

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 938

FINAL READING

Introduced by Brandt, 32; Dorn, 30.

Read first time January 04, 2024

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the County Purchasing Act; to amend
2 sections 23-3104, 23-3105, 23-3107, 23-3108, 23-3109, 23-3111, and
3 23-3115, Reissue Revised Statutes of Nebraska; to redefine a term;
4 to change provisions relating to the county board, purchasing agent,
5 purchases, competitive bidding, and surplus property; to allow
6 auctions and trades; to eliminate special purchases; to harmonize
7 provisions; to provide an operative date; and to repeal the original
8 sections.

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

1 Section 1. Section 23-3104, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 23-3104 As used in the County Purchasing Act, unless the context
4 otherwise requires:

5 (1) Mobile equipment means all vehicles propelled by any power other
6 than muscular, including, but not limited to, motor vehicles, off-road
7 designed vehicles, motorcycles, passenger cars, self-propelled mobile
8 homes, truck-tractors, trucks, cabin trailers, semitrailers, trailers,
9 utility trailers, and road and general-purpose construction and
10 maintenance machinery not designed or used primarily for the
11 transportation of persons or property, including, but not limited to,
12 ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling
13 graders, earthmoving carryalls, power shovels, earthmoving equipment, and
14 crawler tractors;

15 (2) Personal property includes, but is not limited to, supplies,
16 materials, mobile equipment, and equipment used by or furnished to any
17 county officer, office, department, institution, board, or other agency
18 of the county government. Personal property does not include election
19 ballots;

20 (3) Services means any and all services except telephone, telegraph,
21 postal, and electric light and power service, other similar services, and
22 election contractual services; and

23 (4) Purchasing or purchase means the obtaining of personal property
24 or services by auction, sale, lease, trade, or other contractual means.
25 Purchase also includes contracting with sheltered workshops for products
26 or services as provided in Chapter 48, article 15. Purchasing or purchase
27 does not include any purchase or lease of personal property or services
28 by a facility established under section 23-3501 or by or on behalf of a
29 county coroner.

30 Sec. 2. Section 23-3105, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 23-3105 The county governing board of a county with a population of
2 more than one hundred fifty thousand shall and the county governing board
3 of any other county may employ a purchasing agent who shall not be a
4 county officer of the county. All purchases made from appropriated funds
5 of the county shall be made through the purchasing agent. The county
6 board shall pay the agent for such services during the time of employment
7 as shall be agreed upon at or during the time of employment. The person
8 so employed and designated shall serve at the pleasure of the county
9 board and give bond to the county in such amount as the county board
10 shall prescribe.

11 Sec. 3. Section 23-3107, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 23-3107 The county board or purchasing agent, subject to the
14 approval of the county board, shall: (1) Prescribe the manner in which
15 personal property shall be purchased, delivered, and distributed; (2)
16 prescribe dates for making estimates, the future period which they are to
17 cover, the form in which they are submitted, and the manner of their
18 authentication; (3) revise forms from time to time as conditions warrant;
19 (4) provide for the transfer to and between county departments and
20 agencies of personal property which is surplus with one department or
21 agency but which may be needed by another or others; (5) pursuant to
22 section 23-3115, dispose of by sale personal property which has been
23 declared by the county board to be surplus and which is obsolete or not
24 usable by the county. ~~Except as otherwise provided in subsection (2) of~~
25 ~~section 23-3115, such property with a value of less than two thousand~~
26 ~~five hundred dollars may be sold without competitive bidding. Except as~~
27 ~~otherwise provided in subsection (2) of section 23-3115, property with a~~
28 ~~value of two thousand five hundred dollars or more shall be sold through~~
29 ~~competitive bidding;~~ (6) prescribe the amount of cash deposit or bond to
30 be submitted with a bid on a contract and the amount of deposit or bond
31 to be given for the performance of a contract, if the amount of the bond

1 is not specifically provided by law; and (7) prescribe the manner in
2 which claims for personal property or services delivered to any
3 department or agency of the county shall be submitted, approved, and
4 paid.

5 Sec. 4. Section 23-3108, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 23-3108 (1) Except as provided in section 23-3109, purchases of
8 personal property or services by the county board or purchasing agent
9 shall be made:

10 (a) Through the competitive sealed bidding process prescribed in
11 section 23-3111 if the estimated value of the purchase is:

12 (i) Before January 1, 2025, fifty thousand dollars or more;

13 (ii) Beginning January 1, 2025, and before January 1, 2029, seventy
14 thousand dollars or more;

15 (iii) Beginning January 1, 2029, and before January 1, 2034, ninety
16 thousand dollars or more; and

17 (iv) Beginning January 1, 2034, one hundred ten thousand dollars or
18 more;

19 (b) By securing and recording at least three informal bids, if
20 practicable, if the estimated value of the purchase is equal to or
21 exceeds:

22 (i) Before January 1, 2025, ten thousand dollars, but is less than
23 fifty thousand dollars;

24 (ii) Beginning January 1, 2025, and before January 1, 2029, fifteen
25 thousand dollars, but is less than seventy thousand dollars;

26 (iii) Beginning January 1, 2029, and before January 1, 2034, twenty
27 thousand dollars, but is less than ninety thousand dollars; and

28 (iv) Beginning January 1, 2034, twenty-five thousand dollars, but is
29 less than one hundred and ten thousand dollars; or

30 (c) By purchasing in the open market, subject to section 23-3112, if
31 the estimated value of the purchase is: ~~less than ten thousand dollars,~~

1 ~~subject to section 23-3112.~~

2 (i) Before January 1, 2025, less than ten thousand dollars;

3 (ii) Beginning January 1, 2025, and before January 1, 2029, less
4 than fifteen thousand dollars;

5 (iii) Beginning January 1, 2029, and before January 1, 2034, less
6 than twenty thousand dollars; and

7 (iv) Beginning January 1, 2034, less than twenty-five thousand
8 dollars.

9 (2) In any county having a population of less than one hundred
10 thousand inhabitants and in which the county board has not appointed a
11 purchasing agent pursuant to section 23-3105, all elected officials are
12 hereby authorized to make purchases with an estimated value as prescribed
13 in subdivision (1)(c) of this section less than ten thousand dollars.

14 (3) ~~(2)~~ In no case shall a purchase made pursuant to subdivision (1)
15 (a), (b), or (c) of this section be divided to produce several purchases
16 which are of an estimated value below that established in the relevant
17 subdivision.

18 (4) ~~(3)~~ All contracts and leases shall be approved as to form by the
19 county attorney, and a copy of each long-term contract or lease shall be
20 filed with the county clerk.

21 Sec. 5. Section 23-3109, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 23-3109 (1) Competitive bidding shall not be required (a) when
24 purchasing unique or noncompetitive items, (b) when purchasing petroleum
25 products, (c) when obtaining professional services or equipment
26 maintenance, or (d) when the price has been established by one of the
27 following: (i) The federal General Services Administration; (ii) the
28 materiel division of the Department of Administrative Services; or (iii)
29 a cooperative purchasing agreement by which supplies, equipment, or
30 services are procured in accordance with a contract established by
31 another governmental entity or group of governmental entities if the

1 contract was established in accordance with the laws and regulations
2 applicable to the establishing governmental entity or, if a group, the
3 lead governmental entity.

4 (2) The county board may, by majority vote of its members, waive the
5 bidding requirements of the County Purchasing Act if such waiver is
6 necessary to meet an emergency which threatens serious loss of life,
7 health, or property in the county.

8 (3) The county governing board may waive the bidding requirements of
9 the County Purchasing Act if the county can save a significant amount of
10 money through an auction. The amount of the purchase shall not exceed a
11 maximum dollar amount set by the county board at a regular or special
12 meeting of the board as described in this subsection. Notice of such
13 special meeting shall be published in a newspaper of general circulation
14 within the county at least five days before the special meeting. If no
15 edition of a newspaper of general circulation within the county is to be
16 finalized for printing prior to such publication deadline, notice of such
17 special meeting shall be (a) posted by the newspaper to the newspaper's
18 website, if available, (b) posted by the newspaper on a statewide website
19 established and maintained as a repository for such notices by a majority
20 of Nebraska newspapers, and (c) posted by the county board at the
21 courthouse. Such special meeting may be conducted by virtual
22 conferencing. The county board shall, at its next regular meeting
23 following the purchase, approve the purchase price by a vote of the
24 county board. If no bids are received, the county board may purchase the
25 personal property on the open market. by entering into a special
26 purchase. The county board shall, five days prior to such special
27 purchase, publish notice of its intention to make such a special
28 purchase, stating the items considered and inviting informal quotes. A
29 two-thirds vote of the entire county board shall approve such special
30 purchase.

31 Sec. 6. Section 23-3111, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 23-3111 When competitive sealed bidding is required by section
3 23-3108:

4 (1) Sealed bids shall be solicited by public notice in a legal
5 newspaper of general circulation in the county at least once a week for
6 two consecutive weeks before the final date of submitting bids;

7 (2) In addition to subdivision (1) of this section, sealed bids may
8 also be solicited by sending requests by United States mail or electronic
9 mail to prospective suppliers and by posting notice on a public bulletin
10 board;

11 (3) The notice shall contain: (a) A general description of the
12 proposed purchase; (b) an invitation for sealed bids; (c) the name of the
13 county official in charge of receiving the bids; (d) the date, time, and
14 place the bids received shall be opened; and (e) whether alternative
15 items will be considered;

16 (4) All bids shall remain sealed until opened on the published date
17 and time by the county board or its designated agent;

18 (5) Any or all bids may be rejected and the bid need not be awarded
19 at the time of opening, but may be held over for further consideration;

20 (6) If all bids received on a pending contract are for the same unit
21 price or total amount and appear to be so as the result of collusion
22 between the bidders, the county board or purchasing agent shall have
23 authority to reject all bids and to purchase the personal property or
24 services in the open market, except that the price paid in the open
25 market shall not exceed the bid price;

26 (7) Each bid, with the name of bidder, shall be entered on a record
27 and each record, with the successful bidder indicated thereon, shall,
28 after the award or contract, be open to public inspection; and

29 (8) Except as otherwise provided in the County Purchasing Act, all
30 ~~All~~ lettings on such bids shall be public and shall be conducted as
31 provided in Chapter 73, article 1.

1 Sec. 7. Section 23-3115, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 23-3115 (1)(a) ~~(1)~~ The county board or the purchasing agent, with
4 the approval of the county board, may authorize a county official or
5 employee to sell surplus personal property, other than mobile equipment,
6 which is obsolete or not usable by the county and which has a value of:

7 (i) Before January 1, 2025, less than two thousand five hundred
8 dollars;

9 (ii) Beginning January 1, 2025, and before January 1, 2029, less
10 than three thousand five hundred dollars;

11 (iii) Beginning January 1, 2029, and before January 1, 2034, less
12 than four thousand five hundred dollars; and

13 (iv) Beginning January 1, 2034, less than six thousand dollars.

14 (b) In making such authorization, the county board or purchasing
15 agent may place any restriction on the type or value of property to be
16 sold, restrict such authority to a single transaction or to a period of
17 time, or make any other appropriate restrictions or conditions. Surplus
18 personal property which is obsolete or not usable by the county and which
19 has a value exceeding the applicable amount described in subdivision (1)
20 (a) of this section shall be sold through competitive bidding or at
21 auction.

22 (2)(a) ~~(2)~~ The county board or the purchasing agent, with the
23 approval of the county board, may authorize a county official or employee
24 to sell surplus mobile equipment which is obsolete or not usable by the
25 county and which has a value of:

26 (i) Before January 1, 2025, less than five thousand dollars;

27 (ii) Beginning January 1, 2025, and before January 1, 2029, less
28 than seven thousand dollars;

29 (iii) Beginning January 1, 2029, and before January 1, 2034, less
30 than nine thousand dollars; and

31 (iv) Beginning January 1, 2034, less than twelve thousand dollars.

1 (b) In making such authorization, the county board or purchasing
2 agent may place any restriction on the type or value of property to be
3 sold, restrict such authority to a single transaction or to a period of
4 time, or make any other appropriate restrictions or conditions. Surplus
5 mobile equipment which is obsolete or not usable by the county and which
6 has a value exceeding the applicable amount prescribed in subdivision (2)
7 (a) of this section of five thousand dollars or more shall be sold
8 through competitive bidding or at auction.

9 (3) Any county official or employee granted the authority to sell
10 surplus personal property which is obsolete or not usable by the county
11 as prescribed in subsection (1) or (2) of this section shall make a
12 written report to the county board within thirty days after the end of
13 the fiscal year reflecting, for each transaction, the item sold, the name
14 and address of the purchaser, the price paid by the purchaser for each
15 item, and the total amount paid by the purchaser.

16 (4) The money generated by any sales authorized by this section
17 shall be payable to the county treasurer and shall be credited to the
18 funds of the department, office, or agency to which the property
19 belonged.

20 (5) No person authorized by the county board or purchasing agent to
21 make such sales shall be authorized to make or imply any warranty of any
22 kind whatsoever as to the nature, use, condition, or fitness for a
23 particular purpose of any property sold pursuant to this section. Any
24 person making sales authorized by this section shall inform the purchaser
25 that such property is being sold as is without any warranty of any kind
26 whatsoever.

27 (6) Sales of surplus property not subject to competitive bidding may
28 be made by auction, sealed bid, public or private sale, or trade.

29 Sec. 8. This act becomes operative on January 1, 2025.

30 Sec. 9. Original sections 23-3104, 23-3105, 23-3107, 23-3108,
31 23-3109, 23-3111, and 23-3115, Reissue Revised Statutes of Nebraska, are

1 repealed.