

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 323

FINAL READING

Introduced by Moser, 22.

Read first time January 16, 2025

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to the Department of Transportation; to amend
- 2 section 39-1355, Reissue Revised Statutes of Nebraska, and section
- 3 39-1348, Revised Statutes Cumulative Supplement, 2024; to change
- 4 provisions relating to solicitation of bids; to change the threshold
- 5 required for legislative consent relating to certain construction
- 6 projects; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 39-1348, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 39-1348 (1) Except as otherwise provided in sections 39-2808 to
4 39-2823, when letting contracts for the construction, reconstruction,
5 improvement, maintenance, or repair of roads, bridges, and their
6 appurtenances, the department shall solicit bids as follows:

7 (a)(i) {a} For contracts with an estimated cost, as determined by
8 the department, of greater than two hundred fifty thousand dollars, the
9 department shall provide notice of the department's solicitation of
10 advertise for sealed bids using the following methods: for not less than
11 twenty days by publication of a notice thereof

12 (A) Publish notice once a week for three consecutive weeks in the
13 official county newspaper designated by the county board in the county
14 where the work is to be done and in such additional newspaper or
15 newspapers as may appear necessary to the department in order to give
16 notice of the receiving of bids; and -

17 (B) Publish notice on the official web page designated by the
18 department beginning at least twenty days before the deadline for receipt
19 of bids. The notice will be deemed to comply with this requirement even
20 if there are temporary or occasional times when Internet service is down
21 or the designated web page is not available for any reason.

22 (ii) Such notice advertisement shall identify the general project
23 location, state the place where the plans and specifications for the work
24 may be inspected, and shall designate the time when the bids shall be
25 filed and opened. The newspaper notice shall identify the department's
26 official web page where the details of the bid letting may be viewed
27 electronically.

28 (iii) The notice requirements of this section shall be deemed to
29 have been met if notice of the bid solicitation has been published on the
30 department's designated web page for at least twenty days prior to the
31 time when bids will be opened, even if there is any defect with the

1 newspaper notice described in subdivision (1)(a)(i)(A) of this section,
2 including, but not limited to, meeting a publication deadline that has
3 been moved by the publisher resulting in an inability to satisfy the
4 requirement of three consecutive weeks of published notice.

5 (iv) If through no fault of the department publication of such
6 notice fails to appear as prescribed in subdivisions (1)(a)(i) and (ii)
7 of this section in any newspaper or newspapers in the manner provided in
8 ~~this subdivision~~, the department shall be deemed to have fulfilled the
9 requirements of this subdivision; and

10 (b) For contracts with an estimated cost, as determined by the
11 department, of two hundred fifty thousand dollars or less, the
12 department, in its sole discretion, shall either:

13 (i) Follow the procedures given in subdivision (a) of this
14 subsection; or

15 (ii) Request bids from at least three potential bidders for such
16 work. If the department requests bids under this subdivision, it shall
17 designate a time when the bids shall be opened. The department may award
18 a contract pursuant to this subdivision if it receives at least one
19 responsive bid.

20 (2) The Department of Transportation may adjust the amounts in
21 subdivisions (1)(a) and (b) of this section annually on October 1 by the
22 percentage change in the Consumer Price Index for All Urban Consumers
23 published by the United States Department of Labor, Bureau of Labor
24 Statistics, at the close of the twelve-month period ending on August 31
25 of such year. The amounts shall be rounded to the next highest one-
26 thousand-dollar amount.

27 **Sec. 2.** Section 39-1355, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 39-1355 (1) The department shall have authority to:

30 (a) Purchase ~~purchase~~, lease, employ, or acquire by other means, all
31 needed road materials, machinery, equipment, supplies, services, and

1 labor necessary for the construction, reconstruction, maintenance, and
2 control of the state highway system and all tools and materials necessary
3 to keep such machinery and equipment in repair; and

4 (b) Lease . ~~The department shall also have authority to lease,~~
5 purchase, construct, or cause to be constructed, buildings for office
6 accommodations, which are necessary in the administration of the duties
7 of the department, and buildings for the storing and housing of
8 materials, machinery, equipment, and supplies.

9 (2) The department shall not ; ~~Provided, that the department may not~~
10 construct or cause to be constructed any building with an estimated cost
11 greater than the adjusted dollar amount established for capital
12 construction projects in section 81-1114.01 exceeding a cost of one
13 ~~hundred thousand dollars~~ without the consent of the Legislature.

14 (3) The maintenance, protection, and control of the materials,
15 machinery, equipment, supplies, tools, and buildings shall be under the
16 authority and responsibility of the department.

17 **Sec. 3.** Original section 39-1355, Reissue Revised Statutes of
18 Nebraska, and section 39-1348, Revised Statutes Cumulative Supplement,
19 2024, are repealed.