

E AND R AMENDMENTS TO LB 636

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

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

3 Section 1. Section 13-801, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 13-801 Sections 13-801 to 13-827 and sections 2 to 4
6 of this act shall be known and may be cited as the Interlocal
7 Cooperation Act.

8 Sec. 2. (1) A joint entity shall cause estimates of the
9 costs to be made by some competent engineer or engineers before
10 the joint entity enters into any contract for the construction,
11 management, operation, ownership, maintenance, or purchase of an
12 electric generating facility and related facilities.

13 (2) If the estimated cost exceeds the sum of one hundred
14 thousand dollars, no such contract shall be entered into without
15 advertising for sealed bids.

16 (3) (a) The provisions of subsection (2) of this section
17 and sections 3 and 4 of this act relating to sealed bids shall not
18 apply to contracts entered into by a joint entity in the exercise
19 of its rights and powers relating to equipment or supplemental
20 labor procurement from an electric utility or from or through an
21 electric utility alliance if:

22 (i) The engineer or engineers certify that, by reason of
23 the nature of the subject matter of the contract, compliance with

1 subsection (2) of this section would be impractical or not in the
2 public interest;

3 (ii) The engineer's certification is approved by a
4 two-thirds vote of the governing body of the joint entity; and

5 (iii) The joint entity advertises notice of its intention
6 to enter into such contract, the general nature of the proposed
7 work, and the name of the person to be contacted for additional
8 information by anyone interested in contracting for such work.

9 (b) Any contract for which the governing body has
10 approved an engineer's certificate described in subdivision (a) of
11 this subsection shall be advertised in three issues, not less than
12 seven days between issues, in one or more newspapers of general
13 circulation in the municipality or county where the principal
14 office or place of business of the joint entity is located, or
15 if no newspaper is so published then in a newspaper qualified to
16 carry legal notices having general circulation therein, and in such
17 additional newspapers or trade or technical periodicals as may be
18 selected by the governing body in order to give proper notice of
19 its intention to enter into such contract, and any such contract
20 shall not be entered into prior to twenty days after the last
21 advertisement.

22 (4) The provisions of subsection (2) of this section and
23 sections 3 and 4 of this act shall not apply to contracts in excess
24 of one hundred thousand dollars entered into for the purchase of
25 any materials, machinery, or apparatus to be used in facilities
26 described in subsection (1) of this section when the contract does
27 not include onsite labor for the installation thereof if, after

1 advertising for sealed bids:

2 (a) No responsive bids are received; or

3 (b) The governing body of the joint entity determines
4 that all bids received are in excess of the fair market value of
5 the subject matter of such bids.

6 (5) Notwithstanding any other provision of subsection
7 (2) of this section or sections 3 and 4 of this act, a
8 joint entity may, without advertising or sealed bidding, purchase
9 replacement parts or services relating to such replacement parts
10 for any generating unit, transformer, or other transmission and
11 distribution equipment from the original manufacturer of such
12 equipment upon certification by an engineer or engineers that
13 such manufacturer is the only available source of supply for
14 such replacement parts or services and that such purchase is in
15 compliance with standards established by the governing body of the
16 joint entity. A written statement containing such certification and
17 a description of the resulting purchase of replacement parts or
18 services from the original manufacturer shall be submitted to the
19 joint entity by the engineer or engineers certifying the purchase
20 for the governing body's approval. After such certification, but
21 not necessarily before the governing body's review, notice of any
22 such purchase shall be published once a week for at least three
23 consecutive weeks in one or more newspapers of general circulation
24 in the municipality or county where the principal office or place
25 of business of the joint entity is located and published in such
26 additional newspapers or trade or technical periodicals as may be
27 selected by the governing body in order to give proper notice of

1 such purchase.

2 (6) Notwithstanding any other provision of subsection
3 (2) of this section or sections 3 and 4 of this act, a joint
4 entity may, without advertising or sealed bidding, purchase used
5 equipment and materials on a negotiated basis upon certification
6 by an engineer that such equipment is or such materials are in
7 compliance with standards established by the governing body. A
8 written statement containing such certification shall be submitted
9 to the joint entity by the engineer for the governing body's
10 approval.

11 Sec. 3. Prior to advertisement for sealed bids, plans
12 and specifications for the proposed work or materials shall be
13 prepared and filed at the principal office or place of business
14 of the joint entity. Such advertisement shall be made in three
15 issues, not less than seven days between issues, in one or more
16 newspapers of general circulation in the municipality or county
17 where the principal office or place of business of the joint
18 entity is located, or if no newspaper is so published then
19 in a newspaper qualified to carry legal notices having general
20 circulation therein, and in such additional newspapers or trade or
21 technical periodicals as may be selected by the governing body of
22 the joint entity in order to give proper notice of the receiving
23 of bids. Such advertisement shall designate the nature of the work
24 proposed to be done or materials proposed to be purchased, that the
25 plans and specifications therefor may be inspected at the office
26 of the joint entity, giving the location thereof, the time within
27 which bids shall be filed, and the date, hour, and place the same

1 shall be opened.

2 Sec. 4. The governing body of the joint entity may let
3 the contract for such work or materials to the responsible bidder
4 who submits the lowest and best bid, or in the sole discretion
5 of the governing body, all bids tendered may be rejected, and
6 readvertisement for bids made, in the manner, form, and time
7 as provided in section 3 of this act. In determining whether a
8 bidder is responsible, the governing body may consider the bidder's
9 financial responsibility, skill, experience, record of integrity,
10 ability to furnish repairs and maintenance services, and ability
11 to meet delivery or performance deadlines and whether the bid is
12 in conformance with specifications. Consideration may also be given
13 by the governing body of the joint entity to the relative quality
14 of supplies and services to be provided, the adaptability of
15 machinery, apparatus, supplies, or services to be purchased to the
16 particular uses required, the preservation of uniformity, and the
17 coordination of machinery and equipment with other machinery and
18 equipment already installed. No such contract shall be valid nor
19 shall any money of the joint entity be expended thereunder unless
20 advertisement and letting has been had as provided in sections 2 to
21 4 of this act.

22 Sec. 5. Section 18-2442, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 18-2442 ~~Before any agency shall enter into any contract~~
25 ~~for the~~ (1) An agency shall cause estimates of the costs to be made
26 by some competent engineer or engineers before the agency enters
27 into any contract for:

1 (a) The construction, reconstruction, remodeling,
2 building, alteration, maintenance, repair, extension, or
3 improvement, for the use of the agency, of any:

4 (i) Power project, power plant, or system; ~~or~~
5 irrigation

6 (ii) Irrigation works; ~~or any part~~

7 (iii) Part or section thereof, for the use of the agency,
8 of a project, plant, system, or works described in subdivision (i)
9 or (ii) of this subdivision; or ~~for the purchase~~

10 (b) The purchase of any materials, machinery, or
11 apparatus to be used in such construction, reconstruction,
12 remodeling, building, alteration, maintenance, repair, extension,
13 or improvement, such agency shall cause estimates of the cost
14 thereof to be made by some competent engineer or engineers. If such
15 a project, plant, system, or works described in subdivision (1)(a)
16 of this section.

17 (2) If the estimated cost shall exceed ~~exceeds~~ the sum
18 of one hundred thousand dollars, no such contract shall be entered
19 into without advertising for sealed bids. ~~except that with~~
20 respect

21 (3)(a) The provisions of subsection (2) of this section
22 and sections 18-2443 and 18-2444 relating to sealed bids shall
23 not apply to contracts entered into by an agency in the exercise
24 of its rights and powers, relating to (i) radioactive material or
25 the energy therefrom, (ii) relating to any technologically complex
26 or unique equipment, contracts, ~~or relating to~~ (iii) equipment or
27 supplemental labor procurement from an electric utility or from or

1 through an electric utility alliance, or (iv) any maintenance or
2 repair, ~~contracts,~~ if such the requirements of subdivisions (b) and
3 (c) of this subsection are met.

4 (b) A contract described in subdivision (a) of this
5 subsection need not comply with subsection (2) of this section or
6 sections 18-2443 and 18-2444 if:

7 (i) The engineer or engineers shall certify that, by
8 reason of the nature of the subject matter of the contract,
9 compliance with subsection (2) of this section would be impractical
10 and or not in the public interest; ~~and the~~

11 (ii) The engineer's certification is approved by a
12 two-thirds vote of the board; ~~and then sections 18-2442 to~~
13 18-2444 shall not apply, and the

14 (iii) The agency shall ~~advertise~~ advertises notice of its
15 intention to enter into such contract, the general nature of the
16 proposed work, and the name of the person to be contacted for
17 additional information by anyone interested in contracting for such
18 work.

19 (c) Any contract for which the board has approved such
20 an engineer's certificate described in subdivision (b) of this
21 subsection shall be advertised in three issues, not less than
22 seven days between issues, in one or more newspapers of general
23 circulation in the municipality or county where the principal
24 office or place of business of the agency is located, or if
25 no newspaper is so published then in a newspaper qualified to
26 carry legal notices having general circulation therein, and in
27 such additional newspapers or trade or technical periodicals as

1 may be selected by the board in order to give proper notice of
2 its intention to enter into such contract, and any such contract
3 shall not be entered into prior to twenty days after the last
4 advertisement.

5 (4) The provisions of subsection (2) of this section
6 and sections 18-2443 and 18-2444 shall not apply ~~With respect to~~
7 contracts in excess of one hundred thousand dollars entered into
8 for the purchase of any materials, machinery, or apparatus to
9 be used in ~~the construction, reconstruction, remodeling, building,~~
10 ~~alteration, maintenance, repair, extension, or improvement of any~~
11 ~~power plant or system, or irrigation works, or any part or~~
12 ~~section thereof~~ projects, plants, systems, or works described in
13 subdivision (1)(a) of this section when the contract does not
14 include onsite labor for the installation thereof, if, after
15 advertising for sealed bids: ~~ne~~

16 (a) No responsive bids are received; or if the

17 (b) The board of directors of such agency determines that
18 all bids received are in excess of the fair market value of the
19 subject matter of such bids. ~~then the provisions of sections~~
20 ~~18-2442 to 18-2444 shall not apply.~~

21 (5) Notwithstanding any other provision of subsection (2)
22 of this section or sections 18-2443 and 18-2444, an agency may,
23 without advertising or sealed bidding, purchase replacement parts
24 or services relating to such replacement parts for any generating
25 unit, transformer, or other transmission and distribution equipment
26 from the original manufacturer of such equipment upon certification
27 by an engineer or engineers that such manufacturer is the only

1 available source of supply for such replacement parts or services
2 and that such purchase is in compliance with standards established
3 by the board. A written statement containing such certification
4 and a description of the resulting purchase of replacement parts
5 or services from the original manufacturer shall be submitted to
6 the board by the engineer or engineers certifying the purchase for
7 the board's approval. After such certification, but not necessarily
8 before the board's review, notice of any such purchase shall be
9 published once a week for at least three consecutive weeks in
10 one or more newspapers of general circulation in the municipality
11 or county where the principal office or place of business of the
12 agency is located and published in such additional newspapers or
13 trade or technical periodicals as may be selected by the board in
14 order to give proper notice of such purchase.

15 (6) Notwithstanding any other provision of subsection (2)
16 of this section or sections 18-2442 to 18-2443 and 18-2444, an
17 agency may, without advertising or sealed bidding, purchase used
18 equipment and materials on a negotiated basis without advertising
19 or sealed bidding upon certification by an engineer that such
20 equipment is or such materials are in compliance with standards
21 established by the board. A written statement containing such
22 certification shall be submitted to the board by the engineer for
23 the board's approval.

24 Sec. 6. Section 70-637, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 70-637 (1) A district shall cause estimates of the costs
27 to be made by some competent engineer or engineers before the

1 district enters into any contract for: ~~Before any district enters~~
2 ~~into any contract for the~~

3 (a) The construction, reconstruction, remodeling,
4 building, alteration, maintenance, repair, extension, or
5 improvement, for the use of the district, of any:

6 (i) Power ~~power~~ plant or system; ~~any hydrogen~~

7 (ii) Hydrogen production, storage, or distribution
8 system;

9 (iii) Ethanol ~~any ethanol~~ production or distribution
10 system;

11 (iv) Irrigation ~~any irrigation works;~~ ~~or any part~~

12 (v) Part or section thereof for the use of the district
13 of a system or works described in subdivisions (i) through (iv) of
14 this subdivision; or

15 (b) The purchase ~~for the purchase~~ of any materials,
16 machinery, or apparatus to be used in the projects described in
17 subdivision (1)(a) of this section.

18 (2) If the ~~such construction, reconstruction, remodeling,~~
19 building, alteration, maintenance, repair, extension, or
20 improvement, such district shall cause estimates of the cost
21 thereof to be made by some competent engineer or engineers. If such
22 estimated cost exceeds the sum of one hundred thousand dollars, no
23 such contract shall be entered into without advertising for sealed
24 bids. ~~except that (1)~~

25 (3) Notwithstanding the provisions of subsection (2) of
26 this section and sections 70-638 and 70-639, the board of directors
27 of the district may negotiate directly with sheltered workshops

1 pursuant to section 48-1503.

2 (4) (a) The provisions of subsection (2) of this section
3 and sections 70-638 and 70-639 relating to sealed bids shall
4 not apply and ~~(2) with respect~~ to contracts entered into by a
5 district in the exercise of its rights and powers relating to
6 (i) radioactive material or the energy therefrom, ~~to~~ (ii) any
7 technologically complex or unique equipment, ~~contracts, or to~~
8 (iii) equipment or supplemental labor procurement from an electric
9 utility or from or through an electric utility alliance, or (iv)
10 any maintenance or repair, ~~contracts,~~ if the requirements of
11 subdivisions (b) and (c) of this subsection are met.

12 (b) A contract described in subdivision (a) of this
13 subsection need not comply with subsection (2) of this section or
14 section 70-638 or 70-639 if:

15 (i) The ~~the~~ engineer or engineers certify that, by reason
16 of the nature of the subject matter of the contract, compliance
17 with subsection (2) of this section would be impractical and or not
18 in the public interest; and

19 (ii) The ~~the~~ engineer's certification is approved by a
20 two-thirds vote of the board; and

21 (iii) The ~~the~~ provisions of sections 70-637 to 70-639
22 relating to sealed bids shall not apply and the district shall
23 advertise ~~advertises~~ notice of its intention to enter into such
24 contract, the general nature of the proposed work, and the name
25 of the person to be contacted for additional information by anyone
26 interested in contracting for such work.

27 (c) Any contract for which the board has approved such

1 an engineer's certificate described in subdivision (b) of this
2 subsection shall be advertised in three issues not less than
3 seven days between issues in one or more newspapers of general
4 circulation in the district and in such additional newspapers or
5 trade or technical periodicals as may be selected by the board in
6 order to give proper notice of its intention to enter into such
7 contract, and any such contract shall not be entered into prior to
8 twenty days after the last advertisement.

9 (5) The provisions of subsection (2) of this section
10 and sections 70-638 and 70-639 shall not apply With respect
11 to contracts in excess of one hundred thousand dollars entered
12 into for the purchase of any materials, machinery, or apparatus
13 to be used in projects described in subdivision (1)(a) of this
14 section the construction, reconstruction, remodeling, building,
15 alteration, maintenance, repair, extension, or improvement of
16 any power plant or system, any hydrogen production, storage,
17 or distribution system, any ethanol production or distribution
18 system, any irrigation works, or any part or section thereof when
19 the contract does not include onsite labor for the installation
20 thereof, if, after advertising for sealed bids: ne

21 (a) No responsive bids are received; or

22 (b) The if the board of directors of such district
23 determines that all bids received are in excess of the fair market
24 value of the subject matter of such bids. sections 70-637 to
25 70-639 shall not apply.

26 (6) Notwithstanding any other provision of subsection
27 (2) of this section or sections 70-637 to 70-638 and 70-639,

1 a district may, without advertising or sealed bidding, purchase
2 replacement parts or services relating to such replacement parts
3 for any generating unit, transformer, or other transmission and
4 distribution equipment from the original manufacturer of such
5 equipment upon certification by an engineer or engineers that
6 such manufacturer is the only available source of supply for
7 such replacement parts or services and that such purchase is in
8 compliance with standards established by the board. A written
9 statement containing such certification and a description of the
10 resulting purchase of replacement parts or services from the
11 original manufacturer shall be submitted to the board by the
12 engineer or engineers certifying the purchase for the board's
13 approval. After such certification, but not necessarily before
14 the board review, notice of any such purchase shall be published
15 once a week for at least three consecutive weeks in one or more
16 newspapers of general circulation in the district and published in
17 such additional newspapers or trade or technical periodicals as may
18 be selected by the board in order to give proper notice of such
19 purchase.

20 (7) Notwithstanding any other provision of subsection (2)
21 of this section or sections 70-637 to 70-638 and 70-639, a district
22 may, without advertising or sealed bidding, purchase used equipment
23 and materials on a negotiated basis without advertising or sealed
24 bidding upon certification by an engineer that such equipment is or
25 such materials are in compliance with standards established by the
26 board. A written statement containing such certification shall be
27 submitted to the board by the engineer for the board's approval.

1 Sec. 7. Original section 13-801, Reissue Revised Statutes
2 of Nebraska, and sections 18-2442 and 70-637, Revised Statutes
3 Cumulative Supplement, 2006, are repealed.

4 2. On page 1, strike beginning with "power" in line
5 1 through line 6 and insert "entities; to amend section 13-801,
6 Reissue Revised Statutes of Nebraska, and sections 18-2442 and
7 70-637, Revised Statutes Cumulative Supplement, 2006; to provide
8 bidding requirements for certain entities; to exempt specified
9 contracts with electric utilities or electric utility alliances
10 from certain bidding requirements; to harmonize provisions; and to
11 repeal the original sections."