

SESSION OF 2003

SUPPLEMENTAL NOTE ON SENATE BILL NO. 223

As Amended by House Committee on
Appropriations

Brief*

SB 223 would amend various statutes dealing with bidding and purchasing procedures.

The bill would place a threshold of \$5,000 on those contracts which are required to be included by the Director of Purchases in the detailed, quarterly report of all contracts for services, supplies, materials, or equipment purchased through other governmental entities, consortiums, or grants.

The bill would repeal the statutes governing the Kansas Performance Review Board. This entity became defunct at the beginning of fiscal year 2002 due to a lack of funding.

The bill would repeal a requirement that state educational institutions receive prior approval of the Legislature or State Finance Council before entering into a contract with another state agency involving an expenditure of more than \$250,000.

The bill would clarify that in the bid process, only material alterations or erasures made after a bid is opened would cause the bid to be rejected.

The bill would require that an on-line notice of a purchase or contract that exceeds \$100,000 and is entered into without a competitive bid be posted at least seven days before the purchase or contract is awarded. The bill would also require the Director of Purchases to notify the Legislature at the beginning of the calendar year of the notice posting and the uniform resource locator (URL) where the notice can be

*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/klrd>

accessed on-line. If there is a written protest during the seven day notice period, the Director of Purchases would be required to request certain contact information of a person or entity interested in supplying the goods or services in question and verify that the person or entity is interested and capable of supplying the goods or services. Upon verification, the Director of Purchases would be required to proceed with a competitive procurement process unless the validity of the protest proposal cannot be confirmed or the competition of the goods or services cannot be verified.

The bill would include the electronic form of bids, bulletin boards and mail in references to these terms in statutes pertaining to the Department of Administration.

Finally, the bill would remove statutory references to a pilot study utilizing the reverse auctioning electronic procurement process and instead give general authority to the Director of Purchases to use reverse auctioning. The reverse auctioning procedure would be subject to the provisions of the State Use Law.

Background

The contents of SB 223 are similar to HB 2719, which was passed by the 2002 Legislature but vetoed by the Governor. In his veto message, the Governor expressed concern that the bill failed to guard against abuse of protests without merit. He went on to say, “. . . legitimate protest to the non-competitive contracts should come from someone knowledgeable and interested in bidding, not simply from someone more interested in disrupting the acquisition of goods and services vital to the State of Kansas.” In response to the Governor’s concerns, SB 223 includes a provision allowing for the Director of Purchases to verify the validity of a protest before proceeding with a competitive bid process.

The House Committee amended the bill to make reverse auctioning procedures subject to the State Use Law, which requires that state agencies purchase products manufactured by disabled citizens of Kansas.

At the hearing on SB 223, staff explained the bill. No conferees appeared on the bill.

Upon publication of this Supplemental Note, a fiscal note on was not available for SB 223.