

SB3384



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3384

Introduced 2/14/2020, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13
30 ILCS 500/40-25

Amends the Illinois Procurement Code. Provides that the Code shall not apply to procurements made by or on behalf of public institutions of higher education for procurement expenditures for the search and placement of medical practitioners necessary for clinical and academic staffing at the teaching hospitals located at the Southern Illinois University School of Medicine, the University of Illinois at Chicago, and the University of Illinois Champaign-Urbana. Provides that a lease for real property owned by Southern Illinois University to be used by the Southern Illinois University School of Medicine for an ambulatory surgical center may exceed 10 years in length under specified circumstances, but may not exceed 30 years in length.

LRB101 19532 RJF 69005 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 Sections 1-13 and 40-25 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 the search and
5 placement of medical practitioners necessary for clinical
6 and academic staffing at the teaching hospitals located at
7 the Southern Illinois University School of Medicine, the
8 University of Illinois at Chicago, and the University of
9 Illinois Champaign-Urbana.

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

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

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

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

25 Upon the written request of a public institution of higher
26 education, the Chief Procurement Officer may waive contract,

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

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

26 (e) Notwithstanding subsection (e) of Section 50-10.5 of

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

19 (f) As used in this Section:

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

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

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

6 (g) (Blank).

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

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

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

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

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

26 It is hereby declared to have been the intent of the

1 General Assembly that this Section not be subject to repeal on
2 December 31, 2014.

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

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

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

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

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

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

1 (30 ILCS 500/40-25)

2 Sec. 40-25. Length of leases.

3 (a) Maximum term. Except as otherwise provided under
4 subsection (a-5), leases shall be for a term not to exceed 10
5 years inclusive, beginning January, 1, 2010, of proposed
6 contract renewals and shall include a termination option in
7 favor of the State after 5 years. The length of energy
8 conservation program contracts or energy savings contracts or
9 leases shall be in accordance with the provisions of Section
10 25-45.

11 (a-5) Extended term. A lease for real property owned by the
12 University of Illinois to be used by the University of Illinois
13 at Chicago for an ambulatory surgical center, which would
14 include both clinical services and retail space, may exceed 10
15 years in length where: (i) the lease requires the lessor to
16 make capital improvements in excess of \$100,000; and (ii) the
17 Board of Trustees of the University of Illinois determines a
18 term of more than 10 years is necessary and is in the best
19 interest of the University. A lease under this subsection (a-5)
20 may not exceed 30 years in length.

21 (a-10) Extended term. A lease for real property owned by
22 Southern Illinois University to be used by the Southern
23 Illinois University School of Medicine for an ambulatory
24 surgical center, which would include both clinical services and
25 retail space, may exceed 10 years in length where: (i) the
26 lease requires the lessor to make capital improvements in

1 excess of \$100,000; and (ii) the Board of Trustees of Southern
2 Illinois University determines a term of more than 10 years is
3 necessary and is in the best interest of the University. A
4 lease under this subsection (a-10) may not exceed 30 years in
5 length.

6 (b) Renewal. Leases may include a renewal option. An option
7 to renew may be exercised only when a State purchasing officer
8 determines in writing that renewal is in the best interest of
9 the State and notice of the exercise of the option is published
10 in the appropriate volume of the Procurement Bulletin at least
11 30 calendar days prior to the exercise of the option.

12 (c) Subject to appropriation. All leases shall recite that
13 they are subject to termination and cancellation in any year
14 for which the General Assembly fails to make an appropriation
15 to make payments under the terms of the lease.

16 (d) Holdover. Beginning January 1, 2010, no lease may
17 continue on a month-to-month or other holdover basis for a
18 total of more than 6 months. Beginning July 1, 2010, the
19 Comptroller shall withhold payment of leases beyond this
20 holdover period.

21 (Source: P.A. 100-23, eff. 7-6-17; 100-1047, eff. 1-1-19;
22 101-426, eff. 1-1-20.)