

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: January 23, 1998 Revised: 02/04/98 \_\_\_\_\_

Subject: Educational Facilities

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Hill</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>RI</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill requires, rather than permits, district school boards and community college boards of trustees to prequalify bidders for educational facility construction contracts. All bids submitted to the boards for construction or capital improvement projects must include evidence that either the bidder holds an appropriate certificate or license, or, the prime contractor has a current valid license prior to the bid award.

The bill repeals provisions that precluded district school boards and community college boards from prequalifying state certified electrical contractors, alarm system contractors, and fire protection system contractors.

This bill substantially amends sections 235.31 and 489.125, Florida Statutes, and repeals sections 489.527, and 633.551(5), Florida Statutes.

II. Present Situation:

State agencies, local governments, district school boards, community college boards of trustees, and the Board of Regents may require potential bidders to be prequalified prior to advertising or receiving bids for construction projects. State agencies must, by rule of the Department of Management Services, prequalify bidders for contracts that exceed \$200,000. Prequalification allows agencies to reject potential bidders who are reasonably determined from prior experience to be unqualified or irresponsible to perform the work required by a proposed contract. Prequalification can also assure that actual bidders are licensed, certified, or registered as required by Florida Statutes; have performed similar work of similar size and complexity; are financially responsible; and have or can access facilities or equipment to complete the project.

Section 235.31(2), F.S., gives district school boards and community college boards of trustees the option to prequalify bidders for construction of educational facilities. If a board exercises this option, the board must use prequalification criteria and procedures set by rule of the Commissioner of Education. The rule [s. 4.1(8), State Requirements for Educational Facilities, incorporated by reference in 6A-2, F.A.C.] allows a board to prequalify contractors on an annual basis or for a specific project. The board must hold a public hearing on its intent to prequalify contractors and must adopt procedures that allow the prequalification of any responsible contractor who:

- Holds a contractor's license which authorizes supervision of work within the scope of the construction project.
- Provides written evidence of sufficient financial resources to start and follow through on projects and respond to damages in case of default.
- Demonstrates experience with construction techniques, trade standards, quality workmanship, project scheduling, cost control, project management, and building codes by successfully completing at least two similarly-sized projects within the past five years.
- Evidences satisfactory resolution of any claims by or against the contractor on projects of the same or similar size within the five preceding years.

Any construction contractor certified under part I of chapter 489, F.S., is deemed qualified to bid on any project contemplated under s. 235.31, F.S., unless a district school board elects to prequalify contractors according to criteria set by rule of the State Board of Education (s. 489.125, F.S.). Chapter 97-384, Laws of Florida, transferred the referenced rulemaking authority from the State Board to the Commissioner of Education.

School boards and community college boards cannot prequalify certain types of contractors. Section 489.527, F.S., provides that certified electrical contractors and alarm system contractors (i.e., those certified under part II of chapter 489, F.S.) are qualified to participate in any contract under s. 235.31, F.S., notwithstanding the boards' authority to prequalify bidders. Section 633.551(5), F.S., declares certified fire protection system contractors to be qualified for any project contemplated under chapter 633, F.S., notwithstanding s. 235.31, F.S.

Contractors must be appropriately certified or registered under chapter 489 before engaging in contracting or offering services as a contractor through advertising or bids.

### **III. Effect of Proposed Changes:**

This bill requires, rather than permits, district school boards and community college boards of trustees to prequalify bidders for construction of educational facilities. A uniform prequalification process would continue to be set by rule of the Commissioner of Education. The bill does not set a cost threshold for the required prequalification of bidders. Practically speaking, prequalification will be required for projects that exceed \$200,000 since existing law (s. 235.211, F.S.) permits day-labor contracts rather than competitive bids for projects below that threshold.

Boards must also require bids on all construction and capital improvement to include evidence that either the bidder holds an appropriate certificate or license, or, the prime contractor has a current valid license prior to the bid award.

The bill repeals provisions that precluded district school boards and community college boards from prequalifying state certified electrical contractors, alarm system contractors, and fire protection system contractors. All contractors must be prequalified by the district school board or community college board to bid on educational facility construction projects.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Individuals and businesses who bid on school district and community college construction projects may incur some additional costs related to prequalifying. Prequalification will eliminate some potential bidders from competing for these projects.

##### **C. Government Sector Impact:**

Prequalifying bidders should eliminate unqualified or irresponsible bidders and, therefore, reduce construction costs and improve the quality of educational facilities. School districts and community colleges will incur the costs of prequalifying bidders and associated record keeping. Potential savings and costs cannot be quantified.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Education:

This amendment deletes language that would have allowed bidders to submit evidence that the prime contractor is appropriately certified or licensed prior to the bid award, rather than at bid submission. This change is consistent with chapter 489, F.S., which requires contractors to be certified or registered before bids are submitted.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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