

# An Act

SENATE BILL 12-051

BY SENATOR(S) Bacon, Aguilar, Boyd, Carroll, Foster, Giron, Guzman, Heath, Hodge, Hudak, Nicholson, Tochtrop, Williams S.;  
also REPRESENTATIVE(S) Massey, Casso, Fields, Fischer, Kerr J., Soper.

CONCERNING REQUIREMENTS FOR CONTRACTS EXECUTED BY LOCAL  
EDUCATION PROVIDERS.

*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 MAY REVIEW AND REVISE THE POLICIES AND PROCEDURES ADOPTED BY THE BOARD PURSUANT

TO SECTION 22-32-109 (1) (b) AND MAY CHOOSE TO REQUIRE COMPETITIVE BIDDING ON CONTRACTS FOR PROFESSIONAL SERVICES, OTHER THAN CONTRACTS FOR INSTRUCTIONAL SERVICES. A POLICY ADOPTED PURSUANT TO THIS SUBSECTION (2) MAY:

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

(b) REQUIRE THE SCHOOL DISTRICT PERSONNEL TO IMPLEMENT A BIDDING PROCESS FOR CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION; AND

(c) ESTABLISH CRITERIA FOR RECOMMENDING A CONTRACTOR TO THE BOARD OF EDUCATION.

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

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

(c) Any state or federal financial assistance ~~which shall~~ THAT WOULD accrue to a contracting school district, if ~~said~~ THE district were to perform ~~such~~ THE CONTRACTED service, including educational service, activity, or undertaking individually, shall, if the state board OF EDUCATION finds the CONTRACTED service, including educational service, activity, or undertaking is of comparable quality and meets the same requirements and standards ~~as would be necessary~~ THAT WOULD APPLY if performed by a

school district, be apportioned by the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner prescribed by law.

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

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

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

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

**SECTION 2. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the

ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO