

## LEGISLATIVE BILL 616

Approved by the Governor May 08, 2019

Introduced by Hilgers, 21.

A BILL FOR AN ACT relating to state highways and bridges; to amend section 39-1349, Reissue Revised Statutes of Nebraska, and section 81-1701, Revised Statutes Cumulative Supplement, 2018; to provide an interest payment exception for certain construction contracts as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 39-1349, Reissue Revised Statutes of Nebraska, is amended to read:

39-1349 (1) Except as provided in subsections ~~(5)~~ ~~(3)~~ and ~~(6)~~ ~~(4)~~ of this section, all contracts for the construction, reconstruction, improvement, maintenance, or repair of state highway system roads and bridges and their appurtenances shall be let by the department to the lowest responsible bidder. Bidders on such contracts must be prequalified to bid by the department except as provided in subsection (2) of section 39-1351. The department may reject any or all bids and cause the work to be done as may be directed by the department.

(2) Except as provided in subsection (3) of this section, if ~~if~~ the contractor has furnished the department all required records and reports, the department shall pay to the contractor interest at a rate three percentage points above the average annual Federal Reserve composite prime lending rate for the previous calendar year rounded to the nearest one-tenth of one percent on the amount retained and on the final payment due the contractor beginning sixty days after the work under the contract has been completed as evidenced by the completion date established in the department's letter of tentative acceptance or, when tentative acceptance has not been issued, beginning sixty days after completion of the work and running until the date when payment is tendered to the contractor.

(3) Subsection (2) of this section shall not apply to contracts which provide for payment pursuant to a set schedule over a period of time that extends beyond the completion of construction.

~~(4)~~ ~~(2)~~ When the department is required by acts of Congress and rules and regulations made by an agent of the United States in pursuance of such acts to predetermine minimum wages to be paid laborers and mechanics employed on highway construction, the Director-State Engineer shall cause minimum rates of wages for such laborers and mechanics to be predetermined and set forth in contracts for such construction. The minimum rates shall be the scale of wages which the Director-State Engineer finds are paid and maintained by at least fifty percent of the contractors in performing highway work contracted with the department unless the Director-State Engineer further finds that such scale of wages so determined would unnecessarily increase the cost of such highway work to the state, in which event he or she shall reduce such determination to such scale of wages as he or she finds is required to avoid such unnecessary increase in the cost of such highway work.

~~(5)~~ ~~(3)~~ The department, in its sole discretion, may permit a city or county to let state or federally funded contracts for the construction, reconstruction, improvement, maintenance, or repair of state highways, bridges, and their appurtenances located within the jurisdictional boundaries of such city or county, to the lowest responsible bidder when the work to be let is primarily local in nature and the department determines that it is in the public interest that the contract be let by the city or the county. Bidders on such contracts must be prequalified to bid by the department except as provided in subsection (2) of section 39-1351.

~~(6)~~ ~~(4)~~ The department, in its sole discretion, may permit a federal agency to let contracts for the construction, reconstruction, improvement, maintenance, or repair of state highways, bridges, and their appurtenances and may permit such federal agency to perform any and all other aspects of the project to which such contract relates, including, but not limited to, preliminary engineering, environmental clearance, final design, and construction engineering, when the department determines that it is in the public interest to do so. Bidders on such contracts must be prequalified to bid by the department except as provided in subsection (2) of section 39-1351.

Sec. 2. Section 81-1701, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-1701 The purpose of the Nebraska Consultants' Competitive Negotiation Act is to provide managerial control over competitive negotiations by the state for acquisition of professional architectural, engineering, landscape architecture, or land surveying services. The act does not apply to (1) contracts under section 57-1503, (2) contracts under subsection ~~(6)~~ ~~(4)~~ of section 39-1349, (3) contracts under sections 39-2808 to 39-2823 except as provided in section 39-2810, or (4) contracts under the State Park System Construction Alternatives Act except as provided in section 37-1719.

Sec. 3. Original section 39-1349, Reissue Revised Statutes of Nebraska, and section 81-1701, Revised Statutes Cumulative Supplement, 2018, are

repealed.