ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 96 By: Coates of the Senate

and

Liebmann of the House

An Act relating to the Public Competitive Bidding Act of 1974; amending 61 O.S. 2001, Sections 103, as last amended by Section 2, Chapter 98, O.S.L. 2010, 115, as last amended by Section 2, Chapter 212, O.S.L. 2008, and 130, as last amended by Section 1, Chapter 265, O.S.L. 2007 (61 O.S. Supp. 2010, Sections 103, 115, and 130), which relate to solicitation and awarding of contracts, collusion among bidders or suppliers, and emergencies; modifying limit amount for certain negotiated contracts; removing certain bidding requirement; allowing the Oklahoma Conservation Commission to delegate certain power; and providing an effective date.

AMENDMENT NO. 1. Page 3, lines 3 through 15, delete all of Section 2

and renumber subsequent sections

and amend title to conform

Passed the House of Representatives the 5th day of April, 2011.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

ENGROSSED SENATE
BILL NO. 96 By: Coates of the Senate

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An Act relating to the Public Competitive Bidding Act of 1974; amending 61 O.S. 2001, Sections 103, as last amended by Section 2, Chapter 98, O.S.L. 2010, 115, as last amended by Section 2, Chapter 212, O.S.L. 2008, and 130, as last amended by Section 1, Chapter 265, O.S.L. 2007 (61 O.S. Supp. 2010, Sections 103, 115, and 130), which relate to solicitation and awarding of contracts, collusion among bidders or suppliers, and emergencies; modifying limit amount for certain negotiated contracts; removing certain bidding requirement; allowing the Oklahoma Conservation Commission to delegate certain power; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 61 O.S. 2001, Section 103, as last amended by Section 2, Chapter 98, O.S.L. 2010 (61 O.S. Supp. 2010, Section 103), is amended to read as follows:

Section 103. A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars ($50,000.00) shall be let and awarded to the lowest responsible bidder, by open competitive bidding after solicitation for sealed bids, in accordance with the provisions of the Public Competitive Bidding Act of 1974. No work shall be commenced until a written contract is

executed and all required bonds and insurance have been provided by the contractor to the awarding public agency.

B. Except as provided in subsection D of this section, other construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same for Fifty Thousand Dollars ($50,000.00) or less shall be let and awarded to the lowest responsible bidder by receipt of written bids or awarded on the basis of competitive quotes to the lowest responsible qualified contractor. Work may be commenced in accordance with the purchasing policies of the public agency.

C. Except as provided in subsection D of this section, other construction contracts for less than ~~Two Thousand Five Hundred Dollars ($2,500.00)~~ Five Thousand Dollars ($5,000.00) may be negotiated with a qualified contractor. Work may be commenced in accordance with the purchasing policies of the public agency.

D. The provisions of this subsection shall apply to public construction for minor maintenance or minor repair work to public school district property. Other construction contracts for less than Twenty-five Thousand Dollars ($25,000.00) may be negotiated with a qualified contractor. Construction contracts equal to or greater than Twenty-five Thousand Dollars ($25,000.00) but less than Fifty Thousand Dollars ($50,000.00) shall be let and awarded to the lowest responsible bidder by receipt of written bids. No work shall be commenced on any construction contract until a written contract

is executed and proof of insurance has been provided by the contractor to the awarding public agency.

SECTION 2. AMENDATORY 61 O.S. 2001, Section 115, as last amended by Section 2, Chapter 212, O.S.L. 2008 (61 O.S. Supp. 2010, Section 115), is amended to read as follows:

Section 115. Any agreement or collusion among bidders, prospective bidders or material suppliers in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding, or otherwise, shall render the bids of such bidders void. Persons willfully violating this section shall be guilty of a felony. Each bidder shall accompany the bid with a ~~sworn~~ statement that the bidder has not been a party to any such agreement. The form of the statement shall be substantially as provided in Section 85.22 of Title 74 of the Oklahoma Statutes, but modified in wording to refer to the appropriate public agency requesting bids.

SECTION 3. AMENDATORY 61 O.S. 2001, Section 130, as last amended by Section 1, Chapter 265, O.S.L. 2007 (61 O.S. Supp. 2010, Section 130), is amended to read as follows:

Section 130. A. The provisions of the Public Competitive Bidding Act of 1974 with reference to notice and bids shall not apply to an emergency if:

1. The governing body of a public agency declares by a two-thirds (2/3) majority vote of all of the members of the governing body that an emergency exists;

2. The Transportation Commission and the Oklahoma Tourism and Recreation Commission, by majority vote of all the members of each Commission, declare that an emergency exists; or

3. The chief administrative officer of a public agency without a governing body declares that an emergency exists.

B. The governing body of a public agency may, upon approval of two-thirds (2/3) majority of all of the members of the governing body, delegate to the chief administrative officer of a public agency the authority to declare an emergency whereby the provisions of the Public Competitive Bidding Act of 1974 with reference to notice and bids shall not apply to contracts less than Thirty-five Thousand Dollars ($35,000.00) in amount; provided, such authority of the Department of Transportation and the Oklahoma Turnpike Authority shall not extend to any contract exceeding Five Hundred Thousand Dollars ($500,000.00) in amount.

C. Upon approval of a two-thirds (2/3) majority vote, the Oklahoma Conservation Commission may delegate to the Executive Director the authority to declare an emergency and set a monetary limit for the declaration. The provisions of this subsection may only be used for the purpose of responding to an emergency involving the reclamation of abandoned coal mines or the repair of damaged upstream floodwater retarding structures.

D. An emergency declared by the Board of Corrections pursuant to subsection C of Section 65 of this title shall exempt the

Department of Corrections from the limits which would otherwise be imposed pursuant to subsection B of this section for the contracting and construction of new or expanded correctional facilities.

~~D.~~ E. The chief administrative officer of a public agency with a governing body shall notify the governing body within ten (10) days of the declaration of an emergency if the governing body did not approve the emergency. The notification shall contain a statement of the reasons for the action, and shall be recorded in the official minutes of the governing body.

~~E.~~ F. Emergency as used in this section shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered.

~~F.~~ G. The chief administrative officer of a public agency shall report an emergency within ten (10) days of the emergency declaration and include the official minutes of the governing body of the public agency, if applicable, to the State Construction Administrator of the Department of Central Services who shall compile an annual report detailing all emergencies declared pursuant to this section during the previous calendar year. The report shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 4. This act shall become effective November 1, 2011.

Passed the Senate the 28th day of February, 2011.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2011.

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Presiding Officer of the House
of Representatives