

FIRST REGULAR SESSION

SENATE BILL NO. 102

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Pre-filed December 3, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0398S.011

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to political subdivision services bidding standards.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.319, to read as follows:

67.319. 1. The provisions of this section shall apply to contracts for services awarded by political subdivisions of the state of Missouri and shall be known as the "Political Subdivision Services Bidding Standards Act".

2. Contracts for services by any political subdivision shall be advertised and bids solicited and awarded in compliance with other Missouri statutes, state rules, and federal and state funding requirements applicable to the specific political subdivision which are in effect on August 28, 2009, or as such requirements may be enacted or amended, and any provision of a local charter, ordinance, order, resolution, or policy applicable to the specific political subdivision which are in effect or which are subsequently adopted by the political subdivision after August 28, 2009.

3. If a political subdivision is not subject to a specific requirement for advertising for bids or soliciting, awarding, or rejecting bids under requirements specified in subsection 2 of this section regarding contracts for services, the political subdivision shall comply with the following provisions when soliciting bids and awarding service contracts:

(1) Contracts for services shall be advertised in advance of the acceptance of bids. If no provision of state law, state rule, federal or

22 state funding requirement, or local charter, ordinance, order,
23 resolution, or policy requiring advertising otherwise applies, bids shall
24 be solicited by advertisement once per week for four consecutive weeks
25 in one daily or weekly newspaper of general circulation, as qualified by
26 chapter 493, RSMo, in a county or city not within a county where the
27 political subdivision is located, with the first advertisement for bids
28 appearing in the newspaper at least thirty days in advance of the date
29 stated in the advertisement for acceptance of bids. For contracts over
30 fifty thousand dollars, bids shall also be advertised by providing
31 service and bid solicitation information at least thirty days in advance
32 of bid opening to one or more commercial or not-for-profit
33 organizations, which regularly provides information on contracts to be
34 awarded to contractors providing the type of service
35 needed. Advertisements and bid solicitations shall state the deadline
36 for submission of bids and the time and place where bids shall be
37 received and opened;

38 (2) In absence of a bid award or rejection standard specified
39 under subsection 2 of this section, contracts for services shall be
40 awarded in compliance with this subdivision. If no provision of state
41 law, state rule, federal or state funding requirement, or local charter,
42 ordinance, order, resolution, or policy otherwise applies, the contract
43 shall be awarded to the lowest responsible bidder that submits a bid
44 which is responsive to the contract as advertised by the political
45 subdivision. The determination of the bidder's qualification shall be
46 made based on his or her education and training. The political
47 subdivision may reject the low bidder by declaring the bidder ineligible
48 for the contract award based on the bidder's failure to provide a
49 performance or payment bond as required by section 107.170, RSMo, if
50 applicable, the bidder's nonperformance on previous contracts with the
51 political subdivision, or other reasons specified as to the bidder's
52 inability to adequately perform the contract. The reasons for bid
53 rejection or award of the contract to another bidder shall be stated in
54 writing to the low bidder within five business days of the rejection of
55 the bid.

56 4. Notwithstanding any other provision of state law, state rule,
57 or federal or state funding requirement to the contrary, or any
58 provision of a charter, ordinance, order, resolution, or policy to the

59 contrary, adopted by a political subdivision, no contract for services
60 shall be awarded in violation of the following requirements:

61 (1) No bid shall be opened in advance of the advertised deadline
62 for submission of bids or in a place other than that specified in the
63 original solicitation of bids or in an amendment to the solicitation
64 communicated in advance to all known bidders;

65 (2) No bid shall be accepted unless it is sealed and is in writing.
66 If the letting of the services for which bids were solicited is cancelled,
67 bids shall be returned to the bidder unopened;

68 (3) No bid shall be accepted after the advertised deadline for
69 acceptance of bids;

70 (4) All bids received shall be held secure and confidential from
71 all persons until the bids are opened at the time and place announced
72 by the political subdivision. Bids shall be opened in a public meeting,
73 as defined in chapter 610, RSMo.

74 Nothing in this section shall be construed to prohibit acceptance and
75 processing of bids through an established program of electronic
76 bidding by computer, provided bids accepted and processed
77 electronically shall meet standards of confidentiality established by the
78 requirements of the electronic bidding program which are comparable
79 to requirements for written bids established by this section.

80 5. Any person submitting a bid, or who would have submitted a
81 bid except for violations of subsection 4 of this section, shall have
82 standing to seek equitable relief and monetary damages in a court of
83 competent jurisdiction for monetary losses resulting from violations of
84 subsection 4 of this section, including but not limited to, setting aside
85 award of a contract, ordering a contract to be re-bid, requiring award
86 of a contract to a different bidder than originally awarded, awarding
87 monetary damages deemed appropriate by the court, including award
88 of reasonable attorney's fees, or awarding a combination of such forms
89 of relief.

90 6. Nothing in this section shall be construed to require
91 acceptance of a bid which exceeds the amount estimated by the
92 political subdivision for the contract. Neither shall any provision in
93 this section prohibit a political subdivision from awarding contracts
94 without competitive bidding when the political subdivision deems it
95 necessary to remove an immediate danger to the public health or

96 safety, to prevent loss to public or private property which requires
97 government action, or to prevent an interruption of or to restore an
98 essential public service; however, the political subdivision shall
99 produce a written public record documenting the need to contract for
100 such services without competitive bidding.

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Unofficial

Bill

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