

HB 566 -- Political Subdivision Construction Bidding Standards Act

Sponsor: Denison

This bill establishes the Political Subdivision Construction Bidding Standards Act which creates standards for advertising, soliciting, accepting, and rejecting competitive bids and awarding construction contracts of \$10,000 or more for political subdivisions that are not covered by a specific federal or state law or an established local construction procurement policy.

Solicitation of bids for construction contracts must be advertised once a week for two consecutive weeks in a newspaper of general circulation located in a county where the political subdivision is located. The final advertisement cannot be less than 10 days before the deadline for the submission of bids and not less than 15 days for contracts greater than \$250,000.

Unless specific federal or state law or an established local construction procurement policy otherwise applies, the contract must be awarded to the lowest qualified responsible bidder except when the bidder is ineligible for the contract award as a result of his or her failure to provide a required performance or payment bond, the bidder's nonperformance on previous contracts with the subdivision, or the bidder's inability for other specified reasons to adequately perform the contract.

An established local construction procurement policy complies with the provisions of the bill if it provides for advertising of construction contracts in a manner reasonably likely to inform potential bidders of the project on a timely basis. The advertisement must include the date, time, and place for the submission and opening of bids and any requirements for the prequalification of bidders. A political subdivision is prohibited from acting in an arbitrary or capricious manner and must act in good faith.

Regardless of any state law or regulation, federal or state funding requirement to the contrary, or an established local construction procurement policy, no contract for construction can be awarded in violation of the following requirements:

- (1) No bid can be opened or contract awarded before the advertised deadline for the submission of bids;
- (2) No bid can be accepted unless it is sealed and is in writing;
- (3) No bid can be accepted after the advertised deadline;

(4) All bids must be held securely and confidentially until the bids are opened in a public meeting on the date and at the time and place advertised;

(5) No contract can be awarded in substantial violation of a state law or an established local construction procurement policy; and

(6) No contract can be awarded in violation of Section 107.170, RSMo, which requires performance and payment bonds.

Any person submitting a bid for a contract or anyone who would have submitted a bid, except in a case where a bid was opened prior to the deadline, may file an action for any violation of the provisions of the bill to seek legal remedies including monetary damages and equitable relief. An action must be brought by the contractor within 15 business days after the award of the contract.

A political subdivision cannot be prohibited from awarding a contract without competitive bidding when it is deemed necessary to remove an immediate danger to the public health or safety, to prevent the loss of property which requires government action, or to prevent an interruption of or to restore an essential public service.