

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 \$25,000 or a lower amount as required by board policy to the  
12 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 possessing a high degree of  
16 professional skill where the ability or fitness of the  
17 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 \$50,000 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 \$25,000 or a lower amount as required  
7 by board policy must be sealed by the bidder and must be opened  
8 by a member or employee of the school board at a public bid  
9 opening at which the contents of the bids must be announced.  
10 Each bidder must receive at least 3 days' notice of the time  
11 and place of the bid opening. For purposes of this Section due  
12 advertisement includes, but is not limited to, at least one  
13 public notice at least 10 days before the bid date in a  
14 newspaper published in the district, or if no newspaper is  
15 published in the district, in a newspaper of general  
16 circulation in the area of the district. State master contracts  
17 and certified education purchasing contracts, as defined in  
18 Article 28A of this Code, are not subject to the requirements  
19 of this paragraph.

20 Under this Section, the acceptance of bids sealed by a  
21 bidder and the opening of these bids at a public bid opening  
22 may be permitted by an electronic process for communicating,  
23 accepting, and opening competitive bids. However, bids for  
24 construction purposes are prohibited from being communicated,  
25 accepted, or opened electronically. An electronic bidding  
26 process must provide for, but is not limited to, the following

1 safeguards:

2 (1) On the date and time certain of a bid opening, the  
3 primary person conducting the competitive, sealed,  
4 electronic bid process shall log onto a specified database  
5 using a unique username and password previously assigned to  
6 the bidder to allow access to the bidder's specific bid  
7 project number.

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

15 It is the legislative intent of this amendatory Act of the 96th  
16 General Assembly to maintain the integrity of the sealed  
17 bidding process provided for in this Section, to further limit  
18 any possibility of bid-rigging, to reduce administrative costs  
19 to school districts, and to effect efficiencies in  
20 communications with bidders.

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. 94-714, eff. 7-1-06; 95-990, eff. 10-3-08.)

24 Section 90. The State Mandates Act is amended by adding  
25 Section 8.33 as follows:

1 (30 ILCS 805/8.33 new)

2 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8  
3 of this Act, no reimbursement by the State is required for the  
4 implementation of any mandate created by this amendatory Act of  
5 the 96th General Assembly.

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.