

Date of Hearing: August 6, 2013

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
SB 681 (Ed Hernandez) – As Amended: April 1, 2013

SENATE VOTE: 34-0

SUBJECT: Community college districts: personal property.

SUMMARY: Clarifies existing law authorizing a community college district to “piggyback” on an existing contract between a public corporation or agency (including any county, city, town, or district) and a vendor for the lease or purchase of personal property by clarifying that, like school districts, the community college districts can purchase directly from, and make payments directly to, the vendor, without needing to go through the original contracting agency.

EXISTING LAW:

- 1) Establishes various procedures to be followed by the community colleges to secure bids or proposals and enter into contracts for the acquisition of goods and services (Education Code §81641, §81644, §81645).
- 2) Notwithstanding the Education Code provisions cited above, community colleges are authorized, under specified conditions to authorize any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases, without advertising for bids, and to make payments to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property (Public Contract Code [PCC] §20652).
- 3) Provides the same authority as outlined for community colleges above to school districts. However, current law also provides that, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of the personal property, a school district may authorize the lease or purchase of personal property directly from the vendor and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract (PCC §20118).

FISCAL EFFECT: Unknown. This measure is keyed non-fiscal by the Legislative Counsel.

COMMENTS: Background. The term "piggyback" stems from the PCC §20118, which allows school districts to acquire personal property by participating in an existing contract of another public entity. According to some community college districts, piggybacking can save months of time and significant costs as districts, in order to go out for bid, must prepare documents, advertise for bid, obtain local board approval and place award.

While the statute applies to the acquisition of personal property, in the past, questions have arisen in regards to its use for facilities related purchases, as school districts were using "piggyback" contracts to acquire and install factory-built modular building components that

result in permanent school facilities funded by the School Facility Program. At the request of the State Allocation Board, the Attorney General issued an opinion in January 2006 which found that:

- 1) A school district may not, without advertising for bids, contract with another public agency to acquire factory-built modular building components for installation on a permanent foundation;
- 2) A school district intending to contract for the construction, reconstruction, renovation, improvement or repair of any school building, where the work will require an expenditure of \$15,000 or more, must follow a competitive bidding process; and,
- 3) Once these modular components have been attached at the building site, and after significant on-site finish work has been completed, they would result in permanent school buildings of varying dimensions, purpose; and architectural styles i.e. they are no longer personal property.

Need for the bill. Current law authorizes both community colleges and school districts to “piggyback” onto existing contracts between vendors and public corporations or agencies. In 2006, the Legislature clarified that this school district authority extended to allowing a school district, without being listed or referenced on the original contract, to be included without the originating public agency needing to secure agreement from the vendor that the contract could be “piggybacked.” This change in the law allowed for the benefits of “piggybacking” without having to go through the original contracting agency to buy and then transfer the item, authorizing school districts to work directly with the vendor.

According to the author, this measure would address an inequity (between school districts and community college districts) conforming current law for community college districts to existing law for school districts relative to “piggyback” bidding.

REGISTERED SUPPORT / OPPOSITION:

Support

Community College League of California
Kern Community College District
Los Angeles Community College District
Los Rios Community College District
Peralta Community College District
Rio Hondo Community College District

Opposition

None on file.

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