
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 653
Author: Levine
Version: June 15, 2015
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: June 24, 2015
Fiscal: Yes

NOTE: This bill has been amended to replace its contents and this is the first time the bill is being heard in its current form.

Subject: Postsecondary education: community college contracting practices

SUMMARY

This bill authorizes a district to secure bids by posting the notice for bids on its internet website or bidding platform; as defined, expands the allowable term for continuing contracts to seven years, and clarified that existing Education Code and Contract Code provisions do not preclude the governing board of a district from purchasing materials, equipment, supplies, or services under the same conditions as those specified in a contract lawfully awarded by the University of California (UC) or the California State University (CSU).

BACKGROUND

Existing law, for the purpose of securing bids, requires a community college board to publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county a notice calling for bids or proposals, stating the work to be done or materials or supplies to be furnished and the time when and the place where bids or proposals will be opened. (Education Code § 81641)

Existing law limits the term of continuing contracts for work to be done with an accepted vendor for services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, to no more than five years. Continuing contracts for materials or supplies to be furnished or sold to the district may not exceed three years. (EC § 81644)

ANALYSIS

This bill:

- 1) Expands the means by which a community college district can meet the requirements for securing bids for contracts by authorizing the posting of the notice for bids on its internet website or bidding platform.
- 2) Defines “bidding platform” as an online environment that allows users to bid for the provision of goods or services.

- 3) Deletes the current continuing contract term restrictions for vendors to and authorizes all contracts not to exceed seven years.
- 4) Clarifies that Education Code contracting provisions applicable to the community colleges do not preclude the governing board of a district from purchasing materials, equipment, supplies, or services under the same conditions as those specified in a contract lawfully awarded by the University of California (UC) or the California State University (CSU) and makes a parallel change making the same clarification in the Public Contract Code.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, the purpose of this bill is to create efficiencies by making it easier for community college districts, the UC and the CSU to share contracts with each other. While the UC and CSU have coordinated in sharing contracts negotiated by one segment with another, existing statutes governing the community colleges have made it difficult for them to participate in these shared contracts.
- 2) ***Shared contracting.*** According to the author, shared contracting is the practice of making a procurement contract negotiated by one campus available to another campus. The CSU and UC have already coordinated in sharing between campuses at a regional level to meet their procurement needs. This bill seeks to facilitate the ongoing collaboration between the segments by making it clear that the community colleges are able to participate in the practice of shared contracting.
- 3) ***Recent gut and amend.*** This bill was recently gutted and amended. As heard and passed in the Assembly, this bill required the public segments of higher education to coordinate the efforts of their respective segments when procuring systemwide information technology. The recently added provisions in Sections 3 and 4 of the bill would apply to contracts for purposes beyond just technology, but modify current law to facilitate the coordination envisioned and appear consistent with the policy which was heard in the Assembly. According to the Chancellor's Office, shared contracts could allow the segments to leverage a better price on major purchases such as data systems, network equipment, office supplies, furniture, and the accompanying services for these commodities.

The remaining provisions, however, go farther than simply facilitating coordination. These provisions make changes to contracting requirements and restrictions which would be applicable whether or not the community college district participated in a shared contract. This is the first time these provisions have been reviewed by a policy committee.

- 4) ***California Community Colleges (CCC) contracting requirements.*** Community colleges, like school districts, are required to secure bid proposals by posting notice of such in a local newspaper. While K-12 districts are authorized to publish in newspapers and may also secure electronic bids/notice, this authority is in addition to, not in place of, newspaper notices.

Section 1 of this bill would authorize a community college district to meet its public notice requirements by posting such notice on its internet website/bidding platform or by publishing notice in a newspaper. While some districts might continue to use newspapers to notice and secure bids, they would not be required to do so. Contractors have argued that newspaper notices are the only way to ensure broad public notice of the opportunity to bid for public works projects to existing and new contractors.

Staff recommends that Section 1 of the bill be amended to parallel the authority extended to K-12 districts.

Section 2 of the bill authorizes a community college to enter into *continuing* contracts for work, services, materials, or supplies for up to seven years, whereas current law would restrict the term to five years for work or services and 3 years for materials or supplies. While the University of California (UC) and the California State University (CSU) have no similar restrictions, the UC reports that it generally enters into 3 year contracts that incorporate renewal provisions that typically allow for extension of the contract for 5-7 years, depending upon the contractor's performance.

The UC and the CSU both have centralized procurement systems which allow a state level entity to ensure open and competitive bid processes to secure favorable contracts for campuses throughout the state. Community college districts are run by a locally elected board, with much greater discretion over its purchasing and contracting decisions. Arguably, the continuing contract restrictions in current law balance this autonomy to ensure open and competitive bid practices at the local level.

Finally, this bill would not require community colleges to participate in shared contracts but would incentivize such by allowing districts to participate in contracts lawfully entered into by the UC and CSU regardless of the existing restrictions on community college contracting. Would the elimination of these constraints in the community college contracting provisions act as a disincentive for districts to "share" contracts with UC and CSU?

Staff recommends the bill be amended to delete Section 2 of the bill.

- 5) ***Current collaboration of segments.*** During the March 26, 2014, CSU Board of Trustees meeting, CSU Chancellor Timothy P. White, UC President Janet Napolitano, and the California Community Colleges (CCC) Chancellor Brice W. Harris gave a joint presentation about collaboration among the three systems. The three leaders highlighted a number of efforts that are leading to extended collaboration among the systems including, but not limited to, streamlining student transfer pathways, shared administrative services, and contracts.

More recently, leadership at the CSU, CCC and UC in an effort to identify opportunities to find synergies and to encourage working smarter, and have launched <http://www.uknowledgeshare.com>, an online collaborative site created to encourage the sharing of information, ideas and high-impact practices in support of improved administrative performance, service and outcomes.

SUPPORT

None received.

OPPOSITION

None received.

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