

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 372

Introduced by Mello, 5; Janssen, 15; Karpisek, 32; Seiler, 33.

Read first time January 18, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Department of Administrative Services; to
2 adopt the Buy Nebraska Act; to eliminate provisions
3 relating to resident bidder preferences; and to outright
4 repeal sections 73-101.01 and 73-101.02, Reissue Revised
5 Statutes of Nebraska.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and
2 may be cited as the Buy Nebraska Act.

3 Sec. 2. For purposes of the Buy Nebraska Act:

4 (1) Department means the Department of Administrative
5 Services;

6 (2) Nebraska business means a business:

7 (a) Whose principal place of business is located in this
8 state;

9 (b) That pays a majority of its payroll, in dollar
10 volume, to residents of this state;

11 (c) That employs residents of this state as a majority of
12 its employees;

13 (d) That makes significant capital investments in this
14 state; or

15 (e) That has a substantial positive economic impact on
16 this state as defined by criteria developed pursuant to section 3 of
17 this act; and

18 (3) Out-of-state business means a business that is not a
19 Nebraska business.

20 Sec. 3. The Department of Administrative Services shall
21 consult with the Department of Economic Development in developing
22 criteria for determining whether a business has a substantial
23 positive economic impact on this state.

24 Sec. 4. (1) The following price preferences for goods and
25 services purchased from a Nebraska business under the Buy Nebraska

1 Act are as follows:

2 (a) Five percent for a purchase expected by the
3 department to be less than five hundred thousand dollars;

4 (b) Three percent for a purchase expected by the
5 department to be at least five hundred thousand dollars but less than
6 one million dollars; and

7 (c) One percent for a purchase expected by the department
8 to be at least one million dollars.

9 (2) If a Nebraska business offers to provide goods
10 manufactured, assembled, or produced in this state, and if two or
11 more bids submitted were the same, the following price preference is
12 available to the Nebraska business, in addition to the price
13 preference available under subsection (1) of this section:

14 (a) Three percent for a purchase expected by the
15 department to be less than five hundred thousand dollars;

16 (b) Two percent for a purchase expected by the department
17 to be at least five hundred thousand dollars but less than one
18 million dollars; and

19 (c) One percent for a purchase expected by the department
20 to be at least one million dollars.

21 (3) The department shall adopt and promulgate rules and
22 regulations under the act to establish guidelines for determining
23 when goods are deemed to be manufactured, assembled, or produced in
24 this state.

25 (4) If the laws of this state require the department to

1 prepare a request for proposals, the department shall establish a
2 procedure and point scale for the awarding of points for each
3 offeror, including additional points awarded for Nebraska businesses.

4 Sec. 5. The department shall adopt and promulgate rules
5 and regulations to create a preference for a Nebraska business that
6 submits an offer for a purchase if an out-of-state business submits
7 an offer for the purchase and the out-of-state business is a business
8 from a state that gives purchase preferences unfavorable to Nebraska
9 businesses. Such rules and regulations shall:

10 (1) Establish criteria for determining the following:

11 (a) Whether an offeror qualifies as a Nebraska business
12 under the act;

13 (b) When another state's preference is unfavorable to
14 Nebraska businesses; and

15 (c) The method by which the preference for Nebraska
16 businesses is to be calculated;

17 (2) Not give a preference to a Nebraska business that is
18 more favorable to the Nebraska business than another state's
19 preference is to the other state's business; and

20 (3) Provide that a contract shall be awarded to the
21 lowest responsive and responsible offeror, regardless of the
22 preference provided under this section, if:

23 (a) The offeror is a Nebraska business; or

24 (b) The offeror is a business from a state that borders
25 this state and the offeror's home state does not provide a preference

1 to the home state's businesses more favorable than that which is
2 provided by this state to Nebraska businesses.

3 Sec. 6. The department shall allow a preference under
4 either section 4 or 5 of this act based upon which of the preferences
5 would result in the greatest benefit for the Nebraska business.

6 Sec. 7. A business that wants to claim a preference under
7 the Buy Nebraska Act shall:

8 (1) State in the business's bid that the business claims
9 the preference provided by the act;

10 (2) Provide the following information to the department:

11 (a) The location of the business's principal place of
12 business. The business shall provide a statement explaining the
13 reasons that the business considers the location named as the
14 business's principal place of business;

15 (b) The amount of the business's total payroll and the
16 amount of the business's payroll paid to residents of this state;

17 (c) The number of the business's employees and the number
18 of the business's employees who are residents of this state;

19 (d) A description of the capital investments made in this
20 state and a statement of the amount of such capital investments; and

21 (e) A description of the substantial positive economic
22 impact that the business has on this state.

23 Sec. 8. The Buy Nebraska Act does not apply to (1) any
24 bid, proposal, or offer submitted pursuant to the State Lottery Act
25 or (2) any contract for any project upon which federal funds would be

1 withheld because of the provisions of the act.

2 Sec. 9. The following sections are outright repealed:
3 Sections 73-101.01 and 73-101.02, Reissue Revised Statutes of
4 Nebraska.