

FIRST REGULAR SESSION

HOUSE BILL NO. 304

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (158).

Read 1st time January 24, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1210L.011

AN ACT

To repeal sections 8.255, 8.260, and 8.270, RSMo, and to enact in lieu thereof four new sections relating to energy efficiency.

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

Section A. Sections 8.255, 8.260, and 8.270, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 8.238, 8.255, 8.260, and 8.270, to read as
3 follows:

**8.238. 1. This section shall be known as the "Energy Efficiency Implementation
2 Act".**

**3 2. The office of administration shall identify and cause to be deposited into the
4 office of administration revolving administrative trust fund created in section 37.005,
5 RSMo, no more than two and one-half percent of the total cost savings realized as a result
6 of implementing sections 8.231 to 8.237. "Cost savings" shall be defined as expenses
7 eliminated and future replacement expenditures avoided as a direct result of implementing
8 sections 8.231 to 8.237. The percentage of cost savings and the means of calculating such
9 cost savings shall be determined by the commissioner of administration or his or her
10 designated agent and shall be set forth in the performance contract.**

**11 3. At least annually, a report shall be prepared and forwarded to the governor, the
12 speaker of the house of representatives, and the president pro tem of the senate outlining
13 the cost savings identified by the office of administration under subsection 2 of this section.**

**14 4. In order to advise the governor, and consistent with this section, the office of
15 administration shall have authority to:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 16 **(1) Establish policies and procedures for facility management and valuation;**
17 **(2) Coordinate a state facility review;**
18 **(3) Implement a capital improvement plan;**
19 **(4) Solicit and evaluate state facility investment proposals;**
20 **(5) Establish performance measures for facility management operations; and**
21 **(6) Prepare annual reports and plans concerning operation savings.**

22 **5. Subject to appropriation from the general assembly, the office of administration**
23 **may expend the cost savings and the interest thereon, if any, at such time or times as are**
24 **necessary to offset all reasonable costs associated with the implementation of sections 8.231**
25 **to 8.237.**

26 **6. The provisions of section 33.080, RSMo, requiring the transfer of unexpended**
27 **funds to the general revenue fund of the state shall not apply to funds identified and not**
28 **otherwise expended for the implementation of this section.**

29 **7. The office of administration shall have the authority, pursuant to chapter 537,**
30 **RSMo, to promulgate rules regarding the implementation of this section. Any rule or**
31 **portion of a rule, as that term is defined in section 536.010, RSMo, that is created under**
32 **the authority delegated in this section shall become effective only if it complies with and**
33 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
34 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**
35 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
36 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
37 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
38 **2005, shall be invalid and void.**

 8.255. 1. The director may authorize any agency of the state to establish standing
2 contracts for the purpose of accomplishing construction, renovation, maintenance and repair
3 projects not exceeding [twenty-five] **one hundred** thousand dollars. Such contracts shall be
4 advertised and bid in the same manner as contracts for work which exceeds [twenty-five] **one**
5 **hundred** thousand dollars, except that each contract shall allow for multiple projects, the cost
6 of each of which does not exceed [twenty-five] **one hundred** thousand dollars. Each contract
7 shall be of a stated duration and shall have a stated maximum total expenditure.

8 2. The director, with full documentation, shall have the authority to authorize any agency
9 to contract for any design or construction, renovation, maintenance, or repair work which in his
10 judgment can best be procured directly by such agency. The director shall establish, by rule, the
11 procedures which the agencies must follow to procure contracts for design, construction,
12 renovation, maintenance or repair work. Each agency which procures such contracts pursuant
13 to a delegation shall file an annual report as required by rule. The director shall provide general

14 supervision over the process. The director may establish procedures by which such contracts are
15 to be procured, either generally or in accordance with each authorization.

16 3. The director, in his sole discretion, may with full documentation approve a
17 recommendation from a project designer that a material, product or system within a specification
18 for construction, renovation or repair work be designated by brand, trade name or individual
19 mark, when it is determined to be in the best interest of the state. The specification may include
20 a preestablished price for purchase of the material, product or system where required by the
21 director.

8.260. All appropriations made by the general assembly amounting to [twenty-five] **one**
2 **hundred** thousand dollars or more for the construction, renovation, or repair of facilities shall
3 be expended in the following manner:

4 (1) The agency requesting payment shall provide the commissioner of administration
5 with satisfactory evidence that a bona fide contract, procured in accordance with all applicable
6 procedures, exists for the work for which payment is requested;

7 (2) All requests for payment shall be approved by the architect or engineer registered to
8 practice in the state of Missouri who designed the project or who has been assigned to oversee
9 it;

10 (3) In order to guarantee completion of the contract, the agency or officer shall retain a
11 portion of the contract value in accordance with the provisions of section 34.057, RSMo;

12 (4) A contractor may be paid for materials delivered to the site or to a storage facility
13 approved by the director of the division of design and construction as having adequate safeguards
14 against loss, theft or conversion.

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16 In no case shall the amount contracted for exceed the amount appropriated by the general
17 assembly for the purpose.

8.270. If the amount appropriated is less than [twenty-five] **one hundred** thousand
2 dollars for constructing, renovating or for repairing, or for both building and repairing, no
3 warrant shall be drawn on the state treasury payable out of the appropriation for any part thereof,
4 until satisfactory evidence is furnished to the commissioner of administration that the work has
5 been completed according to the contract, and not in excess of the amount appropriated therefor.