

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 205**

Introduced by von Gillern, 4; Aguilar, 35; Brewer, 43; Halloran, 33;  
Holdcroft, 36; Hughes, 24; Jacobson, 42; Kauth, 31;  
Linehan, 39; Lippincott, 34; Murman, 38; Riepe, 12.

Read first time January 09, 2023

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to public lettings and contracts; to adopt the
- 2 Government Neutrality in Contracting Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 8 of this act shall be known and may be  
2 cited as the Government Neutrality in Contracting Act.

3           Sec. 2. The purposes of the Government Neutrality in Contracting  
4 Act are to provide for the efficient procurement of goods and services by  
5 governmental units and to promote the economical, nondiscriminatory, and  
6 efficient administration and completion of construction projects funded,  
7 assisted, or awarded by a governmental unit.

8           Sec. 3. For purposes of the Government Neutrality in Contracting  
9 Act:

10           (1) Bidder means any individual, firm, partnership, limited  
11 liability company, corporation, association, or other person that makes  
12 an offer to perform a public contract for a governmental unit;

13           (2) Collective-bargaining agreement means an agreement between any  
14 employer and a labor organization, whether or not a third party is also a  
15 party to the agreement, which regulates terms and conditions of  
16 employment;

17           (3) Construction means the business of construction, alteration,  
18 repairing, dismantling, or demolition of airports, bridges, buildings,  
19 canals, dams, disposal plants, levees, pipelines, power lines, roads,  
20 sewers, streets, transmission lines, viaducts, water and gas mains, water  
21 filters, water tanks, water towers, water wells, and every other type of  
22 structure, project, development, or improvement coming within the  
23 definition of real property or personal property, whether such property  
24 is to be occupied by the owner or held either for sale or rental;

25           (4) Governmental unit means the State of Nebraska or any agency or  
26 political subdivision of the state, including any county, city, village,  
27 township, school district, learning community, educational service unit,  
28 district, authority, the University of Nebraska, the Nebraska state  
29 college system, the Nebraska community college system, any entity created  
30 pursuant to the Interlocal Cooperation Act or the Joint Public Agency  
31 Act, or any public corporation or entity, whether organized and existing

1 under direct provisions of the Constitution of Nebraska or laws of the  
2 State of Nebraska or by virtue of charter, corporate articles, or other  
3 legal instruments executed under authority of the Constitution of  
4 Nebraska or laws of the State of Nebraska and any agent, agency, board,  
5 commission, authority, instrumentality, subdivision, or other body of any  
6 of such entities;

7 (5) Public benefit means a grant, loan, tax abatement, tax credit,  
8 or any other similar type of benefit awarded by a governmental unit;

9 (6) Public contract means any contract, bid documents, or other  
10 controlling documents for the performance of construction between a  
11 governmental unit and a public contractor, including those between a  
12 public contractor and a subcontractor;

13 (7) Public contractor means any individual, firm, partnership,  
14 limited liability company, corporation, association, or other person  
15 engaged in construction for a governmental unit. Public contractor  
16 includes any subcontractor engaged in such construction and any person  
17 who is providing or arranging for labor for such construction for a  
18 contractor, either as an employee or as an independent contractor;

19 (8) Real property means real estate that is improved. Real property  
20 includes public land and any leasehold, tenement, or improvement placed  
21 on the real property; and

22 (9) Subcontractor means a person or entity that has contracted to  
23 furnish labor or materials to, or performed labor or supplied materials  
24 for, a public contractor or another subcontractor in connection with a  
25 public contract. Subcontractor includes materialmen and suppliers.

26 Sec. 4. (1) Unless otherwise required by federal law, a  
27 governmental unit shall ensure that any requests for proposals or bid  
28 specifications for a public contract or the procurement procedures for a  
29 public contract do not contain:

30 (a) A term that requires, prohibits, encourages, or discourages  
31 bidders, public contractors, or subcontractors from entering into or

1 adhering to a collective-bargaining agreement relating to construction  
2 under the public contract;

3 (b) A term that discriminates against bidders, public contractors,  
4 or subcontractors based on status as a party or nonparty to, or the  
5 willingness or refusal to enter into, a collective-bargaining agreement  
6 relating to construction under the public contract; or

7 (c) Contract award pass or fail scoring criteria regarding a  
8 bidder's hiring requirements, labor assignments, local headquarters,  
9 political affiliation, political activity, or demographic makeup.

10 (2) Any term described in subsection (1) of this section that is  
11 included in requests for proposals or in bid specifications or  
12 procurement procedures for a public contract is void.

13 Sec. 5. A governmental unit shall not award a public benefit that  
14 is conditioned upon a requirement that the recipient of the public  
15 benefit include a term described in section 4 of this act in a public  
16 contract for any construction that is the subject of the public benefit.  
17 Any such included term is void.

18 Sec. 6. A governmental unit shall not place any term described in  
19 section 4 of this act in a public contract. Any such included term is  
20 void.

21 Sec. 7. The requirements of sections 4 to 6 of this act do not  
22 apply to public benefits awarded or public contracts executed prior to  
23 the effective date of this act.

24 Sec. 8. Nothing in the Government Neutrality in Contracting Act  
25 shall:

26 (1) Prohibit employers or other parties from entering into  
27 agreements or engaging in any other activity protected under federal law,  
28 including the National Labor Relations Act, 29 U.S.C. 151 et seq., as  
29 such act existed on January 1, 2023; or

30 (2) Interfere with labor relations of parties that are protected  
31 under federal law, including the National Labor Relations Act, 29 U.S.C.

1 151 et seq., as such act existed on January 1, 2023.