

## HOUSE BILL No. 2690

By Committee on Appropriations

2-11

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9 AN ACT concerning the department of administration; concerning com-  
10 petitive bids; preferring bids from within the state; amending K.S.A.  
11 2009 Supp. 75-3740 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 75-3740 is hereby amended to read as  
15 follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, *and amend-*  
16 *ments thereto*, all contracts and purchases made by or under the super-  
17 vision of the director of purchases or any state agency for which com-  
18 petitive bids are required shall be awarded to the lowest responsible  
19 bidder, taking into consideration conformity with the specifications, terms  
20 of delivery, and other conditions imposed in the call for bids.

21 (b) The director of purchases shall have power to decide as to the  
22 lowest responsible bidder for all purchases, but if:

23 (1) The dollar amount of the bid received from the lowest responsible  
24 bidder from within the state is ~~identical to the~~ *not more than 5% higher*  
25 *than the* dollar amount of the bid received from the lowest responsible  
26 bidder from without the state *or if the bid from within the state would*  
27 *be successful under the provisions of K.S.A. 75-3740a, and amendments*  
28 *thereto*, the contract shall be awarded to the bidder from within the state;  
29 and

30 (2) in the case of bids for paper products specified in K.S.A. 75-  
31 3740b, *and amendments thereto*, the dollar amounts of the bids received  
32 from two or more lowest responsible bidders are identical, the contract  
33 shall be awarded to the bidder whose bid is for those paper products  
34 containing the highest percentage of recycled materials.

35 (c) Any or all bids may be rejected, and a bid shall be rejected if it  
36 contains any material alteration or erasure made after the bid is opened.  
37 The director of purchases may reject the bid of any bidder who is in  
38 arrears on taxes due the state, who is not properly registered to collect  
39 and remit taxes due the state or who has failed to perform satisfactorily  
40 on a previous contract with the state. The secretary of revenue is hereby  
41 authorized to exchange such information with the director of purchases  
42 as is necessary to effectuate the preceding sentence notwithstanding any  
43 other provision of law prohibiting disclosure of the contents of taxpayer

1 records or information. Prior to determining the lowest responsible bid-  
2 der on contracts for construction of buildings or for major repairs or  
3 improvements to buildings for state agencies, the director of purchases  
4 shall consider: (1) The criteria and information developed by the secretary  
5 of administration, with the advice of the state building advisory commis-  
6 sion to rate contractors on the basis of their performance under similar  
7 contracts with the state, local governmental entities and private entities,  
8 in addition to other criteria and information available, and (2) the rec-  
9 ommendations of the project architect, or, if there is no project architect,  
10 the recommendations of the secretary of administration or the agency  
11 architect for the project as provided in K.S.A. 75-1254, and amendments  
12 thereto. In any case where competitive bids are required and where all  
13 bids are rejected, new bids shall be called for as in the first instance,  
14 unless otherwise expressly provided by law or the state agency elects not  
15 to proceed with the procurement.

16 (d) Before the awarding of any contract for construction of a building  
17 or the making of repairs or improvements upon any building for a state  
18 agency, the director of purchases shall receive written approval from the  
19 state agency for which the building construction project has been ap-  
20 proved, that the bids generally conform with the plans and specifications  
21 prepared by the project architect, by the secretary of administration or  
22 by the agency architect for the project, as the case may be, so as to avoid  
23 error and mistake on the part of the contractors. In all cases where ma-  
24 terial described in a contract can be obtained from any state institution,  
25 the director of purchases shall exclude the same from the contract.

26 (e) All bids with the names of the bidders and the amounts thereof,  
27 together with all documents pertaining to the award of a contract, shall  
28 be made a part of a file or record and retained by the director of purchases  
29 for five years, unless reproduced as provided in K.S.A. 75-3737, and  
30 amendments thereto, and shall be open to public inspection at all rea-  
31 sonable times.

32 (f) As used in this section and in K.S.A. 75-3741, and amendments  
33 thereto, "project architect" shall have the meaning ascribed thereto in  
34 K.S.A. 75-1251, and amendments thereto.

35 Sec. 2. K.S.A. 2009 Supp. 75-3740 is hereby repealed.

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