

HB4329



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4329

by Rep. Mark Batinick

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 500/1-10

Creates the Illinois College Procurement Clarification Act and amends the Illinois Procurement Code. Allows the governing body of a public university to provide by resolution that, in the case of the expenditure of any federal grant, it shall be the policy of the university that federal procurement law and administrative rules supersede and have priority over the Illinois Procurement Code. Provides that the Board of Higher Education shall administer the Act and may adopt any rules necessary to implement and administer the Act.

LRB099 15014 NHT 39211 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the
5 Illinois College Procurement Clarification Act.

6 Section 5. Definitions. In this Act:

7 "Board" means the Board of Higher Education.

8 "Institution" means a public university located in this
9 State.

10 Section 10. Illinois Procurement Code; applicability. The
11 governing body of an institution may provide by resolution
12 that, in the case of the expenditure of any federal grant, it
13 shall be the policy of the institution that federal procurement
14 law and administrative rules supersede and have priority over
15 the Illinois Procurement Code.

16 Section 90. Administration; rulemaking. The Board shall
17 administer this Act. The Board may adopt any rules necessary to
18 implement and administer this Act.

19 Section 95. The Illinois Procurement Code is amended by
20 changing Section 1-10 as follows:

1 (30 ILCS 500/1-10)

2 Sec. 1-10. Application.

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

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

17 (1) Contracts between the State and its political
18 subdivisions or other governments, or between State
19 governmental bodies except as specifically provided in
20 this Code.

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

23 (3) Purchase of care.

24 (4) Hiring of an individual as employee and not as an
25 independent contractor, whether pursuant to an employment

1 code or policy or by contract directly with that
2 individual.

3 (5) Collective bargaining contracts.

4 (6) Purchase of real estate, except that notice of this
5 type of contract with a value of more than \$25,000 must be
6 published in the Procurement Bulletin within 10 calendar
7 days after the deed is recorded in the county of
8 jurisdiction. The notice shall identify the real estate
9 purchased, the names of all parties to the contract, the
10 value of the contract, and the effective date of the
11 contract.

12 (7) Contracts necessary to prepare for anticipated
13 litigation, enforcement actions, or investigations,
14 provided that the chief legal counsel to the Governor shall
15 give his or her prior approval when the procuring agency is
16 one subject to the jurisdiction of the Governor, and
17 provided that the chief legal counsel of any other
18 procuring entity subject to this Code shall give his or her
19 prior approval when the procuring entity is not one subject
20 to the jurisdiction of the Governor.

21 (8) Contracts for services to Northern Illinois
22 University by a person, acting as an independent
23 contractor, who is qualified by education, experience, and
24 technical ability and is selected by negotiation for the
25 purpose of providing non-credit educational service
26 activities or products by means of specialized programs

1 offered by the university.

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

4 (10) Procurement expenditures by the Illinois Health
5 Information Exchange Authority involving private funds
6 from the Health Information Exchange Fund. "Private funds"
7 means gifts, donations, and private grants.

8 (11) Public-private agreements entered into according
9 to the procurement requirements of Section 20 of the
10 Public-Private Partnerships for Transportation Act and
11 design-build agreements entered into according to the
12 procurement requirements of Section 25 of the
13 Public-Private Partnerships for Transportation Act.

14 (12) Contracts for legal, financial, and other
15 professional and artistic services entered into on or
16 before December 31, 2018 by the Illinois Finance Authority
17 in which the State of Illinois is not obligated. Such
18 contracts shall be awarded through a competitive process
19 authorized by the Board of the Illinois Finance Authority
20 and are subject to Sections 5-30, 20-160, 50-13, 50-20,
21 50-35, and 50-37 of this Code, as well as the final
22 approval by the Board of the Illinois Finance Authority of
23 the terms of the contract.

24 Notwithstanding any other provision of law, contracts
25 entered into under item (12) of this subsection (b) shall be
26 published in the Procurement Bulletin within 14 calendar days

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

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

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

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

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

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

1 under subsection (h) of Section 9-220 of the Public Utilities
2 Act.

3 (h) This Code does not apply to the process to procure or
4 contracts entered into in accordance with Sections 11-5.2 and
5 11-5.3 of the Illinois Public Aid Code.

6 (i) Each chief procurement officer may access records
7 necessary to review whether a contract, purchase, or other
8 expenditure is or is not subject to the provisions of this
9 Code, unless such records would be subject to attorney-client
10 privilege.

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

15 (k) This Code does not apply to the process to procure
16 contracts, or contracts entered into, by the State Board of
17 Elections or the State Electoral Board for hearing officers
18 appointed pursuant to the Election Code.

19 (l) In the case of the expenditure of a federal grant by a
20 public university, federal procurement law and administrative
21 rules supersede and have priority over this Code if such a
22 policy has been adopted by the university under Section 10 of
23 the Illinois College Procurement Clarification Act.

24 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-502,
25 eff. 8-23-11; 97-689, eff. 6-14-12; 97-813, eff. 7-13-12;
26 97-895, eff. 8-3-12; 98-90, eff. 7-15-13; 98-463, eff. 8-16-13;

1 98-572, eff. 1-1-14; 98-756, eff. 7-16-14; 98-1076, eff.
2 1-1-15.)