

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 636

Introduced by Natural Resources Committee: Louden, 49, Chairperson;
Carlson, 38; Christensen, 44; Dubas, 34; Fischer, 43;
Hudkins, 21; Kopplin, 3; Wallman, 30;

Read first time January 17, 2007

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to public power districts; to amend section
2 70-637, Revised Statutes Cumulative Supplement, 2006;
3 to exempt specified contracts with electric utilities
4 or electric utility alliances from certain bidding
5 requirements; to harmonize provisions; and to repeal
6 the original section.

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

1 Section 1. Section 70-637, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 70-637 (1) A district shall cause estimates of the costs
4 to be made by some competent engineer or engineers before the
5 district enters into any contract for: Before any district enters
6 into any contract for the

7 (a) The construction, reconstruction, remodeling,
8 building, alteration, maintenance, repair, extension, or
9 improvement, for the use of the district, of any:

10 (i) Power ~~power~~ plant or system; ~~any hydrogen~~

11 (ii) Hydrogen production, storage, or distribution
12 system;

13 (iii) Ethanol ~~any ethanel~~ production or distribution
14 system;

15 (iv) Irrigation ~~any irrigation works;~~ or any part

16 (v) Part or section thereof for the use of the district
17 of a system or works described in subdivisions (i) through (iv) of
18 this subdivision (a); or

19 (b) The purchase ~~for the purchase~~ of any materials,
20 machinery, or apparatus to be used in the projects described in
21 subdivision (1)(a) of this section.

22 (2) If the ~~such construction, reconstruction, remodeling,~~
23 building, alteration, maintenance, repair, extension, or
24 improvement, such district shall cause estimates of the cost
25 thereof to be made by some competent engineer or engineers. If such

1 estimated cost exceeds the sum of one hundred thousand dollars, no
2 such contract shall be entered into without advertising for sealed
3 bids. ~~7 except that (1)~~

4 (3) Notwithstanding the provisions of subsection (2) of
5 this section and sections 70-638 and 70-639, the board of directors
6 of the district may negotiate directly with sheltered workshops
7 pursuant to section 48-1503.

8 (4) (a) The provisions of subsection (2) of this section
9 and sections 70-638 and 70-639 relating to sealed bids shall
10 not apply and (2) with respect to (i) contracts entered into
11 by a district in the exercise of its rights and powers relating
12 to radioactive material or the energy therefrom, to (ii) any
13 technologically complex or unique equipment contracts, or to (iii)
14 any contract to procure equipment or supplemental labor from an
15 electric utility or from or through an electric utility alliance,
16 or (iv) any maintenance or repair contracts, if the requirements of
17 subdivisions (b) and (c) of this subsection are met.

18 (b) A contract described in subdivision (a) of this
19 subsection need not comply with subsection (2) of this section or
20 section 70-638 or 70-639 if:

21 (i) The ~~the~~ engineer or engineers certify that, by reason
22 of the nature of the subject matter of the contract, compliance
23 with subsection (2) of this section would be impractical and or not
24 in the public interest; and

25 (ii) The ~~the~~ engineer's certification is approved by a

1 two-thirds vote of the board; and

2 (iii) The ~~the~~ provisions of sections 70-637 to 70-639
3 relating to sealed bids shall not apply and the district shall
4 ~~advertise~~ advertises notice of its intention to enter into such
5 contract, the general nature of the proposed work, and the name
6 of the person to be contacted for additional information by anyone
7 interested in contracting for such work.

8 (c) Any contract for which the board has approved ~~such~~
9 an engineer's certificate described in subdivision (b) of this
10 subsection shall be advertised in three issues not less than
11 seven days between issues in one or more newspapers of general
12 circulation in the district and in such additional newspapers or
13 trade or technical periodicals as may be selected by the board in
14 order to give proper notice of its intention to enter into such
15 contract, and any such contract shall not be entered into prior to
16 twenty days after the last advertisement.

17 (5) The provisions of subsection (2) of this section
18 and sections 70-638 and 70-639 shall not apply ~~With respect~~
19 to contracts in excess of one hundred thousand dollars entered
20 into for the purchase of any materials, machinery, or apparatus
21 to be used in projects described in subdivision (1)(a) of this
22 section and the construction, reconstruction, remodeling, building,
23 alteration, maintenance, repair, extension, or improvement of
24 any power plant or system, any hydrogen production, storage,
25 or distribution system, any ethanol production or distribution

1 ~~system, any irrigation works, or any part or section thereof~~ when
2 the contract does not include onsite labor for the installation
3 thereof, if, after advertising for sealed bids: ~~ne~~

4 (a) No responsive bids are received; or

5 (b) The ~~if the~~ board of directors of such district
6 determines that all bids received are in excess of the fair market
7 value of the subject matter of such bids. ~~sections 70-637 to~~
8 ~~70-639 shall not apply.~~

9 (6) Notwithstanding any other provision of subsection
10 (2) of this section or sections 70-637 to 70-638 and 70-639,
11 a district may, without advertising or sealed bidding, purchase
12 replacement parts or services relating to such replacement parts
13 for any generating unit, transformer, or other transmission and
14 distribution equipment from the original manufacturer of such
15 equipment upon certification by an engineer or engineers that
16 such manufacturer is the only available source of supply for
17 such replacement parts or services and that such purchase is in
18 compliance with standards established by the board. A written
19 statement containing such certification and a description of the
20 resulting purchase of replacement parts or services from the
21 original manufacturer shall be submitted to the board by the
22 engineer or engineers certifying the purchase for the board's
23 approval. After such certification, but not necessarily before
24 the board review, notice of any such purchase shall be published
25 once a week for at least three consecutive weeks in one or more

1 newspapers of general circulation in the district and published in
2 such additional newspapers or trade or technical periodicals as may
3 be selected by the board in order to give proper notice of such
4 purchase.

5 (7) Notwithstanding any other provision of subsection (2)
6 of this section or sections 70-637 to 70-638 and 70-639, a district
7 may, without advertising or sealed bidding, purchase used equipment
8 and materials on a negotiated basis ~~without advertising or sealed~~
9 ~~bidding~~ upon certification by an engineer that such equipment is or
10 such materials are in compliance with standards established by the
11 board. A written statement containing such certification shall be
12 submitted to the board by the engineer for the board's approval.

13 Sec. 2. Original section 70-637, Revised Statutes
14 Cumulative Supplement, 2006, is repealed.