

HOUSE BILL No. 2207

By Committee on K-12 Education Budget

2-8

1 AN ACT concerning public construction contracts; relating to school
2 districts; requirements for requests for proposals that specify a
3 particular product or installation method; amending K.S.A. 72-1151
4 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 72-1151 is hereby amended to read as follows: 72-
8 1151. (a) Except as provided by this section and ~~K.S.A. 72-6760b~~, no
9 expenditure involving an amount greater than \$20,000 for construction,
10 reconstruction or remodeling or for the purchase of materials, goods or
11 wares shall be made by the board of education of any school district except
12 upon sealed proposals, and to the lowest responsible bidder.

13 (b) The provisions of subsection (a) do not apply to expenditures by a
14 board of education for the purchase of:

- 15 (1) Services;
- 16 (2) products required to be purchased under the provisions of K.S.A.
17 75-3317 through 75-3322, and amendments thereto;
- 18 (3) educational materials directly related to curriculum and secured
19 by copyright;
- 20 (4) motor fuels required to provide or furnish transportation;
- 21 (5) food and foodstuffs necessary for the implementation or operation
22 of any child nutrition program;
- 23 (6) articles or products that are produced, manufactured or provided
24 by inmates under the prison-made goods act of Kansas;
- 25 (7) natural gas that will be consumed in buildings owned or operated
26 by the school district;
- 27 (8) materials, goods or wares required for reconstructing, remodeling,
28 repairing or equipping buildings when such purchase has been necessitated
29 by the occurrence of a loss against which the board of education has
30 purchased property or casualty insurance; and
- 31 (9) materials, goods or wares which are purchased:
 - 32 (A) From vendors who have entered into contracts with the state
33 director of purchases pursuant to state purchasing statutes for purchases by
34 state agencies;
 - 35 (B) under the same pricing provisions established in the state
36 contracts, subject to agreement of the vendor to honor the state contract

1 prices; and

2 (C) under the same pricing provisions established in federal, national
3 or other state contracts facilitated by a federal or local governmental entity
4 or agency, subject to:

5 (i) Agreement of the vendor to honor the contract prices; and

6 (ii) approval by the board of education for expenditures in an amount
7 greater than \$20,000.

8 (c) Whenever the board of education of any school district lets bids
9 for the purchase of materials, goods or wares and bids are submitted by
10 bidders domiciled within the school district and by bidders domiciled
11 outside the school district and the low bid is submitted by a bidder
12 domiciled outside the school district, the school district domiciliary which
13 submitted the lowest bid may be deemed the preferred bidder and awarded
14 the bid if:

15 (1) The quality, suitability and usability of the materials, goods or
16 wares are equal;

17 (2) the amount of the bid of the school district domiciliary is not more
18 than 1% greater than the amount of the low bid; and

19 (3) the school district domiciliary agrees to meet the low bid by filing
20 a written agreement to that effect within 72 hours after receiving
21 notification of being deemed the preferred bidder.

22 (d) The provisions of subsection (c) do not apply to expenditures for
23 construction, reconstruction or remodeling.

24 *(e) (1) Whenever the board of education of a school district puts forth
25 a request for proposal for construction, reconstruction, repair or
26 remodeling of buildings or for materials, goods or wares that are required
27 for construction, reconstruction, repair or remodeling of buildings, the
28 board may specify a particular product or particular installation method
29 in such request for proposal, provided that the board does not:*

30 *(A) Specify a proprietary product or proprietary installation method;
31 or*

32 *(B) require a bidder to obtain certification or approval from an
33 architectural consultant, engineering consultant, school district employee
34 or the board of education of the school district to establish that the
35 product or installation method to be used by such bidder is a substantially
36 similar alternative to the product or installation method specified in the
37 request for proposal.*

38 *(2) If a request for proposal specifies a particular product or a
39 particular installation method, the board shall not consider any
40 responding bids unless at least three bidders have submitted bids to
41 provide the specified product or installation method or substantially
42 similar products or installation methods.*

43 Sec. 2. K.S.A. 72-1151 is hereby repealed.

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.