

# SB3906



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3906

Introduced 2/28/2024, by Sen. Cristina Castro

### SYNOPSIS AS INTRODUCED:

30 ILCS 500/20-60

Amends the Illinois Procurement Code. Provides that third parties may lease State-owned communications infrastructure, including dark fiber networks, conduit, and excess communication tower capacity (rather than State-owned dark fiber networks).

LRB103 38572 MXP 69667 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 20-60 as follows:

6 (30 ILCS 500/20-60)

7 Sec. 20-60. Duration of contracts.

8 (a) Maximum duration. A contract may be entered into for  
9 any period of time deemed to be in the best interests of the  
10 State but not exceeding 10 years inclusive, beginning January  
11 1, 2010, of proposed contract renewals; provided, however, in  
12 connection with the issuance of certificates of participation  
13 or bonds, the governing board of a public institution of  
14 higher education may enter into contracts in excess of 10  
15 years but not to exceed 30 years for the purpose of financing  
16 or refinancing real or personal property. Third parties may  
17 lease State-owned communications infrastructure, including  
18 dark fiber networks, conduit, and excess communication tower  
19 capacity, for any period of time deemed to be in the best  
20 interest of the State, but not exceeding 20 years. The length  
21 of a lease for real property or capital improvements shall be  
22 in accordance with the provisions of Section 40-25. The length  
23 of energy conservation program contracts or energy savings

1 contracts or leases shall be in accordance with the provisions  
2 of Section 25-45. A contract for bond or mortgage insurance  
3 awarded by the Illinois Housing Development Authority,  
4 however, may be entered into for any period of time less than  
5 or equal to the maximum period of time that the subject bond or  
6 mortgage may remain outstanding.

7 (b) Subject to appropriation. All contracts made or  
8 entered into shall recite that they are subject to termination  
9 and cancellation in any year for which the General Assembly  
10 fails to make an appropriation to make payments under the  
11 terms of the contract.

12 (c) The chief procurement officer shall file a proposed  
13 extension or renewal of a contract with the Procurement Policy  
14 Board and the Commission on Equity and Inclusion prior to  
15 entering into any extension or renewal if the cost associated  
16 with the extension or renewal exceeds \$249,999. The  
17 Procurement Policy Board or the Commission on Equity and  
18 Inclusion may object to the proposed extension or renewal  
19 within 14 calendar days and require a hearing before the Board  
20 or the Commission on Equity and Inclusion prior to entering  
21 into the extension or renewal. If the Procurement Policy Board  
22 or the Commission on Equity and Inclusion does not object  
23 within 14 calendar days or takes affirmative action to  
24 recommend the extension or renewal, the chief procurement  
25 officer may enter into the extension or renewal of a contract.  
26 This subsection does not apply to any emergency procurement,

1 any procurement under Article 40, or any procurement exempted  
2 by Section 1-10(b) of this Code. If any State agency contract  
3 is paid for in whole or in part with federal-aid funds, grants,  
4 or loans and the provisions of this subsection would result in  
5 the loss of those federal-aid funds, grants, or loans, then  
6 the contract is exempt from the provisions of this subsection  
7 in order to remain eligible for those federal-aid funds,  
8 grants, or loans, and the State agency shall file notice of  
9 this exemption with the Procurement Policy Board or the  
10 Commission on Equity and Inclusion prior to entering into the  
11 proposed extension or renewal. Nothing in this subsection  
12 permits a chief procurement officer to enter into an extension  
13 or renewal in violation of subsection (a). By August 1 each  
14 year, the Procurement Policy Board and the Commission on  
15 Equity and Inclusion shall each file a report with the General  
16 Assembly identifying for the previous fiscal year (i) the  
17 proposed extensions or renewals that were filed and whether  
18 such extensions and renewals were objected to and (ii) the  
19 contracts exempt from this subsection.

20 (d) Notwithstanding the provisions of subsection (a) of  
21 this Section, the Department of Innovation and Technology may  
22 enter into leases for dark fiber networks for any period of  
23 time deemed to be in the best interests of the State but not  
24 exceeding 20 years inclusive. The Department of Innovation and  
25 Technology may lease dark fiber networks from third parties  
26 only for the primary purpose of providing services (i) to the

1 offices of Governor, Lieutenant Governor, Attorney General,  
2 Secretary of State, Comptroller, or Treasurer and State  
3 agencies, as defined under Section 5-15 of the Civil  
4 Administrative Code of Illinois or (ii) for anchor  
5 institutions, as defined in Section 7 of the Illinois Century  
6 Network Act. Dark fiber network lease contracts shall be  
7 subject to all other provisions of this Code and any  
8 applicable rules or requirements, including, but not limited  
9 to, publication of lease solicitations, use of standard State  
10 contracting terms and conditions, and approval of vendor  
11 certifications and financial disclosures.

12 (e) As used in this Section, "dark fiber network" means a  
13 network of fiber optic cables laid but currently unused by a  
14 third party that the third party is leasing for use as network  
15 infrastructure.

16 (f) No vendor shall be eligible for renewal of a contract  
17 when that vendor has failed to meet the goals agreed to in the  
18 vendor's utilization plan, as defined in Section 2 of the  
19 Business Enterprise for Minorities, Women, and Persons with  
20 Disabilities Act, unless the State agency or public  
21 institution of higher education has determined that the vendor  
22 made good faith efforts toward meeting the contract goals. If  
23 the State agency or public institution of higher education  
24 determines that the vendor made good faith efforts, the agency  
25 or public institution of higher education may issue a waiver  
26 after concurrence by the chief procurement officer, which

1 shall not be unreasonably withheld or impair a State agency  
2 determination to execute the renewal. The form and content of  
3 the waiver shall be prescribed by each chief procurement  
4 officer, but shall not impair a State agency or public  
5 institution of higher education determination to execute the  
6 renewal. The chief procurement officer shall post the  
7 completed form on his or her official website within 5  
8 business days after receipt from the State agency or public  
9 institution of higher education. The chief procurement officer  
10 shall maintain on his or her official website a database of  
11 waivers granted under this Section with respect to contracts  
12 under his or her jurisdiction. The database shall be updated  
13 periodically and shall be searchable by contractor name and by  
14 contracting State agency or public institution of higher  
15 education.

16 (Source: P.A. 102-29, eff. 6-25-21; 102-721, eff. 1-1-23;  
17 103-570, eff. 1-1-24.)