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Bill Title: School districts: public contracts.

Spectrum: Partisan Bill (Democrat 1-0)

Status: *(Introduced)* 2024-04-01 - From committee chair, with author's amendments: Amend, and re-refer to Com. on ED. Read second time and amended. [\[AB2009 Detail\]](#)

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AMENDED IN ASSEMBLY APRIL 01, 2024

AMENDED IN ASSEMBLY MARCH 11, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2009

Introduced by Assembly Member Rendon

January 31, 2024

An act to amend Sections 20111 and 20114 ~~of of~~, *and to add Section 20114.1 to*, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Rendon. School districts: public contracts.

Existing law requires the governing board of a school district to let contracts for public projects, as defined, involving an expenditure of \$15,000 or more, to the lowest responsible bidder who gives security as the governing board requires. ~~Existing law authorizes local agencies to elect to become subject to uniform construction accounting procedures, which provides alternative bidding procedures.~~

~~This bill would, notwithstanding those provisions, require the governing board to let contracts for public contracts involving an expenditure of \$34,500 or more to the lowest responsible bidder if, in the past 12 months, the governing board adopted a resolution declaring that the governing board intends to be subject to the uniform construction accounting procedures, the school district has an average attendance rate of 35,000 or greater, and the governing board has entered into a project labor agreement, as specified. The bill would require the Superintendent of Public Instruction to annually adjust the \$15,000 and \$34,500 amounts to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as specified, commencing on January 1, 2026.~~

This bill would instead require the governing board to let contracts for public projects when the expenditure is \$34,500 or more to the above-described lowest responsible bidder. The bill would additionally require the Superintendent of Public Instruction to annually adjust the \$34,500 amount, commencing on January 1, 2026.

Existing law authorizes the governing board of a school district having an average daily attendance of 35,000 or greater to make repairs to school buildings, grounds, apparatus, or equipment and perform maintenance by day labor or force account, whenever the total numbers of hours on the job does not exceed 750 hours or when the total cost of material does not exceed \$21,000, as specified.

~~This bill would, notwithstanding those provisions, also authorize the governing board of a school district to make repairs and perform maintenance by day labor or force account, as described above, if the total cost of material does not exceed \$43,000, the governing board adopted, in the past 12 months, a resolution declaring that the governing board intends to be subject to the uniform construction accounting procedures, and the governing board has entered into a project labor agreement, as specified. The bill would require the Superintendent of Public Instruction to adjust the \$21,000 and \$43,000 amounts to reflect the percentage change in the California Consumer Price Index, beginning on January 1, 2026, and each January 1 thereafter.~~

This bill would instead authorize the governing board of a school district to make repairs and perform maintenance by day labor or force account, as described above, when the total cost of material does not exceed \$43,000. The bill would require adjustment of the \$43,000 amount to reflect the percentage change in the California Consumer Price Index, beginning on January 1, 2026, and each January 1 thereafter.

Existing law authorizes local agencies to elect to become subject to uniform construction accounting procedures, which provides alternative bidding procedures, by adopting a resolution and notifying the Controller.

This bill would authorize a governing board of a school district to elect, by adopting a resolution, to evaluate the uniform construction cost accounting procedures if (1) the governing board of the school district has not already elected to be subject to the uniform construction cost accounting procedures; (2) the school district has an average daily attendance of 35,000 or more pupils; and (3) the governing board of a school district has entered into a project labor agreement for all of its public projects, as specified. The bill would, if the governing board of a school district adopts the resolution, increase for one year the threshold for letting contracts for public projects to \$220,000 and for repairs and perform maintenance by day labor or force account to \$70,000.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 20111 of the Public Contract Code is amended to read:

20111.

(a) (1) The governing board of a school district, in accordance with any requirement established by that governing board pursuant to subdivision (a) of Section 2000, shall let a contract involving an expenditure of more than fifty thousand dollars (\$50,000) for any of the following:

(A) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.

(B) Services, except construction services.

(C) Repairs, including maintenance that are not a public project.

(2) The governing board shall let the contract to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.

(b) (1) The governing board shall let a contract for a public project involving an expenditure of ~~fifteen thousand dollars (\$15,000)~~ *thirty-four thousand five hundred*

dollars (\$34,500) or more, to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. A bid for construction work shall be presented under sealed cover, and shall be accompanied by one of the following forms of bidder's security:

- (A) Cash.
- (B) A cashier's check made payable to the school district.
- (C) A certified check made payable to the school district.
- (D) A bidder's bond executed by an admitted surety insurer, made payable to the school district.

~~(2) Notwithstanding paragraph (1), the governing board shall let a contract for a public project involving an expenditure of thirty-four thousand five hundred dollars (\$34,500) or more to the lowest responsible bidder if all of the following applies:~~

~~(A) In the past 12 months, the governing board adopted a resolution declaring that the governing board intends to be subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) of Chapter 2.~~

~~(B) The school district has an average daily attendance of 35,000 or greater.~~

~~(C) The governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project.~~

~~(3)~~

(2) Upon award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the school district beyond 60 days from the time the award is made.

(c) Procurement bid solicitations and awards made by a school district approved to operate at least one federal nonprofit child nutrition program for purchases in support of those programs shall be consistent with the federal procurement standards in Sections 200.318 to 200.326, inclusive, of Title 2 of the Code of Federal Regulations. These awards shall be let to the most responsive and responsible party. The price shall be the primary consideration, but not the only determining factor.

(d) This section applies to all equipment, materials, or supplies, whether patented or otherwise, and to contracts awarded pursuant to subdivision (a) of Section 2000. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any work done by day labor or by force account pursuant to Section 20114.

(e) (1) Commencing January 1, 1997, the Superintendent of Public Instruction shall annually adjust the dollar amounts specified in paragraph (1) of subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period

ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).

(2) Commencing January 1, 2026, the Superintendent of Public Instruction shall annually adjust the dollar amounts specified in ~~paragraphs~~ *paragraph* (1) ~~and (2)~~ of subdivision (b) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).

(f) For the purposes of this section, the following terms have the following meanings:

(1) "Maintenance" has the same meaning as that term is defined in Section 20115.

~~(2) "Project labor agreement" has the same meaning as that term is defined in paragraph (1) of subdivision (b) of Section 2500.~~

~~(3)~~

(2) "Public project" has the same meaning as that term is defined in subdivision (c) of Section 22002.

SEC. 2.

Section 20114 of the Public Contract Code is amended to read:

20114.

(a) In a school district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance by day labor, or by force account, whenever the total number of hours on the job does not exceed 350 hours.

(b) (1) In a school district having an average daily attendance of 35,000 or greater, the governing board may make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, and perform maintenance by day labor or by force account whenever the total number of hours on the job does not exceed 750 hours, or when the cost of material does not exceed ~~twenty-one thousand dollars (\$21,000)~~ *forty-three thousand dollars (\$43,000)*.

~~(2) Notwithstanding paragraph (1), the governing board may make repairs specified in paragraph (1) by day labor or force account whenever the cost of material does not exceed forty-three thousand dollars (\$43,000) if both of the following applies:~~

~~(A) In the past 12 months, the governing board adopted a resolution declaring that the governing board intends to be subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) of Chapter 2.~~

~~(B) The governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project.~~

~~(3)~~

(2) Beginning on January 1, 2026, and each January 1 thereafter, the amount specified in ~~paragraphs~~ *paragraph* (1) ~~and (2)~~ shall be adjusted to reflect the percentage change in the California Consumer Price Index for all items from January of the prior year to January of the current year, as determined by the Department of Industrial Relations.

(c) For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

(d) For the purposes of this section, "maintenance" has the same meaning as that term is defined in Section 20115.

SEC. 3.

Section 20114.1 is added to the Public Contract Code, to read:

20114.1.

(a) The governing board of a school district may elect, by adopting a resolution, to evaluate the uniform construction cost accounting procedures without electing to become subject to those procedures if the governing board meets all of the following requirements:

(1) The governing board of the school district has not already elected by resolution to be subject to the uniform construction cost accounting procedures and notified the Controller of that election pursuant to subdivision (a) of Section 22030.

(2) The school district has an average daily attendance of 35,000 or more pupils.

(3) The governing board of a school district has entered into a project labor agreement that meets the requirements of Section 2500 for all of its public works projects.

(b) For one year following the adoption of the resolution to evaluate the uniform construction cost accounting procedures pursuant to subdivision (a), the threshold set forth in paragraph (1) of subdivision (b) of Section 20111 shall be two hundred twenty thousand dollars (\$220,000), and the limitations set forth in paragraph (1) of subdivision (b) of Section 20114 shall be when the hours do not exceed 750 hours or the cost of material does not exceed seventy thousand dollars (\$70,000).

(c) A governing board of a school district that adopts a resolution to evaluate the uniform construction cost accounting procedures, pursuant to subdivision (a), is under no obligation to elect to become subject to the uniform construction cost accounting procedures. If the governing board has not elected to be subject to the uniform construction cost accounting procedures within one year following the adoption of the resolution to evaluate the uniform construction cost accounting procedures, the school district shall thereafter be subject to the threshold set forth in paragraph (1) of subdivision (b) of Section 20111 and the limitations set forth in paragraph (1) of subdivision (b) of Section 20114.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Public project" has the same meaning as set forth in subdivision (c) of Section 22002.

(2) "Uniform construction cost accounting procedures" means the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 22010) of Chapter 2.