

HOUSE BILL No. 2515

By Committee on Commerce and Economic Development

1-24

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 5~~, 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
10 construction projects **{by governmental entities}**;

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 entities**;

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

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 entities** ~~involving~~ **{for}** public
21 facilities; and

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

24 Sec. 3. (a) Unless otherwise required by law, each governmental
25 entity within this state that contracts for public works construction ~~or~~
26 ~~obligates funds pursuant to such a contract~~ shall ensure that neither the
27 awarding governmental entity ~~nor any construction manager or any agent~~
28 ~~thereof acting on behalf of such governmental entity,~~ **{responsible for**
29 **procuring a contract directly between the governmental entity and a**
30 **contractor}** ~~in its bid documents, specifications, project agreements or~~
31 ~~other controlling documents for a public works construction contract~~ shall
32 **not:**

33 (1) Require any bidder, contractor, subcontractor or material supplier
34 to enter into or agree to enter into any prehire agreement, project labor

1 agreement, collective bargaining agreement or any other similar agreement
2 with one or more labor organizations on the same or other related
3 construction projects; or

4 (2) discriminate against or treat differently any bidder, contractor,
5 subcontractor or material supplier for becoming, refusing to become or
6 remaining signatories or otherwise to agree to enter into any prehire
7 agreement, project labor agreement, collective bargaining agreement or
8 any other similar agreement with one or more labor organizations on the
9 same or other related construction projects.

10 (b) Nothing in this section shall prohibit{:

11 (1)} Any bidder, contractor, subcontractor, **construction manager,**
12 **design-builder** or material supplier **of any tier** from voluntarily entering
13 into agreements described in paragraph (1) of subsection (a)}; or

14 (2) **prohibit any contractor, construction manager or design**
15 **builder from requiring its subcontractors or material suppliers of any**
16 **tier to enter into a collection bargaining agreement}.**

17 ~~Sec. 4.—(a) Notwithstanding any other provision of law to the contrary,~~
18 ~~any construction contract entered into by any state agency which exceeds~~
19 ~~or will exceed a total expenditure of \$100,000 shall be conducted and~~
20 ~~negotiated by the department of administration in accordance with this act,~~
21 ~~except that any expenditure of less than \$100,000 for a construction~~
22 ~~contract still shall be subject to review and approval by the department of~~
23 ~~administration which may approve such expenditure in an amount less~~
24 ~~than \$100,000 on a noncompetitive basis.~~

25 ~~(b) Unless otherwise required by law, the department of~~
26 ~~administration shall ensure that neither the department of administration~~
27 ~~nor any construction manager acting on behalf of the department of~~
28 ~~administration, in its bid documents, specifications, project agreements or~~
29 ~~other controlling documents for a public works 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~~
37 ~~remaining signatories or otherwise to agree to enter into any prehire~~
38 ~~agreement, project labor agreement, collective bargaining agreement or~~
39 ~~any other similar agreement with one or more labor organizations on the~~
40 ~~same or other related construction projects.~~

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

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

5 Sec. ~~5~~ **4**. No provision of this act shall be construed to:

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

9 (b) interfere with labor relations of any party that is protected under
10 the national labor relations act, 29 U.S.C. § 151 to 169.

11 Sec. ~~6~~ **5**. For the purposes of this act:

12 (a) “Governmental ~~unit~~ **{entity}**” shall mean a state agency or a
13 municipality as the context requires.

14 (b) “Municipality” shall have the meaning specified in K.S.A. 12-
15 105a, and amendments thereto.

16 (c) “State agency” shall have the meaning specified in K.S.A. 75-
17 3728a, and amendments thereto.

18 Sec. ~~7~~ **6**. This act shall take effect and be in force from and after its
19 publication in the statute book.

20