

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 7036

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: School District Purchasing

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	_____	McVaney	_____	GO Submitted as Committee Bill
1.	Sikes	Elwell	AED	Recommend: Fav/CS
2.	Pace	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 7036 requires each district school board, when purchasing nonacademic commodities and services, to use state term contracts and purchasing agreements available through the Department of Management Services (DMS), unless the district school board determines that it is not the economic advantage of that school district to use the contracts and agreements.

For each determination that the agreements and contracts are not to the economic advantage of the school district, the district school board must provide a written statement justifying such determination and post the statement on the district school board's website.

The bill may result in indeterminate cost savings for district school boards.

II. Present Situation:

Chapter 287, Florida Statutes

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services.² Agencies may use a variety of procurement methods, depending on the cost³ and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid," which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- "Requests for proposals," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- "Invitations to negotiate," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.⁴

Generally, local governments are not subject to the procurement provisions of ch. 287, F.S.; however, they may look to the chapter for guidance in the procurement of goods and services. Many local governments have local policies or ordinances to address competitive solicitations.

State Contracts and Purchasing Agreements

Statewide contracts and purchasing agreements enable eligible users to pool their buying power to lower total costs and reduce administrative burden in the purchase of products and services.⁵ The DMS competitively procures state term contracts and establishes purchasing agreements for selected products and services.⁶ State agencies must, and other eligible users may, purchase commodities and contractual services from state term contracts and purchasing agreements.⁷ Other eligible users include any local government; school board or other special district,

¹ Section 287.012(1), F.S., defines "agency" as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

² See s. 287.001, F.S.

³ For example, s. 287.057(1), F.S., requires all projects that exceed \$35,000 to be competitively bid. Section 287.012(6), F.S., defines "competitive solicitation" as the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement. However, other contractual services and commodities are not subject to competitive-solicitation requirements. See s. 287.057(3)(e), F.S.

⁴ Section 287.057, F.S.

⁵ Department of Management Services, *State Contracts and Agreements*, available at http://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements (last visited Feb. 2, 2016).

⁶ Section 287.042(1)(a) and (2)(a), F.S.

⁷ Section 287.056(1), F.S.

authority, or government entity; and any independent, nonprofit college or university located within the state and accredited by the Southern Association of Colleges and Schools.⁸

School Purchasing Requirements

Purchases by school districts and Florida College System institutions must comply with requirements of law and rules of the State Board of Education.⁹ Each school district and the Florida College System institution board of trustees is required to establish purchasing rules and regulations.¹⁰ The district school board and the Florida College System institution board are permitted to make purchases from current county contracts if such contracts are to the economic advantage of these entities and the county purchasing agent is authorized by law to make purchases for the benefit of other governmental agencies within the county.¹¹

School district purchasing regulations must be secured from the DMS and prior to any purchase the school district must give consideration to the lowest price available under the DMS regulations. The DMS should meet with education administrators to expand the inventory of standard items for common usage in all schools.¹²

Section 1001.451, F.S., authorizes school districts with 20,000 or fewer unweighted full-time equivalent students, certain developmental (laboratory) schools, and the Florida School for the Deaf and the Blind to enter into cooperative agreements to form regional consortium service organizations to provide purchasing.

Section 1006.27, F.S., requires the Department of Education to assist district school boards with procuring school buses, contractual needs, equipment, and supplies at reasonable prices by providing a plan under which district school boards may voluntarily pool their bids for such purchases.

Section 1006.283, F.S., authorizes a consortium of school districts to implement an instructional materials program that includes purchase of instructional materials.

III. Effect of Proposed Changes:

Section 1 amends s. 1010.04, F.S., to require each district school board, when purchasing nonacademic commodities and services, to use the state term contracts and purchasing agreements available through the DMS, unless the district school board determines that it is not to the economic advantage of that school district to use the agreements and contracts.

For each determination that the agreements and contracts are not to the economic advantage of the school district, the district school board must provide a written statement justifying such determination and post the statement on the district school board's website.

⁸ Section 287.056(1), F.S., and Rule 60A-1.005, F.A.C.

⁹ Section 1010.04(1)(a), F.S.

¹⁰ Section 1010.04(2), F.S. *See also* Rules 6A-1.012, and 6A-14.0734 F.A.C.

¹¹ Section 1010.04(3), F.S.

¹² Section 1001.42(12)(j), F.S.

Section 2 provides that the bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may shift some contracting dollars towards businesses that have entered into purchasing agreements with the DMS and vendors who hold state term contracts.

C. Government Sector Impact:

District school boards may realize some cost savings to the extent goods and services are available at lower costs through the state term contracts and purchasing agreements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill amends section 1010.04 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

See PCS 163570 by Fiscal Policy (Recommended by Appropriations Subcommittee on Education on January 28, 2016).

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
