

SCHOOL CONSTRUCTION CONTRACT**AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE**General Description:**

This bill reduces the amount of retention proceeds that a local school board may withhold until a school construction project is completed.

Highlighted Provisions:

This bill:

- reduces the amount of retention proceeds that a local school board may withhold until a school construction project is completed; and
- makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-20-101, as last amended by Chapter 25, Laws of Utah 2005

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.

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

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

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

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

(d) The advertisement shall:

(i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;

(ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and

(iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.

(3) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

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

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

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

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

(4) (a) The check or bond required under Subsection (2)(d) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the

59 additional bonds required under this section, then the bidder's check or bond is forfeited to the
60 district.

61 (5) A local school board shall require payment and performance bonds of the
62 successful bidder as required in Section 63-56-504.

63 (6) (a) A local school board may require in the proposed contract that ~~[at least 10%]~~ a
64 portion of the contract price be withheld as retention proceeds until the project is completed
65 and accepted by the board.

66 (b) The total retention proceeds withheld may not exceed 5% of the total contract price.

67 ~~[(b)]~~ (c) If money is withheld as retention proceeds, the board shall place it in an
68 interest bearing account, and the interest accrues for the benefit of the contractor and
69 subcontractors.

70 ~~[(c)]~~ (d) ~~[This money]~~ The retention proceeds shall be paid upon completion of the
71 project and acceptance by the board.

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

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

76 (8) If the local school board determines in accordance with Section 63-56-501 to use a
77 construction manager/general contractor as its method of construction contracting management
78 on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the
79 construction manager/general contractor using one of the source selection methods provided
80 for in Sections 63-56-401 through 63-56-501.

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

Legislative Review Note
as of 1-18-07 11:48 AM

Office of Legislative Research and General Counsel