

HOUSE BILL No. 2515

By Committee on Commerce and Economic Development

1-24

Balloon on House Bill 2515
Prepared by Ken Wilke
Office of Revisor of Statutes

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 entities

8 (b) promote the economical, nondiscriminatory and efficient
9 administration and completion of state and state-funded or state-assisted public works

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; public works

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; public works

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~~ not

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

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

not

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 prohibit any contractor, construction manager or design-builder from
requiring its subcontractors or material suppliers of any tier to enter into
agreements described in paragraph (1) of subsection (a)

or prohibit any contractor, construction manager or design-builder from
requiring its subcontractors or material suppliers of any tier to enter into
agreements described in paragraph (1) of subsection (a)

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.

entity

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.