



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5462

by Rep. Norine K. Hammond

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13
30 ILCS 500/1-13.1 new

Amends the Illinois Procurement Code. Re-enacts a provision concerning the applicability of the Code to public institutions of higher education. Extends the repeal of the provision from December 31, 2016 to December 31, 2021. Provides that the Code does not apply to procurements made by or on behalf of public institutions of higher education for goods or services procured through a contract with a vendor approved by the Midwest Higher Education Compact. Effective immediately.

LRB100 07005 MLM 17059 b

FISCAL NOTE ACT
MAY APPLY

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 re-enacting Section 1-13 and by adding Section 1-13.1 as
6 follows:

7 (30 ILCS 500/1-13)

8 (Section scheduled to be repealed on December 31, 2016)

9 Sec. 1-13. Applicability to public institutions of higher
10 education.

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

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

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

22 (2) Procurement expenditures for events or activities
23 paid for exclusively by revenues generated by the event or

1 activity, gifts or donations for the event or activity,
2 private grants, or any combination thereof.

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

8 (4) Procurement expenditures necessary to provide
9 artistic or musical services, performances, or productions
10 held at a venue operated by a public institution of higher
11 education.

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

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

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

23 (8) Procurement expenditures for goods or services
24 procured through a contract with a vendor approved by the
25 Midwest Higher Education Compact.

26 Notice of each contract entered into by a public institution of

1 higher education that is related to the procurement of goods
2 and services identified in items (1) through (8) ~~(7)~~ of this
3 subsection shall be published in the Procurement Bulletin
4 within 14 calendar days after contract execution. The Chief
5 Procurement Officer shall prescribe the form and content of the
6 notice. Each public institution of higher education shall
7 provide the Chief Procurement Officer, on a monthly basis, in
8 the form and content prescribed by the Chief Procurement
9 Officer, a report of contracts that are related to the
10 procurement of goods and services identified in this
11 subsection. At a minimum, this report shall include the name of
12 the contractor, a description of the supply or service
13 provided, the total amount of the contract, the term of the
14 contract, and the exception to the Code utilized. A copy of any
15 or all of these contracts shall be made available to the Chief
16 Procurement Officer immediately upon request. The Chief
17 Procurement Officer shall submit a report to the Governor and
18 General Assembly no later than November 1 of each year that
19 shall include, at a minimum, an annual summary of the monthly
20 information reported to the Chief Procurement Officer.

21 (b-5) Except as provided in this subsection, the provisions
22 of this Code shall not apply to contracts for FDA-regulated
23 supplies, and to contracts for medical services necessary for
24 the delivery of care and treatment at medical, dental, or
25 veterinary teaching facilities utilized by Southern Illinois
26 University or the University of Illinois. Other supplies and

1 services needed for these teaching facilities shall be subject
2 to the jurisdiction of the Chief Procurement Officer for Public
3 Institutions of Higher Education who may establish expedited
4 procurement procedures and may waive or modify certification,
5 contract, hearing, process and registration requirements
6 required by the Code. All procurements made under this
7 subsection shall be documented and may require publication in
8 the Illinois Procurement Bulletin.

9 (c) Procurements made by or on behalf of public
10 institutions of higher education for any of the following shall
11 be made in accordance with the requirements of this Code to the
12 extent practical as provided in this subsection:

13 (1) Contracts with a foreign entity necessary for
14 research or educational activities, provided that the
15 foreign entity either does not maintain an office in the
16 United States or is the sole source of the service or
17 product.

18 (2) (Blank).

19 (3) (Blank).

20 (4) Procurements required for fulfillment of a grant.

21 Upon the written request of a public institution of higher
22 education, the Chief Procurement Officer may waive
23 registration, certification, and hearing requirements of this
24 Code if, based on the item to be procured or the terms of a
25 grant, compliance is impractical. The public institution of
26 higher education shall provide the Chief Procurement Officer

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

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

22 (e) Notwithstanding subsection (e) of Section 50-10.5 of
23 this Code, the Chief Procurement Officer, with the approval of
24 the Executive Ethics Commission, may permit a public
25 institution of higher education to accept a bid or enter into a
26 contract with a business that assisted the public institution

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

15 (f) As used in this Section:

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

21 "Public institution of higher education" means Chicago
22 State University, Eastern Illinois University, Governors State
23 University, Illinois State University, Northeastern Illinois
24 University, Northern Illinois University, Southern Illinois
25 University, University of Illinois, Western Illinois
26 University, and, for purposes of this Code only, the Illinois

1 Mathematics and Science Academy.

2 (g) This Section is repealed on December 31, 2021 ~~2016~~.

3 (Source: P.A. 97-643, eff. 12-20-11; 97-895, eff. 8-3-12;
4 98-1076, eff. 1-1-15.)

5 (30 ILCS 500/1-13.1 new)

6 Sec. 1-13.1. Continuation of Section 1-13 of this Code;
7 validation.

8 (a) The General Assembly finds and declares that:

9 (1) Public Act 98-1076, which took effect on January 1,
10 2015, changed the repeal date set for Section 1-13 of this
11 Code from December 31, 2014 to December 31, 2016.

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

18 (3) This amendatory Act of the 100th General Assembly
19 manifests the intention of the General Assembly to extend
20 the repeal of Section 1-13 of this Code and have Section
21 1-13 of this Code continue in effect until December 31,
22 2021.

23 (4) Section 1-13 of this Code was originally enacted to
24 protect, promote, and preserve the general welfare. Any
25 construction of Section 1-13 of this Code that results in

1 the repeal of that Section on December 31, 2014 would be
2 inconsistent with the manifest intent of the General
3 Assembly and repugnant to the context of this Code.

4 (b) It is hereby declared to have been the intent of the
5 General Assembly that Section 1-13 of this Code not be subject
6 to repeal on December 31, 2014.

7 (c) Section 1-13 of this Code shall be deemed to have been
8 in continuous effect since December 20, 2011 (the effective
9 date of Public Act 97-643), and it shall continue to be in
10 effect henceforward until it is otherwise lawfully repealed.
11 All previously enacted amendments to Section 1-13 of this Code
12 taking effect on or after December 31, 2014, are hereby
13 validated.

14 (d) All actions taken in reliance on or pursuant to Section
15 1-13 of this Code by any public institution of higher
16 education, person, or entity are hereby validated.

17 (e) In order to ensure the continuing effectiveness of
18 Section 1-13 of this Code, it is set forth in full and
19 re-enacted by this amendatory Act of the 100th General
20 Assembly. This re-enactment is intended as a continuation of
21 that Section. It is not intended to supersede any amendment to
22 that Section that is enacted by the 100th General Assembly.

23 (f) In this amendatory Act of the 100th General Assembly,
24 the base text of the reenacted Section is set forth as amended
25 by Public Act 98-1076. Striking and underscoring is used only
26 to show changes being made to the base text.

1 (g) Section 1-13 of this Code applies to all procurements
2 made on or before the effective date of this amendatory Act of
3 the 100th General Assembly.

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