



Sen. Scott M. Bennett

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10100SB2362sam001

LRB101 15719 CMG 71286 a

1 AMENDMENT TO SENATE BILL 2362

2 AMENDMENT NO. _____. Amend Senate Bill 2362 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section
5 10-20.21 as follows:

6 (105 ILCS 5/10-20.21)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies and
9 materials or work involving an expenditure in excess of \$25,000
10 or a lower amount as required by board policy to the lowest
11 responsible bidder, considering conformity with
12 specifications, terms of delivery, quality and serviceability,
13 after due advertisement, except as otherwise provided under
14 subsection (a-5) or except the following: (i) contracts for the
15 services of individuals possessing a high degree of
16 professional skill where the ability or fitness of the

1 individual plays an important part; (ii) contracts for the
2 printing of finance committee reports and departmental
3 reports; (iii) contracts for the printing or engraving of
4 bonds, tax warrants and other evidences of indebtedness; (iv)
5 contracts for the purchase of perishable foods and perishable
6 beverages; (v) contracts for materials and work which have been
7 awarded to the lowest responsible bidder after due
8 advertisement, but due to unforeseen revisions, not the fault
9 of the contractor for materials and work, must be revised
10 causing expenditures not in excess of 10% of the contract
11 price; (vi) contracts for the maintenance or servicing of, or
12 provision of repair parts for, equipment which are made with
13 the manufacturer or authorized service agent of that equipment
14 where the provision of parts, maintenance, or servicing can
15 best be performed by the manufacturer or authorized service
16 agent; (vii) purchases and contracts for the use, purchase,
17 delivery, movement, or installation of data processing
18 equipment, software, or services and telecommunications and
19 interconnect equipment, software, and services; (viii)
20 contracts for duplicating machines and supplies; (ix)
21 contracts for the purchase of fuel, including diesel, gasoline,
22 oil, aviation, natural gas, or propane, lubricants, or other
23 petroleum products; (x) purchases of equipment previously
24 owned by some entity other than the district itself; (xi)
25 contracts for repair, maintenance, remodeling, renovation, or
26 construction, or a single project involving an expenditure not

1 to exceed \$50,000 and not involving a change or increase in the
2 size, type, or extent of an existing facility; (xii) contracts
3 for goods or services procured from another governmental
4 agency; (xiii) contracts for goods or services which are
5 economically procurable from only one source, such as for the
6 purchase of magazines, books, periodicals, pamphlets and
7 reports, and for utility services such as water, light, heat,
8 telephone or telegraph; (xiv) where funds are expended in an
9 emergency and such emergency expenditure is approved by 3/4 of
10 the members of the board; (xv) State master contracts
11 authorized under Article 28A of this Code; and (xvi) contracts
12 providing for the transportation of pupils, which contracts
13 must be advertised in the same manner as competitive bids and
14 awarded by first considering the bidder or bidders most able to
15 provide safety and comfort for the pupils, stability of
16 service, and any other factors set forth in the request for
17 proposal regarding quality of service, and then price. However,
18 at no time shall a cause of action lie against a school board
19 for awarding a pupil transportation contract per the standards
20 set forth in this subsection (a) unless the cause of action is
21 based on fraudulent conduct.

22 All competitive bids for contracts involving an
23 expenditure in excess of \$25,000 or a lower amount as required
24 by board policy must be sealed by the bidder and must be opened
25 by a member or employee of the school board at a public bid
26 opening at which the contents of the bids must be announced.

1 Each bidder must receive at least 3 days' notice of the time
2 and place of the bid opening. For purposes of this Section due
3 advertisement includes, but is not limited to, at least one
4 public notice at least 10 days before the bid date in a
5 newspaper published in the district, or if no newspaper is
6 published in the district, in a newspaper of general
7 circulation in the area of the district. State master contracts
8 and certified education purchasing contracts, as defined in
9 Article 28A of this Code, are not subject to the requirements
10 of this paragraph.

11 Under this Section, the acceptance of bids sealed by a
12 bidder and the opening of these bids at a public bid opening
13 may be permitted by an electronic process for communicating,
14 accepting, and opening competitive bids. However, bids for
15 construction purposes are prohibited from being communicated,
16 accepted, or opened electronically. An electronic bidding
17 process must provide for, but is not limited to, the following
18 safeguards:

19 (1) On the date and time certain of a bid opening, the
20 primary person conducting the competitive, sealed,
21 electronic bid process shall log onto a specified database
22 using a unique username and password previously assigned to
23 the bidder to allow access to the bidder's specific bid
24 project number.

25 (2) The specified electronic database must be on a
26 network that (i) is in a secure environment behind a

1 firewall; (ii) has specific encryption tools; (iii)
2 maintains specific intrusion detection systems; (iv) has
3 redundant systems architecture with data storage back-up,
4 whether by compact disc or tape; and (v) maintains a
5 disaster recovery plan.

6 It is the legislative intent of Public Act 96-841 to maintain
7 the integrity of the sealed bidding process provided for in
8 this Section, to further limit any possibility of bid-rigging,
9 to reduce administrative costs to school districts, and to
10 effect efficiencies in communications with bidders.

11 (a-5) Notwithstanding subsection (a), a school board may
12 award a contract under this Section to a bidder who is not the
13 lowest responsible bidder if the school board has considered
14 factors of social responsibility in the school board's decision
15 to award the contract to the bidder. Factors of social
16 responsibility include, but are not limited to, businesses
17 owned by women, minorities, persons with disabilities, or
18 veterans and bidders who have programs or relationships that
19 benefit such businesses.

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 (b-10) To prohibit any contract to purchase food with a
12 bidder or offeror if the bidder's or offeror's contract terms
13 prohibit the school from donating food to food banks,
14 including, but not limited to, homeless shelters, food
15 pantries, and soup kitchens.

16 (c) If the State education purchasing entity creates a
17 master contract as defined in Article 28A of this Code, then
18 the State education purchasing entity shall notify school
19 districts of the existence of the master contract.

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

1 (Source: P.A. 101-570, eff. 8-23-19.)

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