

LEGISLATIVE BILL 566

Approved by the Governor March 17, 1999

Introduced by Schrock, 38; Bruning, 3; Tyson, 19

AN ACT relating to public bidding; to amend section 18-2442, Reissue Revised Statutes of Nebraska, and section 70-637, Revised Statutes Supplement, 1998; to change provisions relating to bidding requirements for certain purchases by certain public corporations and public power and irrigation districts; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 18-2442, Reissue Revised Statutes of Nebraska, is amended to read:

18-2442. Before any agency shall enter into any contract for the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any project, power plant or system, or irrigation works, or any part or section thereof, for the use of the agency, or for the purchase of any materials, machinery, or apparatus to be used in such construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, such agency shall cause estimates of the cost thereof to be made by some competent engineer or engineers. If such estimated cost shall exceed the sum of ~~fifty~~ one hundred thousand dollars, no such contract shall be entered into without advertising for sealed bids, except that with respect to contracts entered into by an agency in the exercise of its rights and powers, relating to radioactive material or the energy therefrom, relating to any technologically complex or unique equipment contracts, or relating to any maintenance or repair contracts, if such engineer or engineers shall certify that by reason of the nature of the subject matter of the contract compliance with this section would be impractical and not in the public interest, and the engineer's certification is approved by a two-thirds vote of the board, then sections 18-2442 to 18-2444 shall not apply, and the agency shall advertise notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work. Any contract for which the board has approved such engineer's certificate shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the agency is located, or if no newspaper is so published then in a newspaper qualified to carry legal notices having general circulation therein, and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement. With respect to contracts in excess of ~~fifty~~ one hundred thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, or irrigation works, or any part or section thereof when the contract does not include onsite labor for the installation thereof, if, after advertising for sealed bids, no responsive bids are received or if the board of directors of such agency determines that all bids received are in excess of the fair market value of the subject matter of such bids, then the provisions of sections 18-2442 to 18-2444 shall not apply. Notwithstanding any other provision of sections 18-2442 to 18-2444, an agency may purchase used equipment and materials on a negotiated basis without advertising or sealed bidding upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Sec. 2. Section 70-637, Revised Statutes Supplement, 1998, is amended to read:

70-637. Before any district enters into any contract for the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, any ethanol producing or distributing system, any irrigation works, or any part or section thereof for the use of the district or for the purchase of any materials, machinery, or apparatus to be used in such construction, reconstruction,

remodeling, building, alteration, maintenance, repair, extension, or improvement, such district shall cause estimates of the cost thereof to be made by some competent engineer or engineers. If such estimated cost exceeds the sum of one hundred thousand dollars, no such contract shall be entered into without advertising for sealed bids, except that (1) the board may negotiate directly with sheltered workshops pursuant to section 48-1503 and (2) with respect to contracts entered into by a district in the exercise of its rights and powers relating to radioactive material or the energy therefrom, ~~or to any technologically complex or unique equipment contracts, or to any maintenance or repair contracts,~~ if the engineer or engineers certify that by reason of the nature of the subject matter of the contract compliance with this section would be impractical and not in the public interest and the engineer's certification is approved by a two-thirds vote of the board, the provisions of sections 70-637 to 70-639 relating to sealed bids shall not apply and the district shall advertise notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work. Any contract for which the board has approved such engineer's certificate shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement. With respect to contracts in excess of one hundred thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, any ethanol producing or distributing system, any irrigation works, or any part or section thereof when the contract does not include onsite labor for the installation thereof, if, after advertising for sealed bids, no responsive bids are received or if the board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids, sections 70-637 to 70-639 shall not apply.

Notwithstanding any other provision of sections 70-637 to 70-639, a district may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for its the board's approval. at the next scheduled meeting of the board by the engineer or engineers certifying the purchase. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase. Notwithstanding any other provision of sections 70-637 to 70-639, a district may purchase used equipment and materials on a negotiated basis without advertising or sealed bidding upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Sec. 3. Original section 18-2442, Reissue Revised Statutes of Nebraska, and section 70-637, Revised Statutes Supplement, 1998, are repealed.