

Approved: 3/15/2012

(Date)

## **MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY COMMITTEE**

The meeting was called to order by Chairperson Mike Burgess at 3:30 p.m. on Monday, February 13, 2012 in Room 546-S of the Capitol.

All members were present except:

Rep. Charles Roth - Excused

All Committee staff was present except Jim Wilson, Revisor of Statutes.

Conferees appearing before the Committee:

Chris Howe, Director, Procurement and Contracts, Department of Administration

Others in attendance:

See attached list.

Chair Burgess introduced Chris Howe, Director of Procurement and Contracts, Department of Administration. Mr. Howe provided a report on Preference Laws and Their Affects on Procurement (Attachment 1). Most procurement activities are done by statute. Many dollar limits are set by statutes. Two primary statutes are 1) lowest bidder who meets specifications, and 2) negotiated procurements, many of which are large dollar purchases. The statutes address technical goods and services and involve evaluation of the technical proposal and the cost proposal. The technical proposal is reviewed first; then the cost proposal is reviewed. Statutes set a course that if the lowest bid is not awarded, the result is reported to the Legislature. The goal is to achieve the best contract value for the state.

In 1986, the Kansas Small Business Procurement Act was allowed to sunset, and a sub-office within the Department of Administration was established to be responsible for procurement activities with disadvantaged businesses. Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) programs create a level playing field, and procurement staff work with vendors to help understand the process.

Tie bids happen once or twice a year on small dollar purchases. Tie bids can be broken in favor of a Kansas bidder under K.S.A. 75-3740. If the tie is between a bidder outside the state and a bidder in the state with an identical dollar amount, the contract shall be awarded to the bidder from within the state. The Director of Purchases has this authority. In response to a question, Mr. Howe noted the state is seeing 60-65% of dollars spent with Kansas vendors. To determine

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a Kansas vendor, Mr. Howe noted that his department has the ability to look into the system and only see that payment was made to an address in Kansas.

Preferences take the form of a percentage buffer in the evaluation of costs. If the Kansas bid was \$100,000 and the Missouri bid was \$97,000 with a difference in bids of 3.1%, if Kansas enacts a local 5% preference, the Kansas bidder would win the contract. It was asked how many states have big projects for 5% preference in their own state, and Mr. Howe noted he could research and get back with an answer.

Mr. Howe explained set asides, certain amounts awarded to small businesses within certain guidelines. States that have set asides have to have a diversity study. A diversity study performed by a consultant looks at the population of the jurisdiction which must reflect the demographics. The cost to Kansas for such a study is estimated at \$1.0 to \$1.5 million.

Mr. Howe added that if another state enacts a preference law, Kansas can apply those preferences to bids from vendors in that jurisdiction, and if Kansas enacts a preference law, a state or entity with a Reciprocity Law can assess the same "penalty" against Kansas vendors bidding in their jurisdiction. Mr. Howe noted several bills in the 2012 Legislature deal with preferences. Mr. Eford noted there was a statute some years ago that allowed state agencies to contract with regent institutions for up to \$250,000 without a bid. Mr. Howe will look into this to see if this statute has been repealed.

It was asked how much Kansas uses products manufactured within the U.S., and Mr. Howe replied that he does not have a database that collects that information. Some discussion followed about possible ways to open the door for local businesses. Small business development seminars might be one way or local Chamber of Commerce and also develop some training for state agencies.

Chair Burgess thanked Mr. Howe for his presentation. He then turned attention to the five bills that were heard on Thursday, February 9.

*A motion was made by Rep. Ruiz and seconded by Rep. Osterman for favorable passage of HB 2596–Repeal of 2011 Supp 74-509 concerning the duties of the irrigation commission.* There was some discussion about the cost for repealing bills, and it was noted the number of repealed bills was reduced from 51 to 21 bills. After this discussion, *the Committee voted to approve the motion.*

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It was moved by Rep. Hoffman and seconded by Rep. Trimmer for favorable passage of **HB 2597–Repealing KSA 2-1426 and KSA 2011Supp 2-1424a and 2-1425 concerning agricultural seeds; relating to a seed laboratory, seed testing, seed examination fee fund and publication of reports of inspectors exams.** There was some discussion if this could be put on the consent calendar, but Chair Burgess noted the repealer bills will all be done on one day. This will be discussed in Caucus. Time before turnaround is short. After this discussion, the Committee voted to approve the motion.

It was moved by Rep. Osterman and seconded by Rep. Wolf for favorable passage of **HB 2604–Repealing KSA 2011 Supp 2-1233 regarding fertilizer and pesticide compliance and administration fund.** There was no discussion. The Committee voted to approve the motion.

It was moved by Rep. Wolf and seconded by Rep. Meigs for favorable passage of **HB 2605–Repeal of KSA 2-2465 regarding the pest control operators fee fund.** There was no discussion. The Committee voted to approve the motion.

It was moved by Rep. Osterman and seconded by Rep. Phillips for favorable passage of **HB 2626–Repeal KSA 83-139 and 83-140 concerning fraudulent practices selling grain, seed, hay or coal; relating to penalties civil liability and attorney fees.** There was no discussion. The Committee voted to approved the motion.

Vice Chair DeGraaf will work with Committee members on who will carry these bills. Chair Burgess thanked the Revisor of Statutes and Legislative Research staff for their work in getting these bills ready for General Orders.

There being no other business, the meeting was adjourned at 4:12 p.m.

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