



Sen. John G. Mulroe

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1 AMENDMENT TO HOUSE BILL 4029

2 AMENDMENT NO. _____. Amend House Bill 4029 by replacing
3 everything after the enacting clause with the following:

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

6 (105 ILCS 5/10-20.21)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies and
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

1 individual plays an important part; (ii) contracts for the
2 printing of finance committee reports and departmental
3 reports; (iii) contracts for the printing or engraving of
4 bonds, tax warrants and other evidences of indebtedness; (iv)
5 contracts for the purchase of perishable foods and perishable
6 beverages; (v) contracts for materials and work which have been
7 awarded to the lowest responsible bidder after due
8 advertisement, but due to unforeseen revisions, not the fault
9 of the contractor for materials and work, must be revised
10 causing expenditures not in excess of 10% of the contract
11 price; (vi) contracts for the maintenance or servicing of, or
12 provision of repair parts for, equipment which are made with
13 the manufacturer or authorized service agent of that equipment
14 where the provision of parts, maintenance, or servicing can
15 best be performed by the manufacturer or authorized service
16 agent; (vii) purchases and contracts for the use, purchase,
17 delivery, movement, or installation of data processing
18 equipment, software, or services and telecommunications and
19 interconnect equipment, software, and services; (viii)
20 contracts for duplicating machines and supplies; (ix)
21 contracts for the purchase of natural gas when the cost is less
22 than that offered by a public utility; (x) purchases of
23 equipment previously owned by some entity other than the
24 district itself; (xi) contracts for repair, maintenance,
25 remodeling, renovation, or construction, or a single project
26 involving an expenditure not to exceed \$50,000 and not

1 involving a change or increase in the size, type, or extent of
2 an existing facility; (xii) contracts for goods or services
3 procured from another governmental agency; (xiii) contracts
4 for goods or services which are economically procurable from
5 only one source, such as for the purchase of magazines, books,
6 periodicals, pamphlets and reports, and for utility services
7 such as water, light, heat, telephone or telegraph; (xiv) where
8 funds are expended in an emergency and such emergency
9 expenditure is approved by 3/4 of the members of the board;
10 (xv) State master contracts authorized under Article 28A of
11 this Code; and (xvi) contracts providing for the transportation
12 of pupils ~~with special needs or disabilities~~, which contracts
13 must be advertised in the same manner as competitive bids and
14 awarded by first considering the bidder or bidders most able to
15 provide safety and comfort for the pupils ~~with special needs or~~
16 ~~disabilities~~, stability of service, and any other factors set
17 forth in the request for proposal regarding quality of service,
18 and then price. However, at no time shall a cause of action lie
19 against a school board for awarding a pupil transportation
20 contract per the standards set forth in this subsection (a)
21 unless the cause of action is based on fraudulent conduct.

22 All competitive bids for contracts involving an
23 expenditure in excess of \$25,000 or a lower amount as required
24 by board policy must be sealed by the bidder and must be opened
25 by a member or employee of the school board at a public bid
26 opening at which the contents of the bids must be announced.

1 Each bidder must receive at least 3 days' notice of the time
2 and place of the bid opening. For purposes of this Section due
3 advertisement includes, but is not limited to, at least one
4 public notice at least 10 days before the bid date in a
5 newspaper published in the district, or if no newspaper is
6 published in the district, in a newspaper of general
7 circulation in the area of the district. State master contracts
8 and certified education purchasing contracts, as defined in
9 Article 28A of this Code, are not subject to the requirements
10 of this paragraph.

11 Under this Section, the acceptance of bids sealed by a
12 bidder and the opening of these bids at a public bid opening
13 may be permitted by an electronic process for communicating,
14 accepting, and opening competitive bids. However, bids for
15 construction purposes are prohibited from being communicated,
16 accepted, or opened electronically. An electronic bidding
17 process must provide for, but is not limited to, the following
18 safeguards:

19 (1) On the date and time certain of a bid opening, the
20 primary person conducting the competitive, sealed,
21 electronic bid process shall log onto a specified database
22 using a unique username and password previously assigned to
23 the bidder to allow access to the bidder's specific bid
24 project number.

25 (2) The specified electronic database must be on a
26 network that (i) is in a secure environment behind a

1 firewall; (ii) has specific encryption tools; (iii)
2 maintains specific intrusion detection systems; (iv) has
3 redundant systems architecture with data storage back-up,
4 whether by compact disc or tape; and (v) maintains a
5 disaster recovery plan.

6 It is the legislative intent of Public Act 96-841 to maintain
7 the integrity of the sealed bidding process provided for in
8 this Section, to further limit any possibility of bid-rigging,
9 to reduce administrative costs to school districts, and to
10 effect efficiencies in communications with bidders.

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

1 security" means a security that (1) confers upon the holder the
2 right to vote for the election of members of the board of
3 directors or similar governing body of the business or (2) is
4 convertible into, or entitles the holder to receive upon its
5 exercise, a security that confers such a right to vote. A
6 general partnership interest is a voting security.

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

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

1 non-monetary remuneration was distributed.

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

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

13 (Source: P.A. 95-990, eff. 10-3-08; 96-392, eff. 1-1-10;
14 96-841, eff. 12-23-09; 96-1000, eff. 7-2-10.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."