

HOUSE BILL No. 2319

By Committee on Federal and State Affairs

1-31

9 AN ACT concerning the Kansas lottery; amending K.S.A. 74-8705 and
10 74-8708 and repealing the existing sections; also repealing K.S.A. 74-
11 8723.

12

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

14 Section 1. K.S.A. 74-8705 is hereby amended to read as follows: 74-
15 8705. (a) Major procurement contracts shall be awarded in accordance
16 with K.S.A. 75-3738 through 75-3744, and amendments thereto, or sub-
17 section (b), as determined by the director, except that:

18 (1) The contract or contracts for the initial lease of facilities for the
19 Kansas lottery shall be awarded upon the evaluation and approval of the
20 director, the secretary of administration and the director of architectural
21 services;

22 (2) The commission shall designate certain major procurement con-
23 tracts or portions thereof to be awarded, in accordance with rules and
24 regulations of the commission, solely to minority business enterprises.

25 (b) The director may award any major procurement contract by use
26 of a procurement negotiating committee. Such committee shall be com-
27 posed of: (1) The executive director or a Kansas lottery employee desig-
28 nated by the executive director; (2) the chairperson of the commission or
29 a commission member designated by the chairperson; and (3) the director
30 of the division of purchases or an employee of such division designated
31 by the director. Prior to negotiating a major procurement contract, the
32 committee shall solicit bids or proposals thereon. The division of pur-
33 chases shall provide staff support for the committee's solicitations. Upon
34 receipt of bids or proposals, the committee may negotiate with one or
35 more of the persons submitting such bids or proposals and select from
36 among such persons the person to whom the contract is awarded. Such
37 procurements shall be open and competitive and shall consider relevant
38 factors, including security, competence, experience, timely performance
39 and maximization of net revenues to the state. If a procurement negoti-
40 ating committee is utilized, the provisions of K.S.A. 75-3738 through 75-
41 3744, and amendments thereto, shall not apply. Meetings conducted by
42 the procurement negotiating committee shall be exempt from the pro-
43 visions of the Kansas open meeting act, K.S.A. 75-4317 through ~~75-4320a~~

1 75-4320c, and amendments thereto.

2 (c) Before a major procurement contract is awarded, the executive
3 director shall conduct a background investigation of: (1) The vendor to
4 whom the contract is to be awarded; (2) all officers and directors of such
5 vendor; (3) all persons who own a 5% or more interest in such vendor;
6 (4) all persons who own a controlling interest in such vendor; and (5) any
7 subsidiary or other business in which such vendor owns a controlling
8 interest. The vendor shall submit appropriate investigation authorizations
9 to facilitate such investigation. The executive director may require, in
10 accordance with rules and regulations of the commission, that a vendor
11 submit any additional information considered appropriate to preserve the
12 integrity and security of the lottery. In addition, the executive director
13 may conduct a background investigation of any person having a beneficial
14 interest in a vendor. The secretary of revenue, securities commissioner,
15 attorney general and director of the Kansas bureau of investigation shall
16 assist in any investigation pursuant to this subsection upon request of the
17 executive director. Whenever the secretary of revenue, securities com-
18 missioner, attorney general or director of the Kansas bureau of investi-
19 gation assists in such an investigation and incurs costs in addition to those
20 attributable to the operations of the office or bureau, such additional costs
21 shall be paid by the Kansas lottery. The furnishing of assistance in such
22 an investigation shall be a transaction between the Kansas lottery and the
23 respective officer and shall be settled in accordance with K.S.A. 75-5516,
24 and amendments thereto.

25 Upon the request of the chairperson, the Kansas bureau of investiga-
26 tion and other criminal justice agencies shall provide to the chairperson
27 all background investigation information including criminal history record
28 information, arrest and nonconviction data, criminal intelligence infor-
29 mation and information relating to criminal and background investiga-
30 tions of a vendor to whom a major procurement contract is to be awarded.
31 Such information, other than conviction data, shall be confidential and
32 shall not be disclosed, except as provided in this section. In addition to
33 any other penalty provided by law, disclosure of such information shall
34 be grounds for removal from office or termination of employment.

35 (d) All major procurement contracts shall be subject to approval of
36 the commission.

37 ~~—(e) The executive director shall not agree to any renewal or extension~~
38 ~~of a major procurement contract unless such extension or renewal is~~
39 ~~awarded in the manner provided by this section.~~

40 Sec. 2. K.S.A. 74-8708 is hereby amended to read as follows: 74-
41 8708. (a) The executive director shall select as lottery retailers such per-
42 sons as deemed best able to serve the public convenience and promote
43 the sale of tickets or shares in accordance with marketing plans developed

1 by the Kansas lottery. In the selection of lottery retailers, the executive
2 director shall consider factors such as financial responsibility, security of
3 the applicant's place of business or activity, accessibility of the applicant's
4 place of business or activity, integrity, reputation, volume of expected
5 sales and such other factors as the executive director may deem appro-
6 priate. The executive director may select the state fair board as a lottery
7 retailer to sell lottery tickets or shares only on the state fairgrounds and
8 only during the time of the annual state fair. Other persons lawfully en-
9 gaged in nongovernmental business on state property may be selected as
10 lottery retailers.

11 (b) The executive director may charge an application fee to persons
12 applying to become lottery retailers.

13 (c) All lottery retailer contracts awarded by the Kansas lottery under
14 this act shall be renewable annually after issuance unless sooner canceled
15 or terminated.

16 (d) No lottery retailer contract awarded under this act shall be trans-
17 ferred or assignable.

18 ~~(e) Each lottery retailer shall be issued a lottery retailer certificate~~
19 ~~which shall be conspicuously displayed at the place where the lottery~~
20 ~~retailer is authorized to sell lottery tickets or shares.~~

21 ~~(f)~~ (e) Lottery tickets or shares shall only be sold by the lottery retailer
22 at the location ~~stated on the lottery retailer certificate~~ approved by the
23 *Kansas lottery*.

24 ~~(g)~~ (f) To be selected as a lottery retailer, a natural person acting as
25 a sole proprietor must:

26 (1) Be at least 18 years of age;

27 (2) have sufficient financial resources to support the activities re-
28 quired to sell lottery tickets or shares;

29 (3) be current in payment of all taxes, interest and penalties owed to
30 any taxing subdivision where the lottery retailer will sell lottery tickets or
31 shares;

32 (4) be current in filing all applicable tax returns and in payment of
33 all taxes, interest and penalties owed to the state of Kansas, excluding
34 items under formal appeal pursuant to applicable statutes; and

35 (5) not be engaged exclusively in the sale of lottery tickets and shares.

36 ~~(h)~~ (g) No natural person shall be selected as a lottery retailer who:

37 (1) Has been convicted of a felony in this or any other jurisdiction,
38 unless at least 10 years have passed since satisfactory completion of the
39 sentence or probation imposed by the court for each such felony;

40 (2) has been convicted of an illegal gambling activity in this or any
41 other jurisdiction;

42 (3) has been found to have violated the provisions of this act or any
43 rule and regulation adopted hereunder;

1 (4) is a vendor or an employee or agent of any vendor doing business
 2 with the Kansas lottery;

3 (5) resides in the same household of an employee of the Kansas lot-
 4 tery or of a member of the commission; or

5 (6) has made a statement of material fact to the Kansas lottery, know-
 6 ing such statement to be false.

7 ~~(i)~~ (h) For a partnership to be selected as a lottery retailer, the part-
 8 nership must meet the requirements of subsections ~~(g)(2), (g)(3), (g)(4)~~
 9 ~~and (g)(5)~~ (f)(2), (f)(3), (f)(4) and (f)(5) and each partner must meet the
 10 requirements of subsections ~~(g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6)~~
 11 (f)(1), (f)(3), (f)(4) and (g)(1) through (g)(6).

12 ~~(j)~~ (i) For a corporation to be selected as a lottery retailer, the cor-
 13 poration must meet the requirements of subsections ~~(g)(2), (g)(3), (g)(4)~~
 14 ~~and (g)(5)~~ (f)(2), (f)(3), (f)(4) and (f)(5) and each officer or director and
 15 each stockholder who owns 5% or more of the stock of such corporation
 16 must meet the requirements of subsections ~~(g)(3), (g)(4) and (h)(1)~~
 17 ~~through (h)(6)~~ (f)(3), (f)(4) and (g)(1) through (g)(6).

18 ~~(k)~~ (j) For an unincorporated association to be selected as a lottery
 19 retailer, the association must meet the requirements of subsections ~~(g)(2),~~
 20 ~~(g)(3), (g)(4) and (g)(5)~~ (f)(2), (f)(3), (f)(4) and (f)(5) and each officer or
 21 director must meet the requirements of subsections ~~(g)(1), (g)(3), (g)(4)~~
 22 ~~and (h)(1) through (h)(6)~~ (f)(1), (f)(3), (f)(4) and (g)(1) through (g)(6).

23 ~~(l)~~ (k) The executive director may terminate the ~~certificate~~ *contract*
 24 of any lottery retailer who fails to meet any of the applicable qualifying
 25 standards for selection as a retailer provided in this section or on the
 26 grounds for termination provided in the contract pursuant to rules and
 27 regulations adopted by the commission.

28 ~~(m)~~ (l) If a lottery retailer's rental payments for the business premises
 29 are contractually computed, in whole or in part, on the basis of a per-
 30 centage of retail sales, and such computation of retail sales is not explicitly
 31 defined to include sale of tickets or shares in a state-operated lottery, the
 32 compensation received by the lottery retailer from the lottery shall be
 33 considered the amount of the retail sale for purposes of computing the
 34 rental payment.

35 Sec. 3. K.S.A. 74-8705, 74-8708 and 74-8723 are hereby repealed.

36 Sec. 4. This act shall take effect and be in force from and after its
 37 publication in the Kansas register.