

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 778

Introduced by Brewer, 43.

Read first time January 05, 2022

Committee:

- 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, or other association of persons that
12 makes 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, any agency of the
26 state, or any political subdivision of the state, including any county,
27 city, village, township, school district, learning community, educational
28 service unit, district, authority, the University of Nebraska, the
29 Nebraska state college system, the Nebraska community college system, any
30 entity created pursuant to the Interlocal Cooperation Act or the Joint
31 Public Agency Act, or any public corporation or entity, whether organized

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

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

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

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

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

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

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

29 (1) A term that requires, prohibits, encourages, or discourages
30 bidders, public contractors, or subcontractors from entering into or
31 adhering to a collective-bargaining agreement relating to construction

1 under the public contract;

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

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

9 Sec. 5. A governmental unit shall not award a public benefit that
10 is conditioned upon a requirement that the recipient of the public
11 benefit include a term described in section 4 of this act in a public
12 contract for any construction that is the subject of the public benefit.
13 Any such included term is void and of no effect.

14 Sec. 6. A governmental unit shall not place any of the terms
15 described in section 4 of this act in requests for proposals or bid
16 specifications for a public contract or in the procurement procedures for
17 a public contract. Any such included term is void and of no effect.

18 Sec. 7. The requirements of sections 4 to 6 of this act do not
19 apply to public benefits awarded or public contracts executed before the
20 effective date of this act.

21 Sec. 8. Nothing in the Government Neutrality in Contracting Act
22 shall:

23 (1) Prohibit employers or other parties from entering into
24 agreements or engaging in any other activity protected under federal law,
25 including the National Labor Relations Act, 29 U.S.C. 151 et seq., as
26 amended; or

27 (2) Interfere with labor relations of parties that are protected
28 under federal law, including the National Labor Relations Act, 29 U.S.C.
29 151 et seq., as amended.