

1 ENGROSSED SENATE
2 BILL NO. 96

By: Coates of the Senate

and

Liebmann of the House

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7 An Act relating to the Public Competitive Bidding Act
8 of 1974; amending 61 O.S. 2001, Sections 103, as last
9 amended by Section 2, Chapter 98, O.S.L. 2010, 115,
10 as last amended by Section 2, Chapter 212, O.S.L.
11 2008, and 130, as last amended by Section 1, Chapter
12 265, O.S.L. 2007 (61 O.S. Supp. 2010, Sections 103,
13 115, and 130), which relate to solicitation and
14 awarding of contracts, collusion among bidders or
15 suppliers, and emergencies; modifying limit amount
16 for certain negotiated contracts; removing certain
17 bidding requirement; allowing the Oklahoma
18 Conservation Commission to delegate certain power;
19 and providing an effective date.

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

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

24 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

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

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

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

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

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

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

6 Section 115. Any agreement or collusion among bidders,
7 prospective bidders or material suppliers in restraint of freedom of
8 competition by agreement to bid at a fixed price or to refrain from
9 bidding, or otherwise, shall render the bids of such bidders void.
10 Persons willfully violating this section shall be guilty of a
11 felony. Each bidder shall accompany the bid with a ~~sworn~~ statement
12 that the bidder has not been a party to any such agreement. The
13 form of the statement shall be substantially as provided in Section
14 85.22 of Title 74 of the Oklahoma Statutes, but modified in wording
15 to refer to the appropriate public agency requesting bids.

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

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

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

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

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

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

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

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

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

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

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

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

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

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