

SENATE Substitute for HOUSE BILL No. 2228

AN ACT concerning state procurement; relating to state purchase of products from certain qualified vendors; amending K.S.A. 75-3317, 75-3319 and 75-3322 and K.S.A. 2004 Supp. 75-3320 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-3317 is hereby amended to read as follows: 75-3317. As used in K.S.A. 75-3317 through 75-3322, and amendments thereto, unless the context requires otherwise:

(a) "Director of purchases" means the director of purchases of the department of administration;

(b) ~~"Kansas industries for the blind division and rehabilitation services" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services~~ "qualified vendor" means a not-for-profit entity incorporated in the state of Kansas that:

(1) *Primarily employs the blind or disabled;*

(2) *is operated in the interest of and for the benefit of the blind or persons with other severe disabilities, or both;*

(3) *the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and*

(4) *such qualified vendor's primary purpose shall be to provide employment for persons who are blind or have other severe disabilities;*

(c) "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) ~~"rehabilitation facility" means any community mental health center or community facility for the mentally retarded operating under K.S.A. 19-4001 et seq. and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S.A. 19-4001 et seq. and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S.A. 75-3317 through 75-3322, and amendments thereto, and shall also mean the Kansas foundation for the blind, Wichita, Kansas; center industries, inc., Wichita, Kansas, and, upon registration hereunder, any workshop or other facility for blind or other handicapped persons which is located in Kansas and which is certified to the United States department of labor and licensed by the secretary of social and rehabilitation services as a sheltered workshop under K.S.A. 75-3307b and amendments thereto.~~ "unified school district" means any unified school district, board of education or any purchasing cooperative formed by one or more unified school districts;

(e) "committee" means the state use law committee authorized pursuant to section 7, and amendments thereto.

Sec. 2. K.S.A. 75-3319 is hereby amended to read as follows: 75-3319. (a) The director of purchases shall ~~determine fair market~~, *with the recommendation of the committee, approve* prices of products manufactured; or processed, and ~~offered for sale and~~ of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by ~~the Kansas industries for the blind division and rehabilitation services and by each rehabilitation facility~~ *qualified vendors*. All of the products and services shall be standard conforming. Those products and services offered for purchase by or for a state agency shall meet specifications required by the director of purchases. Those products offered for purchase by or for a unified school district shall meet specifications required by the board of education of the unified school district. The director of purchases shall revise the prices determined under this section from time to time in accordance with changing market conditions.

(b) Each ~~rehabilitation facility~~ *qualified vendor* shall cooperate with and shall provide the director of purchases ~~and the secretary of social and rehabilitation services~~ with all information necessary for the administration of K.S.A. 75-3317 through 75-3322, and amendments thereto.

(c) The provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, shall apply only to products manufactured or processed in Kansas or services provided in Kansas ~~by blind or other handicapped persons~~ *by a qualified vendor*.

(d) The provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, shall not be construed to require a unified school district

to purchase services offered by ~~blind or other handicapped persons~~ *qualified vendors* under this act.

Sec. 3. K.S.A. 2004 Supp. 75-3320 is hereby amended to read as follows: 75-3320. (a) ~~The secretary of social and rehabilitation services qualified vendors shall furnish to the department of administration director of purchases, and to each person or officer authorized to purchase materials, services and supplies for any state agency or unified school district, and the committee~~ a list of products manufactured, ~~or processed and offered for sale~~ and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by ~~the Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities~~ *qualified vendors*.

~~(b) The list of products and services shall be certified by the director of purchases. The secretary of social and rehabilitation services shall director of purchases may amend such list from time to time in accordance with the recommendations of the director of purchases.~~

~~(c) The secretary of social and rehabilitation services may charge a reasonable publication fee to those rehabilitation facilities which advertise their products or services on such lists. The secretary of social and rehabilitation services shall remit all moneys received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the social welfare fund. committee. The list of products and services shall be reviewed and approved by the director of purchases.~~

~~(e) (b) Each qualified vendor shall publish or cause to be published, a catalog of approved products manufactured or processed and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by each such vendor. After the catalog is published, the director of purchases may amend such list in accordance with recommendations of the committee.~~

~~(c) Each qualified vendor shall provide appropriate notice to state agencies and unified school districts of the addition or deletion of any product or service provided by a qualified vendor after the publication of the catalog, provided the additional product or service has been approved by the director of purchases.~~

Sec. 4. K.S.A. 75-3322 is hereby amended to read as follows: 75-3322. (a) ~~Whenever the Kansas industries for the blind division and rehabilitation services and rehabilitation facilities qualified vendors~~ are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver shall immediately be forwarded to the director of purchases ~~by the state agency procurement officer or purchasing officer of the unified school district by the secretary of social and rehabilitation services or the secretary's designee and that~~. *If approved by the director of purchases, such waiver shall relieve and exempt the state or unified school district purchasing authority from the mandatory provisions of K.S.A. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.*

~~(b) Whenever a unified school district has purchased or has entered into contracts for purchase for a substantial amount of a product or products, as described in K.S.A. 75-3320, and amendments thereto, from a qualified vendor or vendors during a unified school district fiscal year, the unified school district may petition the director of purchases for a waiver. A waiver may be granted to a unified school district from any further compliance with the state use law for the remainder of such unified school district fiscal year if the director of purchases, with the recommendation and approval of the committee, finds that purchases have been made or contracts for purchase have been entered into for a substantial amount of such product or products from a qualified vendor or vendors during such unified school district fiscal year. In determining whether a unified school district has purchased or has entered into contracts for purchase for a substantial amount of such product or products, the director of purchases and the committee shall consider the overall need for such product or products by such unified school district.~~

New Sec. 5. On or before January 1, 2006, and annually thereafter, qualified vendors shall publish an annual report which shall be submitted

to the governor, state legislature, director of purchases, state board of regents and Kansas association of school boards that updates and describes the volume of sales for each product or service sold as well as a summary of waivers requested and issued under the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto.

New Sec. 6. (a) There is hereby established within the department of administration, the state use law committee, hereafter referred to as the committee, to advise the director of purchases on issues surrounding the purchase of products and services provided by blind or disabled persons, which shall consist of nine members.

(b) The state use law committee shall be composed of the following members:

(1) Two members shall be appointed by the united school administrators of Kansas, one of whom shall represent small unified school districts and one of whom shall represent large unified school districts.

(2) One member shall be appointed by the state board of regents.

(3) One member shall be appointed by the state director of purchases.

(4) One member, who is an advocate for the blind and disabled in Kansas, shall be appointed by the governor.

(5) Two members who are qualified vendors shall be appointed by the governor.

(6) Two members of the Kansas legislature, one legislator shall be a member of the majority party and one legislator shall be a member of the minority party, and shall be appointed by the governor.

(c) Such members shall serve for terms of two years and may be reappointed. On July 1, of each year, the governor shall designate one of the private-sector business members to serve as a chairperson of the committee. Subsequent appointments shall be made as provided for original appointments for the unexpired terms.

(d) Members of the committee who are members of the Kansas legislature shall be paid amounts as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. Otherwise, members of the committee shall serve without reimbursement.

(e) The committee shall be responsible for advising the director of purchases on issues surrounding the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, including, but not limited to, the following functions:

(1) The development of waiver guidelines to be followed by qualifying agencies and unified school districts for participation under the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto.

(2) Product and service eligibility process used by the director of purchases for state use law products and services.

(3) Review the threshold dollar amount of purchases by state agencies or unified school districts for state use law to apply.

(4) Review provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, on any purchase from a qualified vendor that is determined by the director of purchases to be a substantially higher cost than the purchase would have cost had it been competitively bid.

(5) Adopt rules, regulations and policies to assure fair and effective implementation of this act, including appropriate rules and regulations relating to violations of K.S.A. 75-3317 through 75-3322, and amendments thereto.

(6) Establish procedures for setting fair market prices for items included on the procurement list and revision of products and prices in accordance with the changing market conditions to assure that the prices established are reflective of the market.

(7) Assist qualified vendors in identifying and improving marketing efforts of the products manufactured or processed and offered for sale and services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, to state agencies and unified school districts.

(8) Encourage and assist the director of purchases, state agencies and unified school districts to identify additional commodities and services that may be purchased from qualified nonprofit agencies not participating in the state use law catalog.

(9) Any other issue identified by any interested party.

(f) The committee shall maintain a registry of entities which meet the

definition of qualified vendor, as defined by K.S.A. 75-3317, and amendments thereto.

(g) The director of purchases shall convene quarterly meetings with qualified vendors, the state use law committee and agencies to discuss activity occurring under the state use law.

(h) On July 1, 2009, the state use law committee is hereby abolished.

Sec. 7. K.S.A. 75-3317, 75-3319 and 75-3322 and K.S.A. 2004 Supp. 75-3320 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.