

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3930

By: Deck

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8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to public buildings and public works;  
10                   amending 61 O.S. 2021, Section 103, as amended by  
11                   Section 23, Chapter 228, O.S.L. 2022 (61 O.S. Supp.  
12                   2023, Section 103), which relates to public  
13                   contracts; modifying provisions related to qualified  
14                   contractors; providing for codification; providing an  
15                   effective date; and declaring an emergency.

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

17                   SECTION 1.           AMENDATORY           61 O.S. 2021, Section 103, as  
18                   amended by Section 23, Chapter 228, O.S.L. 2022 (61 O.S. Supp. 2023,  
19                   Section 103), is amended to read as follows:

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

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

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

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

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

14 D. Except as provided in subsection E of this section, other  
15 construction contracts for less than ~~Ten Thousand Dollars~~  
16 ~~(\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) may be  
17 negotiated with a qualified contractor. Work may be commenced in  
18 accordance with the purchasing policies of the public agency.

19 E. The provisions of this subsection shall apply to public  
20 construction for minor maintenance or minor repair work to public  
21 school district property. Other construction contracts for less  
22 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated  
23 with a qualified contractor. Construction contracts equal to or  
24 greater than Fifty Thousand Dollars (\$50,000.00) but less than One

1 Hundred Thousand Dollars (\$100,000.00) shall be let and awarded to  
2 the lowest responsible bidder by receipt of written bids. No work  
3 shall be commenced on any construction contract until a written  
4 contract is executed and proof of insurance has been provided by the  
5 contractor to the awarding public agency.

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

15 G. 1. A public agency shall not let or award a public  
16 construction contract exceeding One Hundred Thousand Dollars  
17 (\$100,000.00) or a construction management trade contract or  
18 subcontract exceeding Fifty Thousand Dollars (\$50,000.00) to any  
19 contractor affiliated with a purchasing cooperative unless the  
20 purchasing cooperative and the contractor have complied with all of  
21 the provisions of the Public Competitive Bidding Act of 1974,  
22 including but not limited to open competitive bidding after  
23 solicitation for sealed bids. A public agency shall not let or  
24 award a public construction contract exceeding Ten Thousand Dollars

1 (\$10,000.00) up to One Hundred Thousand Dollars (\$100,000.00) to any  
2 contractor affiliated with a purchasing cooperative unless the  
3 purchasing cooperative and the contractor have complied with all of  
4 the provisions of the Public Competitive Bidding Act of 1974,  
5 including submission of a written bid upon notice of competitive  
6 bidding.

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

22 3. Local governmental units, or local governmental units  
23 cooperating under the terms of any interlocal cooperative agreement  
24 authorized by state law, may create a purchasing cooperative or

1 contract with a purchasing cooperative to provide leverage in  
2 achieving best value or the best terms in contracts. To encourage  
3 intergovernmental collaboration, any purchasing cooperative or  
4 interlocal cooperative entity may utilize any single legal newspaper  
5 of this state to serve as sufficient compliance for bid notice  
6 requirements of competitive bidding or solicitation of bids. If the  
7 purchasing cooperative or interlocal cooperative entity is engaging  
8 in a project exclusive to a county or group of counties of this  
9 state, and not open to all governmental units or public trusts that  
10 wish to participate statewide, the bid notice shall be published in  
11 a legal newspaper located within the county or group of counties.  
12 Any local governmental unit or public trust that enters into  
13 membership or contracts with a purchasing cooperative or interlocal  
14 cooperative entity may enter into purchases or contracts under the  
15 terms negotiated by the purchasing cooperative or interlocal  
16 cooperative entity. If the purchasing cooperative or interlocal  
17 cooperative entity complies with the requirements of this section of  
18 law, all local governmental units shall be deemed in compliance with  
19 the requirements set forth for bid notices and publication.

20 SECTION 2. This act shall become effective July 1, 2024.

21 SECTION 3. It being immediately necessary for the preservation  
22 of the public peace, health or safety, an emergency is hereby  
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1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated  
5 02/27/2024 - DO PASS, As Amended.

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