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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 591 **Hearing Date:** June 7, 2017  
**Author:** O'Donnell  
**Version:** May 4, 2017  
**Urgency:** No **Fiscal:** No  
**Consultant:** Ian Johnson

**Subject:** School property: lease: county boards of education

## SUMMARY

This bill clarifies that county boards of education using lease-leaseback and lease-to-own contracting methods must comply with all of the requirements currently placed on school districts using these methods, including competitive selections, bidder prequalification, and ensuring the entity and its subcontractors have a skilled and trained workforce.

## BACKGROUND

Existing law:

- 1) Requires the governing board of a school district to competitively bid and award to the lowest bidder contracts involving the following:
  - a) An expenditure of \$50,000 or more for the purchase of equipment, materials, or supplies, services (except for construction services), and repairs.
  - b) An expenditure of \$15,000 or more for a public contract project.
- 2) Authorizes the governing board of a school district to let to any person, firm, or corporation any real property that belongs to the school district if the lease requires the lessee to construct or provide for the construction of a building for use by the school district during the term of the lease, with the title to the building being given to the school district at the end of the lease.
- 3) Requires, until January 1, 2019, a school district with an average daily attendance of more than 2,500 using state school facility bond funds for a public project with an expenditure of \$1 million or more to require prospective bidders, and if utilized, all electrical, mechanical, and plumbing subcontractors, to complete and submit a standardized prequalification questionnaire and financial statement.
- 4) Prohibits a school district governing board from entering into a lease-leaseback or lease-to-own contract with any entity unless the entity provides to the governing board of the school district an enforceable commitment that the entity and its subcontractors, at every tier, will use a skilled and trained workforce to

perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

## ANALYSIS

This bill clarifies, within the provisions outlining the responsibilities of county boards of education and school district leasing agreements, that the requirements currently placed on school districts related to lease-leaseback and lease-to-own contracting methods apply to county boards of education, county offices of education, and county superintendents of schools entering into these contracting agreements.

## STAFF COMMENTS

- 1) ***Need for the bill.*** Current law does not provide county boards of education, county offices of education, or county superintendents of schools explicit authority to use lease-leaseback and lease-to-own contracts. According to the author, under their general contracting authority, some county offices of education choose to pursue lease-leaseback agreements selectively. For example, some county offices of education do not comply with the skilled and trained workforce requirement, arguing that the requirement only applies to school district governing boards.

This bill is intended to clarify that education governing boards at the county level electing to use these types of contracting methods must comply with all of the requirements currently required of school districts.

- 2) ***Public project competitive bidding.*** Under current law, school districts are required to competitively bid any public works contract over \$15,000 and award the contract to the lowest responsible bidder. Alternative methods for awarding contracts include: (1) design-build, with a school district issuing a request for proposal for both the design and construction of projects; (2) best value, allowing school districts to consider factors other than cost; and (3) job order contracting, based on prices for specific construction tasks.
- 3) ***Lease-leaseback and lease-to-own.*** Lease-leaseback is a process whereby a governing board of a school district may, through a competitive bidding process, rent district property for a minimum of \$1 a year to any person, firm, or corporation. The person, firm, or corporation constructs the school building and rents the facility back to the school district. At the end of the lease, the district resumes title to the building and site.

In a lease-to-own agreement, the governing board of a school district may, through a competitive bidding process, enter into a contract with a person, firm, or corporation to construct the building on a designated site and lease the property to the school district. The school district gets the title at the end of the lease.

- 4) ***Prequalification process for prospective bidders.*** School districts using state bond funds must establish a prequalification process requiring prospective bidders for public works contracts of \$1 million or more to complete a

standardized questionnaire and submit financial statements. This requirement is intended to mitigate the risk of school districts entering into contracts with substandard companies.

The questionnaire is provided by school districts, and may require contractors to provide detailed information regarding (1) the company's financial status, including whether the company has been in bankruptcy or involved in a civil lawsuit; (2) licensing information; (3) prior public contracting experience; (4) whether the contractor has been involved or been found to have violated any federal, state or local laws; and (5) whether the contractor has violated any labor and health and safety laws.

- 5) ***Skilled and trained workforce.*** School districts are required to ensure that their alternative contracting entities provide an enforceable commitment to use a skilled and trained workforce, meaning all workers are skilled journeypersons or apprentices registered in a program approved by the Department of Industrial Relations.

## **SUPPORT**

California Legislative Conference of the Plumbing, Heating, and Piping Industry  
Los Angeles County Office of Education  
National Electrical Contractors Association  
State Building and Construction Trades Council (sponsor)

## **OPPOSITION**

American Fire Sprinkler Association—California Chapters  
Associated Builders and Contractors—San Diego, Southern and Central CA Chapters  
Independent Roofing Contractors of California, Inc.  
Plumbing-Heating-Cooling Contractors Association of California  
Western Electrical Contractors Association

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