

AMENDMENTS TO LB 975

Introduced by Smith

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. This act shall be known and may be cited as
4 the Fair Bidding Act.

5 Sec. 2. The purposes of the Fair Bidding Act
6 are to provide for the efficient procurement of goods and
7 services by governmental units and to promote the economical,
8 nondiscriminatory, and efficient administration and completion
9 of construction projects funded, assisted, or awarded by a
10 governmental unit.

11 Sec. 3. For purposes of the Fair Bidding Act:

12 (1) Bidder means any individual, firm, partnership,
13 limited liability company, corporation, or other association of
14 persons that makes an offer to perform a public contract for a
15 governmental unit;

16 (2) Collective-bargaining agreement means an agreement
17 between any employer and a labor organization, whether or not a
18 third party is also a party to the agreement, which regulates terms
19 and conditions of employment;

20 (3) Construction means the business of construction,
21 alteration, repairing, dismantling, or demolition of airports,
22 bridges, buildings, canals, dams, disposal plants, levees,
23 pipelines, power lines, roads, sewers, streets, transmission lines,

1 viaducts, water and gas mains, water filters, water tanks, water
2 towers, water wells, and every other type of structure, project,
3 development, or improvement coming within the definition of real
4 property or personal property, whether such property is to be
5 occupied by the owner or held either for sale or rental;

6 (4) Governmental unit means the State of Nebraska, any
7 agency of the state, or any political subdivision of the state,
8 including any county, city, village, township, school district,
9 learning community, educational service unit, district, authority,
10 the University of Nebraska, the Nebraska state college system, the
11 Nebraska community college system, any entity created pursuant to
12 the Interlocal Cooperation Act or the Joint Public Agency Act, or
13 any public corporation or entity, whether organized and existing
14 under direct provisions of the Constitution of Nebraska or laws
15 of the State of Nebraska or by virtue of charter, corporate
16 articles, or other legal instruments executed under authority of
17 the constitution or laws and any agent, agency, board, commission,
18 authority, instrumentality, subdivision, or other body of any of
19 such entities;

20 (5) Public benefit means a grant, loan, tax abatement,
21 tax credit, or any other similar type of benefit awarded by a
22 governmental unit;

23 (6) Public contract means any contract, bid documents,
24 or other controlling documents for the performance of construction
25 between a governmental unit and a public contractor, including
26 those between a contractor and a subcontractor;

27 (7) Public contractor means any individual, firm,

1 partnership, limited liability company, corporation, or other
2 association of persons engaged in construction for a governmental
3 unit. Public contractor includes any subcontractor engaged in such
4 construction and any person who is providing or arranging for labor
5 for such construction for a contractor, either as an employee or as
6 an independent contractor;

7 (8) Real property means real estate that is improved.
8 Real property includes public land and any leasehold, tenement, or
9 improvement placed on the real property; and

10 (9) Subcontractor means a person or entity that has
11 contracted to furnish labor or materials to, or performed
12 labor or supplied materials for, a public contractor or another
13 subcontractor in connection with a contract for construction.
14 Subcontractor includes materialmen and suppliers.

15 Sec. 4. Unless otherwise required by federal law, a
16 governmental unit shall ensure that any requests for proposals
17 or bid specifications for a public contract or the procurement
18 procedures for a public contract do not contain:

19 (1) A term that requires, prohibits, encourages, or
20 discourages bidders, public contractors, or subcontractors from
21 entering into or adhering to a collective-bargaining agreement
22 relating to construction under the public contract; or

23 (2) A term that discriminates against bidders, public
24 contractors, or subcontractors based on status as a party or
25 nonparty to, or the willingness or refusal to enter into, a
26 collective-bargaining agreement relating to construction under the
27 public contract.

1 Sec. 5. A governmental unit shall not award a public
2 benefit that is conditioned upon a requirement that the recipient
3 of the public benefit include a term described in section 4 of this
4 act in a public contract for any construction that is the subject
5 of the public benefit. Any such included term is void and of no
6 effect.

7 Sec. 6. A governmental unit shall not place any of the
8 terms described in section 4 of this act in requests for proposals
9 or bid specifications for a public contract or in the procurement
10 procedures for a public contract. Any such included term is void
11 and of no effect.

12 Sec. 7. The requirements of sections 4 to 6 of this
13 act do not apply to public benefits awarded or public contracts
14 executed before the effective date of this act.

15 Sec. 8. Nothing in the Fair Bidding Act shall:

16 (1) Prohibit employers or other parties from entering
17 into agreements or engaging in any other activity protected under
18 federal law, including the National Labor Relations Act, 29 U.S.C.
19 151 et seq., as amended; or

20 (2) Interfere with labor relations of parties that are
21 protected under federal law, including the National Labor Relations
22 Act, 29 U.S.C. 151 et seq., as amended.