



**Ninety-Eighth Legislature - First Session - 2003**  
**Committee Statement**  
**LB 626**

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**Hearing Date:** February 13, 2003

**Committee On:** Government, Military and Veterans Affairs

**Introducer(s):** (Preister, Bourne, Bromm, Connealy, Jensen, Redfield, Schimek, Stuhr, Wehrbein)

**Title:** Provide requirements for contracts for services

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**Roll Call Vote – Final Committee Action:**

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

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**Vote Results:**

7	Yes	Senators Aguilar, Brown, Burling, Combs, McDonald, Schimek, Smith
1	No	Senator Vrtiska
0	Present, not voting	
0	Absent	

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**Proponents:**

Senator Don Preister  
Lori McClurg  
John Albin  
Barbara Heckman  
Tim Wagner  
Dick Nelson

**Representing:**

Introducer  
Department of Administrative Services  
Department of Labor  
Foster Care Review Board  
Department of Insurance  
Health and Human Services System

**Opponents:**

**Representing:**

**Neutral:**

Mark Brohman

**Representing:**

Game and Parks Commission

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**Summary of purpose and/or changes:**

This bill creates a process of selecting and bidding service contracts entered into by the state.

**Section 1:** The purpose of the act is to establish a standardized, open and fair process of selecting contractual services and to create an accurate report of funds spent on these contracts. There will be an accountable, efficient reporting method of all expenditures for these services.

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**Section 2:** Defines contracts for services, emergency, personal service contract, materiel division, service contract and sole source.

**Section 3:** All state agencies will process and document all contracts for services through the NIS system (the state accounting system.) Beginning April 1, 2003, all state agencies will enter information on new contracts for services and amendments to existing contracts. No later than August 31, 2003, all state agencies will have entered information about all contracts for services made prior to April 1, 2003.

**Section 4:** All state agencies will comply with the review and competitive bidding requirements. No state agency will expend funds for contracts for services unless the state agency has complied with the provisions in this bill.

All contracts for services over \$25,000 will be competitively bid at the agency level in the manner prescribed by materiel or a process approved by DAS.

All contracts for services over \$50,000 will be preapproved by the material division and competitively bid at the agency level in the manner prescribed by materiel or a process approved by DAS.

**Section 5:** State agency contracts for services will be subject to the following requirements:

- All proposed sole sources service contracts will be preapproved by the materiel division except in emergencies. The bill outlines the procedure when an emergency exists.
- Agency directors will be responsible for maintaining an accurate accounting of the process used for selection of all contracts for services.
- Agency directors will be responsible for ensuring contract compliance, including, that services under the contract are being performed, no payments are made until deliverables are received and that contracts are coded appropriately into NIS.
- State agencies may not enter into contracts for services with an unspecified or unlimited duration.
- State agencies may not structure contracts for services to avoid any of these requirements.
- Agency directors, in cooperation with materiel, will be responsible for appropriate public notice of an impending project.
- Agency directors, in cooperation with materiel, will be responsible for ensuring preparation of a request for contracts for services to be filed with the materiel division for dissemination to interested vendors.
- The materiel division will be the repository of all contracts for services.

**Section 6:** The materiel division will provide procedures to grant limited exceptions for sole source, emergency and other unique circumstances.

**Section 7:** The following are not subject to this bill:

- University of Nebraska
- Nebraska state colleges
- Legislature, courts and constitutional officers
- Department of Roads; and
- Division of communication and state building division of DAS.

**Section 8:** This bill has an emergency clause.

**Explanation of amendments, if any:**

The committee amendment replaces all original sections of LB 626.

State agencies will process the document all services contracts through the state accounting system. Beginning April 1, 2003, all state agencies will enter all the information on new service contracts. No later than August 31, 2003, all state agencies will have entered information about all services contracts made prior to April 1, 2003.

The materiel division of the Department of Administrative Services will establish written policies for state agencies to follow in awarding services contracts. For any services contract, a state agency may either conduct the contract bidding or ask the materiel division to conduct the process.

State agencies may enter into services contracts valued at \$50,000 or more only if the service is:

- Required by state or federal law or rule or regulation;
- Specialized or not needed regularly enough to warrant permanent staff;
- Necessary for workload management, such as a temporary workload increase or in an emergency; or
- More cost effective provided by contract.

An agency director will apply to the materiel division for approval of contract when a services contract is estimated to be valued at \$50,000 or more. The amendment outlines what the application will contain. The materiel division has 30 business days to approve or disapprove the request to contract. The materiel division may only disapprove a request to contract if the reasons for contracting provided by the agency is inadequate.

Service contracts over \$50,000 will be let by competitive bid unless the contracting agency receives an exemption from the materiel division. The materiel division will establish policy for determining when an exemption is granted. The amendment outlines when the materiel division may provide for an exemption. The materiel division will make the final determination on whether service contracts must be let by competitive bid.

The Director of Administrative Services will establish a centralized data base, either through the state accounting system or an alternative system which identifies where a copy of each services contract may be located.

For all service contracts, state agencies will:

- Document the bidding and awarding process;
- If competitively bid, follow materiel division policy, rules and regulations and award the contract to the lowest responsible bidder;
- Monitor and document the contractor's performance;
- Document the need for any changes in the contract;
- If the contract is over \$50,000, retain certain information regarding the contract in a central location within each agency.

The amendment defines lowest responsible bidder and what elements should be considered in determining the lowest responsible bidder.

A state agency will not divide services contracts to avoid complying with the provisions in the amendment.

The estimated value of goods contracts which require a competitive formal sealed bidding process is raised from \$10,000 to \$25,000. The estimated value of goods contracts between \$10,000 and \$25,000 require a competitive informal bidding process. The current estimated value is between \$5,000 and \$10,000.

The materiel division will charge assessments to state agencies, boards and commissions for purchasing services and services contracts, including training of employees. These assessments will be adequate to cover the expenses associated with providing the service. State agencies, boards, and commissions will make the assessment payments no later than August 1 of each year or in four equal payments.

The Director of Administrative Services will refuse to issue warrants for the disbursement of any funds in payment of contracts which have not been approved according to law.

The bill has an emergency clause and an operative date of August 1, 2003.

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**Senator DiAnna R. Schimek, Chairperson**