

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3879

By: Wallace of the House

and

Thompson of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to competitive bidding; amending 61
12 O.S. 2011, Sections 102, as last amended by Section
13 1, Chapter 186, O.S.L. 2013, 103, as last amended by
14 Section 2, Chapter 405, O.S.L. 2019, 103.5, Section
15 1, Chapter 288, O.S.L. 2014, 104, as last amended by
16 Section 1, Chapter 40, O.S.L. 2017, 107, as amended
17 by Section 313, Chapter 304, O.S.L. 2012, 113, as
18 last amended by Section 3, Chapter 299, O.S.L. 2019,
19 119.1 and 130, as last amended by Section 1, Chapter
20 293, O.S.L. 2016 (61 O.S. Supp. 2019, Sections 102,
21 103, 103.7, 104, 107, 113 and 130), which relate to
22 the Public Competitive Bidding Act of 1974; defining
23 term; modifying certain monetary limits for public
24 construction contracts; establishing monetary limits
for construction management trade contracts or
subcontracts; and providing an effective date.

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

SECTION 1. AMENDATORY 61 O.S. 2011, Section 102, as last amended by Section 1, Chapter 186, O.S.L. 2013 (61 O.S. Supp. 2019, Section 102), is amended to read as follows:

Section 102. As used in the Public Competitive Bidding Act of 1974:

1. "Administrator" means the State Construction Administrator of the Construction and Properties Division of the Office of Management and Enterprise Services;

2. "Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction contract;

3. "Bidding documents" means the bid notice, instruction to bidders, plans and specifications, bidding form, bidding instructions, general conditions, special conditions and all other written instruments prepared by or on behalf of an awarding public agency for use by prospective bidders on a public construction contract;

4. "Chief administrative officer" means an individual responsible for directing the administration of a public agency. The term does not mean one or all of the individuals that make policy for a public agency;

5. "Construction management trade contract or subcontract" means any public construction contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount, that is awarded as a trade contract

1 in an agency construction management contract or awarded as a
2 subcontract in an at-risk construction management contract;

3 6. "Public agency" means the State of Oklahoma, and any county,
4 city, town, school district or other political subdivision of the
5 state, any public trust, any public entity specifically created by
6 the statutes of the State of Oklahoma or as a result of statutory
7 authorization therefor, and any department, agency, board, bureau,
8 commission, committee or authority of any of the foregoing public
9 entities;

10 ~~6.~~ 7. "Public construction contract" or "contract" means any
11 contract, exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred
12 Thousand Dollars (\$100,000.00) in amount, or any construction
13 management trade contracts or subcontracts exceeding Fifty Thousand
14 Dollars (\$50,000.00) in amount, awarded by any public agency for the
15 purpose of making any public improvements or constructing any public
16 building or making repairs to or performing maintenance on the same
17 except where the improvements, construction of any building or
18 repairs to the same are improvements or buildings leased to a person
19 or other legal entity exclusively for private and not for public use
20 and no public tax revenues shall be expended on or for the contract
21 unless the public tax revenues used for the project are authorized
22 by a majority of the voters of the applicable public agency voting
23 at an election held for that purpose and the public tax revenues do
24 not exceed twenty-five percent (25%) of the total project cost. The

1 amount of public tax dollars committed to the project will not
2 exceed a fixed amount established by resolution of the governing
3 body prior to or concurrent with approval of the project;

4 ~~7.~~ 8. "Public improvement" means any beneficial or valuable
5 change or addition, betterment, enhancement or amelioration of or
6 upon any real property, or interest therein, belonging to a public
7 agency, intended to enhance its value, beauty or utility or to adapt
8 it to new or further purposes. The term does not include the direct
9 purchase of materials, equipment or supplies by a public agency, or
10 any personal property, including property as defined in paragraphs 1
11 and 4 of subsection B of Section 430.1 of Title 62 of the Oklahoma
12 Statutes;

13 ~~8.~~ 9. "Purchasing cooperative" means an association of public
14 entities working together to provide leverage in achieving best
15 value and/or the best terms in contracts awarded through a
16 competitive bidding process; and

17 ~~9.~~ 10. "Retainage" means the difference between the amount
18 earned by the contractor on a public construction contract, with the
19 work being accepted by the public agency, and the amount paid on
20 said contract by the public agency.

21 SECTION 2. AMENDATORY 61 O.S. 2011, Section 103, as last
22 amended by Section 2, Chapter 405, O.S.L. 2019 (61 O.S. Supp. 2019,
23 Section 103), is amended to read as follows:

1 Section 103. A. Unless otherwise provided by law, all public
2 construction contracts exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~
3 One Hundred Thousand Dollars (\$100,000.00) or construction
4 management trade contracts or subcontracts exceeding Fifty Thousand
5 Dollars (\$50,000.00) shall be let and awarded to the lowest
6 responsible bidder, by open competitive bidding after solicitation
7 for sealed bids, in accordance with the provisions of the Public
8 Competitive Bidding Act of 1974. No work shall be commenced until a
9 written contract is executed and all required bonds and insurance
10 have been provided by the contractor to the awarding public agency.

11 B. Notwithstanding subsection A of this section, in awarding
12 public construction contracts exceeding ~~Fifty Thousand Dollars~~
13 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) or
14 construction management trade contracts or subcontracts exceeding
15 Fifty Thousand Dollars (\$50,000.00), counties, cities, other local
16 units of government and any public trust with a county or a
17 municipality as its sole beneficiary may provide for a local bid
18 preference of not more than five percent (5%) of the bid price if
19 the awarding public agency determines that there is an economic
20 benefit to the local area or economy. Provided, however, the local
21 bidder or contractor must agree to perform the contract for the same
22 price and terms as the bid proposed by the nonlocal bidder or
23 contractor. Any bid preference granted hereunder must be in
24 accordance with an established policy adopted by the governing body

1 of the awarding public agency to clearly demonstrate the economic
2 benefit to the local area or economy. Provided, further, no local
3 bid preference shall be granted unless the local bidding entity is
4 the second lowest qualified bid on the contract. The bid
5 specifications shall clearly state that the bid is subject to a
6 local bidder preference law. For purposes of this section, "local
7 bid" means the bidding person is authorized to transact business in
8 this state and maintains a bona fide establishment for transacting
9 such business within this state. This provision does not apply to
10 any construction contract for which federal funds are available for
11 expenditure when its provisions may be in conflict with federal law
12 or regulation.

13 C. Except as provided in subsection E of this section, other
14 construction contracts for the purpose of making any public
15 improvements or constructing any public building or making repairs
16 to the same for ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred
17 Thousand Dollars (\$100,000.00) or less shall be let and awarded to
18 the lowest responsible bidder by receipt of written bids or awarded
19 on the basis of competitive quotes to the lowest responsible
20 qualified contractor. Work may be commenced in accordance with the
21 purchasing policies of the public agency.

22 D. Except as provided in subsection E of this section, other
23 construction contracts for less than ~~Five Thousand Dollars~~
24 ~~(\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00) may be negotiated with

1 a qualified contractor. Work may be commenced in accordance with
2 the purchasing policies of the public agency.

3 E. The provisions of this subsection shall apply to public
4 construction for minor maintenance or minor repair work to public
5 school district property. Other construction contracts for less
6 than Twenty-five Thousand Dollars (\$25,000.00) may be negotiated
7 with a qualified contractor. Construction contracts equal to or
8 greater than ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty
9 Thousand Dollars (\$50,000.00) but less than ~~Fifty Thousand Dollars~~
10 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) shall be let
11 and awarded to the lowest responsible bidder by receipt of written
12 bids. No work shall be commenced on any construction contract until
13 a written contract is executed and proof of insurance has been
14 provided by the contractor to the awarding public agency.

15 F. The Construction and Properties Division of the Office of
16 Management and Enterprise Services may award contracts using best
17 value competitive proposals. As used in this subsection, "best
18 value" means an optional contract award system which can evaluate
19 and rank submitted competitive performance proposals to identify the
20 proposal with the greatest value to the state. The Office of
21 Management and Enterprise Services, pursuant to the Administrative
22 Procedures Act, shall promulgate rules necessary to implement the
23 provisions of this subsection.

1 G. 1. A public agency shall not let or award a public
2 construction contract exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~
3 One Hundred Thousand Dollars (\$100,000.00) or a construction
4 management trade contract or subcontract exceeding Fifty Thousand
5 Dollars (\$50,000.00) to any contractor affiliated with a purchasing
6 cooperative unless the purchasing cooperative and the contractor
7 have complied with all of the provisions of the Public Competitive
8 Bidding Act of 1974, including but not limited to open competitive
9 bidding after solicitation for sealed bids. A public agency shall
10 not let or award a public construction contract exceeding ~~Five~~
11 ~~Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00) up to
12 ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
13 (\$100,000.00) to any contractor affiliated with a purchasing
14 cooperative unless the purchasing cooperative and the contractor
15 have complied with all of the provisions of the Public Competitive
16 Bidding Act of 1974, including submission of a written bid upon
17 notice of competitive bidding.

18 2. A purchasing cooperative and its affiliated contractors
19 shall not be allowed to bid on any public construction contract
20 exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
21 Dollars (\$100,000.00) or any construction management trade contract
22 or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) unless
23 the purchasing cooperative and its affiliated contractors have
24 complied with all of the provisions of the Public Competitive

1 Bidding Act of 1974, including but not limited to open competitive
2 bidding after solicitation for sealed bids. A purchasing
3 cooperative and its affiliated contractors shall not be allowed to
4 bid on any public construction contract exceeding ~~Two Thousand Five~~
5 ~~Hundred Dollars (\$2,500.00)~~ Five Thousand Dollars (\$5,000) unless
6 the purchasing cooperative and its affiliated contractors have
7 complied with all of the provisions of the Public Competitive
8 Bidding Act of 1974, including submission of a written bid upon
9 notice of open competitive bidding.

10 SECTION 3. AMENDATORY 61 O.S. 2011, Section 103.5, is
11 amended to read as follows:

12 Section 103.5 For purposes of the provisions of the Public
13 Competitive Bidding Act of 1974, contracts not exceeding ~~Fifty~~
14 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
15 (\$100,000.00) entered into solely for right-of-way clearance by the
16 Transportation Commission and the Oklahoma Transportation Authority
17 for the exclusive purpose of demolition and removal of buildings,
18 foundations, slab floors, stem walls, steps, brush, shrubs,
19 brickbats or stone and all rubbish, scrap iron, fencing, and debris,
20 and the installation of new right-of-way fencing, shall not be
21 considered to be public construction contracts and shall not be
22 required to be open for competitive bidding.

23 SECTION 4. AMENDATORY Section 1, Chapter 288, O.S.L. 2014
24 (61 O.S. Supp. 2019, Section 103.7), is amended to read as follows:

1 Section 103.7 For purposes of the provisions of the Public
2 Competitive Bidding Act of 1974, contracts entered into solely for
3 projects and activities by the Oklahoma Department of Wildlife
4 Conservation relating to fish and wildlife conservation shall be let
5 and awarded using the competitive bidding process as set forth in
6 the Public Competitive Bidding Act of 1974. However, for contracts
7 of ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifty Thousand Dollars
8 (\$50,000.00) or less the Department may administer the competitive
9 bidding process and let and award the contract itself rather than
10 the Construction and Properties Division of the Office of Management
11 and Enterprise Services.

12 SECTION 5. AMENDATORY 61 O.S. 2011, Section 104, as last
13 amended by Section 1, Chapter 40, O.S.L. 2017 (61 O.S. Supp. 2019,
14 Section 104), is amended to read as follows:

15 Section 104. All proposals to award public construction
16 contracts shall be made equally and uniformly known by the awarding
17 public agency to all prospective bidders and the public in the
18 following manner:

19 1. Notice thereof shall be given by publication in a newspaper
20 of general circulation and published in the county where the work,
21 or the major part of it, is to be done, such notice by publication
22 to be published in two consecutive weekly issues of the newspaper,
23 with the first publication thereof to be at least twenty-one (21)
24 days prior to the date set for opening bids; and

1 2. Notice thereof shall be sent to one in-state trade or
2 construction publication for their use and information whenever the
3 estimated cost of the public construction contract exceeds ~~Fifty~~
4 ~~Thousand Dollars (\$50,000.00)~~ One Hundred Thousand Dollars
5 (\$100,000.00) or the cost of the construction management trade
6 contract or subcontract exceeds Fifty Thousand Dollars (\$50,000.00);
7 provided, however, this section shall not be construed to require
8 the publication of the notice in such trade or construction
9 publication or the requirement to provide the notice to more than
10 one in-state trade or construction publication or to any out-of-
11 state trade or construction publications.

12 SECTION 6. AMENDATORY 61 O.S. 2011, Section 107, as
13 amended by Section 313, Chapter 304, O.S.L. 2012 (61 O.S. Supp.
14 2019, Section 107), is amended to read as follows:

15 Section 107. A. A bidder on a public construction contract
16 exceeding ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
17 Dollars (\$100,000.00) or a construction management trade contract or
18 subcontract exceeding Fifty Thousand Dollars (\$50,000.00) shall
19 accompany the bid with:

20 1. A certified check, cashier's check or bid bond equal to five
21 percent (5%) of the bid, which shall be deposited with the awarding
22 public agency as a guaranty; or

23 2. An irrevocable letter of credit containing terms the
24 Construction and Properties Division of the Office of Management and

1 Enterprise Services prescribes, issued by a financial institution
2 insured by the Federal Deposit Insurance Corporation or the Federal
3 Savings and Loan Insurance Corporation for the benefit of the state,
4 on behalf of the awarding public agency, in an amount equal to five
5 percent (5%) of the bid. The awarding public agency shall deposit
6 the irrevocable letter of credit with the Division.

7 B. The cost of republication of the notice to bidders, actual
8 expenses incurred by reason of the bidder's default and the
9 difference between the low bid of the defaulting bidder and the
10 amount of the bid of the bidder to whom the contract is subsequently
11 awarded, but not to exceed the amount of the certified check,
12 cashier's check, bid bond or irrevocable letter of credit may, at
13 the discretion of the awarding public agency, be forfeited to the
14 awarding public agency in the event the apparently successful bidder
15 fails to execute the contract or fails to provide the required bonds
16 or irrevocable letters of credit and insurance to the awarding
17 public agency.

18 C. The public agency shall, upon receipt of notice from the
19 awarding public agency, return a certified or cashier's check, bid
20 bond, or irrevocable letter of credit to the successful bidder on
21 execution and delivery of the contract and required bonds or
22 irrevocable letters of credit and insurance. Checks of unsuccessful
23 bidders shall be returned to them in accordance with the terms of
24 the bid solicitation.

1 D. Nothing contained herein shall be construed so as to prevent
2 the awarding public agency or the courts from exonerating the bidder
3 and other parties to the bid security document from liability upon a
4 timely showing that the bidder committed what the courts have
5 determined under the common law to be an excusable bidding error and
6 for that reason it would not be equitable to enforce the bid
7 security.

8 SECTION 7. AMENDATORY 61 O.S. 2011, Section 113, as last
9 amended by Section 3, Chapter 299, O.S.L. 2019 (61 O.S. Supp. 2019,
10 Section 113), is amended to read as follows:

11 Section 113. A. Except as otherwise provided by law, within
12 the period of time, not to exceed sixty (60) days, specified in the
13 bid notice by the awarding public agency, a contract embodying the
14 terms set forth in the bidding documents shall be executed by the
15 awarding public agency or, where construction management at-risk is
16 the project delivery method, by the construction manager and the
17 successful bidder. No bidder shall obtain any property right in a
18 contract awarded under the provisions of the Public Competitive
19 Bidding Act of 1974 until the contract has been fully executed by
20 both the bidder and the awarding public agency.

21 B. Except as otherwise provided by law, within the period of
22 time specified in subsection A of this section, the following shall
23 be provided by the contractor to the awarding public agency for
24 public construction contracts exceeding ~~Fifty Thousand Dollars~~

1 ~~(\$50,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) or
2 construction management trade contracts or subcontracts exceeding
3 Fifty Thousand Dollars (\$50,000.00):

4 1. A bond or irrevocable letter of credit complying with the
5 provisions of Section 1 of this title;

6 2. A bond in a sum equal to the contract price, with adequate
7 surety, or an irrevocable letter of credit containing terms
8 prescribed by the Construction and Properties Division of the Office
9 of Management and Enterprise Services issued by a financial
10 institution insured by the Federal Deposit Insurance Corporation or
11 the Federal Savings and Loan Insurance Corporation for the benefit
12 of the state, on behalf of the awarding public agency, in a sum
13 equal to the contract price, to ensure the proper and prompt
14 completion of the work in accordance with the provisions of the
15 contract and bidding documents;

16 3. A bond in a sum equal to the contract price or an
17 irrevocable letter of credit containing terms as prescribed by the
18 Division issued by a financial institution insured by the Federal
19 Deposit Insurance Corporation or the Federal Savings and Loan
20 Insurance Corporation for the benefit of the state, on behalf of the
21 awarding public agency, in a sum equal to the contract price, to
22 protect the awarding public agency against defective workmanship and
23 materials for a period of one (1) year after acceptance of the
24 project, except when the awarding public agency is the Department of

1 Transportation or the Oklahoma Turnpike Authority, in such case the
2 period shall be for one (1) year after project completion; and

3 4. Public liability and workers' compensation insurance during
4 construction in reasonable amounts. A public agency may require the
5 contractor to name the public agency and its architects or
6 engineers, or both, as an additional assured under the public
7 liability insurance, which requirement, if made, shall be
8 specifically set forth in the bidding documents.

9 C. A single irrevocable letter of credit may be used to satisfy
10 paragraphs 1, 2 and 3 of subsection B of this section, provided such
11 single irrevocable letter of credit meets all applicable
12 requirements of subsection B of this section.

13 If the contractor needs additional time in which to obtain the
14 bond required pursuant to subsection B of this section, the
15 contractor may request and the awarding agency may allow the
16 contractor an additional sixty (60) days in which to obtain the
17 bond.

18 D. 1. After the award of a contract, but prior to its
19 execution, an awarding public agency, upon discovery of an
20 administrative error in the award process that would void an
21 otherwise valid award, may suspend the time of execution of the
22 contract. The agency may rescind the award and readvertise for
23 bids, or may direct correction of the error and award the contract
24

1 to the lowest responsible bidder, whichever shall be in the best
2 interests of the state.

3 2. If the awarding public agency has a governing body, the
4 agency shall, at the next regularly scheduled public business
5 meeting of the governing body of the agency, upon the record,
6 present to the governing body that an error has been made in the
7 award process and shall state the nature of the error. The
8 governing body, upon presentation of the facts of the error, may
9 rescind the award and readvertise for bids, or may direct correction
10 of the error and award the contract to the lowest responsible
11 bidder, whichever shall be in the best interests of the state.

12 E. No public agency shall require for any public construction
13 project, nor shall any general contractor submit a project bid based
14 on acquiring or participating in, any wrap-up, wrap-around, or
15 controlled insurance program. For the purposes of this subsection,
16 "wrap-up, wrap-around, or controlled insurance program" means any
17 insurance program that has the effect of disabling or rendering
18 inapplicable any workers' compensation, commercial general
19 liability, builders' risk, completed operations, or excess liability
20 insurance coverage carried by a subcontractor that is engaged or to
21 be engaged on a public construction project unless this is a cost
22 savings to the public or the need exists for a specialized or
23 complex insurance program and shall not apply to contracts less than
24 Seventy-five Million Dollars (\$75,000,000.00).

1 F. This act shall not apply to the public construction projects
2 of constitutional agencies which had authorized a wrap-up, wrap-
3 around, or controlled insurance program on or before April 11, 2000.

4 SECTION 8. AMENDATORY 61 O.S. 2011, Section 119.1, is
5 amended to read as follows:

6 Section 119.1 A. If no timely bid is received after bid
7 notices have been published on any proposed public construction
8 contract which does not exceed ~~Fifty Thousand Dollars (\$50,000.00)~~
9 One Hundred Thousand Dollars (\$100,000.00) or on any proposed
10 construction management trade contract or subcontract which does not
11 exceed Fifty Thousand Dollars (\$50,000.00):

12 1. The governing body of a county, city, town or school
13 district may direct its employees or agents to negotiate the
14 contract with a prospective contractor; or

15 2. The state agency, as defined in Section 202 of this title,
16 shall request the State Construction Administrator of the
17 Construction and Properties Division to negotiate a contract on its
18 behalf.

19 B. The amount of a public construction contract which may be
20 awarded by the governing body pursuant to this section shall not
21 exceed ~~Fifty Thousand Dollars (\$50,000.00)~~ One Hundred Thousand
22 Dollars (\$100,000.00), nor shall the amount of a construction
23 management trade contract or subcontract awarded by the governing
24 body pursuant to this section exceed Fifty Thousand Dollars

1 (\$50,000.00), and the work to be performed shall be as specified in
2 the initial bidding documents. The contract shall be executed
3 within six (6) months after the date initially set for opening of
4 bids. The contract and contract procedure shall conform to all
5 other applicable provisions of the Public Competitive Bidding Act of
6 1974.

7 SECTION 9. AMENDATORY 61 O.S. 2011, Section 130, as last
8 amended by Section 1, Chapter 293, O.S.L. 2016 (61 O.S. Supp. 2019,
9 Section 130), is amended to read as follows:

10 Section 130. A. The provisions of the Public Competitive
11 Bidding Act of 1974 with reference to notice and bids shall not
12 apply to an emergency if:

13 1. The governing body of a public agency declares by a two-
14 thirds (2/3) majority vote of all of the members of the governing
15 body that an emergency exists;

16 2. The Transportation Commission and the Oklahoma Tourism and
17 Recreation Commission, by majority vote of all the members of each
18 Commission, declare that an emergency exists; or

19 3. The chief administrative officer of a public agency without
20 a governing body declares that an emergency exists.

21 B. The governing body of a public agency may, upon approval of
22 two-thirds (2/3) majority of all of the members of the governing
23 body, delegate to the chief administrative officer of a public
24 agency the authority to declare an emergency whereby the provisions

1 of the Public Competitive Bidding Act of 1974 with reference to
2 notice and bids shall not apply to contracts less than ~~Seventy-five~~
3 ~~Thousand Dollars (\$75,000.00)~~ One Hundred Fifty Thousand Dollars
4 (\$150,000.00) in amount; provided, such authority of the Department
5 of Transportation and the Oklahoma Turnpike Authority shall not
6 extend to any contract exceeding Seven Hundred Fifty Thousand
7 Dollars (\$750,000.00) in amount and such authority of the Department
8 of Corrections shall not extend to any contract exceeding Two
9 Hundred Fifty Thousand Dollars (\$250,000.00) in amount for
10 situations in which the emergency impacts the conditions of
11 confinement, health and safety of correctional officers and inmates
12 in the custody of the Department of Corrections.

13 C. Upon approval of a two-thirds (2/3) majority vote, the
14 Oklahoma Conservation Commission may delegate to the Executive
15 Director the authority to declare an emergency and set a monetary
16 limit for the declaration. The provisions of this subsection may
17 only be used for the purpose of responding to an emergency involving
18 the reclamation of abandoned coal mines or the repair of damaged
19 upstream floodwater retarding structures.

20 D. An emergency declared by the Board of Corrections pursuant
21 to subsection C of Section 65 of this title shall exempt the
22 Department of Corrections from the limits which would otherwise be
23 imposed pursuant to subsection B of this section for the contracting
24 and construction of new or expanded correctional facilities.

1 E. The chief administrative officer of a public agency with a
2 governing body shall notify the governing body within ten (10) days
3 of the declaration of an emergency if the governing body did not
4 approve the emergency. The notification shall contain a statement
5 of the reasons for the action, and shall be recorded in the official
6 minutes of the governing body.

7 F. Emergency as used in this section shall be limited to
8 conditions resulting from a sudden unexpected happening or
9 unforeseen occurrence or condition whereby the public health or
10 safety is endangered.

11 G. The chief administrative officer of a public agency shall
12 report an emergency within ten (10) days of the emergency
13 declaration and include the official minutes of the governing body
14 of the public agency, if applicable, to the State Construction
15 Administrator of the Construction and Properties Division of the
16 Office of Management and Enterprise Services who shall compile an
17 annual report detailing all emergencies declared pursuant to this
18 section during the previous calendar year. The report shall be
19 submitted to the Governor, the President Pro Tempore of the Senate,
20 and the Speaker of the House of Representatives.

21 SECTION 10. This act shall become effective November 1, 2020.
22

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 02/20/2020 - DO PASS, As Amended and Coauthored.