



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4568

Introduced 2/1/2012, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10
30 ILCS 500/10-15

Amends the Illinois Procurement Code. Provides that the procurement compliance monitors and each chief procurement officer may access and review records necessary to determine whether a contract, purchase, or other expenditure is or is not subject to the provisions of the Code. Effective immediately.

LRB097 16852 PJG 62035 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Procurement Code is amended by
5 changing Sections 1-10 and 10-15 as follows:

6 (30 ILCS 500/1-10)

7 Sec. 1-10. Application.

8 (a) This Code applies only to procurements for which
9 contractors were first solicited on or after July 1, 1998. This
10 Code shall not be construed to affect or impair any contract,
11 or any provision of a contract, entered into based on a
12 solicitation prior to the implementation date of this Code as
13 described in Article 99, including but not limited to any
14 covenant entered into with respect to any revenue bonds or
15 similar instruments. All procurements for which contracts are
16 solicited between the effective date of Articles 50 and 99 and
17 July 1, 1998 shall be substantially in accordance with this
18 Code and its intent.

19 (b) This Code shall apply regardless of the source of the
20 funds with which the contracts are paid, including federal
21 assistance moneys. This Code shall not apply to:

22 (1) Contracts between the State and its political
23 subdivisions or other governments, or between State

1 governmental bodies except as specifically provided in
2 this Code.

3 (2) Grants, except for the filing requirements of
4 Section 20-80.

5 (3) Purchase of care.

6 (4) Hiring of an individual as employee and not as an
7 independent contractor, whether pursuant to an employment
8 code or policy or by contract directly with that
9 individual.

10 (5) Collective bargaining contracts.

11 (6) Purchase of real estate, except that notice of this
12 type of contract with a value of more than \$25,000 must be
13 published in the Procurement Bulletin within 7 days after
14 the deed is recorded in the county of jurisdiction. The
15 notice shall identify the real estate purchased, the names
16 of all parties to the contract, the value of the contract,
17 and the effective date of the contract.

18 (7) Contracts necessary to prepare for anticipated
19 litigation, enforcement actions, or investigations,
20 provided that the chief legal counsel to the Governor shall
21 give his or her prior approval when the procuring agency is
22 one subject to the jurisdiction of the Governor, and
23 provided that the chief legal counsel of any other
24 procuring entity subject to this Code shall give his or her
25 prior approval when the procuring entity is not one subject
26 to the jurisdiction of the Governor.

1 (8) Contracts for services to Northern Illinois
2 University by a person, acting as an independent
3 contractor, who is qualified by education, experience, and
4 technical ability and is selected by negotiation for the
5 purpose of providing non-credit educational service
6 activities or products by means of specialized programs
7 offered by the university.

8 (9) Procurement expenditures by the Illinois
9 Conservation Foundation when only private funds are used.

10 (10) Procurement expenditures by the Illinois Health
11 Information Exchange Authority involving private funds
12 from the Health Information Exchange Fund. "Private funds"
13 means gifts, donations, and private grants.

14 (11) Public-private agreements entered into according
15 to the procurement requirements of Section 20 of the
16 Public-Private Partnerships for Transportation Act and
17 design-build agreements entered into according to the
18 procurement requirements of Section 25 of the
19 Public-Private Partnerships for Transportation Act.

20 (c) This Code does not apply to the electric power
21 procurement process provided for under Section 1-75 of the
22 Illinois Power Agency Act and Section 16-111.5 of the Public
23 Utilities Act.

24 (d) Except for Section 20-160 and Article 50 of this Code,
25 and as expressly required by Section 9.1 of the Illinois
26 Lottery Law, the provisions of this Code do not apply to the

1 procurement process provided for under Section 9.1 of the
2 Illinois Lottery Law.

3 (e) This Code does not apply to the process used by the
4 Capital Development Board to retain a person or entity to
5 assist the Capital Development Board with its duties related to
6 the determination of costs of a clean coal SNG brownfield
7 facility, as defined by Section 1-10 of the Illinois Power
8 Agency Act, as required in subsection (h-3) of Section 9-220 of
9 the Public Utilities Act, including calculating the range of
10 capital costs, the range of operating and maintenance costs, or
11 the sequestration costs or monitoring the construction of clean
12 coal SNG brownfield facility for the full duration of
13 construction.

14 (f) This Code does not apply to the process used by the
15 Illinois Power Agency to retain a mediator to mediate sourcing
16 agreement disputes between gas utilities and the clean coal SNG
17 brownfield facility, as defined in Section 1-10 of the Illinois
18 Power Agency Act, as required under subsection (h-1) of Section
19 9-220 of the Public Utilities Act.

20 (g) ~~(e)~~ This Code does not apply to the processes used by
21 the Illinois Power Agency to retain a mediator to mediate
22 contract disputes between gas utilities and the clean coal SNG
23 facility and to retain an expert to assist in the review of
24 contracts under subsection (h) of Section 9-220 of the Public
25 Utilities Act. This Code does not apply to the process used by
26 the Illinois Commerce Commission to retain an expert to assist

1 in determining the actual incurred costs of the clean coal SNG
2 facility and the reasonableness of those costs as required
3 under subsection (h) of Section 9-220 of the Public Utilities
4 Act.

5 (h) Each chief procurement officer may access and review
6 records necessary to determine whether a contract, purchase, or
7 other expenditure is or is not subject to the provisions of
8 this Code.

9 (Source: P.A. 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10;
10 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502, eff. 8-23-11;
11 revised 9-7-11.)

12 (30 ILCS 500/10-15)

13 Sec. 10-15. Procurement compliance monitors.

14 (a) The Executive Ethics Commission shall appoint
15 procurement compliance monitors to oversee and review the
16 procurement processes. Each procurement compliance monitor
17 shall serve a term of 5 years beginning on the date of the
18 officer's appointment. Each procurement compliance monitor
19 shall have an office located in the State agency that the
20 monitor serves but shall report to the appropriate chief
21 procurement officer. The compliance monitor shall have direct
22 communications with the executive officer of a State agency in
23 exercising duties. A procurement compliance monitor may be
24 removed only for cause after a hearing by the Executive Ethics
25 Commission. The appropriate chief procurement officer or

1 executive officer of the State agency housing the procurement
2 compliance monitor may institute a complaint against the
3 procurement compliance monitor with the Commission and the
4 Commission shall hold a public hearing based on the complaint.
5 The procurement compliance monitor, State purchasing officer,
6 appropriate chief procurement officer, and executive officer
7 of the State agency shall receive notice of the hearing and
8 shall be permitted to present their respective arguments on the
9 complaint. After the hearing, the Commission shall determine
10 whether the procurement compliance monitor shall be removed.
11 The salary of a procurement compliance monitor shall be
12 established by the Executive Ethics Commission and may not be
13 diminished during the officer's term.

14 (b) The procurement compliance monitor may: (i) review each
15 contract or contract amendment prior to execution to ensure
16 that applicable procurement and contracting standards were
17 followed; (ii) attend any procurement meetings; (iii) access
18 any records or files related to procurement; (iv) issue reports
19 to the chief procurement officer on procurement issues that
20 present issues or that have not been corrected after
21 consultation with appropriate State officials; (v) ensure the
22 State agency is maintaining appropriate records; ~~and~~ (vi)
23 ensure transparency of the procurement process; and (vii)
24 access and review records necessary to determine whether a
25 contract, purchase, or other expenditure is or is not subject
26 to the provisions of this Code.

1 (c) If the procurement compliance monitor is aware of
2 misconduct, waste, or inefficiency with respect to State
3 procurement, the procurement compliance monitor shall advise
4 the State agency of the issue. If the State agency does not
5 correct the issue, the monitor shall report the problem to the
6 chief procurement officer and Inspector General.

7 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
8 for the effective date of changes made by P.A. 96-795).)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.