

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 938**

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 posted on the county's website and at the  
14 courthouse not less than five days prior to the auction. Such special  
15 meeting may be conducted by virtual conferencing. The county board shall,  
16 at its next regular meeting following the purchase, approve the purchase  
17 price by a vote of the county board. If no bids are received, the county  
18 board may purchase the personal property on the open market. by entering  
19 into a special purchase. The county board shall, five days prior to such  
20 special purchase, publish notice of its intention to make such a special  
21 purchase, stating the items considered and inviting informal quotes. A  
22 two-thirds vote of the entire county board shall approve such special  
23 purchase.

24 Sec. 6. Section 23-3111, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 23-3111 When competitive sealed bidding is required by section  
27 23-3108:

28 (1) Sealed bids shall be solicited by public notice on the county's  
29 website or by publication in a legal newspaper of general circulation in  
30 the county at least once a week for two consecutive weeks before the  
31 final date of submitting bids;

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

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

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

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

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

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

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

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

28          23-3115 (1)(a) ~~(1)~~ The county board or the purchasing agent, with  
29 the approval of the county board, may authorize a county official or  
30 employee to sell surplus personal property, other than mobile equipment,  
31 which is obsolete or not usable by the county and which has a value of:

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

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

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

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

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

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

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

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

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

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

26       (b) In making such authorization, the county board or purchasing  
27       agent may place any restriction on the type or value of property to be  
28       sold, restrict such authority to a single transaction or to a period of  
29       time, or make any other appropriate restrictions or conditions. Surplus  
30       mobile equipment which is obsolete or not usable by the county and which  
31       has a value exceeding the applicable amount prescribed in subdivision (2)



1 ~~(a) of this section of five thousand dollars or more shall be sold~~  
2 ~~through competitive bidding or at auction.~~

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

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

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

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

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

24 Sec. 9. Original sections 23-3104, 23-3105, 23-3107, 23-3108,  
25 23-3109, 23-3111, and 23-3115, Reissue Revised Statutes of Nebraska, are  
26 repealed.