

## SB0155S02 compared with SB0155S01

~~{deleted text}~~ shows text that was in SB0155S01 but was deleted in SB0155S02.

inserted text shows text that was not in SB0155S01 but was inserted into SB0155S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

~~{Senator Ralph Okerlund}~~Representative Jim Nielson proposes the following substitute bill:

### POLITICAL SUBDIVISION'S PROCUREMENT PROCESS FOR CONSTRUCTION PROJECTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Benjamin M. McAdams**

House Sponsor: ~~{~~Jim Nielson

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#### LONG TITLE

##### General Description:

This bill amends requirements for a local entity to undertake a building improvement or public works project.

##### Highlighted Provisions:

This bill:

- ▶ authorizes a ~~{city of the first class}~~municipality to adopt ~~{and follow provisions}~~procedures of Title 63G, Chapter 6, Utah Procurement Code ~~{ for~~  
• ~~a building improvement or public works project that costs \$20,000,000 or more;~~  
and



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~~—— (b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:~~

~~—— (i) the lowest responsive responsible bidder; or~~

~~—— (ii) except as provided in Subsection (2), for a design-build project [that the] formulated by a local entity [began formulating before March 1, 2004 and with respect to which a contract is entered into before September 1, 2004] subject to Section 11-39-107, a responsible bidder that:~~

~~—— (A) offers design-build services; and~~

~~—— (B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.~~

~~—— (2) A local entity may not enter into a contract for design-build services if:~~

~~—— (a) the local entity is not subject Section 11-39-107; and~~

~~—— (b) the local entity did not enter a design-build services contract before September 1, 2004.~~

~~—— [(2)] (3) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.~~

~~—— (b) (i) The cost of a building improvement or public works project may not be divided to avoid:~~

~~—— (A) exceeding the bid limit; and~~

~~—— (B) subjecting the local entity to the requirements of this section.~~

~~—— (ii) Notwithstanding Subsection [(2)] (3)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building improvement or public works project that results from dividing the cost.~~

~~—— [(3)] (4) (a) The local entity may reject any or all bids submitted.~~

~~—— (b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).~~

~~—— (c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing~~

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body may undertake the building improvement or public works project as it considers appropriate.

~~Section 2. Section 11-39-107 is amended to read:~~

~~†~~ **11-39-107. Procurement code.**

(1) This chapter may not be construed to:

(a) prohibit a county or ~~{, subject to Subsection (2), a city of the first class}~~ municipal

legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a local district or special service district.

(2) ~~A {city of the first class:~~

~~(a) for a building improvement or public works project costing \$20,000,000 or more, may adopt the procedures and follow the provisions of the procurement code for the procurement of and as the procedures and provisions relate to}~~ local entity may adopt procedures for the following construction contracting methods:

~~{~~ ~~(i) design-build, as defined in Section 63G-6-103;~~

~~†~~ ~~(~~iii~~)a) construction manager/general contractor, as defined in Section 63G-6-103; or~~

~~(~~iii~~)b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project{, and~~

~~(b) may not adopt the procedures or elect to follow the provisions of the procurement code:~~

~~(i) for a building improvement or public works project costing less than \$20,000,000; or~~

~~(ii) for a construction contracting method other than one listed in Subsection (2)(a).~~

~~(3) For a building improvement or public works project costing \$20,000,000 or more, a local district or special service district may:~~

~~(a) enter into a contract for design-build services in accordance with Section 11-39-103; or~~

~~(b) adopt the procedures and follow the provisions of the procurement code for design-build, as defined in Section 63G-6-103}.~~

~~[(2)] (~~4~~)3) (a) In seeking bids and awarding a contract for a building improvement or public works project, a county or {, Subject to Subsection (2),} a {city of the first~~

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~~class~~municipal legislative body may elect to follow the provisions of the procurement code, as the county or ~~city of the first class~~municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or ~~a city of the first class~~municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or ~~city of the first class~~municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection ~~[(2)]~~ ~~(4)~~3(a) may be made on a case-by-case basis, unless the county or ~~city of the first class~~municipality has previously adopted the procurement code as permitted by Subsection 63G-6-104(3)(e).

(d) The county or ~~city of the first class~~municipal legislative body shall:

- (i) make each election under Subsection ~~[(2)]~~ ~~(4)~~3(a) in an open meeting; and
- (ii) specify in its action the portions of the procurement code to be followed.

~~[(3)]~~ ~~(5)~~4 If the estimated cost of the building improvement or public works project proposed by a local district or special service district exceeds the bid limit, the governing body of the local district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.