

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

9:00 a.m./~~p.m.~~ on March 6, 1984 in room 143N of the Capitol.

All members were present except:

Senator Gaines
Senator Francisco

Committee staff present:

Bruce Kinzie - Revisor
Julian Efird - Research

Conferees appearing before the committee:

Senator Bogina

The Chairman called the meeting to order for the purpose of taking action on S.B. 654 and S.B. 481.

Attention was turned to S.B. 654 concerning the open records act. This bill would amend the Open Record by adding a new section which would close certain records relating to intellectual property. Senator Gaar made a motion that the committee amend this bill substituting "state educational institution" for "public agency" to narrow the scope to State Regents' institutions and their related associations or foundations. This was seconded by Senator Johnston. Motion carried.

Senator Gaar then made a motion to recommend S.B. 654 favorable for passage as amended. Senator Meyers seconded this. Motion carried.

Senator Bogina appeared before the committee and explained the balloon version of S.B. 481 and the changes in lines 41-44. (Exhibit A)

Senator Johnston made a motion to change lines 41-44 as requested. This was seconded by Senator Mulich. Motion carried.

Senator Gaar made a motion to strike the insert in line 132. This was seconded by Senator Johnston. Motion carried.

Senator Gaar then made a motion to move S.B. 481 favorably out of committee. This was seconded by Senator Mulich. Motion carried.

The meeting was then adjourned.

Re an amendment

SENATE BILL No. 481

By Special Committee on Efficiency in State Government

Re Proposal No. 19

12-20

0018 AN ACT concerning projects for the construction of buildings
0019 and for major repairs or improvements to buildings for state
0020 agencies; concerning the convening of negotiating commit-
0021 tees for engineering or architectural services; amending
0022 K.S.A. 1983 Supp. 75-3741, 75-5404 and 75-5804 and repealing
0023 the existing sections.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 1983 Supp. 75-3741 is hereby amended to
0026 read as follows: 75-3741. (a) Subject to the applicable provisions
0027 of K.S.A. 75-3739 and 75-3740, and amendments thereto, all
0028 contracts for the construction of buildings or for major repairs or
0029 improvements to buildings which are specifically authorized by
0030 the legislature for the use and benefit of any state agency shall be
0031 ~~let~~ by the director of purchases to the lowest responsible bidder
0032 based on plans and specifications prepared for the project and
0033 approved by the secretary of administration and administrative
0034 head of the state agency concerned.

0035 (b) (1) ~~Prior to the preparation of contract documents for a~~
0036 ~~project~~ for the construction of a building or for major repairs or
0037 improvements to a building under this section ~~it shall be deter-~~
0038 ~~mined in accordance with this paragraph (1) of subsection (b) if~~
0039 ~~plans and specifications will be prepared and bids let for the~~
0040 ~~project as a whole or if~~ plans and specifications will be prepared
0041 and bids ~~let~~ independently for: (A) Electrical work portions of
0042 the project; (B) mechanical work portions of the project; ~~and~~ (C)
0043 all other work required for completion of the project. If the total
0044 cost of the project is expected to exceed \$250,000 ~~\$500,000~~, the
0045 secretary of administration, with the advice of the project archi-

awarded

Each contract

prior bill
shall be awarded for the project as a whole unless it is determined prior to the preparation of bid documents for the project, that the

awarded

miscellaneous equipment work; and (D)

specialized
\$375,000 ~~\$400,000~~

inflation

Ex. A

0046 tect and the negotiating committee convened for the project
0047 under K.S.A. 75-5404, and amendments thereto, shall determine
0048 if plans and specifications will be prepared and bids ~~let~~ for the
0049 project as a whole or for each of the ~~three~~ specified portions of
0050 the project independently. If the total cost of the project is not
0051 expected to exceed \$250,000 ~~/\$500,000~~, but a project architect will
0052 provide the architectural services for the project, the secretary of
0053 administration, with the advice of the project architect, shall
0054 determine if plans and specifications will be prepared and bids
0055 ~~let~~ for the project as a whole or for each of the ~~three~~ specified
0056 portions of the project independently. Whenever the architec-
0057 tural services for any project are provided by the state under
0058 K.S.A. ~~1982~~ 1983 Supp. 75-5404a, and amendments thereto, the
0059 secretary of administration shall determine if plans and specifi-
0060 cations will be prepared and bids ~~let~~ for the project as a whole or
0061 for each of the ~~three~~ specified portions of the project indepen-
0062 dently.

awarded

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\$375,000

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If required by the bid documents for

awarded

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and the names and addresses of ^{specialized} equipment suppliers and installers

0063 (2) ~~Upon~~ any project for which plans and specifications will
0064 be prepared and bids ~~let~~ for the project as a whole the general
0065 contractor shall submit with the bid the names and addresses of
0066 subcontractors in accordance with this paragraph (2) of subsec-
0067 tion (b). The general contractor shall submit the name and
0068 address of the electrical subcontractor for the electrical work
0069 portions of the project ~~and~~ the name and address of the mechan-
0070 ical subcontractor for the mechanical work portions of the proj-
0071 ect. ~~if the general contractor will be subcontracting for such~~
0072 work. If there are project alternates listed in the bid documents
0073 and the general contractor's choice of subcontractors is depen-
0074 dent upon the combination of project alternates the state
0075 chooses, the general contractor shall submit for each combina-
0076 tion of project alternates under which any subcontractor would
0077 change from the one named in the base bid, at the time such
0078 contractor submits such bid: (A) The name and address of the
0079 electrical subcontractor, if the general contractor will be sub-
0080 contracting for the electrical work portions thereunder; ~~and~~ (B)
0081 the name and address of the mechanical subcontractor, if the
0082 general contractor will be subcontracting for the mechanical

0083 work portions thereunder. All changes and substitutions in listed
0084 subcontractors shall be subject to approval of the secretary of
0085 administration.

0086 (3) Upon any project for which plans and specifications will
0087 be prepared and bids ~~let~~ independently for each of the ~~three~~
0088 specified portions of the work for the project, the contractor for
0089 one of the ~~three~~ specified portions of the project shall be desig-
0090 nated as the prime contractor for the project in accordance with
0091 this paragraph (3) of subsection (b). If the total cost of the project
0092 is expected to exceed ~~\$250,000~~ ~~\$500,000~~; the secretary of ad-
0093 ministration, with the advice of the project architect and the
0094 negotiating committee convened for the project under K.S.A.
0095 75-5404, and amendments thereto, shall designate the prime
0096 contractor for the project. If the total cost of the project is not
0097 expected to exceed ~~\$250,000~~ ~~\$500,000~~ but a project architect will
0098 provide the architectural services for the project, the secretary of
0099 administration, with the advice of the project architect, will
0100 designate the prime contractor for the project. Whenever the
0101 architectural services for any project are provided by the state
0102 under K.S.A. ~~1982~~ 1983 Supp. 75-5404a, and amendments
0103 thereto, the secretary of administration shall designate the prime
0104 contractor for the project. The prime contractor shall be respon-
0105 sible for coordinating all work upon the project, and all other
0106 contractors and subcontractors shall provide work for the project
0107 in accordance with the direction of the prime contractor. In each
0108 case where a contractor or subcontractor for the project delays
0109 the work on the project or incorporates materials or work of
0110 unsatisfactory quality into the project, the prime contractor shall
0111 notify the secretary of administration, the project architect, the
0112 state agency concerned and such contractor or subcontractor of
0113 such delay or unsatisfactory materials or work.

0114 (4) The secretary of administration shall adopt, with the ad-
0115 vice of the state building advisory commission, a standard con-
0116 tract for use in connection with projects upon which bids are ~~let~~
0117 for the project as a whole and a separate standard contract for
0118 each of the portions of a project for which bids are ~~let~~ indepen-
0119 dently. No such standard contract adopted by the secretary of

; and (C) the names and addresses of equipment suppliers and installers, if the general contractor will be subcontracting all or part of the miscellaneous equipment work

specialized

awarded

four

four

\$375,000

400,000

~~\$375,000~~

awarded

awarded

0120 administration shall contain any provisions authorizing arbitra-
0121 tion of any matters thereunder.

0122 (5) The secretary of administration may adopt rules and reg-
0123 ulations necessary for the implementation and administration of
0124 the provisions of this subsection (b).

0125 (c) ~~[The project architect performing construction administra-~~
0126 ~~tion services as described in K.S.A. 75-5408, and amendments~~
0127 ~~thereto, or, if there is no project architect, the secretary of~~
0128 ~~administration or the agency architect for the project as provided~~
0129 ~~in K.S.A. 1982-1983 Supp. 75-5404a, shall have charge of the~~
0130 ~~construction of all buildings and the major repairs or improve-~~
0131 ~~ments to buildings for state agencies.]~~ The original construction
0132 contracts for ~~such~~ projects shall be changed only by written
0133 change order signed by the director of architectural services with
0134 the approval of the secretary of administration and upon the
0135 recommendation of: (1) The project architect or, if there is no
0136 project architect, at the direction of the secretary of administra-
0137 tion or the agency architect for the project as provided in K.S.A.
0138 1982-1983 Supp. 75-5404a, and amendments thereto; (2) the state
0139 agency for which the building construction project has been
0140 approved; and (3) the director of accounts and reports. In each
0141 case where a change order is competitively bid, the change order
0142 shall also be signed by the director of purchases.

0143 (d) If the director of purchases believes there is collusion and
0144 combination involved in any bids received for any contract for
0145 the construction of a building or for major repairs or improve-
0146 ments to a building for the use and benefit of a state agency, the
0147 director of purchases shall reject any and all such bids and shall
0148 solicit new bids for the contract. If after receiving new bids the
0149 director of purchases believes there is again collusion and com-
0150 bination and that such collusion and combination would not be
0151 avoided by again soliciting new bids, the director of purchases
0152 shall ~~let~~ the contract by direct negotiation, except that: (1) The
0153 cost thereof shall not exceed the lowest responsible bid that had
0154 been offered; and (2) such contract shall not be negotiated or
0155 entered into with any bidder believed by the director of pur-
0156 chases to have been involved to any degree in such collusion and

Ques: "Only on -"

for the construction of buildings
or for major repairs or improvements
to buildings for the use and benefit
of state agencies

award

0157 combination.

0158 (e) In the event of a disagreement between the project ar-
0159 chitect, the secretary of administration or the agency architect for
0160 the project as provided in K.S.A. 1982 1983 Supp. 75-5404a, and
0161 amendments thereto, and the administrative head of the state
0162 agency for which the project is to be completed, as to the
0163 administration of the provisions of this section, the secretary of
0164 administration shall submit the matter to the governor and the
0165 decision of the governor shall be final.

0166 (f) The provisions of this section shall not be construed to
0167 prohibit the administrative head of any state agency from making
0168 any improvement or improvements when the same can be made
0169 by institutional labor or the use of material manufactured in any
0170 state institution.

0171 Sec. 2. K.S.A. 1983 Supp. 75-5404 is hereby amended to read
0172 as follows: 75-5404. Whenever it becomes necessary in the
0173 judgment of the secretary of administration or in any case when
0174 the total cost of a project for the construction of a building or for
0175 major repairs or improvements to a building for a state agency is
0176 expected to exceed two hundred fifty thousand dollars
0177 ~~(\$250,000)~~ ~~\$500,000~~, the secretary of administration shall con-
0178 vene a negotiating committee. The state building advisory com-
0179 mission shall prepare a list of at least three ~~(3)~~ and not more than
0180 five ~~(5)~~ firms which are, in the opinion of the state building
0181 advisory commission, qualified to serve as project architect for
0182 the project. Such list shall be submitted to the negotiating
0183 committee so convened, without any recommendation of prefer-
0184 ence or other recommendation. The secretary of administration
0185 shall meet with each negotiating committee and shall advise the
0186 negotiating committee but shall have no vote in the selection
0187 process or other matter upon which the committee may vote. The
0188 secretary of administration may combine two or more separate
0189 projects for the construction of buildings or for major repairs or
0190 improvements to buildings for state agencies, for the purpose of
0191 procuring architectural services for all such projects from a single
0192 firm and in each such case such combined projects shall be
0193 construed to be a single project for all purposes under the

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\$375,000
400,000

, except as otherwise proved ^{ide} by law

*allow some in-home work by
Div of Arch Service above
\$400,000 if able to perform
i.e. sweeping jobs*

0194 provisions of K.S.A. 75-5401 to 75-5414, inclusive, and amend-
0195 ments thereto.

0196 Sec. 3. K.S.A. 1983 Supp. 75-5804 is hereby amended to read
0197 as follows: 75-5804. (a) Whenever it becomes necessary in the
0198 judgment of the agency head of a state agency for which a project
0199 is proposed and, in any case where the total cost of such a
0200 proposed project is expected to exceed ~~one hundred thousand~~
0201 ~~dollars (\$100,000)~~ ~~\$300,000~~, the agency head shall convene a
0202 negotiating committee. Except as otherwise provided in subsec-
0203 tion (b), the agency head shall submit the list of at least three and
0204 not more than five of the most highly qualified firms to the
0205 negotiating committee so convened, without any recommenda-
0206 tion of preference or other recommendation.

0207 (b) In any case where a project requiring engineering ser-
0208 vices is proposed which concerns the construction of any build-
0209 ing or facility or any major repairs or improvements to any
0210 building or facility, including in any case but not limited to any
0211 heating, cooling or power facility, for a state agency and for
0212 which project a negotiating committee is convened under this
0213 section, the agency head for the state agency shall notify the state
0214 building advisory commission thereof and shall request a list of
0215 firms qualified to provide the engineering services for the pro-
0216 posed project. Upon receipt of any such request the state build-
0217 ing advisory commission shall evaluate the current statements of
0218 qualifications and performance data on file, together with those
0219 statements that may be submitted by other firms regarding the
0220 proposed project and other information developed and available
0221 to the state building advisory commission, and shall prepare a
0222 list of at least three and not more than five firms which, in the
0223 opinion of the state building advisory commission, are qualified
0224 to furnish the engineering services for the proposed project.
0225 Each such list shall be submitted to the negotiating committee so
0226 convened without any recommendation of preference or other
0227 recommendation.

0228 Sec. 4. K.S.A. 1983 Supp. 75-3741, 75-5404 and 75-5804 are
0229 hereby repealed.

0230 Sec. 5. This act shall take effect and be in force from and
0231 after its publication in the statute book.

requiring engineering services

200,000

~~\$175,000~~

, except as otherwise provided by law