

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0583.01 Julie Pelegrin x2700

SENATE BILL 12-051

SENATE SPONSORSHIP

Bacon,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR CONTRACTS EXECUTED BY LOCAL**
102 **EDUCATION PROVIDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

Under current law, each school district and each board of cooperative services (BOCES) may enter into contracts for services, including educational services, activities, or undertakings that schools are authorized by law to perform. The bill directs each school district board of education (board) to consider adopting a policy for entering into

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

contracts that will:

- ! Require school district personnel to perform a cost-benefit analysis before recommending that the district contract for a service, activity, or undertaking;
- ! Require school district personnel to implement a formal bidding process;
- ! Specify criteria that school district personnel will consider in recommending a contractor to the board, including whether the contractor understands the culture of the affected school and will execute the contract in a manner that supports student success; and
- ! Specify minimum contract terms.

Beginning September 1, 2012, each school district, BOCES, and charter school must post copies of their services contracts on their web sites with the other budgetary information required by statute.

Be it enacted by the General Assembly of the State of Colorado:

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

22-32-122. Contract services, equipment, and supplies.

(1) ~~Any~~ A school district ~~has the power to~~ MAY contract with another district, ~~or~~ with the governing body of a state college or university, with the tribal corporation of ~~any~~ AN Indian tribe or nation, with ~~any~~ A federal agency or officer, ~~or any~~ WITH A county, city, or city and county, or with ~~any~~ A natural person, body corporate, or association for the performance of ~~any~~ A service, including AN educational service, AN activity, or AN undertaking ~~which any~~ THAT A school may be authorized by law to perform or undertake.

(2) EACH SCHOOL DISTRICT BOARD OF EDUCATION SHALL CONSIDER ADOPTING A POLICY FOR ENTERING INTO CONTRACTS PURSUANT TO THIS SECTION, OTHER THAN CONTRACTS FOR INSTRUCTIONAL SERVICES. A POLICY ADOPTED PURSUANT TO THIS SUBSECTION (2), AT A MINIMUM, MAY:

1 (a) REQUIRE THAT THE SCHOOL DISTRICT PERSONNEL, PRIOR TO
2 RECOMMENDING THAT THE BOARD OF EDUCATION ENTER INTO A
3 CONTRACT PURSUANT TO THIS SECTION, EXAMINE THE COSTS AND
4 BENEFITS OF CONTRACTING FOR THE SERVICE, _____ ACTIVITY, OR
5 UNDERTAKING RATHER THAN PERFORMING THE SERVICE, ACTIVITY, OR
6 UNDERTAKING USING SCHOOL DISTRICT PERSONNEL AND THAT THE
7 RECOMMENDATION SPECIFY THE CONCLUSIONS OF THE COST-BENEFIT
8 ANALYSIS AND THEIR RATIONALE;

9 (b) REQUIRE THE SCHOOL DISTRICT PERSONNEL TO IMPLEMENT A
10 BIDDING PROCESS FOR CONTRACTS ENTERED INTO PURSUANT TO THIS
11 SECTION, WHICH PROCESS AT A MINIMUM INCLUDES A REQUEST FOR
12 PROPOSALS, FORMAL COMPARISON OF THE BIDS RECEIVED, AND
13 RECOMMENDATIONS TO THE BOARD OF EDUCATION FOR SELECTION OF A
14 CONTRACTOR;

15 (c) ESTABLISH CRITERIA FOR RECOMMENDING A CONTRACTOR TO
16 THE BOARD OF EDUCATION, WHICH CRITERIA ARE DESIGNED TO ASSIST IN
17 SELECTING THE CONTRACTOR THAT:

18 (I) PROVIDES THE BEST VALUE, REGARDLESS OF WHETHER THE
19 CONTRACTOR SUBMITS THE LOWEST BID; AND

20 (II) UNDERSTANDS THE CULTURE OF THE AFFECTED SCHOOL AND
21 WILL PROVIDE THE SERVICE, _____ ACTIVITY, OR UNDERTAKING IN A MANNER
22 THAT SUPPORTS THE SUCCESS OF STUDENTS ENROLLED IN THE AFFECTED
23 SCHOOL; AND

24 (d) REQUIRE THAT EACH CONTRACT ENTERED INTO PURSUANT TO
25 THIS SECTION MEET THE REQUIREMENTS SPECIFIED IN SUBSECTIONS (3)
26 AND (4) OF THIS SECTION AND INCLUDE, AT A MINIMUM:

27 (I) A MINIMUM COST PROJECTION FOR IMPLEMENTING THE

1 CONTRACT, INCLUDING ANY ANTICIPATED CIRCUMSTANCES THAT MAY
2 RESULT IN COST OVERRUNS;

3 (II) TERMS REQUIRING THE CONTRACTOR, IN IMPLEMENTING THE
4 CONTRACT, TO COMPLY WITH GENERALLY ACCEPTED ACCOUNTING
5 PRINCIPLES FOR GOVERNMENTAL ENTITIES; AND

6 (III) TERMS REQUIRING THE CONTRACTOR AND SCHOOL DISTRICT
7 PERSONNEL TO JOINTLY REVIEW THE CONTRACT IMPLEMENTATION AT
8 LEAST QUARTERLY TO ENSURE THAT THE CONTRACTOR IS MEETING THE
9 TERMS OF THE CONTRACT AND IMPLEMENTING THE CONTRACT WITHIN THE
10 AGREED UPON COSTS AND THAT THE SERVICES, ACTIVITIES, OR
11 UNDERTAKINGS, ARE OF COMPARABLE QUALITY AND MEET THE SAME
12 REQUIREMENTS AND STANDARDS THAT WOULD APPLY IF PERFORMED BY
13 THE SCHOOL DISTRICT.

14 (3) (a) ~~Such~~ A contract ENTERED INTO PURSUANT TO THIS SECTION
15 shall set forth fully the purposes, powers, rights, obligations, and
16 responsibilities, financial or otherwise, of the parties so contracting and
17 shall ~~provide that~~ REQUIRE the service, including educational service,
18 activity, or undertaking TO be of comparable quality and meet the same
19 requirements and standards ~~as would be necessary~~ THAT WOULD APPLY if
20 performed by the school district.

21 (b) A contract executed pursuant to this section may include,
22 among other things, the purchase, outright or by installment sale, or
23 ~~renting or leasing~~ RENTAL OR LEASE, with or without an option to
24 purchase, of necessary building facilities, equipment, supplies, and
25 employee services.

26 (c) Any state or federal financial assistance ~~which shall~~ THAT
27 WOULD accrue to a contracting school district, if ~~said~~ THE district were to

1 perform ~~such~~ THE CONTRACTED service, including educational service,
2 activity, or undertaking individually, shall, if the state board OF
3 EDUCATION finds the CONTRACTED service, including educational service,
4 activity, or undertaking is of comparable quality and meets the same
5 requirements and standards ~~as would be necessary~~ THAT WOULD APPLY if
6 performed by a school district, be apportioned by the state board of
7 education on the basis of the contractual obligations and paid separately
8 to each contracting school district in the manner prescribed by law.

9 ~~(1.5)~~ (4) (a) For A contract executed pursuant to ~~subsection (1) of~~
10 this section that includes services performed for a public school ~~the~~
11 ~~contract~~ shall include a provision requiring a criminal background check
12 for any person providing services under the contract, including any
13 subcontractor or other agent of the contracting entity, if the person
14 provides direct services to students, including but not limited to
15 transportation, instruction, or food services. The criminal background
16 check shall, at a minimum, meet the requirements of section 22-32-109.7
17 and any other requirements of the school district ~~with which the contract~~
18 ~~is entered~~ THAT EXECUTES THE CONTRACT. The contracting entity ~~shall be~~
19 IS responsible for any costs associated with the background check. A
20 CONTRACTOR NEED NOT PROVIDE the results of the background check
21 ~~need not be provided~~ with the submission of the bid but shall ~~be made~~
22 MAKE THE BACKGROUND CHECK RESULTS available upon request of the
23 school board in compliance with the provisions of section 24-72-305.3,
24 C.R.S.

25 (b) The background check described in paragraph (a) of this
26 subsection ~~(1.5) shall be~~ (4) IS required only for those persons who have
27 regular, but not incidental, contact with students at least once a month.

1 (c) The provisions of paragraph (a) of this subsection ~~(1.5) shall~~
2 (4) DO not apply to a faculty member from an institution of higher
3 education who contracts to teach for ~~the~~ A school district and who has
4 undergone a background check that meets the requirements of section
5 22-32-109.7 and any other requirements of the school district ~~in~~ WITH
6 which the faculty member ~~will be teaching~~ CONTRACTS.

7 ~~(2) (5) Nothing in this section shall be construed in a manner to~~
8 ~~authorize~~ AUTHORIZES a school district to expend proceeds from the sale
9 of general obligation or revenue bonds issued by ~~said~~ THE school district
10 to procure or erect a school or other building beyond the territorial limits
11 of the district except in accordance with the provisions of section
12 22-32-109 (1) (v).

13 **SECTION 2.** In Colorado Revised Statutes, 22-44-304, **amend**
14 (3) (a); and **add** (1) (d) as follows:

15 **22-44-304. Financial reporting - on-line access to information.**

16 (1) (d) ADDITIONALLY, COMMENCING SEPTEMBER 1, 2012, EACH LOCAL
17 EDUCATION PROVIDER SHALL POST:

18 (I) THE NAME OR TITLE OF AND CONTACT INFORMATION FOR AN
19 EMPLOYEE OF THE LOCAL EDUCATION PROVIDER WHO IS AVAILABLE TO
20 ANSWER QUESTIONS CONCERNING CONTRACTS THAT EXCEED \$100,000
21 ENTERED INTO BY THE LOCAL EDUCATION PROVIDER; OR

22 (II) A COPY OF EACH CONTRACT THAT EXCEEDS \$100,000 ENTERED
23 INTO FOR A SERVICE, == ACTIVITY, OR UNDERTAKING, INCLUDING BUT NOT
24 LIMITED TO A CONTRACT ENTERED INTO PURSUANT TO SECTION 22-32-122;
25 EXCEPT THAT THE LOCAL EDUCATION PROVIDER, PRIOR TO POSTING A
26 CONTRACT, MAY REDACT FROM THE CONTRACT ANY INFORMATION FOR
27 WHICH THE LOCAL EDUCATION PROVIDER MAY DENY INSPECTION UNDER

1 THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
2 24, C.R.S. IF A LOCAL EDUCATION PROVIDER CHOOSES TO POST A
3 CONTRACT, IT SHALL POST THE CONTRACT IN A DOWNLOADABLE FORMAT
4 FOR FREE PUBLIC ACCESS. THE PROVISIONS OF THIS PARAGRAPH (d) DO
5 NOT APPLY TO CONTRACTS FOR INSTRUCTIONAL SERVICES.

6 (3) (a) Each local education provider shall update the information
7 specified in subsection (1) of this section within sixty days after the local
8 education provider's completion or receipt of the applicable report,
9 statement, CONTRACT, or document.

10 **SECTION 3. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2012 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.