

Approved:

Deena Horst

Date

2-19-02

MINUTES OF THE E-GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Deena Horst at 3:35 p.m. on February 14, 2002, in Room 526-S of the Capitol.

All members were present except Representative Levinson, who was excused.

Committee staff present:

Robert Chapman, Kansas Legislative Research Department
Jim Wilson, Revisor of Statutes' Office
Lisa Montgomery, Revisor of Statutes' Office
Gary Deeter, Committee Secretary
Dean Samuelson, Assistant Secretary

Others attending: See attached sheet.

The Chair recognized four special guests in the audience: Jade Beverly from Salina Central High School, and Titus Lane and Matt Smith, members of the Salina Central High School 5A State Championship football team, all of whom paged for Representative Horst. She also introduced their sponsor, David James, President of the Salina Chapter of the NAACP. The Vice-Chair announced Representative Horst's birthday to the applause of the committee.

The minutes for the February 12, 2002, meeting were amended by Representative McLeland (second, Representative Williams) and then approved as amended (Motion, Representative Gatewood, second Representative Lane)

The Chair opened the hearing for **HB 2719**. John Houlihan, Director of Purchasing, Division of the Budget, testified in support of the bill. (Attachment 1) He said the reason for the bill was expressed on page 6, where the terms "sealed bids," "bulletin boards" and "mail" were amended to include electronic bids, electronic bulletin boards, and electronic mail. He said other changes were primarily clean-up of language referring to items that no longer exist or had never been done, such as reports on grant funds; raising the threshold for reporting requirements from \$5000 to \$10,000 (noncompetitive purchases) and from \$0 to \$10,000 (interagency agreements); and allowing an agency to cancel bids if all bids exceed available funds.

Answering questions, Mr. Houlihan assured members that the changed language includes web forms and Internet transactions. Representative Holmes expressed concern that raising the reporting limits could allow agencies more easily to by-pass established bidding procedures. He requested copies of the 2 reports required by the original law. Answering further questions, Mr. Houlihan said that although individual agencies can easily track their grant moneys and funding sources, Purchasing does not receive information from agencies to be able to track these sources. He replied that "lowest responsible bidder" means the same thing as lowest qualified bidder. (P. 5, l. 23) He noted that Purchasing exercises control over the bidding process through a policy that requires any agency who wishes to purchase an item over \$2000 must allow Purchasing to buy it.

The Division of the Budget provided a fiscal note estimating some modest savings which may be realized from passage of **HB 2719**. (Attachment 2)

There were no opponents to the bill.

A letter regarding Internet access from one of Representative Goering's constituents was distributed as background information for possible sub-committee consideration. (Attachment 3) The meeting was adjourned at 4:20 p.m. to allow further meetings by sub-committees.

The next meeting is scheduled for Tuesday, February 19, 2002, in Room 526-S.

E-GOVERNMENT TECHNOLOGY COMMITTEE

GUEST LIST

DATE: FEBRUARY 14 2002

NAME	REPRESENTING
Titus Cone	
Matt Smith	
Jade Beverly	
DAVID JAMES	
Kathy Sachs	KSO5
Rick Miller	DOA/KITO
Richard Hays	Leg. staff
John Houlihan	DoA
Keith Meyers	" " "



DEPARTMENT OF ADMINISTRATION
Division of Purchases

BILL GRAVES
Governor

JOYCE H. GLASSCOCK
Acting Secretary of Administration

JOHN T. HOULIHAN
Director of Purchases
900 S.W. Jackson, Room 102-N
Landon State Office Building
Topeka, KS 66612-1286
(785) 296-2376
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COMMITTEE ON e-GOVERNMENT
TESTIMONY ON HOUSE BILL NO. 2719
February 14, 2002

Madam Chair and members of the committee. I am John Houlihan, the state director of purchases. Thank you for the opportunity to speak on behalf of the Department of Administration in support of house bill no. 2719.

The current purchasing statutes were written in 1953 and require the use of sealed paper bids, bulletin boards and the postal mail system.

House Bill 2719 will update the 1953 purchasing statutes and will allow the use of electronic bids, electronic opening of bids, electronic bulletin boards and electronic mail to purchase goods and services for the state. It also "cleans up" some of the other provisions in the current purchasing statute. The bill includes the following changes:

Section 2. (n) defines "sealed bids", "bulletin boards" and "mail" to include electronic bids, electronic bulletin boards and electronic mail.

Section 1. (h) has been deleted. This paragraph requires a report by state agencies of stocks of supplies, materials and equipment on hand. This report dates back to the original mission of the division of purchases which included managing a central stores operation and transferring supply inventories between state agencies. This mission was deleted in 1972 but the report was not deleted.

Section 2. (a) the dollar threshold for a report on non-competitive purchases is increased from \$5,000 to \$10,000.

Section 2. (a) the requirement to report to the chairperson of the Kansas performance review board is deleted. This board no longer exists.

Section 2. (l) the paragraph on federal grant money is deleted and moved to paragraph (j).

Attachment 1
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Section 2. (k) the dollar threshold for a report on interagency agreements is increased from zero to \$10,000. It also deletes the requirement to report all purchases using grant monies.

Section 3. (b)(2) deletes paragraph. It is a duplicate of paragraph (3).

Section 3. (c) would allow changes made before the bid is opened.

Section 3. (c) allows the state agency to cancel the purchase request if all bids for a construction, repair or building improvement are rejected.

This concludes my prepared testimony. I stand for questions.

STATE OF KANSAS



DIVISION OF THE BUDGET
State Capitol Building, Room 152-E
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(785) 296-2436
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Bill Graves
Governor

Duane A. Goossen
Director

February 8, 2002

The Honorable Deena Horst, Chairperson
House Committee on e-Government
Statehouse, Room 174-W
Topeka, Kansas 66612

Dear Representative Horst:

SUBJECT: Fiscal Note for HB 2719 by House Committee on e-Government

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2719 is respectfully submitted to your committee.

HB 2719 would clarify current law in allowing electronic notification for requests for proposals or solicitation of bids as a part of procurement processes. It would also permit electronic bids. The notification requirements for RFPs and bid solicitations would be revised to permit the posting of notices on the Internet. Currently, the Division of Purchases is required to prepare a detailed quarterly report of all contracts over \$5,000 that are entered into without competitive bids. HB 2719 raises this threshold to \$10,000.

The Division of Purchases in the Department of Administration estimates that some savings could be realized as a result of increased efficiencies in state agencies in the form of reduced postage costs for vendors and reduced costs for publishing notices. However, no accurate estimate of the dollar savings is available.

Sincerely,

A handwritten signature in blue ink that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Pat Higgins, Dept. of Administration

Attachment 2
e-Gov 2-14-02

Monday, February 4, 2002

To: Representative Alan Goering, 105th District, State of Kansas

Mr. Goering,

As you know, I am a co-owner of Cyber Lodge Internet Services, Inc and owner of The Gyp Hill Premiere Newspaper in Medicine Lodge, KS. Our Internet Company serves Medicine Lodge, Sharon, Attica, Anthony and Harper, KS directly with dial up and broadband wireless access. We also offer services to the areas of Haviland Telephone. Their territory encompasses nearly 30 communities with populations of 2500 and under.

We started being an Internet Service Provider in 1996 through a program started by Kansas Press Association designed for newspapers. Our intentions were to only serve Medicine Lodge, but by 1998 demand grew enough that we had expanded our operations. We were the first company of our kind in the beginning. There were no "Internet Experts" and there were no other providers in our area.

Over the years we have struggled to compete in our markets. By 2002 we now compete against 6 other ISPs with as much as 3000 population in a community to as few as 400 population in a community. We haven't minded the competition, for the most part. It has made us a better company by forcing us to provide better services. However, we do compete on unlevelled playing fields with more than one competitor.

Telephone companies with big budgets and government subsidies seem to get more breaks in the industry than those of us who have struggled to compete using our own finances and resources. In the beginning, it was these very same telephone companies that were not interested in rural Kansas. Now it seems that by showing interest, they are once again given special attention.

- Southwestern Bell, Sprint and the many of the rural telephone companies of Kansas missed the original boat to bringing internet and broadband access to rural Kansas and now they are playing a catch up game that is hurting companies like us. We are not alone. Any ISP in Kansas who is independent of any telephone company can tell you that the playing field is nowhere near level. Here are some examples:

Two years ago, Southwestern Bell introduced a program called VPOP that would enable an ISP to consolidate all of their services with SWB and operate out of any of their Central Offices statewide for a fraction of the cost that it takes to physically locate equipment in every community that an ISP wishes to operate in. We were very intrigued by this program and tried to get involved. We discovered that only a handful of ISPs in the 785 area were allowed to use the VPOP program. SWB was not prepared for the great interest it received in the VPOP program and did not make the necessary network upgrades to support the demand for the program. They pulled the plug on VPOP shortly after they introduced it. Unfortunately, some ISPs were permitted to continue using the VPOP program until their contracts run out. These contracts were up to three years long and over this time period we have been forced to compete with companies that operate in our communities for a fraction of the cost that it takes us to operate the same service. However, we do not have the same opportunity to compete with them in their markets with this program. Here is an explanation of what I am describing: An established VPOP

Attachment 3
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customer through SWB with a group of ports with SWB can start up services in any of SWB's Central Offices located in a SWB town for \$8 a month. It is estimated that more than 100 SWB towns support VPOP. The VPOP program forwards a local number to a group of ports owned by SWB that the ISP leases (an average of \$4500 a month for a group of ports). It costs my company an average of \$2500/month per community to compete. This is not an exaggeration. I can back this up with telephone bills and information from SWB on the failed VPOP program.

Yes, VPOP is a dead horse, so to speak, but companies like Carrolls Web (Owned by Kansas Independent Telecommunications, L.L.C.) are still allowed to compete using the program until their contracts are up. In one of our communities (Attica, KS population 800), we lost over 30% of our customers in one week after they rolled out VPOP there. We could not compete against the lower rates and faster service that couldn't be provided to our company by SWB.

Just last week, my partner and I worked on a proposal for the Hays Daily and Hutchinson News. The two Harris-Owned newspapers needed broadband connectivity between their newspapers, one located in the 785 area and the other in the 620 area. Our quote to them to do what they wanted to do was right at \$2500 a month due to crossing the 620/785 lotta. SWB shot them the same quote for \$251 a month less local loop charges of around \$500/month. The company that we are forced to purchase services from are taking some of our customers because they own the networks and can make better deals on their own services.

Another example of unfair trade in this industry is the rural telephone companies. In order to compete in their territories, any potential ISP must purchase services from the rural telephone company it is going to compete with. In one instance Cyber Lodge Internet Service wanted to compete with a rural telephone company that went in to competition with us in Medicine Lodge. We decided we wanted to compete in one of their larger towns in their territory, taking it to their backyard for a change. We ordered service to compete with them and after fighting with them for 9 months, we gave up. We could not get the services in place fast enough to compete. The phone company told us that there were tariffing issues involved in what we wanted to do. I spoke with the KCC on several occasions concerning this matter to find out that there were no tariffing problems. The phone company dragged their feet in order to keep us from competing in their communities.

My complaints to the KCC over this issue went unanswered.

Bringing broadband services to rural Kansas is not an issue. We are doing it, but without the phone company's help. Other ISPs are beginning to do the same. After negotiating for more than two years with SWB on bringing DSL to Medicine Lodge, we gave up and went with a wireless solution. SWB explained to us that if our community did not have more than 10,000 subscribers, they were not interested in spending the necessary monies to bring DSL to our town. The cost would have been \$60,000-\$80,000. It cost Cyber Lodge Internet Services and Gateway Wireless of Wichita about the same money to put our wireless network in to place.

Shortly after our wireless network was established, SWB Representative Richard Shank paid me a visit with a proposed Bill that would bring rural Kansas broadband access. I couldn't believe it. My tax money was going to help SWB bring rural Kansans broadband Internet? My company had just dropped

a big dollar amount to do the exact same thing, but no House Bill was proposed and no money was offered to help us do this.

As I explained to you at lunch last week, there are just too many more stories about the difficulty in providing access to rural Kansas. The most recent event cost our company more than \$6000 due to a tariffing conflict. It is difficult to explain, but we discovered that one of our competitors in Harper County (a rural telephone company with a CLEC) had an interesting network design that saved them thousands a month in competing with us. We requested a new contract to do the very same thing and to our surprise, we were given an okay! Early in December we signed the contracts and began making the necessary arrangements to begin the project. All of the necessary equipment was installed and we were ready to go. The day the circuits were to be tested and then released to us, someone in SWB's Regulatory group in Texas told us that it was not going to work. There was a tariffing issue in transporting numbers across to other communities and we were shut down on the spot. We pointed out that our competitor was doing the very same thing and our representative with SWB has stated that they will be forced to change their network to be in compliance with tariffing. As of this writing, they still operate with their existing network. I have enclosed a letter from my "former" SWB representative explaining what happened. (See below)

I appreciate you inviting me to share some of our company's experiences in providing access to rural Kansas. Each year it becomes harder for us to compete and we are watching the market as many of our colleagues have been purchased and resold to larger companies. What started out as a friendly competition has evolved into a large, complicated mess of rules, regulations and unfair trade practices in the industry. I would be happy to come to Topeka and answer any questions your committee might have about the Internet Service Provider Industry in Kansas and the daily struggles we have.

Sincerely,
Kevin Noland, President
Cyber Lodge Internet Services, Inc.

Letter from Doug Forsyth, SWB:

January 28th, 2002

Kevin Noland
CyberLodge
110 North Main Street
Medicine Lodge, KS. 67104

Dear Kevin:

This is a follow up letter to our conversation last week.

As we discussed, the service orders for the network re-design you requested, and we contracted for, have been canceled. The network re-design which you requested and which we designed was originally flagged by our service order group. It was then investigated by our Rates and Tariffs people. The redesign was found to be non-compliant with existing tariffs concerning number portability across rate centers.

Further investigation by the Rates and Tariffs people determined that other southwestern and south central Kansas customers are also out of compliance. Our Tariff people and our Legal department are in process right now, making a plan for notification and re-design for compliance, for any business or network found to be out of compliance with the Tariff.

I want to personally apologize for any additional work that you may have done, in anticipation of the network redesign, which we attempted. At the time of the order, my TSS (Ron Pierron) and I both believed that the requested redesign was tariff compliant.

Sincerely,

Doug Forsythe, Account Manager
SBC Southwestern Bell
154 North Broadway, Rm. 2360
Wichita, Kansas 67202