



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3683

Introduced 2/10/2012, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-13
30 ILCS 500/1-15.15
30 ILCS 500/10-20

Amends the Illinois Procurement Code. Provides that the Code shall not apply to procurements made by or on behalf of the Illinois Mathematics and Science Academy for certain items. Provides that the Chief Procurement Officer may waive registration, certification, and hearing requirements of the Code for certain items procured by the Illinois Mathematics and Science Academy if compliance is impractical. Provides that the Chief Procurement Officer, with the approval of the Executive Ethics Commission, may permit the Illinois Mathematics and Science Academy to accept a bid or enter into a contract with a business that assisted the Illinois Mathematics and Science Academy in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract. Provides that the definition of "Chief Procurement Officer" includes the chief procurement officer for all procurements made by a public institution of higher education, including procurements made by the Illinois Mathematics and Science Academy (now, just for all procurements made by a public institution of higher education). Effective immediately.

LRB097 17768 PJG 62983 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 1-13, 1-15.15, and 10-20 as follows:

6 (30 ILCS 500/1-13)

7 (Section scheduled to be repealed on December 31, 2014)

8 Sec. 1-13. Applicability to public institutions of higher
9 education and the Illinois Mathematics and Science Academy.

10 (a) This Code shall apply to public institutions of higher
11 education and the Illinois Mathematics and Science Academy,
12 regardless of the source of the funds with which contracts are
13 paid, except as provided in this Section.

14 (b) Except as provided in this Section, this Code shall not
15 apply to procurements made by or on behalf of public
16 institutions of higher education or the Illinois Mathematics
17 and Science Academy for any of the following:

18 (1) Memberships in professional, academic, or athletic
19 organizations on behalf of a public institution of higher
20 education or the Illinois Mathematics and Science Academy,
21 an employee of a public institution of higher education or
22 the Illinois Mathematics and Science Academy, or a student
23 at a public institution of higher education or the Illinois

1 Mathematics and Science Academy.

2 (2) Procurement expenditures for events or activities
3 paid for exclusively by revenues generated by the event or
4 activity, gifts or donations for the event or activity,
5 private grants, or any combination thereof.

6 (3) Procurement expenditures for events or activities
7 for which the use of specific vendors is mandated or
8 identified by the sponsor of the event or activity,
9 provided that the sponsor is providing a majority of the
10 funding for the event or activity.

11 (4) Procurement expenditures necessary to provide
12 artistic or musical services, performances, or productions
13 held at a venue operated by a public institution of higher
14 education or the Illinois Mathematics and Science Academy.

15 (5) Procurement expenditures for periodicals and books
16 procured for use by a university library or academic
17 department, except for expenditures related to procuring
18 textbooks for student use or materials for resale or
19 rental.

20 Notice of each contract entered into by a public institution of
21 higher education or the Illinois Mathematics and Science
22 Academy that is related to the procurement of goods and
23 services identified in items (1) through (5) of this subsection
24 shall be published in the Procurement Bulletin within 14 days
25 after contract execution. The Chief Procurement Officer shall
26 prescribe the form and content of the notice. Each public

1 institution of higher education and the Illinois Mathematics
2 and Science Academy shall provide the Chief Procurement
3 Officer, on a monthly basis, in the form and content prescribed
4 by the Chief Procurement Officer, a report of contracts that
5 are related to the procurement of goods and services identified
6 in this subsection. At a minimum, this report shall include the
7 name of the contractor, a description of the supply or service
8 provided, the total amount of the contract, the term of the
9 contract, and the exception to the Code utilized. A copy of any
10 or all of these contracts shall be made available to the Chief
11 Procurement Officer immediately upon request. The Chief
12 Procurement Officer shall submit a report to the Governor and
13 General Assembly no later than November 1 of each year that
14 shall include, at a minimum, an annual summary of the monthly
15 information reported to the Chief Procurement Officer.

16 (c) Procurements made by or on behalf of public
17 institutions of higher education or the Illinois Mathematics
18 and Science Academy for any of the following shall be made in
19 accordance with the requirements of this Code to the extent
20 practical as provided in this subsection:

21 (1) Contracts with a foreign entity necessary for
22 research or educational activities, provided that the
23 foreign entity either does not maintain an office in the
24 United States or is the sole source of the service or
25 product.

26 (2) Procurements of FDA-regulated goods, products, and

1 services necessary for the delivery of care and treatment
2 at medical, dental, or veterinary teaching facilities
3 utilized by the University of Illinois or Southern Illinois
4 University.

5 (3) Contracts for programming and broadcast license
6 rights for university-operated radio and television
7 stations.

8 (4) Procurements required for fulfillment of a grant.

9 Upon the written request of a public institution of higher
10 education or the Illinois Mathematics and Science Academy, the
11 Chief Procurement Officer may waive registration,
12 certification, and hearing requirements of this Code if, based
13 on the item to be procured or the terms of a grant, compliance
14 is impractical. The public institution of higher education or
15 the Illinois Mathematics and Science Academy shall provide the
16 Chief Procurement Officer with specific reasons for the waiver,
17 including the necessity of contracting with a particular
18 vendor, and shall certify that an effort was made in good faith
19 to comply with the provisions of this Code. The Chief
20 Procurement Officer shall provide written justification for
21 any waivers. By November 1 of each year, the Chief Procurement
22 Officer shall file a report with the General Assembly
23 identifying each contract approved with waivers and providing
24 the justification given for any waivers for each of those
25 contracts. Notice of each waiver made under this subsection
26 shall be published in the Procurement Bulletin within 14 days

1 after contract execution. The Chief Procurement Officer shall
2 prescribe the form and content of the notice.

3 (d) Notwithstanding this Section, a waiver of the
4 registration requirements of Section 20-160 does not permit a
5 business entity and any affiliated entities or affiliated
6 persons to make campaign contributions if otherwise prohibited
7 by Section 50-37. The total amount of contracts awarded in
8 accordance with this Section shall be included in determining
9 the aggregate amount of contracts or pending bids of a business
10 entity and any affiliated entities or affiliated persons.

11 (e) Notwithstanding subsection (e) of Section 50-10.5 of
12 this Code, the Chief Procurement Officer, with the approval of
13 the Executive Ethics Commission, may permit a public
14 institution of higher education or the Illinois Mathematics and
15 Science Academy to accept a bid or enter into a contract with a
16 business that assisted the public institution of higher
17 education or the Illinois Mathematics and Science Academy in
18 determining whether there is a need for a contract or assisted
19 in reviewing, drafting, or preparing documents related to a bid
20 or contract, provided that the bid or contract is essential to
21 research administered by the public institution of higher
22 education or the Illinois Mathematics and Science Academy and
23 it is in the best interest of the public institution of higher
24 education or the Illinois Mathematics and Science Academy to
25 accept the bid or contract. For purposes of this subsection,
26 "business" includes all individuals with whom a business is

1 affiliated, including, but not limited to, any officer, agent,
2 employee, consultant, independent contractor, director,
3 partner, manager, or shareholder of a business. The Executive
4 Ethics Commission may promulgate rules and regulations for the
5 implementation and administration of the provisions of this
6 subsection (e).

7 (f) As used in this Section:

8 "Grant" means non-appropriated funding provided by a
9 federal or private entity to support a project or program
10 administered by a public institution of higher education or the
11 Illinois Mathematics and Science Academy and any
12 non-appropriated funding provided to a sub-recipient of the
13 grant.

14 "Public institution of higher education" means Chicago
15 State University, Eastern Illinois University, Governors State
16 University, Illinois State University, Northeastern Illinois
17 University, Northern Illinois University, Southern Illinois
18 University, University of Illinois, and Western Illinois
19 University.

20 (g) This Section is repealed on December 31, 2014.

21 (Source: P.A. 97-643, eff. 12-20-11.)

22 (30 ILCS 500/1-15.15)

23 Sec. 1-15.15. Chief Procurement Officer. "Chief
24 Procurement Officer" means any of the 4 persons appointed or
25 approved by a majority of the members of the Executive Ethics

1 Commission:

2 (1) for procurements for construction and
3 construction-related services committed by law to the
4 jurisdiction or responsibility of the Capital Development
5 Board, the independent chief procurement officer appointed
6 by a majority of the members of the Executive Ethics
7 Commission.

8 (2) for procurements for all construction,
9 construction-related services, operation of any facility,
10 and the provision of any construction or
11 construction-related service or activity committed by law
12 to the jurisdiction or responsibility of the Illinois
13 Department of Transportation, including the direct or
14 reimbursable expenditure of all federal funds for which the
15 Department of Transportation is responsible or accountable
16 for the use thereof in accordance with federal law,
17 regulation, or procedure, the independent chief
18 procurement officer appointed by the Secretary of
19 Transportation with the consent of the majority of the
20 members of the Executive Ethics Commission.

21 (3) for all procurements made by a public institution
22 of higher education, including procurements made by the
23 Illinois Mathematics and Science Academy, the independent
24 chief procurement officer appointed by a majority of the
25 members of the Executive Ethics Commission.

26 (4) (Blank).

1 (5) for all other procurements, the independent chief
2 procurement officer appointed by a majority of the members
3 of the Executive Ethics Commission.

4 (Source: P.A. 95-481, eff. 8-28-07; 96-795, eff. 7-1-10 (see
5 Section 5 of P.A. 96-793 for the effective date of changes made
6 by P.A. 96-795); 96-920, eff. 7-1-10.)

7 (30 ILCS 500/10-20)

8 Sec. 10-20. Independent chief procurement officers.

9 (a) Appointment. Within 60 days after the effective date of
10 this amendatory Act of the 96th General Assembly, the Executive
11 Ethics Commission, with the advice and consent of the Senate
12 shall appoint or approve 4 chief procurement officers, one for
13 each of the following categories:

14 (1) for procurements for construction and
15 construction-related services committed by law to the
16 jurisdiction or responsibility of the Capital Development
17 Board;

18 (2) for procurements for all construction,
19 construction-related services, operation of any facility,
20 and the provision of any service or activity committed by
21 law to the jurisdiction or responsibility of the Illinois
22 Department of Transportation, including the direct or
23 reimbursable expenditure of all federal funds for which the
24 Department of Transportation is responsible or accountable
25 for the use thereof in accordance with federal law,

1 regulation, or procedure, the chief procurement officer
2 recommended for approval under this item appointed by the
3 Secretary of Transportation after consent by the Executive
4 Ethics Commission;

5 (3) for all procurements made by a public institution
6 of higher education, including procurements made by the
7 Illinois Mathematics and Science Academy; and

8 (4) for all other procurement needs of State agencies.

9 A chief procurement officer shall be responsible to the
10 Executive Ethics Commission but must be located within the
11 agency that the officer provides with procurement services. The
12 chief procurement officer for higher education shall have an
13 office located within the Board of Higher Education, unless
14 otherwise designated by the Executive Ethics Commission. The
15 chief procurement officer for all other procurement needs of
16 the State shall have an office located within the Department of
17 Central Management Services, unless otherwise designated by
18 the Executive Ethics Commission.

19 (b) Terms and independence. Each chief procurement officer
20 appointed under this Section shall serve for a term of 5 years
21 beginning on the date of the officer's appointment. The chief
22 procurement officer may be removed for cause after a hearing by
23 the Executive Ethics Commission. The Governor or the director
24 of a State agency directly responsible to the Governor may
25 institute a complaint against the officer by filing such
26 complaint with the Commission. The Commission shall have a

1 hearing based on the complaint. The officer and the complainant
2 shall receive reasonable notice of the hearing and shall be
3 permitted to present their respective arguments on the
4 complaint. After the hearing, the Commission shall make a
5 finding on the complaint and may take disciplinary action,
6 including but not limited to removal of the officer.

7 The salary of a chief procurement officer shall be
8 established by the Executive Ethics Commission and may not be
9 diminished during the officer's term. The salary may not exceed
10 the salary of the director of a State agency for which the
11 officer serves as chief procurement officer.

12 (c) Qualifications. In addition to any other requirement or
13 qualification required by State law, each chief procurement
14 officer must within 12 months of employment be a Certified
15 Professional Public Buyer or a Certified Public Purchasing
16 Officer, pursuant to certification by the Universal Public
17 Purchasing Certification Council, and must reside in Illinois.

18 (d) Fiduciary duty. Each chief procurement officer owes a
19 fiduciary duty to the State.

20 (e) Vacancy. In case of a vacancy in one or more of the
21 offices of a chief procurement officer under this Section
22 during the recess of the Senate, the Executive Ethics
23 Commission shall make a temporary appointment until the next
24 meeting of the Senate, when the Executive Ethics Commission
25 shall nominate some person to fill the office, and any person
26 so nominated who is confirmed by the Senate shall hold office

1 during the remainder of the term and until his or her successor
2 is appointed and qualified. If the Senate is not in session at
3 the time this amendatory Act of the 96th General Assembly takes
4 effect, the Executive Ethics Commission shall make a temporary
5 appointment as in the case of a vacancy.

6 (f) Acting chief procurement officers. Prior to August 31,
7 2010, the Executive Ethics Commission may, until an initial
8 chief procurement officer is appointed and qualified,
9 designate some person as an acting chief procurement officer to
10 execute the powers and discharge the duties vested by law in
11 that chief procurement officer. An acting chief procurement
12 officer shall serve no later than the appointment of the
13 initial chief procurement officer pursuant to subsection (a) of
14 this Section. Nothing in this subsection shall prohibit the
15 Executive Ethics Commission from appointing an acting chief
16 procurement officer as a chief procurement officer.

17 (g) Transition schedule. Notwithstanding any other
18 provision of this Act or this amendatory Act of the 96th
19 General Assembly, the chief procurement officers on the
20 effective date of Public Act 96-793 shall continue to serve as
21 chief procurement officers until August 31, 2010 and shall
22 retain their powers and duties pertaining to procurements,
23 provided the chief procurement officer appointed or approved by
24 the Executive Ethics Commission shall approve any rules
25 promulgated to implement this Code or the provisions of this
26 amendatory Act of the 96th General Assembly. The chief

1 procurement officers appointed or approved by the Executive
2 Ethics Commission shall assume the position of chief
3 procurement officer upon appointment and work in collaboration
4 with the current chief procurement officer and staff. On
5 September 1, 2010, the chief procurement officers appointed by
6 the Executive Ethics Commission shall assume the powers and
7 duties of the chief procurement officers.

8 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
9 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

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