

## LEGISLATIVE BILL 304

Approved by the Governor April 27, 1983

Introduced by Urban Affairs Committee, Newell, 13,  
Chairperson; Higgins, 9; Fenger, 45;  
Vickers, 38; Remmers, 1; Rupp, 22

AN ACT relating to municipalities and villages; to amend sections 17-568 and 17-802, Reissue Revised Statutes of Nebraska, 1943, and sections 16-321, 16-691, and 17-568.01, Revised Statutes Supplement, 1982; to change limits below which a board of public works may act without approval of city council; to change provisions relating to bidding procedure; to change duties of cities and villages; and to repeal the original sections.

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

Section 1. That section 16-321, Revised Statutes Supplement, 1982, be amended to read as follows:

16-321. (1) The city engineer shall, when requested by the mayor or city council, make estimates of the cost of labor and material which may be done or furnished by contract with the city, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the council may require. ~~When~~ Provided, when the city has appointed a board of public works, and the mayor and city council have by ordinance so authorized, such board shall have the right to utilize its own engineering staff, and shall have the right to hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the board of public works. Whenever the mayor and city council have authorized the same, the board of public works shall have the right to purchase material and employ labor for the enlargement and improvement of the water and electric departments.

(2) No contracts for services, material, or

labor for enlargement or improvement, except as provided in section 18-412.01, costing over ~~seven ten~~ thousand ~~five hundred~~ dollars shall be made unless it is first approved by the city council. Except as provided in section 18-412.01, before the city council shall make any contract in excess of ~~seven ten~~ thousand ~~five hundred~~ dollars for general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, an estimate of the cost thereof shall be made by the city engineer and submitted to the council. No contract shall be entered into for any such work or improvement or for the purchase of such equipment, for any price exceeding ~~seven ten~~ thousand ~~five hundred~~ dollars without advertising for bids, unless such contract shall be entered into for the benefit of the municipal electric utility. A municipal electric utility may enter into a contract for any such work or improvement or for the purchase of such equipment without advertising for bids if the: (a) Price is ten thousand dollars or less; (b) price is twenty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of one million dollars; (c) price is thirty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of five million dollars; or (d) price is forty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of ten million dollars. In advertising for bids for any such work, or for the purchase of such equipment, the council may cause the amount of such estimate to be published therewith.

(3) Such advertisement, as provided in subsection (2) of this section, shall be published at least ten days in some legal newspaper of general circulation published in the city. In ~~is~~ provided, that in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance provided under section 16-405 when adopted by a three-fourths vote of the council and entered of record.

(4) If, after advertising for bids as provided in subsections (2) and (3) of this section, the city council receives fewer than two bids on a contract for services, material, or labor, or if the bids received by the city council contain a price which exceeds the

estimated cost of the project, the mayor and the city council shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

(5) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the city council or board of public works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the city council or board of public works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(6) The municipal bidding procedure shall be waived when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure of Chapter 81, article 1.

Sec. 2. That section 16-691, Revised Statutes Supplement, 1982, be amended to read as follows:

16-691. The mayor and council may by ordinance confer upon the board of public works the active direction and supervision of such system of waterworks, power plant, sewerage, heating, or lighting plant, and the erection and construction of the same. The board may provide that such duties be performed by such employee or employees as it may direct. It shall make reports to the mayor and council as often as said mayor and council may require. In like manner the mayor and council may confer upon such board the active direction and supervision of the system of streets and alleys. The mayor and council may, by ordinance, authorize and empower said board of public works to employ necessary laborers and clerks, to purchase material for the operation and maintenance of said systems, and to draw its orders on the several funds in the hands of the city treasurer to the credit of said various systems in payment of salaries, labor, and material. The mayor and council shall establish the dollar amount for all extensions and projects above which the board of public works must obtain the approval of the mayor and council before expending funds. ; provided, the board of public works shall submit for the approval of the mayor and city council, all extensions or projects costing in excess of five thousand dollars. The mayor and council may, by ordinance, authorize and empower the board of public works to cooperate and participate in a plan of insurance designed and intended for the benefit of the employees of any public utility operated by the city. For that purpose the board of public works may make contributions to pay premiums or

dues under such plan, authorize deductions from salaries of employees, and take such other steps as may be necessary to effectuate such plan of insurance. All orders for the disbursement of funds shall be signed by the chairperson and secretary of said board or by any two members of the board who have previously been designated for that purpose by a resolution duly adopted by such board, and shall be paid by the treasurer, except that; Provided, payroll checks only may be signed by any one member of the board who has previously been designated for that purpose by a resolution duly adopted by said board. Facsimile signatures of board members may be used to sign such orders and checks.

Sec. 3. That section 17-568, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-568. The city or village engineer shall make estimates of the cost of labor and materials which may be done or furnished by contract with the city or village, and make all surveys, estimates, and calculations necessary for the establishment of grades, building of culverts, sewers, bridges, curbs, and gutters, and the improvement of streets and the erection or repair of buildings, and for the purchase of motor equipment, street machinery, and all other mechanical equipment for the use of such city or village, and shall perform such other duties as the council or board of trustees may require; Provided, the The mayor and council or board of trustees may, when they deem it expedient, employ a special engineer to make, or assist in making, any estimate necessary or to perform any other such duty herein provided for; and any in section 17-568.01. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the city or village engineer.

Sec. 4. That section 17-568.01, Revised Statutes Supplement, 1982, be amended to read as follows:

17-568.01. (1) The city or village engineer shall, when requested by the mayor, city council, or village board, make estimates of the cost of labor and material which may be done or furnished by contract with the city or village, and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters, and the improvement of streets and erection and repair of buildings, and shall perform such other duties as the council or board may require. When a city has appointed a board of public works, and the mayor and city council have by ordinance so authorized, such board shall have the right to utilize its own engineering staff, and

shall have the right to hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the board of public works. Whenever the mayor and city council have authorized the same, the board of public works shall have the right to purchase material and employ labor for the enlargement and improvement of the water and electric departments.

(2) No contracts for services, material, or labor for enlargement or improvement, except as provided in section 18-412.01, costing over ten thousand dollars shall be made unless it is first approved by the city council or village board. Except as provided in section 18-412.01, before the city council or village board shall make any contract in excess of ten thousand dollars for general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where the cost of such improvement shall be assessed to the property, an estimate of the cost thereof shall be made by the city or village engineer and submitted to the council or village board. No contract shall be entered into for any such work or improvement or for the purchase of such equipment, for any price exceeding ten thousand dollars without advertising for bids, unless such contract shall be entered into for the benefit of the municipal electric utility. A municipal electric utility may enter into a contract for any such work or improvement or for the purchase of such equipment without advertising for bids if the: (a) Price is ten thousand dollars or less; (b) price is twenty thousand dollars or less and the municipal electric utility has gross annual revenues from retail sales in excess of one million dollars; (c) price is thirty thousand dollars or less and the municipal electric utility has gross annual revenues from retail sales in excess of five million dollars; or (d) price is forty thousand dollars or less and the municipal electric utility has gross annual revenues from retail sales in excess of ten million dollars. In advertising for bids for any such work, or for the purchase of such equipment, the council or village board may cause the amount of such estimate to be published therewith. (4) Except as provided in section 19-412.44, before the city council or village board of trustees shall make any contract for any labor, except personal services, or for materials, work, building, or improvement, which exceeds seven thousand five hundred dollars in cost, an estimate of the cost thereof shall be made by the city or village engineer and submitted to the council or board of trustees; and no contract shall be entered into for any work or improvement for a price exceeding seven thousand five hundred dollars without advertising for bids. In

advertising for bids for any such work the council or board of trustees may cause the amount of such estimate to be published therein:

(2) (3) Such advertisement, provided for in subsection (4) (2) of this section, shall be published once each week for three consecutive weeks in, a legal newspaper published in or of general circulation in the city or village and, if there be no legal newspaper published in or of general circulation in such city or village, then in some newspaper of general circulation published in the county wherein such city or village is located, and if there be no legal newspaper of general circulation published in the county wherein such city or village is located then in a newspaper, designated by the county board, having a general circulation within the county where bids are required, and if no newspaper is published in the city, village, or in the county, or if no newspaper has general circulation in the county, then by posting a written or printed copy thereof in each of three public places in the city or village; Provided, that in case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to life, health, or property, or war, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 when adopted by a three-fourths vote of the council or board of trustees, and entered of record.

(4) If, after advertising for bids as provided in subsections (2) and (3) of this section, the city council or village board receives fewer than two bids on a contract for services, material, or labor, or if the bids received by the city council or village board contain a price which exceeds the estimated cost of the project, the mayor and the city council or village board shall have the authority to negotiate a contract for services, material, or labor in an attempt to complete the proposed project at a cost commensurate with the estimate given.

(5) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the city council, village board, or board of public works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the city council, village board, or board of public works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

(6) The municipal bidding procedure shall be

waived when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure of Chapter 81, article 1.

(3) If, after advertising for bids as provided in subsections (1) and (2) of this section, the council or board of trustees receives fewer than two bids on a contract for any work or improvement, or if the bids received by the council or board of trustees contain a price which exceeds the estimated cost of the project, the mayor and the council or board of trustees shall have the authority to negotiate a contract in an attempt to complete the proposed project at a cost commensurate with the estimate given.

(4) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the city council, board of trustees or board of public works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the city council, board of trustees or board of public works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

Sec. 5. That section 17-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-802. The city council may, by ordinance, confer upon ~~said~~ a board of public works the active direction and supervision of any or all of the utility systems owned or operated by such city. The said ~~such~~ board shall have the power to operate any utility referred to it and to exercise all powers conferred by law upon such cities for the operation and government of such utility to the same extent, in the same manner, and under the same restrictions as the city council could do if no such board of public works existed, except, however, that ~~said~~ such board of public works shall not make any expenditure or contract any indebtedness other than for ordinary running expenses, exceeding in an amount one thousand dollars established by the city council, without first obtaining the approval of the city council. The ~~+~~ and ~~said~~ board of public works shall report to the city council at regular intervals as it may require.

Sec. 6. That original sections 17-568 and 17-802, Reissue Revised Statutes of Nebraska, 1943, and sections 16-321, 16-691, and 17-568.01, Revised Statutes Supplement, 1932, are repealed.