

## House Bill Analysis HB 3107

**Title:** Changing bid requirements for school district property

**Sponsor:** Rep Honeyford, Cole, Clements, and Lisk

**Background:** The State Board of Education recently completed a special report on the quality assurance and quality control in K-12 school construction. The report was in response to the Attorney General's eighteen month criminal investigation into school construction practices, primarily in Eastern Washington. The special report contains several recommendations to modify State Board policies and to change state laws dealing with the school construction process.

One of the recommendations from the Attorney General investigation on school construction involved changes to the bidding process. The Attorney General recommended that consideration be given to whether or how school districts could have more freedom to reject a contractor who is a low bidder, where that contractor has proved to be unreliable or substandard in the past. It was also recommended that school districts prepare a standardized critique of the performance of architects and contractors following any major capital improvement or construction project and consideration be given to using the critiques in a system to pre-qualify architects and contractors for school construction projects.

During the deliberations of the State Board's work group several options to the low bid process were discussed. The final report of the work group recommended not to change the low bid law and instead addressed the issue of architect and contractor quality through post-completion project evaluations to determine whether a firm is a responsible bidder. If the State Board determines that project evaluation process is cost effective it would require all school districts to complete a standardized end-of-project evaluation. The evaluations would be completed by an objective third party and the Office of the Superintendent of Public Instruction would publish the results of the evaluations. However, if the Board determines the evaluation process is not cost effective it will seek a change in the low bid law. If it became necessary to recommend a change to the low bid law the Board would recommend one of two options: allow the school district to select the bidder closest to the average of all the bids on the project or allow the school board to publicly interview the two or three lowest bidders and make a selection.

**Summary:** The law for selection the low bidder for school construction projects is amended to allow school districts to select either the lowest bidder or the bidder closest to the average of the three lowest bids. After the lowest responsible bidder is identified the school board may reject the lowest bidder based upon the following criteria:

1. The ability, capacity and skill to perform the work,
2. The experience, qualifications and efficiency of the bidder,
3. The ability of the bidder to perform the work in the specified time,

4. The quality of performance on previous contacts,
5. The previous and existing compliance with laws related to the contract, and
6. Other information that may have a bearing on the decision to award the contract.

If the school board rejects the lowest responsible bidder based on any of these criteria, the board may select the next lowest bidder or the next closest bidder to the average of the three low bids.

**Appropriation:** None

**Fiscal Note:** Not Requested

**Effective Date of Bill:** Ninety days after adjournment of session in which the bill is passed.