



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4187

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10

Amends the Illinois Procurement Code. Provides that on and after the effective date of this Act, contracts of \$250,000 or more between the State or any State agency and another state or the federal government may be entered into only by a separate Act of the General Assembly. Provides that a contract executed before the effective date of this amendatory Act valued at more than \$250,000 between the State or any State agency and another state or the federal government may be renewed or extended only by a separate Act of the General Assembly. Provides that copies of such contract shall be filed with the Index Department of the Office of the Secretary of State upon execution. Effective immediately.

LRB098 15804 JWD 50838 b

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 units of local government ~~other~~

1 ~~governments~~, or between State governmental bodies except
2 as specifically provided in 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 for legal, financial, and other
21 professional and artistic services entered into on or
22 before December 31, 2018 by the Illinois Finance Authority
23 in which the State of Illinois is not obligated. Such
24 contracts shall be awarded through a competitive process
25 authorized by the Board of the Illinois Finance Authority
26 and are subject to Sections 5-30, 20-160, 50-13, 50-20,

1 50-35, and 50-37 of this Code, as well as the final
2 approval by the Board of the Illinois Finance Authority of
3 the terms of the contract.

4 Notwithstanding any other provision of law, contracts
5 entered into under item (12) of this subsection (b) shall be
6 published in the Procurement Bulletin within 14 days after
7 contract execution. The chief procurement officer shall
8 prescribe the form and content of the notice. The Illinois
9 Finance Authority shall provide the chief procurement officer,
10 on a monthly basis, in the form and content prescribed by the
11 chief procurement officer, a report of contracts that are
12 related to the procurement of goods and services identified in
13 item (12) of this subsection (b). At a minimum, this report
14 shall include the name of the contractor, a description of the
15 supply or service provided, the total amount of the contract,
16 the term of the contract, and the exception to the Code
17 utilized. A copy of each of these contracts shall be made
18 available to the chief procurement officer immediately upon
19 request. The chief procurement officer shall submit a report to
20 the Governor and General Assembly no later than November 1 of
21 each year that shall include, at a minimum, an annual summary
22 of the monthly information reported to the chief procurement
23 officer.

24 (c) This Code does not apply to the electric power
25 procurement process provided for under Section 1-75 of the
26 Illinois Power Agency Act and Section 16-111.5 of the Public

1 Utilities Act.

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

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

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

24 (g) This Code does not apply to the processes used by the
25 Illinois Power Agency to retain a mediator to mediate contract
26 disputes between gas utilities and the clean coal SNG facility

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

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

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

17 (j) This Code does not apply to the process used by the
18 Capital Development Board to retain an artist or work or works
19 of art as required in Section 14 of the Capital Development
20 Board Act.

21 (k) Contracts valued at more than \$250,000 between the
22 State or any State agency and another state or the federal
23 government, or an agency thereof, may be entered into only by a
24 separate Act of the General Assembly. A contract executed
25 before the effective date of this amendatory Act of the 98th
26 General Assembly valued at more than \$250,000 between the State

1 or any State agency and another state or the federal
2 government, or an agency thereof, may be entered into only by a
3 separate Act of the General Assembly. Copies of such contracts
4 shall be filed with the Index Department of the Office of the
5 Secretary of State upon execution.

6 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,
7 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;
8 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;
9 98-572, eff. 1-1-14; revised 9-9-13.)

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