

TO: Sourcewell cooperative purchasing stakeholders
FROM: Sourcewell Legal and Government Relations Department
DATE: December 18, 2023
RE: Annual legislative activity report

2023 marked an active year at state capitols across the country. Largely, legislatures have returned to the type of legislative work expected after years of disruption due to the pandemic.

The Sourcewell government relations practice creates, maintains, and develops markets for Sourcewell's cooperative purchasing program by advocating for favorable laws and regulations and opposing unfavorable rules and regulations across the country. This is accomplished by promoting the public policy benefits of cooperative purchasing to elected officials, government regulators, and other stakeholders and interested parties.

The Sourcewell government relations team is in its eighth year of advocating for cooperative purchasing policy. This year, Sourcewell expanded its team with the addition of two new associates, further bolstering Sourcewell's capacity and solidifying its position as the leading cooperative supporting legislative activity. Sourcewell is proud to have established a strong and successful legislative record ensuring suppliers' ability to sell to its government customers via cooperative purchasing. Likewise, units of state and local government, as well as local education agencies (SLED), continue to access the benefits of cooperative purchasing for acquiring goods, services, and construction in part because of this work.

The legal mechanism for cooperative purchase requires two components. First, that Sourcewell can facilitate cooperative purchasing contracts under its authority as a government agency. Secondly, SLED agencies must have the statutory ability to access those contracts. Combined, these legal authorities are required for cooperative contracting to be utilized. Where one or both does not exist, there is no market for the use of Sourcewell cooperative purchasing contracts.

Sourcewell's government relations team monitors state and federal legislation across the country for impacts to government procurement and cooperative purchasing. When faced with a challenging purchasing environment requiring improvement or an opportunity to promote legislation favorable to cooperative purchasing, the team actively engages in advocacy efforts. This can take many forms, including drafting legislation, lobbying, retaining representation, directly engaging with elected officials and legislative bodies, coordinating with key public agency and industry stakeholders, educating legislators and legislative staff, and providing testimony and educational materials to help policy makers understand the value of cooperative purchasing. Sourcewell also engages with associations of elected officials such as the National Conference of State Legislatures, the National Governors Association, the National Lieutenant Governors Association, the United States Conference of Mayors, and the Public Affairs Council to accomplish these goals.

Throughout 2023 Sourcewell has been engaged in 34 issues in 18 states and federally. In total, the government relations team tracked over 550 bills in 45 states and before Congress. The team also monitors legislative trends related to government purchasing and assessed any potential impacts to Sourcewell, cooperative purchasing suppliers, and participating entities. Current legislative trends include:

- Increasing threshold amounts for bidding requirements;
- changes to public advertising of solicitation opportunities;
- restrictions on government business with vendors having certain Environmental, Societal and Governance (ESG) policies or goals;
- restrictions on government agencies from implementing ESG policies or goals;
- new authorities to utilize creative procurement methods for renewable energy projects; and
- language relating to multiple contract awards resulting from single government purchasing solicitations.

Since 2015, Sourcewell's government relations practice has actively lobbied in numerous states and before Congress, and celebrated legislative victories in Alabama, Arkansas, Idaho, Minnesota, Montana, New York, Tennessee, and Washington. In 2023, Sourcewell was active in Alabama, Connecticut, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Texas, Virginia, and before Congress. Please find details of that legislation below. For more information, please contact:



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STATE LEGISLATIVE MATTERS

Arizona

Bars a public entity from entering or renewing a contract with suppliers under certain conditions

[Senate Bill 1611](#)

Authored by: Senator Anthony Kern

Bill disposition: The bill failed to become law after being passed by the legislature due to a gubernatorial veto.

Senate Bill 1611 amends portions of law relating to the handling of public funds by adding a new section of prohibited contracts. The new section prohibits a public entity from requiring a supplier to implement an environmental, social or governance standards policy as a condition of entering or renewing a contract. This would impact any Sourcewell suppliers with such policies.

California

Provides funding for certain commodities and services and to facilitate cooperative purchasing contracts

[Assembly Bill 102](#)

Authored by: Assemblymember Phil Tang

Bill disposition: Enacted. Effective January 1, 2024.

The California Budget Act of 2023 designates \$41 million to the California Community Colleges for specific objectives, including acquiring, developing, assessing, and enhancing crucial technology tools and infrastructure across the entire college system. Moreover, these funds will support the development of technology products, offer technical support and planning, and facilitate cooperative purchasing agreements.

California

Provides authority for job order contracting

[Senate Bill 146](#)

Authored by: Senator Lena Gonzalez

Bill disposition: Enacted. Effective January 1, 2024.

Senate Bill 146 authorized the state Department of Transportation to utilize job order contracting for certain transportation and public works projects to improve the efficiency and efficacy of contracted work through the department. Sourcewell engaged the legislation's primary sponsor and legislative staff regarding the legislation and supported its passage.

California

Provides authority for job order contracting for the Los Angeles County Metropolitan Transportation Authority

[Senate Bill 499](#)

Authored by: Assemblywoman Luz Rivas

Bill disposition: Enacted. Effective January 1, 2024.

Assembly Bill 499 would establish a pilot program to authorize the Los Angeles County Metropolitan Transportation Authority to use job order contracting as a procurement method. The bill would impose a \$5,000,000 cap on awards under a single job order contract and a \$1,000,000 cap on any single job order. The bill would limit the term of an initial contract to a maximum of 12 months, with extensions as prescribed.

Connecticut

Clarifies statute regarding purchases through the contract of another state's units of government

[Senate Bill 1184](#)

Authored by: Government Administration and Elections Committee

Bill disposition: The bill received consideration but failed to progress due to adjournment.

The bill would allow state agencies, with the approval of the state Department of Administrative Services (DAS) commissioner or a designee, to purchase equipment, supplies, materials, and services directly from another state or its instrumentalities or political subdivisions. Under existing lawⁱ, state agencies, if approved by the DAS commissioner or a designee, may purchase these goods and services from, among others, a person with a contract to sell them to a state government. The legislation was introduced at the request of DAS.

Sourcewell engaged the legislation's primary sponsor and worked with DAS and legislative staff to help advance the language.

Delaware

Provides cooperative purchasing authority for the City of Lewes

[House Bill 260](#)

Authored by: Representative Stell Parker Selby

Bill disposition: Enacted. Effective July 25, 2023.

The bill would amend the charter of the City of Lewes to exempt cooperative or joint purchasing agreements from competitive bidding requirements they would otherwise be subject to. The bill exempts this city from having to seek approval from the state Office of Management and Budget to use a cooperative purchasing contract as is required under current law. This language provides an expansion of cooperative purchasing authority.

Florida

Requires that governmental entities must competitively award certain public construction works contracts

[Senate Bill 830](#)

Authored by: Senator Ed Hooper

Bill disposition: The bill failed to progress due to adjournment.

Senate Bill 830 would make numerous changes to procurement requirements for public works projects including definition modifications and threshold increases. The impetus behind the proposal, its implications, and whether the language is necessary remain unclear. One such section provides that "repair and maintenance" does not include new construction or any other "substantial" work to an existing building. The language also clarified that public works projects contracted pursuant to a cooperative purchasing agreement are not to be considered substantial and therefore not subject to certain requirements. The language could also be read to provide that the new cooperative purchasing authority is intended only for "substantial" projects, not new construction and public works projects below the bid thresholds established in the legislation. Cooperative purchasing for goods, services, and construction is widely used throughout Florida.

The bill was brought forth by a roofing contractor and posed considerable challenges to cooperative purchasing contract use in Florida. Sourcewell engaged legislative representation to develop an advocacy plan to address the proposal. It was determined that such an effort need not be fully exhausted given the legislative timeline and likelihood of the bill's success.

Georgia

Changes public works contracting and bidding requirements

[Senate Bill 193](#)

Authored by: Senator Victor Anderson

Bill disposition: The bill failed to become law after being passed by the legislature due to a gubernatorial veto.

Under current law, there is no authority for local governments in Georgia to use Sourcewell indefinite quantity construction (IDIQ) contracts. Instead, they've relied on the Department of Administrative Services (DOAS) (through its State Purchasing Division (SPD)) adoption of the contract as the mechanism for their authority. While DOAS has permitted local government entities to use the contracts on an optional basis in the past, SPD has determined the primary purpose of the contracts is to serve solely state agencies. It is expected that moving forward, DOAS intends to limit local government agency use of the state indefinite quantity construction contracts.

Georgia House Bill 193 raised the bidding threshold for public works construction projects, increasing it from \$100,000 to \$250,000. Local governments would be able to use Sourcewell IDIQ contracts for purchases under this newly established amount.

Please note, the DOAS decision to stop allowing locals the access to the state contracts was an administrative one, not a result of this language. While this change will impact agreements entered with DOAS, there is no change to the scope of the existing Sourcewell contracts in Georgia. They remain valid and in effect for procuring construction within the state. Sourcewell monitored this language through the legislative process and engaged DOAS and various suppliers throughout the process given its implication to construction contracting.

Maryland

Modifies procedures for the award or renewal of cooperative contracts

[House Bill 199](#)

Authored by: Delegate Samuel Rosenberg

Bill disposition: The bill never received consideration and failed to progress due to adjournment.

House Bill 199 would have required the Maryland Department of General Services, prior to entering or renewing a cooperative purchasing agreement that has potential (1) to be awarded to a single supplier, or (2) reduce by more than 50 percent the number of current suppliers awarded, to advertise the solicitation on the state online marketplace for at least 21 days. The impetus behind the proposal and its implications remains unclear.

Sourcewell engaged the legislation's primary sponsor and legislative staff regarding the legislation and supported its withdrawal.

Massachusetts

Expands cooperative purchasing opportunities for cities and towns

[House Draft 1239](#), [Senate Draft 191](#), [Senate Bill 2070](#)

Authored by: Representative Lindsay Sabadosa, Senator Bruce Tarr

Bill disposition: The bills failed to progress due to adjournment.

Senate Bill 2070 and similar bills clarify the current cooperative purchasing authorityⁱⁱ to address awarding contracts to multiple offerors. Specifically, the language makes clear that contract awards resulting from cooperative purchasing solicitations may be made to multiple suppliers if it was determined that doing so is in the best interests of the parties to the cooperative purchasing agreement.

Massachusetts

Includes "services" in cooperative purchasing authority

[House Draft 2797](#)

Authored by: Representative Michael P. Kushmerek

Bill disposition: The bill failed to progress due to adjournment.

House Draft 2797 modifies current lawⁱⁱⁱ by adding "services" into the already-existing cooperative purchasing authority for goods. "Services" is defined as "the furnishing of labor, time, or effort by a contractor, not involving the furnishing of a specific end product other than reports." This language provides an expansion of cooperative purchasing authority, albeit not one for the procurement of construction or public works projects.

Nebraska

Statewide government purchasing practices modifications

[Legislative Bill 461](#)

Authored by: Senator John Arch, Speaker of the Legislature

Bill disposition: The bill never received consideration and failed to progress due to adjournment.

Legislative Bill 461 makes changes to the material division of the Department of Administrative Services (DAS), procurement of goods and services, and allows for enhanced participation by the state in a cooperative procurement agreement. Under current law^{iv}, DAS cannot participate in cooperative procurement contracts that are bid by a local government. Legislative Bill 461 would grant administrative rule making for limited exceptions from certain bid laws for contracts that are competitively bid by a political subdivision of another state. Pending the rulemaking, this would allow Nebraska state agencies the ability to utilize a cooperative purchasing contract bid by a local government like Sourcewell.

Sourcewell lobbied on behalf of the legislation, engaged the legislation's primary sponsor and legislative staff, and worked with the state Chief Procurement Officer to help advance the language.

New Jersey

Modifies school facilities and school operations cooperative purchasing rules

[Assembly Bill 4496](#) and [Senate Bill 3247](#)

Authored by: Assemblymember Pamela Lampitt and Senator Andrew Zwicker

Bill disposition: In process.

Assembly Bill 4496 and Senate Bill 3247 revise various provisions of law governing construction of school facilities projects and operations of the New Jersey Schools Development Authority, the agency responsible for funding and managing the new construction, modernization, and renovation of Local Education Agency (LEA) facilities throughout the state.

Among the changes is a provision that construction projects for LEA under the New Jersey Schools Development Authority may not be procured utilizing a cooperative pricing structure or a cooperative purchasing agreement. Pursuant to guidance^v issued by the state's Department of Community Affairs, public works and construction projects are not within in scope of the cooperative purchasing authority in statute.

New Jersey

Requires local contracting units to determine and utilize cost-saving practices when procuring goods and services

[Assembly Bill 5687](#) and [Senate Bill 4074](#)

Authored by: Senator James Beach and Assemblymember Carol Murphy

Bill disposition: In process.

This bill requires certain political subdivision contracting units (contracting units), including boards of education and local contracting units under the "Local Public Contracts Law," to determine and utilize cost-saving practices when procuring goods and services. The bill provides that a cost savings analysis prescribed by the Division of Local Government Services in the Department of Community Affairs is required to include, at a minimum, factors such as charges for service, materials, delivery, soft costs, costs of acquisition, and other costs of traditional bidding such as cost overruns, protest, rework, and change orders. If the purchasing agent determines that entering into a cooperative purchasing system for the procurement of goods or services will result in cost savings, the contracting unit is required to utilize a cooperative purchasing system.

New Jersey

Requires local contracting units to determine and utilize cost-saving practices when procuring goods and services

[Senate Bill 4057](#)

Authored by: Senator Troy Singleton

Bill disposition: In process.

This bill modifies use of cooperative purchasing agreements by certain public contracting units for construction services; prohibits time-and-materials contracts in certain circumstances, and allows indefinite delivery, indefinite quantity public contracts in certain circumstances.

New York

Changes to certain definitions within municipal piggybacking authority

[Senate Bill 499](#)

Authored by: Senator Daniel Stec

Bill disposition: The bill never received consideration; the legislature stands in adjournment.

Senate Bill 499 would allow municipalities and school districts to use cooperative purchasing (or piggyback) contracts for any services as opposed to only those related to the installation, maintenance, or repair of apparatus, materials, equipment, and supplies. Similar language is introduced routinely. The impetus behind the proposal, its implications, and whether the language is necessary remain unclear. The previously introduced legislation has never been successful in progressing through the legislative process.

Sourcewell and its legislative representation lobbied against the legislation, citing the ambiguity it creates in statute.

New York

Restores oversight of cooperative purchasing contracts by the state comptroller's office

[Assembly Bill 624](#) and [Senate Bill 2219](#)

Authored by: Assemblymember Ken Zebrowski and Senator Jeremy Cooney

Bill disposition: Enacted. Effective April 8, 2023.

Assembly Bill 624 and Senate Bill 2219 amend legislation^{vi} passed last year restoring oversight of state contracts by the New York State Comptroller. The bill requires Comptroller contract review to be completed within 75 days and increases thresholds for state contracts that are subject to such oversight. The threshold increases vary by the type of contract and the goods and services available under the contract. Contracts subject to the Comptroller's review include state contracts and cooperative purchasing contracts adopted by the state.

Throughout 2022 and 2023, Sourcewell and its legislative representation lobbied on behalf of the legislation and engaged legislative leadership, the Office of Governor Kathy Hochul, the New York State Office of the Comptroller, and the Office of General Services regarding the legislation.

New York

Prohibits the use of piggyback contracting for construction services

[Assembly Bill 7513-A](#) and [Senate Bill 7119-A](#)

Authored by: Senator Jessica Ramos and Assemblymember Latoya Joyner

Bill disposition: The bill failed to progress due a robust lobbying effort to stop the legislation from being considered; the legislature stands in adjournment.

Assembly Bill 7513-A and Senate Bill 7110-A would restrict current authority^{vii} for local governments and school districts to use cooperative purchasing contracts by limiting it to only goods and commodities. The bill removes "services related to the installation, maintenance, repair of apparatus, materials, equipment, and supplies..." from the current statute. This would mean installation, construction services, and construction would no longer be allowed to be procured through cooperative purchasing services. The bill provides a significant threat to cooperative purchasing use.

Sourcewell and its legislative representation led a robust lobbying effort against the legislation including over ten in person meetings with legislators and legislative staff and successfully prevented the bill from advancing.

North Dakota

Expansion of cooperative purchasing authority for counties and cities

[Senate Bill 2370](#)

Authored by: Senator Kyle Davison

Bill disposition: Enacted. Effective August 1, 2023.

Senate Bill 2370 creates authority for cities and counties to enter a joint powers agreement with a political subdivision in North Dakota or of another state for the purpose of using a cooperative purchasing contract.

This law provides a new authority for cities and counties to use cooperative purchasing contracts awarded by other public agencies, including Sourcewell. Local education agencies and state agencies, and public institutions of higher education are not affected by this bill. The new law does not permit a city to utilize cooperative purchasing for the construction of public improvements. The bill provides a significant expansion of cooperative purchasing authority.

Sourcewell led this initiative and retained legislative representation to assist in the passage of this legislation. Sourcewell was joined in support of the legislation by the North Dakota local government associations, numerous suppliers, and other North Dakota-based interested parties.

Ohio

Inclusion of construction and construction services within joint purchasing authority

[Senate Bill 23](#) and [House Bill 145](#)

Authored by: Senator George Lang and Representative Thomas Hall

Bill disposition: In process.

Under current law^{viii}, a political subdivision may permit another political subdivision to participate in a contract for the acquisition of equipment, material, supplies, or services. However, in a 2019 opinion^{ix}, the Ohio Attorney General concluded that the law does not authorize a political subdivision to acquire construction services through a joint contract with another political subdivision. Senate Bill 23 and House Bill 145 provide authority for local governments and school districts to utilize joint purchasing contracts for construction and construction services. Further, the bill specifies that “services” includes construction services, but does not include professional design services, defined as services within the scope of practice of an architect, landscape architect, professional engineer, or professional surveyor. This language clarifies the scope of the long-established joint purchasing law—used for the procurement of goods and services—to include purchases of construction and construction services. The bill provides a significant expansion of cooperative purchasing authority.

For the fourth consecutive year, Sourcewell and its legislative representation have led the effort to pass this legislation. For the first time in as many years, the bill was successfully reported out of the committee process in the Senate and heard by the House of Representatives committee. Sourcewell was joined in support of the bill by numerous other cooperative purchasing organizations, Ohio local government associations, numerous suppliers, and other Ohio-based interested parties.

Oregon

Updates and streamlines rules for conducting cooperative procurements

[House Bill 2055](#)

Bill disposition: The bill failed to progress pursuant to opposition by the state Department of Administrative Services.

House Bill 2055 would have streamlined the process and procedures for utilizing cooperative purchasing by political subdivisions in Oregon. The bill sought to broaden the scope of authority, allowing all public agencies to utilize cooperative procurements for public improvements. Currently, Oregon law provides for different types of cooperative purchasing (joint, permissive, and interstate) with specific requirements a contracting agency must meet before establishing an agreement through a cooperative procurement. The proposed language simplified the types of cooperative procurements and would have expressly allowed public agencies in Oregon the ability to utilize a cooperative procurement for goods, services, and public improvements.

The administration expressed concerns over the bill and requested the legislature work with the Department of Administrative Services (DAS) on the proposed language. Following, amendments were made that would have made cooperative purchasing language even more restrictive than it currently is. DAS decided it no longer wanted to pursue the bill this session, and instead convene a conversation with interested parties after the session is over, of which Sourcewell will be an active participant.

Sourcewell retained legislative representation and lobbied on behalf of the bill. Sourcewell also engaged the legislation’s primary sponsor and worked with legislative staff to help advance the language.

Texas

Modifies school district purchasing of goods and services rules

[House Bill 2710](#)

Authored by: Representative Gary VanDeaver

Bill disposition: The bill failed to progress due to adjournment.

Pursuant to existing law^x, local education agencies (LEA) that enter a purchasing contract (1) valued at \$25,000 or more, (2) one established pursuant to Tex. Loc. Gov’t. Code § Chapter 271, or (3) any cooperative purchasing agreements shall document any contract-related fees including any management fee, and the purpose of each fee under the contract. House Bill 2710 removes the \$25,000 requirement and makes the mandated reporting applicable to all contract use by the LEA. The language also clarifies that LEA are responsible for any fees paid by the LEA to a cooperative purchasing organization and not those fees to a cooperative purchasing organization by a supplier. Many cooperative purchasing organizations assess fees to the local governments and LEA that participate and use their contracts; Sourcewell does not employ such a practice. Similar language is introduced routinely. The previously introduced legislation has never been successful in progressing through the legislative process.

Utah

Expands cooperative purchasing authority for purchases of cloud computing

[House Bill 545](#)

Sponsored by: Senator Jon Hawkins

Bill disposition: Enacted. Effective May 3, 2023.

House Bill 545 enacts certain cybersecurity requirements for the state Division of Technology Services. As part of the bill, the division was delegated authority to procure third-party cloud computing solutions for governmental entities. In procuring third-party cloud computing solutions, the division is authorized to use established purchasing vehicles such as cooperative purchasing contracts. The bill provides an expansion of cooperative purchasing authority.

Virginia

Expands cooperative purchasing authority for the purchase, construction, and installation of playground equipment

[House Bill 1610](#)

Authored by: Delegate Anne Tata

Bill disposition: Enacted. Effective July 1, 2023.

House Bill 1610 allows the installation of playground equipment, including all associated and necessary construction and maintenance through cooperative purchasing contracts. Generally, Virginia law prohibits the use of cooperative purchasing for construction purposes. This bill creates an exception to that prohibition. Certain other projects are exempted from the cooperative purchasing restriction on construction. Those instances include projects concerning stream restoration, stormwater management practices, and installation of artificial turf and track surfaces.

House Bill 1610 provides an expansion of cooperative purchasing authority as it allows for the installation of playground equipment, including all associated and necessary construction and maintenance using cooperative procurement.

Sourcewell engaged the legislation’s primary sponsor and legislative staff to help pass the bill into law.

Washington

Exempts certain agencies from state laws for cooperative procurements established under federal law

[Senate Bill 5342](#)

Authored by: Senator Claudia Kaufmann

Bill disposition: Enacted. Effective July 23, 2023.

In 2015 the federal government passed the Fixing America's Surface Transportation Act (FAST Act)^{xi}, which authorized limited cooperative purchasing options. In the legislation, state governments were authorized to enter a cooperative purchasing contract, with one or more vendors, if the vendors agree to provide an option to purchase rolling stock and related equipment to the state government and any other participant, and that a state government acts as the lead procurement agency.

Washington law is currently silent on the issue of cooperative purchasing contracts as outlined in the FAST Act. Senate Bill 5342 exempts transit agencies from certain state requirements when purchasing rolling stock and related equipment from state cooperative purchasing contracts established under section 3019 of the FAST Act.

The language allows Washington state agencies or other transit agencies to utilize a state-led cooperative contract, or to join with other states to facilitate a cooperative contract, in order to purchase buses without having to satisfy several administrative requirements previously mandated, including many provisions required as part of state interlocal agreements.

CONGRESSIONAL LEGISLATIVE MATTERS

United States House of Representatives

Authorizes certain federal funds to be used for purchases made through a state or local government held cooperative purchasing contract

Bill disposition: In process.

Language in The Fixing America’s Surface Transportation Act (FAST Act) of 2015 provided for new and innovative procurement options including cooperative purchasing^{xii}, but still did not authorize Federal Transit Administration (FTA) dollars to be used through local government cooperatives. Even though state government cooperatives are allowed, local governments such as cities, counties, and other municipal transportation providers were left out of the legislation—greatly stifling the ability to save time and money and preventing the best possible purchasing solutions for projects funded with FTA dollars.

The bill draft pending before Congress gives the FTA direct authority to authorize that federal funds can be used through state and local government cooperative purchasing contracts. The language has been presented to the FTA who have expressed support for the measure.

Sourcewell and its Congressional legislative representation continue to advocate for the issue’s advancement.

ⁱ Conn. Gen. Stat. § 4a-53

ⁱⁱ Mass. Gen. Laws Ch. 30B § 22

ⁱⁱⁱ Mass. Gen. Laws Ch. 30B § 22

^{iv} Neb. Rev. Stat. § 73-507

^v [Local Finance Notice 2012-10](#)

^{vi} [Assembly Bill A7925A](#)

^{vii} N.Y. Gen. Mun. Law § 103 (16)

^{viii} Ohio Rev. Code § 9.48

^{ix} Ohio Attorney General Opinion [2019-28](#)

^x Tex. Educ. Code § 44.031

^{xi} The Fixing America’s Surface Transportation Act, [Pub. L. No. 114-94, 129 Stat. 1312 \(2016\)](#)

^{xii} Innovative Procurement [FAST Act Section 3019](#)

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