



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4900**

by Rep. Edward J. Acevedo

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.21	from Ch. 122, par. 10-20.21
105 ILCS 5/29-6.1	from Ch. 122, par. 29-6.1
105 ILCS 5/34-21.3	from Ch. 122, par. 34-21.3
30 ILCS 805/8.32 new	

Amends the School Code. Provides that, notwithstanding other provisions of the School Code, in the case of a contract involving the transportation of children with disabilities, the contract must be procured in a manner substantially equivalent to specified procedures under the Illinois Procurement Code. Amends the State Mandates Act to require implementation without reimbursement.

LRB095 17662 NHT 43736 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 Sections  
5 10-20.21, 29-6.1, and 34-21.3 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 (except as otherwise provided in  
11 Section 29-6.1 of this Code) involving an expenditure in excess  
12 of \$10,000 to the lowest responsible bidder, considering  
13 conformity with specifications, terms of delivery, quality and  
14 serviceability, after due advertisement, except the following:  
15 (i) contracts for the services of individuals possessing a high  
16 degree of professional skill where the ability or fitness of  
17 the individual plays an important part; (ii) contracts for the  
18 printing of finance committee reports and departmental  
19 reports; (iii) contracts for the printing or engraving of  
20 bonds, tax warrants and other evidences of indebtedness; (iv)  
21 contracts for the purchase of perishable foods and perishable  
22 beverages; (v) contracts for materials and work which have been  
23 awarded to the lowest responsible bidder after due

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

1 funds are expended in an emergency and such emergency  
2 expenditure is approved by 3/4 of the members of the board; and  
3 (xv) State master contracts authorized under Article 28A of  
4 this Code.

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

19 (b) To require, as a condition of any contract for goods  
20 and services, that persons bidding for and awarded a contract  
21 and all affiliates of the person collect and remit Illinois Use  
22 Tax on all sales of tangible personal property into the State  
23 of Illinois in accordance with the provisions of the Illinois  
24 Use Tax Act regardless of whether the person or affiliate is a  
25 "retailer maintaining a place of business within this State" as  
26 defined in Section 2 of the Use Tax Act. For purposes of this

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

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

22 (b-5) To require all contracts and agreements that pertain  
23 to goods and services and that are intended to generate  
24 additional revenue and other remunerations for the school  
25 district in excess of \$1,000, including without limitation  
26 vending machine contracts, sports and other attire, class

1 rings, and photographic services, to be approved by the school  
2 board. The school board shall file as an attachment to its  
3 annual budget a report, in a form as determined by the State  
4 Board of Education, indicating for the prior year the name of  
5 the vendor, the product or service provided, and the actual net  
6 revenue and non-monetary remuneration from each of the  
7 contracts or agreements. In addition, the report shall indicate  
8 for what purpose the revenue was used and how and to whom the  
9 non-monetary remuneration was distributed.

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

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

21 (Source: P.A. 93-25, eff. 6-20-03; 93-1036, eff. 9-14-04;  
22 94-714, eff. 7-1-06.)

23 (105 ILCS 5/29-6.1) (from Ch. 122, par. 29-6.1)

24 Sec. 29-6.1. Contracts for transportation. Subject to  
25 Section 6-106.11 of the Illinois Vehicle Code, school boards

1 may enter into contracts for up to 3 years for transportation  
2 of pupils to and from school. Such contracts may be extended  
3 for up to 2 additional years by mutual agreement of the  
4 parties, and thereafter may be extended on a year-to-year basis  
5 by mutual agreement of the parties, however no such contract  
6 may be extended on a year-to-year basis if a school board  
7 receives a timely request from another interested contractor  
8 that a contract be let by bid. Notwithstanding any other  
9 provision of this Section or Section 10-20.21 or 34-21.3 of  
10 this Code, in the case of a contract involving the  
11 transportation of children with disabilities, as defined in  
12 Article 14 of this Code, the contract must be procured in a  
13 manner substantially equivalent to the procedures under  
14 Section 20-10 or 20-15 of the Illinois Procurement Code.

15 (Source: P.A. 84-768.)

16 (105 ILCS 5/34-21.3) (from Ch. 122, par. 34-21.3)

17 Sec. 34-21.3. Contracts. The board shall by record vote let  
18 all contracts (other than those excepted by Section 10-20.21 of  
19 The School Code) for supplies, materials, work, and contracts  
20 with private carriers for transportation of pupils (except as  
21 otherwise provided in Section 29-6.1 of this Code), involving  
22 an expenditure in excess of \$10,000 by competitive bidding as  
23 provided in Section 10-20.21 of The School Code.

24 The board may delegate to the general superintendent of  
25 schools, by resolution, the authority to approve contracts in

1 amounts of \$10,000 or less.

2 For a period of one year from and after the expiration or  
3 other termination of his or her term of office as a member of  
4 the board: (i) the former board member shall not be eligible  
5 for employment nor be employed by the board, a local school  
6 council, an attendance center, or any other subdivision or  
7 agent of the board or the school district governed by the  
8 board, and (ii) neither the board nor the chief purchasing  
9 officer shall let or delegate authority to let any contract for  
10 services, employment, or other work to the former board member  
11 or to any corporation, partnership, association, sole  
12 proprietorship, or other entity other than publicly traded  
13 companies from which the former board member receives an annual  
14 income, dividends, or other compensation in excess of \$1,500.  
15 Any contract that is entered into by or under a delegation of  
16 authority from the board or the chief purchasing officer shall  
17 contain a provision stating that the contract is not legally  
18 binding on the board if entered into in violation of the  
19 provisions of this paragraph.

20 In addition, the State Board of Education, in consultation  
21 with the board, shall (i) review existing conflict of interest  
22 and disclosure laws or regulations that are applicable to the  
23 executive officers and governing boards of school districts  
24 organized under this Article and school districts generally,  
25 (ii) determine what additional disclosure and conflict of  
26 interest provisions would enhance the reputation and fiscal



1 integrity of the board and the procedure under which contracts  
2 for goods and services are let, and (iii) develop appropriate  
3 reporting forms and procedures applicable to the executive  
4 officers, governing board, and other officials of the school  
5 district.

6 (Source: P.A. 89-15, eff. 5-30-95.)

7 Section 90. The State Mandates Act is amended by adding  
8 Section 8.32 as follows:

9 (30 ILCS 805/8.32 new)

10 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8  
11 of this Act, no reimbursement by the State is required for the  
12 implementation of any mandate created by this amendatory Act of  
13 the 95th General Assembly.