

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3879

By: Wallace

COMMITTEE SUBSTITUTE

An Act relating to competitive bidding; amending 61 O.S. 2011, Sections 102, as last amended by Section 1, Chapter 186, O.S.L. 2013, 103, as last amended by Section 2, Chapter 405, O.S.L. 2019, 103.5, Section 1, Chapter 288, O.S.L. 2014, 104, as last amended by Section 1, Chapter 40, O.S.L. 2017, 107, as amended by Section 313, Chapter 304, O.S.L. 2012, 113, as last amended by Section 3, Chapter 299, O.S.L. 2019, 119.1 and 130, as last amended by Section 1, Chapter 293, O.S.L. 2016 (61 O.S. Supp. 2019, Sections 102, 103, 103.7, 104, 107, 113 and 130), which relate to the Public Competitive Bidding Act of 1974; defining term; modifying certain monetary limits for public construction contracts; establishing monetary limits for construction management trade contracts or subcontracts; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 102, as last amended by Section 1, Chapter 186, O.S.L. 2013 (61 O.S. Supp. 2019, Section 102), is amended to read as follows:

Section 102. As used in the Public Competitive Bidding Act of 1974:

1 1. "Administrator" means the State Construction Administrator
2 of the Construction and Properties Division of the Office of
3 Management and Enterprise Services;

4 2. "Awarding public agency" means the public agency which
5 solicits and receives sealed bids on a particular public
6 construction contract;

7 3. "Bidding documents" means the bid notice, instruction to
8 bidders, plans and specifications, bidding form, bidding
9 instructions, general conditions, special conditions and all other
10 written instruments prepared by or on behalf of an awarding public
11 agency for use by prospective bidders on a public construction
12 contract;

13 4. "Chief administrative officer" means an individual
14 responsible for directing the administration of a public agency.
15 The term does not mean one or all of the individuals that make
16 policy for a public agency;

17 5. "Construction management trade contract or subcontract"
18 means any public construction contract, exceeding Fifty Thousand
19 Dollars (\$50,000.00) in amount, that is awarded as a trade contract
20 in an agency construction management contract or awarded as a
21 subcontract in an at-risk construction management contract;

22 6. "Public agency" means the State of Oklahoma, and any county,
23 city, town, school district or other political subdivision of the
24 state, any public trust, any public entity specifically created by

1 the statutes of the State of Oklahoma or as a result of statutory
2 authorization therefor, and any department, agency, board, bureau,
3 commission, committee or authority of any of the foregoing public
4 entities;

5 ~~6.~~ 7. "Public construction contract" or "contract" means any
6 contract, exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred
7 Thousand Dollars (\$100,000.00) in amount, or any construction
8 management trade contracts or subcontracts exceeding Fifty Thousand
9 Dollars (\$50,000.00) in amount, awarded by any public agency for the
10 purpose of making any public improvements or constructing any public
11 building or making repairs to or performing maintenance on the same
12 except where the improvements, construction of any building or
13 repairs to the same are improvements or buildings leased to a person
14 or other legal entity exclusively for private and not for public use
15 and no public tax revenues shall be expended on or for the contract
16 unless the public tax revenues used for the project are authorized
17 by a majority of the voters of the applicable public agency voting
18 at an election held for that purpose and the public tax revenues do
19 not exceed twenty-five percent (25%) of the total project cost. The
20 amount of public tax dollars committed to the project will not
21 exceed a fixed amount established by resolution of the governing
22 body prior to or concurrent with approval of the project;

23 ~~7.~~ 8. "Public improvement" means any beneficial or valuable
24 change or addition, betterment, enhancement or amelioration of or

1 upon any real property, or interest therein, belonging to a public
2 agency, intended to enhance its value, beauty or utility or to adapt
3 it to new or further purposes. The term does not include the direct
4 purchase of materials, equipment or supplies by a public agency, or
5 any personal property, including property as defined in paragraphs 1
6 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma
7 Statutes;

8 ~~8.~~ 9. "Purchasing cooperative" means an association of public
9 entities working together to provide leverage in achieving best
10 value and/or the best terms in contracts awarded through a
11 competitive bidding process; and

12 ~~9.~~ 10. "Retainage" means the difference between the amount
13 earned by the contractor on a public construction contract, with the
14 work being accepted by the public agency, and the amount paid on
15 said contract by the public agency.

16 SECTION 2. AMENDATORY 61 O.S. 2011, Section 103, as last
17 amended by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp. 2019,
18 Section 103), is amended to read as follows:

19 Section 103. A. Unless otherwise provided by law, all public
20 construction contracts exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~
21 One Hundred Thousand Dollars (\$100,000.00) or construction
22 management trade contracts or subcontracts exceeding Fifty Thousand
23 Dollars (\$50,000.00) shall be let and awarded to the lowest
24 responsible bidder, by open competitive bidding after solicitation

1 for sealed bids, in accordance with the provisions of the Public
2 Competitive Bidding Act of 1974. No work shall be commenced until a
3 written contract is executed and all required bonds and insurance
4 have been provided by the contractor to the awarding public agency.

5 B. Notwithstanding subsection A of this section, in awarding
6 public construction contracts exceeding ~~Fifty Thousand Dollars~~
7 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) or
8 construction management trade contracts or subcontracts exceeding
9 Fifty Thousand Dollars (\$50,000.00), counties, cities, other local
10 units of government and any public trust with a county or a
11 municipality as its sole beneficiary may provide for a local bid
12 preference of not more than five percent (5%) of the bid price if
13 the awarding public agency determines that there is an economic
14 benefit to the local area or economy. Provided, however, the local
15 bidder or contractor must agree to perform the contract for the same
16 price and terms as the bid proposed by the nonlocal bidder or
17 contractor. Any bid preference granted hereunder must be in
18 accordance with an established policy adopted by the governing body
19 of the awarding public agency to clearly demonstrate the economic
20 benefit to the local area or economy. Provided, further, no local
21 bid preference shall be granted unless the local bidding entity is
22 the second lowest qualified bid on the contract. The bid
23 specifications shall clearly state that the bid is subject to a
24 local bidder preference law. For purposes of this section, "local

1 bid" means the bidding person is authorized to transact business in
2 this state and maintains a bona fide establishment for transacting
3 such business within this state. This provision does not apply to
4 any construction contract for which federal funds are available for
5 expenditure when its provisions may be in conflict with federal law
6 or regulation.

7 C. Except as provided in subsection E of this section, other
8 construction contracts for the purpose of making any public
9 improvements or constructing any public building or making repairs
10 to the same for ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred
11 Thousand Dollars (\$100,000.00) or less shall be let and awarded to
12 the lowest responsible bidder by receipt of written bids or awarded
13 on the basis of competitive quotes to the lowest responsible
14 qualified contractor. Work may be commenced in accordance with the
15 purchasing policies of the public agency.

16 D. Except as provided in subsection E of this section, other
17 construction contracts for less than ~~Five Thousand Dollars~~
18 ~~(\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00) may be negotiated with
19 a qualified contractor. Work may be commenced in accordance with
20 the purchasing policies of the public agency.

21 E. The provisions of this subsection shall apply to public
22 construction for minor maintenance or minor repair work to public
23 school district property. Other construction contracts for less
24 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated

1 with a qualified contractor. Construction contracts equal to or
2 greater than ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty
3 Thousand Dollars (\$50,000.00) but less than ~~Fifty Thousand Dollars~~
4 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) shall be let
5 and awarded to the lowest responsible bidder by receipt of written
6 bids. No work shall be commenced on any construction contract until
7 a written contract is executed and proof of insurance has been
8 provided by the contractor to the awarding public agency.

9 F. The Construction and Properties Division of the Office of
10 Management and Enterprise Services may award contracts using best
11 value competitive proposals. As used in this subsection, "best
12 value" means an optional contract award system which can evaluate
13 and rank submitted competitive performance proposals to identify the
14 proposal with the greatest value to the state. The Office of
15 Management and Enterprise Services, pursuant to the Administrative
16 Procedures Act, shall promulgate rules necessary to implement the
17 provisions of this subsection.

18 G. 1. A public agency shall not let or award a public
19 construction contract exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~
20 One Hundred Thousand Dollars (\$100,000.00) or a construction
21 management trade contract or subcontract exceeding Fifty Thousand
22 Dollars (\$50,000.00) to any contractor affiliated with a purchasing
23 cooperative unless the purchasing cooperative and the contractor
24 have complied with all of the provisions of the Public Competitive

1 Bidding Act of 1974, including but not limited to open competitive
2 bidding after solicitation for sealed bids. A public agency shall
3 not let or award a public construction contract exceeding ~~Five~~
4 ~~Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00) up to
5 ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
6 (\$100,000.00) to any contractor affiliated with a purchasing
7 cooperative unless the purchasing cooperative and the contractor
8 have complied with all of the provisions of the Public Competitive
9 Bidding Act of 1974, including submission of a written bid upon
10 notice of competitive bidding.

11 2. A purchasing cooperative and its affiliated contractors
12 shall not be allowed to bid on any public construction contract
13 exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
14 Dollars (\$100,000.00) or any construction management trade contract
15 or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) unless
16 the purchasing cooperative and its affiliated contractors have
17 complied with all of the provisions of the Public Competitive
18 Bidding Act of 1974, including but not limited to open competitive
19 bidding after solicitation for sealed bids. A purchasing
20 cooperative and its affiliated contractors shall not be allowed to
21 bid on any public construction contract exceeding ~~Two Thousand Five~~
22 ~~Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000) unless
23 the purchasing cooperative and its affiliated contractors have
24 complied with all of the provisions of the Public Competitive

1 Bidding Act of 1974, including submission of a written bid upon
2 notice of open competitive bidding.

3 SECTION 3. AMENDATORY 61 O.S. 2011, Section 103.5, is
4 amended to read as follows:

5 Section 103.5 For purposes of the provisions of the Public
6 Competitive Bidding Act of 1974, contracts not exceeding ~~Fifty~~
7 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
8 (\$100,000.00) entered into solely for right-of-way clearance by the
9 Transportation Commission and the Oklahoma Transportation Authority
10 for the exclusive purpose of demolition and removal of buildings,
11 foundations, slab floors, stem walls, steps, brush, shrubs,
12 brickbats or stone and all rubbish, scrap iron, fencing, and debris,
13 and the installation of new right-of-way fencing, shall not be
14 considered to be public construction contracts and shall not be
15 required to be open for competitive bidding.

16 SECTION 4. AMENDATORY Section 1, Chapter 288, O.S.L. 2014
17 (61 O.S. Supp. 2019, Section 103.7), is amended to read as follows:

18 Section 103.7 For purposes of the provisions of the Public
19 Competitive Bidding Act of 1974, contracts entered into solely for
20 projects and activities by the Oklahoma Department of Wildlife
21 Conservation relating to fish and wildlife conservation shall be let
22 and awarded using the competitive bidding process as set forth in
23 the Public Competitive Bidding Act of 1974. However, for contracts
24 of ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars

1 (\$50,000.00) or less the Department may administer the competitive
2 bidding process and let and award the contract itself rather than
3 the Construction and Properties Division of the Office of Management
4 and Enterprise Services.

5 SECTION 5. AMENDATORY 61 O.S. 2011, Section 104, as last
6 amended by Section 1, Chapter 40, O.S.L. 2017 (61 O.S. Supp. 2019,
7 Section 104), is amended to read as follows:

8 Section 104. All proposals to award public construction
9 contracts shall be made equally and uniformly known by the awarding
10 public agency to all prospective bidders and the public in the
11 following manner:

12 1. Notice thereof shall be given by publication in a newspaper
13 of general circulation and published in the county where the work,
14 or the major part of it, is to be done, such notice by publication
15 to be published in two consecutive weekly issues of the newspaper,
16 with the first publication thereof to be at least twenty-one (21)
17 days prior to the date set for opening bids; and

18 2. Notice thereof shall be sent to one in-state trade or
19 construction publication for their use and information whenever the
20 estimated cost of the public construction contract exceeds ~~Fifty~~
21 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
22 (\$100,000.00) or the cost of the construction management trade
23 contract or subcontract exceeds Fifty Thousand Dollars (\$50,000.00);
24 provided, however, this section shall not be construed to require

1 the publication of the notice in such trade or construction
2 publication or the requirement to provide the notice to more than
3 one in-state trade or construction publication or to any out-of-
4 state trade or construction publications.

5 SECTION 6. AMENDATORY 61 O.S. 2011, Section 107, as
6 amended by Section 313, Chapter 304, O.S.L. 2012 (61 O.S. Supp.
7 2019, Section 107), is amended to read as follows:

8 Section 107. A. A bidder on a public construction contract
9 exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
10 Dollars (\$100,000.00) or a construction management trade contract or
11 subcontract exceeding Fifty Thousand Dollars (\$50,000.00) shall
12 accompany the bid with:

13 1. A certified check, cashier's check or bid bond equal to five
14 percent (5%) of the bid, which shall be deposited with the awarding
15 public agency as a guaranty; or

16 2. An irrevocable letter of credit containing terms the
17 Construction and Properties Division of the Office of Management and
18 Enterprise Services prescribes, issued by a financial institution
19 insured by the Federal Deposit Insurance Corporation or the Federal
20 Savings and Loan Insurance Corporation for the benefit of the state,
21 on behalf of the awarding public agency, in an amount equal to five
22 percent (5%) of the bid. The awarding public agency shall deposit
23 the irrevocable letter of credit with the Division.

1 B. The cost of republication of the notice to bidders, actual
2 expenses incurred by reason of the bidder's default and the
3 difference between the low bid of the defaulting bidder and the
4 amount of the bid of the bidder to whom the contract is subsequently
5 awarded, but not to exceed the amount of the certified check,
6 cashier's check, bid bond or irrevocable letter of credit may, at
7 the discretion of the awarding public agency, be forfeited to the
8 awarding public agency in the event the apparently successful bidder
9 fails to execute the contract or fails to provide the required bonds
10 or irrevocable letters of credit and insurance to the awarding
11 public agency.

12 C. The public agency shall, upon receipt of notice from the
13 awarding public agency, return a certified or cashier's check, bid
14 bond, or irrevocable letter of credit to the successful bidder on
15 execution and delivery of the contract and required bonds or
16 irrevocable letters of credit and insurance. Checks of unsuccessful
17 bidders shall be returned to them in accordance with the terms of
18 the bid solicitation.

19 D. Nothing contained herein shall be construed so as to prevent
20 the awarding public agency or the courts from exonerating the bidder
21 and other parties to the bid security document from liability upon a
22 timely showing that the bidder committed what the courts have
23 determined under the common law to be an excusable bidding error and
24

1 for that reason it would not be equitable to enforce the bid
2 security.

3 SECTION 7. AMENDATORY 61 O.S. 2011, Section 113, as last
4 amended by Section 3, Chapter 299, O.S.L. 2019 (61 O.S. Supp. 2019,
5 Section 113), is amended to read as follows:

6 Section 113. A. Except as otherwise provided by law, within
7 the period of time, not to exceed sixty (60) days, specified in the
8 bid notice by the awarding public agency, a contract embodying the
9 terms set forth in the bidding documents shall be executed by the
10 awarding public agency or, where construction management at-risk is
11 the project delivery method, by the construction manager and the
12 successful bidder. No bidder shall obtain any property right in a
13 contract awarded under the provisions of the Public Competitive
14 Bidding Act of 1974 until the contract has been fully executed by
15 both the bidder and the awarding public agency.

16 B. Except as otherwise provided by law, within the period of
17 time specified in subsection A of this section, the following shall
18 be provided by the contractor to the awarding public agency for
19 public construction contracts exceeding ~~Fifty Thousand Dollars~~
20 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) or
21 construction management trade contracts or subcontracts exceeding
22 Fifty Thousand Dollars (\$50,000.00):

23 1. A bond or irrevocable letter of credit complying with the
24 provisions of Section 1 of this title;

1 2. A bond in a sum equal to the contract price, with adequate
2 surety, or an irrevocable letter of credit containing terms
3 prescribed by the Construction and Properties Division of the Office
4 of Management and Enterprise Services issued by a financial
5 institution insured by the Federal Deposit Insurance Corporation or
6 the Federal Savings and Loan Insurance Corporation for the benefit
7 of the state, on behalf of the awarding public agency, in a sum
8 equal to the contract price, to ensure the proper and prompt
9 completion of the work in accordance with the provisions of the
10 contract and bidding documents;

11 3. A bond in a sum equal to the contract price or an
12 irrevocable letter of credit containing terms as prescribed by the
13 Division issued by a financial institution insured by the Federal
14 Deposit Insurance Corporation or the Federal Savings and Loan
15 Insurance Corporation for the benefit of the state, on behalf of the
16 awarding public agency, in a sum equal to the contract price, to
17 protect the awarding public agency against defective workmanship and
18 materials for a period of one (1) year after acceptance of the
19 project, except when the awarding public agency is the Department of
20 Transportation or the Oklahoma Turnpike Authority, in such case the
21 period shall be for one (1) year after project completion; and

22 4. Public liability and workers' compensation insurance during
23 construction in reasonable amounts. A public agency may require the
24 contractor to name the public agency and its architects or

1 engineers, or both, as an additional assured under the public
2 liability insurance, which requirement, if made, shall be
3 specifically set forth in the bidding documents.

4 C. A single irrevocable letter of credit may be used to satisfy
5 paragraphs 1, 2 and 3 of subsection B of this section, provided such
6 single irrevocable letter of credit meets all applicable
7 requirements of subsection B of this section.

8 If the contractor needs additional time in which to obtain the
9 bond required pursuant to subsection B of this section, the
10 contractor may request and the awarding agency may allow the
11 contractor an additional sixty (60) days in which to obtain the
12 bond.

13 D. 1. After the award of a contract, but prior to its
14 execution, an awarding public agency, upon discovery of an
15 administrative error in the award process that would void an
16 otherwise valid award, may suspend the time of execution of the
17 contract. The agency may rescind the award and readvertise for
18 bids, or may direct correction of the error and award the contract
19 to the lowest responsible bidder, whichever shall be in the best
20 interests of the state.

21 2. If the awarding public agency has a governing body, the
22 agency shall, at the next regularly scheduled public business
23 meeting of the governing body of the agency, upon the record,
24 present to the governing body that an error has been made in the

1 award process and shall state the nature of the error. The
2 governing body, upon presentation of the facts of the error, may
3 rescind the award and readvertise for bids, or may direct correction
4 of the error and award the contract to the lowest responsible
5 bidder, whichever shall be in the best interests of the state.

6 E. No public agency shall require for any public construction
7 project, nor shall any general contractor submit a project bid based
8 on acquiring or participating in, any wrap-up, wrap-around, or
9 controlled insurance program. For the purposes of this subsection,
10 "wrap-up, wrap-around, or controlled insurance program" means any
11 insurance program that has the effect of disabling or rendering
12 inapplicable any workers' compensation, commercial general
13 liability, builders' risk, completed operations, or excess liability
14 insurance coverage carried by a subcontractor that is engaged or to
15 be engaged on a public construction project unless this is a cost
16 savings to the public or the need exists for a specialized or
17 complex insurance program and shall not apply to contracts less than
18 Seventy-five Million Dollars (\$75,000,000.00).

19 F. This act shall not apply to the public construction projects
20 of constitutional agencies which had authorized a wrap-up, wrap-
21 around, or controlled insurance program on or before April 11, 2000.

22 SECTION 8. AMENDATORY 61 O.S. 2011, Section 119.1, is
23 amended to read as follows:
24

1 Section 119.1 A. If no timely bid is received after bid
2 notices have been published on any proposed public construction
3 contract which does not exceed ~~Fifty Thousand Dollars (\$50,000.00)~~
4 One Hundred Thousand Dollars (\$100,000.00) or on any proposed
5 construction management trade contract or subcontract which does not
6 exceed Fifty Thousand Dollars (\$50,000.00):

7 1. The governing body of a county, city, town or school
8 district may direct its employees or agents to negotiate the
9 contract with a prospective contractor; or

10 2. The state agency, as defined in Section 202 of this title,
11 shall request the State Construction Administrator of the
12 Construction and Properties Division to negotiate a contract on its
13 behalf.

14 B. The amount of a public construction contract which may be
15 awarded by the governing body pursuant to this section shall not
16 exceed ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
17 Dollars (\$100,000.00), nor shall the amount of a construction
18 management trade contract or subcontract awarded by the governing
19 body pursuant to this section exceed Fifty Thousand Dollars
20 (\$50,000.00), and the work to be performed shall be as specified in
21 the initial bidding documents. The contract shall be executed
22 within six (6) months after the date initially set for opening of
23 bids. The contract and contract procedure shall conform to all
24

1 other applicable provisions of the Public Competitive Bidding Act of
2 1974.

3 SECTION 9. AMENDATORY 61 O.S. 2011, Section 130, as last
4 amended by Section 1, Chapter 293, O.S.L. 2016 (61 O.S. Supp. 2019,
5 Section 130), is amended to read as follows:

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

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

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

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

17 B. The governing body of a public agency may, upon approval of
18 two-thirds (2/3) majority of all of the members of the governing
19 body, delegate to the chief administrative officer of a public
20 agency the authority to declare an emergency whereby the provisions
21 of the Public Competitive Bidding Act of 1974 with reference to
22 notice and bids shall not apply to contracts less than ~~Seventy-five~~
23 ~~Thousand Dollars (\$75,000.00)~~ One Hundred Fifty Thousand Dollars
24 (\$150,000.00) in amount; provided, such authority of the Department

1 of Transportation and the Oklahoma Turnpike Authority shall not
2 extend to any contract exceeding Seven Hundred Fifty Thousand
3 Dollars (\$750,000.00) in amount and such authority of the Department
4 of Corrections shall not extend to any contract exceeding Two
5 Hundred Fifty Thousand Dollars (\$250,000.00) in amount for
6 situations in which the emergency impacts the conditions of
7 confinement, health and safety of correctional officers and inmates
8 in the custody of the Department of Corrections.

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

16 D. An emergency declared by the Board of Corrections pursuant
17 to subsection C of Section 65 of this title shall exempt the
18 Department of Corrections from the limits which would otherwise be
19 imposed pursuant to subsection B of this section for the contracting
20 and construction of new or expanded correctional facilities.

21 E. The chief administrative officer of a public agency with a
22 governing body shall notify the governing body within ten (10) days
23 of the declaration of an emergency if the governing body did not
24 approve the emergency. The notification shall contain a statement

1 of the reasons for the action, and shall be recorded in the official
2 minutes of the governing body.

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

7 G. The chief administrative officer of a public agency shall
8 report an emergency within ten (10) days of the emergency
9 declaration and include the official minutes of the governing body
10 of the public agency, if applicable, to the State Construction
11 Administrator of the Construction and Properties Division of the
12 Office of Management and Enterprise Services who shall compile an
13 annual report detailing all emergencies declared pursuant to this
14 section during the previous calendar year. The report shall be
15 submitted to the Governor, the President Pro Tempore of the Senate,
16 and the Speaker of the House of Representatives.

17 SECTION 10. This act shall become effective November 1, 2020.
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