

## HB0245S01 compared with HB0245

~~text~~ shows text that was in HB0245 but was deleted in HB0245S01.

Inserted text shows text that was not in HB0245 but was inserted into HB0245S01.

**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 bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Todd Weiler proposes the following substitute bill:

### 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:

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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.**

(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 10 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)]~~ (b) The advertisement shall state:

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

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

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

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

(c) The local school board shall publish the advertisement;

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

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

~~(ii), at a minimum:~~

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

(~~iii~~ ii) on a state website that is:

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

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

(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)~~(b) 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 additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

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

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

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

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

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

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

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

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

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**