

LEGISLATIVE BILL 34

Approved by the Governor March 10, 1981

Introduced by Vickers, 38; Wesely, 26

AN ACT relating to public power districts; to amend sections 70-620, 70-637, 70-638, 70-639, 70-642, and 70-643, Reissue Revised Statutes of Nebraska, 1943; to restrict the appointment of a treasurer as prescribed; to provide for rules and regulations; to provide additional considerations for the letting of certain contracts; to place restrictions on certain payments or expenditures as prescribed; and to repeal the original sections.

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

Section 1. That section 70-620, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-620. The board of directors shall appoint the officers of the district, who shall be a president, a vice president, a secretary, and a treasurer, and the board shall appoint such executive committee and other officers, including a general manager, agents, servants, and employees as shall be deemed necessary in handling the affairs and transacting the business of the district. The president, and vice president, and treasurer shall be appointed from the membership of the board of directors. The treasurer shall furnish and maintain a corporate surety bond in an amount sufficient to cover all money coming into his or her possession or control, which bond shall be satisfactory in form and with sureties approved by the board. The bond required under this section shall in no event exceed one hundred thousand dollars. The bond as thus approved shall be filed with the Secretary of State.

Sec. 2. That section 70-637, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-637. Before any district shall enter into any contract for the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, or irrigation works, or any part or section thereof, for the use of the district, or for the purchase of any materials, machinery, or apparatus to be used in such construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or

improvement, such district shall cause estimates of the cost thereof to be made by some competent engineer or engineers. If such estimated cost shall exceed the sum of fifty thousand dollars, no such contract shall be entered into without advertising for sealed bids; Provided, --With with respect to contracts entered into by a district in the exercise of its rights and powers, relating to radioactive material or the energy therefrom, or relating to any maintenance or repair contracts, if said engineer or engineers shall certify that by reason of the developmental nature of the subject matter of the contract compliance with this section would be impractical or and not in the public interest, and the engineer's certification is approved by a two-thirds vote of the board, then the provisions of sections 70-637 to 70-639 relating to sealed bids shall not apply, and the district shall advertise notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work. Any contract for which the board has approved such engineer's certificate shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement. With respect to contracts in excess of fifty thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, or irrigation works, or any part or section thereof when the contract does not include onsite labor for the installation thereof, if, after advertising for sealed bids, no responsive bids are received or if the board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids, then the provisions of sections 70-637 to 70-639 shall not apply.

Sec. 3. That section 70-638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-638. Prior to such advertisement for sealed bids, plans and specifications for the proposed construction work or materials shall be prepared and filed at the principal office or place of business of the district. Such advertisement shall be made for in three

consecutive issues, not less than twenty seven days between issues, in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of the receiving of bids. Such advertisement shall designate the nature of the construction work proposed to be done or materials proposed to be purchased, that the plans and specifications therefor may be inspected at the office of the district, giving the location thereof, and shall designate the time within which bids shall be filed, and the date, hour and place the same shall be opened.

Sec. 4. That section 70-639, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-639. The board of directors of the district may let the contract for such work or materials to the responsible bidder who submits the lowest and best bid or, in the sole discretion of the board, all bids tendered may be rejected, and readvertisement for bids made, in the manner, form, and time as provided in section 70-638. In determining whether a bidder is responsible, the board may consider the bidder's financial responsibility, skill, experience, record of integrity, ability to furnish repairs and maintenance services, ability to meet delivery or performance deadlines, and whether the bid is in conformance with specifications. Consideration may also be given by the board of directors to the relative quality of supplies and services to be provided, the adaptability of machinery, and apparatus, supplies, or services to be purchased to the particular uses required, to the preservation of uniformity, and the coordination of machinery and equipment with other machinery and equipment already installed. No such contract shall be valid nor shall any money of the district be expended thereunder unless advertisement and letting shall have been had as provided in this section and sections 70-637 and 70-638.

Sec. 5. That section 70-642, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-642. In the event of sudden or unexpected damage, injury or impairment of such plant, works, system, or other property belonging to the district, or an order of a regulatory body which would prevent compliance with section 70-637, the board of directors may, in its discretion, declare an emergency, and proceed

with the necessary repairs,--alterations,--extensions, additions, or other work; construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement without first complying with the provisions of sections 70-637 to 70-641.

Sec. 6. That section 70-643, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-643. (1) Money of the district shall be paid out or expended only upon the authorization or approval of the board of directors by specific agreement, a written contract, or by a resolution. and All money of the district shall be paid out or expended only by check, draft, warrant, or other instrument in writing, signed by the treasurer, assistant treasurer, or such other officer, employee, or agent of the district as shall be authorized by the treasurer to sign in his or her behalf; Provided, however, such authorization shall be in writing and filed with the secretary of the district. ~~and provided; further; in~~

(2) Money of the district paid out or expended shall be examined by the board of directors at a regular meeting within two months following such expenditure.

(3) In the event that the treasurer's bond shall not expressly insure the district against loss resulting from the fraudulent, illegal, negligent, or otherwise wrongful or unauthorized acts or conduct by or on the part of any and every person thus authorized to sign checks, drafts, warrants, or other instruments in writing, there shall be procured and filed with the secretary of the district, together with the written authorization aforesaid, filed with the secretary of the board, a surety bond, effective for protection against such loss, in such form and penal amount and with such corporate surety as shall be approved in writing by the signed endorsement thereon of any two officers of the district other than the treasurer. The secretary shall report to the board at each meeting any such bonds filed, or any change in the status of any such bonds, since the last previous meeting of the board.

Sec. 7. That original sections 70-620, 70-637, 70-638, 70-639, 70-642, and 70-643, Reissue Revised Statutes of Nebraska, 1943, are repealed.