

LEGISLATIVE BILL 974

Approved by the Governor April 2, 2014

Introduced by Mello, 5; Campbell, 25; Harms, 48; Krist, 10.

FOR AN ACT relating to state government; to amend sections 77-2215, 79-1145, 81-153, 81-181, 81-1111.01, and 81-3110, Reissue Revised Statutes of Nebraska, sections 73-507, 81-132, 81-1018, 81-1113, and 81-1125.01, Revised Statutes Cumulative Supplement, 2012, and section 81-3133, Revised Statutes Supplement, 2013; to provide an exception to certain requirements for contracts for services; to change and eliminate provisions for duplicate warrants; to change limitations on the appropriation of General Funds for special education; to eliminate obsolete provisions regarding budget forms; to change a duty for the materiel division of the Department of Administrative Services; to change report requirements under the Deferred Building Renewal Act; to change provisions relating to state-owned vehicles; to provide and change reporting requirements for the Department of Health and Human Services; to change provisions relating to agency preaudits; to change powers and duties of the Department of Administrative Services; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 73-507, Revised Statutes Cumulative Supplement, 2012, is amended to read:

73-507 (1) Subject to review by the Director of Administrative Services, the division shall provide procedures to grant limited exceptions from sections 73-504, 73-508, and 73-509 for:

~~(a) Sole source and emergency contracts; and~~

(a) Sole source contracts, emergency contracts, and contracts for services when the price has been established by the federal General Services Administration or competitively bid by another state or group of states, a group of states and any political subdivision of any other state, or a cooperative purchasing organization on behalf of a group of states; and

(b) Other circumstances or specific contracts when any of the requirements of sections 73-504, 73-508, and 73-509 are not appropriate for or are not compatible with the circumstances or contract. The division shall provide a written rationale which shall be kept on file when granting an exception under this subdivision.

(2) The following types of contracts for services are not subject to sections 73-504, 73-508, 73-509, and 73-510:

(a) Contracts for services subject to the Nebraska Consultants' Competitive Negotiation Act;

(b) Contracts for services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;

(c) Contracts for professional legal services and services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;

(d) Contracts involving state or federal financial assistance passed through by a state agency to a political subdivision;

(e) Contracts with a value of fifteen million dollars or less with direct providers of medical, behavioral, or developmental health services, child care, or child welfare services to an individual;

(f) Agreements for services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public;

(g) Agreements for services between a state agency and the University of Nebraska, the Nebraska state colleges, the courts, the Legislature, or other officers or state agencies established by the Constitution of Nebraska;

(h) Department of Insurance contracts for financial or actuarial examination, for rehabilitation, conservation, reorganization, or liquidation of licensees, and for professional services related to residual pools or excess funds under the agency's control;

(i) Department of Roads contracts for all road and bridge projects;

(j) Nebraska Investment Council contracts; and

(k) Contracts under section 57-1503.

Sec. 2. Section 77-2215, Reissue Revised Statutes of Nebraska, is amended to read:

77-2215 (1) Whenever it shall be made to appear to the satisfaction of any officer, except the Director of Administrative Services, authorized by law to issue warrants, that any warrant issued by him or her has been lost or destroyed, such officer shall have authority to issue a duplicate replacement thereof, ~~numbered the same as the original, with the word duplicate written or printed in red ink across the face thereof.~~ No duplicate replacement warrant shall be issued until the party applying for the same shall make an affidavit that such party was the owner of the original warrant and shall also file with such officer an indemnity bond with good and sufficient security, conditioned to refund any money received by the party or his or her assigns on such duplicate replacement in case of presentation and payment of the original by the treasurer upon whom the same is drawn, whether upon a genuine endorsement thereon or otherwise. The payee of any lost or destroyed warrant shall not be required to file an indemnity bond when the affidavit shows that such payee has not received such lost or destroyed warrant and cannot reasonably expect to receive it.

(2) Whenever it shall have come to the attention of the Director of Administrative Services that an outstanding warrant has not been presented for payment, the Director of Administrative Services shall immediately issue a stop-payment order and notify the State Treasurer, ~~by letter,~~ of the issuance of such order. After the expiration of seven working days from the issuance of such order, if in the meantime such outstanding warrant has not been presented for payment, the Director of Administrative Services shall have authority to issue a duplicate replacement thereof, ~~numbered the same as the original, with the word duplicate written or printed in red ink across the face thereof.~~ In an emergency, the Director of Administrative Services may immediately issue such duplicate replacement warrant.

Sec. 3. Section 79-1145, Reissue Revised Statutes of Nebraska, is amended to read:

79-1145 (1) For each fiscal year prior to fiscal year 2014-15, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, multiplied by one plus a rate of increased by five percent.

(2) For fiscal year 2014-15 and each fiscal year thereafter, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by ten percent.

Sec. 4. Section 81-132, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-132 All departments, offices, and institutions of the state government requesting appropriations shall file in the office of the Director of Administrative Services the budget forms furnished them by the director under the provisions of sections 81-1113 and 81-1113.01. The budget forms required by this section shall be filed on or before September 15 of each even-numbered year, ~~except that in 2002, the budget administrator of the budget division of the Department of Administrative Services may extend the filing deadline for budget forms to a date no later than October 15, 2002.~~ The forms shall show their total estimated requirements for the next biennium for each unit of their organization and activity classified as to object of expenditure. With such forms, each department, office, institution, and expending agency shall file a report showing all money received by such department, office, institution, or expending agency together with the estimated receipts for the coming biennium. Such estimates shall be accompanied by a statement in writing giving facts and explanations of reasons for each item of increased appropriation requested. The report submitted by the Department of Health and Human Services shall include, but not be limited to, the key goals, benchmarks, and progress reports required pursuant to section 81-3133 and sections 12 to 14 of this act.

Sec. 5. Section 81-153, Reissue Revised Statutes of Nebraska, is amended to read:

81-153 The materiel division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the personal property required by the using agencies and the state;

(2) Promulgate, apply, and enforce standard specifications established as provided in section 81-154;

(3) Sell and dispose of personal property that is not needed by the state or its using agencies as provided in section 81-161.04 or initiate

trade-ins when determined to be in the best interest of the state;

(4) Determine the utility, quality, fitness, and suitability of all personal property tendered or furnished;

(5) Make rules and regulations consistent with sections 81-145 to 81-171 and 81-1118 to 81-1118.06 to carry into effect the provisions thereof. Such rules and regulations shall include provisions for modifying and terminating purchase contracts and the cost principles to be used in such modification or termination;

(6) Employ such clerical, technical, and other assistants as may be necessary to properly administer such sections, fix their compensation, and prescribe their duties in connection therewith, subject to existing laws and appropriations;

(7) Allow the purchase of ~~items~~ personal property without competitive bidding when the price has been established by the federal General Services Administration or to allow the purchase of ~~items~~ personal property by participation in a contract competitively bid by another state or group of states, a group of states and any political subdivision of any other state, or a cooperative purchasing organization on behalf of a group of states. The division may also give consideration to a sheltered workshop pursuant to section 48-1503 in making such purchases;

(8) Enter into any personal property lease agreement when it appears to be in the best interest of the state; and

(9) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding.

Sec. 6. Section 81-181, Reissue Revised Statutes of Nebraska, is amended to read:

81-181 (1) Not later than ~~December~~ September 15 of each ~~even-numbered~~ year, each agency shall submit to the Governor, in the form prescribed by him or her, a report of its proposed building renewal projects for the next ~~fiscal year~~ biennium. Such report shall contain the information specified in section 81-177 and shall constitute a request for the allocation of funds from the Building Renewal Allocation Fund. Such report shall also constitute, as applicable, a request for the allocation of funds from the State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, or State College Building Renewal Assessment Fund. The Governor shall, with the advice of the task force, allocate from such funds the sum necessary for the accomplishment of projects approved by him or her. Allocations from the Building Renewal Allocation Fund shall be made in a manner that assures accomplishment of Class I projects first, followed by accomplishment of Class II projects, and then accomplishment of Class III projects, unless doing so in a particular case would violate sound building renewal policies and practices. The amount of such allocation shall not be transferred to the agency but shall remain within, as applicable, the Building Renewal Allocation Fund, State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, or State College Building Renewal Assessment Fund subject to the control of the Governor until disbursed consistent with the provisions of the Deferred Building Renewal Act.

(2) The University of Nebraska and the state colleges may include in their reports under subsection (1) of this section their proposed building renovation projects that have received approval of the Coordinating Commission for Postsecondary Education, if required pursuant to section 85-1414, for the coming ~~fiscal year~~ biennium as authorized by section 81-188.03 or 81-188.05, as applicable, which shall constitute requests for allocation of funds for such proposed projects from the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable. The Governor, with the advice of the task force, shall allocate from the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable, the sum necessary for the accomplishment of the renovation projects approved by him or her. Such allocations shall not be transferred to the University of Nebraska or the state college or colleges making the request but shall remain in the University Building Renewal Assessment Fund or the State College Building Renewal Assessment Fund, as applicable, subject to the control of the Governor until disbursed pursuant to the Deferred Building Renewal Act.

Sec. 7. Section 81-1018, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-1018 (1) The Legislature hereby declares that the purpose and intent of this section are to take positive steps to reduce the consumption of gasoline in this state and to make the most efficient and economical use of the nation's resources and the state's funds.

(2) After August 24, 1975, all state-owned vehicles that are passenger cars purchased, leased, rented, or approved for purchase, lease,

or rent by the bureau shall be of the intermediate, compact, or subcompact class. Not less than fifty percent of such state-owned vehicles shall be of the compact or subcompact class unless the costs to operate and maintain such vehicles are not to the advantage of the state or such requirement fails to meet the intent of sections 81-1008 to 81-1025. For purposes of this section, classes shall be as defined by motor vehicle manufacturers.

Sec. 8. Section 81-1111.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1111.01 For agencies with fewer than seven full-time employees, preaudits shall be conducted by the accounting bureau or by a state agency authorized by the Director of Administrative Services to conduct its own preaudits. The Director of Administrative Services may authorize departments and agencies that have seven or more full-time employees to perform their own preaudits, subject to monitoring by the accounting bureau. The preaudits shall be performed in accordance with the provisions of subdivisions (3)(a) through (f) of section 81-1111.

Sec. 9. Section 81-1113, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-1113 The budget division shall prepare the executive budget in accordance with the wishes and policies of the Governor. The budget division shall have the following duties, powers, and responsibilities:

(1) Shall prescribe the forms and procedures to be employed by all departments and agencies of the state in compiling and submitting their individual budget requests and shall set up a budget calendar which shall provide for (a) the date, not later than July 15 of each even-numbered year, for distribution of instructions, (b) the date by which time requests for appropriations by each agency shall be submitted, and (c) the period during which such public hearings as the Governor may elect shall be held for each department and agency. The budget request shall be submitted each even-numbered year no later than the date provided in section 81-132, shall include the intended receipts and expenditures by programs, subprograms, and activities and such additional information as the administrator may deem appropriate for each fiscal year, shall be made upon a biennial basis, and shall include actual receipts and actual expenditures for each fiscal year of the most recently completed biennium and the first year of the current biennium and estimates for the second year of the current biennium and each year of the next ensuing biennium;

(2) Shall work with each governmental department and agency in developing performance standards for each program, subprogram, and activity to measure and evaluate present as well as projected levels of expenditures. The budget division shall also work with ~~the Division of Children and Family Services of~~ the Department of Health and Human Services to develop key goals, benchmarks, and methods of quantification of progress required pursuant to section 81-3133 and sections 12 to 14 of this act;

(3) Shall, following passage of legislative appropriations, be responsible for the administration of the approved budget through budgetary allotments;

(4) Shall be responsible for a monthly budgetary report for each department and agency showing comparisons between actual expenditures and allotments, which report shall be subject to review by the director and budget administrator; and

(5) Shall be responsible for the authorization of employee positions. Such authorizations shall be based on the following:

(a) A requirement that a sufficient budget program appropriation and salary limitation exist to fully fund all authorized positions;

(b) A requirement that permanent full-time positions which have been vacant for ninety days or more be reviewed and reauthorized prior to being filled. If requested by the budget division, the personnel division of the Department of Administrative Services shall review such vacant position to determine the proper classification for the position;

(c) A requirement that authorized positions accurately reflect legislative intent contained in legislative appropriation and intent bills; and

(d) Other relevant criteria as determined by the budget administrator.

Sec. 10. Section 81-1125.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-1125.01 It shall be the duty of the Director of Administrative Services to digest, prepare, and report to the Governor, the Tax Commissioner, and the Clerk of the Legislature, and the Legislative Fiscal Analyst, at least twenty days before the commencement of each regular session of the Legislature:

(1) A full and detailed statement of The Annual Budgetary Report showing the condition of the treasury, and the amount of the expenditures for the last fiscal year;

(2) A full and detailed statement of the public debt, The Comprehensive Annual Financial Report showing fully all liabilities and resources of the state; and

(3) Such plans as he or she may deem expedient for (a) the support of public credit, (b) lessening the public expenses, (c) using the public money to the best advantage, (d) promoting frugality and economy in public offices, and generally for the better management and more perfect understanding of the fiscal affairs of the state, and (e) securing uniformity and efficiency in the levying and collecting of taxes, systematizing the work to be done by officers having duties to perform under the revenue law.

The ~~report reports~~ submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of the ~~report reports~~ required by this section by making a request for it to the director.

Sec. 11. Section 81-3110, Reissue Revised Statutes of Nebraska, is amended to read:

81-3110 Sections 81-3110 to 81-3124 and sections 12 to 14 of this act shall be known and may be cited as the Health and Human Services Act.

Sec. 12. (1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Behavioral Health of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the division with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (2) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Behavioral Health of the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Sec. 13. (1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Developmental Disabilities of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the division with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (2) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Developmental Disabilities of the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Sec. 14. (1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the division with the assistance of the budget division of the Department of Administrative

Services pursuant to subdivision (2) of section 81-1113.

(2) Not later than September 15, 2015, and not later than September 15, 2017, the Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this section that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Sec. 15. Section 81-3133, Revised Statutes Supplement, 2013, is amended to read:

81-3133 (1) (a) On or before July 30, 2012, the Division of Children and Family Services of the Department of Health and Human Services shall report in writing its expenditures between January 1, 2012, and June 30, 2012, and the outcomes relating to such expenditures to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(b) Beginning with the third calendar quarter of 2012, the division shall report electronically its expenditures for each quarter and the outcomes relating to such expenditures within thirty days after the end of the quarter to the Appropriations Committee of the Legislature and the Health and Human Services Committee of the Legislature. Such report shall identify any changes or movement of funds in excess of two hundred fifty thousand dollars relating to child welfare between subprograms within Budget Program 347 and Budget Program 354.

(2) (a) For the biennium ending June 30, 2015, ~~and the biennium ending June 30, 2017,~~ and the biennium ending June 30, 2019, the Division of Children and Family Services of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals for the state as a whole and for each Department of Health and Human Services service area designated pursuant to section 81-3116. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the Division of Children and Family Services with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (2) of section 81-1113.

(b) Not later than September 15, 2013, ~~and not later than September 15, 2015,~~ and not later than September 15, 2017, the Division of Children and Family Services of the Department of Health and Human Services shall report electronically to the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this subsection that occurred in the previous twelve months. The division shall annually appear at a joint hearing of the two legislative committees and present the report.

Sec. 16. Original sections 77-2215, 79-1145, 81-153, 81-181, 81-1111.01, and 81-3110, Reissue Revised Statutes of Nebraska, sections 73-507, 81-132, 81-1018, 81-1113, and 81-1125.01, Revised Statutes Cumulative Supplement, 2012, and section 81-3133, Revised Statutes Supplement, 2013, are repealed.

Sec. 17. Since an emergency exists, this act takes effect when passed and approved according to law.