



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 22-0241	Date:	February 28, 2022
Prime Sponsors:	Rep. Barnett Sen. Kirkmeyer; Jaquez Lewis	Bill Status:	House Education
		Fiscal Analyst:	Josh Abram 303-866-3561 Josh.Abram@state.co.us

Bill Topic: PUBLIC SCHOOL CONTRACT TERMS & CONDITIONS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> School District

The bill prohibits certain terms and requires others in a school district contract for supplies, construction, or services. The bill increases workload for public school contracting entities to negotiate agreements with vendors.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill defines a public school contract as any agreement between a public school and a contractor to acquire supplies, services, or construction, or to dispose of supplies for the direct benefit of the public school. For contracts entered into on or after July 1, 2022, the bill prohibits terms that require the public school to:

- indemnify or hold harmless another person;
- agree to binding arbitration or any other binding extra-judicial dispute resolution process;
- agree to limit liability of another person for bodily injury, death, or damage to property caused by the negligence or misconduct of the person or the person's employee;
- waive governmental immunity;
- waive, alter, or limit the application of student data restrictions and protections of personally identifiable student data; or
- otherwise agree to terms that conflict with Colorado law or agency rules.

The appearance of any of these terms in a public school contract is *void ab initio*; i.e. the contract term is considered void and of no legal effect. The contract is otherwise enforceable as if the void term or condition had never been included. Further, a public school contract is voidable unless it includes provisions that:

- state that financial obligations of the public school payable after the current fiscal year are contingent on money to pay the obligations being appropriated, budgeted, and otherwise made available;
- require the contractor to comply with all applicable federal, state, and local laws; or
- require the contractor to perform duties as an independent contractor, to pay all applicable taxes for its employees, and to maintain workers' compensation and unemployment compensation insurance.

School District

The bill increases workload for public school contracting entities to ensure future contracts adhere to the bill's specified provisions. The bill potentially changes the cost of future contracts and the willingness of existing vendors to continue providing services to public schools. These impacts cannot be estimated.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to contracts executed on or after July 1, 2022.

State and Local Government Contacts

Education
Law

Labor
School Districts