

LEGISLATIVE BILL 828

Approved by the Governor March 1, 1988

Introduced by Coordsen, 32; Wehrbein, 2

AN ACT relating to counties; to amend section 23-135, Reissue Revised Statutes of Nebraska, 1943, and sections 23-3101, 23-3102, 23-3104, 23-3106, and 23-3107, Revised Statutes Supplement, 1986; to authorize approval of payment for certain property; to provide for the sale of surplus personal property which is obsolete or not usable as prescribed; to define a term; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 23-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-135. (1) All claims against a county ~~must~~ shall be filed with the county clerk within ninety days ~~from and after a the~~ time when any materials or labor, which form the basis of the claims, ~~shall~~ have been furnished or performed, except that (a) ; PROVIDED; the fees of jurors serving in the district courts shall be paid as provided for in section 23-131 and (b) payment may be approved as provided in subsection (2) of this section.

(2) A county board may by resolution approve the payment for a particular piece of personal property prior to the receipt of such property by the county. A county board may by resolution approve the payment for a particular piece of real or personal property at the auction at which such property is sold if the resolution states the maximum amount which the county may bid for the particular piece of real or personal property.

(3) When the claim of any person against the county is disallowed in whole or in part by the county board, such person may appeal from the decision of the board to the district court of the same such county; by causing a written notice to be served on the county clerk; within twenty days after making such decision and executing a bond to such county, with sufficient security, to be approved by the county clerk, conditioned for the faithful prosecution of such appeal; and the payment of all costs that shall be adjudged

against the appellant. Upon the disallowance of any claim, it shall be the duty of the county clerk to notify the claimant, his or her agent, or his or her attorney in writing of the fact within five days after such disallowance. Notice mailed within said such time shall be deemed sufficient. In 7 PROVIDED; in a county having with a county comptroller, all claims must shall be filed with said the comptroller and not with the county clerk, and when an appeal is taken, it shall be the duty of the county clerk to notify the county comptroller of such appeal immediately in writing.

Sec. 2. (1) The county board or the purchasing agent, with the approval of the county board, may authorize a county official or employee to sell surplus personal property which is obsolete or not usable by the county, other than mobile equipment, having a value of less than five hundred dollars. In making such authorization, the county board or purchasing agent may place any restriction on the type or value of property to be sold, restrict such authority to a single transaction or to a period of time, or make any other appropriate restrictions or conditions.

(2) Any county official or employee granted the authority to sell surplus personal property which is obsolete or not usable by the county as prescribed in subsection (1) of this section shall make a written report to the county board within thirty days after the end of the fiscal year reflecting, for each transaction, the item sold, the name and address of the purchaser, the price paid by the purchaser for each item, and the total amount paid by the purchaser.

(3) The money generated by any sales authorized by this section shall be payable to the county treasurer and shall be credited to the funds of the department, office, or agency to which the property belonged.

(4) No person authorized by the county board or purchasing agent to make such sales shall be authorized to make or imply any warranty of any kind whatsoever as to the nature, use, condition, or fitness for a particular purpose of any property sold pursuant to this section. Any person making sales authorized by this section shall inform the purchaser that such property is being sold as is without any warranty of any kind whatsoever.

Sec. 3. That section 23-3101, Revised Statutes Supplement, 1986, be amended to read as follows:

23-3101. Sections 23-3101 to 23-3114 and

section 2 of this act shall be known and may be cited as the County Purchasing Act.

Sec. 4. That section 23-3102, Revised Statutes Supplement, 1986, be amended to read as follows:

23-3102. The purpose of the County Purchasing Act is to provide a uniform purchasing procedure for county purchases of equipment, supplies, other items of personal property, and services and to provide for county sales of surplus personal property which is obsolete or not usable by the county.

Sec. 5. That section 23-3104, Revised Statutes Supplement, 1986, be amended to read as follows:

23-3104. As used in the County Purchasing Act, unless the context otherwise requires:

(1) Mobile equipment shall mean all vehicles propelled by any power other than muscular, including, but not limited to, motor vehicles, off-road designed vehicles, motorcycles, passenger cars, self-propelled mobile homes, truck-tractors, trucks, cabin trailers, semitrailers, trailers, utility trailers, and road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors;

(2) Personal property shall include, but not be limited to, supplies, materials, and equipment used by or furnished to any county officer, office, department, institution, board, or other agency of the county government;

~~(2)~~ (3) Services shall mean election contractual services and any and all telephone, telegraph, postal, and electric light and power service and other similar services; and

~~(3)~~ (4) Purchasing or purchase shall mean the obtaining of personal property or services by sale, lease, or other contractual means. Purchase shall also include contracting with sheltered workshops for products or services as provided in Chapter 48, article 15.

Sec. 6. That section 23-3106, Revised Statutes Supplement, 1986, be amended to read as follows:

23-3106. The purchasing agent, under the supervision of the county board, or the county board, if there is no purchasing agent, shall purchase all

personal property and services required by any office, officer, department, or agency of the county government in the county, subject to the County Purchasing Act. The purchasing agent or the county board, if there is no purchasing agent, shall draw up and enforce standard specifications which shall apply to all personal property purchased for the use of the county government, shall have charge of all central storerooms operated or established by the county board, and shall transfer personal property to or between the several county offices, officers, and departments, and shall sell ~~personal property which is surplus, obsolete, or unused.~~ Sec. 7. That section 23-3107, Revised Statutes Supplement, 1986, be amended to read as follows:

23-3107. The county board or purchasing agent, subject to the approval of the county board, shall: (1) Prescribe the manner in which personal property shall be purchased, delivered, and distributed; (2) prescribe dates for making estimates, the future period which they are to cover, the form in which they are submitted, and the manner of their authentication; (3) revise forms from time to time as conditions warrant; (4) provide for the transfer to and between county departments and agencies of personal property which is surplus with one department or agency but which may be needed by another or others; (5) dispose of by sale personal property which has been declared by the county board to be surplus and which is obsolete or not usable by the county. Such property with a value of less than five hundred dollars may be sold without competitive bidding. Property with a value of five hundred dollars or more shall be sold through competitive bidding; dispose of by sale, after receipt of competitive bids, personal property which has been declared obsolete and unusable by the county board; (6) prescribe the amount of cash deposit or bond to be submitted with a bid on a contract and the amount of deposit or bond to be given for the performance of a contract, if the amount of the bond is not specifically provided by law; and (7) prescribe the manner in which claims for personal property or services delivered to any department or agency of the county shall be submitted, approved, and paid.

Sec. 8. That original section 23-135, Reissue Revised Statutes of Nebraska, 1943, and sections 23-3101, 23-3102, 23-3104, 23-3106, and 23-3107, Revised Statutes Supplement, 1986, are repealed.