

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Education.

HB19-1249 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3       **"SECTION 1.** In Colorado Revised Statutes, **amend** 22-32-122  
4 as follows:

5       **22-32-122. Contract services, equipment, and supplies -**  
6 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
7 OTHERWISE REQUIRES:

8       (a) "AFFECTED EMPLOYEE" MEANS A CURRENT EMPLOYEE OF A  
9 SCHOOL DISTRICT WHO PERFORMS A PROFESSIONAL SERVICE AND WHOSE  
10 EMPLOYMENT WILL BE TERMINATED OR WHOSE HOURS WILL BE REDUCED  
11 BY FIFTY PERCENT OR MORE AND WHOSE JOB WILL BE REPLACED IF THE  
12 SCHOOL DISTRICT ENTERS INTO A PROFESSIONAL SERVICES CONTRACT  
13 WITH A THIRD PARTY.

14       (b) "PROFESSIONAL SERVICES" INCLUDES PARAPROFESSIONAL  
15 SERVICES, CLERICAL SERVICES, CUSTODIAL AND MAINTENANCE SERVICES,  
16 FOOD SERVICES, TRANSPORTATION SERVICES, TECHNICAL SERVICES,  
17 SKILLED TRADE SERVICES, SECURITY SERVICES, AND HEALTH AND  
18 STUDENT SERVICES THAT ARE PERFORMED BY A NONLICENSED PERSON, AS  
19 DEFINED IN SECTION 22-32-109.8 (8)(a.5).

20       (1) A school district may contract with another district; with  
21 the governing body of a state college or university; with the tribal  
22 corporation of an Indian tribe or nation; with a federal agency or officer;  
23 with a county, city, or city and county; or with a natural person, body  
24 corporate, or association for the performance of a service, including an  
25 educational service, an activity, or an undertaking that a school may be  
26 authorized by law to perform or undertake.

27       (2) Each school district board of education may review and  
28 revise the policies and procedures adopted by the board pursuant to  
29 section 22-32-109 (1)(b) and may choose to require competitive bidding  
30 on contracts for professional services ~~WITH PERSONNEL COSTS UNDER TWO~~  
31 ~~HUNDRED THOUSAND DOLLARS~~, other than contracts for ~~instructional~~  
32 ~~EDUCATIONAL~~ services. A policy adopted pursuant to this ~~subsection~~ (2)  
33 SUBSECTION (3) may:

34       (a) Require that the school district personnel, prior to  
35 recommending that the board of education enter into a contract pursuant  
36 to this section, ~~examine~~ ANALYZE the costs and benefits of contracting for  
37 the service, activity, or undertaking rather than performing the service,  
38 activity, or undertaking using school district personnel and ~~that~~ INCLUDE  
39 ~~WITH~~ the recommendation ~~specify~~ THE COST-BENEFIT ANALYSIS ALONG  
40 ~~WITH~~ the conclusions of the cost-benefit analysis and their rationale;

41       (b) Require the school district personnel to implement a bidding

process for contracts entered into pursuant to this section; and

(4) (a) BEGINNING OCTOBER 1, 2019, BEFORE ENTERING INTO A PROFESSIONAL SERVICES CONTRACT WITH PERSONNEL COSTS OF TWO HUNDRED THOUSAND DOLLARS OR MORE, A SCHOOL DISTRICT SHALL:

(I) PRIOR TO SOLICITING COMPETITIVE BIDS FOR A PROFESSIONAL SERVICES CONTRACT:

9                   (A) NOTIFY AFFECTED EMPLOYEES SIXTY DAYS PRIOR TO  
10 SOLICITING COMPETITIVE BIDS THAT THE SCHOOL DISTRICT IS CONSIDERING  
11 CONTRACTING WITH A VENDOR FOR THE PROFESSIONAL SERVICE THE  
12 AFFECTED EMPLOYEE CURRENTLY PERFORMS; AND

17 (II) SIXTY DAYS AFTER PROVIDING THE NOTICE TO AFFECTED  
18 EMPLOYEES PURSUANT TO SUBSECTION (4)(a)(I)(A) OF THIS SECTION,  
19 SOLICIT COMPETITIVE BIDS FOR THE PROFESSIONAL SERVICES. THE  
20 SOLICITATION FOR COMPETITIVE BIDS MUST BE OPEN FOR A MINIMUM OF  
21 THIRTY DAYS AND MUST REQUIRE THE BIDDER TO INDICATE WHETHER THE  
22 BIDDER HAS COMMITTED AN UNFAIR LABOR PRACTICE PURSUANT TO THE  
23 FEDERAL "NATIONAL LABOR RELATIONS ACT", 29 U.S.C. SEC. 158,  
24 WITHIN THE FIVE YEARS PRECEDING THE DATE OF THE SOLICITATION OF  
25 COMPETITIVE BIDS.

26 (III) PUBLICLY POST THE PROPOSED CONTRACT AT LEAST  
27 FOURTEEN DAYS PRIOR TO THE NEXT REGULARLY SCHEDULED MEETING OF  
28 THE SCHOOL DISTRICT BOARD OF EDUCATION. ANY INFORMATION  
29 CONTAINED IN THE PROPOSED CONTRACT THAT IS PROTECTED FROM  
30 DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART  
31 2 OF ARTICLE 72 OF TITLE 24, MUST NOT BE DISCLOSED DURING THE OPEN  
32 MEETING. THE SCHOOL DISTRICT BOARD OF EDUCATION SHALL VOTE  
33 WHETHER TO APPROVE THE PROPOSED CONTRACT DURING THE OPEN  
34 MEETING.

43 (c) THE REQUIREMENTS OF SUBSECTION (4)(a) OF THIS SECTION DO

1 NOT APPLY TO:

2 (I) A BOARD OF EDUCATION OF A SMALL RURAL SCHOOL DISTRICT,  
3 AS DEFINED IN SECTION 22-5-119 (3)(h);

4 (II) A SCHOOL DISTRICT THAT HAS ENTERED INTO A CONTRACT FOR  
5 PROFESSIONAL SERVICES WITH A BOARD OF COOPERATIVE SERVICES,  
6 UNLESS THE EMPLOYEES PROVIDING THE PROFESSIONAL SERVICES ARE  
7 EMPLOYED BY A PRIVATE VENDOR;

8 (III) A SCHOOL DISTRICT THAT HAS ENTERED INTO A CONTRACT  
9 FOR PROFESSIONAL SERVICES FOR NEW SCHOOL CONSTRUCTION OR THE  
10 SIGNIFICANT RENOVATION OF AN EXISTING SCHOOL BUILDING;

11 (IV) A TIME-LIMITED CONTRACT FOR PROFESSIONAL SERVICES  
12 THAT THE SCHOOL DISTRICT ENTERS INTO DUE TO AN INABILITY TO FIND  
13 QUALIFIED CANDIDATES. AN INABILITY TO FIND QUALIFIED CANDIDATES  
14 MEANS THAT THE SCHOOL DISTRICT POSTED THE JOB OPENING FOR AT  
15 LEAST SIXTY DAYS AND THAT NO QUALIFIED CANDIDATES APPLIED FOR THE  
16 JOB. IF A SCHOOL DISTRICT ENTERS INTO A TIME-LIMITED CONTRACT  
17 PURSUANT TO THIS SUBSECTION (4)(c)(IV), THE SCHOOL DISTRICT SHALL  
18 REPOST THE JOB OPENING ONE YEAR AFTER ENTERING INTO A CONTRACT  
19 FOR PROFESSIONAL SERVICES PURSUANT TO THIS SUBSECTION (4).

20 (V) A TIME-LIMITED CONTRACT FOR PROFESSIONAL SERVICES THAT  
21 THE SCHOOL DISTRICT ENTERS INTO IN ORDER TO COMPLETE A ONE-TIME  
22 PROJECT THAT TAKES LESS THAN THREE MONTHS TO COMPLETE. A  
23 TIME-LIMITED CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION  
24 (4)(c)(V) MUST SUPPLANT AND NOT REPLACE EXISTING EMPLOYEE WORK.

25 (VI) A TIME-LIMITED CONTRACT FOR PROFESSIONAL SERVICES  
26 THAT THE SCHOOL DISTRICT ENTERS INTO DUE TO AN EMERGENCY OR  
27 OTHER SERIOUS UNFORESEEN CIRCUMSTANCE THAT NECESSITATES  
28 IMMEDIATE ACTION BY THE SCHOOL DISTRICT DURING THE CURRENT  
29 BUDGET YEAR AND THAT IS BEYOND THE CAPACITY OF CURRENT SCHOOL  
30 DISTRICT PERSONNEL. A TIME-LIMITED CONTRACT ENTERED INTO  
31 PURSUANT TO THIS SUBSECTION (4)(c)(VI) MUST SUPPLANT AND NOT  
32 REPLACE EXISTING EMPLOYEE WORK.

33 (VII) THE RENEWAL OF EXISTING CONTRACTS FOR PROFESSIONAL  
34 SERVICES THAT WERE ENTERED INTO PRIOR TO OCTOBER 1, 2019.

35 (3) (5) (a) A contract entered into pursuant to this section ~~shall~~  
36 MUST set forth fully the purposes, powers, rights, obligations, and  
37 responsibilities, financial or otherwise, of the parties so contracting and  
38 ~~shall~~ MUST require the service, including educational service, activity, or  
39 undertaking, to be of comparable quality and meet the same requirements  
40 and standards that would apply if performed by the school district. A  
41 CONTRACTOR SHALL PROVIDE PROOF OF LIABILITY INSURANCE THAT IS  
42 EQUIVALENT IN SCOPE AND AMOUNT TO THAT PROVIDED BY THE SCHOOL  
43 DISTRICT FOR THE CONTRACTED ACTIVITY.

15        (4) (6) (a) A contract executed pursuant to this section that  
16 includes services performed for a public school shall MUST include a  
17 provision requiring a criminal background check for any person providing  
18 services under the contract, including any subcontractor or other agent of  
19 the contracting entity, if the person provides direct services to students,  
20 including but not limited to transportation, instruction, or food services.  
21 The criminal background check shall, at a minimum, meet the  
22 requirements of ~~section 22-32-109.7~~ SECTIONS 22-32-109.7 AND  
23 22-32-109.8 and any other requirements of the school district that  
24 executes the contract. The contracting entity is responsible for any costs  
25 associated with the background check. A contractor need not provide the  
26 results of the background check with the submission of the bid but shall  
27 make the background check results available upon request of the school  
28 board in compliance with the provisions of section 24-72-305.3. E.R.S.

29 (b) The background check described in paragraph (a) of this  
30 subsection (4) is required only for those persons who have regular, but  
31 not incidental, contact with students at least once a month.

32 (c) The provisions of paragraph (a) of this subsection (4)  
33 SUBSECTION (6)(a) OF THIS SECTION do not apply to a faculty member  
34 from an institution of higher education who contracts to teach for a school  
35 district and who has undergone a background check that meets the  
36 requirements of section 22-32-109.7 and any other requirements of the  
37 school district with which the faculty member contracts.

38 (5) (7) Nothing in this section authorizes a school district to  
39 expend proceeds from the sale of general obligation or revenue bonds  
40 issued by the school district to procure or erect a school or other building  
41 beyond the territorial limits of the district except in accordance with the  
42 provisions of section 22-32-109 (1)(v).

43 SECTION 2. Act subject to petition - effective date -

1       **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
2       the expiration of the ninety-day period after final adjournment of the  
3       general assembly (August 2, 2019, if adjournment sine die is on May 3,  
4       2019); except that, if a referendum petition is filed pursuant to section 1  
5       (3) of article V of the state constitution against this act or an item, section,  
6       or part of this act within such period, then the act, item, section, or part  
7       will not take effect unless approved by the people at the general election  
8       to be held in November 2020 and, in such case, will take effect on the  
9       date of the official declaration of the vote thereon by the governor.

10       (2) This act applies to contracts for professional services, other  
11       than contracts for educational services, solicited on or after the applicable  
12       effective date of this act.".

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