

ASSEMBLY BILL

No. 718

Introduced by Assembly Member House

February 24, 1999

An act to add Sections 20111.7, 20111.8, and 20113.5 to the Public Contract Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as introduced, House. School districts: competitive bidding.

Existing law provides procedures and requirements governing the award of contracts by school districts for goods, services, and public projects.

This bill would provide that a bid solicitation by the governing board of a school may not specify a brand or trade name of a product, as specified, and would provide that a contract may be awarded to a bidder other than the lowest responsible bidder only if extraordinary circumstances exist. The bill would also provide that the governing board of a school district may only terminate a contract for cause, as specified, and would establish a procedure for the review of terminated contracts. The governing board of the school district would be required, at the contractor's request, to hold a review and public hearing within 60 days. If this requirement is not met, the contract would be deemed to have been performed in full and the school district would be liable for full payment of the contract. Because this bill would require local school districts to comply with specified procedures, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20111.7 is added to the Public
- 2 Contract Code, to read:
- 3 20111.7. The governing board of a school district may
- 4 not, in a bid solicitation, specify a brand or trade name
- 5 that would exclude products of a similar quality and
- 6 utility.
- 7 SEC. 2. Section 20111.8 is added to the Public
- 8 Contract Code, to read:
- 9 20111.8. The governing board of a school district may
- 10 award a contract to a bidder other than the lowest
- 11 responsible bidder only if extraordinary circumstances
- 12 exist, such as a major defect in the proposed materials or
- 13 services to be provided under the contract.
- 14 SEC. 3. Section 20113.5 is added to the Public
- 15 Contract Code, to read:
- 16 20113.5. (a) The governing board of a school district
- 17 may terminate a contract only for cause as specified in
- 18 Section 10253, and by following the procedures specified
- 19 by that section.
- 20 (b) If a contractor receives notice that the governing
- 21 board of a school district is terminating a contract that has
- 22 been awarded to that contractor, the contractor may,
- 23 within 60 days of notice of the termination, file a request



1 for review of the termination and a public hearing with
2 the governing board of the school district.

3 (c) The governing board of the school district shall
4 review the disputed termination and hold the public
5 hearing within 60 days of receiving the request.

6 (d) If the hearing provided in subdivision (c) is not
7 held within 60 days, the contract will be deemed to have
8 been performed in full by the contractor and the school
9 shall be liable for the full value of the contract.

10 (e) This section does not limit or preclude any other
11 remedies available to the parties to the contract.

12 SEC. 4. Notwithstanding Section 17610 of the
13 Government Code, if the Commission on State Mandates
14 determines that this act contains costs mandated by the
15 state, reimbursement to local agencies and school
16 districts for those costs shall be made pursuant to Part 7
17 (commencing with Section 17500) of Division 4 of Title
18 2 of the Government Code. If the statewide cost of the
19 claim for reimbursement does not exceed one million
20 dollars (\$1,000,000), reimbursement shall be made from
21 the State Mandates Claims Fund.

