



## **School Administrators Alliance**

*Representing the Interests of Wisconsin School Children*

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**TO:** Senate Committee on Economic Development, Commerce and Local Government  
**FROM:** John Forester, Executive Director  
**DATE:** October 3, 2017  
**RE:** SB 236 – Requiring School Districts to Utilize Competitive Bidding

The School Administrators Alliance (SAA) opposes Senate Bill 236, relating to competitive bidding thresholds and requiring school districts to utilize competitive bidding. But, I want to be very clear. We oppose the portion of the bill that requires school districts to utilize competitive bidding. We also believe that an increase in the bidding thresholds is long overdue.

Senate Bill 236 would require that a school board, before entering into a contract for the construction, repair, remodeling, or improvement of a public school building or public school facilities or for the furnishing of supplies or materials with an estimated cost greater than \$75,000 (Senate Amendment 2 would reduce that figure to \$50,000), must advertise or direct the school district clerk to advertise for proposals and must let the contract to the lowest responsible bidder.

The bill would also prohibit a school board from using a bidding method that gives preference based on the geographic location of the bidder or that uses criteria other than the lowest responsible bidder in awarding a contract.

Mr. Chairman, in the past three months, I have spent a good deal of time reading information about school construction and talking about this bill with school business officials and superintendents as well as people in the construction industry. What I have found is simply school construction is a complicated issue. And I'm certainly not an expert on the ins and outs of the various project delivery methods, whether they be general contractor, construction manager as agent (CMA), construction manager at-risk (CMR) or design-build.

What I do have is an observation about the industry. It appears to me that the industry has evolved such that different companies either specialize in or favor certain project delivery methods. One is left to conclude that the industry itself believes there are multiple ways that a quality project can be delivered efficiently and on time to the project owner.

If that is the case, shouldn't the project owners (and in this case I am referring to school districts in particular) be able to choose how to best meet the unique needs of their students, taxpayers and community at large given the scope, goals and circumstances surrounding a particular project?

Under current law, school districts enjoy the flexibility to choose a project delivery method which suits the project. And, in addition to competitive bidding, school districts also utilize request for proposals (RFPs), quotes and negotiated proposals with one or more vendors. School

administrators oppose SB 236 because they believe they can best meet the needs of their various constituencies by having greater flexibility to choose how to bring their projects to completion.

In their co-sponsorship memo, dated April 20<sup>th</sup> of this year, the authors raise up required competitive bidding as the one sure way we can always ensure that school districts make their large expenditures in an efficient manner. First, let's remember that most school districts have a competitive bidding policy. So, this bill would not provide any additional tools that school districts don't already have at their disposal. Also, my conversations with school business officials and industry representatives suggest that the cost/efficiency issue is not so clear cut. Coming up with apples-to-apples cost comparisons between project delivery methods is not easy to accomplish.

Some industry representatives believe that this legislation, if adopted, will remove the opportunity for school districts to realize cost savings through collaborative redesign in the pre-referendum and pre-construction phases of a project. Some veteran school business officials believe that, depending on the circumstances surrounding a particular project, they can bring some projects to completion more cost-effectively using options other than competitive bidding. School facilities officials at one of the ten largest school districts in the state believe that, if SB 236 passes, they would need to add a full-time position to their staff to administer the necessary competitive bidding procedures resulting in an additional new cost. Because they currently use all the flexibility they have under current law to ensure cost-effective vendors, they believe the net result would be increased expenditures, not cost savings.

Let me be clear. School administrators believe that cost is a vitally important consideration. But, I think we need to acknowledge that it is not the only consideration. Project quality and on-time completion are also vitally important considerations for school districts. Poor performance in either of these two areas will likely impact cost to the district over the long term.

Before I leave the cost and efficiency issue, I would like to address one more assertion the authors made in their co-sponsorship memo. In that memo, the authors strongly suggested that, because they are not required to utilize competitive bidding in their capital improvement projects, school districts are not cost-effective. In general, I think that some legislators inside the State Capitol do not have a great appreciation for the level of expertise required of today's school business officials, nor do they understand the level of sophistication with which school districts operate on financial issues.

There is a built-in incentive for school districts to operate as efficiently as they can, and it is succinctly captured in this widely-held principle: By operating as efficiently as possible on the non-instructional side (the business side) of the school district operation, you use the savings to maximize resources available for kids in the classroom.

School administrators have raised several other concerns about SB 236, including:

- The impact of the bill on smaller projects and projects that need to be done quickly. Some administrators have expressed concerns that the cost of bidding procedures will outstrip any potential savings on smaller projects. They are also concerned that, because bidding lengthens the process, it can make it more difficult to complete certain projects in the narrow windows we have available for most school construction.
- Some believe that this legislation could create an issue of supply and demand for certain district remodeling projects. In general, districts would likely time the bidding phase

around breaks in district operations (winter and summer breaks) creating an environment of limited contractors, subcontractors, and suppliers, which would, in turn, likely reduce competition and drive up cost.

- Some administrators are concerned that passage of SB 236 could lead to a district using different contractors in each phase of a multi-phase project. For example, as part of their long-range facility plans, some districts may break up their HVAC/mechanical upgrades into several phases to better manage the district fiscal impact as well as the impact on the taxpayer. If districts had to bid each phase, they may end up with several contractors, each doing a phase of the work over time, and undermine district efforts to hold individual contractors accountable for quality. This could also lead to duplication of cost in the design phases.
- Many administrators have expressed concerns about the provisions in the bill that would prohibit any local preference in the contracting process. Districts generally count on the relationships they have established over many years with local vendors. These vendors have a very strong incentive to provide invaluable, high-quality service to the district because they are taxpayers, they may have children in the district and their reputations in the community are on the line as well. These vendors can be counted on to respond quickly to districts needs and often provide significant donations of time and service to the district.

In summary, we oppose Senate Bill 236. We believe that school officials utilize the flexibility afforded them under current law appropriately, cost-effectively and in the best interests of their students, taxpayers and community. We do not believe that a one-size-fits-all model dictated by state government will serve these communities better.

Thank you for your consideration of our views. If you should have any questions on our position on SB 236, please call me at 608-242-1370.