

HOUSE BILL 284

By Whitson

AN ACT to amend Tennessee Code Annotated, Title 5, Chapter 14; Title 6, Chapter 56, Part 3; Title 12, Chapter 3, Part 12; Title 49, Chapter 13; Title 49, Chapter 2, Part 2 and Title 54, relative to thresholds for competitive sealed bids.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 5-14-108(c)(1), is amended by deleting the subdivision and substituting instead the following:

(1) If the amount of the expenditure or sale is estimated to exceed the maximum applicable thresholds established pursuant to § 12-3-1212, the county legislative body shall solicit sealed bids.

SECTION 2. Tennessee Code Annotated, Section 5-14-204(1), is amended by deleting the subdivision and substituting instead the following:

(1) Purchases costing less than the maximum applicable threshold over which public advertising and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases as established pursuant to § 12-3-1212. Purchases of like items must be aggregated for the purposes of the bid threshold;

SECTION 3. Tennessee Code Annotated, Section 5-14-204(4), is amended by deleting the subdivision and substituting instead the following:

(4) Leases or lease-purchase agreements requiring total payments that do not exceed the maximum applicable threshold over which public advertisement and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases established pursuant to § 12-3-1212 in each fiscal year the agreement is in effect. Leases of like or related items must be aggregated for the purposes of the threshold;

SECTION 4. Tennessee Code Annotated, Section 5-14-205, is amended by deleting the section and substituting instead the following:

All purchases, leases, or lease-purchase agreements with expenditures of less than the maximum applicable threshold established pursuant to § 12-3-1212 in a fiscal year may be made in the open market without newspaper notice, but must, wherever possible, be based upon at least three (3) competitive bids.

SECTION 5. Tennessee Code Annotated, Section 6-56-302(2)(A), is amended by deleting the subdivision and substituting instead the following:

(A) A dollar limit over which competitive bidding is required, which may not exceed the maximum applicable threshold over which public advertisement and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases as established pursuant to § 12-3-1212;

SECTION 6. Tennessee Code Annotated, Section 6-56-304(1), is amended by deleting the subdivision and substituting instead the following:

(1) Purchases costing less than the applicable maximum threshold over which public advertising and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases as established pursuant to § 12-3-1212. Purchases of like items must be aggregated for the purposes of the bid threshold;

SECTION 7. Tennessee Code Annotated, Section 6-56-304(4), is amended by deleting the subdivision and substituting instead the following:

(4) Leases or lease-purchase agreements requiring total payments that do not exceed the maximum applicable threshold over which public advertisement and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases established pursuant to § 12-3-1212 in each fiscal year the agreement is in effect. Leases of like or related items must be aggregated for the purposes of the threshold;

SECTION 8. Tennessee Code Annotated, Section 6-56-305, is amended by deleting the section and substituting instead the following:

All purchases, leases, or lease-purchase agreements with expenditures of less than the maximum applicable threshold established pursuant to § 12-3-1212 in a fiscal year may be made in the open market without newspaper notice, but must, wherever possible, be based upon at least three (3) competitive bids.

SECTION 9. Tennessee Code Annotated, Section 6-56-306(a), is amended by deleting the subsection and substituting instead the following:

(a) Municipal governing bodies may by ordinance increase the dollar amount required in this part for public advertisement and competitive bidding to the maximum applicable threshold over which public advertisement and sealed competitive bids or proposals are required for nonemergency, nonproprietary purchases as established pursuant to § 12-3-1212.

SECTION 10. Tennessee Code Annotated, Section 12-3-1204(b), is amended by deleting the subsection and substituting instead the following:

(b) In a municipality, county, or metropolitan government, notwithstanding a charter provision, private act, or other provision of law, a purchase, lease, or lease-purchase agreement must be preceded by competitive solicitation only if the purchase, lease, or lease-purchase agreement exceeds the maximum applicable threshold established pursuant to § 12-3-1212.

SECTION 11. Tennessee Code Annotated, Section 12-3-1204(c), is amended by deleting the subsection.

SECTION 12. Tennessee Code Annotated, Section 12-3-1208(a)(3)(A), is amended by deleting the subdivision and substituting instead the following:

(A) Construction services, other than those relating to maintenance, repairs, and renovations, the cost of which is less than the maximum applicable threshold established pursuant to § 12-3-1212;

SECTION 13. Tennessee Code Annotated, Section 12-3-1212, is amended by deleting the section and substituting instead the following:

(a) Notwithstanding another law to the contrary, a county, municipality, utility district, local education agency, or other local governmental entity having centralized purchasing authority with a full-time purchasing agent may, by resolution or ordinance of its governing body, increase the threshold over which public advertisement and sealed competitive bids or proposals are required to an amount not to exceed fifty thousand dollars (\$50,000) for nonemergency, nonproprietary purchases.

(b) Notwithstanding another law to the contrary, a county, municipality, utility district, local education agency, or other local governmental entity having either non-centralized purchasing authority or centralized purchasing authority but not a full-time purchasing agent may, by resolution or ordinance of its governing body, increase the threshold over which public advertisement and sealed competitive bids or proposals are required to an amount not to exceed twenty-five thousand dollars (\$25,000) for nonemergency, nonproprietary purchases.

(c) At least three (3) written quotations are required when possible for purchases costing less than the bid threshold established under subsection (a) or (b), but more than forty percent (40%) of such bid threshold or some lower amount as may be established by the governing body in a resolution.

(d) Purchases of like items must be aggregated for the purposes of the applicable threshold.

(e) For purposes of this section, a "full-time purchasing agent" means a person who devotes the whole of the person's working time to the demands and duties of the office of the purchasing agent.

SECTION 14. Tennessee Code Annotated, Section 49-2-203(a)(3), is amended by deleting subdivision (B) and substituting instead the following:

(i) All expenditures for such purposes may follow the prescribed procedures of the LEA's respective local governing body, so long as that body, through its charter, private act, or ordinance, has established a procurement procedure that provides for advertisement and competitive bidding, except that, if a newspaper advertisement is required, it may be waived in case of emergency;

(ii) If the LEA chooses not to follow the local governing body's purchasing procedures, all expenditures for such purposes estimated to exceed the maximum applicable thresholds established pursuant to § 12-3-1212 must be made on competitive bids, which must be solicited by advertisement in a newspaper of general circulation in the county, except that the newspaper advertisement may be waived in the event of emergency;

(iii) LEAs that have a purchasing division may use a comprehensive vendor list for the purpose of soliciting competitive bids; provided, that:

(a) The vendors on the list are given notice to bid; and

(b) The purchasing division periodically advertises in a newspaper of general circulation in the county for vendors and updates the list of vendors following the advertisement;

SECTION 15. Tennessee Code Annotated, Section 49-2-203(a)(3), is amended by deleting subdivision (C) and substituting instead the following:

(C) If the LEA chooses not to follow the local governing body's purchasing procedures, all purchases of less than the maximum applicable threshold established pursuant to § 12-3-1212 may be made in the open market without newspaper notice, but must, whenever possible, be based upon at least three (3) competitive bids;

SECTION 16. Tennessee Code Annotated, Section 49-2-203(a)(3), is amended by deleting subdivision (D)(i) and substituting instead the following:

(a) For construction of school buildings or additions to existing buildings, the LEA may follow the prescribed procedures of its respective local governing body, so long as that body, through its charter, private act, or ordinance, has established a procurement procedure that provides for advertisement and competitive bidding;

(b) If the LEA chooses not to follow the local governing body's procedure, the board shall contract, following open bids, for the construction of school buildings or additions to existing buildings, the expenditure for which is in excess of applicable amounts established pursuant to § 12-3-1212;

(c) Public notice must be given at least ten (10) days in advance of accepting bids for the construction, and the board shall award the contract to the lowest and best bidder. Whether following local governing body procedures or those set forth in this subdivision (a)(3)(D)(i), in the event no bid is within the budgetary limits set by the board for the construction, the board may negotiate with the lowest and best bidder to bring the cost of the construction within the funds available, with the approval of the commissioner of education;

SECTION 17. Tennessee Code Annotated, Section 49-13-111(e), is amended by deleting the subsection and substituting instead the following:

(e) All contracts for goods in excess of the maximum applicable threshold established pursuant to § 12-3-1212 must be bid and must be approved by the governing body of each public charter school.

SECTION 18. This act takes effect upon becoming law, the public welfare requiring it.