



Senate

General Assembly

File No. 457

January Session, 2003

Substitute Senate Bill No. 1153

Senate, April 22, 2003

The Committee on Education reported through SEN. GAFFEY of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DISCLOSURE BY SCHOOL CONSTRUCTION CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 10-287 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2003*):

4 (b) All orders and contracts for school building construction
5 receiving state assistance under this chapter shall be awarded to the
6 lowest responsible qualified bidder who has submitted a disclosure
7 statement rated as satisfactory and certified pursuant to section 2 of
8 this act, only after a public invitation to bid, which shall be advertised
9 in a newspaper having circulation in the town in which construction is
10 to take place, except for (1) school building projects for which the town
11 or regional school district is using a state contract pursuant to
12 subsection (d) of section 10-292, and (2) change orders, those contracts
13 or orders costing less than ten thousand dollars and those of an

14 emergency nature, as determined by the Commissioner of Education,
15 in which cases the contractor or vendor may be selected by
16 negotiation, provided no local fiscal regulations, ordinances or charter
17 provisions conflict.

18 Sec. 2. (NEW) (*Effective July 1, 2003*) (a) Each contractor shall include
19 a disclosure statement when submitting a bid proposal to a town or
20 regional district on any school building construction project receiving
21 state assistance under chapter 173 of the general statutes. Such
22 disclosure statement shall provide the history of the contractor, or any
23 affiliate of the contractor, including, but not limited to, any limited
24 liability company formed by an owner, officer, principal or employee
25 of the contractor or formed by other persons on behalf of the contractor
26 during the five previous calendar years concerning the following:

27 (1) Conviction or entry of a plea of guilty or nolo contendere for or
28 admission to commission of a criminal offense as an incident to
29 obtaining or attempting to obtain a public or private contract or
30 subcontract, or in the performance of such contract or subcontract;

31 (2) Conviction or entry of a plea of guilty or nolo contendere or
32 admission to the violation of any state or federal law for
33 embezzlement, theft, forgery, bribery, falsification or destruction of
34 records, receiving stolen property or any other offense indicating a
35 lack of business integrity or business honesty which affects
36 responsibility as a contractor;

37 (3) Conviction or entry of a plea of guilty or nolo contendere or
38 admission to a violation of any state or federal antitrust, collusion or
39 conspiracy law arising out of the submission of bids or proposals on a
40 public or private contract or subcontract;

41 (4) A wilful failure to perform in accordance with the terms of one
42 or more public contracts, agreements or transactions;

43 (5) Litigation for failure to perform or for unsatisfactory
44 performance of one or more public contracts, agreements or

45 transactions;

46 (6) A wilful violation of a statutory or regulatory provision or
47 requirement applicable to a public contract, agreement or transaction;

48 (7) A citation with a substantial violation of part III of chapter 557 or
49 chapter 558 of the general statutes, or the provisions of the federal
50 Davis-Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from
51 time to time amended;

52 (8) A wilful or serious violation of any occupational safety and
53 health act or of any standard, order or regulation promulgated
54 pursuant to such act, provided such violations were cited in
55 accordance with the provisions of any state occupational safety and
56 health act or the Occupational Safety and Health Act of 1970, 15 USC
57 651 et seq.;

58 (9) Any claim made against the contractor's surety bond due to
59 failure to perform or unsatisfactory performance for one or more
60 public contracts, agreements or transactions;

61 (10) Suspension, debarment proceedings or debarment from
62 participation in public contracts by any local, state or federal agency;

63 (11) Any arbitration or dispute resolution proceeding where there is
64 a finding of a material breach of contract; and

65 (12) Any agreement made in settlement of a dispute of a material
66 breach of contract.

67 (b) The town or regional board of education and the building
68 committee of such town or district shall evaluate a disclosure
69 statement submitted pursuant to subsection (a) of this section as
70 satisfactory or unsatisfactory based on the frequency or severity of
71 violations disclosed.

72 (c) Any architect hired by a town or regional district for a school
73 building construction project receiving state assistance under chapter

74 173 of the general statutes shall make written certification to the
75 building committee of the town or district as to the completeness of the
76 disclosure statements made pursuant to subsection (a) of this section.

77 (d) For purposes of this section, "affiliate" means a person or entity
78 directly or indirectly controlled by or in control of a contractor.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>July 1, 2003</i>

ED *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Education, Dept.	Bonding - Savings	Potential	Potential

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
Local and Regional School Districts	Savings	Potential	Potential

Explanation

This bill results in a potential savings to local and regional school districts that in some cases may be significant. Any savings realized by the local and regional school districts would also be realized by the state due to the cost sharing nature of school construction grants.

The savings is due to local and regional school districts having the means to filter out contractors on school construction projects whose work may have resulted in avoidable costs. These avoidable costs would be due to less than adequate workmanship, potential cost overruns, legal fees and other items. The exact potential savings cannot be determined however in some cases the saving on a single project could be significant.

OLR Bill Analysis

sSB 1153

AN ACT CONCERNING DISCLOSURE BY SCHOOL CONSTRUCTION CONTRACTORS**SUMMARY:**

This bill requires contractors bidding on school building construction projects to submit a disclosure statement with their bid proposal. By law, all orders and contracts for school building construction receiving state assistance must be awarded to the lowest responsible qualified bidder. Under the bill, the selected contractor also must have submitted a disclosure statement rated as satisfactory and certified as complete. The bill specifies that the disclosure statement must provide the contractor or his affiliate's history during the five previous calendar years, including convictions for enumerated offenses, willful failure to perform on public contracts, labor law violations, and debarment from participation in public contracts. It defines an affiliate as a person or entity directly or indirectly controlled by or in control of a contractor.

The bill requires the school board and building committee to evaluate the disclosure statement as satisfactory or unsatisfactory based on the frequency or severity of the violations disclosed. It also requires the project's architect to certify, in writing, as to the completeness of the contractors' disclosure statements.

EFFECTIVE DATE: July 1, 2003

CONTENTS OF DISCLOSURE STATEMENTS

The bill requires contractors to include a disclosure statement when submitting a bid proposal to a school district for a school building construction project receiving state assistance. The statement must provide the contractor or his affiliate's (including a limited liability company formed by an owner, officer, principal, or employee of the contractor or by other people on his behalf) history for the previous five calendar years concerning:

1. conviction or entry of a plea of guilty or nolo contendere for, or

- admission to, committing a crime as an incident to obtaining or while attempting to obtain a public or private contract or subcontract, or in performing such contract or subcontract;
2. conviction or entry of a plea of guilty or nolo contendere for, or admission to, violating any state or federal law against embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty that affects responsibility as a contractor;
 3. conviction or entry of a plea of guilty or nolo contendere for, or admission to, violating any state or federal antitrust, collusion, or conspiracy law arising out of the submission of bids or proposals on a public or private contract or subcontract;
 4. a willful failure to perform in accordance with the terms of any public contract, agreement, or transaction;
 5. litigation for failure to perform or for unsatisfactory performance on any public contract, agreement, or transaction;
 6. a willful violation of a statute or regulation applicable to a public contract, agreement, or transaction;
 7. a citation for a substantial violation of the statutes regarding state contracts or wage laws, or of the federal Davis-Bacon Act (40 USC 276a, et seq.);
 8. a willful or serious violation of an occupational safety and health act or of a standard, order, or regulation promulgated pursuant to that act, as long as the violations were cited in accordance with a state occupational safety and health act or the federal Occupational Safety and Health Act of 1970 (15 USC 651, et seq.);
 9. a claim made against the contractor's surety bond due to the contractor's failure to perform or unsatisfactory performance on any public contract, agreement, or transaction;
 10. suspension, debarment proceedings, or debarment from participation in public contracts by a local, state, or federal agency;

11. an arbitration or dispute resolution proceeding where there was a finding of material breach of contract; and
12. an agreement made to settle a dispute over a material breach of contract.

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 26 Nay 1