

**SCHOOL DISTRICT PROCUREMENT PROCESS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies advertising requirements for a school construction project.

**Highlighted Provisions:**

This bill:

- ▶ modifies local school board advertising requirements related to a school construction project; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-20-101**, as last amended by Laws of Utah 2012, Chapters 86 and 347

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

Section 1. Section **53A-20-101** is amended to read:

**53A-20-101. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.**



28 (1) As used in this section, the word "sealed" does not preclude acceptance of  
29 electronically sealed and submitted bids or proposals in addition to bids or proposals manually  
30 sealed and submitted.

31 (2) (a) Prior to the construction of any school or the alteration of any existing school  
32 plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school  
33 board shall advertise for bids on the project at least 10 days before the bid due date.

34 ~~[(b) The board shall have the advertisement published in a newspaper having general  
35 circulation throughout the state and in appropriate construction trade publications that offer  
36 free listings.]~~

37 ~~[(c) A similar advertisement is required in a newspaper published or having general  
38 circulation in any city or county that would be affected by the proposed project.]~~

39 ~~[(d)]~~ (b) The advertisement shall state:

40 (i) ~~[require sealed proposals for the building project]~~ that proposals for the building  
41 project are required to be sealed in accordance with plans and specifications ~~[furnished]~~  
42 provided by the local school board;

43 (ii) ~~[state]~~ where and when the proposals will be opened ~~[and shall reserve the right of~~  
44 ~~the board];~~

45 (iii) that the local school board reserves the right to reject any and all proposals; and

46 ~~[(iii)]~~ (iv) ~~[require a]~~ that a person that submits a proposal is required to submit a  
47 certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the  
48 [bid] proposal.

49 (c) The local school board shall publish the advertisement:

50 (i) (A) in a newspaper of general circulation in the state; and

51 (B) in a newspaper of local circulation in the area directly impacted by the building  
52 project;

53 (ii) on the local school board's website; or

54 (iii) on a state website that is:

55 (A) owned or managed by, or provided under contract with, the Division of Purchasing  
56 and General Services; and

57 (B) available for the posting of public procurement notices.

58 (3) (a) The board shall meet at the time and place specified in the advertisement and

59 publicly open and read all received proposals.

60 (b) If satisfactory bids are received, the board shall award the contract to the lowest  
61 responsible bidder.

62 (c) If none of the proposals are satisfactory, all shall be rejected.

63 (d) The board shall again advertise in the manner provided in this section.

64 (e) If, after advertising a second time no satisfactory bid is received, the board may  
65 proceed under its own direction with the required project.

66 (4) (a) The check or bond required under Subsection (2)~~(f)~~(b) shall be drawn in favor  
67 of the local school board.

68 (b) If the successful bidder fails or refuses to enter into the contract and furnish the  
69 additional bonds required under this section, then the bidder's check or bond is forfeited to the  
70 district.

71 (5) A local school board shall require payment and performance bonds of the  
72 successful bidder as required in Section [63G-6a-1103](#).

73 (6) (a) A local school board may require in the proposed contract that up to 5% of the  
74 contract price be withheld until the project is completed and accepted by the board.

75 (b) If money is withheld, the board shall place it in an interest bearing account, and the  
76 interest accrues for the benefit of the contractor and subcontractors.

77 (c) This money shall be paid upon completion of the project and acceptance by the  
78 board.

79 (7) (a) A local school board may not bid on projects within the district if the total  
80 accumulative estimated cost exceeds \$80,000.

81 (b) The board may use its resources if no satisfactory bids are received under this  
82 section.

83 (8) If the local school board determines in accordance with Section [63G-6a-1302](#) to use  
84 a construction manager/general contractor as its method of construction contracting  
85 management on projects where the total estimated accumulative cost exceeds \$80,000, it shall  
86 select the construction manager/general contractor in accordance with the requirements of Title  
87 63G, Chapter 6a, Utah Procurement Code.

88 (9) A local school board member may not have a direct or indirect financial interest in  
89 the construction project contract.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**