

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

930Q0337

HOUSE BILL NO. 1159

Introduced by: Representatives Kirkeby, Feickert, and McLaughlin and Senators Gant and Gillespie

1 FOR AN ACT ENTITLED, An Act to provide for the adjustment of prices in certain public
2 contracts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 5-18-3 be amended to read as follows:

5 5-18-3. If the governing body of any public corporation intends to enter into a contract for
6 the construction of a new building or the remodeling or addition to an existing building which
7 involves the expenditure of fifty thousand dollars or more, a contract for any other public
8 improvement which involves the expenditure of twenty-five thousand dollars or more, or a
9 contract for the purchase of materials, supplies, or equipment which involves the expenditure
10 of twenty-five thousand dollars or more, the governing body of the public corporation shall
11 advertise for bids for the project. The advertisement shall appear as a legal notice in the
12 appointed legal newspaper. The advertisement shall be printed at least twice, with the first
13 publication at least ten days before opening of bids. The first publication shall be in the official
14 newspaper or newspapers of the contracting corporation, and the second publication may be in
15 any legal newspaper of the state chosen by the contracting corporation. If the contracting



1 corporation has no official newspaper, the first publication shall be made in a legal newspaper
2 with general circulation in the district, to be selected by the contracting corporation. The
3 advertisement shall state the time and place where the bids will be opened and passed upon by
4 the board. In all notices, the board shall reserve the right to reject any or all bids. If a public
5 corporation lists a bid on the centralized bid exchange pursuant to § 5-18-1.1, the public
6 corporation need not make the second publication required by this section. The advertisement
7 for bids may include a procedure for adjusting prices to meet changing market conditions not
8 within the control of the vendor.

9 Section 2. That § 5-18-5 be amended to read as follows:

10 5-18-5. ~~Where~~ If the contract is ~~one~~ for the construction of a public improvement, the
11 advertisement ~~must~~ shall state where the plans and specifications may be examined.

12 The plans and specifications for the construction of such public improvements shall be and
13 remain on file in the office of the governing body at all times from the beginning of the
14 publication of the advertisement for bids until the completion of the public improvement.

15 The public corporation shall, upon request ~~therefor~~ for the plans and specifications, furnish
16 at least one copy ~~thereof~~ of the plans and specifications, without charge, to each contractor
17 resident in South Dakota who intends, in good faith, to bid upon ~~such~~ the public improvement;
18 ~~such~~. The copies shall be available at the date of the first publication of the advertisement for
19 bids, and the public corporation may require the return ~~thereof~~ of the copies at the time of the
20 opening of the bids.

21 The public corporation may include a procedure for adjusting prices to meet changing
22 market conditions not within the control of the vendor. The adjustments may not result in
23 increases in the profit of the vendor, and shall be supported by written justification filed with
24 the purchasing agent of the unit of local government.