

LEGISLATIVE BILL 491

Approved by the Governor April 17, 2002

Introduced by Bromm, 23; Baker, 44; Vrtiska, 1

AN ACT relating to highways and bridges; to amend section 39-1349, Reissue Revised Statutes of Nebraska, and section 60-680, Revised Statutes Supplement, 2000; to change provisions relating to the letting of contracts and the prohibition of the use of engine brakes; and to repeal the original sections.

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

Section 1. Section 39-1349, Reissue Revised Statutes of Nebraska, is amended to read:

39-1349. (1) Except as provided in subsection (3) of this section, all ~~The department may let~~ contracts for the construction, reconstruction, improvement, maintenance, or repair of state highway system roads and bridges and their appurtenances shall be let by the department to the lowest responsible bidder who has been qualified by the department. The department ~~or~~ may reject any or all bids and cause the work to be done as may be directed by the department. All work which involves the use of federal and state funds shall be done through contract let by the department as provided for in section 39-1348. If the contractor has furnished the department all required records and reports, the department shall pay to the contractor interest at a rate three percentage points above the average annual Federal Reserve composite prime lending rate for the previous calendar year rounded to the nearest one-tenth of one percent on the amount retained and on the final payment due the contractor beginning sixty days after the work under the contract has been completed as evidenced by the completion date established in the department's letter of tentative acceptance or, when tentative acceptance has not been issued, beginning sixty days after completion of the work and running until the date when payment is tendered to the contractor.

(2) When the department is required by the provisions of the acts of Congress and the rules and regulations made by an agent of the United States in pursuance of such acts to predetermine minimum wages to be paid laborers and mechanics employed on highway construction, the Director-State Engineer shall cause minimum rates of wages for such laborers and mechanics to be predetermined and set forth in contracts for such construction. The minimum rates shall be the scale of wages which the Director-State Engineer finds are paid and maintained by at least fifty percent of the contractors in performing highway work contracted with the department unless the Director-State Engineer further finds that such scale of wages so determined would unnecessarily increase the cost of such highway work to the state, in which event he or she shall reduce such determination to such scale of wages as he or she finds is required to avoid such unnecessary increase in the cost of such highway work.

(3) The department, in its sole discretion, may permit a city or county to let state or federally funded contracts for the construction, reconstruction, improvement, maintenance, or repair of state highways, bridges, and their appurtenances located within the jurisdictional boundaries of such city or county, to the lowest responsible bidder prequalified to bid by the department when the work to be let is primarily local in nature and the department determines that it is in the public interest that the contract be let by the city or the county.

Sec. 2. Section 60-680, Revised Statutes Supplement, 2000, is amended to read:

60-680. (1) Any local authority with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:

- (a) Regulate or prohibit stopping, standing, or parking;
- (b) Regulate traffic by means of peace officers or traffic control devices;
- (c) Regulate or prohibit processions or assemblages on the highways;
- (d) Designate highways or roadways for use by traffic moving in one direction;
- (e) Establish speed limits for vehicles in public parks;
- (f) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
- (g) Restrict the use of highways as authorized in section 60-681;
- (h) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
- (i) Regulate or prohibit the turning of vehicles or specified types

of vehicles;

(j) Alter or establish speed limits authorized in the Nebraska Rules of the Road;

(k) Designate no-passing zones;

(l) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;

(m) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Roads;

(n) Establish minimum speed limits as authorized in the rules;

(o) Designate hazardous railroad grade crossings as authorized in the rules;

(p) Designate and regulate traffic on play streets;

(q) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the rules;

(r) Restrict pedestrian crossings at unmarked crosswalks as authorized in the rules;

(s) Regulate persons propelling push carts;

(t) Regulate persons upon skates, coasters, sleds, and other toy vehicles;

(u) ~~Adopt~~ Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than five degrees within its jurisdiction. For purposes of this subdivision, engine brake means a device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;

(v) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

(w) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(2) No local authority, except an incorporated city with more than forty thousand inhabitants, shall erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Roads.

(3) No ordinance or regulation enacted under subdivision (1)(d), (e), (f), (g), (i), (j), (k), (l), (m), (o), (p), or (r) of this section shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

Sec. 3. Original section 39-1349, Reissue Revised Statutes of Nebraska, and section 60-680, Revised Statutes Supplement, 2000, are repealed.