

HB1249_L.009

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)~~ (2) 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)~~ (3) 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

1 process for contracts entered into pursuant to this section; and
2 (c) Establish criteria for recommending a contractor to the board
3 of education.
4 (4) (a) BEGINNING OCTOBER 1, 2019, BEFORE ENTERING INTO A
5 PROFESSIONAL SERVICES CONTRACT WITH PERSONNEL COSTS OF TWO
6 HUNDRED THOUSAND DOLLARS OR MORE, A SCHOOL DISTRICT SHALL:
7 (I) PRIOR TO SOLICITING COMPETITIVE BIDS FOR A PROFESSIONAL
8 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
13 (B) INFORM THE SCHOOL DISTRICT BOARD OF EDUCATION OF THE
14 NOTICE PROVIDED TO AFFECTED EMPLOYEES AS DESCRIBED IN SUBSECTION
15 (4)(a)(I)(A) OF THIS SECTION DURING THE NEXT REGULARLY SCHEDULED
16 MEETING OF THE SCHOOL DISTRICT BOARD OF EDUCATION;
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.
35 (b) ANY AGGRIEVED PARTY IN CONNECTION WITH THE
36 SOLICITATION OR AWARD OF A CONTRACT, PURSUANT TO SUBSECTION
37 (4)(a) OF THIS SECTION, MAY PROTEST A MATERIAL ISSUE, AS DEFINED IN
38 SECTION 24-109-101.1 (2), TO THE SCHOOL DISTRICT BOARD OF
39 EDUCATION. THE PROTEST OF AN INVITATION FOR BIDS MUST BE
40 SUBMITTED IN WRITING WITHIN TEN BUSINESS DAYS AFTER THE
41 AGGRIEVED PARTY KNOWS OR SHOULD HAVE KNOWN OF THE FACTS GIVING
42 RISE THERETO.
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.

1 (b) A contract executed pursuant to this section may include,
2 among other things, the purchase, outright or by installment sale, or rental
3 or lease, with or without an option to purchase, of necessary building
4 facilities, equipment, supplies, and employee services.

5 (c) Any state or federal financial assistance that would accrue to
6 a contracting school district, if the district were to perform the contracted
7 service, including educational service, activity, or undertaking
8 individually, shall MUST, if the state board of education finds the
9 contracted service, including educational service, activity, or undertaking,
10 is of comparable quality and meets the same requirements and standards
11 that would apply if performed by a school district, be apportioned by the
12 state board of education on the basis of the contractual obligations and
13 paid separately to each contracting school district in the manner
14 prescribed by law.

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. ~~C.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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