

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.

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

18 Under this Section, the acceptance of bids sealed by a  
19 bidder and the opening of these bids at a public bid opening  
20 may be permitted by an electronic process for communicating,  
21 accepting, and opening competitive bids. An electronic bidding  
22 process must provide for, but is not limited to, the following  
23 safeguards:

24 (1) On the date and time certain of a bid opening, the  
25 primary person conducting the competitive, sealed,  
26 electronic bid process shall log onto a specified database

1 using a unique username and password previously assigned to  
2 the bidder to allow access to the bidder's specific bid  
3 project number.

4 (2) The specified electronic database must be on a  
5 network that (i) is in a secure environment behind a  
6 firewall; (ii) has specific encryption tools; (iii)  
7 maintains specific intrusion detection systems; (iv) has  
8 redundant systems architecture with data storage back-up,  
9 whether by compact disc or tape; and (v) maintains a  
10 disaster recovery plan.

11 It is the legislative intent of this amendatory Act of the 95th  
12 General Assembly to maintain the integrity of the sealed  
13 bidding process provided for in this Section, to further limit  
14 any possibility of bid-rigging, to reduce administrative costs  
15 to school districts, and to effect efficiencies in  
16 communications with bidders. Notwithstanding any other  
17 rulemaking authority that may exist, neither the Governor nor  
18 any agency or agency head under the jurisdiction of the  
19 Governor has any authority to make or promulgate rules to  
20 implement or enforce the provisions of this amendatory Act of  
21 the 95th General Assembly. If, however, the Governor believes  
22 that rules are necessary to implement or enforce the provisions  
23 of this amendatory Act of the 95th General Assembly, the  
24 Governor may suggest rules to the General Assembly by filing  
25 them with the Clerk of the House and the Secretary of the  
26 Senate and by requesting that the General Assembly authorize

1 such rulemaking by law, enact those suggested rules into law,  
2 or take any other appropriate action in the General Assembly's  
3 discretion. Nothing contained in this amendatory Act of the  
4 95th General Assembly shall be interpreted to grant rulemaking  
5 authority under any other Illinois statute where such authority  
6 is not otherwise explicitly given. For the purposes of this  
7 paragraph, "rules" is given the meaning contained in Section  
8 1-70 of the Illinois Administrative Procedure Act, and "agency"  
9 and "agency head" are given the meanings contained in Sections  
10 1-20 and 1-25 of the Illinois Administrative Procedure Act to  
11 the extent that such definitions apply to agencies or agency  
12 heads under the jurisdiction of the Governor.

13 (b) To require, as a condition of any contract for goods  
14 and services, that persons bidding for and awarded a contract  
15 and all affiliates of the person collect and remit Illinois Use  
16 Tax on all sales of tangible personal property into the State  
17 of Illinois in accordance with the provisions of the Illinois  
18 Use Tax Act regardless of whether the person or affiliate is a  
19 "retailer maintaining a place of business within this State" as  
20 defined in Section 2 of the Use Tax Act. For purposes of this  
21 Section, the term "affiliate" means any entity that (1)  
22 directly, indirectly, or constructively controls another  
23 entity, (2) is directly, indirectly, or constructively  
24 controlled by another entity, or (3) is subject to the control  
25 of a common entity. For purposes of this subsection (b), an  
26 entity controls another entity if it owns, directly or

1 individually, more than 10% of the voting securities of that  
2 entity. As used in this subsection (b), the term "voting  
3 security" means a security that (1) confers upon the holder the  
4 right to vote for the election of members of the board of  
5 directors or similar governing body of the business or (2) is  
6 convertible into, or entitles the holder to receive upon its  
7 exercise, a security that confers such a right to vote. A  
8 general partnership interest is a voting security.

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

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

1 contracts or agreements. In addition, the report shall indicate  
2 for what purpose the revenue was used and how and to whom the  
3 non-monetary remuneration was distributed.

4 (c) If the State education purchasing entity creates a  
5 master contract as defined in Article 28A of this Code, then  
6 the State education purchasing entity shall notify school  
7 districts of the existence of the master contract.

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

15 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;  
16 94-714, eff. 7-1-06.)

17 Section 90. The State Mandates Act is amended by adding  
18 Section 8.32 as follows:

19 (30 ILCS 805/8.32 new)

20 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8  
21 of this Act, no reimbursement by the State is required for the  
22 implementation of any mandate created by this amendatory Act of  
23 the 95th General Assembly.

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.