



Sen. Mike Porfirio

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10400SB3503sam001

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1 AMENDMENT TO SENATE BILL 3503

2 AMENDMENT NO. _____. Amend Senate Bill 3503 by replacing
3 line 15 on page 8 through line 23 on page 9 with the following:

4 "(b-15) For purposes of this subsection and subsection
5 (b-20) :

6 "Business day" means any day other than a Saturday,
7 Sunday, or legal holiday.

8 "Covered contract" means a contract, regardless of the
9 name used by the parties, entered into between a school board
10 and a food service management company or any other vendor
11 acting as a food service management company for goods,
12 services, or management in the operation of a school's food
13 service under which the contractor is required to provide
14 breakfast, lunch, or breakfast and lunch to students of the
15 school district pursuant to the contract, including through
16 any of the United States Department of Agriculture's child
17 nutrition programs. "Covered contract" does not include a
18 contract limited to vending machines, concessions, a la carte

1 sales, snacks, beverages, catering, food delivery, equipment,
2 software, consulting, or another good or service unless the
3 contract requires the contractor to provide breakfast, lunch,
4 or breakfast and lunch to students of the school district
5 pursuant to the contract.

6 "Covered competitive procurement" means an invitation for
7 bids, request for proposals, request for qualifications with
8 pricing, bid, proposal, or rebid or any other competitive
9 procurement process used by a school board to award a covered
10 contract.

11 On and after the effective date of this amendatory Act of
12 the 104th General Assembly, a school board may not allow the
13 same contractor to provide covered services under one or more
14 covered contracts for more than 5 consecutive school years
15 unless, before the end of that period, the school board
16 conducts a new covered competitive procurement and makes a new
17 award for the covered services. A renewal, extension,
18 amendment, change order, holdover, or successor agreement may
19 not be used to allow the same contractor to provide covered
20 services for more than 5 consecutive school years without a
21 new covered competitive procurement and new award.

22 (b-20) A covered competitive procurement commenced on or
23 after the effective date of this amendatory Act of the 104th
24 General Assembly shall do all of the following:

25 (1) Include the evaluation criteria, bid scoring
26 categories, bid scoring subcategories, questions, line

1 items, other scored sections, scoring weights, maximum
2 points available for each category, subcategory, question,
3 line item, or other scored section, and method for
4 calculating the final score or determining the award.

5 (2) Include a taste test as a scored evaluation
6 category. Each taste test conducted under this paragraph
7 shall include students of the school district who are
8 served or expected to be served under the covered contract
9 as scorers, and student scoring or student feedback shall
10 be included as part of the scored evaluation for the
11 taste-test category and may not be used solely as
12 optional, advisory, or non-scored information. The
13 procurement documents shall state the method for selecting
14 student participants, the taste-test categories to be
15 scored by students, and the weight assigned to student
16 scoring or student feedback, which must be greater than
17 zero. The procurement documents shall state whether every
18 responsive bidder or offeror must participate in the taste
19 test or whether only finalists must participate. If only
20 finalists must participate, the procurement documents
21 shall state the scoring categories to be used before the
22 taste test and the predetermined cutoff score, ranking, or
23 other objective standard for selecting finalists. Each
24 participating bidder or offeror shall be given the same
25 taste-test instructions, substantially comparable menu
26 item categories, and the same opportunity to present food

1 for the taste test.

2 (3) Prohibit ex parte communications. From the date a
3 covered competitive procurement is commenced until the
4 final award and resolution of any timely protest, no
5 school board member, employee, agent, consultant,
6 evaluator, or other person acting on behalf of the school
7 board may knowingly engage in an ex parte communication
8 with a bidder, offeror, or person acting on behalf of a
9 bidder or offeror concerning the substance of the covered
10 competitive procurement, including the evaluation, taste
11 test, scoring, price, intended award, or protest. This
12 paragraph does not prohibit communications through the
13 designated procurement contact if made available to all
14 bidders or offerors by a written addendum, communications
15 at a public meeting, a prebid conference, an interview, a
16 presentation, or a taste test authorized by the
17 procurement documents if all bidders or offerors at the
18 same stage are given the same opportunity, communications
19 solely for scheduling or logistics, written clarifications
20 requested by the school board, or communications required
21 by law. Substantive communications permitted under this
22 paragraph shall be maintained in the procurement file.

23 (4) Require the school board, after completing
24 evaluations and before the protest period under paragraph
25 (5) begins and before taking final action to award or
26 execute the covered contract, to provide to each bidder or

1 offeror and post on the school district's website or
2 otherwise make available for public inspection a notice of
3 the intended award and all materials required under this
4 paragraph, including all of the following:

5 (A) The name of the intended awardee.

6 (B) The final evaluation rubric, bid scoring
7 categories, bid scoring subcategories, questions, line
8 items, other scored sections, scoring weights, and
9 maximum points available for each category,
10 subcategory, question, line item, or other scored
11 section.

12 (C) For each bidder or offeror, the score awarded
13 by each individual scorer in each individual bid
14 scoring category, bid scoring subcategory, question,
15 line item, taste-test category, or other scored
16 section used in the evaluation, including the score
17 awarded by each individual student scorer in each
18 taste-test category scored by students, with each
19 scorer identified by name or by a unique identifier
20 used consistently across all disclosed materials. For
21 a student scorer, the unique identifier may not
22 disclose personally identifying student information.

23 (D) For each bidder or offeror, any written
24 student feedback or student comments used in
25 taste-test scoring, redacted as necessary to avoid
26 disclosure of personally identifying student

1 information, and an explanation of how student scoring
2 or student feedback was incorporated into the
3 taste-test score.

4 (E) For each bidder or offeror that receives less
5 than the maximum points available from any scorer in
6 any bid scoring category, bid scoring subcategory,
7 question, line item, taste-test category, or other
8 scored section, a written explanation by that scorer
9 identifying the number of points deducted from a
10 perfect score, the criterion, requirement,
11 information, evidence, menu item, pricing element,
12 response, or other item that was missing, incomplete,
13 deficient, unclear, nonresponsive, or less
14 advantageous, and what would have been necessary for
15 the bidder or offeror to receive the maximum points
16 available in that category, subcategory, question,
17 line item, taste-test category, or other scored
18 section.

19 (F) If any points are deducted because a scorer
20 determines that a bidder's or offeror's response is
21 weaker than, less complete than, or less advantageous
22 than another bidder's or offeror's response in the
23 same bid scoring category, bid scoring subcategory,
24 question, line item, taste-test category, or other
25 scored section, a written explanation stating that the
26 deduction was comparative, identifying the applicable

1 category, subcategory, question, line item, taste-test
2 category, or other scored section, identifying the
3 response or responses that were considered stronger,
4 and explaining the objective basis for the comparison.

5 (G) Each bidder's or offeror's total score, price
6 or cost score, taste-test score, including the
7 student-scoring portion of the taste-test score, if
8 any, and final ranking.

9 (H) If the intended award is not to the bidder or
10 offeror with the lowest evaluated price or cost or,
11 among bidders or offerors required to participate in
12 the taste test, the highest taste-test score, a
13 written explanation of the basis for the intended
14 award under the published criteria.

15 (5) Include a written protest procedure. The protest
16 procedure shall provide a protest period of not less than
17 5 business days after all materials required under
18 paragraph (4) have been provided to all bidders and
19 offerors and made publicly available, during which any
20 bidder or offeror may submit a written protest. The
21 protest period may not begin to run and shall be tolled
22 until all such materials have been provided to all bidders
23 and offerors and made publicly available. The school board
24 may not take final action to award or execute the covered
25 contract, issue a notice to proceed, or allow performance
26 under the covered contract until the protest period has

1 expired and any timely protest has been resolved in
2 writing. The school board may adopt additional protest
3 procedures that are not inconsistent with this
4 paragraph.".