

LEGISLATIVE BILL 238

Approved by the Governor March 10, 1997

Introduced by Maurstad, 30; Hartnett, 45

AN ACT relating to cities and villages; to amend sections 16-321, 17-568.01, 48-1501, and 48-1502, Reissue Revised Statutes of Nebraska; to change provisions relating to public works contracts and bids; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

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

Section 1. Section 16-321, Reissue Revised Statutes of Nebraska, is amended to read:

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, the building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters, the improvement of streets, and the erection and repair of buildings and shall perform such other duties as the council may require. 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 may utilize its own engineering staff and shall have the right to may 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 may purchase material and employ labor for the enlargement and or improvement of the water and electric departments systems and works under the jurisdiction of the board.

(2) No contracts for services, material, or labor Except as provided in section 18-412.01, no contract for enlargement or improvement except as provided in section 18-412.01, general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such improvement is assessed to the property, costing over ten twenty thousand dollars shall be made unless it is first approved by the city council.

(3) Except as provided in section 18-412.01, before the city council shall make makes any contract in excess of ten twenty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where when the cost of such enlargement or improvement shall be is assessed to the property, an estimate of the cost thereof shall be made by the city engineer and submitted to the council. In advertising for bids as provided in subsections (4) and (6) of this section, the council may publish the amount of the estimate.

(4) Advertisements for bids shall be required for any contract costing over twenty thousand dollars No contract shall be entered into (a) for any such work or improvement enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of such equipment used in the construction of such enlargement or general improvements, for any price exceeding ten thousand dollars without advertising for bids, except that such a contract may be negotiated directly with a sheltered workshop pursuant to section 48-1503 or entered into for the benefit of the municipal electric utility.

(5) A municipal electric utility may enter into a contract for the enlargement any such work or improvement of the electric system or for the purchase of such equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Price is ten Twenty thousand dollars or less; (b) price is twenty forty 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 sixty 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 eighty 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 (6) The advertisement, as provided for in subsection (2) subsections (3) and (4) of this section, shall be published at least ten days seven days prior to the bid closing in some a legal newspaper published in or of general circulation published in the city. 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 authorized by section 16-405 when adopted by a three-fourths vote of the council and entered of record.~~

~~(4) (7) If, after advertising for bids as provided in subsections (2) (3), (4), and (3) (6) 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 may negotiate a contract for services, material, or labor in an attempt to complete the proposed project enlargement or general improvements at a cost commensurate with the estimate given.~~

~~(5) (8) 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. Any municipal bidding procedure may be waived by the city council or board of public works (1) 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 in sections 81-145 to 81-162 or (2) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503.~~

~~Sec. 3. Section 17-568.01, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~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, the building of culverts, sewers, electric light system, waterworks, power plant, public heating system, bridges, curbing, and gutters, the improvement of streets, and the 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 may utilize its own engineering staff and shall have the right to may 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 may purchase material and employ labor for the enlargement and or improvement of the water and electric departments systems and works under the jurisdiction of the board.~~

~~(2) No Except as provided in section 18-412.01, no contract contracts for services, material, or labor for enlargement or improvement, except as provided in section 18-412.01; general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over ten twenty thousand dollars shall be made unless it is first approved by the city council or village board.~~

~~(3) Except as provided in section 18-412.01, before the city council or village board shall make makes any contract in excess of ten twenty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, or work on streets, or any other work or improvement where when the cost of such enlargement or improvement shall be is 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. In advertising for bids as provided in subsections (4) and (6) of this section, the city council or village board may publish the~~

amount of the estimate.

(4) Advertisements for bids shall be required for any contract costing over twenty thousand dollars. No contract shall be entered into (a) for any such work or improvement enlargement or general improvements, such as water extensions, sewers, public heating system, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of such equipment used in the construction of such enlargement or general improvements, for any price exceeding ten thousand dollars without advertising for bids, except that such a contract may be negotiated directly with a sheltered workshop pursuant to section 48-1503 or entered into for the benefit of the municipal electric utility.

(5) A municipal electric utility may enter into a contract for any such work the enlargement or improvement of the electric system or for the purchase of such equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Price is ten Twenty thousand dollars or less; (b) price is twenty forty 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 sixty 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 eighty 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 or village board may cause the amount of such estimate to be published therewith.

(3) Such (6) The advertisement, provided for in subsection (2) subsections (3) and (4) of this section, shall be published once each week for three consecutive weeks at least seven days prior to the bid closing in a legal newspaper published in or of general circulation in the city or village and, if there be is 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 is 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 at least seven days prior to the bid closing. 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, 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) (7) If, after advertising for bids as provided in subsections (2) (3), (4), and (5) (6) 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 may negotiate a contract for services, material, or labor in an attempt to complete the proposed project enlargement or general improvements at a cost commensurate with the estimate given.

(5) (8) 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.

Sec. 4. Any municipal bidding procedure may be waived by the city council, village board, or board of public works (1) 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 in sections 81-145 to 81-162 or (2) when the contract is

negotiated directly with a sheltered workshop pursuant to section 48-1503.

Sec. 5. Section 48-1501, Reissue Revised Statutes of Nebraska, is amended to read:

48-1501. As used in sections ~~14-564, 16-321, 17-568.01,~~ 48-1501 to 48-1506, ~~70-637, and 81-153,~~ unless the context otherwise requires, sheltered workshop shall mean a facility in Nebraska operated by a public agency or a private nonprofit corporation organized for the primary purpose of employment of and service to physically or mentally disabled clients in a program of rehabilitation. Such facility shall be certified as a sheltered workshop, a work activity center, or an equivalent by an independent accrediting agency and comply with the Fair Labor Standards Amendments of 1966, Public Law No. 89-601, 80 Stat. 830, as a sheltered workshop or a work activity center.

Sec. 6. Section 48-1502, Reissue Revised Statutes of Nebraska, is amended to read:

48-1502. To negotiate contracts pursuant to sections ~~14-564, 16-321, 17-568.01,~~ 48-1501 to 48-1506, ~~70-637, and 81-153,~~ a sheltered workshop shall:

- (1) Employ a minimum of ten physically or mentally disabled clients;
- (2) Provide disabled clients with a wage at a level consistent with their health, efficiency, and general well-being as required by Chapter 48, article 12;
- (3) Provide a controlled work environment and a program designed to enable the disabled client enrolled in the program to progress toward normal living and develop, as far as possible, his or her capacity, performance, and relationship with other persons; and
- (4) Provide a work experience sufficiently diverse to accommodate the needs of each disabled client enrolled in the program.

Sec. 7. The Revisor of Statutes shall assign section 2 of this act to Chapter 16, article 3, and section 4 of this act to Chapter 17, article 5.

Sec. 8. Original sections 16-321, 17-568.01, 48-1501, and 48-1502, Reissue Revised Statutes of Nebraska, are repealed.