

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 616

FINAL READING

Introduced by Hilgers, 21.

Read first time January 23, 2019

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to state highways and bridges; to amend
2 section 39-1349, Reissue Revised Statutes of Nebraska, and section
3 81-1701, Revised Statutes Cumulative Supplement, 2018; to provide an
4 interest payment exception for certain construction contracts as
5 prescribed; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 39-1349, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 39-1349 (1) Except as provided in subsections (5) ~~(3)~~ and (6) ~~(4)~~ of
4 this section, all contracts for the construction, reconstruction,
5 improvement, maintenance, or repair of state highway system roads and
6 bridges and their appurtenances shall be let by the department to the
7 lowest responsible bidder. Bidders on such contracts must be prequalified
8 to bid by the department except as provided in subsection (2) of section
9 39-1351. The department may reject any or all bids and cause the work to
10 be done as may be directed by the department.

11 (2) Except as provided in subsection (3) of this section, if ~~If~~ the
12 contractor has furnished the department all required records and reports,
13 the department shall pay to the contractor interest at a rate three
14 percentage points above the average annual Federal Reserve composite
15 prime lending rate for the previous calendar year rounded to the nearest
16 one-tenth of one percent on the amount retained and on the final payment
17 due the contractor beginning sixty days after the work under the contract
18 has been completed as evidenced by the completion date established in the
19 department's letter of tentative acceptance or, when tentative acceptance
20 has not been issued, beginning sixty days after completion of the work
21 and running until the date when payment is tendered to the contractor.

22 (3) Subsection (2) of this section shall not apply to contracts
23 which provide for payment pursuant to a set schedule over a period of
24 time that extends beyond the completion of construction.

25 (4) ~~(2)~~ When the department is required by acts of Congress and
26 rules and regulations made by an agent of the United States in pursuance
27 of such acts to predetermine minimum wages to be paid laborers and
28 mechanics employed on highway construction, the Director-State Engineer
29 shall cause minimum rates of wages for such laborers and mechanics to be
30 predetermined and set forth in contracts for such construction. The
31 minimum rates shall be the scale of wages which the Director-State

1 Engineer finds are paid and maintained by at least fifty percent of the
2 contractors in performing highway work contracted with the department
3 unless the Director-State Engineer further finds that such scale of wages
4 so determined would unnecessarily increase the cost of such highway work
5 to the state, in which event he or she shall reduce such determination to
6 such scale of wages as he or she finds is required to avoid such
7 unnecessary increase in the cost of such highway work.

8 (5) ~~(3)~~ The department, in its sole discretion, may permit a city or
9 county to let state or federally funded contracts for the construction,
10 reconstruction, improvement, maintenance, or repair of state highways,
11 bridges, and their appurtenances located within the jurisdictional
12 boundaries of such city or county, to the lowest responsible bidder when
13 the work to be let is primarily local in nature and the department
14 determines that it is in the public interest that the contract be let by
15 the city or the county. Bidders on such contracts must be prequalified to
16 bid by the department except as provided in subsection (2) of section
17 39-1351.

18 (6) ~~(4)~~ The department, in its sole discretion, may permit a federal
19 agency to let contracts for the construction, reconstruction,
20 improvement, maintenance, or repair of state highways, bridges, and their
21 appurtenances and may permit such federal agency to perform any and all
22 other aspects of the project to which such contract relates, including,
23 but not limited to, preliminary engineering, environmental clearance,
24 final design, and construction engineering, when the department
25 determines that it is in the public interest to do so. Bidders on such
26 contracts must be prequalified to bid by the department except as
27 provided in subsection (2) of section 39-1351.

28 Sec. 2. Section 81-1701, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 81-1701 The purpose of the Nebraska Consultants' Competitive
31 Negotiation Act is to provide managerial control over competitive

1 negotiations by the state for acquisition of professional architectural,
2 engineering, landscape architecture, or land surveying services. The act
3 does not apply to (1) contracts under section 57-1503, (2) contracts
4 under subsection (6) ~~(4)~~ of section 39-1349, (3) contracts under sections
5 39-2808 to 39-2823 except as provided in section 39-2810, or (4)
6 contracts under the State Park System Construction Alternatives Act
7 except as provided in section 37-1719.

8 Sec. 3. Original section 39-1349, Reissue Revised Statutes of
9 Nebraska, and section 81-1701, Revised Statutes Cumulative Supplement,
10 2018, are repealed.