

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 969

Introduced by DeKay, 40; Jacobson, 42.

Read first time January 04, 2024

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to public power and irrigation districts; to
- 2 amend section 70-637, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to contracts and sealed bids; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-637, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 70-637 (1) A district shall cause estimates of the costs to be made
4 by some competent engineer or engineers before the district enters into
5 any contract for:

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

9 (i) Power plant or system;

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

11 (iii) Ethanol production or distribution system;

12 (iv) Irrigation works; or

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

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

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

23 (3) Notwithstanding the provisions of subsection (2) of this section
24 and sections 70-638 and 70-639, the board of directors of the district
25 may negotiate directly with sheltered workshops pursuant to section
26 48-1503.

27 (4)(a) The provisions of subsection (2) of this section and sections
28 70-638 and 70-639 relating to sealed bids shall not apply to contracts
29 entered into by a district in the exercise of its rights and powers
30 relating to (i) radioactive material or the energy therefrom, (ii) any
31 technologically complex or unique equipment, (iii) equipment or

1 supplemental labor procurement from an electric utility or from or
2 through an electric utility alliance, or (iv) any maintenance or repair,
3 if the requirements of subdivisions (b) and (c) of this subsection are
4 met.

5 (b) A contract described in subdivision (a) of this subsection need
6 not comply with subsection (2) of this section or section 70-638 or
7 70-639 if:

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

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

13 (iii) The district advertises notice of its intention to enter into
14 such contract, the general nature of the proposed work, and the name of
15 the person to be contacted for additional information by anyone
16 interested in contracting for such work.

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

25 (5) The provisions of subsection (2) of this section and sections
26 70-638 and 70-639 shall not apply to contracts in excess of seven ~~two~~
27 hundred fifty thousand dollars, for those districts with a gross revenue
28 of less than five hundred million dollars, or two million ~~five hundred~~
29 ~~thousand~~ dollars, for those districts with a gross revenue of five
30 hundred million dollars or more, entered into for the purchase of any
31 materials, machinery, or apparatus to be used in projects described in

1 subdivision (1)(a) of this section if, after advertising for sealed bids:

2 (a) No responsive bids are received; or

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

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

24 (7) Notwithstanding any other provision of subsection (2) of this
25 section or sections 70-638 and 70-639, a district may, without
26 advertising or sealed bidding, purchase used equipment and materials on a
27 negotiated basis upon certification by an engineer that such equipment is
28 or such materials are in compliance with standards established by the
29 board. A written statement containing such certification shall be
30 submitted to the board by the engineer for the board's approval.

31 Sec. 2. Original section 70-637, Reissue Revised Statutes of

1 Nebraska, is repealed.