

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

**SESSION LAW 2007-90  
HOUSE BILL 1138**

**AN ACT TO PROVIDE FOR FLEXIBILITY IN SCHOOL CONSTRUCTION AND  
REPAIR CONTRACTS FOR UNION COUNTY PUBLIC SCHOOLS.**

The General Assembly of North Carolina enacts:

**SECTION 1.** Prequalified bidders; solicited bid list. – Notwithstanding G.S. 143-129, the Union County Public Schools Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The Board may prequalify only single prime contractors pursuant to this section.

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. All potential bidders must be notified in advance of the bidding process as to whether the potential bidder is prequalified.

This section applies only to renovation, repair, and rebuilding projects.

**SECTION 2.** Construction management. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

**SECTION 3.** Design-build. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

- (1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.

- (2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

**SECTION 4.** Other methods. – Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

**SECTION 5.** Project bundling. – The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

**SECTION 6.** This act applies to the Union County Public Schools Board of Education only.

**SECTION 7.** This act is effective when it becomes law and expires July 1, 2011.

In the General Assembly read three times and ratified this the 19<sup>th</sup> day of June, 2007.

s/ Beverly E. Perdue  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives