

SECOND REGULAR SESSION

HOUSE BILL NO. 1775

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SHOEMAKER (8), BEHNEN, QUINN, RELFORD, CLAYTON,
DOLAN, MYERS (Co-sponsors), HENDERSON, HOLAND, SHOEMYER (9) AND BEARDEN.

Read 1st time February 4, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4178L.01I

AN ACT

To repeal sections 142.803 and 227.100, RSMo, and to enact in lieu thereof three new sections relating to transportation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 142.803 and 227.100, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 142.803, 227.100 and 227.107, to read as
3 follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state
2 as follows:

3 (1) Motor fuel, seventeen cents per gallon[. Beginning April 1, 2008, the tax rate shall
4 become eleven cents per gallon];

5 (2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with
6 a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly
7 sold or measured by the gallon, is used in motor vehicles on the highways of this state, the
8 director is authorized to assess and collect a tax upon such alternative fuel measured by the
9 nearest power potential equivalent to that of one gallon of regular grade gasoline. The
10 determination by the director of the power potential equivalent of such alternative fuel shall be
11 prima facie correct;

12 (3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per
13 gallon as levied and imposed by section 155.080, RSMo, to be collected as required under this
14 chapter.

15 2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 precollected as described in this chapter, for the facility and convenience of the consumer. The
17 levy and assessment on other persons as specified in this chapter shall be as agents of this state
18 for the precollection of the tax.

227.100. 1. All contracts for the construction of said work shall be let to the lowest
2 responsible bidder or bidders after notice and publication of an advertisement in a newspaper
3 published in the county where the work is to be done, and in such other publications as the
4 commission may determine[; provided, that in all cases where the project advertised shall be for
5 the construction of more than ten miles of road, such advertisement shall provide for bids on
6 sections of said road not to exceed ten miles, as well as on the project as a whole, and such
7 contract shall then be let so as to provide for the most economical construction of said project].

8 2. Each bid shall be accompanied by a certified check or a cashier's check or a bid bond,
9 guaranteed by a surety company authorized by the director of the department of insurance to
10 conduct surety business in the state of Missouri, equal to five percent of the bid, which certified
11 check, cashier's check, or bid bond shall be deposited with the commissioner as a guaranty and
12 forfeited to the state treasurer to the credit of the state road fund in the event the successful
13 bidder fails to comply with the terms of the proposal, and return to the successful bidder on
14 execution and delivery of the performance bond provided for in subsection 4. The checks of the
15 unsuccessful bidders shall be returned to them in accordance with the terms of the proposal.

16 3. All notices of the letting of contracts under this section shall state the time and place
17 when and where bids will be received and opened, and all bids shall be sealed and opened only
18 at the time and place mentioned in such notice and in the presence of some member of the
19 commission or some person named by the commission for such purpose.

20 4. The successful bidders for the construction of said work shall enter into contracts
21 furnished and prescribed by the commission and shall give good and sufficient bond, in a sum
22 equal to the contract price, to the state of Missouri, with sureties approved by the commission
23 and to ensure the proper and prompt completion of said work in accordance with the provisions
24 of said contracts, and plans and specifications; provided, that if, in the opinion of the majority
25 of the members of the commission, the lowest bid or bids for the construction of any of the
26 roads, or parts of roads, herein authorized to be constructed, shall be excessive, then, and in that
27 event, said commission shall have the right, and it is hereby empowered and authorized to reject
28 any or all bids, and to construct, under its own direction and supervision, all of such roads and
29 bridges, or any part thereof.

**227.107. 1. Notwithstanding any provision of section 227.100 to the contrary, as an
2 alternative to the requirements and procedures specified by sections 227.040 to 227.100,
3 the state highways and transportation commission is authorized to enter into one interstate
4 national highway design-build pilot project contract and two state highway design-build**

5 pilot project contracts within ten years of the effective date of this section. Authority for
6 design-build authorized by this section shall expire upon completion of the project selected,
7 unless reauthorized by law.

8 2. For the purpose of this section a "design-builder" is defined as an individual,
9 corporation, partnership, joint venture or other entity, including combinations of such
10 entities making a proposal to perform or performing a design-build highway project
11 contract.

12 3. For the purpose of this section, "design-build highway project contract" is
13 defined as the procurement of all materials and services necessary for the design,
14 construction, reconstruction or improvement of a state highway project in a single contract
15 with a design-builder capable of providing the necessary materials and services.

16 4. For the purpose of this section, "highway project" is defined as the design,
17 construction, reconstruction or improvement of highways or bridges under contract with
18 the state highways and transportation commission, which is funded by state, federal or
19 local funds or any combination of such funds.

20 5. In using a design-build highway project contract, the commission shall establish
21 a written procedure by rule for prequalifying design-builders before such design-builders
22 will be allowed to make a proposal on the project.

23 6. In any design-build highway project contract, whether involving state or federal
24 funds, the commission shall require that each person submitting a request for
25 qualifications provide a detailed disadvantaged business enterprise participation plan. The
26 plan shall provide information describing the experience of the person in meeting
27 disadvantaged business enterprise participation goals, how the person will meet the
28 department of transportation's disadvantaged business enterprise participation goal and
29 such other qualifications that the commission considers to be in the best interest of the
30 state.

31 7. The commission is authorized to issue a request for proposals to a maximum of
32 five design-builders prequalified in accordance with subsection 5 of this section.

33 8. The commission may require approval of any person performing subcontract
34 work on the design-build highway project.

35 9. The bid bond and performance bond requirements of section 227.100 and the
36 payment bond requirements of section 107.170, RSMo, shall apply to the design-build
37 highway project.

38 10. The commission is authorized to prescribe the form of the contracts for the
39 work.

40 11. The commission is empowered to make all final decisions concerning the

41 performance of the work under the design-build highway project contract, including
42 claims for additional time and compensation.

43 12. The provisions of sections 8.285 to 8.291, RSMo, shall not apply to the
44 procurement of architectural, engineering or land surveying services for the design-build
45 highway project, except that any person providing architectural, engineering or land
46 surveying services for the design-builder on the design-build highway project must be
47 licensed in Missouri to provide such services.

48 13. The commission shall pay a reasonable stipend to prequalified responsive
49 design-builders who submit a proposal, but are not awarded the design-build highway
50 project.

51 14. The commission shall comply with the provisions of any act of congress or any
52 regulations of any federal administrative agency which provides and authorizes the use of
53 federal funds for highway projects using the design-build process.

54 15. The commission shall promulgate administrative rules to implement this section
55 or to secure federal funds. Such rules shall be published for comment in the Missouri
56 Register and shall include prequalification criteria, the make-up of the prequalification
57 review team, specifications for the design criteria package, the method of advertising,
58 receiving and evaluating proposals from design-builders, the criteria for awarding the
59 design-build highway project based on the design criteria package and a separate proposal
60 stating the cost of construction, and other methods, procedures and criteria necessary to
61 administer this section.

62 16. The commission shall make a status report to the members of the general
63 assembly and the governor following the award of the design-build project, as an
64 individual component of the annual report submitted by the commission to the joint
65 transportation oversight committee in accordance with the provisions of section 21.795,
66 RSMo. The annual report prior to advertisement of the design-build highway project
67 contracts shall state the goals of the project in reducing costs and/or the time of completion
68 for the project in comparison to the design-bid-build method of construction and objective
69 measurements to be utilized in determining achievement of such goals. Subsequent annual
70 reports shall include: the time estimated for design and construction of different phases
71 or segments of the project and the actual time required to complete such work during the
72 period; the amount of each progress payment to the design builder during the period and
73 the percentage and a description of the portion of the project completed regarding such
74 payment; the number and a description of design change orders issued during the period
75 and the cost of each such change order; upon substantial and final completion, the total
76 cost of the design-build highway project with a breakdown of costs for design and

77 construction; and such other measurements as specified by rule. The annual report
78 immediately after final completion of the project shall state an assessment of the
79 advantages and disadvantages of the design-build method of contracting for highway and
80 bridge projects in comparison to the design-bid-build method of contracting and an
81 assessment of whether the goals of the project in reducing costs and/or the time of
82 completion of the project were met.

83 **17. The commission shall give public notice of a request for qualifications in at least**
84 **two public newspapers that are distributed wholly or in part in this state and at least one**
85 **construction industry trade publication that is distributed nationally.**

86 **18. The commission shall publish its cost estimates of the design-build highway**
87 **project award and the project completion date along with its public notice of a request for**
88 **qualifications of the design-build project.**

89 **19. If the commission fails to receive at least two responsive submissions from**
90 **design-builders considered qualified, submissions shall not be opened and it shall**
91 **readvertise the project.**

92 **20. The provisions of this section which are applicable to one interstate national**
93 **pilot highway project shall apply to an interstate highway which runs through a county of**
94 **the first classification with a charter form of government having a population greater than**
95 **one million inhabitants and a city not within a county. The interstate national pilot**
96 **highway project shall have a total maximum annual expenditure of one hundred twenty-**
97 **five million dollars for the life of the design-build project.**

98 **21. One of the state highway design-build projects authorized by this section shall**
99 **apply to a state highway which runs from a county of the third classification without a**
100 **township form of government having a population of at least fifteen thousand seven**
101 **hundred fifty inhabitants but less than fifteen thousand eight hundred inhabitants to a**
102 **county of the third classification without a township form of government having a**
103 **population with at least twenty-eight thousand two hundred inhabitants but less than**
104 **twenty-eight thousand three hundred inhabitants.**

105 **22. One of the state highway design-build projects authorized by this section shall**
106 **apply to a state highway which runs through a county of the third classification without**
107 **a township form of government having a population of more than twenty-two thousand**
108 **five hundred inhabitants but less than thirty-two thousand six hundred inhabitants and**
109 **a county of the first classification without a charter form of government having a**
110 **population of at least thirty-seven thousand but less than thirty-seven thousand one**
111 **hundred inhabitants.**