

Approved 03/05/87
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Phil Kline at
Chairperson

3:30 a.m./p.m. on Wednesday, Feb. 25th, 1987 in room 423-S of the Capitol.

All members were present except: Representatives Aylward, Helgerson, Hoy, Teagarden and R.H. Miller (All Excused).

Committee staff present:

Jim Wilson, Revisor
Lynn Holt, Research
Molly Mulloy, Secretary

Conferees appearing before the committee:

Art Griggs, Department of Administration
Dr. Frances Horowitz, University of Kansas
Dr. Tony Redwood, Institute for Public Policy & Business Research, KU

Chairman Kline called the meeting to order and announced that H.B. 2478 had been referred to the Appropriations Committee and would not be heard by his committee.

He opened the hearing on H.B. 2435 by inviting Lynn Holt to summarize the bill. Ms. Holt said H.B. 2435 increases the "cap" in purchasing regulations governing the competitive bidding process from \$5,000 to \$10,000. Also, the publication of notice requirement for sealed bids may be waived if the Director of Purchases determines a more timely procurement is in the best interests of the state. There is also a provision for the Director of Purchases to authorize state agencies to make purchases of less than \$10,000 on either the open market or other certain conditions.

The first conferee on H.B. 2435 was Art Griggs, Department of Administration, who spoke in support of the bill. He mentioned that he had discussed this bill in detail with the committee previously and was there to answer any questions they might have. He distributed copies of a balloon amendment to the bill prepared by his department (Attachment 1), which would begin on line 0077, (d), as follows: "All purchases estimated to be less than \$5000 may be made either after the receipt of three or more bid solicitations by telephone, or after receipt of sealed bids following at least three days' notice posted on a public bulletin board in the office of the director of purchases. Such bids shall be recorded as provided in K.S.A. 75-3740, and amendments thereto." During discussion of the bill, several committee members said that there was a need to report any deviation from regular procedures, such as when the Director of Purchases exercises discretion to waive the publication notice. Mr. Griggs said a reporting procedure could be amended to the bill or added on line 0055.

The second conferee was Dr. Frances Horowitz, Vice Chancellor for Research, Graduate Studies and Public Service at KU. She testified in favor of the bill (Attachment 2) because it would provide for greater flexibility for the expenditure of state funds and would raise the limit from \$5000 to \$10,000 for the bidding requirement. However, she cautioned that H.B. 2435 is not a satisfactory substitute for H.B. 2078 (which speaks to the needs of sponsored project purchasing and travel). She said it was extremely important to note that the examples she gave in previous testimony about the purchasing problems of sponsored research projects would not be rectified by H.B. 2435. She concluded by stating that she supports the bill as it applies to overall state purchasing procedures, but not as a substitute for H.B. 2078.

Chairman Kline next opened the hearing on H.B. 2436 and asked Lynn Holt to provide a synopsis of the bill. Ms. Holt said that the bill amends an existing statute concerning purchasing regulations by providing that bids as much as 5% higher for goods or equipment produced within Kansas be preferred over bids for the same items that are produced in any country outside the United States. She called the committee's

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT,
room 423-S, Statehouse, at 3:30 a.m./p.m. on Wednesday, Feb. 25th, 1987.

attention to the fact that there might be an issue of unconstitutionality with the bill which should be looked into.

Dr. Horowitz testified on H.B. 2436, saying that the bill would not impact on the purchase of items on sponsored projects IF H.B. 2078 were passed. However, if H.B. 2078, which exempts sponsored projects from state purchasing requirements, were not passed and H.B. 2436 were passed, the university would encounter serious problems.

Tony Redwood, director of the Institute for Public Policy and Business Research at KU, suggested caution on the bill. In his study for the Legislative Commission on Economic Development last year, businesses in Kansas did not ask for this advantage over their competitors. He stated that one effect of this bill will be to raise the price of goods because the Kansas producer can operate under a higher lid. This would result in up to a 4% increase in costs of goods which the taxpayer would pay for. He further noted that the thrust of everything the Economic Development Commission was trying to do was to make Kansas businesses competitive. He said that once you started down this track, when would you go to 10%, then 15%.

Chairman Kline announced that seven more bills had been received today for this committee and that the committee would probably meet Monday through Thursday next week. The meeting adjourned at 4:15pm.

Date: 2/25

GUEST REGISTER

HOUSE

Committee on Economic Development

NAME

ORGANIZATION

ADDRESS

Mike Reacht

AT&T

TOPEKA

Wayne Price

Lawrence Journal World

Lawrence

0047 mediate performance of services; or (4) when any statute autho-
 0048 rizes another procedure or provides an exemption from the
 0049 provisions of this section.

0050 The director of purchases shall make a detailed report at least
 0051 once in each calendar quarter to the legislative coordinating
 0052 council and the chairpersons of the senate committee on ways
 0053 and means and the house of representatives committee on ap-
 0054 propriations of all emergency purchases under subsection (a)(5)
 0055 (a)(3).

0056 (b) If the amount of the purchase or sale is estimated to
 0057 exceed approximately ~~\$5,000~~ \$10,000, sealed bids shall be soli-
 0058 cited by notice published once in the Kansas register not less
 0059 than 10 days before the date stated therein for the opening of
 0060 such bids. The director of purchases may waive this publication
 0061 of notice requirement when the director determines that a more
 0062 timely procurement is in the best interest of the state. The
 0063 director of purchases may also may designate a trade journal for
 0064 such publication. The director of purchases shall also shall
 0065 solicit such bids by sending notices by mail to all active pro-
 0066 spective bidders known to the director. All bids shall be sealed
 0067 when received and shall be opened in public at the hour stated
 0068 in the notice.

0069 (c) All purchases or sales estimated to exceed approximately
 0070 ~~\$2,000~~ \$5,000 but not more than ~~\$5,000~~, \$10,000 shall be made
 0071 after receipt of sealed bids following at least three days' notice
 0072 posted on a public bulletin board in the office of the director of
 0073 purchases or after the receipt of two or more bid solicitations by
 0074 telephone. The director of purchases may also may solicit sealed
 0075 bids by mail in such cases in like manner as provided in subsec-
 0076 tion (b).

0077 (d) All purchases or sales estimated to be approximately
 0078 \$2,000 or less may be made either upon competitive bids or in
 0079 the open market, in the discretion of the director of purchases
 0080 but, so far as practicable, shall be based on at least three com-
 0081 petitive bids and recorded as provided in K.S.A. 75-3740, and
 0082 amendments thereto, except that the director of purchases, With
 0083 the approval of the secretary of administration, the director of

Prepared by Department
of Administration

Attachment 1
2/25/87

All purchases estimated to be less than \$5,000 may be made either after the receipt of three or more bid solicitations by telephone, or after receipt of sealed bids following at least three days' notice posted on a public bulletin board in the office of the director of purchases. Such bids shall be recorded as provided in K.S.A. 75-3740, and amendments thereto.

February 25, 1987

Testimony Before the House of Representatives Committee
on Economic Development

in Reference to

H.B. No. 2435, H.B. No. 2436 and H.B. No. 2478

Frances Degen Horowitz

Vice Chancellor for Research, Graduate Studies and Public Service

The University of Kansas

When I last appeared before this committee on January 19th, I came to speak in support of H.B. No. 2078, which provides for the exemption of sponsored project purchasing and travel from state purchasing procedures in favor of campus-based procedures in educational institutions. You will recall that we were very supportive of the provisions of H.B. 2078 because they speak so well to the needs of sponsored projects with respect to efficiency, with respect to responsiveness to the needs of funding sponsors and with respect to time pressure constraints on productivity.

I would like to speak to three bills before you today in terms of their relation to the provisions already put forth in H.B. 2078 and in relation to the very critical need for legislation designed to accommodate sponsored projects - and, I should add, legislation that will make it possible for us to engage in sponsored project activity that benefits the goals of economic development in Kansas.

Attachment 2
2/25/87

H.B. 2435

H.B. 2435 has a number of conditions that introduce needed flexibility into the procedures for the expenditure of state funds for the purchase of supplies, materials, equipment and contractual services. We are especially pleased to see the proviso in Section 1, Part a, No. 4 (at the top of page two) which gives recognition to the existence of another statute authorizing the provision for "exemption from the provisions of this section." H.B. 2078, on which I previously gave testimony, would provide such an exemption for "sponsored projects" and thus mesh well with H.B. 2435.

The combination of greater flexibility suggested by H.B. 2435 for the expenditure of state funds and the exemption provided for in H.B. 2078 for sponsored project funds is commendable and would contribute to an overall improvement in the interests of the efficient use of state resources and the capability of timely responsiveness on sponsored projects.

A second positive feature in H.B. 2435 is the raising of the limits from \$5,000 to \$10,000 for the requirement of bidding to be invoked. Additionally, permitting the director of purchases to waive publication of the notice requirements in the interest of timely procurement when it is in the best interest of the state would be extremely beneficial. Similarly, the provision for the director of purchases to delegate authority to any state agency to make purchases of less than \$10,000 either on the open market or under certain conditions is welcome additional flexibility.

Thus, H.B. 2435 contains useful provisions and recognizes the possibility of other statutes granting needed exemptions. This makes it entirely compatible and complementary to H.B. 2078. H.B. 2435 is not, however, a satisfactory substitute for H.B. 2078, because H.B. 2078 speaks specifically to the needs of sponsored project purchasing and travel. I do not wish to take up your time repeating testimony that I have previously

given. Nevertheless, it is extremely important to note that none of the examples I gave last time about the routine impediments to the efficient conduct of time pressured sponsored projects would be rectified by H.B. 2435.

While the added flexibility being proposed in H.B. 2435 for state purchasing procedures will be beneficial to the expenditure of state funds, they do not address the critical needs of sponsored projects. I want to reiterate that in asking for sponsored projects to be exempt from state purchasing procedures we are not being critical of a sound state purchasing system. Nor are we intending that such exemption be license for unbridled purchasing activities. Rather, the exemption from state purchasing procedures for sponsored project activity will permit us to exercise campus based controls specifically designed to meet the needs of sponsored projects. These campus based purchasing procedures will meet the requirement for audit accountability. They must meet the stringent requirements for prudent management of resources that sponsors expect. The needs of sponsored projects and the need to demonstrate prudent management of resources to sponsors of campus based projects are not now fulfilled under current regulations; nor will they be met by H.B. 2435. We believe that the provisions of H.B. 2435 are useful in that they provide added and welcome flexibility to overall state purchasing procedures, but they do not achieve the goals of efficient, timely and productive use of sponsored project funds. We hope you will give your full support to H.B. 2078. We are here to say that H.B. 2435 is a good bill and we are supportive of it, but not as a substitute for H.B. 2078.

H.B. 2436

H.B. 2436 amends an existing statute concerning purchasing regulations by providing that bids as much as 5% higher for "goods merchandise, materials, supplies or equipment produced or manufactured within the state of Kansas" be preferred over bids for the same items that are produced or manufactured in any country other than the United States. This provision would not impact the purchase of items on sponsored projects if H.B. 2078 were to be passed and implemented. However, if H.B. 2078 providing for the exemption of sponsored projects from state purchasing were not to prevail and this bill, H.B. 2436, were to be passed, we would encounter serious accountability problems in relation to sponsored project expenditures. It would be difficult to explain to a sponsor - federal or private sector - what benefit they derive from our being forced to spend as much as 5% more for an item for the sponsored project. While 5% might not seem much when we are talking about a hundred dollar item, it is considerably more in absolute dollars if we are talking about a \$50,000 item. To reiterate a point I made in testifying in favor of H.B. 2078 - dollars for sponsored projects are always limited and, more often than not, skimpy. The incentive is to spend as little as possible for any one item so as to stretch the dollars as far as they will go to get the most productivity for a project; that productivity in turn, increases the probability that the project will be extended or renewed or that we will be in a better competitive position for another project from the same sponsor. The incentives are all on the side of prudence. Forcing expenditures for more dollars than necessary - even a modest 5% - is not prudent.

There are some other problems with H.B. 2436 that I think you ought to consider. First, many items are hybrid in their origins. Parts may be produced or manufactured in Kansas while other parts may be produced or

manufactured elsewhere - in other states or in other countries. One could even have the anomolous situation of a product being made up of parts with their origins in Kansas but their assemblage, and hence their being "produced or manufactured," as a unit elsewhere.

A second problem that might be foreseen is the philosophical one of forcing Kansas taxpayers' money to be spent at a higher rate for items from Kansas as opposed to those same items at a lower rate from elsewhere. As you are more politically attuned than I to these issues I must leave it to you to determine ultimately how Kansas citizens would receive this matter.

The underlying intent of the bill is understandable. That is, it is in the interest of the state of Kansas to support Kansas based products. However, H.B. 2436, if were applied to sponsored projects, would introduce some serious problems were it to become law and H.B. 2078 did not become law.

H.B. 2478

Like H.B. 2435, this bill introduces some needed flexibility into state procedures, only in this case it involves travel cost reimbursement rather than item purchases. When I testified on H.B. 2078 I made special note of the current state travel regulations and was very supportive of the fact that H.B. 2078 provided for the exemption of travel on sponsored projects from state regulations. The reason was twofold: First, sponsored projects typically provide for full recovery of documented out-of-pocket travel costs while current state regulations do not; second, sponsored project travel often must be undertaken with little notice and sometimes not much predictability. While the flexibility of providing for written approval of expenditures that exceed the expense reimbursement limitations is generally

desirable, it does not, by itself, correct the serious problems we encounter on sponsored project travel. Again, H.B. 2078 does address the problem by permitting campus based procedures to prevail. These campus based procedures are subject to audit and accountability. As I have said, sponsors are skimpy with travel funds; the incentive is to use them prudently and conservatively, and the expenditures must meet standard accounting procedures for documentation and reasonableness. We are supportive of the provisions of H.B. 2478 but they are not a satisfactory substitute for the provisions of H.B. 2078.

I hope that these perspectives are helpful to you in your deliberations. Our goal is not total freedom from regulation. Rather, it is the ability to establish campus based regulations that are responsive to the needs of sponsored projects. Our ability to be responsive and to maximize the efficient use of these resources can only benefit Kansas because we are then enabled to perform better on these sponsored project resources in Kansas and to attract more resources. Thank you for the opportunity to appear before you again.