

SENATE BILL No. 263

AN ACT concerning military and veterans matters; amending K.S.A. 2013 Supp. 72-6415b, as amended by section 38 of 2014 Senate Substitute for House Bill No. 2506, 73-1235, as amended by section 26 of 2014 Substitute for House Bill No. 2681, 73-1239, as amended by section 29 of 2014 Substitute for House Bill No. 2681, 75-3740 and 75-37,102 and repealing the existing sections.

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

New Section 1. (a) There is hereby established in the state treasury the military honors funeral fund which shall be administered by the adjutant general. All expenditures of moneys in the military honors funeral fund shall be used for the purpose of providing military honors funerals and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general or by a person or persons designated by the adjutant general. The adjutant general may accept all gifts, grants, donations and bequests to the fund. The adjutant general shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the military honors funeral fund.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the military honors funeral fund interest earnings based on:

(1) The average daily balance of moneys in the military honors funeral fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

New Sec. 2. (a) The following findings and purpose apply to this section:

(1) The legislature finds that the federal government shutdown in 2013 delayed the payment of death gratuity benefits to the survivors of more than 25 United States service members and the legislature honors all service members who have died in service of their country; and

(2) the purpose of this section is to assist the families of fallen Kansas military service members during their time of need in the event of a future federal government shutdown.

(b) On and after January 1, 2015, when a federal government shutdown occurs and an eligible Kansas military service member is killed, the costs of the death gratuity shall be paid by the adjutant general. The adjutant general shall be reimbursed for the cost of the death gratuity once the federal government has reopened and pays the death gratuity. The adjutant general shall develop and implement a procedure to provide such reimbursements on or before January 1, 2015.

(c) To provide for the payments of the costs of paying the death gratuities described in subsection (a), the pooled money investment board is authorized and directed to loan to the adjutant general sufficient funds therefor. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts, or other investments, of the state of Kansas to provide the funds for such loans. There shall be no interest on these loans.

(d) The loan principal shall be payable solely from reimbursements received by the adjutant general for death gratuity payments paid by the state of Kansas during a federal government shutdown.

(e) The loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(f) There is hereby created in the state treasury the adjutant general death gratuity payment facilitation fund. From and after January 1, 2015, the adjutant general may periodically certify to the pooled money investment board amounts to be transferred pursuant to this subsection. Upon certification to the pooled money investment board by the adjutant general of the amounts authorized by subsection (b), the pooled money investment board shall transfer amounts certified by the adjutant general from the state bank accounts described in subsection (b) to the adjutant general death gratuity payment facilitation fund.

(g) All expenditures pursuant to this section, from the adjutant general death gratuity payment facilitation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and

reports issued pursuant to vouchers approved by the adjutant general, or the adjutant general's designee.

(h) During a federal government shutdown, the adjutant general shall:

(1) Pay the death gratuity to the Kansas military service member's survivor, as designated by the Kansas military service member pursuant to the provisions of 10 U.S.C. § 1477(a), as in effect on July 1, 2014. If an eligible Kansas military service member does not designate a survivor or designates only a portion of the death gratuity to be paid to the survivor, the amount of the death gratuity not covered by a designation shall be paid in accordance with the provisions of 10 U.S.C. § 1477(b), as in effect on July 1, 2014; and

(2) make a death gratuity payment immediately upon receiving official notification of the death of an eligible Kansas military service member.

(i) When making a death gratuity payment as authorized under subsection (g), the adjutant general may act pursuant to the provisions of 10 U.S.C. § 1479, as in effect on July 1, 2014, for the purpose of making an immediate payment under 10 U.S.C. § 1475, as in effect on July 1, 2014.

(j) As used in this section:

(1) "Death gratuity" means the benefit payable to a Kansas military service member in accordance with 10 U.S.C. § 1477, as in effect on July 1, 2014.

(2) "Eligible Kansas military service member" means a resident of the state to whose survivor a death gratuity should be paid pursuant to 10 U.S.C. §§ 1475-1476, as in effect on July 1, 2014.

(3) "Federal government shutdown" means any furlough of non-emergency federal personnel and curtailment of agency programs, activities or services resulting in the government's inability to pay a death gratuity to the survivor of an eligible Kansas military service member.

Sec. 3. K.S.A. 2013 Supp. 73-1235, as amended by section 26 of 2014 Substitute for House Bill No. 2681, is hereby amended to read as follows: 73-1235. (a) There is hereby established with the Kansas commission on veterans affairs office an advisory board which shall be known as the VCAP advisory board. The advisory board shall advise the director of the Kansas commission on veterans affairs office *on all veterans services, including* in the implementation and administration of the veterans claims assistance program.

(b) (1) The advisory board shall consist of at least seven members as follows:

(A) The deputy director of veterans services, who shall be a permanent member of the advisory board and shall serve as the chairperson of the advisory board.

(B) Each veterans service organization participating in the grant program shall appoint one member of the advisory board who shall be a veteran. The deputy director of veterans services shall notify the state level unit of each national veterans service organization which has an office in the federal department of veteran affairs regional office in Wichita, Kansas, and request written confirmation of the intent of the veterans service organization to participate in the veterans claims assistance program and to request an annual service grant.

(C) The governor shall appoint two members of the advisory board who shall be veterans. With regard to members appointed by the governor, any veterans service organization may submit a list of three names for consideration by the governor in making the appointment. The governor shall consider each such list if timely submitted and may appoint from among those listed.

(D) Two legislators, one from each house, shall be appointed to the advisory board with the speaker of the house of representatives and president of the senate each appointing a member. One legislator shall be a member of the democratic party and one legislator shall be a member of the republican party.

(2) If there are less than two veterans services organizations participating in the grant program under subsection (b)(1)(B), then the governor shall appoint the remaining members of the advisory board. Appointments under this paragraph shall not exceed two members.

(c) Within 90 days of the effective date of this act, the governor, the

speaker of the house of representatives and the president of the senate shall appoint the initial members of the advisory board. Of the initial appointments to the advisory board by the governor, one shall be for a term of one year, one shall be for a term of two years and one shall be for a term ending three years after the date of the initial appointment. After the initial appointments, terms of office of the members appointed by the governor shall be for three years. The term of office of each member appointed by the speaker of the house of representatives or the president of the senate shall end on the first day of the regular session of the legislature which commences in the first odd-numbered year occurring after the year such member was appointed.

(d) Each member of the advisory board, other than the *deputy* director of the ~~veterans claims assistance program~~ *services*, shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the advisory board for any reason other than the expiration of a member's term of office, the governor, the speaker of the house of representatives or president of the senate shall appoint a successor of like qualifications to fill the unexpired term in accordance with this section. In the case of any vacancy occurring in the position of an advisory board member who was appointed from a list of nominations submitted by a veterans service organization, the governor shall notify that veterans service organization of the vacant position and request a list of three nominations of veterans from which the governor shall appoint a successor to the advisory board.

(e) Annually, the advisory board shall elect a vice-chairperson and secretary from among its members and shall meet at least four times each year at the call of the chairperson.

(f) The members of the advisory board attending meetings of the advisory board or attending a subcommittee meeting thereof authorized by the advisory board shall receive no compensation for their services but shall be paid subsistence allowances, mileage and other expenses as provided in subsections (b), (c) and (d) of K.S.A. 75-3223, and amendments thereto.

Sec. 4. K.S.A. 2013 Supp. 73-1239, as amended by section 29 of 2014 Substitute for House Bill No. 2681, is hereby amended to read as follows: 73-1239. The Vietnam war era medallion, medal and a certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of this bill, "veteran" means any person defined as a veteran by the United States department of veterans' affairs or its successor agency. The director of the Kansas commission on veterans affairs office shall administer the program and shall adopt all rules and regulations necessary to administer the program. The agency shall determine as expeditiously as possible the persons who are entitled to a Vietnam war era medallion, medal and a certificate and distribute the medallions, medals and the certificates. Applications for the Vietnam war era medallion, medal and the certificate shall be filed with the director of the Kansas commission on veterans affairs office at any time after January 1, 2010, on forms prescribed and furnished by the ~~deputy~~ director of the Kansas commission on veterans affairs office. The *deputy* director of veteran services shall approve all applications that are in order, and shall cause a Vietnam war era medallion, medal and a certificate to be prepared for each approved veteran in the form approved by the director of the Kansas commission on veterans affairs office. The deputy director of veteran services shall review applications for the Vietnam war era medallion, medal and a certificate to ensure recipients are enrolled for eligible federal benefits.

New Sec. 5. (a) In awarding any contract for the performance of any job or service for which moneys appropriated are to be expended, the secretary of administration, or the secretary's designee, shall give a preference to disabled veteran businesses doing business as Kansas firms, corporations or individuals, or which maintain Kansas offices or places of business and shall have the goal of awarding at least 3% of all such contracts to disabled veteran businesses.

(b) On or before October 1, 2015, the secretary of administration shall file with the Kansas commission on veterans affairs a report of the

number of contracts awarded to disabled veteran businesses during the fiscal year ending June 30, 2015, and the number of such businesses that responded to solicitations of bids or proposals issued by the department of administration during such fiscal year.

(c) As used in this section:

(1) “Disabled veteran” means a person who has served in the armed forces of the United States and who is entitled to compensation for a service-connected disability, according to the laws administered by the veterans administration, or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree.

(2) “Disabled veteran business” means a business: (A) Not less than 51% of which is owned by one or more disabled veterans or, in the case of a publicly owned business, not less than 51% of the stock of which is owned by one or more disabled veterans; and (B) the management and daily business operations of which are controlled by one or more disabled veterans.

Sec. 6. K.S.A. 2013 Supp. 75-3740 is hereby amended to read as follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and amendments thereto, and subsections (b) and (k), all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) A contract shall be awarded to a certified business *or disabled veteran business* which is also a responsible bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.

(c) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) (A) A responsible bidder purchases from a qualified vendor goods or services on the list certified by the director of purchases pursuant to K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder; or

(B) a responsible bidder purchases from a certified business the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such bidder;

(2) the dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(3) in the case of bids for paper products specified in K.S.A. 75-3740b, and amendments thereto, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.

(d) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure made after the bid is opened. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bid-

der on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider: (1) The criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available; and (2) the recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law or the state agency elects not to proceed with the procurement.

(e) Before the awarding of any contract for construction of a building or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(f) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(g) As used in this section:

(1) “Certified business” means any business certified annually by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Does business primarily in Kansas or substantially all of its production in Kansas;

(B) employs at least ~~20%~~ 10% of its employees who are individuals with disabilities and reside in Kansas;

(C) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. ~~The level of such coverage shall be at least equal to the level of benefits offered by the state employee benefit program established by K.S.A. 75-6501 et seq., and amendments thereto.~~ The department of administration shall require a certification of these facts as a condition to the certified business being awarded a contract pursuant to subsection (b); and

(D) does not employ individuals under a certificate issued by the United States secretary of labor under subsection (c) of 29 U.S.C. § 214;

(2) “individuals with disabilities” or “individual with a disability” means any individual who:

(A) Is certified by the Kansas department for aging and disability services as having a physical or mental impairment which constitutes a substantial barrier to employment;

(B) works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (g)(1); and

(C) (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or

(iii) is an individual with a severe and persistent mental illness, as determined by a clinical or functional assessment approved by the Kansas department for aging and disability services;

(3) “physical or mental impairment” means:

(A) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss substantially affecting one or more of the following

body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

(B) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, mental illness and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis and intellectual disability; and

(4) “project architect” shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.

(5) *“disabled veteran” means a person verified by the Kansas commission on veterans affairs office to have served in the armed forces of the United States and who is entitled to compensation for a service-connected disability, according to the laws administered by the veterans administration, or who is entitled to compensation for the loss, or permanent loss of use, of one or both feet or one or both hands, or for permanent visual impairment of both eyes to a prescribed degree.*

(6) *“disabled veteran business” means a business certified annually by the department of administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, and is verified by the commission on veterans affairs office that:*

(A) *Not less than 51% is owned by one or more disabled veterans or, in the case of a publicly owned business, not less than 51% of the stock owned by one or more disabled veterans;*

(B) *the management and daily business operations are controlled by one or more disabled veterans; and*

(C) *such business maintains the requirements of subparagraphs (A) and (B) during the entire contract term.*

(h) Any state agency authorized by the director of purchases to make purchases pursuant to subsection (e) of K.S.A. 75-3739, and amendments thereto, shall consider any unsolicited proposal for goods or services under this section.

(i) The secretary of administration and the secretary for aging and disability services, jointly, shall adopt rules and regulations as necessary to effectuate the purpose of this section.

(j) On and after January 13, 2014, at the beginning of each regular session of the legislature, the secretary of administration and the secretary for aging and disability services shall submit to the social services budget committee of the house of representatives and the appropriate subcommittee of the committee on ways and means of the senate, a written report on:

(1) The number of certified businesses certified by the department of administration during the previous fiscal year;

(2) the number of certified businesses awarded contracts pursuant to subsection (b) during the previous fiscal year;

(3) the number of contracts awarded pursuant to subsection (b) to each certified business during the previous fiscal year;

(4) the number of individuals with disabilities removed from, reinstated to or not reinstated to home and community based services or other medicaid program services during the previous fiscal year as a result of employment with a certified business;

(5) the number of individuals employed by each certified business during the previous fiscal year; and

(6) the number of individuals with disabilities employed by each certified business during the previous fiscal year.

(k) When a state agency is receiving bids to purchase passenger motor vehicles, such agency shall follow the procedures prescribed in subsection (c)(2), except in the case where one of the responsible bidders offers motor vehicles which are assembled in Kansas. In such a case, 3% of the bid of the responsible bidder which offers motor vehicles assembled in Kansas shall be subtracted from the bid amount, and that amount shall be used to determine the lowest bid pursuant to subsection (c)(2). This subsection shall only apply to bids which match the exact motor vehicle specifications of the agency purchasing passenger motor vehicles.

Sec. 7. K.S.A. 2013 Supp. 75-37,102 is hereby amended to read as

follows: 75-37,102. (a) Upon request of the chief administrative officer of a state agency and subject to the approval of the secretary of administration, the director of purchases may convene a procurement negotiating committee to obtain services or technical products for the state agency.

(b) Each procurement negotiating committee shall be composed of: (1) The director of purchases, or a person designated by the director; (2) the chief administrative officer of the state agency desiring to make the procurement, or a person designated by the officer; and (3) the secretary of administration, or a person designated by the secretary or, if a procurement involves information technology or services, the executive chief information technology officer or a person designated by the executive chief information technology officer.

(c) The negotiating committee is authorized to negotiate for the procuring state agency contracts with qualified parties to provide services or technical products needed by the state agency.

(d) Prior to negotiating for the procurement, a notice to bidders first shall be published in the Kansas register. Upon receipt of bids or proposals, the committee may negotiate with one or more of the firms or certified businesses submitting bids or proposals and select from among those submitting such bids or proposals the party to contract with to provide the services or technical products. *In selecting the party to contract with to provide services or technical products under this section, the committee shall consider whether such party is:*

(1) *A certified business or purchased goods or services from a qualified vendor on the list certified by the director of purchases pursuant to K.S.A. 75-3317 et seq., and amendments thereto; or*

(2) *a disabled veteran business:*

(A) *Doing business as a Kansas firm, corporation or individual; or*

(B) *maintaining offices or places of business in Kansas.*

(e) Contracts entered into pursuant to this section shall not be subject to the provisions of K.S.A. 75-3738 through 75-3740a, and amendments thereto. Meetings to conduct negotiations pursuant to this section shall not be subject to the provisions of K.S.A. 75-4317 through 75-4320a, and amendments thereto. The director of purchases shall submit 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 of representatives committee on appropriations of all contracts entered into pursuant to this section. In the event that the negotiating committee selects a bid which is not the lowest bid on a given contract, the directors report shall contain a rationale explaining why the lowest bidder was not awarded the contract.

(f) Nothing in this section shall be construed as requiring either negotiations pursuant to this section or bids pursuant to K.S.A. 75-3739, and amendments thereto, for the procurement of professional services or services for which, in the judgment of the director of purchases, meaningful specifications cannot be determined.

(g) *As used in this section:*

(1) *“Certified business” shall mean the same as in K.S.A. 75-3740, and amendments thereto;*

(2) *“disabled veteran” shall mean the same as in K.S.A. 75-3740, and amendments thereto; and*

(3) *“disabled veteran business” shall mean the same as in K.S.A. 75-3740, and amendments thereto.*

Sec. 8. K.S.A. 2013 Supp. 72-6415b, as amended by section 38 of 2014 Senate Substitute for House Bill No. 2506, is hereby amended to read as follows: 72-6415b. School facilities weighting may be assigned to enrollment of a district only if: (a) The district has adopted a local option budget in an amount equal to at least 25% of the amount of the state financial aid determined for the district in the current school year; and (b) (1) the contractual bond obligations incurred by the district ~~was~~ *were* approved by the electors of the district at an election held on or before July 1, 2014, or (2) *the district commences operation of a new school facility in school year 2013-2014 or 2014-2015 and the construction of such facility was financed primarily with federal funds and such facility is located on a military reservation.* School facilities weighting may be assigned to enrollment of the district only in the school year in which

operation of a new school facility is commenced and in the next succeeding school year.

Sec. 9. K.S.A. 2013 Supp. 72-6415b, as amended by section 38 of 2014 Senate Substitute for House Bill No. 2506, 73-1235, as amended by section 26 of 2014 Substitute for House Bill No. 2681, 73-1239, as amended by section 29 of 2014 Substitute for House Bill No. 2681, 75-3740 and 75-37,102 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.