

SECOND REGULAR SESSION

HOUSE BILL NO. 2171

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CRAWFORD, ROARK, BEARDEN, HUNTER, RECTOR,
JETTON, MAYER, CROWELL, DOLAN (Co-sponsors), FROELKER, BEHNEN, LUETKEMEYER,
REINHART AND GASKILL.

Read 1st time March 13, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4818L.01I

AN ACT

To repeal sections 144.805, 226.030, 226.120, 226.200, and 227.100, RSMo, and to enact in lieu thereof seventeen new sections relating to transportation.

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

Section A. Sections 144.805, 226.030, 226.120, 226.200, and 227.100, RSMo, are
2 repealed and seventeen new sections enacted in lieu thereof, to be known as sections 8.1000,
3 8.1003, 8.1006, 8.1009, 8.1012, 8.1015, 8.1018, 8.1021, 8.1024, 8.1027, 144.805, 226.030,
4 226.120, 226.200, 226.201, 227.100, and 227.107, to read as follows:

8.1000. As used in sections 8.1000 to 8.1027, the following terms means:

2 **(1) "Design-build", a project for which the design and construction services are**
3 **furnished under one contract;**

4 **(2) "Design-build contract", a contract between the division and a design-builder,**
5 **to furnish the architecture or engineering and related design services required for a given**
6 **public construction project and to furnish the labor, materials, and other construction**
7 **services for the same public project;**

8 **(3) "Design-builder", any individual, partnership, joint venture, corporation, or**
9 **other legal entity that furnishes the architectural or engineering services and construction**
10 **services, whether itself or through subcontracts;**

11 **(4) "Design-criteria consultant", a person, corporation, partnership, or other legal**
12 **entity duly registered and authorized to practice architecture or professional engineering**
13 **in this state pursuant to chapter 327, RSMo, and who is employed by contract to the**

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

14 division to provide professional design and administrative services in connection with the
15 preparation of the design-criteria package;

16 (5) "Design-criteria package", performance-oriented specifications for the public
17 construction project sufficient to permit a design-builder to prepare a response to the
18 division's request for proposals for a design-build project;

19 (6) "Director", the director of the division of design and construction;

20 (7) "Division", the state office of administration, division of design and
21 construction;

22 (8) "Evaluation team", a group of people selected by the director to evaluate the
23 proposals of the design-builders. The team shall consist of at least two representatives of
24 the division of design and construction and two representatives of the using agency. A fifth
25 member shall be selected by the director and shall serve as chairman to facilitate the
26 evaluation process and to vote only in case of a tie;

27 (9) "Proposal", an offer to enter into a design-build contract;

28 (10) "Request for proposals", the document by which the division solicits proposals
29 for a design-build contract;

30 (11) "Stipend", an amount paid to the unsuccessful proposers to defray the cost of
31 submission of phase II of the design-build proposal.

8.1003. 1. Notwithstanding any other provision of law to the contrary, the division
2 of design and construction is hereby authorized to institute a pilot program whereby the
3 design-build procurement process may be utilized on a limited number of public projects
4 as set out in accordance with this section for the purpose of demonstrating the benefits of
5 the design-build process in the public sector. This authorization for design-build
6 procurement shall be for the sole and exclusive use of the division of design and
7 construction.

8 2. The maximum number of projects to be procured on a design-build basis during
9 the course of this pilot program shall be no more than four projects each with an estimated
10 cost of five million dollars or less and no more than four projects each with an estimated
11 cost of more than five million dollars.

12 3. The director of design and construction shall select those projects for which the
13 use of the design-build procurement process is appropriate. In making that determination,
14 the director shall consider:

15 (1) The likelihood that the design-build method of procurement will serve the
16 public interest by providing substantial savings of time or money over the traditional
17 design-build delivery process;

18 (2) The time available to complete the project and meet the needs of the end user

- 19 and any need to expedite the delivery service;
- 20 (3) The type of project and its suitability to the design-build process;
- 21 (4) The size of the project;
- 22 (5) The level of agency knowledge and confidence about the project scope and
- 23 definition;
- 24 (6) The availability of using agency staff to manage the project;
- 25 (7) The availability of the division of design and construction staff to manage the
- 26 project.
- 27 4. The director of design and construction shall present progress reports on any
- 28 ongoing design-build projects to the general assembly at each regular session during the
- 29 course of the pilot program. In addition, the director shall present a final detailed report
- 30 of all completed design-build projects to the general assembly completed each year during
- 31 the pilot program. Such final reports shall contain an assessment of the advantages and
- 32 procurement process on such completed projects.

2 8.1006. The division may adopt any rules and regulations necessary to implement

3 the design-build process. No rule or portion of a rule promulgated pursuant to the

4 authority of this section shall become effective unless it has been promulgated pursuant to

chapter 536, RSMo.

2 8.1009. 1. The director shall determine the scope and level of detail required to

3 permit qualified persons to submit proposals in accordance with the request for proposals

4 given the nature of the project.

5 2. A design-criteria consultant may be employed or retained by the division to assist

6 in preparation of the request for proposal, perform periodic site visits, prepare progress

7 reports, review and approve progress and final pay applications of the design-builder,

8 review shop drawings and submissions, decide disputes, interpret the construction

9 documents, perform inspections upon substantial and final completion, assist in warranty

10 inspections and to provide any other professional service where the director deems it to be

11 in the public interest to have an independent design professional assisting with the project

12 administration. The consultant shall be selected and its contract negotiated in compliance

with sections 8.285 to 8.291.

2 8.1012. 1. Notice of requests for proposals shall be advertised in accordance with

3 section 8.250. The division shall publish a notice of a request for proposal with a

4 description of the project, the rationale for the decision to use the design-build method of

5 procurement, the procedures for submittal and the selection criteria to be used.

6 2. The director shall establish in the request for proposal a time, place, and other

specific instructions for the receipt of proposals. Proposals not submitted in strict

7 accordance with those instructions shall be subject to rejection.

8 **3. A request for proposals shall be prepared for each design-build contract**
9 **containing at minimum the following elements:**

10 **(1) The procedures to be followed for submitting proposals, the criteria for**
11 **evaluation of proposals and their relative weight and the procedures for making awards;**

12 **(2) The proposed terms and conditions for the design-build contract;**

13 **(3) The design-criteria package;**

14 **(4) A description of the drawings, specifications, or other information to be**
15 **submitted with the proposal, with guidance as to the form and level of completeness of the**
16 **drawings, specifications, or other information that will be acceptable;**

17 **(5) A schedule for planned commencement and completion of the design-build**
18 **contract;**

19 **(6) Budget limits for the design-build contract, if any;**

20 **(7) Affirmative action and minority or women business enterprise requirements for**
21 **the design-build contract, if any;**

22 **(8) Requirements including any available ratings for performance bonds, payment**
23 **bonds, and insurance; and**

24 **(9) Any other information that the division in its discretion chooses to supply,**
25 **including without limitation, surveys, soil reports, drawings of existing structures,**
26 **environmental studies, photographs, or references to public records.**

27 **4. The director shall solicit proposals in a three-stage process. Phase I shall be the**
28 **solicitation of qualifications of the design-build team. Phase II shall be the solicitation of**
29 **a technical proposal including conceptual design for the project, and phase III shall be the**
30 **proposal of the construction cost.**

31 **5. The evaluation team shall review the submittals of the proposers and assign**
32 **points to each proposal in accordance with sections 8.1000 to 8.1027 and section 327.395,**
33 **RSMo, and as set out in the instructions of the request for proposal.**

8.1015. 1. Phase I requires all proposers to submit a statement of qualifications
2 **which shall include but not be limited to:**

3 **(1) Demonstrated ability to perform projects comparable in design, scope, and**
4 **complexity;**

5 **(2) References of owner for whom design-build projects have been performed;**

6 **(3) Qualifications of personnel who will manage the design and construction aspects**
7 **of the project;**

8 **(4) The names and qualifications of the primary design consultants and contractors**
9 **with whom the design-builder proposes to subcontract. The design-builder may not**

10 replace an identified subcontractor or subconsultant without the written approval of the
11 director.

12 2. The evaluation team shall evaluate the qualifications of all proposers in
13 accordance with the instructions of the request for proposal. Designers on the project shall
14 be evaluated in accordance with the requirements of section 8.285 to 8.291. Qualified
15 proposers selected by the evaluation team may proceed to phase II of the selection process.
16 Proposers lacking the necessary qualifications to perform the work shall be disqualified
17 and shall not proceed to phase II of the process. Under no circumstances shall price or fee
18 be a part of the prequalification criteria. Points assigned in the phase I evaluation process
19 shall not carry forward to phase II of the process. All qualified proposers shall be ranked
20 on points given in phases II and III only.

21 3. The director shall have discretion to disqualify any proposer, which in the
22 director's opinion lacks the minimal qualifications required to perform the work.

23 4. Once a sufficient number of qualified proposers have been selected, the
24 proposers shall have a specified amount of time with which to assemble phase II and phase
25 III proposals.

8.1018. Phase II of the process shall be conducted as follows:

2 (1) The director shall invite the top five qualified proposers to participate in phase
3 II of the process. If there were not five qualified proposers, then all qualified proposers
4 will be invited to submit phase II. If three qualified proposers cannot be identified, the
5 contracting process will cease;

6 (2) Proposers must submit their design for the project, to the level of detail required
7 in the request for proposal. The design proposal should demonstrate compliance with the
8 requirements set out in the request for proposal;

9 (3) The schedule for completing a project as designed by a proposer may be
10 considered as an element of evaluation in phase II;

11 (4) Up to twenty percent of the points awarded to each proposer in phase II may
12 be based on each proposer's qualifications and ability to design, construct, and deliver the
13 project on time and within budget;

14 (5) Under no circumstances should the design proposal contain any reference to the
15 cost of the proposal;

16 (6) The design submittals will be evaluated and assigned points in accordance with
17 the requirements of the request for proposal. Phase II shall account for no more than fifty
18 percent of the total point score as specified in the request for proposal.

8.1021. Phase III shall be conducted as follows:

2 (1) The phase III proposal must provide a firm, fixed cost of construction. The

3 proposal must be accompanied by bid security and any other required submittals, such as
4 statements of minority participation as required by the request for proposal;

5 (2) Cost proposals must be submitted in accordance with the instructions of the
6 request for proposal. Failure to submit a cost proposal on time shall be cause to reject the
7 proposal. Phase III shall account for not less than fifty percent of the total point score as
8 specified in the request for proposal;

9 (3) Proposals for phase II and phase III shall be submitted concurrently at the time
10 and place specified in the request for proposal. The phase III cost proposals shall be
11 opened only after the phase II design proposals have been evaluated and assigned points;

12 (4) Cost proposals will be opened and read aloud at the time and place specified in
13 the request for proposal. At the same time and place, the evaluation team will make public
14 its scoring of phase II. Cost proposals will be evaluated in accordance with the
15 requirements of the request for proposal. In evaluating the cost proposals, the low bidder
16 shall be awarded the total number of points assigned to be awarded in phase III. For all
17 other bidders, cost points will be calculated by reducing the maximum points available in
18 phase III by two percent or more for each percentage point of the low bid by which the
19 bidder exceeds the low bid and the points assigned will be added to the points assigned for
20 phase II for each proposer;

21 (5) The responsive proposer with the highest total number of points will be
22 awarded the contract. If the director determines, however, that it is not in the best interest
23 of the state to proceed with the project pursuant to the proposal offered by the proposer
24 with the highest total number of points, the director shall reject all proposals. In such
25 event, all qualified proposers with lower point totals shall receive a stipend pursuant to
26 section 8.1024 and the proposer with the highest total number of points shall receive an
27 amount equal to two times such stipend;

28 (6) If all proposals are rejected, the director may solicit new proposals using
29 different design criteria, budget constraints, or qualifications.

8.1024. As an inducement to qualified proposers, the division shall pay a reasonable
2 stipend, the amount of which shall be established in the request for proposal, to each
3 prequalified design-builder whose proposal is responsive but not accepted. Upon payment
4 of the stipend to any unsuccessful design-build proposer, the state shall acquire a
5 nonexclusive right to use the design submitted by the proposer, and the proposer shall have
6 no further liability for its use by the state in any manner. If the design-build proposer
7 desires to retain all rights and interest in the design proposed, the proposer shall forfeit the
8 stipend.

8.1027. Any person or corporation that enters into a design-build contract with the

2 **division of design and construction does not violate the requirements of chapter 327,**
3 **RSMo, so long as the architectural, engineering, or land surveying services to be performed**
4 **under the contract are performed by:**

5 **(1) Persons who are duly licensed in this state and who are employees of the design-**
6 **build contractor which holds a certificate of authority from the board of registration; or**

7 **(2) Persons who are duly licensed in this state and who are under contract to the**
8 **design-build contractor; or**

9 **(3) Corporations that hold current certificates of authority from the board for the**
10 **appropriate profession which are under contract to the design-build contractor.**

144.805. 1. In addition to the exemptions granted pursuant to the provisions of section
2 144.030, there shall also be specifically exempted from the provisions of sections 144.010 to
3 144.525, sections 144.600 to 144.748, and section 238.235, RSMo, and the provisions of any
4 local sales tax law, as defined in section 32.085, RSMo, and from the computation of the tax
5 levied, assessed or payable pursuant to sections 144.010 to 144.525, sections 144.600 to 144.748,
6 and section 238.235, RSMo, and the provisions of any local sales tax law, as defined in section
7 32.085, RSMo, all sales of aviation jet fuel in a given calendar year to common carriers engaged
8 in the interstate air transportation of passengers and cargo, and the storage, use and consumption
9 of such aviation jet fuel by such common carriers, if such common carrier has first paid to the
10 state of Missouri, in accordance with the provisions of this chapter, state sales and use taxes
11 pursuant to the foregoing provisions and applicable to the purchase, storage, use or consumption
12 of such aviation jet fuel in a maximum and aggregate amount of one million five hundred
13 thousand dollars of state sales and use taxes in such calendar year.

2. To qualify for the exemption prescribed in subsection 1 of this section, the common
15 carrier shall furnish to the seller a certificate in writing to the effect that an exemption pursuant
16 to this section is applicable to the aviation jet fuel so purchased, stored, used and consumed. The
17 director of revenue shall permit any such common carrier to enter into a direct-pay agreement
18 with the department of revenue, pursuant to which such common carrier may pay directly to the
19 department of revenue any applicable sales and use taxes on such aviation jet fuel up to the
20 maximum aggregate amount of one million five hundred thousand dollars in each calendar year.
21 The director of revenue shall adopt appropriate rules and regulations to implement the provisions
22 of this section, and to permit appropriate claims for refunds of any excess sales and use taxes
23 collected in calendar year 1993 or any subsequent year with respect to any such common carrier
24 and aviation jet fuel.

3. The provisions of this section shall apply to all purchases and deliveries of aviation
26 jet fuel from and after May 10, 1993.

27 4. Effective September 1, 1998, all sales and use tax revenues upon aviation jet fuel

28 received pursuant to this chapter, less the amounts specifically designated pursuant to the
29 constitution or pursuant to section 144.701, for other purposes, shall be deposited to the credit
30 of the aviation trust fund established pursuant to section 305.230, RSMo[; provided however,
31 the amount of such state sales and use tax revenues deposited to the credit of such aviation trust
32 fund shall not exceed five million dollars in each calendar year.

33 5. The provisions of this section and section 144.807 shall expire on December 31,
34 2003].

226.030. 1. The state highways and transportation commission shall consist of six
2 members, who shall be appointed by the governor, by and with the advice and consent of the
3 senate, not more than three thereof to be members of the same political party.

4 2. Each commissioner shall be a taxpayer and resident of state for at least five years prior
5 to [his] appointment. Any commissioner may be removed by the governor if fully satisfied of
6 his inefficiency, neglect of duty, or misconduct in office. All commissioners appointed prior to
7 October 13, 1965, shall serve the term for which they were appointed.

8 3. Commissioners appointed pursuant to this section shall be appointed for terms of six
9 years. Upon the expiration of each of the foregoing terms of these commissioners a successor
10 shall be appointed for a term of six years or until [his] a successor is appointed and qualified
11 which term of six years shall thereafter be the length of term of each member of the commission
12 unless removed as above provided.

13 4. **At the first regular meeting in January of each year following the adoption of**
14 **this section, the members of the commission shall elect by secret ballot a member as**
15 **chairman and another member as vice chairman of the commission for a term of one year.**
16 **The chairman and vice chairman shall not be members of the same political party. Neither**
17 **the chairman nor the vice chairman shall serve more than two consecutive terms in such**
18 **office.**

19 5. The members of the commission shall receive as compensation for their services
20 twenty-five dollars per day for the time spent in the performance of their official duties, and also
21 their necessary traveling and other expenses incurred while actually engaged in the discharge of
22 their official duties.

226.120. [The members of the commission shall elect a member as chairman and another
2 vice chairman, each of whom shall hold such office for a term prescribed by the commission.]
3 Four members of the commission shall constitute a quorum for the transaction of business and
4 for the exercise of any of the powers or the discharge of any of the duties authorized or imposed
5 by law. The commission shall meet at least once each month and at such other times, and at such
6 places within the state, as the commission shall determine. The chairman or, in the event of [his]
7 inability to act, the vice chairman may call special meetings of the commission upon notice to

8 members.

226.200. 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

(1) Money arising from the sale of bonds;

(2) Money received from the United States government; or

(3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

(1) [Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state;

(2)] Of maintaining the state highways and transportation commission; **and**

[(3)] (2) Of maintaining the state transportation department; **and**

[(4)] (3) Of any workers' compensation for state transportation department employees;

and

[(5)] (4) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and

[(6)] (5) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. [For all future fiscal years, the total amount of appropriations from the state highways and transportation department fund for all state offices and departments shall not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001.

4.] The provisions of subsection [3] 2 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds under chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

36 [5.] 4. All interest earned upon the state highways and transportation department fund
37 shall be deposited in and to the credit of such fund.

38 [6.] 5. Any balance remaining in said fund after payment of said costs shall be transferred
39 to the state road fund.

40 [7.] 6. Notwithstanding the provisions of subsection 2 of this section to the contrary, any
41 funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo,
42 after April 1, 1992, shall not be used for administrative purposes or administrative expenses of
43 the transportation department.

**226.201. Beginning the first fiscal year following the effective date of this section,
2 ten percent of the growth in gross general revenue receipts, less refunds, which exceed the
3 gross general revenue receipts, less refunds, received in the most recent fiscal year in which
4 actual net receipts are known, shall be deposited in the state road fund as established in
5 section 226.200. The provisions of this section shall expire on June 30, 2013.**

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 national
4 highway system design-build pilot project contract within ten years of the effective date of
5 this section. Authority for design-build authorized by this section shall expire upon
6 completion of the project selected, unless reauthorized by law.**

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

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

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

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

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

30 **7. The commission is authorized to issue a request for proposals to a maximum of**

31 five design-builders prequalified in accordance with subsection 5 of this section.

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

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

37 10. The commission is authorized to prescribe the form of the contracts of the work.

38 11. The commission is empowered to make all final decisions concerning the
39 performance of the work under the design-build highway project contract, including
40 claims for additional time and compensation.

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

46 13. The commission shall pay a reasonable stipend to prequalified responsive
47 design-builders who submit a proposal, but are not awarded the design-build highway
48 project. The design shall become the property of the department of transportation.

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

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

60 16. The commission shall make a status report to the members of the general
61 assembly and the governor following the award of the design-build project, as an
62 individual component of the annual report submitted by the commission to the joint
63 transportation oversight committee in accordance with the provisions of section 21.795,
64 RSMo. The annual report prior to advertisement of the design-build highway project
65 contract shall state the goals of the project in reducing costs or the time of completion and
66 objective measurements to be utilized in determining achievements of such goals.

67 Subsequent annual reports shall include: the time estimated for design and construction
68 of different phases or segments of the project and the actual time required to complete such
69 work during the period; the amount of each progress payment to the design-builder during
70 the period and the percentage and a description of the portion of the project completed
71 regarding such payment; the number and description of design-change orders issued
72 during the period and the cost of each such change order; upon substantial and final
73 completion, the total cost of the design-build highway project with a breakdown of costs
74 for design and construction; and such other measurements as specified by rule. The
75 annual report immediately after final completion of the project shall state an assessment
76 of the advantages and disadvantages of the design-build method of contracting for highway
77 and bridge projects in comparison to the design-bid-build method of contracting and an
78 assessment of whether the goals of the project in reducing costs or the time of completion
79 of the project were met.

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

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

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

89 20. The provisions of this section shall be applicable to one interstate national pilot
90 highway project which shall be selected by the commission and shall have a total maximum
91 annual expenditure of one hundred twenty-five million dollars for the life of the design-
92 build project.