

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0635.01 Brita Darling x2241

HOUSE BILL 16-1449

HOUSE SPONSORSHIP

Danielson, Esgar, Ryden, Young, Kagan, Buckner, Moreno, Kraft-Tharp

SENATE SPONSORSHIP

(None),

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING SAFE CONTRACTING FOR SCHOOL DISTRICT SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes changes to state law regarding contracts for professional services, other than contracts for instructional services, entered into by school districts, including, for contracts for professional services of \$100,000 or more, requiring:

- ! A cost-benefit analysis of contracting for the services rather than using district personnel to perform the services, to be completed prior to making a recommendation to contract for services;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Competitive bidding for the contract;
- ! A review of all bids in a regularly scheduled school board meeting, unless a special meeting is authorized;
- ! The opportunity for affected employees to counter the competitive bid; and
- ! At least one public hearing conducted by the school district prior to soliciting bids to provide professional services and before entering into a contract for professional services.

The bill lists the types of professional services contracts to which the requirements apply and exempts small rural school districts from the requirements.

The bill also requires a contractor for a contract in any dollar amount to provide proof of liability insurance equivalent in amount and scope with that provided by the school district for the contracting activity. Further, a school district shall not enter into a contract for professional services with a contractor who has committed unfair labor practices within the 5 years preceding the date that bids are solicited. In addition, the school district shall not enter into a contract that takes effect prior to the expiration of an existing collective bargaining agreement concerning the employees impacted by the new contract. The contractor must offer available employee positions to the existing employees.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 22-32-122, **amend**
 3 (2) (a) and (3) (a); **repeal** (4) (b); and **add** (2.5) and (3.5) as follows:

4 **22-32-122. Contract services, equipment, and supplies.**

5 (2) Each school district board of education may review and revise the
 6 policies and procedures adopted by the board pursuant to section
 7 22-32-109 (1) (b) and may choose to require competitive bidding on
 8 contracts for professional services, other than contracts for instructional
 9 services. A policy adopted pursuant to this subsection (2) may:

10 (a) Require that ~~the~~ school district personnel, prior to
 11 recommending that the board of education enter into a contract pursuant
 12 to this section, ~~examine~~ ANALYZE the costs and benefits of contracting for
 13 the service, activity, or undertaking rather than performing the service,

1 activity, or undertaking using school district personnel and ~~that~~ INCLUDE
2 WITH the recommendation ~~specify~~ THE COST-BENEFIT ANALYSIS ALONG
3 WITH the conclusions of the cost-benefit analysis and their rationale;

4 (2.5) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)
5 OF THIS SECTION TO THE CONTRARY, EXCEPT FOR A BOARD OF EDUCATION
6 OF A SMALL RURAL SCHOOL DISTRICT, AS DEFINED IN SECTION 22-54-137
7 (1) (c), A SCHOOL DISTRICT BOARD OF EDUCATION SHALL COMPLY WITH
8 THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (2.5) FOR
9 CONTRACTS OF ONE HUNDRED THOUSAND DOLLARS OR MORE FOR THE
10 FOLLOWING PROFESSIONAL SERVICES:

- 11 (I) PARA-PROFESSIONALS;
- 12 (II) CLERICAL SERVICES;
- 13 (III) CUSTODIAL AND MAINTENANCE SERVICES;
- 14 (IV) FOOD SERVICES;
- 15 (V) TRANSPORTATION;
- 16 (VI) TECHNICAL SERVICES;
- 17 (VII) SKILLED TRADES;
- 18 (VIII) SECURITY SERVICES; AND
- 19 (IX) HEALTH AND STUDENT SERVICES.

20 (b) WITH RESPECT TO CONTRACTS OF ONE HUNDRED THOUSAND
21 DOLLARS OR MORE FOR PROFESSIONAL SERVICES DESCRIBED IN
22 PARAGRAPH (a) OF THIS SUBSECTION (2.5), A SCHOOL DISTRICT BOARD OF
23 EDUCATION SHALL:

24 (I) REQUIRE SCHOOL DISTRICT PERSONNEL TO PERFORM THE
25 COST-BENEFIT ANALYSIS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2)
26 OF THIS SECTION PRIOR TO RECOMMENDING THAT THE SCHOOL DISTRICT
27 BOARD OF EDUCATION ENTER INTO A CONTRACT FOR PROFESSIONAL

1 SERVICES;

2 (II) REQUIRE COMPETITIVE BIDDING FOR THE CONTRACT;

3 (III) REVIEW AND CONSIDER ALL BIDS IN OPEN SESSION OF A
4 REGULARLY SCHEDULED MEETING OF THE SCHOOL DISTRICT BOARD OF
5 EDUCATION, UNLESS THE RECOGNIZED CLASSIFIED EMPLOYEES'
6 ASSOCIATION FOR THE EMPLOYEES WHO PERFORM THE PROFESSIONAL
7 SERVICES, IF APPLICABLE, AGREES IN WRITING THAT THE REVIEW MAY
8 TAKE PLACE IN OPEN SESSION AT A SPECIALLY SCHEDULED MEETING OF
9 THE SCHOOL DISTRICT BOARD OF EDUCATION, AND ALLOW THE
10 RECOGNIZED CLASSIFIED EMPLOYEES' ASSOCIATION FOR THE EMPLOYEES
11 WHO PERFORM THE PROFESSIONAL SERVICES TO COUNTER THE
12 COMPETITIVE BID; AND

13 (IV) PRIOR TO SOLICITING BIDS TO PROVIDE PROFESSIONAL
14 SERVICES AND BEFORE ENTERING INTO A CONTRACT FOR PROFESSIONAL
15 SERVICES, HOLD A MINIMUM OF ONE PUBLIC HEARING CONDUCTED BY THE
16 SCHOOL DISTRICT BOARD OF EDUCATION DURING A REGULARLY
17 SCHEDULED MEETING OF THE BOARD OF EDUCATION TO DISCUSS THE
18 PROPOSAL TO CONTRACT WITH A THIRD PARTY FOR PROFESSIONAL
19 SERVICES. THE BOARD OF EDUCATION SHALL PROVIDE NOTICE OF THE
20 DATE, TIME, AND LOCATION OF THE FIRST PUBLIC HEARING PRIOR TO THE
21 INITIAL DATE THAT BIDS ARE SOLICITED OR A MINIMUM OF THIRTY DAYS
22 PRIOR TO ENTERING INTO THE CONTRACT, WHICHEVER PROVIDES A
23 GREATER NOTICE PERIOD.

24 (3) (a) A contract entered into pursuant to this section ~~shall~~ MUST
25 set forth fully the purposes, powers, rights, obligations, and
26 responsibilities, financial or otherwise, of the parties so contracting and
27 ~~shall~~ MUST require the service, including educational service, activity, or

1 undertaking to be of comparable quality and meet the same requirements
2 and standards that would apply if performed by the school district. A
3 CONTRACTOR SHALL PROVIDE PROOF OF LIABILITY INSURANCE THAT IS
4 EQUIVALENT IN SCOPE AND AMOUNT TO THAT PROVIDED BY THE SCHOOL
5 DISTRICT FOR THE CONTRACTED ACTIVITY.

6 (3.5) A SCHOOL DISTRICT BOARD OF EDUCATION SHALL NOT ENTER
7 INTO A CONTRACT FOR PROFESSIONAL SERVICES, OTHER THAN
8 INSTRUCTIONAL SERVICES, WITH A CONTRACTOR THAT HAS COMMITTED
9 UNFAIR LABOR PRACTICES PURSUANT TO THE FEDERAL "NATIONAL LABOR
10 RELATIONS ACT", 29 U.S.C. SEC. 158, WITHIN THE FIVE YEARS PRECEDING
11 THE DATE THAT BIDS ARE SOLICITED OR ENTER INTO A CONTRACT THAT
12 TAKES EFFECT PRIOR TO THE EXPIRATION OF AN EXISTING COLLECTIVE
13 BARGAINING AGREEMENT COVERING THE EMPLOYEES IMPACTED BY THE
14 CONTRACT FOR PROFESSIONAL SERVICES. THE CONTRACT FOR
15 PROFESSIONAL SERVICES MUST REQUIRE THE CONTRACTOR TO OFFER
16 AVAILABLE EMPLOYEE POSITIONS TO QUALIFIED SCHOOL DISTRICT
17 EMPLOYEES WHOSE EMPLOYMENT IS TERMINATED OR WHOSE HOURS ARE
18 REDUCED BY FIFTY PERCENT OR MORE BECAUSE OF THE CONTRACT.

19 (4) (b) ~~The background check described in paragraph (a) of this~~
20 ~~subsection (4) is required only for those persons who have regular, but~~
21 ~~not incidental, contact with students at least once a month.~~

22 **SECTION 2. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect January 1, 2017; except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within the ninety-day period after final adjournment of the general
27 assembly, then the act, item, section, or part will not take effect unless

1 approved by the people at the general election to be held in November
2 2016 and, in such case, will take effect on January 1, 2017, or on the date
3 of the official declaration of the vote thereon by the governor, whichever
4 is later.

5 (2) This act applies to contracts for professional services, other
6 than contracts for instructional services, solicited on or after the
7 applicable effective date of this act.