

HB5530



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5530

by Rep. Ann Williams

SYNOPSIS AS INTRODUCED:

30 ILCS 500/55-20 new
105 ILCS 5/10-20.21

Amends the Procurement Code. Provides that after the effective date of the amendatory Act, a public entity shall not enter into a contract to purchase food with a bidder or offeror if the bidder's or offeror's contract terms prohibit the public entity from donating food to food banks, including, but not limited to, homeless shelters, food pantries, and soup kitchens. Amends the School Code to make a similar change. Effective immediately.

LRB099 19290 MLM 43682 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 adding Section 55-20 as follows:

6 (30 ILCS 500/55-20 new)

7 Sec. 55-20. Contracts for food donation. After the
8 effective date of this amendatory Act of the 99th General
9 Assembly, a public entity shall not enter into a contract to
10 purchase food with a bidder or offeror if the bidder's or
11 offeror's contract terms prohibit the public entity from
12 donating food to food banks, including, but not limited to,
13 homeless shelters, food pantries, and soup kitchens.

14 Section 10. The School Code is amended by changing Section
15 10-20.21 as follows:

16 (105 ILCS 5/10-20.21)

17 Sec. 10-20.21. Contracts.

18 (a) To award all contracts for purchase of supplies and
19 materials or work involving an expenditure in excess of \$25,000
20 or a lower amount as required by board policy to the lowest
21 responsible bidder, considering conformity with

1 specifications, terms of delivery, quality and serviceability,
2 after due advertisement, except the following: (i) contracts
3 for the services of individuals possessing a high degree of
4 professional skill where the ability or fitness of the
5 individual plays an important part; (ii) contracts for the
6 printing of finance committee reports and departmental
7 reports; (iii) contracts for the printing or engraving of
8 bonds, tax warrants and other evidences of indebtedness; (iv)
9 contracts for the purchase of perishable foods and perishable
10 beverages; (v) contracts for materials and work which have been
11 awarded to the lowest responsible bidder after due
12 advertisement, but due to unforeseen revisions, not the fault
13 of the contractor for materials and work, must be revised
14 causing expenditures not in excess of 10% of the contract
15 price; (vi) contracts for the maintenance or servicing of, or
16 provision of repair parts for, equipment which are made with
17 the manufacturer or authorized service agent of that equipment
18 where the provision of parts, maintenance, or servicing can
19 best be performed by the manufacturer or authorized service
20 agent; (vii) purchases and contracts for the use, purchase,
21 delivery, movement, or installation of data processing
22 equipment, software, or services and telecommunications and
23 interconnect equipment, software, and services; (viii)
24 contracts for duplicating machines and supplies; (ix)
25 contracts for the purchase of natural gas when the cost is less
26 than that offered by a public utility; (x) purchases of

1 equipment previously owned by some entity other than the
2 district itself; (xi) contracts for repair, maintenance,
3 remodeling, renovation, or construction, or a single project
4 involving an expenditure not to exceed \$50,000 and not
5 involving a change or increase in the size, type, or extent of
6 an existing facility; (xii) contracts for goods or services
7 procured from another governmental agency; (xiii) contracts
8 for goods or services which are economically procurable from
9 only one source, such as for the purchase of magazines, books,
10 periodicals, pamphlets and reports, and for utility services
11 such as water, light, heat, telephone or telegraph; (xiv) where
12 funds are expended in an emergency and such emergency
13 expenditure is approved by 3/4 of the members of the board;
14 (xv) State master contracts authorized under Article 28A of
15 this Code; and (xvi) contracts providing for the transportation
16 of pupils, which contracts must be advertised in the same
17 manner as competitive bids and awarded by first considering the
18 bidder or bidders most able to provide safety and comfort for
19 the pupils, stability of service, and any other factors set
20 forth in the request for proposal regarding quality of service,
21 and then price. However, at no time shall a cause of action lie
22 against a school board for awarding a pupil transportation
23 contract per the standards set forth in this subsection (a)
24 unless the cause of action is based on fraudulent conduct.

25 All competitive bids for contracts involving an
26 expenditure in excess of \$25,000 or a lower amount as required

1 by board policy must be sealed by the bidder and must be opened
2 by a member or employee of the school board at a public bid
3 opening at which the contents of the bids must be announced.
4 Each bidder must receive at least 3 days' notice of the time
5 and place of the bid opening. For purposes of this Section due
6 advertisement includes, but is not limited to, at least one
7 public notice at least 10 days before the bid date in a
8 newspaper published in the district, or if no newspaper is
9 published in the district, in a newspaper of general
10 circulation in the area of the district. State master contracts
11 and certified education purchasing contracts, as defined in
12 Article 28A of this Code, are not subject to the requirements
13 of this paragraph.

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

22 (1) On the date and time certain of a bid opening, the
23 primary person conducting the competitive, sealed,
24 electronic bid process shall log onto a specified database
25 using a unique username and password previously assigned to
26 the bidder to allow access to the bidder's specific bid

1 project number.

2 (2) The specified electronic database must be on a
3 network that (i) is in a secure environment behind a
4 firewall; (ii) has specific encryption tools; (iii)
5 maintains specific intrusion detection systems; (iv) has
6 redundant systems architecture with data storage back-up,
7 whether by compact disc or tape; and (v) maintains a
8 disaster recovery plan.

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

14 (b) To require, as a condition of any contract for goods
15 and services, that persons bidding for and awarded a contract
16 and all affiliates of the person collect and remit Illinois Use
17 Tax on all sales of tangible personal property into the State
18 of Illinois in accordance with the provisions of the Illinois
19 Use Tax Act regardless of whether the person or affiliate is a
20 "retailer maintaining a place of business within this State" as
21 defined in Section 2 of the Use Tax Act. For purposes of this
22 Section, the term "affiliate" means any entity that (1)
23 directly, indirectly, or constructively controls another
24 entity, (2) is directly, indirectly, or constructively
25 controlled by another entity, or (3) is subject to the control
26 of a common entity. For purposes of this subsection (b), an

1 entity controls another entity if it owns, directly or
2 individually, more than 10% of the voting securities of that
3 entity. As used in this subsection (b), the term "voting
4 security" means a security that (1) confers upon the holder the
5 right to vote for the election of members of the board of
6 directors or similar governing body of the business or (2) is
7 convertible into, or entitles the holder to receive upon its
8 exercise, a security that confers such a right to vote. A
9 general partnership interest is a voting security.

10 To require that bids and contracts include a certification
11 by the bidder or contractor that the bidder or contractor is
12 not barred from bidding for or entering into a contract under
13 this Section and that the bidder or contractor acknowledges
14 that the school board may declare the contract void if the
15 certification completed pursuant to this subsection (b) is
16 false.

17 (b-5) To require all contracts and agreements that pertain
18 to goods and services and that are intended to generate
19 additional revenue and other remunerations for the school
20 district in excess of \$1,000, including without limitation
21 vending machine contracts, sports and other attire, class
22 rings, and photographic services, to be approved by the school
23 board. The school board shall file as an attachment to its
24 annual budget a report, in a form as determined by the State
25 Board of Education, indicating for the prior year the name of
26 the vendor, the product or service provided, and the actual net

1 revenue and non-monetary remuneration from each of the
2 contracts or agreements. In addition, the report shall indicate
3 for what purpose the revenue was used and how and to whom the
4 non-monetary remuneration was distributed.

5 (b-10) To prohibit any contract to purchase food with a
6 bidder or offeror if the bidder's or offeror's contract terms
7 prohibit the school from donating food to food banks,
8 including, but not limited to, homeless shelters, food
9 pantries, and soup kitchens.

10 (c) If the State education purchasing entity creates a
11 master contract as defined in Article 28A of this Code, then
12 the State education purchasing entity shall notify school
13 districts of the existence of the master contract.

14 (d) In purchasing supplies, materials, equipment, or
15 services that are not subject to subsection (c) of this
16 Section, before a school district solicits bids or awards a
17 contract, the district may review and consider as a bid under
18 subsection (a) of this Section certified education purchasing
19 contracts that are already available through the State
20 education purchasing entity.

21 (Source: P.A. 96-392, eff. 1-1-10; 96-841, eff. 12-23-09;
22 96-1000, eff. 7-2-10; 97-951, eff. 8-13-12.)

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