

SECOND REGULAR SESSION

HOUSE BILL NO. 1089

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WHITE (Sponsor), KELLEY (126), SCHAD,
DAVIS AND SCHOELLER (Co-sponsors).

4120L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 8.675, 8.683, 34.217, 65.230, 89.410, 177.088, 285.500, 290.095, 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 292.630, 393.715, 407.828, 407.1047, 516.130, and 630.546, RSMo, and to enact in lieu thereof fourteen new sections relating to prevailing wages, with a penalty provision.

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

Section A. Sections 8.675, 8.683, 34.217, 65.230, 89.410, 177.088, 285.500, 290.095, 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 292.630, 393.715, 407.828, 407.1047, 516.130, and 630.546, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 8.675, 8.683, 34.217, 65.230, 89.410, 177.088, 285.500, 290.342, 292.630, 393.715, 407.828, 407.1047, 516.130, and 630.546, to read as follows:

8.675. As used in sections 8.675 to 8.687, the following terms mean:

(1) "Construction management services" includes:

(a) Services provided in the planning and design phases of the project including, but not limited to, consulting with, advising, assisting and making recommendations to the public owner and architect, engineer or registered landscape architect on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time

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.

8 requirements for procurement and construction, and projected costs; making, reviewing and
9 refining budget estimates based on the public owner's program and other available information;
10 making recommendations to the public owner and the architect or engineer regarding the division
11 of work in the plans and specifications to facilitate the bidding and awarding of contracts;
12 soliciting the interest of capable contractors and assisting the owner in taking bids on the project;
13 analyzing the bids received and awarding contracts; and preparing and monitoring a progress
14 schedule during the design phase of the project and preparation of a proposed construction
15 schedule; and

16 (b) Services provided in the construction phase of the project including, but not limited
17 to, maintaining competent supervisory staff to coordinate and provide general direction of the
18 work and progress of the contractors on the project; observing the work as it is being performed
19 for general conformance with working drawings and specifications; establishing procedures for
20 coordinating among the public owner, architect or engineer, contractors and construction
21 manager with respect to all aspects of the project and implementing such procedures;
22 maintaining job site records and making appropriate progress reports; implementing labor policy
23 in conformance with the requirements of the public owner; reviewing the safety and equal
24 opportunity programs of each contractor for conformance with the public owner's policy and
25 making recommendations; reviewing and processing all applications for payment by involved
26 contractors and material suppliers in accordance with the terms of the contract; making
27 recommendations for and processing requests for changes in the work and maintaining records
28 of change orders; scheduling and conducting job meetings to ensure orderly progress of the work;
29 developing and monitoring a project progress schedule, coordinating and expediting the work
30 of all contractors and providing periodic status reports to the owner and the architect or engineer;
31 and, establishing and maintaining a cost control system and conducting meetings to review costs;

32 (2) "Construction manager", any person providing construction management services for
33 a public owner;

34 (3) "Public owner", any public body, [as defined in section 290.210] **which includes the**
35 **state of Missouri or any officer, official, authority, board or commission of the state, or**
36 **other political subdivision thereof, or any institution supported in whole or in part by**
37 **public funds.**

8.683. Upon award of a construction management services contract, the successful
2 construction manager shall contract with the public owner to furnish his skill and judgment in
3 cooperation with, and reliance upon, the services of the project architect or engineer. The
4 construction manager shall furnish business administration, management of the construction
5 process and other specified services to the public owner and shall perform in an expeditious and
6 economical manner consistent with the interest of the public owner. Should the public owner

7 determine it to be in the public's best interest, the construction manager may provide or perform
8 basic services for which reimbursement is provided in the general conditions to the construction
9 management services contract. The construction manager shall not, however, be permitted to
10 bid on or perform any of the actual construction on a public works project in which he is acting
11 as construction manager, nor shall any construction firm which controls, is controlled by, or
12 shares common ownership or control with, the construction manager be allowed to bid on or
13 perform work on such project. The actual construction work on the project shall be awarded by
14 competitive bidding as provided by law. All successful bidders shall contract directly with the
15 public owner, but shall perform at the direction of the construction manager unless otherwise
16 provided in the construction manager's contract with the public owner. All successful bidders
17 shall provide payment and performance bonds to the public owner. [All successful bidders shall
18 meet all the obligations of a prime contractor to whom a contract is awarded, pertaining to the
19 payment of prevailing wages pursuant to sections 290.210 to 290.340.] In addition, all
20 nonresident employers shall meet the bonding and registration requirements of sections 285.230
21 to 285.234.

34.217. Notwithstanding the provisions of section 1.140[,] **and** the provisions of
2 [sections 290.095 and 290.250 and] sections 34.203 to 34.216 shall not be severable. In the
3 event a court of competent jurisdiction rules that any part of this act is unenforceable, the entire
4 act shall be rendered null and void.

65.230. The following township officers shall be entitled to compensation at the
2 following rates for each day necessarily devoted by them to the services of the township in
3 discharging the duties of their respective offices:

4 (1) The township clerk, as clerk, the township trustee, as trustee, members of the
5 township board, shall each receive a maximum amount of fifty dollars per day for the first
6 meeting each month and a maximum amount of twenty dollars for each meeting thereafter during
7 the month;

8 (2) The township trustee as ex officio treasurer shall receive a compensation of two
9 percent for receiving and disbursing all moneys coming into his hands for the first fifty thousand
10 dollars received as ex officio treasurer when the same shall not exceed the sum of one thousand
11 dollars and one percent of all sums over this amount; and

12 (3) Township officials may receive an hourly wage set by the township board for labor
13 performed for the benefit of the township. [Such wage shall not exceed the local prevailing wage
14 limits and shall not include pay received for attending monthly meetings or pay received by the
15 treasurer for performing duties required of his or her office.]

89.410. 1. The planning commission shall recommend and the council may by ordinance
2 adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in

3 addition to the requirements provided by law for the approval of plats, may provide requirements
4 for the coordinated development of the city, town or village; for the coordination of streets within
5 subdivisions with other existing or planned streets or with other features of the city plan or
6 official map of the city, town or village; for adequate open spaces for traffic, recreation, light and
7 air; and for a distribution of population and traffic; provided that, the city, town or village may
8 only impose requirements for the posting of bonds, letters of credit or escrows for
9 subdivision-related improvements as provided for in subsections 2 to 5 of this section.

10 2. The regulation may include requirements as to the extent and the manner in which the
11 streets of the subdivision or any designated portions thereto shall be graded and improved as well
12 as including requirements as to the extent and manner of the installation of all utility facilities.
13 Compliance with all of these requirements is a condition precedent to the approval of the plat.
14 The regulations or practice of the council may provide for the tentative approval of the plat
15 previous to the improvements and utility installations; but any tentative approval shall not be
16 entered on the plat. The regulations may provide that, in lieu of the completion of the work and
17 installations previous to the final approval of a plat, the council shall accept, at the option of the
18 developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city,
19 town, or village. The city, town, or village may accept a surety bond, and such bond shall be in
20 an amount and with surety and other reasonable conditions, providing for and securing the actual
21 construction and installation of the improvements and utilities within a period specified by the
22 council and expressed in the bond. The release of any such escrow, letter of credit, or bond by
23 the city, town or village shall be as specified in this section. The council may enforce the escrow
24 or bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of
25 the completion of the work and installations previous to the final approval of a plat, for an
26 assessment or other method whereby the council is put in an assured position to do the work and
27 make the installations at the cost of the owners of the property within the subdivision. The
28 regulations may provide for the dedication, reservation or acquisition of lands and open spaces
29 necessary for public uses indicated on the city plan and for appropriate means of providing for
30 the compensation, including reasonable charges against the subdivision, if any, and over a period
31 of time and in a manner as is in the public interest.

32 3. The regulations shall provide that in the event a developer who has posted an escrow,
33 or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this
34 section transfers title of the subdivision property prior to full release of the escrow, letter of
35 credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the
36 successor developer in the form allowed in subsection 2 of this section and in the amount of the
37 escrow or letter of credit held by the city, town, or village at the time of the property transfer, and
38 upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release

39 the original escrow or letter of credit in full and release the prior developer from all further
40 obligations with respect to the subdivision improvements if the successor developer assumes all
41 of the outstanding obligations of the previous developer. The city, town, or village may accept
42 a surety bond from the successor developer in the form allowed in subsection 2 of this section
43 and in the amount of the bond held by the city, town, or village at the time of the property
44 transfer, and upon receipt of the replacement bond, the city, town, or village shall release the
45 original bond in full, and release the prior developer from all further obligations with respect to
46 the subdivision improvements.

47 4. The regulations shall provide that any escrow or bond amount held by the city, town
48 or village to secure actual construction and installation on each component of the improvements
49 or utilities shall be released within thirty days of completion of each category of improvement
50 or utility work to be installed, minus a maximum retention of five percent which shall be released
51 upon completion of all improvements and utility work. The city, town, or village shall inspect
52 each category of improvement or utility work within twenty business days after a request for such
53 inspection. Any such category of improvement or utility work shall be deemed to be completed
54 upon certification by the city, town or village that the project is complete in accordance with the
55 ordinance of the city, town or village including the filing of all documentation and certifications
56 required by the city, town or village, in complete and acceptable form. The release shall be
57 deemed effective when the escrow funds or bond amount are duly posted with the United States
58 Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount
59 are hand delivered to an authorized person or place as specified by the owner or developer.

60 5. If the city, town or village has not released the escrow funds or bond amount within
61 thirty days as provided in this section or provided a timely inspection of the improvements or
62 utility work after request for such inspection, the city, town or village shall pay the owner or
63 developer in addition to the escrow funds due the owner or developer, interest at the rate of one
64 and one-half percent per month calculated from the expiration of the thirty-day period until the
65 escrow funds or bond amount have been released. Any owner or developer aggrieved by the
66 city's, town's or village's failure to observe the requirements of this section may bring a civil
67 action to enforce the provisions of this section. In any civil action or part of a civil action
68 brought pursuant to this section, the court may award the prevailing party or the city, town or
69 village the amount of all costs attributable to the action, including reasonable attorneys' fees.

70 6. Nothing in this section shall apply to performance, maintenance and payment bonds
71 required by cities, towns or villages.

72 7. Before adoption of its subdivision regulations or any amendment thereof, a duly
73 advertised public hearing thereon shall be held by the council.

74 8. The provisions of subsection 2 of this section requiring the acceptance of an escrow
75 secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the
76 developer, all of the provisions of subsection 3 of this section, and the provisions of subsections
77 4 and 5 of this section regarding an inspection of improvements or utility work within twenty
78 business days shall not apply to any home rule city with more than four hundred thousand
79 inhabitants and located in more than one county.

80 [9. Notwithstanding the provisions of section 290.210 to the contrary, improvements
81 secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the
82 terms of sections 290.210 to 290.340 unless they are paid for wholly or in part out of public
83 funds.]

177.088. 1. As used in this section, the following terms shall mean:

2 (1) "Board", the board of education, board of trustees, board of regents, or board of
3 governors of an educational institution;

4 (2) "Educational institution", any school district, including all community college
5 districts, and any state college or university organized under chapter 174.

6 2. The board of any educational institution may enter into agreements as authorized in
7 this section with a not-for-profit corporation formed under the general not-for-profit corporation
8 law of Missouri, chapter 355, in order to provide for the acquisition, construction, improvement,
9 extension, repair, remodeling, renovation and financing of sites, buildings, facilities, furnishings
10 and equipment for the use of the educational institution for educational purposes.

11 3. The board may on such terms as it shall approve:

12 (1) Lease from the corporation sites, buildings, facilities, furnishings and equipment
13 which the corporation has acquired or constructed; or

14 (2) Notwithstanding the provisions of this chapter or any other provision of law to the
15 contrary, sell or lease at fair market value, which may be determined by appraisal, to the
16 corporation any existing sites owned by the educational institution, together with any existing
17 buildings and facilities thereon, in order for the corporation to acquire, construct, improve,
18 extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then
19 lease back or purchase such sites, buildings and facilities from the corporation; provided that
20 upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease
21 for not more than one year but with not more than twenty-five successive options by the
22 educational institution to renew the lease under the same conditions; and provided further that
23 the corporation agrees to convey or sell the sites, buildings or facilities, including any
24 improvements, extensions, renovations, furnishings or equipment, back to the educational
25 institution with clear title at the end of the period of successive one-year options or at any time

26 bonds, notes or other obligations issued by the corporation to pay for the improvements,
27 extensions, renovations, furnishings or equipment have been paid and discharged.

28 4. Any consideration, promissory note or deed of trust which an educational institution
29 receives for selling or leasing property to a not-for-profit corporation pursuant to this section
30 shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon
31 shall be commingled with any other funds of the educational institutions. At such time as the
32 title or deed for property acquired, constructed, improved, extended, repaired, remodeled or
33 renovated under this section is conveyed to the educational institution, the consideration shall
34 be returned to the corporation.

35 5. The board may make rental payments to the corporation under such leases out of its
36 general funds or out of any other available funds, provided that in no event shall the educational
37 institution become indebted in an amount exceeding in any year the income and revenue of the
38 educational institution for such year plus any unencumbered balances from previous years.

39 6. Any bonds, notes and other obligations issued by a corporation to pay for the
40 acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites,
41 buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed
42 of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental
43 thereof to the educational institution. Such bonds, notes and other obligations issued by a
44 corporation shall not be a debt of the educational institution and the educational institution shall
45 not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out
46 of any funds or properties other than those acquired for the purposes of this section, and such
47 bonds, notes and obligations shall not constitute an indebtedness of the educational institution
48 within the meaning of any constitutional or statutory debt limitation or restriction.

49 7. The interest on such bonds, notes and other obligations of the corporation and the
50 income therefrom shall be exempt from taxation by the state and its political subdivisions, except
51 for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment
52 owned by a corporation in connection with any project pursuant to this section shall be exempt
53 from taxation.

54 8. The board may make all other contracts or agreements with the corporation necessary
55 or convenient in connection with any project pursuant to this section. [The corporation shall
56 comply with sections 290.210 to 290.340.]

57 9. Notice that the board is considering a project pursuant to this section shall be given
58 by publication in a newspaper published within the county in which all or a part of the
59 educational institution is located which has general circulation within the area of the educational
60 institution, once a week for two consecutive weeks, the last publication to be at least seven days

61 prior to the date of the meeting of the board at which such project will be considered and acted
62 upon.

63 10. Provisions of other law to the contrary notwithstanding, the board may refinance any
64 lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of
65 section 165.011 for the purpose of payment on any lease with the corporation under this section
66 for sites, buildings, facilities, furnishings or equipment which the corporation has acquired or
67 constructed, but such refinance shall not extend the date of maturity of any obligation, and the
68 refinancing obligation shall not exceed the amount necessary to pay or provide for the payment
69 of the principal of the outstanding obligations to be refinanced, together with the interest accrued
70 thereon to the date of maturity or redemption of such obligations and any premium which may
71 be due under the terms of such obligations and any amounts necessary for the payments of costs
72 and expenses related to issuing such refunding obligations and to fund a capital projects reserve
73 fund for the obligations.

74 11. Provisions of other law to the contrary notwithstanding, payments made from any
75 source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the
76 transfer of the title of real property to the school district, other than those payments made from
77 the capital projects fund, shall be deducted as an adjustment to the funds payable to the district
78 pursuant to section 163.031 beginning in the year following the transfer of title to the district,
79 as determined by the department of elementary and secondary education. No district with
80 modular buildings leased in fiscal year 2004, with the lease payments made from the incidental
81 fund and that initiates the transfer of title to the district after fiscal year 2007, shall have any
82 adjustment to the funds payable to the district under section 163.031 as a result of the transfer
83 of title.

84 12. Notwithstanding provisions of this section to the contrary, the board of education of
85 any school district may enter into agreements with the county in which the school district is
86 located, or with a city, town, or village wholly or partially located within the boundaries of the
87 school district, in order to provide for the acquisition, construction, improvement, extension,
88 repair, remodeling, renovation, and financing of sites, buildings, facilities, furnishings, and
89 equipment for the use of the school district for educational purposes. Such an agreement may
90 provide for the present or future acquisition of an ownership interest in such facilities by the
91 school district, by lease, lease-purchase agreement, option to purchase agreement, or similar
92 provisions, and may provide for a joint venture between the school district and other entity or
93 entities that are parties to such an agreement providing for the sharing of the costs of acquisition,
94 construction, repair, maintenance, and operation of such facilities. The school district may
95 wholly own such facilities, or may acquire a partial ownership interest along with the county,
96 city, town, or village with which the agreement was executed.

285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:

2 (1) "Employee", any individual who performs services for an employer that would
3 indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41,
4 1987-1 C.B.296.;

5 (2) "Employer", any individual, organization, partnership, political subdivision,
6 corporation, or other legal entity which has or had in the entity's employ five or more individuals
7 performing public works [as defined in section 290.210];

8 (3) "Knowingly", a person acts knowingly or with knowledge:

9 (a) With respect to the person's conduct or to attendant circumstances when the person
10 is aware of the nature of the person's conduct or that those circumstances exist; or

11 (b) With respect to a result of the person's conduct when the person is aware that the
12 person's conduct is practically certain to cause that result;

13 (4) **"Public works", all fixed works constructed for public use or benefit or paid for**
14 **wholly or in part out of public funds. It also includes any work done directly by any public**
15 **utility company when performed by it pursuant to the order of the public service**
16 **commission or other public authority whether or not it be done under public supervision**
17 **or direction or paid for wholly or in part out of public funds when let to contract by said**
18 **utility. It does not include any work done for or by any drainage or levee district.**

290.342. Except for federally-funded projects and services provided to the federal
2 **government, no person in this state shall be paid a prevailing hourly wage.**

292.630. 1. At all construction projects at which twenty people or more are engaged in
2 the performance of work, the primary employer or contractor at such project shall provide at least
3 one portable toilet for each twenty people; except that, the provisions of this section shall not
4 apply to any railroad company.

5 2. The provisions of this section shall be enforced by the department of labor and
6 industrial relations through the division of labor standards. Upon a finding by a court of
7 competent jurisdiction that a primary employer or contractor has willfully violated or omitted
8 to comply with the requirements of this section, such person or persons shall be [subject to
9 penalty as provided by section 290.340] **punished for each violation thereof by a fine not**
10 **exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both**
11 **such fine and imprisonment. Each day such violation or omission continues shall**
12 **constitute a separate offense as contemplated by this section.**

393.715. 1. The general powers of a commission to the extent provided in section
2 393.710 to be exercised for the benefit of its contracting members shall include the power to:

3 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate
4 in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by

5 participation with electric cooperative associations, municipally owned or public utilities or
6 acquire any interest in or any rights to capacity of a project, within or outside the state, and act
7 as an agent, or designate one or more other persons participating in a project to act as its agent,
8 in connection with the planning, acquisition, construction, operation, maintenance, repair,
9 extension or improvement of such project;

10 (2) Acquire, sell, distribute and process fuels necessary to the production of electric
11 power and energy; provided, however, the commission shall not have the power or authority to
12 erect, own, use or maintain a transmission line which is parallel or generally parallel to another
13 transmission line in place within a distance of two miles, which serves the same general area
14 sought to be served by the commission unless the public service commission finds that it is not
15 feasible to utilize the transmission line which is in place;

16 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,
17 wells, check dams, pumping stations, water purification plants, and other facilities for the
18 production, wholesale distribution, and utilization of water and to own and hold such real and
19 personal property as may be necessary to carry out the purposes of its organization; provided,
20 however, that a commission shall not sell or distribute water, at retail or wholesale, within the
21 certificated area of a water corporation which is subject to the jurisdiction of the public service
22 commission unless the sale or distribution of water is within the boundaries of a public water
23 supply district or municipality which is a contracting municipality in the commission and the
24 commission has obtained the approval of the public service commission prior to commencing
25 such said sale or distribution of water;

26 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,
27 pumping stations, sewage treatment plants and other facilities for the treatment and
28 transportation of sewage and to own and hold such real and personal property as may be
29 necessary to carry out the purposes of its organization;

30 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,
31 transmission and other similar agreements with any person;

32 (6) Make and execute contracts and other instruments necessary or convenient to the
33 exercise of the powers of the commission;

34 (7) Employ agents and employees;

35 (8) Contract with any person, within or outside the state, for the construction of any
36 project or for any interest therein or any right to capacity thereof, without advertising for bids,
37 preparing final plans and specifications in advance of construction, or securing performance and
38 payment of bonds, except to the extent and on such terms as its board of directors or executive
39 committee shall determine[. Any contract entered into pursuant to this subdivision shall contain
40 a provision that the requirements of sections 290.210 to 290.340 shall apply];

41 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat
42 or electric power and energy, or any by-product resulting therefrom, within and outside the state,
43 in such amounts as it shall determine to be necessary and appropriate to make the most effective
44 use of its powers and to meet its responsibilities, and to enter into agreements with any person
45 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms
46 and for such period of time as its board of directors or executive committee shall determine. A
47 commission may not sell or distribute water, gas, heat or power and energy, or sell sewage
48 service at retail to ultimate customers outside the boundary limits of its contracting
49 municipalities except pursuant to subsection 2 or 3 of this section;

50 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,
51 mortgage, pledge, or grant a security interest in any real or personal property, commodity or
52 service or interest therein;

53 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,
54 except that the power of eminent domain shall not be exercised against any electric cooperative
55 association, municipally owned or public utility;

56 (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the
57 authority granted in section 27 of article VI of the Missouri Constitution;

58 (13) Sue and be sued in its own name;

59 (14) Have and use a corporate seal;

60 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,
61 facilities or commodities provided by the commission. The powers enumerated in this
62 subdivision shall constitute the power to tax for purposes of article X, section 15 of the Missouri
63 Constitution;

64 (16) Make, and from time to time, amend and repeal bylaws, rules and regulations not
65 inconsistent with this section to carry into effect the powers and purposes of the commission;

66 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve
67 or sinking funds, or any funds not required for immediate disbursement, including the proceeds
68 from the sale of any bonds, in such obligations, securities and other investments as the
69 commission deems proper;

70 (18) Join organizations, membership in which is deemed by the board of directors or its
71 executive committee to be beneficial to accomplishment of the commission's purposes;

72 (19) Exercise any other powers which are deemed necessary and convenient by the
73 commission to effectuate the purposes of the commission; and

74 (20) Do and perform any acts and things authorized by this section under, through or by
75 means of an agent or by contracts with any person.

76 2. When a municipality purchases a privately owned water utility and a commission is
77 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those
78 locations previously receiving water from the private utility even though the location receives
79 such service outside the geographical area of the municipalities forming the commission. New
80 water service may be provided in such areas if the site to receive such service is located within
81 one-fourth of a mile from a site serviced by the privately owned water utility.

82 3. When a commission created by any of the contracting entities listed in subdivision (4)
83 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer
84 corporation or other nonprofit agency or entity organized to provide water or sewer service, the
85 commission may continue to serve, as well as provide new service to, those locations and areas
86 previously receiving water or sewer service from such nonprofit entity, regardless of whether or
87 not such location receives such service outside the geographical service area of the contracting
88 entities forming such commission; provided that such locations and areas previously receiving
89 water and sewer service from such nonprofit entity are not located within:

90 (1) Any county of the first classification with a population of more than six hundred
91 thousand and less than nine hundred thousand;

92 (2) The boundaries of any sewer district established pursuant to article VI, section 30(a)
93 of the Missouri Constitution; or

94 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction
95 of the public service commission.

407.828. 1. Notwithstanding any provision in a franchise to the contrary, each franchisor
2 shall specify in writing to each of its franchisees in this state the franchisee's obligations for
3 preparation, delivery, and warranty service on its products. The franchisor shall fairly and
4 reasonably compensate the franchisee for preparation, delivery, and warranty service required
5 of the franchisee by the franchisor. The franchisor shall provide the franchisee with the schedule
6 of compensation to be paid to the franchisee for parts, labor, and service, and the time allowance
7 for the performance of the labor and service for the franchisee's obligations for preparation,
8 delivery, and warranty service.

9 2. The schedule of compensation shall include reasonable compensation for diagnostic
10 work, as well as repair service and labor for the franchisee to meet its obligations for preparation,
11 delivery, and warranty service. The schedule shall also include reasonable and adequate time
12 allowances for the diagnosis and performance of preparation, delivery, and warranty service to
13 be performed in a careful and professional manner. [In the determination of what constitutes
14 reasonable compensation for labor and service pursuant to this section, the principal factor to be
15 given consideration shall be the prevailing wage rates being charged for similar labor and service
16 by franchisees in the market in which the franchisee is doing business, and in no event shall the

17 compensation of a franchisee for labor and service be less than the rates charged by the
18 franchisee for similar labor and service to retail customers for nonwarranty labor and service,
19 provided that such rates are reasonable. The primary factor in determining a fair and reasonable
20 compensation for parts under this section shall be the prevailing amount charged for similar parts
21 by other same line-make franchisees in the market in which the franchisee is doing business and
22 the fair and reasonable compensation for parts shall not be less than the amount charged by the
23 franchisee for similar parts to retail customers for nonwarranty parts, provided that such rates are
24 reasonable. If another same line-make franchisee is not available within the market, then the
25 prevailing amount charged for similar parts by other franchisees in the market shall be used as
26 the primary factor.]

27 3. A franchisor shall perform all warranty obligations, including recall notices; include
28 in written notices of franchisor recalls to new motor vehicle owners and franchisees the expected
29 date by which necessary parts and equipment will be available to franchisees for the correction
30 of the defects; and reasonably compensate any of the franchisees in this state for repairs required
31 by the recall. Reasonable compensation for parts, labor, and service shall be determined under
32 subsection 2 of this section.

33 4. No franchisor shall require a franchisee to submit a claim authorized under this section
34 sooner than thirty days after the franchisee completes the preparation, delivery, or warranty
35 service authorizing the claim for preparation, delivery, or warranty service. All claims made by
36 a franchisee under this section shall be paid within thirty days after their approval. All claims
37 shall be either approved or disapproved by the franchisor within thirty days after their receipt on
38 a proper form generally used by the franchisor and containing the usually required information
39 therein. Any claims not specifically disapproved in writing within thirty days after the receipt
40 of the form shall be considered to be approved and payment shall be made within fifteen days
41 thereafter. A franchisee shall not be required to maintain defective parts for more than thirty
42 days after submission of a claim.

43 5. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service
44 promotion events, including but not limited to, rebates, programs, or activities in accordance
45 with established written guidelines for such events, programs, or activities, which guidelines
46 shall be provided to each franchisee.

47 6. No franchisor shall require a franchisee to submit a claim authorized under subsection
48 5 of this section sooner than thirty days after the franchisee becomes eligible to submit the claim.
49 All claims made by a franchisee pursuant to subsection 5 of this section for promotion events,
50 including but not limited to rebates, programs, or activities shall be paid within ten days after
51 their approval. All claims shall be either approved or disapproved by the franchisor within thirty
52 days after their receipt on a proper form generally used by the franchisor and containing the

53 usually required information therein. Any claim not specifically disapproved in writing within
54 thirty days after the receipt of this form shall be considered to be approved and payment shall be
55 made within ten days.

56 7. In calculating the retail rate customarily charged by the franchisee for parts, service,
57 and labor, the following work shall not be included in the calculation:

58 (1) Repairs for franchisor, manufacturer, or distributor special events, specials, or
59 promotional discounts for retail customer repairs;

60 (2) Parts sold at wholesale;

61 (3) Engine assemblies and transmission assemblies;

62 (4) Routine maintenance not covered under any retail customer warranty, such as fluids,
63 filters, and belts not provided in the course of repairs;

64 (5) Nuts, bolts, fasteners, and similar items that do not have an individual part number;

65 (6) Tires; and

66 (7) Vehicle reconditioning.

67 8. If a franchisor, manufacturer, importer, or distributor furnishes a part or component
68 to a franchisee, at no cost, to use in performing repairs under a recall, campaign service action,
69 or warranty repair, the franchisor shall compensate the franchisee for the part or component in
70 the same manner as warranty parts compensation under this section by compensating the
71 franchisee at the average markup on the cost for the part or component as listed in the price
72 schedule of the franchisor, manufacturer, importer, or distributor, less the cost for the part or
73 component.

74 9. A franchisor shall not require a franchisee to establish the retail rate customarily
75 charged by the franchisee for parts, service, or labor by an unduly burdensome or
76 time-consuming method or by requiring information that is unduly burdensome or time
77 consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction
78 calculations. A franchisee shall not request a franchisor to approve a different labor rate or parts
79 rate more than twice in one calendar year.

80 10. If a franchisee submits any claim under this section to a franchisor that is incomplete,
81 inaccurate, or lacking any information usually required by the franchisor, then the franchisor
82 shall promptly notify the franchisee, and the time limit to submit the claim shall be extended for
83 a reasonable length of time, not less than five business days following notice by the franchisor
84 to the franchisee, for the franchisee to provide the complete, accurate, or lacking information to
85 the franchisor.

86 11. (1) A franchisor may only audit warranty, sales, or incentive claims and charge-back
87 to the franchisee unsubstantiated claims for a period of twelve months following payment,
88 subject to all of the provisions of this section. Furthermore, if the franchisor has good cause to

89 believe that a franchisee has submitted fraudulent claims, then the franchisor may only audit
90 suspected fraudulent warranty, sales, or incentive claims and charge-back to the franchisee
91 fraudulent claims for a period of two years following payment, subject to all provisions of this
92 section.

93 (2) A franchisor shall not require documentation for warranty, sales, or incentive claims
94 more than twelve months after the claim was paid.

95 (3) Prior to requiring any charge-back, reimbursement, or credit against a future
96 transaction arising out of an audit, the franchisor shall submit written notice to the franchisee
97 along with a copy of its audit and the detailed reason for each intended charge-back,
98 reimbursement, or credit. A franchisee may file a complaint with the administrative hearing
99 commission within thirty days after receipt of any such written notice challenging such action.
100 If a complaint is filed within the thirty days, then the charge-back, reimbursement, or credit shall
101 be stayed pending a hearing and determination of the matter under section 407.822. If the
102 administrative hearing commission determines that any portion of the charge-back,
103 reimbursement, or credit is improper, then that portion of the charge-back, reimbursement, or
104 credit shall be void and not allowed.

407.1047. 1. The provisions of this section shall apply to franchisors and franchisees
2 engaged in the sale of motorcycles and all-terrain vehicles.

3 2. Each franchisor shall specify in writing to each of its franchisees in this state the
4 franchisee's obligations for preparation, delivery, and warranty service on its products. The
5 franchisor shall compensate the franchisee for warranty service required of the franchisee by the
6 franchisor.

7 3. The franchisor shall provide the franchisee with the schedule of compensation to be
8 paid to the franchisee for parts, work, and service, and the time allowance for the performance
9 of the work and service. The schedule of compensation shall include reasonable compensation
10 for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and
11 performance of warranty work and service shall be reasonable and adequate for the work
12 performed. [In the determination of what constitutes reasonable compensation under this
13 section, the principal factor to be given consideration shall be the prevailing wage rates being
14 paid by the franchisees in the community in which the franchisee is doing business, and in no
15 event shall the compensation of a franchisee for warranty labor be less than the rates charged by
16 the franchisee for like service to retail customers for nonwarranty service and repairs, provided
17 that such rates are reasonable.]

18 4. A franchisor shall not:

19 (1) Fail to perform any warranty obligation;

20 (2) Fail to include in written notices of franchisor recalls to owners of new motorcycles
21 and all-terrain vehicles the expected date by which necessary parts and equipment will be
22 available to franchisees for the correction of the defects; or

23 (3) Fail to compensate any of the franchisees in this state for repairs effected by the
24 recall.

25 5. All claims made by a franchisee pursuant to this section for labor and parts shall be
26 paid within thirty days after their approval. All claims shall be either approved or disapproved
27 by the franchisor within thirty days after their receipt on a proper form generally used by the
28 franchisor and containing the usually required information therein. Any claims not specifically
29 disapproved in writing within thirty days after the receipt of the form shall be considered to be
30 approved and payment shall be made within thirty days. A claim that has been approved and
31 paid may not be charged back to the franchisee unless the franchisor can show that the claim was
32 fraudulent, false, or unsubstantiated, except that a charge back for false or fraudulent claims shall
33 not be made more than two years after payment, and a charge back for unsubstantiated claims
34 shall not be made more than fifteen months after payment. A franchisee shall maintain all
35 records of warranty repairs, including the related time records of its employees, for at least two
36 years following payment of any warranty claim.

37 6. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service
38 promotion events, programs, or activities in accordance with established guidelines for such
39 events, programs, or activities.

40 7. All claims made by a franchisee pursuant to subsection 5 of this section for promotion
41 events, programs, or activities shall be paid within twenty-five days after their approval or
42 program close, whichever comes later. All claims except those of the type set forth in
43 subdivisions (1) and (2) of this subsection shall be either approved or disapproved by the
44 franchisor within thirty days after their receipt on a proper form generally used by the franchisor
45 and containing the usually required information therein. Any claim not specifically disapproved
46 in writing within thirty days after the receipt of this form shall be considered to be approved, and
47 payment shall be made within thirty days. The franchisor has the right to charge back any claim
48 for twelve months after the later of either the close of the promotion event, program, or activity,
49 or the date of the payment. The provisions of this subsection shall not apply to:

50 (1) Claims related to holdbacks, retail sales bonuses, or similar programs in which the
51 franchisor accrues a certain portion of the vehicle sales price for the franchisee and then at a later
52 point in time pays that amount to the franchisee, in which event the franchisor shall compensate
53 a franchisee no later than forty-five days following the payment date that the franchisor specified
54 in the program;

55 (2) Claims related to franchisor's use of a "balance forward account" to make
 56 reimbursement, in which event the franchisor shall compensate a franchisee no later than
 57 seventy-five days following the date that the franchisee properly registered the manufacturer's
 58 limited warranty for the vehicle.

516.130. Within three years:

2 (1) An action against a sheriff, coroner or other officer, upon a liability incurred by the
 3 doing of an act in his official capacity and in virtue of his office, or by the omission of an official
 4 duty, including the nonpayment of money collected upon an execution or otherwise;

5 (2) An action upon a statute for a penalty or forfeiture, where the action is given to the
 6 party aggrieved, or to such party and the state[;

7 (3) An action under section 290.300].

630.546. 1. The commissioner of administration is authorized to enter into a lease
 2 purchase agreement for the use of facilities to be constructed by a private developer on the
 3 grounds of the existing St. Louis state hospital for the use of the department of mental health,
 4 provided any facilities to be constructed shall contain provisions for a possible adaptive re-use
 5 of the present "dome" building.

6 2. The attorney general shall approve the instrument of conveyance as to form.

7 [3. Not less than the prevailing hourly rate of wages paid generally in the locality in
 8 which the work is performed shall be paid by contractors or subcontractors to employees or other
 9 workers when such contractors or subcontractors construct facilities for private developers on
 10 the grounds of the existing St. Louis state hospital for the use of the department of mental health.
 11 Such construction projects shall be considered public works and the determination of the
 12 prevailing hourly rate of wages for the locality shall be made in accordance with the provisions
 13 of sections 290.210 to 290.340.]

[290.095. 1. No contractor or subcontractor may directly or indirectly
 2 receive a wage subsidy, bid supplement, or rebate for employment on a public
 3 works project if such wage subsidy, bid supplement, or rebate has the effect of
 4 reducing the wage rate paid by the employer on a given occupational title below
 5 the prevailing wage rate as provided in section 290.262.

6 2. In the event a wage subsidy, bid supplement, or rebate is lawfully
 7 provided or received under subsections 1 or 2 of this section, the entity receiving
 8 such subsidy, supplement, or rebate shall report the date and amount of such
 9 subsidy, supplement, or rebate to the public body within thirty days of receipt of
 10 payment. This disclosure report shall be a matter of public record under chapter
 11 610.

12 3. Any employer in violation of this section shall owe to the public body
 13 double the dollar amount per hour that the wage subsidy, bid supplement, or
 14 rebate has reduced the wage rate paid by the employer below the prevailing wage
 15 rate as provided in section 290.262 for each hour that work was performed. It

16 shall be the duty of the department to calculate the dollar amount owed to the
17 public body under this section.]

18

[290.210. As used in sections 290.210 to 290.340, unless the context
2 indicates otherwise:

3 (1) "Construction" includes construction, reconstruction, improvement,
4 enlargement, alteration, painting and decorating, or major repair.

5 (2) "Department" means the department of labor and industrial relations.

6 (3) "Locality" means the county where the physical work upon public
7 works is performed, except that if there is not available in the county a sufficient
8 number of competent skilled workmen to construct the public works efficiently
9 and properly, "locality" may include two or more counties adjacent to the one in
10 which the work or construction is to be performed and from which such workers
11 may be obtained in sufficient numbers to perform the work, and that, with respect
12 to contracts with the state highways and transportation commission, "locality"
13 may be construed to include two or more adjacent counties from which workmen
14 may be accessible for work on such construction.

15 (4) "Maintenance work" means the repair, but not the replacement, of
16 existing facilities when the size, type or extent of the existing facilities is not
17 thereby changed or increased.

18 (5) "Prevailing hourly rate of wages" means the wages paid generally, in
19 the locality in which the public works is being performed, to workmen engaged
20 in work of a similar character including the basic hourly rate of pay and the
21 amount of the rate of contributions irrevocably made by a contractor or
22 subcontractor to a trustee or to a third person pursuant to a fund, plan or program,
23 and the amount of the rate of costs to the contractor or subcontractor which may
24 be reasonably anticipated in providing benefits to workmen and mechanics
25 pursuant to an enforceable commitment to carry out a financially responsible plan
26 or program which was communicated in writing to the workmen affected, for
27 medical or hospital care, pensions on retirement or death, compensation for
28 injuries or illness resulting from occupational activity, or insurance to provide
29 any of the foregoing, for unemployment benefits, life insurance, disability and
30 sickness insurance, accident insurance, for vacation and holiday pay, for
31 defraying costs of apprenticeship or other similar programs, or for other bona fide
32 fringe benefits, but only where the contractor or subcontractor is not required by
33 other federal or state law to provide any of the benefits; provided, that the
34 obligation of a contractor or subcontractor to make payment in accordance with
35 the prevailing wage determinations of the department, insofar as sections 290.210
36 to 290.340 are concerned, may be discharged by the making of payments in cash,
37 by the making of irrevocable contributions to trustees or third persons as
38 provided herein, by the assumption of an enforceable commitment to bear the
39 costs of a plan or program as provided herein, or any combination thereof, where

40 the aggregate of such payments, contributions and costs is not less than the rate
 41 of pay plus the other amounts as provided herein.

42 (6) "Public body" means the state of Missouri or any officer, official,
 43 authority, board or commission of the state, or other political subdivision thereof,
 44 or any institution supported in whole or in part by public funds.

45 (7) "Public works" means all fixed works constructed for public use or
 46 benefit or paid for wholly or in part out of public funds. It also includes any work
 47 done directly by any public utility company when performed by it pursuant to the
 48 order of the public service commission or other public authority whether or not
 49 it be done under public supervision or direction or paid for wholly or in part out
 50 of public funds when let to contract by said utility. It does not include any work
 51 done for or by any drainage or levee district.

52 (8) "Workmen" means laborers, workmen and mechanics.]
 53

2 [290.220. It is hereby declared to be the policy of the state of Missouri
 3 that a wage of no less than the prevailing hourly rate of wages for work of a
 4 similar character in the locality in which the work is performed shall be paid to
 5 all workmen employed by or on behalf of any public body engaged in public
 6 works exclusive of maintenance work.]

2 [290.230. 1. Not less than the prevailing hourly rate of wages for work
 3 of a similar character in the locality in which the work is performed, and not less
 4 than the prevailing hourly rate of wages for legal holiday and overtime work,
 5 shall be paid to all workmen employed by or on behalf of any public body
 6 engaged in the construction of public works, exclusive of maintenance work.
 7 Only such workmen as are directly employed by contractors or subcontractors in
 8 actual construction work on the site of the building or construction job shall be
 9 deemed to be employed upon public works.

10 2. When the hauling of materials or equipment includes some phase of
 11 construction other than the mere transportation to the site of the construction,
 12 workmen engaged in this dual capacity shall be deemed employed directly on
 13 public works.]

2 [290.240. 1. The department shall inquire diligently as to any violation
 3 of sections 290.210 to 290.340, shall institute actions for penalties herein
 4 prescribed, and shall enforce generally the provisions of sections 290.210 to
 5 290.340.

6 2. The department may establish rules and regulations for the purpose of
 7 carrying out the provisions of sections 290.210 to 290.340.]

2 [290.250. 1. Every public body authorized to contract for or construct
 3 public works before advertising for bids or undertaking such construction shall
 request the department to determine the prevailing rates of wages for workmen

4 for the class or type of work called for by the public works, in the locality where
5 the work is to be performed. The department shall determine the prevailing
6 hourly rate of wages in the locality in which the work is to be performed for each
7 type of workman required to execute the contemplated contract and such
8 determination or schedule of the prevailing hourly rate of wages shall be attached
9 to and made a part of the specifications for the work. The public body shall then
10 specify in the resolution or ordinance and in the call for bids for the contract what
11 is the prevailing hourly rate of wages in the locality for each type of workman
12 needed to execute the contract and also the general prevailing rate for legal
13 holiday and overtime work. It shall be mandatory upon the contractor to whom
14 the contract is awarded and upon any subcontractor under him to pay not less
15 than the specified rates to all workmen employed by them in the execution of the
16 contract. The public body awarding the contract shall cause to be inserted in the
17 contract a stipulation to the effect that not less than the prevailing hourly rate of
18 wages shall be paid to all workmen performing work under the contract. The
19 employer shall forfeit as a penalty to the state, county, city and county, city, town,
20 district or other political subdivision on whose behalf the contract is made or
21 awarded one hundred dollars for each workman employed, for each calendar day,
22 or portion thereof, such workman is paid less than the said stipulated rates for any
23 work done under said contract, by him or by any subcontractor under him, and
24 the said public body awarding the contract shall cause to be inserted in the
25 contract a stipulation to this effect. It shall be the duty of such public body
26 awarding the contract, and its agents and officers, to take cognizance of all
27 complaints of all violations of the provisions of sections 290.210 to 290.340
28 committed in the course of the execution of the contract, and, when making
29 payments to the contractor becoming due under said contract, to withhold and
30 retain therefrom all sums and amounts due and owing as a result of any violation
31 of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold
32 from any subcontractor under him sufficient sums to cover any penalties withheld
33 from him by the awarding body on account of said subcontractor's failure to
34 comply with the terms of sections 290.210 to 290.340, and if payment has already
35 been made to him, the contractor may recover from him the amount of the
36 penalty in a suit at law.

37 2. In determining whether a violation of sections 290.210 to 290.340 has
38 occurred, and whether the penalty under subsection 1 of this section shall be
39 imposed, it shall be the duty of the department to investigate any claim of
40 violation. Upon completing such investigation, the department shall notify the
41 employer of its findings. If the department concludes that a violation of sections
42 290.210 to 290.340 has occurred and a penalty may be due, the department shall
43 notify the employer of such finding by providing a notice of penalty to the
44 employer. Such penalty shall not be due until forty-five days after the date of the
45 notice of the penalty.

46 3. The employer shall have the right to dispute such notice of penalty in
47 writing to the department within forty-five days of the date of the notice. Upon
48 receipt of this written notice of dispute, the department shall notify the employer
49 of the right to resolve such dispute through arbitration. The state and the
50 employer shall submit to an arbitration process to be established by the
51 department by rule, and in conformance with the guidelines and rules of the
52 American Arbitration Association or other arbitration process mutually agreed
53 upon by the employer and the state. If at any time prior to the department
54 pursuing an enforcement action to enforce the monetary penalty provisions of
55 subsection 1 of this section against the employer, the employer pays the back
56 wages as determined by either the department or the arbitrator, the department
57 shall be precluded from initiating any enforcement action to impose the monetary
58 penalty provisions of subsection 1 of this section.

59 4. If the employer fails to pay all wages due as determined by the
60 arbitrator within forty-five days following the conclusion of the arbitration
61 process, or if the employer fails to exercise the right to seek arbitration, the
62 department may then pursue an enforcement action to enforce the monetary
63 penalty provisions of subsection 1 of this section against the employer. If the
64 court orders payment of the penalties as prescribed in subsection 1 of this section,
65 the department shall be entitled to recover its actual cost of enforcement from
66 such penalty amount.

67 5. Nothing in this section shall be interpreted as precluding an action for
68 enforcement filed by an aggrieved employee as otherwise provided in law.]
69

 [290.260. 1. The department, as it deems necessary, shall from time to
2 time investigate and determine the prevailing hourly rate of wages in the
3 localities. A determination applicable to every locality to be contained in a
4 general wage order shall be made annually on or before July first of each year for
5 the Missouri state highways and transportation commission and shall remain in
6 effect until superseded by a new general wage order. In determining prevailing
7 rates, the department shall ascertain and consider the applicable wage rates
8 established by collective bargaining agreements, if any, and the rates that are paid
9 generally within the locality.

10 2. A certified copy of the determination so made shall be filed
11 immediately with the secretary of state and with the department in Jefferson City.
12 Copies shall be supplied by the department to all persons requesting them within
13 ten days after the filing.

14 3. At any time within thirty days after the certified copies of the
15 determinations have been filed with the secretary of state and the department, any
16 person who is affected thereby may object in writing to the determination or the
17 part thereof that he deems objectionable by filing a written notice with the
18 department, stating the specific grounds of the objection.

19 4. Within thirty days of the receipt of the objection, the department shall
20 set a date for a hearing on the objection. The date for the hearing shall be within
21 sixty days of the receipt of the objection. Written notice of the time and place of
22 the hearing shall be given to the objectors at least ten days prior to the date set for
23 the hearing.

24 5. The department at its discretion may hear each written objection
25 separately or consolidate for hearing any two or more written objections. At the
26 hearing the department shall first introduce in evidence the investigation it
27 instituted and the other facts which were considered at the time of the original
28 determination which formed the basis for its determination. The department, or
29 the objector, or any interested party, thereafter may introduce any evidence that
30 is material to the issues.

31 6. Within twenty days of the conclusion of the hearing, the department
32 must rule on the written objection and make the final determination that it
33 believes the evidence warrants. Immediately, the department shall file a certified
34 copy of its final determination with the secretary of state and with the department
35 and shall serve a copy of the final determination on all parties to the proceedings
36 by personal service or by registered mail.

37 7. This final decision of the department of the prevailing wages in the
38 locality is subject to review in accordance with the provisions of chapter 536.
39 Any person affected, whether or not the person participated in the proceedings
40 resulting in the final determination, may have the decision of the department
41 reviewed. The filing of the final determination with the secretary of state shall
42 be considered a service of the final determination on persons not participating in
43 the administrative proceedings resulting in the final determination.

44 8. At any time before trial any person affected by the final determination
45 of the department may intervene in the proceedings to review under chapter 536
46 and be made a party to the proceedings.

47 9. All proceedings in any court affecting a determination of the
48 department under the provisions of sections 290.210 to 290.340 shall have
49 priority in hearing and determination over all other civil proceedings pending in
50 the court, except election contests.]

51

2 [290.262. 1. Except as otherwise provided in section 290.260, the
3 department shall annually investigate and determine the prevailing hourly rate of
4 wages in each locality for each separate occupational title. A final determination
5 applicable to every locality to be contained in an annual wage order shall be made
6 annually on or before July first of each year and shall remain in effect until
7 superseded by a new annual wage order or as otherwise provided in this section.
8 In determining prevailing rates, the department shall ascertain and consider the
9 applicable wage rates established by collective bargaining agreements, if any, and
the rates that are paid generally within the locality, and shall, by March tenth of

10 each year, make an initial determination for each occupational title within the
11 locality.

12 2. A certified copy of the initial determinations so made shall be filed
13 immediately with the secretary of state and with the department in Jefferson City.
14 Copies shall be supplied by the department to all persons requesting them within
15 ten days after the filing.

16 3. At any time within thirty days after the certified copies of the
17 determinations have been filed with the secretary of state and the department, any
18 person who is affected thereby may object in writing to a determination or a part
19 thereof that he deems objectionable by filing a written notice with the
20 department, stating the specific grounds of the objection. If no objection is filed,
21 the determination is final after thirty days.

22 4. After the receipt of the objection, the department shall set a date for
23 a hearing on the objection. The date for the hearing shall be within sixty days of
24 the receipt of the objection. Written notice of the time and place of the hearing
25 shall be given to the objectors at least ten days prior to the date set for the
26 hearing.

27 5. The department at its discretion may hear each written objection
28 separately or consolidate for hearing any two or more written objections. At the
29 hearing the department shall first introduce in evidence the investigation it
30 instituted and the other facts which were considered at the time of the original
31 determination which formed the basis for its determination. The department, or
32 the objector, or any interested party, thereafter may introduce any evidence that
33 is material to the issues.

34 6. Within twenty days of the conclusion of the hearing, the department
35 shall rule on the written objection and make the final determination that it
36 believes the evidence warrants. Immediately, the department shall file a certified
37 copy of its final determination with the secretary of state and with the department
38 and shall serve a copy of the final determination on all parties to the proceedings
39 by personal service or by registered mail.

40 7. This final decision of the department of the prevailing wages in the
41 locality for each occupational title is subject to review in accordance with the
42 provisions of chapter 536. Any person affected, whether or not the person
43 participated in the proceedings resulting in the final determination, may have the
44 decision of the department reviewed. The filing of the final determination with
45 the secretary of state shall be considered a service of the final determination on
46 persons not participating in the administrative proceedings resulting in the final
47 determination.

48 8. At any time before trial any person affected by the final determination
49 of the department may intervene in the proceedings to review under chapter 536
50 and be made a party to the proceedings.

51 9. Any annual wage order made for a particular occupational title in a
52 locality may be altered once each year, as provided in this subsection. The

53 prevailing wage for each such occupational title may be adjusted on the
54 anniversary date of any collective bargaining agreement which covers all persons
55 in that particular occupational title in the locality in accordance with any annual
56 incremental wage increases set in the collective bargaining agreement. If the
57 prevailing wage for an occupational title is adjusted pursuant to this subsection,
58 the employee's representative or employer in regard to such collective bargaining
59 agreement shall notify the department of this adjustment, including the effective
60 date of the adjustment. The adjusted prevailing wage shall be in effect until the
61 next final annual wage order is issued pursuant to this section. The wage rates
62 for any particular job, contracted and commenced within sixty days of the
63 contract date, which were set as a result of the annual or revised wage order, shall
64 remain in effect for the duration of that particular job.

65 10. In addition to all other reporting requirements of sections 290.210 to
66 290.340, each public body which is awarding a contract for a public works
67 project shall, prior to beginning of any work on such public works project, notify
68 the department, on a form prescribed by the department, of the scope of the work
69 to be done, the various types of craftsmen who will be needed on the project, and
70 the date work will commence on the project.]
71

2 [290.263. The hourly wages to be paid as prescribed in section 290.250
3 to workmen upon public works shall not be less than the minimum wage
4 specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as
5 amended.]

2 [290.265. A clearly legible statement of all prevailing hourly wage rates
3 to be paid to all workmen employed in order to execute the contract and
4 employed on the construction of the public works shall be kept posted in a
5 prominent and easily accessible place at the site thereof by each contractor and
6 subcontractor engaged in the public works projects under the provisions of this
7 law and such notice shall remain posted during the full time that any such
8 workman shall be employed on the public works.]

2 [290.270. The finding of the department ascertaining and declaring the
3 prevailing hourly rate of wages shall be final for the locality, unless reviewed
4 under the provisions of sections 290.210 to 290.340. Nothing in sections
5 290.210 to 290.340, however, shall be construed to prohibit the payment to any
6 workman employed on any public work of more than the prevailing rate of
7 wages. Nothing in sections 290.210 to 290.340 shall be construed to limit the
8 hours of work which may be performed by any workman in any particular period
9 of time.]

2 [290.280. The authorized representative of the department may
administer oaths, take or cause to be taken the depositions of witnesses, and

3 require by subpoena the attendance and testimony of witnesses and the
4 production of all books, records, and other evidence relative to any matter under
5 investigation or hearing. The subpoena shall be signed and issued by the
6 department's authorized representative. In case of failure of any person to comply
7 with any subpoena lawfully issued under this section, or on the refusal of any
8 witness to produce evidence or to testify to any matter regarding which he may
9 be lawfully interrogated, the authorized representative of the department may
10 proceed to enforce obedience to the subpoenas in the manner provided by section
11 536.077 for administrative agencies. The authorized representative of the
12 department shall have the power to certify to official acts.]
13

2 [290.290. 1. The contractor and each subcontractor engaged in any
3 construction of public works shall keep full and accurate records clearly
4 indicating the names, occupations and crafts of every workman employed by
5 them in connection with the public work together with an accurate record of the
6 number of hours worked by each workman and the actual wages paid therefor.
7 The payroll records required to be so kept shall be open to inspection by any
8 authorized representative of the contracting public body or of the department at
9 any reasonable time and as often as may be necessary and such records shall not
10 be destroyed or removed from the state for the period of one year following the
11 completion of the public work in connection with which the records are made.

12 2. Each contractor and subcontractor shall file with the contracting public
13 body upon completion of the public work and prior to final payment therefor an
14 affidavit stating that he had fully complied with the provisions and requirements
15 of this chapter, and no public body shall be authorized to make final payment
16 until such affidavit is filed therewith in proper form and order.

17 3. Each contractor and subcontractor engaged in any construction of
18 public works shall have its name, acceptable abbreviation or recognizable logo
19 and the name of the city and state of the mailing address of the principal office
20 of the company, on each motor vehicle and motorized self-propelled piece of
21 equipment which is used in connection with such public works project during the
22 time the contractor or subcontractor is engaged on such project. The sign shall
23 be legible from a distance of twenty feet but the size of the lettering need not be
24 larger than two inches. In cases where equipment is leased or where affixing a
25 legible sign to the equipment is impractical, the contractor may place a temporary
26 stationary sign, with the information required pursuant to this subsection, at the
27 main entrance of the construction project in place of affixing the required
28 information on the equipment so long as such sign is not in violation of any state
29 or federal statute, rule or regulation. Motor vehicles which are required to have
30 similar information affixed thereto pursuant to requirements of a regulatory
31 agency of the state or federal government are exempt from the provisions of this
subsection.

32 4. The provisions of subsection 3 of this section shall not apply to
33 construction of public works for which the contract awarded is in the amount of
34 two hundred fifty thousand dollars or less.]
35

2 [290.300. Any workman employed by the contractor or by any
3 subcontractor under the contractor who shall be paid for his services in a sum less
4 than the stipulated rates for work done under the contract, shall have a right of
5 action for double whatever difference there may be between the amount so paid
6 and the rates provided by the contract together with a reasonable attorney's fee to
7 be determined by the court, and an action brought to recover same shall be
8 deemed to be a suit for wages, and any and all judgments entered therein shall
9 have the same force and effect as other judgments for wages.]

2 [290.305. No person, firm or corporation shall violate the wage
3 provisions of any contract contemplated in sections 290.210 to 290.340 or suffer
4 or require any employee to work for less than the rate of wages so fixed, or
5 violate any of the provisions contained in sections 290.210 to 290.340. Where
6 workmen are employed and their rate of wages has been determined as provided
7 in sections 290.210 to 290.340, no person, either for himself or any other person,
8 shall request, demand or receive, either before or after such workman is engaged,
9 that such workman pay back, return, donate, contribute, or give any part or all of
10 said workman's wages, salary, or thing of value, to any person, upon the
11 statement, representation, or understanding that failure to comply with such
12 request or demand will prevent such workman from procuring or retaining
13 employment, and no person shall, directly or indirectly, pay, request or authorize
14 any other person to violate this section. This section does not apply to any agent
15 or representative of a duly constituted labor organization acting in the collection
16 of dues or assessments of such organization.]

2 [290.315. All contractors and subcontractors required in sections 290.210
3 to 290.340 to pay not less than the prevailing rate of wages shall make full
4 payment of such wages in legal tender, without any deduction for food, sleeping
5 accommodations, transportation, use of small tools, or any other thing of any kind
6 or description. This section does not apply where the employer and employee
7 enter into an agreement in writing at the beginning of said term of employment
8 covering deductions for food, sleeping accommodations, or other similar items,
9 provided such agreement is submitted by the employer to the public body
10 awarding the contract and the same is approved by such public body as fair and
11 reasonable.]

2 [290.320. No public body, officer, official, member, agent or
3 representative authorized to contract for public works shall fail, before
advertising for bids or contracting for such construction, to have the department

4 determine the prevailing rates of wages of workmen for each class of work called
5 for by the public works in the locality where the work is to be performed as
6 provided in sections 290.210 to 290.340.]
7

2 [290.325. No public body, officer, official, member, agent or
3 representative thereof authorized to contract for public works shall award a
4 contract for the construction of such improvement or disburse any funds on
5 account of the construction of such public improvement, unless such public body
6 has first had the department determine the prevailing rates of wages of workmen
7 for the class of work called for by such public works in the locality where the
8 work is to be performed and such determination has been made a part of the
9 specifications and contract for such public works.]

2 [290.330. The department after investigation, upon complaint or upon its
3 own initiative, shall file with the secretary of state a list of the contractors and
4 subcontractors who it finds have been prosecuted and convicted for violations of
5 sections 290.210 to 290.340 and such contractor or subcontractor, or simulations
6 thereof, shall be prohibited from contracting directly or indirectly with any public
7 body for the construction of any public works or from performing any work on
8 the same as a contractor or subcontractor for a period of one year from the date
9 of the first conviction for such violation and for a period of three years from the
10 date of each subsequent violation and conviction thereof. No public body shall
11 award a contract for a public works to any contractor or subcontractor, or
12 simulation thereof, during the time that its name appears on said list. The filing
13 of the notice of conviction with the secretary of state shall be notice to all public
14 bodies and their officers, officials, members, agents and representatives.]

2 [290.335. If it is found that a public body, contractor or subcontractor has
3 not complied with any of the terms of sections 290.210 to 290.340, the
4 department shall give notice of the precise violation in writing to such public
5 body, contractor or subcontractor. Sufficient time may be allowed for
6 compliance therewith as the department deems necessary. After the expiration
7 of the time prescribed in said notice, the department may in writing inform the
8 attorney general of the fact that such notice has been given and that the public
9 body, contractor or subcontractor or the authorized representative or agent thereof
10 to whom it was directed has not complied with such notice. Upon receipt thereof,
11 the attorney general shall at the earliest possible time bring suit in the name of the
12 state in the circuit court of the county in which such public body is located or
13 where any such contractor or subcontractor is engaged in any public works to
14 enjoin the award of such contract for a public works, or any further work or
15 payments thereunder if the contract has been awarded, until the requirements of
16 such notice are fully complied with. The court may issue a temporary restraining
order with due notice to the defendant in such action. The plaintiff shall in any

17 such injunctive action post an adequate bond to be set by the circuit judge. Upon
18 final hearing thereof, if the court is satisfied that the requirements of the notice
19 by the department to the defendant were not unreasonable or arbitrary, it shall
20 issue an order enjoining the awarding of such contract for a public works, or any
21 further work or payments thereunder if the contract has been awarded, until the
22 notice is fully complied with. Such injunction shall continue operative until the
23 court is satisfied that the requirements of such notice have been complied with
24 and the court shall have and exercise with respect to the enforcement of such
25 injunctions all the power in it in other similar cases. Both the plaintiff and
26 defendant in such action have the same rights of appeal as are provided by law
27 in other injunction proceedings.]

28

2 [290.340. Any officer, official, member, agent or representative of any
3 public body, contractor or subcontractor who willfully violates and omits to
4 comply with any of the provisions and requirements of sections 290.210 to
5 290.340 shall be punished for each violation thereof by a fine not exceeding five
6 hundred dollars, or by imprisonment not exceeding six months, or by both such
7 fine and imprisonment. Each day such violation or omission continues shall
constitute a separate offense as contemplated by this section.]

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