

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on January 24, 1996 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department  
Kathy Porter, Legislative Research Department  
Don Cawby, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Michael Corrigan, Revisor of Statutes  
John Houlihan, Director of Purchases, Department of Administration  
Alan Conroy, Legislative Research Department

Others attending: See attached list

**SB 402:                    State educational institutions: allowing certain purchases**

The Chairman stated that he had visited with the Chairman of the House Appropriations Committee following the January 18 meeting regarding his intentions for **SB 279**, and they agreed to include provisions the committees adopted in only one bill, which would be **SB 402**.

The Chairman advised members that items discussed during the January 18 meeting were included in the balloon (**Attachment 1**). Other items for consideration by the Committee were contained in a letter from the Director of Purchases (**Attachment 2**). A summary of state purchasing practices and proposed amendments was prepared by the Kansas Legislative Research Department and distributed to members (**Attachment 3**).

The revisor appeared at the Chairman's request to explain that the balloon gives the director of purchases delegated authority for direct purchases up to \$25,000, allows the director to establish policies and procedures for such purchases, and establishes a reporting and auditing procedure. It was noted that the provisions in the balloon were specific to state educational institutions.

John Houlihan, Director of Purchases, appeared before the Committee to review recommendations made by the Department of Administration (**Attachment 2**). He told the Committee that it was the intent of the Department to include provisions from **SB 279** in **SB 402** so that only one bill would be necessary. He noted that the balloon would be specific to educational institutions and, when asked, stated that he would prefer that the provisions be applicable to all state agencies. He pointed out that giving the director the authority to establish policies and procedures for purchasing in Sec. 1 (a) of the balloon contradicts exempting the educational institutions from state statutes in Sec. 1 (c) because, as Director, it would be his intention that the agencies follow state statutes.

Members discussed the availability of requests for proposals on the electronic bulletin board and Internet and the procedures for auditing. Some concern was expressed about whether businesses across the state would be precluded from knowing about RFPs. Mr. Houlihan stated that improper purchasing practices such as favoritism and splitting requests for proposals to keep purchases under the threshold should show up in the files and purchase reports. However, he stated that there are ways to beat the system.

In response to Senator Karr, the Director stated that though agencies currently have delegated authority up to \$10,000, not all agencies take advantage of that. He said that he did not believe that raising the delegated

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on January 24, 1996.

authority to \$25,000 would be a problem. Senator Salisbury commented that the reason for raising the delegated authority in the first place was to provide more appropriate purchases at less cost and though some agencies might want to change an FTE position to a purchasing director, the Legislature would still have oversight.

Following consideration of the material presented, the Committee adopted the following policies to be included in SB 402:

Senator Salisbury moved, Senator Morris seconded that this legislation be applicable to all state agencies. The motion carried on a voice vote.

Senator Morris moved, Senator Lawrence seconded that item 1 of Attachment 2 be included (raising delegated authority for direct purchases to \$25,000). The motion carried on a voice vote.

Senator Rock moved, Senator Petty seconded that items 2, 3, and 4 of Attachment 2 be included. The motion carried on a voice vote.

Senator Salisbury moved, Senator Morris seconded that the recording procedures and auditing responsibilities in SB 279 be adopted. The motion carried on a voice vote.

Senator Rock moved, Senator Burke seconded that language which would exempt the agencies from following state purchasing statutes not be included. The motion carried on a voice vote.

It was noted by the Revisor that adoption of these provisions for all state agencies would require that K.S.A. 75-3739 be amended. Members concurred, but advised that the purchasing legislation enacted during the 1995 legislative session for the University of Kansas Medical Center should remain a separate entity.

Senator Rock moved, Senator Burke seconded that SB 402 as amended be recommended favorable for passage. The motion carried on a roll call vote.

Staff from the Research Department reviewed the status of the following bills:

SB 42: Appropriation for FY 96; corporation for change, cities in schools  
It was stated that provisions of this bill were addressed in funding for the Department of Education last year.

SB 44: KPERs, disability benefit provisions for correctional employees made permanent  
This bill was addressed in the 1995 KPERs omnibus bill.

SB 111: Longevity bonus payments  
According to the Department of Administration, this bill is no longer needed.

SB 280: State officers and employees; civil service act  
The Department of Administration had advised that this bill is no longer needed.

SB 350: Fort Hays State University, lease to endowment association for student housing complex  
This issue was addressed last session.

SB 381: Eligibility requirements of applicants for and recipients of public assistance  
The Department of Social and Rehabilitation Services has indicated that this bill is no longer needed because federal waivers for all other states have been denied.

Senator Salisbury moved, Senator Vancrum seconded that SB 42, SB 44, SB 111, SB 280, and SB 350 be reported adversely. The motion carried on a roll call vote. (No action was taken on SB 381.)

It was moved by Senator Burke and seconded by Senator Salisbury that the minutes of the January 22 meeting be approved. The motion carried on a voice vote.

The Chairman adjourned the meeting at 12:01 P.M. The next meeting is scheduled for January 29, 1996.

# SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: JANUARY 24, 1996

NAME	REPRESENTING
JOHN HONLIHAN	DEPT OF ADMINISTRATION
Les Vogt	Dept of Administration
Jeff Wazarn	

# SENATE BILL No. 402

By Legislative Budget Committee  
Re Proposal No. 51

12-20

10 AN ACT relating to state educational institutions; concerning the pur-  
11 chase of certain goods and services.  
12

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

14 Section 1. (a) As used in this section "state educational institutions"  
15 mean the university of Kansas, Kansas state university of agriculture and  
16 applied science, Wichita state university, Emporia state university, Pitts-  
17 burg state university, and Fort Hays state university, but does not include  
18 the university of Kansas medical center.

19 (b) ~~The state educational institutions are hereby authorized~~ to make  
20 direct purchases of goods and services in amounts of not more than  
21 \$25,000 for any individual purchase. Each such purchase may be made  
22 in the open market or in accordance with such procedures and under  
23 such conditions as may be prescribed and established by the ~~chancellor~~  
24 ~~or president of each of the state educational institutions~~ for purchases  
25 under this subsection.

26 (c) No purchase or other acquisition by any state educational insti-  
27 tution pursuant to this section or any contract entered into by any state  
28 educational institutional under this section shall be subject to the provi-  
29 sions of K.S.A. 75-3739, and amendments thereto, and no such purchase,  
30 acquisition or contract shall be subject to approval under any other statute  
31 other than those contained in articles 3, 3a, 4, 5, 6 or 7 of chapter 76 of  
32 the Kansas Statutes Annotated.

33 Sec. 2. This act shall take effect and be in force from and after its  
34 publication in the statute book.

With the approval of the secretary of administration, the director of purchases may delegate authority to a state educational institution

director of purchases with the approval of the secretary of administration

Each state educational institution, which has received delegated authority in any amount authorized under this subsection, shall make a report at least once in each calendar quarter to the director of purchases of all contracts for goods, supplies, materials, equipment or contracted services entered into without competitive bids under this subsection. The director of purchases shall make a report at least once in each calendar quarter to the legislative coordinating council and the chairpersons of the senate committee on ways and means and the house committee on appropriations in the house of representatives of all current and existing delegations of authority under this subsection to state educational institutions. In addition, the director of purchases is authorized to perform audits at any state educational institution to determine such agency's compliance with the conditions and procedures for delegated authority under this subsection. The director of purchases shall report the findings of such an audit to the legislative coordinating council and the chairperson of the senate committee on ways and means and the chairperson of the house committee on appropriations.

*Senate Ways & Means  
January 24, 1996  
Attachment 1*



**DEPARTMENT OF ADMINISTRATION**  
Division of Purchases

**BILL GRAVES**  
Governor

**SHEILA FRAHM**  
Lt. Governor/Secretary

**JOHN T. HOULIHAN**  
Director of Purchases  
900 S.W. Jackson, Room 102N  
Landon State Office Building  
Topeka, KS 66612-1286  
(913) 296-2376  
FAX (913) 296-7240

January 19, 1996

The Honorable Dave Kerr, Chairperson  
Senate Ways and Means Committee  
Statehouse, Room 120 South  
Topeka, Kansas 66612

RE: Senate Bill No. 402 - Purchases by Regents  
Senate Bill No. 279 - Procurement of Goods and Services

Dear Senator Kerr:

Thank you for allowing me to testify before the Ways and Means Committee.

Although I advocate granting agencies enough purchasing authority to provide flexibility, I am concerned that Senate Bill No. 402 allows the universities the latitude to spend tax dollars without any controls by the legislature, without competition, without reporting responsibilities and without any accountability except for conditions established by the universities.

During the legislative session last year, the Senate passed Senate Bill No. 279, and it is now in the House Appropriations Committee. The primary purpose of Section 2 of this bill is to amend K.S.A. 75-3739 (competitive bid statute), which has been changed little since 1953. These changes will allow the Division of Purchases to be more responsive to the needs of state agencies and the vendor community. In addition, the bill allows a delegation of authority to the universities of \$25,000 without a new statute being written and will considerably shorten the time to complete bids.

I recommend that Senate Bill No. 402 not be passed and the following amendments be made to Senate Bill No. 279:

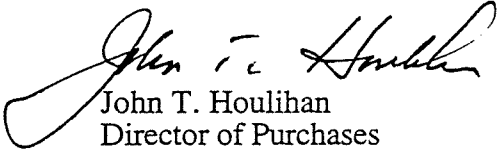
1. With the approval of the Secretary of Administration, the Director of Purchases may delegate authority to any state agency to make purchases of less than \$25,000 under certain prescribed conditions and procedures.
- \* 2. Allow all purchases estimated to be less than \$25,000 be made after the receipt of bid solicitations by telephone, telephone facsimile or after receipt of sealed bids following at least three days' notice posted on a public bulletin board.
- \* 3. Allow all purchases estimated to exceed approximately \$25,000 but not more than \$50,000 be made after receipt of sealed bids and at least three days' notice posted on a public bulletin board.

*Senate Ways & Means*  
*January 24, 1996*  
*Attachment 2*

4. Allow all purchases estimated to exceed \$50,000 be made after receipt of sealed bids and notice published once in the Kansas Register not less than 10 days before date of bid opening.

I have attached a draft copy of a proposed amended bill for your consideration. If you have any questions, please advise.

Sincerely,



John T. Houlihan  
Director of Purchases

cc: Representative Robin L. Jennison, Chairman, Appropriations Committee  
Jeff Wagaman, Deputy Secretary of Administration

# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N – Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

January 24, 1996

### CURRENT STATE PURCHASING PRACTICES AND PROPOSED AMENDMENTS

K.S.A. 75-3739 specifies when competitive bids are required and the manner in which bids are to be solicited. The following information summarizes current law, together with the amendments to 1995 S.B. 279 (House Appropriations) requested by the Division of Purchases:

- K.S.A. 75-3739(d) – **Purchases estimated to be less than \$5,000** may be made after receiving three or more bid solicitations by telephone and after receiving sealed bids following at least three days' notice "posted on a public bulletin board in the office of the director of purchases."
- Modern technology has enabled the "public bulletin board" noted in the statute, which was last amended in 1987, to include:
  - an electronic monitor in the office of the Director of Purchases, and
  - Internet access to bidding information through the Information Network of Kansas (INK).

Hard copies of any bidding notice may also be obtained from the Director's office or may be requested by mail.

Prospective bidders may also complete a "vendor registration application," which allows bidders to specify the categories of commodities and services they offer. The information included on the application is entered into a database, which Division of Purchases personnel use in soliciting bids.

*The amendment requested by the Division of Purchases would increase the dollar amount in this subsection from "purchases estimated to be less than \$5,000" to "purchases estimated to be less than \$25,000."*

- K.S.A. 75-3739 (c) – **Purchases estimated to be more than \$5,000, but less than \$10,000** may be made after receiving sealed bids following at least three days' notice "posted on a public bulletin board in the office of the director of purchases." The director may also solicit sealed bids by mail.

*Senate Ways & Means  
January 24, 1996  
Attachment 3*

*The amendment requested by the Division of Purchases would increase the dollar amount in this subsection from "purchases estimated to exceed approximately \$5,000 but not more than \$10,000" to "purchases estimated to exceed approximately \$25,000 but not more than \$50,000."*

- K.S.A. 75-3739(b) -- **Purchases estimated to exceed approximately \$10,000** require sealed bids solicited by notice published once in the *Kansas Register* not less than ten days before the date specified for opening the bids. This requirement may be waived if the director determines that a more timely procurement is in the best interests of the state. The director may also designate a trade journal for publication of the notice requirement. The director also shall solicit bids by sending notices by mail to prospective bidders.

*The amendment requested by the Division of Purchases would increase the dollar amount in this subsection from "estimated to exceed approximately \$10,000" to "estimated to exceed \$50,000."*

### **Delegated Authority**

K.S.A. 75-3739(d) allows the Director of Purchases, with the approval of the Secretary of Administration, to delegate authority to any state agency to make purchases of less than \$10,000 either on the open market or under certain prescribed conditions and procedures.

*The amendment requested by the Division of Purchases would increase the dollar amount to \$25,000.*

State agencies using delegated authority would be required to report all purchases made without using competitive bids to the Director of Purchases on a quarterly basis.

### **Quarterly Reports**

The Director of Purchases is required to report the following information to the Legislative Coordinating Council and the Chairpersons of the Senate Ways and Means and House Appropriations Committees on a quarterly basis:

- current and existing delegations of purchasing authority under K.S.A. 75-3739(d);
- purchases not based on competitive bids as allowed under conditions set forth in K.S.A. 75-3739(a); and
- all cases when the publication of notice of bid solicitations in the *Kansas Register* has been waived under K.S.A. 75-3739(b).

### **FAX Bidding**

Throughout the bill, references to telephone bids would be amended to allow telephone or telephone facsimile (fax) bidding.