

5
6 **SENATE BILL No. 227**

7
8 By Committee on Commerce

9
10 2-5

11
12 AN ACT concerning state purchasing; providing a mechanism for the
13 submittal of on-line bids; ***amending K.S.A. 2000 Supp. 10-106 and***
14 ***repealing the existing section.***

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. The purpose of this act is:

18 (a) To provide increased economy in government procurement activ-
19 ities and to maximize to the fullest extent practicable the purchasing val-
20 ues of funds while ensuring that procurements are the most advantageous
21 to public agencies;

22 (b) to foster effective broad-based competition for public procure-
23 ment within the free enterprise system;

24 (c) to modernize the law governing procurement in this state and
25 permit the continued development of explicit and thoroughly considered
26 procurement policies and practices;

27 (d) to ensure the fair and equitable treatment of all persons who deal
28 with the procurement system through a transparent bidding process
29 which will promote increased public confidence in the procedures fol-
30 lowed in public procurement; and

31 (e) to provide an ongoing source of funding for new and innovative
32 electronic procurement practices that would otherwise not be possible
33 due to existing funding practices and guidelines.

34 Sec. 2. ~~(a) "Information technology" means data processing, tele-~~
35 ~~communications, and office systems technologies and services.~~

36 ~~(b)~~ **[(a)]** "Internet" means the international computer network of
37 both federal and nonfederal interoperable packet switched data networks,
38 including the graphical subnetwork called the world wide web.

39 ~~(c)~~ **[(b)]** "On-line bidding" means a procurement process in which
40 public agencies receive vendors' bids for goods, services, construction
41 ***[materials]*** or information services electronically over the internet in a
42 ~~real time,~~ competitive bidding event.

43 Sec. 3. (a) When the ~~secretary of administration or another state~~

1 ~~agency purchasing agent~~ **secretary of transportation or the director**
2 **of purchases** determines that electronic, on-line bidding is more advan-
3 tageous than other procurement methods, ~~a purchasing agent may~~ **state**
4 **agencies may utilize procedures prescribed by the director of pur-**
5 **chases to** use on-line bidding to obtain bids electronically for the pur-
6 chase of goods and services.

7 (b) The solicitation must designate an opening date and time. The
8 closing date and time may be fixed or remain open, depending on the
9 structure of the item being bid on-line. Information regarding the closing
10 date and time must also be included in the solicitation. At the opening
11 date and time, ~~public agencies~~ **the secretary of transportation or the**
12 **director of purchases** must begin accepting on-line electronic bids, and
13 must continue accepting bids until the bid is officially closed. All bids
14 must **either** be posted electronically and updated on a real-time basis **or**
15 **opened at the bid closing time.** Bidders may be required to register
16 before the opening date and time and, as part of that registration, to agree
17 to any terms, conditions or other requirements of the solicitation. ~~Pur-~~
18 ~~chasing agents~~ **The director of purchases or the secretary of trans-**
19 **portation** may choose to prequalify bidders and allow only prequalified
20 bidders to bid on-line.

21 (c) The provisions of **K.S.A. 75-430, and amendments thereto, re-**
22 **lating to advertisements in the Kansas register and the provisions**
23 **of K.S.A. 68-401 et seq., and amendments thereto, and K.S.A. 75-3739**
24 **et seq., and amendments thereto, regarding procedures for sealed bidding**
25 **and the opening of bids shall not apply to bids submitted under this**
26 **section. All bids submitted pursuant to this section shall be deemed open**
27 **records. subject to the open records act.**

28 Sec. 4. Municipalities are hereby authorized to adopt similar proce-
29 dures for the acceptance of on-line bids for goods and services.

30 **Sec. 5. K.S.A. 2000 Supp. 10-106 is hereby amended to read as**
31 **follows: 10-106. (a) Municipal bonds shall be sold at public notice**
32 **sale as follows: The officers having charge of the sale of the bonds**
33 **shall publish a notice of the sale one time in a newspaper having**
34 **general circulation in the county where the bonds are issued and in**
35 **the Kansas register. Such notices shall be published not less than**
36 **six days nor more than 30 days before the sale and shall contain the**
37 **following information: (1) Except as provided by subsection (b), the**
38 **date, time and place at which a public [notice] auction will be held**
39 **on such terms and conditions as shall be provided by the municipality or**
40 **at which written bids will be received and considered for the sale of**
41 **the bonds for cash at such price as the municipality may accept; (2)**
42 **the date of issue, total par value and denomination of the bonds**
43 **being sold; (3) the dates and amounts of maturities of the bond**

1 **issues; (4) the dates on which interest on the bonds shall become**
2 **due and payable; (5) the place or places where and the approximate**
3 **date on which the bonds being sold will be delivered to the pur-**
4 **chaser; (6) a statement that a good faith deposit in the form of a**
5 **certified or cashier's check or surety bond in the amount of 2% of**
6 **the total par value of the bonds being sold shall accompany each bid**
7 **or in the case of public sale at auction the same shall be furnished at**
8 **or prior to the time of sale by each bidder; (7) a statement disclosing**
9 **whether or not the purchaser of the bonds will be required to pay**
10 **for the printing thereof and whether or not and to what extent the**
11 **purchaser of the bonds will be required to pay the expense of legal**
12 **services rendered to the municipality in connection with the issu-**
13 **ance of the bonds including the fees of recognized bond counsel for**
14 **an opinion as to legality of issuance; (8) the assessed valuation of**
15 **the municipality; (9) that bidders may be required to be qualified in a**
16 **manner established by the municipality before submitting a bid; and (9)**
17 **(10) the total bonded indebtedness of the municipality as of the date**
18 **on which the bonds being sold are dated including the bonds sub-**
19 **mitted for bid. The rate of interest may be omitted in advertising**
20 **and the bidders requested to specify the lowest interest rate or rates**
21 **on the bonds at which they will pay the purchase price.**

22 **If sold at public notice sale with written bids, purchasers shall sub-**
23 **mit their bids in writing, sealed or sent by telefacsimile or other**
24 **electronic transmission, as set forth in the notice of sale, for all or**
25 **any part of the bonds. Each bid shall be accompanied by a certified or**
26 **cashier's check or surety bond for 2% of the total amount of the bid. In**
27 **case any purchaser, whose bid is accepted, fails to carry out the**
28 **contract, the deposit shall be forfeited to the municipality issuing**
29 **the bonds. Written Bids shall be disclosed publicly and tabulated or**
30 **compared only at the time and place specified in the notice. At the**
31 **time and place specified, the bonds shall be sold to the highest and**
32 **best bidder or bidders, and the bonds may be allotted among the**
33 **bidders, however, any or all bids may be rejected. No contract for**
34 **the sale of the bonds shall be made except on bids submitted as**
35 **provided in this section. No bonds shall be delivered to any pur-**
36 **chaser until the amount of the bid is placed in the hands of the**
37 **officer in charge of the sale. The provisions of this section relating**
38 **to the public notice sale of bonds shall not apply to bonds secured**
39 **solely and only by revenues, bonds sold, pursuant to written agree-**
40 **ment, to the government of the United States of America or any**
41 **bureau, department, instrumentality or agency thereof, bonds is-**
42 **sued pursuant to K.S.A. 10-427 et seq., and amendments thereto, and**
43 **all bonds of the same series or which are issued simultaneously with**

1 **such bonds and bond sales where the total amount of the issue does**
2 **not exceed \$100,000. In such cases, the bonds may be sold at public**
3 **notice or private sale as the officers having charge of the sale of such**
4 **bonds determine. The practice of providing more than one issue**
5 **within a twelve-month period for any one project is prohibited un-**
6 **less the project engineer or architect certifies that it is necessary to**
7 **do so for the orderly construction progress of the project.**

8 **(b) As an alternative to providing notice of the date, time and**
9 **place of public notice auction or receipt of bids provided by sub-**
10 **section (a)(1), the officers having charge of a bond sale may estab-**
11 **lish a time period of not less than seven nor more than 30 days**
12 **during which such bonds would be sold. Notice of such sale period**
13 **shall be published one time in a newspaper having general circu-**
14 **lation in the county where the bonds are issued and in the Kansas**
15 **register and shall be published not less than six days nor more than**
16 **30 days before the beginning date of the sale period. The notice**
17 **shall contain the information specified in subsection (a) except that**
18 **in place of the time and date of sale, the notice shall specify the time**
19 **period during which the bonds would be sold and the manner in**
20 **which persons interested in submitting a bid may register for notice**
21 **of the bond sale. At least three business days prior to the time and**
22 **date of the bond sale, the officers having charge of the sale shall**
23 **give notice to all persons having registered for notice of the bond**
24 **sale, and bids shall be submitted and received and the sale made in**
25 **the manner provided in subsection (a).**

26 **Sec. 6. K.S.A. 2000 Supp. 10-106 is hereby repealed.**

27 Sec. ~~5~~ 7. This act shall take effect and be in force from and after its
28 publication in the statute book.

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