

HOUSE BILL No. 2515

By Committee on Commerce and Economic Development

1-24

Balloon on House Bill 2515  
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Office of Revisor of Statutes

House Commerce & Economic  
Development Committee  
Date: 02/01/2012  
Attachment #: 2-1

1 AN ACT enacting the competitive bid protection act.

2  
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through 6, and amendments thereto, shall be  
5 known and may be cited as the competitive bid protection act.

6 Sec. 2. The purposes of this act are to: (a) Provide for the efficient  
7 procurement of goods and services by governmental units;

8 (b) promote the economical, nondiscriminatory and efficient  
9 administration and completion of state and state-funded or state-assisted  
10 construction projects;

11 (c) provide for fair and open competition for construction contracts,  
12 including construction contracts funded by grants, tax abatements and tax  
13 credits awarded by governmental units;

14 (d) prohibit requirements for certain terms in construction contracts  
15 and construction contracts awarded by governmental units and supported  
16 through grants and tax subsidies and abatements awarded by governmental  
17 units;

18 (e) prohibit the expenditure of public funds under certain conditions;

19 (f) to prohibit certain terms in procurement documents requiring  
20 certain expenditures by governmental units involving public facilities; and

21 (g) provide powers and duties for certain public officers, employees  
22 and contractors.

23 Sec. 3. (a) Unless otherwise required by law, each governmental  
24 entity within this state that contracts for public works construction or  
25 obligates funds pursuant to such a contract shall ensure that neither the  
26 awarding governmental entity nor any construction manager acting on  
27 behalf of such governmental entity, in its bid documents, specifications,  
28 project agreements or other controlling documents for a public works  
29 construction contract shall:

30 (1) Require any bidder, contractor, subcontractor or material supplier  
31 to enter into or agree to enter into any prehire agreement, project labor  
32 agreement, collective bargaining agreement or any other similar agreement  
33 with one or more labor organizations on the same or other related  
34 construction projects; or

35 (2) discriminate against or treat differently any bidder, contractor,  
36 subcontractor or material supplier for becoming, refusing to become or

; and (h) protect the taxpayers and constituents by assuring that the maximum  
value is achieved in the awarding of each contract require any bidder, contractor,  
subcontractor or material supplier to meet any minimum compensation or benefit  
levels in order to be awarded a contract

unit

agent



1 remaining signatories or otherwise to agree to enter into any prehire  
 2 agreement, project labor agreement, collective bargaining agreement or  
 3 any other similar agreement with one or more labor organizations on the  
 4 same or other related construction projects.

5 (b) Nothing in this section shall prohibit any bidder, contractor,  
 6 subcontractor or material supplier from voluntarily entering into  
 7 agreements described in paragraph (1) of subsection (a).

8 Sec. 4. (a) Notwithstanding any other provision of law to the contrary,  
 9 any construction contract entered into by any state agency which exceeds  
 10 or will exceed a total expenditure of \$100,000 shall be conducted and  
 11 negotiated by the department of administration in accordance with this act,  
 12 except that any expenditure of less than \$100,000 for a construction  
 13 contract still shall be subject to review and approval by the department of  
 14 administration which may approve such expenditure in an amount less  
 15 than \$100,000 on a noncompetitive basis.

16 (b) Unless otherwise required by law, the department of  
 17 administration shall ensure that neither the department of administration  
 18 nor any construction manager acting on behalf of the department of  
 19 administration, in its bid documents, specifications, project agreements or  
 20 other controlling documents for a public works construction contract shall:

21 (1) Require any bidder, contractor, subcontractor or material supplier  
 22 to enter into or agree to enter into any prehire agreement, project labor  
 23 agreement, collective bargaining agreement or any other similar agreement  
 24 with one or more labor organizations on the same or other related  
 25 construction projects; or  
 26 (2) discriminate against or treat differently any bidder, contractor,  
 27 subcontractor or material supplier for becoming, refusing to become or  
 28 remaining signatories or otherwise to agree to enter into any prehire  
 29 agreement, project labor agreement, collective bargaining agreement or  
 30 any other similar agreement with one or more labor organizations on the  
 31 same or other related construction projects.

32 (c) Nothing in this section shall prohibit any bidder, contractor,  
 33 subcontractor or material supplier from voluntarily entering into  
 34 agreements described in paragraph (1) of subsection (a).

35 (d) The secretary of administration is hereby authorized and directed  
 36 to promulgate such rules and regulations as are necessary to effectuate the  
 37 provisions of this section. These rules and regulations shall be adopted on  
 38 or before the first anniversary of the effective date of this section.

39 Sec. 5. No provision of this act shall be construed to:

40 (a) Prohibit any employer or other party from entering into any  
 41 agreement or engaging in any other activity protected by the national labor  
 42 relations act, 29 U.S.C. § 151 to 169; and

43 (b) interfere with labor relations of any party that is protected under

; or (3) require any bidder, contractor, subcontractor or material supplier to meet any  
 minimum compensation or benefit level in order to be awarded a contract

(a) For the protection of the taxpayer, every construction project or other project  
 which is subject to this act, shall be competitively bid through the governmental  
 unit's procurement process when the cost of such project exceeds \$50,000.

(b) The provisions of this act shall not apply to any project of a governmental unit  
 that is actually funded solely through private donations or funding and without any  
 state funding

1 the national labor relations act, 29 U.S.C. § 151 to 169.

2 Sec. 6. For the purposes of this act:

3 (a) "Governmental unit" shall mean a state agency or a municipality  
4 as the context requires.

5 (b) "Municipality" shall have the meaning specified in K.S.A. 12-  
6 105a, and amendments thereto.

7 (c) "State agency" shall have the meaning specified in K.S.A. 75-  
8 3728a, and amendments thereto.

9 Sec. 7. This act shall take effect and be in force from and after its  
10 publication in the statute book.