

E AND R AMENDMENTS TO LB 790

Introduced by Slama, 1, Chairman Enrollment and Review

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

3 Section 1. Section 13-2904, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 13-2904 (1) Notwithstanding the procedures for public lettings in
6 sections 73-101 to 73-106 or any other statute relating to the letting of
7 bids by a political subdivision, a political subdivision which follows
8 the Political Subdivisions Construction Alternatives Act may solicit and
9 execute a design-build contract or a construction management at risk
10 contract.

11 (2) The governing body of the political subdivision shall adopt a
12 resolution selecting the design-build contract or construction management
13 at risk contract delivery system provided under the act prior to
14 proceeding with the provisions of sections 13-2905 to 13-2914. The
15 resolution shall require the affirmative vote of at least two-thirds of
16 the governing body of the political subdivision. The resolution shall
17 include a statement that the political subdivision has made a
18 determination that the design-build contract or construction management
19 at risk contract delivery system is in the public interest based, at a
20 minimum, on one of the following criteria: (a) Savings in cost or time;
21 or (b) requirement of specialized or complex construction methods
22 suitable for the design-build contract or construction management at risk
23 contract delivery system.

24 Sec. 2. Section 13-2914, Revised Statutes Supplement, 2019, is
25 amended to read:

26 13-2914 (1) A political subdivision shall not use a design-build
27 contract or construction management at risk contract under the Political

1 Subdivisions Construction Alternatives Act for a project, in whole or in
2 part, for road, street, or highway, ~~water, wastewater, utility, or sewer~~
3 construction. τ

4 (2) A ~~except that~~ a city of the metropolitan class may use a design-
5 build contract or construction management at risk contract under the
6 Political Subdivisions Construction Alternatives Act for the purpose of
7 complying with state or federal requirements to control or minimize
8 overflows from combined sewers.

9 (3) A political subdivision may use a design-build contract or
10 construction management at risk contract under the Political Subdivisions
11 Construction Alternatives Act for a project, in whole or in part, for
12 water, wastewater, utility, or sewer construction.

13 Sec. 3. Section 73-507, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 73-507 (1) Subject to review by the Director of Administrative
16 Services, the division shall provide procedures to grant limited
17 exceptions from sections 73-504, 73-508, and 73-509 for:

18 (a) Sole source contracts, emergency contracts, and contracts for
19 services when the price has been established by the federal General
20 Services Administration or competitively bid by another state or group of
21 states, a group of states and any political subdivision of any other
22 state, a political subdivision of another state, or a cooperative
23 purchasing organization on behalf of a group of states or political
24 subdivisions; and

25 (b) Other circumstances or specific contracts when any of the
26 requirements of sections 73-504, 73-508, and 73-509 are not appropriate
27 for or are not compatible with the circumstances or contract. The
28 division shall provide a written rationale which shall be kept on file
29 when granting an exception under this subdivision.

30 (2) The following types of contracts for services are not subject to
31 sections 73-504, 73-508, 73-509, and 73-510:

1 (a) Contracts for services subject to the Nebraska Consultants'
2 Competitive Negotiation Act;

3 (b) Contracts for services subject to federal law, regulation, or
4 policy or state statute, under which a state agency is required to use a
5 different selection process or to contract with an identified contractor
6 or type of contractor;

7 (c) Contracts for professional legal services and services of expert
8 witnesses, hearing officers, or administrative law judges retained by
9 state agencies for administrative or court proceedings;

10 (d) Contracts involving state or federal financial assistance passed
11 through by a state agency to a political subdivision;

12 (e) Contracts with a value of fifteen million dollars or less with
13 direct providers of medical, behavioral, or developmental health
14 services, child care, or child welfare services to an individual;

15 (f) Agreements for services to be performed for a state agency by
16 another state or local government agency or contracts made by a state
17 agency with a local government agency for the direct provision of
18 services to the public;

19 (g) Agreements for services between a state agency and the
20 University of Nebraska, the Nebraska state colleges, the courts, the
21 Legislature, or other officers or state agencies established by the
22 Constitution of Nebraska;

23 (h) Department of Insurance contracts for financial or actuarial
24 examination, for rehabilitation, conservation, reorganization, or
25 liquidation of licensees, and for professional services related to
26 residual pools or excess funds under the agency's control;

27 (i) Department of Transportation contracts for all road and bridge
28 projects;

29 (j) Nebraska Investment Council contracts; and

30 (k) Contracts under section 57-1503.

31 Sec. 4. Section 81-153, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-153 The materiel division shall have the power and duty to:

3 (1) Purchase or contract for, in the name of the state, the personal
4 property required by the using agencies and the state;

5 (2) Promulgate, apply, and enforce standard specifications
6 established as provided in section 81-154;

7 (3) Sell and dispose of personal property that is not needed by the
8 state or its using agencies as provided in section 81-161.04 or initiate
9 trade-ins when determined to be in the best interest of the state;

10 (4) Determine the utility, quality, fitness, and suitability of all
11 personal property tendered or furnished;

12 (5) Make rules and regulations consistent with sections 81-145 to
13 81-171 and 81-1118 to 81-1118.06 to carry into effect the provisions
14 thereof. Such rules and regulations shall include provisions for
15 modifying and terminating purchase contracts and the cost principles to
16 be used in such modification or termination;

17 (6) Employ such clerical, technical, and other assistants as may be
18 necessary to properly administer such sections, fix their compensation,
19 and prescribe their duties in connection therewith, subject to existing
20 laws and appropriations;

21 (7) Allow the purchase of personal property without competitive
22 bidding when the price has been established by the federal General
23 Services Administration or to allow the purchase of personal property by
24 participation in a contract competitively bid by another state or group
25 of states, a group of states and any political subdivision of any other
26 state, a political subdivision of another state, or a cooperative
27 purchasing organization on behalf of a group of states or political
28 subdivisions. The division may also give consideration to a sheltered
29 workshop pursuant to section 48-1503 in making such purchases;

30 (8) Enter into any personal property lease agreement when it appears
31 to be in the best interest of the state; and

1 (9) Negotiate purchases and contracts when conditions exist to
2 defeat the purpose and principles of public competitive bidding.

3 Sec. 5. Section 81-1118.06, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-1118.06 (1) The purposes of the state purchasing bureau created
6 by section 81-1118 are:

7 (a) ~~(1)~~ To increase public confidence in the procedures followed in
8 public procurement;

9 (b) ~~(2)~~ To insure the fair and equitable treatment of all persons
10 who deal with the procurement system of this state;

11 (c) ~~(3)~~ To provide increased economy in state procurement activities
12 and maximize to the fullest extent practicable the purchasing value of
13 the public funds of the state;

14 (d) ~~(4)~~ To foster effective broad-based competition within the free
15 enterprise system; and

16 (e) ~~(5)~~ To provide safeguards for the maintenance of a procurement
17 system of quality and integrity.

18 (2) The state purchasing bureau may lead the negotiation of a
19 contract competitively bid for goods or services in which the state is
20 interested and on behalf of a cooperative purchasing organization on
21 behalf of a group of states or political subdivisions.

22 Sec. 6. Original sections 13-2904, 73-507, 81-153, and 81-1118.06,
23 Reissue Revised Statutes of Nebraska, and section 13-2914, Revised
24 Statutes Supplement, 2019, are repealed.

25 2. On page 1, strike beginning with "state" in line 1 through line 6
26 and insert "public lettings and contracts; to amend sections 13-2904,
27 73-507, 81-153, and 81-1118.06, Reissue Revised Statutes of Nebraska, and
28 section 13-2914, Revised Statutes Supplement, 2019; to change the
29 Political Subdivisions Construction Alternatives Act; to provide
30 exceptions to certain state bidding requirements and contract approval
31 procedures; to provide and change powers and duties of the materiel

1 division of the Department of Administrative Services; and to repeal the
2 original sections."