

Senator Leonard M. Blackham proposes to substitute the following bill:

**GOVERNMENT COMPETITION WITH PRIVATE
SECTOR**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

AN ACT RELATING TO PROCUREMENT OF ARCHITECT AND ENGINEERING SERVICES; PROHIBITING STATE AGENCIES, HIGHER EDUCATION INSTITUTIONS, COUNTIES, MUNICIPALITIES, LOCAL SCHOOL DISTRICTS, AND SPECIAL DISTRICTS FROM AWARDING ARCHITECT/ENGINEERING SERVICES CONTRACTS TO HIGHER EDUCATION ENTITIES IN CERTAIN CIRCUMSTANCES; AND PROHIBITING HIGHER EDUCATION ENTITIES FROM SUBMITTING A PROPOSAL TO PERFORM ARCHITECT/ENGINEERING SERVICES IN CERTAIN CIRCUMSTANCES.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

10-7-20.5, Utah Code Annotated 1953

17-5-260.5, Utah Code Annotated 1953

17A-1-802, Utah Code Annotated 1953

53A-20-101.5, Utah Code Annotated 1953

53B-16-104, Utah Code Annotated 1953

63-56-44.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-7-20.5** is enacted to read:

10-7-20.5. Restrictions on municipality procurement of architect engineer services.

(1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional

26 engineering as defined in Section 58-22-102.

27 (2) When a municipality elects to obtain architect or engineering services by using a
28 competitive procurement process and has provided public notice of its competitive procurement
29 process:

30 (a) a higher education entity, or any part of one, may not submit a proposal in response to
31 the municipality's competitive procurement process; and

32 (b) the municipality may not award a contract to perform the architect or engineering
33 services solicited in the competitive procurement process to a higher education entity or any part
34 of one.

35 Section 2. Section **17-5-260.5** is enacted to read:

36 **17-5-260.5. Restrictions on county procurement of architect engineer services.**

37 (1) As used in this section, "architect-engineer services" means those professional services
38 within the scope of the practice of architecture as defined in Section 58-3a-102, or professional
39 engineering as defined in Section 58-22-102.

40 (2) When a county elects to obtain architect or engineering services by using a competitive
41 procurement process and has provided public notice of its competitive procurement process:

42 (a) a higher education entity, or any part of one, may not submit a proposal in response to
43 the county's competitive procurement process; and

44 (b) the county may not award a contract to perform the architect or engineering services
45 solicited in the competitive procurement process to a higher education entity or any part of one.

46 Section 3. Section **17A-1-802** is enacted to read:

47 **17A-1-802. Restrictions on special district procurement of architect engineer services.**

48 (1) As used in this section, "architect-engineer services" means those professional services
49 within the scope of the practice of architecture as defined in Section 58-3a-102, or professional
50 engineering as defined in Section 58-22-102.

51 (2) When a special district elects to obtain architect or engineering services by using a
52 competitive procurement process and has provided public notice of its competitive procurement
53 process:

54 (a) a higher education entity, or any part of one, may not submit a proposal in response to
55 the special district's competitive procurement process; and

56 (b) the special district may not award a contract to perform the architect or engineering

57 services solicited in the competitive procurement process to a higher education entity or any part
58 of one.

59 Section 4. Section **53A-20-101.5** is enacted to read:

60 **53A-20-101.5. Restrictions on local school district procurement of architect engineer**
61 **services.**

62 (1) As used in this section, "architect-engineer services" means those professional services
63 within the scope of the practice of architecture as defined in Section 58-3a-102, or professional
64 engineering as defined in Section 58-22-102.

65 (2) When a local school district elects to obtain architect or engineering services by using
66 a competitive procurement process and has provided public notice of its competitive procurement
67 process:

68 (a) a higher education entity, or any part of one, may not submit a proposal in response to
69 the state agency's competitive procurement process; and

70 (b) the local school district may not award a contract to perform the architect or
71 engineering services solicited in the competitive procurement process to a higher education entity
72 or any part of one.

73 Section 5. Section **53B-16-104** is enacted to read:

74 **53B-16-104. Restrictions on higher education entities bidding on architect or**
75 **engineering services in public procurement projects.**

76 (1) As used in this section:

77 (a) "Architect-engineer services" means those professional services within the scope of the
78 practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in
79 Section 58-22-102.

80 (b) "Government entity" means a state agency, an institution of higher education, a county,
81 a municipality, a local school district, or a special district.

82 (2) When a government entity elects to obtain architect or engineering services by using
83 a competitive procurement process and has provided public notice of its competitive procurement
84 process:

85 (a) a higher education entity, or any part of one, may not submit a proposal in response to
86 the government entity's competitive procurement process; and

87 (b) the government entity may not award a contract to perform the architect or engineering

88 services solicited in the competitive procurement process to a higher education entity or any part
89 of one.

90 (3) (a) Subject to the prohibition contained in Subsection (3)(b), an employee of a higher
91 education entity may, in a private capacity, submit a proposal in response to the competitive
92 procurement process.

93 (b) An employee of a higher education entity may not use any supplies, materials, or other
94 resources owned by, or any persons matriculating at, attending, or employed by, the higher
95 education entity in:

96 (i) preparing a response to the competitive procurement process; or

97 (ii) completing any work, assignment, or contract awarded to the employee resulting from
98 that competitive procurement process.

99 Section 6. Section **63-56-44.5** is enacted to read:

100 **63-56-44.5. Restrictions on state agency procurement of architect engineer services.**

101 **§ [When] (1) EXCEPT AS PROVIDED IN SUBSECTION (2), WHEN § a public procurement unit,**

101a in accordance with Section 63-56-42, elects to obtain

102 architect or engineering services by using a competitive procurement process and has provided

103 public notice of its competitive procurement process:

104 **§ [(1)] (a) § a higher education entity, or any part of one, may not submit a proposal in**

104a response to

105 the public procurement unit's competitive procurement process; and

106 **§ [(2)] (b) § the public procurement unit may not award a contract to perform the architect or**

107 engineering services solicited in the competitive procurement process to a higher education entity

108 or any part of one.

108a **§ (2) A PUBLIC PROCUREMENT UNIT NEED NOT COMPLY WITH THE REQUIREMENTS OF**

108b **SUBSECTION (1) WHEN THE PUBLIC PROCUREMENT UNIT IS PROCURING ARCHITECT OR**

108c **ENGINEER SERVICES FOR CONTRACTS RELATED TO RESEARCH ACTIVITIES,**

108c1 **AND TECHNOLOGY**

108d **TRANSFER AND OTHER INNOVATIVE ACTIVITIES] §**