

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2688

As Amended by House Committee of the Whole

Brief*

HB 2688 amends statutes regarding the state use law, including the catalog of products and services manufactured by Kansans who are blind or severely disabled (the "State Use Catalog").

The bill, as amended, creates a "State Use Law" Committee with overall management responsibility for the State Use Catalog. The State Use Committee would be composed of six members:

- one member appointed by the United School Superintendents;
- one member appointed by the State Board of Regents;
- one member appointed by the Director of Purchases of the Department of Administration;
- two members appointed by the Governor who are knowledgeable of the employment and training needs and concerns of the blind and disabled in Kansas; and
- one member appointed by the Governor who is a qualified vendor.

The Committee would be charged with addressing agency and Unified School District compliance issues with the state use law, dealing with disputes regarding waivers of the requirements of the law, and with reviewing the state use law program and issuing a report on:

- the pricing process used by the Director of Purchases for eligible products and services;
- the product and service eligibility process used by the Director of Purchases for state use law products and services;
- issues regarding enforcement for non-compliance with the state use law;
- the review process for waivers granted under the law;
- application of the law to purchasing cards;

*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>

- a threshold dollar amount of purchase for applicability of the law;
- development of an electronic procurement system for the law; and
- any other issue identified by interested parties.

The Committee would be responsible for maintaining a registry of qualified vendors, as defined by the bill. The qualified vendors would be responsible for furnishing a list of products manufactured and processed by the qualified vendors. The list of products and services would be certified by the Director of Purchases.

The term “qualified vendor” is defined as:

- a not-for-profit entity incorporated in the state of Kansas that primarily employs the blind or disabled;
- is operated in the interest of and for the benefit of the blind or persons with severe disabilities, or both;
- the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and
- the entity’s primary purpose is to provide employment for persons who are blind or have other severe disabilities.

The bill directs the Director of Purchases to set specifications regarding products and services, to determine fair market prices of the products and services available, and revise prices in accordance with market conditions. The qualified vendors would be responsible for distributing catalogs of products and services submitted by qualified vendors.

The bill also provides that when a qualified vendor is unable to supply needed products or services, or unable to meet delivery requirements, the purchaser may request a waiver from the Committee. The Committee is authorized to grant a waiver only if two conditions are met:

- the qualified vendor cannot furnish the product or service within the period specified, and
- the product or service is available from commercial sources in the quantities needed and delivery will be significantly sooner than it will be available from the qualified vendor.

The burden would be on the purchasing agency or school district to provide sufficient evidence to indicate the conditions are met, and a waiver must be applied for each time a qualified vendor cannot meet delivery requirements for any individual purchase. Waivers may also be granted by the qualified vendors. If the qualified vendor does not provide a requested waiver, the agency or school district may appeal to the Director of Purchases. If the qualified vendor does not agree with the decision of the Director of Purchases, the vendor may appeal to the Committee.

A House Committee of the Whole amendment added a provision prohibiting the Department of Social and Rehabilitation Services from making any contract for the customer service program relating to the electronic benefit transfer portion of the food stamp vision card program with any contractor or vendor who performs, or subcontracts, or otherwise procures the services or work contracted for, at a location outside of the United States. In addition, the provision requires any contractor or vendor submitting a bid to contract to provide services or work for a state agency to certify that the services or work covered by the bid or contract will be performed at a location in the United States. The amendment provides that no expenditures be made under any such contract upon a finding that the contractor or vendor, or any subcontractor, during the term of the contract, shifts services or work to a location outside of the United States, and that the contract be terminated for noncompliance. Finally, any contracts would include a provision which allows for the employment of qualified TAF recipients to provide services under the contract.

Background

Proponents of the bill included representatives of the Coalition for Opportunity, Cartridge King of Kansas, KETCH, Envision, and InterHab. Opponents of the bill as introduced included representatives of Wichita USD No. 259, and the Kansas Association of School Boards. The Board of Regents submitted written testimony noting concerns with some provisions of the bill as introduced.

Subsequent to the initial hearing, representatives of the proponents and opponents of the bill met and returned with suggested amendments to address the concerns noted with the bill. Those suggested amendments were incorporated into the bill.

The House Committee of the Whole amendment added the provisions regarding contracts which outsource jobs.

No fiscal note from the Division of the Budget was available.