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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2272

02/25/2014 Authored by Davnie, Nelson, Morgan and Masin
The bill was read for the first time and referred to the Committee on Education Policy
03/06/2014 Adoption of Report: Re-referred to the Committee on Education Finance

1.1 A bill for an act
1.2 relating to education; requiring best value analysis and minimum standards for
1.3 school service contracts; proposing coding for new law in Minnesota Statutes,
1.4 chapter 123B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[123B.521] BEST VALUE FOR SERVICE CONTRACTS.**

1.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
1.8 this subdivision have the meanings given them.

1.9 (b) "Employees" means school district employees and includes only public
1.10 employees within the meaning of section 179A.03, subdivision 14.

1.11 (c) "School district services" means paraprofessional, transportation, nutrition,
1.12 custodial, and clerical services performed by employees, with the exception of services
1.13 exempted in subdivision 4.

1.14 (d) "Service contract" means an enforceable agreement or set of agreements by
1.15 which a contractor agrees with a school district to provide school district services in
1.16 place of services previously provided by employees or in place of services that could be
1.17 provided by employees.

1.18 Subd. 2. **Initial best value determination.** (a) For purposes of initial service
1.19 contracts, "best value" describes the result determined by a procurement method that
1.20 considers short-term and long-term costs, including:

1.21 (1) the cost of the bid price, including the contract clauses required under paragraph
1.22 (b);

1.23 (2) transition costs, including the cost associated with separating employees;

1.24 (3) anticipated costs associated with changes in staff turnover;

2.1 (4) salary and benefit cost of employees equal to the anticipated proportion of
 2.2 their time spent performing initial training of service contract workers, service contract
 2.3 compliance monitoring, and other likely administrative costs over the life of the service
 2.4 contract; and

2.5 (5) anticipated service contract enforcement costs.

2.6 (b) To attract and retain high-quality candidates under a service contract, each
 2.7 service contract must contain:

2.8 (1) a clause requiring minimum wage rates equivalent to or greater than the wage
 2.9 rates paid to the employees who would otherwise perform the work;

2.10 (2) a clause requiring (i) health benefits equivalent to or greater than the health
 2.11 benefits of the employees who would otherwise perform the work or (ii) monetary payment
 2.12 to workers equivalent to or greater than the cost of the health benefits under item (i); and

2.13 (3) a clause requiring (i) retirement and other benefits equivalent to or greater than
 2.14 those of the employees who would otherwise perform the work or (ii) monetary payment
 2.15 to workers equivalent to or greater than the cost of the benefits under item (i).

2.16 (c) A school district may enter into a school services contract only if the calculation
 2.17 under paragraph (a) creates an anticipated savings of five percent or larger over the term of
 2.18 the service contract compared to the wage and benefit costs of the employees currently
 2.19 performing the duties in the bid request over the service contract period. The term of the
 2.20 school services contract under this subdivision may not exceed two years.

2.21 (d) Before executing a service contract under this subdivision, the following must be
 2.22 reviewed at a school board meeting:

2.23 (1) the estimated costs under paragraph (a); and

2.24 (2) for contractors with similar service contracts in other Minnesota school districts:

2.25 (i) the increase in initial service contract price and subsequent service contract
 2.26 periods;

2.27 (ii) workers' compensation claims by the contractor; and

2.28 (iii) other safety and legal violations by the contractor.

2.29 **Subd. 3. Renewal best value determination.** (a) For purposes of a renewal of a
 2.30 service contract under subdivision 2, "best value" describes the result determined by a
 2.31 procurement method that considers:

2.32 (1) short-term and long-term costs, including:

2.33 (i) the cost of the bid price, including the contract clauses required under subdivision
 2.34 2, paragraph (b);

3.1 (ii) salary and benefit cost of employees equal to the anticipated proportion of their
 3.2 time spent training contract workers, performing contract compliance monitoring, and
 3.3 other likely administrative costs over the life of the service contract;

3.4 (iii) costs associated with changes in the incidence of safety and other legal
 3.5 violations, including regulatory compliance; and

3.6 (iv) service contract enforcement costs; and

3.7 (2) quality of services, including:

3.8 (i) measures of employee performance;

3.9 (ii) ability to assess and minimize risk, as measured by appropriate workers'
 3.10 compensation claims, safety violations, and legal complaints or violations, including
 3.11 regulatory compliance; and

3.12 (iii) parental complaints directly involving workers.

3.13 (b) A school district may renew a service contract only if:

3.14 (1) the actual cost of the expiring service contract, as calculated under subdivision 2,
 3.15 paragraph (a), did not exceed 102 percent of the estimated cost of the service contract as
 3.16 reported under subdivision 2, paragraph (d), clause (1);

3.17 (2) the calculation under paragraph (a), clause (1), is less over the term of the service
 3.18 contract compared to the wage and benefit costs during the last term of equal length in
 3.19 which employees performed the duties in the bid request; and

3.20 (3) there was not a higher rate of negative incidents of any quality of service measure
 3.21 under paragraph (a), clause (2), when compared to the most recent equivalent period
 3.22 when the work was done by employees.

3.23 (c) Before renewing a service contract under this subdivision, the estimated costs
 3.24 under paragraph (a), clause (1), must be reviewed at a school board meeting.

3.25 (d) If (1) a school district may not renew the service contract under paragraph (b),
 3.26 and (2) the cost of transferring the duties to employees does not exceed 110 percent of
 3.27 the expiring service contracts, the school district must transfer the duties in the service
 3.28 contract to employees for a period of at least four years before approving another service
 3.29 contract under subdivision 2. If the cost of transferring duties to employees exceeds 110
 3.30 percent, the contract may be rebid under the terms of subdivision 1.

3.31 Subd. 4. **Exemptions.** This section does not apply to:

3.32 (1) temporary contracts and nonrecurring contracts that do not result in displacement
 3.33 of employees;

3.34 (2) contracts for services previously performed by supervisory employees,
 3.35 professional employees, or confidential employees as defined in section 179A.03; and

3.36 (3) contracts in an amount of less than \$25,000.

4.1 Subd. 5. **Severability.** If any provision of this section is declared legally invalid
4.2 by a court of competent jurisdiction, the remaining provisions shall remain in full force
4.3 and effect.

4.4 **EFFECTIVE DATE.** This section is effective July 1, 2014.