

LEGISLATIVE BILL 211

Approved by the Governor April 17, 1987

Introduced by Miller, 37; Langford, 36

AN ACT relating to contracts; to amend sections 23-315, 23-342, 31-118, 31-355, 39-820, and 39-825, Reissue Revised Statutes of Nebraska, 1943; to authorize persons awarded certain county contracts to furnish a letter of credit, certified check, or performance bond as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 23-315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-315. (1) If after ~~said~~ the hearing the supervisors or board of county commissioners decide to proceed with the improvement, they shall let the contract for the construction of the work as a whole or in parcels as they may deem best. They shall give notice of the time and place the contract or contracts will be let by publishing for three successive weeks in one or more weekly newspapers published in the county, which notice shall state the specifications, nature, and extent of the improvement, the time within which the work is to be completed, and the allotment or allotments to be let. Sealed proposals shall be received and the work let to the lowest and best responsible bidder. Except as provided in subsection (2) of this section, a bond, in form prepared by the supervisors or board of county commissioners, conditioned for the faithful performance of the contract and executed by the bidder and surety or sureties to the county and to all parties interested in the amount of the bid, shall accompany said such bid.

(2) If a contract, the provisions of which are limited to the purchase of supplies or materials, is entered into pursuant to this section and if the amount of the contract is fifty thousand dollars or less, an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska, as prescribed by and in an amount determined by the county

board of supervisors or commissioners, conditioned for the faithful performance of the contract and executed by the bidder to the county and to all parties interested in the amount of the bid, shall accompany the bid.

Sec. 2. That section 23-342, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-342. (1) All contracts for the construction of such improvements outside the corporate limits of any such city shall be let to the lowest responsible bidder who, except as provided in subsection (2) of this section, shall will enter into a good and sufficient bond for the faithful performance of such contract thereof, in such amount and with such sureties as the county board may determine. All payments of such contracts shall be made by warrants drawn on the road fund of ~~said~~ the county.

(2) If a contract, the provisions of which are limited to the purchase of supplies or materials, is entered into pursuant to this section and if the amount of the contract is fifty thousand dollars or less, an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska, as prescribed by and in an amount determined by the county board of supervisors or commissioners, conditioned for the faithful performance of the contract and executed by the bidder to the county and to all parties interested in the amount of the bid, shall accompany the bid.

Sec. 3. That section 31-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-118. (1) Immediately after the transcript mentioned in section 31-117 is returned to the county clerk, ~~or~~ immediately upon the filing of the bond mentioned in section 31-116, or, in case there is no appeal as hereinbefore provided, ~~then~~ immediately after the hearing of the report mentioned in section 31-111, the county board shall proceed to advertise for sealed bids for the construction of the ditch in working sections not less in extent than the number of lineal feet apportioned to each lot or tract of land, public or corporate road, or railroad, and shall fix a time when the bids may be opened, giving not less than twenty days' notice thereof. The board shall attend at the time and place of opening the bids, ~~and~~ shall let the contract or contracts to the lowest responsible bidder, shall take good and sufficient security for the faithful performance of such contract or contracts; except as

provided in subsection (2) of this section, and shall fix the time for the completion of such contract, not exceeding in any case one hundred and fifty days from the time of entering into the same. No bid shall be entertained which exceeds the estimated cost of construction of the working section or sections upon which the bid is made.

(2) If a contract, the provisions of which are limited to the purchase of supplies or materials, is entered into pursuant to this section and if the amount of the contract is fifty thousand dollars or less, the person to whom the contract is awarded shall furnish the county with an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska, as prescribed by and in a sum determined by the county board, conditioned for the faithful performance of the contract.

Sec. 4. That section 31-355, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-355. (1) After the board of supervisors has certified the total levy of the costs and expenses of the drainage improvements to the county clerk as directed by law, it may proceed to let a contract for the construction of such improvements. The board ; and for that purpose it shall give notice of its intention to let such contract by publication thereof for twenty days in the newspapers of general circulation in the county or counties in which the drainage district is situated; and in such other newspapers as it may deem advisable. The notice shall call for sealed bids for the construction of such improvements or any part thereof, and notify the public of the time and place where such bids will be received and opened, and notify the public where the plans and specifications may be seen. On the day fixed, the board shall open and consider the bids and may let the contract for the whole work, or any part thereof, to the lowest responsible bidder, or may reject any and all bids and readvertise for proposals, or may proceed to construct the work under its own superintendent. Contract for the purchase of materials shall be awarded to the lowest responsible bidder. The Except as provided in subsection (2) of this section, the person to whom a contract is awarded shall enter into a bond with good and sufficient surety in a sum not less than twenty-five per cent of the contract price, conditioned for the faithful performance of such contract. The work shall be done under the

direction, and to the satisfaction of the drain commissioner, subject to the approval of the board.

(2) If a contract, the provisions of which are limited to the purchase of supplies or materials, is entered into pursuant to this section and if the amount of the contract is fifty thousand dollars or less, the bidder shall furnish the county with an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska, as prescribed by and in a sum determined by the county board of supervisors, conditioned for the faithful performance of such contract.

Sec. 5. That section 39-820, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-820. All bidders for the erection and repair of bridges and approaches thereto, and for the building of culverts and improvements on roads, when the cost of such erection, repair, building, or improvement shall exceed one hundred dollars, shall be required to bid separately on each different kind and class of bridge with approaches thereto, ~~also~~ and on each culvert or improvement on roads. ~~The~~ ~~;~~ and the lowest and best bidder on each kind or class of bridges, culverts, or improvements shall be awarded a contract for the same or all bids on the same shall be rejected. ~~The~~ ~~;~~ ~~PROVIDED;~~ the term bridge shall be understood to include both superstructure, substructure, and approaches as herein defined. All bridges constructed entirely of wood shall be considered as constituting a single class, and each different length or style of metal or combination bridge shall constitute a separate class. The county board shall award the contract for building all the same kind and class of bridges, approaches, and culverts that may be required during the year, to the lowest and best bidder on such bridges, approaches, and culverts, the object ~~herein~~ of this section being to give the county board full power to disregard blanket or collective bids. ~~The~~ ~~;~~ ~~PROVIDED;~~ the lowest and best bidder shall enter into a bond with good and sufficient surety or furnish an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska in accordance with the provisions of section 39-825.

Sec. 6. That section 39-825, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-825. Every (1) Except as provided in

subsection (2) of this section, every bidder, before entering on work pursuant to contract, shall give bond to the county with at least two good and sufficient sureties, who shall be residents of the state, and one of whom shall be a resident of the county, in any sum not less than one thousand dollars, and in such additional amount as the county board may require, which bond shall be approved by the county board, and shall be conditioned for the faithful execution of the contract. The ; PROVIDED; the county board may accept or may require a surety bond in like amount, and conditioned the same as the personal bond prescribed in this section. aforementioned.

(2) If a contract, the provisions of which are limited to the purchase of supplies or materials, is entered into pursuant to this section and if the amount of the contract is fifty thousand dollars or less, the bidder shall furnish the county with an irrevocable letter of credit, a certified check upon a solvent bank, or a performance bond in a guaranty company qualified to do business in Nebraska, as prescribed by and in an amount determined by the county board, conditioned for the faithful performance of such contract.

Sec. 7. That original sections 23-315, 23-342, 31-118, 31-355, 39-820, and 39-825, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.