

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 300**

Introduced by Heidemann, 1; Carlson, 38; Cook, 13; Fischer, 43;  
Haar, 21; Langemeier, 23; McCoy, 39; Schilz, 47.

Read first time January 15, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to public power and irrigation districts;  
2 to amend section 70-637, Revised Statutes Cumulative  
3 Supplement, 2008; to change provisions relating to  
4 bidding requirements; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 70-637, Revised Statutes Cumulative  
2 Supplement, 2008, 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:

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

9           (i) Power plant or system;

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

12           (iii) Ethanol production or distribution system;

13           (iv) Irrigation works; or

14           (v) Part or section of a system or works described in  
15 subdivisions (i) through (iv) of this subdivision; or

16           (b) The purchase of any materials, machinery, or  
17 apparatus to be used in the projects described in subdivision  
18 (1) (a) of this section.

19           (2) If the estimated cost exceeds the sum of ~~one hundred~~  
20 ~~thousand dollars,~~ (a) two hundred fifty thousand dollars for those  
21 districts with a gross revenue of less than five hundred million  
22 dollars or (b) five hundred thousand dollars for those districts  
23 with a gross revenue of five hundred million dollars or more, no  
24 such contract shall be entered into without advertising for sealed  
25 bids.

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

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

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

17           (i) The engineer or engineers certify that, by reason of  
18 the nature of the subject matter of the contract, compliance with  
19 subsection (2) of this section would be impractical or not in the  
20 public interest;

21           (ii) The engineer's certification is approved by a  
22 two-thirds vote of the board; and

23           (iii) The district advertises notice of its intention  
24 to enter into such contract, the general nature of the proposed  
25 work, and the name of the person to be contacted for additional

1 information by anyone interested in contracting for such work.

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

11 (5) The provisions of subsection (2) of this section  
12 and sections 70-638 and 70-639 shall not apply to contracts in  
13 excess of ~~one hundred thousand dollars~~ (a) two hundred fifty  
14 thousand dollars for those districts with a gross revenue of less  
15 than five hundred million dollars or (b) five hundred thousand  
16 dollars for those districts with a gross revenue of five hundred  
17 million dollars or more entered into for the purchase of any  
18 materials, machinery, or apparatus to be used in projects described  
19 in subdivision (1)(a) of this section if, after advertising for  
20 sealed bids:

21 (a) No responsive bids are received; or

22 (b) The board of directors of such district determines  
23 that all bids received are in excess of the fair market value of  
24 the subject matter of such bids.

25 (6) Notwithstanding any other provision of subsection (2)

1 of this section or sections 70-638 and 70-639, a district may,  
2 without advertising or sealed bidding, purchase replacement parts  
3 or services relating to such replacement parts for any generating  
4 unit, transformer, or other transmission and distribution equipment  
5 from the original manufacturer of such equipment upon certification  
6 by an engineer or engineers that such manufacturer is the only  
7 available source of supply for such replacement parts or services  
8 and that such purchase is in compliance with standards established  
9 by the board. A written statement containing such certification  
10 and a description of the resulting purchase of replacement parts  
11 or services from the original manufacturer shall be submitted to  
12 the board by the engineer or engineers certifying the purchase for  
13 the board's approval. After such certification, but not necessarily  
14 before the board review, notice of any such purchase shall be  
15 published once a week for at least three consecutive weeks in  
16 one or more newspapers of general circulation in the district  
17 and published in such additional newspapers or trade or technical  
18 periodicals as may be selected by the board in order to give proper  
19 notice of such purchase.

20 (7) Notwithstanding any other provision of subsection (2)  
21 of this section or sections 70-638 and 70-639, a district may,  
22 without advertising or sealed bidding, purchase used equipment and  
23 materials on a negotiated basis upon certification by an engineer  
24 that such equipment is or such materials are in compliance with  
25 standards established by the board. A written statement containing

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1 such certification shall be submitted to the board by the engineer  
2 for the board's approval.

3           Sec. 2. Original section 70-637, Revised Statutes  
4 Cumulative Supplement, 2008, is repealed.