

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2267

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

HB 2267 would revise the notice requirements and the evaluation of construction projects involving alternatives to the standard competitive bidding procedures for school districts, state agencies, and the Board of Regents. The respective board, or the Director of Facilities Management in the case of the State, would be required to give notice of a request for qualifications (RFQ) or a request for proposal (RFP) to all active general contractor industry associations in Kansas at least 15 days prior to a hearing or the commencement of a request. Local boards of education also would be required to give notice to the Associated General Contractors of Kansas. Under current law, notice is published at least 15 days prior to a hearing or commencement in either the official school district newspaper or the *Kansas Register*, as applicable.

If a construction firm has been prequalified through an RFQ process, the firm would submit a list of proposed fees directly and only to the Secretary of Administration. The Secretary would score and rank the submitted proposals for the best value and report the findings and make a recommendation to the appropriate body charged with selecting a firm. The scores on fees and profits would not account for more than 25 percent of the total possible score.

With regard to the bidding processes for state agencies, the bill would clarify that a prequalified building design-builder would be eligible to be paid a stipend for a proposal, as may have been established by the RFP, which was substantially responsive to the request but not accepted by the state

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

agency. Under current law, a stipend may be paid without consideration given to the applicability of the proposal to the RFP.

With regard to projects under the responsibility of the Board of Regents, a construction manager or general contractor would be allowed to self-perform construction services, at the discretion of the educational institution, if the firm's bid proposal is submitted prior to the receipt of all other bids. Under current law, self-perform construction services may be submitted under the same conditions for all competing firms.

Background

Testimony in favor of the bill was provided by representatives of the Associated General Contractors of Kansas and individual contractor firms. Proponents stated the bill would increase business opportunities for Kansas contractors and provide objective uniformity in the financial analysis of bids.

There was no opponent testimony.

A representative of a construction firm provided neutral testimony, expressing concern the bill could lead to bid protests if an industry group was not given notice. Also, when the Secretary is to evaluate and make recommendations, the Department of Administration may not be well informed about the details of local projects. Lastly, concern was expressed that early submission of bids by a construction manager could place that firm at a disadvantage.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Department of Administration, the bill would require 1.0 FTE architect position and \$100,000, which would include \$75,000 for salaries and wages and \$25,000 for other operating expenditures. The fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.