

SCHOOL CONSTRUCTION REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies provisions in the Utah Code relating to school construction contracts.

Highlighted Provisions:

This bill:

► limits the amount a local school board may retain until a school construction project is completed and accepted by the board to 5% of the contract price.

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 2008, Chapter 382

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



28 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
29 sealed and submitted.

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

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

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

38 (d) The advertisement shall:

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

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

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

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

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

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

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

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

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

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

58 (5) A local school board shall require payment and performance bonds of the

59 successful bidder as required in Section 63G-6-505.

60 (6) (a) A local school board may require in the proposed contract that [~~at least 10%~~] up
61 to 5% of the contract price be withheld until the project is completed and accepted by the
62 board.

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

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

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

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

71 (8) If the local school board determines in accordance with Section 63G-6-501 to use a
72 construction manager/general contractor as its method of construction contracting management
73 on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the
74 construction manager/general contractor using one of the source selection methods provided
75 for in Sections 63G-6-401 through 63G-6-501.

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

Legislative Review Note
as of 11-17-11 11:09 AM

Office of Legislative Research and General Counsel