

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 118

As Amended by House Committee of the Whole

Brief*

SB 118, as amended by the House Committee of the Whole, would amend statutes regarding the state use law, including the catalog of products and services manufactured by Kansans who are blind or severely disabled (the "State Use Catalog"). Under current law, the state use law, administered by the Secretary of the Department of Social and Rehabilitation Services, requires state agencies and Unified School Districts to purchase products manufactured or supplied by entities employing the blind or severely disabled. State agencies also are required to purchase services provided by those entities.

The bill, as amended, would create a "State Use Law" Committee with overall management responsibility for the State Use Catalog. The State Use Committee would be composed of nine members who would serve without compensation:

- one member appointed by the United School Superintendents;
- one member appointed by the State Board of Regents;
- one member appointed by the Director of Purchases of the Department of Administration;
- two members appointed by the Governor who are neutral private sector business persons;
- two members appointed by the Governor who are qualified vendors;
and

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- two legislators of differing political parties, appointed by the Governor.

The Committee would be responsible for advising the Director of Purchases on issues surrounding the provisions of the law, including:

- the development of waiver guidelines to be followed by qualifying agencies and unified school districts;
- the pricing process used by the Director of Purchases for eligible products and services;
- the product and service eligibility process used by the Director of Purchases for state use law products and services;
- the review of the threshold dollar amount of purchases by state agencies or unified school districts for the state use law to apply;
- the review of the provisions of the law on any bid for any purchase that is determined by the Director of Purchases to be a substantially higher cost than the purchase would have cost had it been competitively bid;
- the establishment of rules, regulations, and policies to assure fair and effective implementation of the law, including appropriate rules and regulations relating to violations of the law;
- the establishment of procedures for setting fair market prices for items included on the procurement list and revision of products and prices in accordance with the changing market conditions to assure that the prices established are reflective of the market;
- the assistance of qualified vendors in identifying and improving marketing efforts of the products manufactured or processed and offered for sale and services offered under the law to state agencies and unified school districts;
- the encouragement and assistance of the Director of Purchases, state agencies, and unified school districts to identify additional commodities and services that may be purchased from qualified nonprofit agencies not participating in the state use law catalog;

- unified school district utilization of “services” provided by qualified vendors; and
- any other issue identified by any interested party.

The Committee would be responsible for maintaining a registry of qualified vendors, as defined by the bill. The qualified vendors would be responsible for furnishing a list of products manufactured and processed by the qualified vendors. The list of products and services would be certified by the Director of Purchases.

The term “qualified vendor” would be defined as:

- a not-for-profit entity incorporated in the State of Kansas that primarily employs the blind or disabled;
- is operated in the interest of and for the benefit of the blind or persons with severe disabilities, or both;
- the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and
- the entity’s primary purpose is to provide employment for persons who are blind or have other severe disabilities.

The bill would direct the Director of Purchases to approve prices of the products and services available. The qualified vendors would be responsible for publishing catalogs of products and services submitted by qualified vendors, but the products or services are not necessarily required to be included in the catalog for provisions of the law to apply.

The bill also would provide that when a qualified vendor is unable to supply needed products or services, or unable to meet delivery requirements, the Director of Purchases would immediately issue a waiver to the appropriate procurement or purchasing officer, and that waiver will exempt the purchaser from provisions of the law.

The bill also would require qualified vendors to submit an annual report to the Governor, Legislature, Director of Purchases, Board of

Regents, and the Kansas Association of School Boards regarding sales and waivers under the provisions of the bill.

Background

The House Committee of the Whole amended provisions of 2005 HB 2228 into this bill and deleted the original contents of SB 118. As recommended by the Senate and the House Appropriations Committee, SB 118 would have added Business Technology Career Opportunities, Inc. (BTCO) to the list of qualified rehabilitation vendors for purposes of the State Use Catalog. BTCO is located in Wichita and is an affiliate and support organization of the Cerebral Palsy Research Foundation.

Representatives of Envision, InterHab, and the Coalition for Opportunity spoke in support of HB 2228, as did a parent of an Envision employee. Representatives of the United School Administrators, the Kansas Association of School Boards, and Unified School District (USD) 229 (Blue Valley), USD 259 (Wichita), and USD 500 (Kansas City) appeared in opposition to the bill. Written testimony in opposition to the bill also was provided by USD 233 (Olathe).

The House Committee amended HB 2228 to: add two legislators (of differing political parties) to the State Use Law Committee, bringing total Committee membership to nine members; to delete the requirement that mandates Unified School District utilization of “services” provided by qualified vendors and add the topic of utilization of services by USDs to the list of topics on which the Committee would advise the Director of Purchases; and to clarify that members of the Committee should serve without compensation. Other amendments were technical in nature.

The fiscal note prepared by the Division of the Budget on HB 2228 indicates that the bill would have a negligible effect on state agencies’ purchasing procedures or costs.