

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1912

98TH GENERAL ASSEMBLY

5160H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, 192.300, and 197.315, RSMo, and to enact in lieu thereof twelve new sections relating to political subdivisions, with penalty provisions, and an emergency clause for a certain section.

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

Section A. Sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 2 55.161, 64.875, 192.300, and 197.315, RSMo, are repealed and twelve new sections enacted in 3 lieu thereof, to be known as sections 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 4 55.161, 64.875, 192.300, 197.315, and 473.751 to read as follows:

49.410. When the ground for erecting any public building shall be designated, as 2 aforesaid, [the superintendent shall prepare and submit to] the county commission **shall have** 3 **prepared** a plan of the building to be erected, the dimensions thereof, and the materials of which 4 it is to be composed, with an estimate of the probable cost thereof.

49.420. When any plan shall be approved by the county commission, the 2 [superintendent] **county commission** shall immediately advertise for bids for the erection and 3 construction of same, stating in such advertisement a description of such building or buildings, 4 and shall contract with the person or firm who will agree to do the work and furnish the 5 necessary material on the lowest and best terms not exceeding the amount appropriated or set 6 apart for such building or buildings; provided, that in case the lowest bid received shall be in 7 excess of the amount appropriated, after two successive advertisements for such bids, then, if 8 such county commission shall be of the opinion that such building or buildings can be 9 constructed or built for a sum not in excess of the amount appropriated, or if the commission

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.

10 shall be of the opinion that there is collusion or combination between the bidders for the purpose
11 of forcing the county to pay an exorbitant price for the construction of such building or buildings,
12 then, the commission may, in its discretion, let such building or buildings at private contract, to
13 be constructed according to original plans and specifications upon which bids were received and
14 approved by the county commission.

49.430. The [superintendent] **county commission** shall take from the contractor a bond
2 to the county, with sufficient security, for the performance of the work at the time and in the
3 manner agreed on, according to the plan, under a penalty at least one hundred ten percent of the
4 amount to be given for erecting the building. A copy of the plan shall be annexed to the bond.

49.440. The [superintendent shall oversee and direct] **county commission may contract**
2 **for oversight and direction of** the execution of the work[, and] **to** see that the materials
3 employed are good[,] and that the work is executed according to contract[,] . [and make] **The**
4 **contractor shall** report [of] **on** the progress and condition thereof, from time to time, to the
5 county commission.

50.660. 1. All contracts shall be executed in the name of the county, or in the name of
2 a township in a county with a township form of government, by the head of the department or
3 officer concerned, except contracts for the purchase of supplies, materials, equipment or services
4 other than personal made by the officer in charge of purchasing in any county or township having
5 the officer. No contract or order **in excess of ten thousand dollars** imposing any financial
6 obligation on the county or township is binding on the county or township unless it is in writing
7 and unless there is a balance otherwise unencumbered to the credit of the appropriation to which
8 it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the
9 fund from which payment is to be made, each sufficient to meet the obligation incurred and
10 unless the contract or order **in excess of ten thousand dollars** bears the certification of the
11 accounting officer so stating; except that in case of any contract for public works or buildings
12 to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the
13 accounting officer to certify that the bonds or taxes have been authorized by vote of the people
14 and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes
15 levied and yet to be collected to meet the obligation in case there is not a sufficient
16 unencumbered cash balance in the treasury. All contracts and purchases shall be let to the lowest
17 and best bidder after due opportunity for competition, including advertising the proposed letting
18 in a newspaper in the county or township with a circulation of at least five hundred copies per
19 issue, if there is one, except that the advertising is not required in case of contracts or purchases
20 involving an expenditure of less than [six] **ten thousand dollars**. It is not necessary to obtain bids
21 on any purchase in the amount of [four] **ten thousand [five hundred]** dollars or less made from
22 any one person, firm or corporation during any [period of ninety days] **fiscal year** or, if the

23 county is any county of the first classification with more than one hundred fifty thousand but
24 fewer than two hundred thousand inhabitants or any county of the first classification with more
25 than two hundred sixty thousand but fewer than three hundred thousand inhabitants, it is not
26 necessary to obtain bids on such purchases in the amount of six thousand dollars or less. All bids
27 for any contract or purchase may be rejected and new bids advertised for. Contracts which
28 provide that the person contracting with the county or township shall, during the term of the
29 contract, furnish to the county or township at the price therein specified the supplies, materials,
30 equipment or services other than personal therein described, in the quantities required, and from
31 time to time as ordered by the officer in charge of purchasing during the term of the contract,
32 need not bear the certification of the accounting officer, as herein provided; but all orders for
33 supplies, materials, equipment or services other than personal shall bear the certification. In case
34 of such contract, no financial obligation accrues against the county or township until the supplies,
35 materials, equipment or services other than personal are so ordered and the certificate furnished.

36 2. Notwithstanding the provisions of subsection 1 of this section to the contrary,
37 advertising shall not be required in any county in the case of contracts or purchases involving an
38 expenditure of less than ~~[six]~~ **ten** thousand dollars.

50.783. 1. The county commission may waive the requirement of competitive bids or
2 proposals for supplies when the commission has determined in writing and entered into the
3 commission minutes that there is only a single feasible source for the supplies. Immediately
4 upon discovering that other feasible sources exist, the commission shall rescind the waiver and
5 proceed to procure the supplies through the competitive processes as described in this chapter.
6 A single feasible source exists when:

7 (1) Supplies are proprietary and only available from the manufacturer or a single
8 distributor; or

9 (2) Based on past procurement experience, it is determined that only one distributor
10 services the region in which the supplies are needed; or

11 (3) Supplies are available at a discount from a single distributor for a limited period of
12 time.

13 2. On any single feasible source purchase where the estimated expenditure is [three]
14 **more than five thousand dollars but less than ten** thousand dollars [or over], the commission
15 shall post notice of the proposed purchase. Where the estimated expenditure is [five] **ten**
16 thousand dollars or over, the commission shall also advertise the commission's intent to make
17 such purchase in at least one daily and one weekly newspaper of general circulation in such
18 places as are most likely to reach prospective bidders or offerors and may provide such
19 information through an electronic medium available to the general public at least ten days before
20 the contract is to be let.

21 3. Notwithstanding subsection 2 of this section to the contrary, on any single feasible
22 service purchase by any county of the first classification with more than one hundred fifty
23 thousand but fewer than two hundred thousand inhabitants or any county of the first
24 classification with more than two hundred sixty thousand but fewer than three hundred thousand
25 inhabitants where the estimated expenditure is six thousand dollars or over, the commission shall
26 post notice of the proposed purchase and advertise the commission's intent to make such
27 purchase in at least one daily and one weekly newspaper of general circulation in such places as
28 are most likely to reach prospective bidders or offerors and may provide such information
29 through an electronic medium available to the general public at least ten days before the contract
30 is to be let.

 50.790. It shall hereafter be unlawful for the commissioners of the county commission
2 of any county of this state to which sections 50.760 to 50.790 apply to draw, or authorize the
3 drawing of, any check or county warrant, or other order for the payment of money for any
4 supplies for any county officer for which an order or requisition has not first been obtained as
5 in sections 50.760 to 50.790 required. Whosoever shall violate the provisions of this law shall
6 be deemed guilty of [a misdemeanor] **an infraction** and upon conviction thereof shall be
7 punished by a fine of not [less than fifty dollars nor more than one thousand] **more than one**
8 **hundred** dollars, or by imprisonment in the county jail for a term of not less than thirty days nor
9 more than one year, or by both such fine and imprisonment; provided, that if any such
10 commissioner shall be absent at the time, or shall cause his protest against such action to be
11 entered in the minutes of the commission, when any violation of this law is ordered by the other
12 commissioners of such commission, he shall not be deemed to have violated the provisions of
13 this law.

 55.161. In addition to all other duties imposed upon the county auditor in counties of the
2 first class not having a charter form of government and in counties of the second class, [he] **the**
3 **auditor** shall have the following duties:

4 (1) He **or she** shall audit, examine and adjust all accounts of county officials and courts
5 operating in such counties where there is an accumulation of moneys, taxes, fees, fines and
6 miscellaneous public funds received from any and all sources by county officials and courts
7 operating in such counties, and which are accumulated and intended for public purposes other
8 than the general administrative functions of the county, provided that such extra duty of
9 accounting is to be performed in the same manner as is now by statute prescribed for the general
10 county administrative business. He **or she** shall also audit moneys and funds belonging to any
11 levee district organized and operating in such county, moneys to be disbursed to school districts
12 organized and operating in such county, and moneys to be disbursed in the county for library,
13 hospital, recreation, public health and civil defense purposes;

14 (2) He **or she** shall prepare a statement of the estimated revenues of the county,
15 classified as to funds and sources, and shall furnish the budget officer of the county with an
16 itemized list of county expenditures for as many previous fiscal years as may be deemed proper
17 for enabling the budget officer to arrive at a reasonable estimate of the anticipated revenues and
18 the necessary expenses of the county in the preparation of the county budget;

19 (3) [He shall countersign, on behalf of the county, all licenses issued for the sale of
20 intoxicating liquor and shall keep in a readily accessible form a record of all such county licenses
21 issued; and

22 (4)] In counties of the second [class] **classification** only, he **or she** shall serve as a
23 member of the county board of equalization.

64.875. The regulations imposed and the districts created under authority of sections
2 64.845 to 64.880 may be amended from time to time by the county commission by order after
3 the order establishing the same has gone into effect but no amendments shall be made by the
4 county commission except after recommendation of the county planning commission, or if there
5 be no county planning commission, of the county zoning commission, after hearings thereon by
6 the **county** commission. Public notice of the hearings shall be given in the same manner as
7 provided for the hearing in section 64.815. In case of written protest against any proposed
8 change or amendment, signed and acknowledged by the owners of thirty percent of the frontage
9 within one thousand feet to the right or left of the frontage proposed to be changed, or by the
10 owners of thirty percent of the frontage directly opposite, or directly in the rear of the frontage
11 proposed to be altered, or in cases where the land affected lies within one and one-half miles of
12 the corporate limits of a municipality having in effect ordinances zoning property within the
13 corporate limits of a municipality, made by resolution of the city council or board of trustees
14 thereof, and filed with the county clerk, the amendment may not be passed except by the
15 favorable vote of two-thirds of all the members of the county commission.

192.300. 1. The county commissions [and] **with the concurrence** of the county health
2 center boards of the several counties may make and promulgate orders, ordinances, rules or
3 regulations, respectively as will tend to enhance the public health and prevent the entrance of
4 infectious, contagious, communicable or dangerous diseases into such county, but any orders,
5 ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized
6 and made by the department of health and senior services in accordance with this chapter or by
7 the department of social services under chapter 198. The county commissions [and] **with the**
8 **concurrence** of the county health center boards of the several counties may establish reasonable
9 fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations,
10 however, the establishment of such fees shall not deny personal health services to those
11 individuals who are unable to pay such fees or impede the prevention or control of

12 communicable disease. Fees generated shall be deposited in the county treasury. All fees
13 generated under the provisions of this section shall be used to support the public health activities
14 for which they were generated. After the promulgation and adoption of such orders, ordinances,
15 rules or regulations by such county commission [or county health board], such commission [or
16 county health board] shall make and enter an order or record declaring such orders, ordinances,
17 rules or regulations to be printed and available for distribution to the public in the office of the
18 county clerk, and shall require a copy of such order to be published in some newspaper in the
19 county in three successive weeks, not later than thirty days after the entry of such order,
20 ordinance, rule or regulation. Any person, firm, corporation or association which violates any
21 of the orders or ordinances adopted, promulgated and published by such county commission is
22 guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.
23 The county commission [or county health board] of any such county has full power and authority
24 to initiate the prosecution of any action under this section.

25 **2. Notwithstanding the provisions of subsection 1 of this section, in the event of an**
26 **emergency, a county commission or the county health center board may make and**
27 **promulgate any orders, ordinances, rules, or regulations in order to protect public health,**
28 **safety, or welfare, but the orders, ordinances, rules, or regulations shall not be in conflict**
29 **with any rules or regulations authorized and made by the department of health and senior**
30 **services in accordance with this chapter or by the department of social services under**
31 **chapter 198.**

197.315. 1. Any person who proposes to develop or offer a new institutional health
2 service within the state must obtain a certificate of need from the committee prior to the time
3 such services are offered.

4 2. Only those new institutional health services which are found by the committee to be
5 needed shall be granted a certificate of need. Only those new institutional health services which
6 are granted certificates of need shall be offered or developed within the state. No expenditures
7 for new institutional health services in excess of the applicable expenditure minimum shall be
8 made by any person unless a certificate of need has been granted.

9 3. After October 1, 1980, no state agency charged by statute to license or certify health
10 care facilities shall issue a license to or certify any such facility, or distinct part of such facility,
11 that is developed without obtaining a certificate of need.

12 4. If any person proposes to develop any new institutional health care service without
13 a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the
14 attorney general, and he shall apply for an injunction or other appropriate legal action in any
15 court of this state against that person.

16 5. After October 1, 1980, no agency of state government may appropriate or grant funds
17 to or make payment of any funds to any person or health care facility which has not first obtained
18 every certificate of need required pursuant to sections 197.300 to 197.366.

19 6. A certificate of need shall be issued only for the premises and persons named in the
20 application and is not transferable except by consent of the committee.

21 7. Project cost increases, due to changes in the project application as approved or due
22 to project change orders, exceeding the initial estimate by more than ten percent shall not be
23 incurred without consent of the committee.

24 8. Periodic reports to the committee shall be required of any applicant who has been
25 granted a certificate of need until the project has been completed. The committee may order the
26 forfeiture of the certificate of need upon failure of the applicant to file any such report.

27 9. A certificate of need shall be subject to forfeiture for failure to incur a capital
28 expenditure on any approved project within six months after the date of the order. The applicant
29 may request an extension from the committee of not more than six additional months based upon
30 substantial expenditure made.

31 10. Each application for a certificate of need must be accompanied by an application fee.
32 The time of filing commences with the receipt of the application and the application fee. The
33 application fee is one thousand dollars, or one-tenth of one percent of the total cost of the
34 proposed project, whichever is greater. All application fees shall be deposited in the state
35 treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the
36 Missouri health facilities review committee.

37 11. In determining whether a certificate of need should be granted, no consideration shall
38 be given to the facilities or equipment of any other health care facility located more than a
39 fifteen-mile radius from the applying facility.

40 12. When a nursing facility shifts from a skilled to an intermediate level of nursing care,
41 it may return to the higher level of care if it meets the licensure requirements, without obtaining
42 a certificate of need.

43 13. In no event shall a certificate of need be denied because the applicant refuses to
44 provide abortion services or information.

45 14. A certificate of need shall not be required for the transfer of ownership of an existing
46 and operational health facility in its entirety.

47 15. A certificate of need may be granted to a facility for an expansion, an addition of
48 services, a new institutional service, or for a new hospital facility which provides for something
49 less than that which was sought in the application.

50 16. The provisions of this section shall not apply to facilities operated by the state, and
51 appropriation of funds to such facilities by the general assembly shall be deemed in compliance

52 with this section, and such facilities shall be deemed to have received an appropriate certificate
 53 of need without payment of any fee or charge. **The provisions of this subsection shall not**
 54 **apply to hospitals operated by the state and licensed under chapter 197, except for**
 55 **department of mental health state-operated psychiatric hospitals.**

56 17. Notwithstanding other provisions of this section, a certificate of need may be issued
 57 after July 1, 1983, for an intermediate care facility operated exclusively for the intellectually
 58 disabled.

59 18. To assure the safe, appropriate, and cost-effective transfer of new medical technology
 60 throughout the state, a certificate of need shall not be required for the purchase and operation of:

61 (1) Research equipment that is to be used in a clinical trial that has received written
 62 approval from a duly constituted institutional review board of an accredited school of medicine
 63 or osteopathy located in Missouri to establish its safety and efficacy and does not increase the
 64 bed complement of the institution in which the equipment is to be located. After the clinical trial
 65 has been completed, a certificate of need must be obtained for continued use in such facility; or

66 (2) **Equipment that is to be used by an academic health center operated by the state**
 67 **in furtherance of its research or teaching missions.**

473.751. Public administrators may utilize an auction as a way to sell property.
 2 **Such auction shall serve as the appraisal and sale of such property.**

2 [49.330. The county commission shall appoint some suitable person to
 3 superintend the erection of the buildings who shall take an oath to discharge
 4 faithfully and impartially the duties enjoined on him by sections 49.310 to
 5 49.470. The superintendent of the county buildings shall receive the
 6 compensation for his services that the county commission deems reasonable, to
 7 be paid out of the county treasury. The county commission shall fill any vacancy
 which occurs in the office of superintendent.]

2 Section B. Because immediate action is necessary to preserve access to quality health
 3 care facilities for the citizens of Missouri, the repeal and reenactment of section 197.315 of
 4 section A of this act is deemed necessary for the immediate preservation of the public health,
 5 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of
 6 the constitution, and the repeal and reenactment of section 197.315 of section A of this act shall
 be in full force and effect upon its passage and approval.

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