



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4307

by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21

from Ch. 122, par. 10-20.21

Amends the School Code. With respect to school districts other than Chicago, requires that certain contracts involving an expenditure in excess of \$25,000 or a lower amount as required by local policy (rather than \$10,000) be awarded to the lowest responsible bidder. Makes changes concerning the exceptions to this requirement, including an exception for contracts for services of corporations possessing a high degree of professional skill where ability and fitness play an important part, contracts for food services, and contracts for repair, maintenance, remodeling, renovation, or construction involving an expenditure not to exceed \$50,000 (rather than \$20,000). Provides that a school board must either award electricity contracts involving an expenditure in excess of \$25,000 to the lowest responsible bidder or procure electricity through a request for proposals process similar to the process set forth in the Article of the School Code concerning school energy conservation. Provides that if a school district joins a utility consortium, then that consortium must either award electricity contracts involving an expenditure in excess of \$25,000 to the lowest responsible bidder or procure electricity through a request for proposals process similar to the process set forth in the Article of the School Code concerning school energy conservation. Effective immediately.

LRB095 15303 NHT 41291 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning schools.

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 \$25,000 or a lower amount as required by board policy ~~\$10,000~~
12 to the lowest responsible bidder, considering conformity with
13 specifications, terms of delivery, quality and serviceability,
14 after due advertisement, except the following: (i) contracts
15 for the services of individuals or corporations possessing a
16 high degree of professional skill where the ability or fitness
17 of the individual or corporation plays an important part; (ii)
18 contracts for the printing of finance committee reports and
19 departmental reports; (iii) contracts for the printing or
20 engraving of bonds, tax warrants and other evidences of
21 indebtedness; (iv) contracts for the purchase of perishable
22 foods and perishable beverages, including, but not limited to,
23 food service contracts; (v) contracts for materials and work

1 which have been awarded to the lowest responsible bidder after
2 due advertisement, but due to unforeseen revisions, not the
3 fault of the contractor for materials and work, must be revised
4 causing expenditures not in excess of 10% of the contract
5 price; (vi) contracts for the maintenance or servicing of, or
6 provision of repair parts for, equipment which are made with
7 the manufacturer or authorized service agent of that equipment
8 where the provision of parts, maintenance, or servicing can
9 best be performed by the manufacturer or authorized service
10 agent; (vii) purchases and contracts for the use, purchase,
11 delivery, movement, or installation of data processing
12 equipment, software, or services and telecommunications and
13 interconnect equipment, software, and services; (viii)
14 contracts for duplicating machines and supplies; (ix)
15 contracts for the purchase of natural gas when the cost is less
16 than that offered by a public utility; (x) purchases of
17 equipment previously owned by some entity other than the
18 district itself; (xi) contracts for repair, maintenance,
19 remodeling, renovation, or construction, or a single project
20 involving an expenditure not to exceed \$50,000 ~~\$20,000~~ and not
21 involving a change or increase in the size, type, or extent of
22 an existing facility; (xii) contracts for goods or services
23 procured from another governmental agency or consortia of
24 agencies; (xiii) contracts for goods or services which are
25 economically procurable from only one source, such as for the
26 purchase of magazines, books, periodicals, pamphlets and

1 reports, and for utility services such as water, light, heat,
2 telephone or telegraph; (xiv) where funds are expended in an
3 emergency and such emergency expenditure is approved by 3/4 of
4 the members of the board; and (xv) State master contracts
5 authorized under Article 28A of this Code. A school board must
6 either award electricity contracts involving an expenditure in
7 excess of \$25,000 to the lowest responsible bidder, considering
8 conformity with specifications, terms of delivery, quality,
9 and serviceability, after due advertisement or procure
10 electricity through a request for proposals process similar to
11 the process set forth in Article 19b of this Code. If a school
12 district joins a utility consortium, then that consortium must
13 either award electricity contracts involving an expenditure in
14 excess of \$25,000 to the lowest responsible bidder, considering
15 conformity with specifications, terms of delivery, quality,
16 and serviceability, after due advertisement or procure
17 electricity through a request for proposals process similar to
18 the process set forth in Article 19b of this Code.

19 All competitive bids for contracts involving an
20 expenditure in excess of \$25,000 or a lower amount as required
21 by board policy ~~\$10,000~~ must be sealed by the bidder and must
22 be opened by a member or employee of the school board at a
23 public bid opening at which the contents of the bids must be
24 announced. Each bidder must receive at least 3 days' notice of
25 the time and place of the bid opening. For purposes of this
26 Section due advertisement includes, but is not limited to, at

1 least one public notice at least 10 days before the bid date in
2 a newspaper published in the district, or if no newspaper is
3 published in the district, in a newspaper of general
4 circulation in the area of the district. State master contracts
5 and certified education purchasing contracts, as defined in
6 Article 28A of this Code, are not subject to the requirements
7 of this paragraph.

8 (b) To require, as a condition of any contract for goods
9 and services, that persons bidding for and awarded a contract
10 and all affiliates of the person collect and remit Illinois Use
11 Tax on all sales of tangible personal property into the State
12 of Illinois in accordance with the provisions of the Illinois
13 Use Tax Act regardless of whether the person or affiliate is a
14 "retailer maintaining a place of business within this State" as
15 defined in Section 2 of the Use Tax Act. For purposes of this
16 Section, the term "affiliate" means any entity that (1)
17 directly, indirectly, or constructively controls another
18 entity, (2) is directly, indirectly, or constructively
19 controlled by another entity, or (3) is subject to the control
20 of a common entity. For purposes of this subsection (b), an
21 entity controls another entity if it owns, directly or
22 individually, more than 10% of the voting securities of that
23 entity. As used in this subsection (b), the term "voting
24 security" means a security that (1) confers upon the holder the
25 right to vote for the election of members of the board of
26 directors or similar governing body of the business or (2) is

1 convertible into, or entitles the holder to receive upon its
2 exercise, a security that confers such a right to vote. A
3 general partnership interest is a voting security.

4 To require that bids and contracts include a certification
5 by the bidder or contractor that the bidder or contractor is
6 not barred from bidding for or entering into a contract under
7 this Section and that the bidder or contractor acknowledges
8 that the school board may declare the contract void if the
9 certification completed pursuant to this subsection (b) is
10 false.

11 (b-5) To require all contracts and agreements that pertain
12 to goods and services and that are intended to generate
13 additional revenue and other remunerations for the school
14 district in excess of \$1,000, including without limitation
15 vending machine contracts, sports and other attire, class
16 rings, and photographic services, to be approved by the school
17 board. The school board shall file as an attachment to its
18 annual budget a report, in a form as determined by the State
19 Board of Education, indicating for the prior year the name of
20 the vendor, the product or service provided, and the actual net
21 revenue and non-monetary remuneration from each of the
22 contracts or agreements. In addition, the report shall indicate
23 for what purpose the revenue was used and how and to whom the
24 non-monetary remuneration was distributed.

25 (c) If the State education purchasing entity creates a
26 master contract as defined in Article 28A of this Code, then

1 the State education purchasing entity shall notify school
2 districts of the existence of the master contract.

3 (d) In purchasing supplies, materials, equipment, or
4 services that are not subject to subsection (c) of this
5 Section, before a school district solicits bids or awards a
6 contract, the district may review and consider as a bid under
7 subsection (a) of this Section certified education purchasing
8 contracts that are already available through the State
9 education purchasing entity.

10 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;
11 94-714, eff. 7-1-06.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.