

By Mr. Mofenson of Newton, petition of David J. Mofenson that the laws relating to competitive bidding and the awarding of contracts to the lowest bidder be made applicable to all public authorities. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT MAKING THE LAWS RELATING TO COMPETITIVE BIDDING AND AWARD OF CONSTRUCTION CONTRACTS TO THE LOWEST BIDDER APPLICABLE TO ALL PUBLIC AUTHORITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 44A of chapter 149 of the General
2 Laws as most recently amended by chapter 899 of the acts of
3 1967 is hereby further amended by striking out the second
4 paragraph of the said section and inserting in place thereof the
5 following new paragraph: —

6 As used herein and in sections forty-four B to forty-four L,
7 inclusive, the term "governmental unit thereof" shall include
8 every county, city, town, district, board, commission, public
9 instrumentality and other public body, and every authority or
10 body corporate and politic established by the general court to
11 perform an essential governmental function; and, except as
12 otherwise provided in section forty-four I, the words "lowest
13 responsible and eligible bidder" shall mean the bidder whose
14 bid is the lowest of those bidders possessing the skill, ability
15 and integrity necessary to the faithful performance of the work
16 and who shall certify that he is able to furnish labor that can
17 work in harmony with all other elements of labor employed or
18 to be employed on the work. Essential information in regard to
19 such qualifications shall be submitted in such form as the
20 awarding authority may require.

1 SECTION 2. Section 39M of chapter 30 of the General
2 Laws as most recently amended by chapter 567 of the acts of

3 1967 is hereby amended by striking out paragraph (a) and
4 inserting in place thereof the following paragraph: —

5 (a) Every contract for the construction, reconstruction,
6 alteration, remodeling or repair of any public work, or for the
7 purchase of any material as hereinafter defined, by the com-
8 monwealth or by any governmental unit thereof, and estimated
9 by the awarding authority to cost more than five thousand
10 dollars in the case of the commonwealth and more than two
11 thousand dollars in the case of any other such awarding author-
12 ity, shall be awarded to the lowest responsible and eligible
13 bidder on the basis of competitive bids publicly opened and
14 read by such awarding authority forthwith upon expiration of
15 the time for the filing thereof; provided, however, that such
16 awarding authority may reject any and all bids, if it is in the
17 public interest so to do. This paragraph shall not apply to the
18 award of any contract subject to the provisions of sections
19 forty-four A to forty-four L, inclusive, of chapter one hundred
20 and forty-nine and every such contract shall continue to be
21 awarded as provided therein. As used herein, the term "govern-
22 mental unit thereof" shall include every county, city, town,
23 district, board commission, public instrumentality and other
24 public body, and every authority or body corporate and politic
25 established by the general court to perform an essential govern-
26 mental function. In cases of extreme emergency caused by
27 enemy attack, sabotage or other such hostile actions or result-
28 ing from explosion, fire, flood, earthquake, hurricane, tornado
29 or other such catastrophe, an awarding authority may, without
30 competitive bids and notwithstanding any general or special
31 law, award contracts otherwise subject to this paragraph to
32 perform work and to purchase or rent materials and equip-
33 ment, all as may be necessary for temporary repair and restora-
34 tion to service of any and all public work in order to prese-
35 the health and safety of persons or property; provided, that
36 this exception shall not apply to any permanent reconstruction,
37 alteration, remodeling or repair of any public work.

1 SECTION 3. Section 19 of chapter 161A of the General
2 Laws is hereby amended by striking out the last sentence
3 thereof and inserting in place thereof the following sentence: —

4 The provisions of general or special laws relative to rates of
5 wages, hours of employment and working conditions of public
6 employees shall not apply to the authority nor to the em-
7 ployees thereof, but the authority and its employees shall be
8 governed with respect to hours of employment, rates of wages,
9 salaries, hours, working conditions, health benefits, pensions,
10 and retirement allowances of its employees by the law relating
11 to street railway companies.

1 SECTION 4. Amend section 15 of chapter 701 of the acts
2 of 1960, as amended by chapter 278 of the acts of 1964, by
3 adding the following sentence at the end: —

4 This paragraph shall not apply to the award of any contract
5 of the Authority for which sections forty-four A to forty-four
6 L of chapter one hundred forty-nine of the General Laws and
7 section thirty-nine M of chapter thirty of the General Laws
8 have been made applicable by sections 1 and 2 of this act.

