

# HB2326



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2326

Introduced 2/14/2023, by Rep. La Shawn K. Ford

### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13

Amends the Illinois Procurement Code. Exempts from the Code's requirements procurement expenditures made by a public institution of higher education for the purchase of equipment or improvements for research facilities purchased with funds provided by a third party as part of a sponsored research agreement. Provides that the public institution of higher education shall maintain and publish a list of its procurements that are exempt under this provision categorized by procurement type and total expenditure.

LRB103 27383 RJT 53755 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  
13 not 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  
17 institution of higher education, an employee of a public  
18 institution of higher education, or a student at a public  
19 institution of 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  
5           majority 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 any ongoing software  
5 license or maintenance agreement or competitively  
6 solicited software purchase, when the software, license,  
7 or maintenance agreement is available through only the  
8 software creator or its manufacturer and not a reseller.

9 (11) Procurement expenditures incurred outside of the  
10 United States for the recruitment of international  
11 students.

12 (12) Procurement expenditures made by a public  
13 institution of higher education for purchases of equipment  
14 or improvements for research facilities purchased with  
15 funds provided by a third party as part of a sponsored  
16 research agreement. For procurements made pursuant to this  
17 paragraph (12), the public institution of higher education  
18 shall maintain and publish a list of all such purchases  
19 and list them by category and total expenditure.

20 Notice of each contract with an annual value of more than  
21 \$100,000 entered into by a public institution of higher  
22 education that is related to the procurement of goods and  
23 services identified in items (1) through (11) of this  
24 subsection shall be published in the Procurement Bulletin  
25 within 14 calendar days after contract execution. The Chief  
26 Procurement Officer shall prescribe the form and content of

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

16 (b-5) Except as provided in this subsection, the  
17 provisions of this Code shall not apply to contracts for  
18 medical supplies or to contracts for medical services  
19 necessary for the delivery of care and treatment at medical,  
20 dental, or veterinary teaching facilities used by Southern  
21 Illinois University or the University of Illinois or at any  
22 university-operated health care center or dispensary that  
23 provides care, treatment, and medications for students,  
24 faculty, and staff. Furthermore, the provisions of this Code  
25 do not apply to the procurement by such a facility of any  
26 additional supplies or services that the operator of the

1 facility deems necessary for the effective use and functioning  
2 of the medical supplies or services that are otherwise exempt  
3 from this Code under this subsection (b-5). However, other  
4 supplies and services needed for these teaching facilities  
5 shall be subject to the jurisdiction of the Chief Procurement  
6 Officer for Public Institutions of Higher Education who may  
7 establish expedited procurement procedures and may waive or  
8 modify certification, contract, hearing, process and  
9 registration requirements required by the Code. All  
10 procurements made under this subsection shall be documented  
11 and may require publication in the Illinois Procurement  
12 Bulletin.

13 (b-10) Procurements made by or on behalf of the University  
14 of Illinois for investment services may be entered into or  
15 renewed without being subject to the requirements of this  
16 Code. Notice of intent to renew a contract shall be published  
17 in the Illinois Public Higher Education Procurement Bulletin  
18 at least 14 days prior to the execution of a renewal, and the  
19 University of Illinois shall hold a public hearing for  
20 interested parties to provide public comment. Any contract  
21 extended, renewed, or entered pursuant to this exception shall  
22 be published in the Illinois Public Higher Education  
23 Procurement Bulletin within 5 days of contract execution.

24 (c) Procurements made by or on behalf of public  
25 institutions of higher education for the fulfillment of a  
26 grant shall be made in accordance with the requirements of

1 this Code to the extent practical.

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

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

1 the aggregate amount of contracts or pending bids of a  
2 business entity and any affiliated entities or affiliated  
3 persons.

4 (e) Notwithstanding subsection (e) of Section 50-10.5 of  
5 this Code, the Chief Procurement Officer, with the approval of  
6 the Executive Ethics Commission, may permit a public  
7 institution of higher education to accept a bid or enter into a  
8 contract with a business that assisted the public institution  
9 of higher education in determining whether there is a need for  
10 a contract or assisted in reviewing, drafting, or preparing  
11 documents related to a bid or contract, provided that the bid  
12 or contract is essential to research administered by the  
13 public institution of higher education and it is in the best  
14 interest of the public institution of higher education to  
15 accept the bid or contract. For purposes of this subsection,  
16 "business" includes all individuals with whom a business is  
17 affiliated, including, but not limited to, any officer, agent,  
18 employee, consultant, independent contractor, director,  
19 partner, manager, or shareholder of a business. The Executive  
20 Ethics Commission may promulgate rules and regulations for the  
21 implementation and administration of the provisions of this  
22 subsection (e).

23 (f) As used in this Section:

24 "Grant" means non-appropriated funding provided by a  
25 federal or private entity to support a project or program  
26 administered by a public institution of higher education and



1 any non-appropriated funding provided to a sub-recipient of  
2 the grant.

3 "Public institution of higher education" means Chicago  
4 State University, Eastern Illinois University, Governors State  
5 University, Illinois State University, Northeastern Illinois  
6 University, Northern Illinois University, Southern Illinois  
7 University, University of Illinois, Western Illinois  
8 University, and, for purposes of this Code only, the Illinois  
9 Mathematics and Science Academy.

10 (g) (Blank).

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

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

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

21 (3) This amendatory Act of the 100th General Assembly  
22 manifests the intention of the General Assembly to remove  
23 the repeal of this Section.

24 (4) This Section was originally enacted to protect,  
25 promote, and preserve the general welfare. Any  
26 construction of this Section that results in the repeal of

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

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

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

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

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

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

26          This Section applies to all procurements made on or before

1 the effective date of this amendatory Act of the 100th General  
2 Assembly.

3 (Source: P.A. 101-640, eff. 6-12-20; 102-16, eff. 6-17-21;  
4 102-721, eff. 5-6-22; 102-1119, eff. 1-23-23.)