

1st Sub. S.B. 153
PROCUREMENT AMENDMENTS

Senator **Wayne L. Niederhauser** proposes the following amendments:

1. *Page 2, Lines 42 through 43:*

42 Other Special Clauses:

43 This bill takes effect on ~~{January}~~ May 1, 2013.

2. *Page 135, Lines 4043 through 4044:*

4043 (c) as it relates to a local public procurement unit, other than a local public

4044 procurement unit described in Subsections (2)(d) through ~~{(g)}~~ (h), the board; or

3. *Page 135, Lines 4053 through 4054:*

4053 Public Transit District Act, the governing board of the public transit district;

(h) as it relates to a local district or a special service district, the board, except to the extent that the local district or special service district enacts its own rules;

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules.

4054 ~~{(h)}~~ (i) as it relates to the following entities, but only to the extent that the rules relate to

4. *Page 136, Lines 4061 through 4064:*

4061 ~~{(i)}~~ (j) as it relates to the state executive branch and all public procurement units other than
4062 those described in Subsections (2)(a) through ~~{(g)}~~ (h), the board; or

4063 ~~{(i)}~~ (k) as it relates to an entity described in Subsection (2) ~~{(h)}~~ (i), except to the
extent that the

4064 rules relate to procurement authority expressly granted to the entity by statute, the board.

5. *Page 138, Lines 4149 through 4150:*

4149 (21) "Head of a public procurement unit" means:

4150 (a) as it relates to the state legislative branch, any person designated by ~~{legislative}~~ rule made
by the applicable rulemaking authority ;

6. *Page 139, Lines 4157 through 4158:*

4157 (d) as it relates to a local public procurement unit, other than a local public

4158 procurement unit described in Subsections (21)(e) through ~~{(h)}~~ (i) ;

7. Page 139, Lines 4166 through 4169:

4166 (g) as it relates to a charter school, the individual or body with executive authority over
4167 the charter school, or the individual's or body's designee; ~~{or}~~

4168 (h) as it relates to an institution of higher education of the state, the president of the
4169 institution of higher education, or the president's designee ~~{-}~~ ; or

(i) as it relates to a local district or a special service district, the governing body of the local district or special service district.

8. Page 140, Lines 4187 through 4189:

4187 (f) as it relates to a charter school, a person designated by the charter school; ~~{or}~~

4188 (g) as it relates to a non-executive state procurement unit, a person designated by the
4189 applicable rulemaking authority ~~{-}~~ ; or

(h) as it relates to a local district or a special service district, the governing board of the local district or special service district.

9. Page 144, Lines 4313 through 4318:

4313 (3) "Local government unit" means:

4314 (a) a county;

4315 (b) a municipality;

4316 (c) a political subdivision created by counties or municipalities under Title 11, Chapter

4317 13, Interlocal Cooperation Act , **unless the political subdivision does not receive or expend tax revenue** ;
or

4318 (d) the Utah Housing Corporation.

10. Page 145, Lines 4360 through 4368:

4360 (7) **(a)** "Public procurement unit" means:

4361 ~~{(a)}~~ **(i)** the Senate;

4362 ~~{(b)}~~ **(ii)** the House of Representatives;

4363 ~~{(c)}~~ **(iii)** a staff office of the state legislative branch;

4364 ~~{(d)}~~ **(iv)** a state executive branch department, division, office, bureau, or agency;

4365 ~~{(e)}~~ **(v)** the Utah State Supreme Court;

4366 ~~{(f)}~~ **(vi)** the Judicial Council;

4367 ~~{(g)}~~ **(vii)** a state judicial district; or

4368 ~~{(h)}~~ **(viii)** a local public procurement unit.

(b) "Public procurement unit" does not include a political subdivision created by counties or municipalities under Title 11, Chapter 13, Interlocal Cooperation Act, if the political subdivision does not receive or expend tax revenue.

11. Page 146, Lines 4369 through 4381:

- 4369 (8) "State purchasing unit" means:
4370 (a) the division;
4371 (b) the following entities, to the extent that the entities have express statutory authority
4372 to engage in a procurement without the involvement of the division:
4373 (i) the State Building Board, created in Section 63A-5-101;
4374 (ii) the Division of Facilities Construction and Management, created in Section
4375 63A-5-201;
4376 (iii) the attorney general's office;
4377 (iv) the Department of Transportation, created in Section 72-1-201; or
4378 (v) a district court;
4379 (c) an institution of higher education of the state;
4380 (d) a school district; {~~or~~}
4381 (e) a public school, including a local school board or a charter school {~~.~~} ; or
(f) a local public procurement unit.

12. Page 146, Lines 4392 through 4394:

- 4392 (2) (a) Except as provided in Section [~~63G-6-105~~] 63G-6a-109, this chapter shall apply to
4393 every expenditure of public funds irrespective of [~~their source~~] the source of the funds,
4394 including federal assistance, by any [~~state agency~~] public procurement unit, under any contract.

(b) Except for the provisions of this chapter that expressly relate to a government entity, the provisions of this chapter do not apply to a government entity that is not a public procurement unit.

13. Page 149, Lines 4469 through 4470:

- 4469 (8) The state auditor's office may, in accordance with the provisions of this chapter, but
4470 without involvement by the division or the chief procurement officer, procure audit services.

(9) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit and investment services; and

(b) services related to issuing bonds.

14. Page 152, Lines 4569 through 4576:

- 4569 (iii) approve the use of innovative procurement [~~methods~~] processes {~~proposed by local~~
4570 public procurement units} .
4571 (b) The [~~policy~~] board may not exercise authority over the award or administration of:
4572 (i) any particular [~~contact~~] contract; or
4573 (ii) [~~over~~] any dispute, claim, or litigation pertaining to any particular contract.

4574 (3) The board does not have authority over a matter involving:

4575 (a) a non-executive state procurement unit; ~~{or}~~

4576 (b) a local government unit ~~{-}~~ ; or

(c) except as otherwise expressly provided in this chapter, a local public procurement unit.

15. Page 153, Lines 4598 through 4602:

4598 ~~{(3) The Legislature may enact its own rules, consistent with this chapter, governing~~
4599 ~~procurement by the legislative branch.~~

4600 ~~—(4) The Judicial Council may enact its own rules, consistent with this chapter,~~

4601 ~~governing procurement by the judicial branch.}~~

(3) An applicable rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the applicable rulemaking authority has rulemaking authority.

4602 ~~[(3)]~~ ~~{(5)}~~ (4) The board shall make a report [by] on or before July 1 of each year to [an

16. Page 163, Line 4922 through Page 164, Line 4935:

4922 (b) Subsection (2)(a) does not apply:

4923 (i) to a non-executive state procurement unit;

4924 (ii) if the procurement officer or the head of the state purchasing unit authorizes an

4925 exception to the requirement; or

4926 (iii) to ~~{an institution of higher education of the state; or}~~ a local public procurement unit.

4927 ~~{(iv) to a school district or a public school.}~~

4928 (c) An entity that is exempt from the requirements of Subsection (2)(a) is encouraged,

4929 but not required, to comply with Subsection (2)(a).

4930 (3) ~~{A}~~ (a) Except as provided in Subsection (3)(b), a public procurement unit:

4931 ~~{(a)}~~ (i) may not use the small purchase procurement process described in this section for
4932 ongoing, continuous, and regularly scheduled procurements; and

4933 ~~{(b)}~~ (ii) shall make its ongoing, continuous, and regularly scheduled procurements through

4934 a contract awarded through a procurement process described in this chapter or an applicable

4935 exception to a procurement process.

(b) Subsection (3)(a) does not apply to an ongoing, continuous, or regularly scheduled procurement to the extent that the total expenditures for the procurement during a fiscal year do not exceed the maximum expenditure that the public procurement unit is permitted to make under this section, as established by rule made by the applicable rulemaking authority.

17. Page 185, Line 5596:

5596 (c) Subject to the advisory board guidelines and discretion, a designated central not-for-profit

18. Page 185, Line 5604:

5604 under the advisory board's direction;

19. Page 233, Line 7094:

7094 (h) Section 76-8-402 {~~.~~} Misusing public money.

20. Page 275, Lines 8384 through 8385:

8384 Section 243. Effective date.

8385 This bill takes effect on {~~January~~} May 1, 2013.