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Bill Analysis
Legislative Service Commission

S.B. 296

123rd General Assembly
(As Introduced)

Sens. Fingerhut, Hagan, Brady

BILL SUMMARY

- Requires the Director of Administrative Services to establish standards for use by state agencies in giving a preference to handguns produced by manufacturers that have agreed to standards substantially equivalent to the following: to include a locking mechanism with each handgun sold, to commit funds to technology that will recognize only authorized gun users, and to allow its handguns to be sold at a gun show only if background checks on all potential handgun buyers at the gun show are conducted prior to the sale.
- Requires the Director of Administrative Services to publish a model act for the use of any county, township, home rule township, or municipal corporation that chooses to enact a similar preference system for handgun purchases.
- Provides that any county, township, home rule township, or municipal corporation may adopt a similar system of preferences for handgun purchases.

CONTENT AND OPERATION

Preference system for handgun purchases by state agencies

Criteria and procedures

The bill requires the Director of Administrative Services to adopt a preference system for the purchase of "handguns" by state agencies (see **COMMENT** for definition of handgun). The system must provide a preference for handguns produced by manufacturers that have agreed to comply with standards that are substantially equivalent to three standards set forth in the bill. The first standard

is that each handgun sold or authorized for sale by the manufacturer either has an external locking device so that the gun cannot be used when locked or has a built-in, on-board locking system so that the gun can only be used with a key, combination, or other mechanism that is unique to the handgun. Secondly, the manufacturer must have made a commitment to contribute at least 2% of its annual revenues from the sale of handguns to the development of a technology that will recognize only authorized users and permit only authorized persons to use a handgun. The manufacturer also must be committed to incorporating this technology into the design of its handguns other than curios and collectors' pieces within three years after the effective date of the bill. This type of technology is often referred to as "smart gun" technology. Under the third standard, a manufacturer must agree not to permit sales of its handguns at a gun show until a background check of each potential buyer has been completed. (R.C. 125.091(A)(1).)

Revised Code section 125.05(B) requires a state agency wanting to purchase supplies that cost more than \$25,000 to make the purchase from or through the Department of Administrative Services unless otherwise authorized by law. Since the bill requires the Director of Administrative Services to adopt a preference system for the purchase of handguns, and state agencies that purchase supplies that cost more than \$25,000 must purchase them through the Department of Administrative Services, the bill, in effect, requires agencies to use the standards in this bill when purchasing handguns that have an aggregate value of \$25,000 or more.

Waiver provisions

Under the bill, the Director of Administrative Services must establish by rules adopted under the Administrative Procedure Act criteria and procedures by which the Director may grant waivers of the preference standards established by the bill. The Director may grant waivers when a state agency would have to pay an excessive price for a handgun or would acquire a disproportionately inferior product if the preference standards were followed or when a state agency determines that it needs particular types of handguns not made by a preferred manufacturer. The Director may grant waivers only on a contract by contract basis. (R.C. 125.091(A)(2).)

Model act

The Director of Administrative Services must publish in the form of a model act a system for giving preference to gun manufacturers that have agreed to standards that are substantially equivalent to those the Director adopts under the bill. The model act is for use by counties, townships, home rule townships, and municipal corporations that want to adopt similar preference systems.

Prior to and during the development and adoption of the model act, the Director must consult with appropriate statewide organizations representing counties, townships, home rule townships, and municipal corporations to identify the political subdivisions' concerns and special requirements for their purchasing contract procedures. The Director must adopt the model act by rules adopted under the Administrative Procedure Act and must revise the model act when needed to reflect changes in the preference system for the purchase of handguns by state agencies. The Director must make copies of the model act, supporting information, and technical assistance available to any county, township, home rule township, or municipal corporation that decides to incorporate preferences for handgun purchases into purchasing procedures. (R.C. 125.091(B).)

Preference systems for handgun purchases in political subdivisions

Existing law

The Director of Administrative Services has adopted and published in the form of a model act for use by counties, townships, and municipal corporations a system of preferences for products mined and produced in Ohio and in the United States and for Ohio-based contractors. The model act reflects substantial equivalence to the similar system of preferences in purchasing and public improvement contracts used by the state. (R.C. 125.11(E).)

A board of county commissioners, a board of township trustees, and the legislative authority of a municipal corporation may adopt by resolution or ordinance the model system of preferences for products mined or produced in Ohio and the United States and for contractors based in Ohio. This model system applies to the purchase of equipment, materials, supplies, insurance, services, and public improvements by state agencies. If a board or legislative authority adopts the preference system, the resolution or ordinance must specify the classes of contracts governed by the system. While a preference system for these items is in effect, no county, township, or municipal officer may award a contract that is subject to the system in violation of the preference system. (R.C. 307.90, 505.103, and 717.21.)

Operation of the bill

Under the bill, a board of county commissioners, a board of township trustees, and the legislative authority of a municipal corporation may adopt by resolution or ordinance the model system of preferences for handgun purchases established under the bill by the Director of Administrative Services. The resolution or ordinance must specify the classes of contracts to which the system of preferences applies and acts to modify the awarding of those contracts. No county, township, or municipal officer or employee with the responsibility of awarding

contracts may award a contract that violates the preference system while the system is in effect. (R.C. 307.90(C), 505.103(B), and 717.21(B).)

Adoption of resolutions by townships

Existing law

Under existing law, townships that adopt limited home rule government have authority to adopt specified types of resolutions related to the exercise of local self-government. These resolutions may be enforced only by the imposition of civil fines in accordance with R.C. Chapter 504. Under existing law, townships, while exercising their limited home rule authority, cannot adopt resolutions that establish regulations for hunting, trapping, fishing, or the sale of firearms. (R.C. 504.04(B)(6).)

Operation of the bill

The bill creates an exception to the prohibition against a home rule township adopting resolutions that regulate the sale of firearms and allows that type of township to adopt regulations to require a preference for handgun purchases. If a limited home rule township adopts the model system for handgun purchases, the resolution must specify the specific classes of contracts to which it applies. Upon adoption, the preference system will modify the awarding of these specified contracts as long as the resolution is in place. No township officer or employee with the authority to award contracts may award a contract in violation of the preference system while the system is in effect. (R.C. 504.04(B)(6) and 505.103(B).)

COMMENT

As used in the bill, "handgun" has the same meaning as in R.C. 2923.11, in which it means any firearm designed to be fired while being held in one hand (R.C. 125.091(C)).

HISTORY

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