

## LEGISLATIVE BILL 393

Approved by the Governor May 17, 1985

Introduced by Nichol, 48; Lynch, 13; Rogers, 41;  
Haberman, 44

AN ACT relating to county government; to amend sections 23-104.03, 23-324.01 to 23-324.04, 23-324.06 to 23-324.08, 23-1112, and 32-4,114, Reissue Revised Statutes of Nebraska, 1943; to adopt the County Purchasing Act; to change the mileage rate for county officers; to harmonize provisions; to eliminate provisions relating to certain purchases; and to repeal the original sections, and also sections 23-116.01, 23-177 to 23-179, 23-324, 23-324.05, and 39-1406, Reissue Revised Statutes of Nebraska, 1943, and sections 23-321 and 23-323, Revised Statutes Supplement, 1984.

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

Section 1. Sections 1 to 14 of this act shall be known and may be cited as the County Purchasing Act.

Sec. 2. The purpose of the County Purchasing Act is to provide a uniform purchasing procedure for county purchases of equipment, supplies, other items of personal property, and services.

Sec. 3. The Legislature encourages counties to work together under the provisions of the County Purchasing Act when joint purchases would be to the best advantage of such counties.

Sec. 4. That section 23-324.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-324.03: The terms As used in the County Purchasing Act, unless the context otherwise requires:

(1) Personal property shall include, but not be limited to, supplies, materials, and equipment, as used throughout this act shall be construed to mean any and all articles or things which shall be used by or furnished to any county officer, office, department, institution, board, or other agency of the county government; county government; except election supplies; materials and equipment. The term contractual services

(2) Services shall be construed to mean election contractual services and any and all telephone, telegraph, postal, and electric light and power service and other similar services; and except election contractual services

(3) Purchasing or purchase shall mean the obtaining of personal property or services by sale, lease, or other contractual means. Purchase shall also include

contracting with sheltered workshops for products or services as provided in Chapter 48, article 15. Except as otherwise provided in this act, any and all supplies, materials, equipment or contractual service needed by one or more departments or agencies of the county government shall be directly purchased or contracted for by the county purchasing agent in accordance with existing laws, including the terms and provisions of this act.

Sec. 5. That section 23-324.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-324-01- The Any county board, may and in counties having a population of more than one hundred fifty thousand inhabitants shall employ a competent person as purchasing agent, who shall not be a county officer of the said county. All purchases made from appropriated funds of the county shall be made through the purchasing agent. The county board shall pay said the agent for such services such sum as shall be agreed upon at the time of said employment. The person so employed and designated shall serve at the pleasure of the county board and give bond to the county in such amount as said the county board shall prescribe.

Sec. 6. That section 23-324.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-324-02- The county purchasing agent, shall have authority, under the supervision of the county board, or the county board if there is no purchasing agent and it shall be his duty to purchase or contract for all personal property supplies, materials, equipment and contractual services required by any office, officer, department, or agency of the county government in said the county, subject to the provisions set forth in this act the County Purchasing Act. The county purchasing agent or the county board if there is no purchasing agent shall draw up, subject to the approval of the county board, and enforce standard specifications which shall apply to all personal property supplies, materials and equipment purchased for the use of the county government, shall have charge of all central storerooms, now operated by, or hereafter established by the county board, and shall transfer personal property to or between the several county offices, officers, and departments, and shall sell personal property supplies, materials, and equipment of the county which are is surplus, obsolete, or unused.

Sec. 7. That section 23-324.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-324-04- The county or purchasing agent, shall, subject to the approval of the county board, shall perform administrative duties as follows- He shall prescribe (1) Prescribe the manner in which personal property supplies, materials and equipment shall be purchased, delivered, and distributed; (2) prescribe dates for making estimates, the future period which they are to

cover, the form in which they are submitted, and the manner of their authentication; ~~7 the revision of said (3) revise forms from time to time as conditions warrant, and he shall~~ (4) provide for the transfer to and between county departments and agencies of personal property supplies, materials and equipment, which is are surplus with one department or agency but which may be needed by another or others; (5) dispose of and for the disposal by sale, after receipt of competitive bids, personal property of supplies, materials, and equipment which has have been declared obsolete and unusable by the county board; (6) - He shall prescribe the amount of cash deposit or bond to be submitted with a bid on a contract and the amount of deposit or bond to be given for the faithful performance of a contract, if the amount of the said bond is be not specifically provided by law; and (7) - He shall prescribe the manner in which claims for personal property or supplies, materials, equipment and contractual services delivered to any department, departments or agencies agency of the county shall be submitted, approved, and paid.

Sec. 8. Except as provided in section 9 of this act, purchases of personal property or services by the county board or purchasing agent shall be made:

(1) Through the competitive sealed bidding process prescribed in section 11 of this act if the estimated value of the purchase is ten thousand dollars or more;

(2) By securing and recording at least three informal bids, if practicable, if the estimated value of the purchase is equal to or exceeds two thousand five hundred dollars, but is less than ten thousand dollars; or

(3) By purchasing in the open market if the estimated value of the purchase is less than two thousand five hundred dollars, subject to section 12 of this act.

In no case shall a purchase be divided to produce several purchases which are of an estimated value below that required for bidding.

All contracts and leases shall be approved as to form by the county attorney, and a copy of each long-term contract or lease shall be filed with the county clerk.

Sec. 9. (1) Competitive bidding shall not be required when purchasing unique or noncompetitive items, purchasing petroleum products, obtaining professional services or equipment maintenance, or when the price has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

(2) The county board may, by majority vote of its members, waive the bidding requirements of the County Purchasing Act if such waiver is necessary to meet an emergency which threatens serious loss of life, health, or property in the county.

(3) The governing board may waive the bidding requirements of the County Purchasing Act if the county can save a significant amount of money by entering into a special purchase. The county board shall, five days prior to such special purchase, publish notice of its intention to make such a special purchase, stating the items considered and inviting informal quotes. A two-thirds vote of the entire county board shall approve such special purchase.

Sec. 10. In awarding the bid, the following elements shall be given consideration when applicable:

- (1) The price;
- (2) The ability, capacity, and skill of the supplier to perform;
- (3) The character, integrity, reputation, judgment, experience, and efficiency of the supplier;
- (4) The quality of previous performance;
- (5) Whether the supplier can perform within the time specified;
- (6) The previous and existing compliance of the supplier with laws relating to the purchase or contract;
- (7) The life-cost of the personal property or service in relation to the purchase price and the specific use;
- (8) The performance of the personal property or service taking into consideration any commonly accepted tests and standards of product or service usability and user requirements;
- (9) The energy efficiency ratio as stated by the supplier;
- (10) The life-cycle costs between alternatives for all classes of equipment, the evidence of expected life, the repair and maintenance costs, and the energy consumption on a per year basis; and
- (11) Such other information as may be secured having a bearing on the decision.

Sec. 11. When competitive sealed bidding is required by section 8 of this act:

- (1) Sealed bids shall be solicited by public notice in a legal newspaper of general circulation in the county at least once a week for two consecutive weeks before the final date of submitting bids;
- (2) In addition to subdivision (1) of this section, sealed bids may also be solicited by sending requests by mail to prospective suppliers and by posting notice on a public bulletin board;
- (3) The notice shall contain: (a) A general description of the proposed purchase; (b) an invitation for sealed bids; (c) the name of the county official in charge of receiving the bids; (d) the date, time, and place the bids received shall be opened; and (e) whether alternative items will be considered;
- (4) All bids shall remain sealed until opened on

the published date and time by the county board or its designated agent;

(5) Any or all bids may be rejected and the bid need not be awarded at the time of opening, but may be held over for further consideration;

(6) If all bids received on a pending contract are for the same unit price or total amount and appear to be so as the result of collusion between the bidders, the county board or purchasing agent shall have authority to reject all bids and to purchase the personal property or services in the open market, except that the price paid in the open market shall not exceed the bid price;

(7) Each bid, with the name of bidder, shall be entered on a record and each record, with the successful bidder indicated thereon, shall, after the award or contract, be open to public inspection; and

(8) All lettings on such bids shall be public and shall be conducted as provided in Chapter 73, article 1.

Sec. 12. That section 23-324.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~23-324-06-~~ Except in an emergency, which the county board shall declare by resolution, ~~for certain types of purchases,~~ no order for delivery on a contract on open market order for ~~personal property supplies, materials, equipment or contractual~~ services for any county department or agency shall be awarded until the county clerk ~~shall have been~~ is satisfied that the unencumbered balance in the fund concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order or contract, or the county clerk ~~shall have been~~ is satisfied that the purchase is one contemplated in the terms of the county budget as set up by the county board. Whenever any officer, office, department, or agency of the county government shall purchase or contract for any ~~personal property supplies, materials, equipment or contractual~~ services contrary to the provisions of this act the County Purchasing Act, such order or contract shall be void, ~~and of no effect.~~ The county officer or the head of such department or agency shall be personally liable for the costs of such order or contract and, if already paid for out of county funds, the amount thereof may be recovered in the name of the county in an appropriate action. ~~instituted therefor.~~

Sec. 13. That section 23-324.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~23-324-07-~~ (1) Neither the county purchasing agent nor any member of his or her office staff, if any, shall be financially interested in or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any ~~supplies, materials, equipment, personal property or contractual~~ services used

by or furnished to any office, officer, department, or agency of the county government, nor - ~~nor~~ shall such purchasing agent or ~~nor~~ a member of his or her staff, if any, receive directly or indirectly, from any person, firm, or corporation, to which any contract or purchase order may be awarded, by rebate, gift, or otherwise, any money, anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Any county purchasing agent or any member of his or her office staff, if any, who shall violate any of the provisions of ~~this act~~ the County Purchasing Act shall, upon conviction thereof, be guilty of a Class IV felony. All contracts or agreements in violation of this section are declared unlawful and shall be wholly void as an obligation against the county.

(2) If there is no purchasing agent, the county board acting pursuant to the County Purchasing Act shall be subject to section 23-180.

Sec. 14. That section 23-324.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~23-324-08:~~ The county board, in addition to other powers granted it by law, may enter into contracts for lease of real or personal property for authorized purposes. Such leases shall not be restricted to a single year, and may provide for the purchase of the property in installment payments. ~~The provisions of this~~ This section shall be in addition to and notwithstanding the provisions of sections 23-132, ~~23-324-05,~~ and 23-916.

Sec. 15. That section 23-104.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-104.03. Each county shall have the authority (1) to plan, initiate, fund, maintain, administer, and evaluate facilities, programs, and services that meet the rehabilitation, treatment, care, training, educational, residential, diagnostic, evaluation, community supervision, and protective service needs of dependent, aged, blind, disabled, ill, infirm, mentally ill, or mentally retarded persons domiciled in the county, (2) to purchase outright by installment contract or by mortgage with the power to borrow funds in connection with such contract or mortgage, hold, sell, and lease for a period of more than one year real estate necessary for use of the county to plan, initiate, fund, maintain, administer, and evaluate such facilities, programs, and services, (3) to lease personal property necessary for such facilities, programs, and services, and such lease may provide for installment payments which extend over a period of more than one year, notwithstanding the provisions of section 23-132, ~~23-324-05,~~ or 23-916, (4) to enter into compacts with other counties, state agencies, other political subdivisions, and private nonprofit agencies to exercise

and carry out the powers to plan, initiate, fund, maintain, administer, and evaluate such facilities, programs, and services, and (5) to contract for such services from agencies, either public or private, which provide such services on a vendor basis. Compacts with other public agencies pursuant to subdivision (4) of this section shall be subject to ~~the provisions of~~ the Interlocal Cooperation Act.

Sec. 16. That section 23-1112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1112. (1) When it is necessary for any county officer or his or her deputy or assistants, except any county sheriff or his or her deputy, to travel on business of the county, he or she shall be allowed mileage at the rate of ~~twenty-one~~ twenty and one half cents per mile for each mile actually and necessarily traveled by the most direct route; if the trip or trips be made by automobile, but if travel by rail or bus shall be economical and practical, he or she shall be allowed only the actual cost of rail or bus transportation, upon the presentation of his or her bill for the same accompanied by a proper voucher; to the county board of his or her county in like manner as is provided for as to all other claims against the county.

(2) Any future adjustments made to the reimbursement rate provided in subsection (1) of this section, shall be deemed to apply to all provisions of law which refer to this section for the computation of mileage.

Sec. 17. That section 32-4,114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-4,114. The governing body of any county may acquire voting machines, electronic counting devices, or punch card voting systems in such manner as it may deem in the best interests of the county, and may for that purpose issue bonds, certificates of indebtedness, or other obligations; or levy not to exceed one and seven-tenths cents on each one hundred dollars of actual valuation. Any ~~PROVIDED, that any~~ amounts so levied and collected in excess of actual costs of voting machines, electronic counting devices, or punch card voting systems shall revert to the general fund of the county. Any bonds, certificates, or other obligations may be issued with or without interest, payable at such time or times as the governing body may determine, but shall not be issued or sold at less than par. In addition the governing body of the county may rent, lease, lease-purchase, or contract for voting machines, electronic counting devices, and punch card voting systems and provide for installment payments which extend over a period of more than one year, notwithstanding the provisions of sections 23-132, ~~23-324.05,~~ and 23-916, or any other provision of law.

Sec. 18. That original sections 23-104.03, 23-324.01 to 23-324.04, 23-324.06 to 23-324.08, 23-1112, and 32-4,114, Reissue Revised Statutes of Nebraska, 1943,

and also sections 23-116.01, 23-177 to 23-179, 23-324, 23-324.05, and 39-1406, Reissue Revised Statutes of Nebraska, 1943, and sections 23-321 and 23-323, Revised Statutes Supplement, 1984, are repealed.