

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)

7 Sec. 10-20.21. Contracts.

8 (a) To award all contracts for purchase of supplies and  
9 materials or work involving an expenditure in excess of \$25,000  
10 or a lower amount as required by board policy to the lowest  
11 responsible bidder, considering conformity with  
12 specifications, terms of delivery, quality and serviceability,  
13 after due advertisement, except the following: (i) contracts  
14 for the services of individuals possessing a high degree of  
15 professional skill where the ability or fitness of the  
16 individual plays an important part; (ii) contracts for the  
17 printing of finance committee reports and departmental  
18 reports; (iii) contracts for the printing or engraving of  
19 bonds, tax warrants and other evidences of indebtedness; (iv)  
20 contracts for the purchase of perishable foods and perishable  
21 beverages; (v) contracts for materials and work which have been  
22 awarded to the lowest responsible bidder after due  
23 advertisement, but due to unforeseen revisions, not the fault

1 of the contractor for materials and work, must be revised  
2 causing expenditures not in excess of 10% of the contract  
3 price; (vi) contracts for the maintenance or servicing of, or  
4 provision of repair parts for, equipment which are made with  
5 the manufacturer or authorized service agent of that equipment  
6 where the provision of parts, maintenance, or servicing can  
7 best be performed by the manufacturer or authorized service  
8 agent; (vii) purchases and contracts for the use, purchase,  
9 delivery, movement, or installation of data processing  
10 equipment, software, or services and telecommunications and  
11 interconnect equipment, software, and services; (viii)  
12 contracts for duplicating machines and supplies; (ix)  
13 contracts for the purchase of natural gas when the cost is less  
14 than that offered by a public utility; (x) purchases of  
15 equipment previously owned by some entity other than the  
16 district itself; (xi) contracts for repair, maintenance,  
17 remodeling, renovation, or construction, or a single project  
18 involving an expenditure not to exceed \$50,000 and not  
19 involving a change or increase in the size, type, or extent of  
20 an existing facility; (xii) contracts for goods or services  
21 procured from another governmental agency; (xiii) contracts  
22 for goods or services which are economically procurable from  
23 only one source, such as for the purchase of magazines, books,  
24 periodicals, pamphlets and reports, and for utility services  
25 such as water, light, heat, telephone or telegraph; (xiv) where  
26 funds are expended in an emergency and such emergency

1 expenditure is approved by 3/4 of the members of the board;  
2 (xv) State master contracts authorized under Article 28A of  
3 this Code; ~~and~~ (xvi) contracts providing for the transportation  
4 of pupils, which contracts must be advertised in the same  
5 manner as competitive bids and awarded by first considering the  
6 bidder or bidders most able to provide safety and comfort for  
7 the pupils, stability of service, and any other factors set  
8 forth in the request for proposal regarding quality of service,  
9 and then price; and (xvii) contracts awarded to a contractor  
10 located in the county where the school district or any portion  
11 of the school district is situated who is not the lowest  
12 bidder, but who is a responsible bidder who qualifies under  
13 this Section and who has submitted a bid that does not exceed  
14 2% over the lowest responsible bid received by the board.  
15 However, at no time shall a cause of action lie against a  
16 school board for awarding a pupil transportation contract per  
17 the standards set forth in this subsection (a) unless the cause  
18 of action is based on fraudulent conduct.

19 All competitive bids for contracts involving an  
20 expenditure in excess of \$25,000 or a lower amount as required  
21 by board policy must be sealed by the bidder and must be opened  
22 by a member or employee of the school board at a public bid  
23 opening at which the contents of the bids must be announced.  
24 Each bidder must receive at least 3 days' notice of the time  
25 and place of the bid opening. For purposes of this Section due  
26 advertisement includes, but is not limited to, at least one

1 public notice at least 10 days before the bid date in a  
2 newspaper published in the district, or if no newspaper is  
3 published in the district, in a newspaper of general  
4 circulation in the area of the district. State master contracts  
5 and certified education purchasing contracts, as defined in  
6 Article 28A of this Code, are not subject to the requirements  
7 of this paragraph.

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

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

22 (2) The specified electronic database must be on a  
23 network that (i) is in a secure environment behind a  
24 firewall; (ii) has specific encryption tools; (iii)  
25 maintains specific intrusion detection systems; (iv) has  
26 redundant systems architecture with data storage back-up,

1           whether by compact disc or tape; and (v) maintains a  
2           disaster recovery plan.

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

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

1 convertible into, or entitles the holder to receive upon its  
2 exercise, a security that confers such a right to vote. A  
3 general partnership interest is a voting security.

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

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

25 (c) If the State education purchasing entity creates a  
26 master contract as defined in Article 28A of this Code, then

1 the State education purchasing entity shall notify school  
2 districts of the existence of the master contract.

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

10 (Source: P.A. 96-392, eff. 1-1-10; 96-841, eff. 12-23-09;  
11 96-1000, eff. 7-2-10; 97-951, eff. 8-13-12.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.