  
9 November 1 of each year, the Chief Procurement Officer shall  
10 file a report with the General Assembly identifying each  
11 contract approved with waivers and providing the justification  
12 given for any waivers for each of those contracts. Notice of  
13 each waiver made under this subsection shall be published in  
14 the Procurement Bulletin within 14 calendar days after contract  
15 execution. The Chief Procurement Officer shall prescribe the  
16 form and content of the notice.

17 (d) Notwithstanding this Section, a waiver of the  
18 registration requirements of Section 20-160 does not permit a  
19 business entity and any affiliated entities or affiliated  
20 persons to make campaign contributions if otherwise prohibited  
21 by Section 50-37. The total amount of contracts awarded in  
22 accordance with this Section shall be included in determining  
23 the aggregate amount of contracts or pending bids of a business  
24 entity and any affiliated entities or affiliated persons.

25 (e) Notwithstanding subsection (e) of Section 50-10.5 of  
26 this Code, the Chief Procurement Officer, with the approval of

1 the Executive Ethics Commission, may permit a public  
2 institution of higher education to accept a bid or enter into a  
3 contract with a business that assisted the public institution  
4 of higher education in determining whether there is a need for  
5 a contract or assisted in reviewing, drafting, or preparing  
6 documents related to a bid or contract, provided that the bid  
7 or contract is essential to research administered by the public  
8 institution of higher education and it is in the best interest  
9 of the public institution of higher education to accept the bid  
10 or contract. For purposes of this subsection, "business"  
11 includes all individuals with whom a business is affiliated,  
12 including, but not limited to, any officer, agent, employee,  
13 consultant, independent contractor, director, partner,  
14 manager, or shareholder of a business. The Executive Ethics  
15 Commission may promulgate rules and regulations for the  
16 implementation and administration of the provisions of this  
17 subsection (e).

18 (f) As used in this Section:

19 "Grant" means non-appropriated funding provided by a  
20 federal or private entity to support a project or program  
21 administered by a public institution of higher education and  
22 any non-appropriated funding provided to a sub-recipient of the  
23 grant.

24 "Public institution of higher education" means Chicago  
25 State University, Eastern Illinois University, Governors State  
26 University, Illinois State University, Northeastern Illinois

1 University, Northern Illinois University, Southern Illinois  
2 University, University of Illinois, Western Illinois  
3 University, and, for purposes of this Code only, the Illinois  
4 Mathematics and Science Academy.

5 (g) (Blank).

6 (h) The General Assembly finds and declares that:

7 (1) Public Act 98-1076, which took effect on January 1,  
8 2015, changed the repeal date set for this Section from  
9 December 31, 2014 to December 31, 2016.

10 (2) The Statute on Statutes sets forth general rules on  
11 the repeal of statutes and the construction of multiple  
12 amendments, but Section 1 of that Act also states that  
13 these rules will not be observed when the result would be  
14 "inconsistent with the manifest intent of the General  
15 Assembly or repugnant to the context of the statute".

16 (3) This amendatory Act of the 100th General Assembly  
17 manifests the intention of the General Assembly to remove  
18 the repeal of this Section.

19 (4) This Section was originally enacted to protect,  
20 promote, and preserve the general welfare. Any  
21 construction of this Section that results in the repeal of  
22 this Section on December 31, 2014 would be inconsistent  
23 with the manifest intent of the General Assembly and  
24 repugnant to the context of this Code.

25 It is hereby declared to have been the intent of the  
26 General Assembly that this Section not be subject to repeal on



1 December 31, 2014.

2 This Section shall be deemed to have been in continuous  
3 effect since December 20, 2011 (the effective date of Public  
4 Act 97-643), and it shall continue to be in effect henceforward  
5 until it is otherwise lawfully repealed. All previously enacted  
6 amendments to this Section taking effect on or after December  
7 31, 2014, are hereby validated.

8 All actions taken in reliance on or pursuant to this  
9 Section by any public institution of higher education, person,  
10 or entity are hereby validated.

11 In order to ensure the continuing effectiveness of this  
12 Section, it is set forth in full and re-enacted by this  
13 amendatory Act of the 100th General Assembly. This re-enactment  
14 is intended as a continuation of this Section. It is not  
15 intended to supersede any amendment to this Section that is  
16 enacted by the 100th General Assembly.

17 In this amendatory Act of the 100th General Assembly, the  
18 base text of the reenacted Section is set forth as amended by  
19 Public Act 98-1076. Striking and underscoring is used only to  
20 show changes being made to the base text.

21 This Section applies to all procurements made on or before  
22 the effective date of this amendatory Act of the 100th General  
23 Assembly.

24 (Source: P.A. 100-43, eff. 8-9-17.)