

# HB2348



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2348

by Rep. Kelly Burke

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that the Code shall not apply to contracts entered into by the Illinois Finance Authority for financing transactions in which the State of Illinois is not obligated. Provides that those contracts shall be awarded through a competitive process authorized by the Board of the Illinois Finance Authority. Effective immediately.

LRB098 10427 HLH 40636 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 Section 1-10 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 (12) Contracts entered into by the Illinois Finance  
21 Authority for financing transactions in which the State of  
22 Illinois is not obligated. Such contracts shall be awarded  
23 through a competitive process authorized by the Board of  
24 the Illinois Finance Authority and subject to Sections  
25 50-13, 50-35, and 50-37 of this Code.

26 (c) This Code does not apply to the electric power

1 procurement process provided for under Section 1-75 of the  
2 Illinois Power Agency Act and Section 16-111.5 of the Public  
3 Utilities Act.

4 (d) Except for Section 20-160 and Article 50 of this Code,  
5 and as expressly required by Section 9.1 of the Illinois  
6 Lottery Law, the provisions of this Code do not apply to the  
7 procurement process provided for under Section 9.1 of the  
8 Illinois Lottery Law.

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

20 (f) This Code does not apply to the process used by the  
21 Illinois Power Agency to retain a mediator to mediate sourcing  
22 agreement disputes between gas utilities and the clean coal SNG  
23 brownfield facility, as defined in Section 1-10 of the Illinois  
24 Power Agency Act, as required under subsection (h-1) of Section  
25 9-220 of the Public Utilities Act.

26 (g) This Code does not apply to the processes used by the

1 Illinois Power Agency to retain a mediator to mediate contract  
2 disputes between gas utilities and the clean coal SNG facility  
3 and to retain an expert to assist in the review of contracts  
4 under subsection (h) of Section 9-220 of the Public Utilities  
5 Act. This Code does not apply to the process used by the  
6 Illinois Commerce Commission to retain an expert to assist in  
7 determining the actual incurred costs of the clean coal SNG  
8 facility and the reasonableness of those costs as required  
9 under subsection (h) of Section 9-220 of the Public Utilities  
10 Act.

11 (h) This Code does not apply to the process to procure or  
12 contracts entered into in accordance with Sections 11-5.2 and  
13 11-5.3 of the Illinois Public Aid Code.

14 (i) ~~(h)~~ Each chief procurement officer may access records  
15 necessary to review whether a contract, purchase, or other  
16 expenditure is or is not subject to the provisions of this  
17 Code, unless such records would be subject to attorney-client  
18 privilege.

19 (Source: P.A. 96-840, eff. 12-23-09; 96-1331, eff. 7-27-10;  
20 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502, eff. 8-23-11;  
21 97-689, eff. 6-14-12; 97-813, eff. 7-13-12; 97-895, eff.  
22 8-3-12; revised 8-23-12.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.