



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1849

Introduced 2/23/2007, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

from Ch. 122, par. 10-20.21

Amends the School Code. Exempts contracts awarded to a local contractor who is not the lowest responsible bidder, but who is a qualified bidder who has submitted a bid that does not exceed 2% over the lowest responsible bid received by the school board, from a school board's duty to award all contracts for purchase of supplies, materials, or work or contracts with private carriers for transportation of pupils involving an expenditure in excess of \$10,000 to the lowest responsible bidder. Effective immediately.

LRB095 07346 RAS 27487 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (105 ILCS 5/10-20.21) (from Ch. 122, par. 10-20.21)
7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies,
9 materials or work or contracts with private carriers for
10 transportation of pupils involving an expenditure in excess of
11 \$10,000 to the lowest responsible bidder, considering
12 conformity with specifications, terms of delivery, quality and
13 serviceability, after due advertisement, except the following:
14 (i) contracts for the services of individuals possessing a high
15 degree of professional skill where the ability or fitness of
16 the individual plays an important part; (ii) contracts for the
17 printing of finance committee reports and departmental
18 reports; (iii) contracts for the printing or engraving of
19 bonds, tax warrants and other evidences of indebtedness; (iv)
20 contracts for the purchase of perishable foods and perishable
21 beverages; (v) contracts for materials and work which have been
22 awarded to the lowest responsible bidder after due
23 advertisement, but due to unforeseen revisions, not the fault

1 of the contractor for materials and work, must be revised
2 causing expenditures not in excess of 10% of the contract
3 price; (vi) contracts for the maintenance or servicing of, or
4 provision of repair parts for, equipment which are made with
5 the manufacturer or authorized service agent of that equipment
6 where the provision of parts, maintenance, or servicing can
7 best be performed by the manufacturer or authorized service
8 agent; (vii) purchases and contracts for the use, purchase,
9 delivery, movement, or installation of data processing
10 equipment, software, or services and telecommunications and
11 interconnect equipment, software, and services; (viii)
12 contracts for duplicating machines and supplies; (ix)
13 contracts for the purchase of natural gas when the cost is less
14 than that offered by a public utility; (x) purchases of
15 equipment previously owned by some entity other than the
16 district itself; (xi) contracts for repair, maintenance,
17 remodeling, renovation, or construction, or a single project
18 involving an expenditure not to exceed \$20,000 and not
19 involving a change or increase in the size, type, or extent of
20 an existing facility; (xii) contracts for goods or services
21 procured from another governmental agency; (xiii) contracts
22 for goods or services which are economically procurable from
23 only one source, such as for the purchase of magazines, books,
24 periodicals, pamphlets and reports, and for utility services
25 such as water, light, heat, telephone or telegraph; (xiv) where
26 funds are expended in an emergency and such emergency

1 expenditure is approved by 3/4 of the members of the board; ~~and~~
2 (xv) State master contracts authorized under Article 28A of
3 this Code; and (xvi) contracts awarded to a local contractor
4 who is not the lowest responsible bidder, but who is a
5 qualified bidder who has submitted a bid that does not exceed
6 2% over the lowest responsible bid received by the board.

7 All competitive bids for contracts involving an
8 expenditure in excess of \$10,000 must be sealed by the bidder
9 and must be opened by a member or employee of the school board
10 at a public bid opening at which the contents of the bids must
11 be announced. Each bidder must receive at least 3 days' notice
12 of the time and place of the bid opening. For purposes of this
13 Section due advertisement includes, but is not limited to, at
14 least one public notice at least 10 days before the bid date in
15 a newspaper published in the district, or if no newspaper is
16 published in the district, in a newspaper of general
17 circulation in the area of the district. State master contracts
18 and certified education purchasing contracts, as defined in
19 Article 28A of this Code, are not subject to the requirements
20 of this paragraph.

21 (b) To require, as a condition of any contract for goods
22 and services, that persons bidding for and awarded a contract
23 and all affiliates of the person collect and remit Illinois Use
24 Tax on all sales of tangible personal property into the State
25 of Illinois in accordance with the provisions of the Illinois
26 Use Tax Act regardless of whether the person or affiliate is a

1 "retailer maintaining a place of business within this State" as
2 defined in Section 2 of the Use Tax Act. For purposes of this
3 Section, the term "affiliate" means any entity that (1)
4 directly, indirectly, or constructively controls another
5 entity, (2) is directly, indirectly, or constructively
6 controlled by another entity, or (3) is subject to the control
7 of a common entity. For purposes of this subsection (b), an
8 entity controls another entity if it owns, directly or
9 individually, more than 10% of the voting securities of that
10 entity. As used in this subsection (b), the term "voting
11 security" means a security that (1) confers upon the holder the
12 right to vote for the election of members of the board of
13 directors or similar governing body of the business or (2) is
14 convertible into, or entitles the holder to receive upon its
15 exercise, a security that confers such a right to vote. A
16 general partnership interest is a voting security.

17 To require that bids and contracts include a certification
18 by the bidder or contractor that the bidder or contractor is
19 not barred from bidding for or entering into a contract under
20 this Section and that the bidder or contractor acknowledges
21 that the school board may declare the contract void if the
22 certification completed pursuant to this subsection (b) is
23 false.

24 (b-5) To require all contracts and agreements that pertain
25 to goods and services and that are intended to generate
26 additional revenue and other remunerations for the school

1 district in excess of \$1,000, including without limitation
2 vending machine contracts, sports and other attire, class
3 rings, and photographic services, to be approved by the school
4 board. The school board shall file as an attachment to its
5 annual budget a report, in a form as determined by the State
6 Board of Education, indicating for the prior year the name of
7 the vendor, the product or service provided, and the actual net
8 revenue and non-monetary remuneration from each of the
9 contracts or agreements. In addition, the report shall indicate
10 for what purpose the revenue was used and how and to whom the
11 non-monetary remuneration was distributed.

12 (c) If the State education purchasing entity creates a
13 master contract as defined in Article 28A of this Code, then
14 the State education purchasing entity shall notify school
15 districts of the existence of the master contract.

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

23 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
24 94-714, eff. 7-1-06.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.