

**CHAPTER 510 (HB 895)**

AN ACT relating to the purchase of wholesale electric power by municipal electric utilities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

- (1) *A municipal utility that owns or operates an electric utility under KRS 96.550 to 96.900 may authorize:*
  - (a) *Membership and participation in a group purchasing program when the municipal utility deems that the purchase of power through a group purchasing program can affect economy or efficiency in the operations of the municipal utility; or*
  - (b) *The purchase of wholesale electric power for the purpose of resale from any person or entity when the purchase is deemed advantageous to the municipal utility.*
- (2) *"Group purchasing program" means a voluntary program that may consist of both public and private utilities for the purchase of wholesale electric power.*
- (3) *A municipal utility that is purchasing wholesale electric power for resale to the ultimate customers of the municipal utility as provided under subsection (1) of this section shall not be subject to the provisions of KRS 45A.365 and KRS 424.260.*

Section 2. KRS 45A.365 is amended to read as follows:

- (1) All contracts or purchases shall be awarded by competitive sealed bidding, except as otherwise provided by KRS 45A.370 to 45A.385 ***and for the purchase of wholesale electric power by municipal utilities as provided in subsection (1) of Section 1 of this Act.***
- (2) The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.
- (3) Adequate public notice of the invitation for bids shall be given prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper of general circulation in the local jurisdiction not less than seven (7) days before the date set for the opening of the bids. The public notice shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.
- (4) The bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.
- (5) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price.
- (6) The local public agency may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.

Section 3. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ten thousand dollars (\$10,000) without first making newspaper advertisement for bids.
- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ten thousand dollars (\$10,000), the fiscal court requirement shall prevail.
- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Purchases or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.  
  
(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.
- (5) ***The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.***

**Approved April 21, 2000**