

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1138**  
**Committee Substitute Favorable 5/4/07**

Short Title: Expedited Design/Build Schools - Union County. (Local)

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Sponsors:

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Referred to:

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March 28, 2007

A BILL TO BE ENTITLED

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

3 The General Assembly of North Carolina enacts:

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

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

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

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

26 **SECTION 2.** Construction management. – Notwithstanding G.S. 143-128,  
27 143-129, and 143-132, the Board may contract with a construction manager to manage  
28 and assume liability for the completion of a project. The construction manager shall be  
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1 selected in the same manner that architects and engineers are selected pursuant to  
2 Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the  
3 separate-prime system and contracts with a construction manager who will be liable for  
4 the completion of the project, the Board may combine the lowest responsible bids in  
5 each subdivision of work into a single contract to be administered by the construction  
6 manager.

7 **SECTION 3.** Design-build. – Notwithstanding G.S. 143-128, 143-129, and  
8 143-132, the Board may use the design-build method of construction as follows:

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

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

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

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

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

30 **SECTION 7.** This act is effective when it becomes law and expires July 1,  
31 2011.