

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

Charleston County School District,Appellant,

v.

Hugh Leatherman, Luther Taylor,
Grady L. Patterson, Jr., Nikki G.
Setzler, Harriette G. Shaw, Steve
Bilton, Jules J. Hesse, Jeffrey
Rosenblum, as officers and members
of the South Carolina Procurement
Review Panel; South Carolina
Procurement Review Panel; Governor
Richard W. Riley, Grady L. Patterson,
Jr., Earle E. Morris, Jr., Rembert C.
Dennis, Tom G. Mangum, and William T.
Putnam, as officers and members of the
South Carolina Budget and Control Board,
Division of General Services; and South
Carolina Budget and Control Board, a
Division of General Services, Respondents,

Appeal From Richland County
Frank P. McGowan, Jr., Judge

Opinion No. 1139
Heard March 21, 1988 - Filed April 11, 1988

AFFIRMED

Daniel T. Brailsford, of Robinson, McFadden, Moore, Pope,
Williams, Taylor & Brailsford, of Columbia, for appellant.

William Hogan Brown, Helen T. McFadden, Attorney General T.
Travis Medlock and Assistant Attorney General Charles W.
Gambrell, Jr., all of Columbia, for respondents.

CURETON, J.: Charleston County School District appeals from the rejection of its proposed procurement code by the Division of General Services of the Budget and Control Board. The District submitted the proposed code to the Division of General Services for approval pursuant to S.C. Code Ann. Section 11-35-70 (1986). General Services did not approve the proposed code because it found the proposed code was not "substantially similar" to the

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South Carolina Consolidated Procurement Code (S.C. Code Ann. Sections 11-35-10 to -5270) due to the small purchase limit in the proposed code. This decision was affirmed by the South Carolina Procurement Review Panel. The School District filed a complaint in circuit court seeking a reversal of the decision of the Procurement Review Panel. The trial court affirmed the Review Panel. The District has appealed the decision of the circuit court. We affirm.

The record indicates General Services rejected the District's proposed procurement code because the One Thousand Dollar (\$1,000) small purchase limit in it did not comply with the Five Hundred Dollar (\$500) small purchase limit in Budget and Control Board Regulation 19-445.2100. The Panel held the regulations concerning competitive pricing were an integral part of the Consolidated Procurement Code. On appeal to the circuit court the District argued the Consolidated Procurement Code by its terms did not contain a \$500 small purchase limit and the District was not required to comply with an administrative regulation on small purchase limits.

The appeal from the Panel to the circuit court was governed by the Administrative Procedure Act. William C. Logan and Assoc. v. Leatherman, 290 S.C. 400, 351 S.E.2d 146 (1986). The order of the Review Panel contained certain factual findings which do not appear to have been challenged in the circuit court and were not excepted to on appeal to this court. Specifically, the record indicates the District makes sixteen thousand (16,000) purchases per year of which eighty-four percent (84%) are under \$500. Approximately 2200 purchases are between \$500 and \$1,000 and approximately 300 purchases are above \$1,000. Under the current procedure 98% of the purchases take place without bidding because they fall under the \$1,000 level. Two persons operate the District's procurement office and both are certified specialists in procurement. The District offered no evidence that adoption of a \$500 limit on small purchases would be an onerous burden on present personnel. No evidence was presented that it would require more personnel or that the \$500 limit would result in lower efficiency and greater cost for purchases.

The crux of the District's argument is that Section 11-35-70 requires the procurement code of the District to be substantially similar to the South Carolina Consolidated Procurement Code but not to the regulations promulgated under the Code. Section 11-35-70 utilizes the phrase "substantially similar to the provisions of the South Carolina Consolidated Procurement Code." The word "regulations" does not appear in the text of the section. S.C. Code Ann. Section 11-35-1550 (1986) deals with small purchases. It provides, in relevant part, that "[a]ny procurement not exceeding the dollar amounts established in regulation and updated periodically by the board may be made by governmental bodies in accordance with small purchase procedures promulgated by the board."

The primary rule of statutory construction requires that legislative intent must prevail if it can reasonably be discovered in the language used construed in light of the intended purpose. Additionally, sections which are part of the same general statutory law of the state should be construed together and each given effect if it can be done by any reasonable construction. Smalls v. Weed, 293 S.C. 364, 360 S.E.2d 531 (Ct. App. 1987); cf. Multi-Cinema Ltd. v. S.C. Tax Comm., 292 S.C. 411, 357 S.E.2d 6 (1987).

Section 11-35-20 defines the purposes and policies of the South Carolina Consolidated Procurement Code. Subsections (c) and (g) point to the fundamental purpose of fostering competition for public procurement. This code section clearly specifies the legislative intent to provide a system of

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competitive procurement laws. Section 11-35-1520(1) states that contracts amounting to \$2,500 or more shall be awarded by competitive sealed bidding except in certain specified situations. One of the specified situations is the small purchase area. S.C. Code Ann. Sections 11-35-1510(6) and 11-35-1550 (1986). As previously stated, Section 11-35-1550 regarding small purchases refers to adopted regulations and procedures although no specific dollar amounts are contained in the statute.

The parties agree Budget and Control Board Regulation 19-445.2100 was in effect when Section 11-35-70 was passed to include certain school districts within the application of the Consolidated Procurement Code. Previously, school districts were not subject to the CPC. S.C. Code Ann. Section 11-35-310(18) (1986). The legislature must be presumed to have been aware of Regulation 19-445.2100 and Section 11-35-1550 when Section 11-35-70 was passed.

It is consistent with the legislative intent of providing a system of competitive procurement laws that the small purchase limit in Regulation 19-445.2100 should be applied to small purchases in the proposed procurement code of the District. Under the facts of this case, a contrary determination would permit approximately 98% of the purchases of the District to escape the competitive procurement system. Further, the District has presented no evidence of prejudice to it by application of the limit.

The decision of the circuit court is

AFFIRMED.

SHAW and GOOLSBY, JJ., concur.