SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1912
98TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, May 4, 2016, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

5160S.08C

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 eleven 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49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, 192.300, and 197.315, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, 192.300, and 197.315, to read as follows:

49.410. When the ground for erecting any public building shall be designated, as aforesaid, [the superintendent shall prepare and submit to] the county commission shall have prepared a plan of the building to be erected, the dimensions thereof, and the materials of which 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 county commission shall immediately advertise for bids for the erection and construction of same, stating in such advertisement a description of such building or buildings, and shall contract with the person or firm who will agree to do the work and furnish the necessary material on the lowest and best terms not exceeding the amount appropriated or set apart for such building or buildings; provided, that in case the lowest bid received shall be in excess of the amount appropriated, after two successive advertisements for such bids, then, if

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
such county commission shall be of the opinion that such building or buildings can be constructed or built for a sum not in excess of the amount appropriated, or if the commission shall be of the opinion that there is collusion or combination between the bidders for the purpose of forcing the county to pay an exorbitant price for the construction of such building or buildings, then, the commission may, in its discretion, let such building or buildings at private contract, to be constructed according to original plans and specifications upon which bids were received and approved by the county commission.

49.430. The superintendent county commission shall take from the contractor a bond to the county, with sufficient security, for the performance of the work at the time and in the manner agreed on, according to the plan, under a penalty at least one hundred ten percent of the 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 for oversight and direction of the execution of the work[, and] to see that the materials employed are good[, and that the work is executed according to contract[, and make]. The contractor shall report [of] on the progress and condition thereof, from time to time, to the county commission.

50.660. [1.] All contracts shall be executed in the name of the county, or in the name of a township in a county with a township form of government, by the head of the department or officer concerned, except contracts for the purchase of supplies, materials, equipment or services other than personal made by the officer in charge of purchasing in any county or township having the officer. No contract or order in excess of ten thousand dollars imposing any financial obligation on the county or township is binding on the county or township unless it is in writing and unless there is a balance otherwise unencumbered to the credit of the appropriation to which it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet the obligation incurred and unless the contract or order in excess of ten thousand dollars bears the certification of the accounting officer so stating; except that in case of any contract for public works or buildings to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the accounting officer to certify that the bonds or taxes have been authorized by vote of the people and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected...
to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury. All contracts and purchases shall be let to the lowest and best bidder after due opportunity for competition, including advertising the proposed letting in a newspaper in the county or township with a circulation of at least five hundred copies per issue, if there is one, except that the advertising is not required in case of contracts or purchases involving an expenditure of [less than six] ten thousand dollars or less. It is not necessary to obtain bids on any purchase in the amount of [four] ten thousand [five hundred] dollars or less made from any one person, firm or corporation during any [period of ninety days or, if the county is any county of the first classification with more than one hundred fifty thousand but fewer than two hundred thousand inhabitants or any county of the first classification with more than two hundred sixty thousand but fewer than three hundred thousand inhabitants, it is not necessary to obtain bids on such purchases in the amount of six thousand dollars or less] fiscal year. All bids for any contract or purchase may be rejected and new bids advertised for. Contracts which provide that the person contracting with the county or township shall, during the term of the contract, furnish to the county or township at the price therein specified the supplies, materials, equipment or services other than personal therein described, in the quantities required, and from time to time as ordered by the officer in charge of purchasing during the term of the contract, need not bear the certification of the accounting officer, as herein provided; but all orders for supplies, materials, equipment or services other than personal shall bear the certification. In case of such contract, no financial obligation accrues against the county or township until the supplies, materials, equipment or services other than personal are so ordered and the certificate furnished.

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

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

(1) Supplies are proprietary and only available from the manufacturer or
9 a single distributor; or
10 (2) Based on past procurement experience, it is determined that only one
distributor 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 time.
12 2. On any single feasible source purchase where the estimated
expenditure is [three] more than five thousand dollars [or over], the
commission shall post notice of the proposed purchase. Where the estimated
expenditure is [five] more than ten thousand dollars [or over], the commission
shall also advertise the commission's intent to make such purchase in at least one
daily and one weekly newspaper of general circulation in such places as are most
likely to reach prospective bidders or offerors and may provide such information
through an electronic medium available to the general public at least ten days
before the contract is to be let.
13 3. Notwithstanding subsection 2 of this section to the contrary, on any
single feasible service purchase by any county of the first classification with more
than one hundred fifty thousand but fewer than two hundred thousand
inhabitants or any county of the first classification with more than two hundred
sixty thousand but fewer than three hundred thousand inhabitants where the
estimated expenditure is six thousand dollars or over, the commission shall post
notice of the proposed purchase and advertise the commission's intent to make
such purchase in at least one daily and one weekly newspaper of general
circulation in such places as are most likely to reach prospective bidders or
offerors and may provide such information through an electronic medium
available to the general public at least ten days before the contract is to be let.]
time, or shall cause his protest against such action to be entered in the minutes of the commission, when any violation of this law is ordered by the other commissioners of such commission, he shall not be deemed to have violated the provisions of this law.

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

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

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

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

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

64.875. The regulations imposed and the districts created under authority of sections 64.845 to 64.880 may be amended from time to time by the county commission by order after the order establishing the same has gone into effect but no amendments shall be made by the county commission except after recommendation of the county planning commission, or if there be no county planning commission, of the county zoning commission, after hearings thereon by
the county commission. Public notice of the hearings shall be given in the same manner as provided for the hearing in section 64.815. In case of written protest against any proposed change or amendment, signed and acknowledged by the owners of thirty percent of the frontage within one thousand feet to the right or left of the frontage proposed to be changed, or by the owners of thirty percent of the frontage directly opposite, or directly in the rear of the frontage proposed to be altered, or in cases where the land affected lies within one and one-half miles of the corporate limits of a municipality having in effect ordinances zoning property within the corporate limits of a municipality, made by resolution of the city council or board of trustees thereof, and filed with the county clerk, the amendment may not be passed except by the 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 center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the department of health and senior services in accordance with this chapter or by the department of social services under chapter 198. The county commissions [and] with the concurrence of the county health center boards of the several counties may establish reasonable fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations, however, the establishment of such fees shall not deny personal health services to those individuals who are unable to pay such fees or impede the prevention or control of communicable disease. Fees generated shall be deposited in the county treasury. All fees generated under the provisions of this section shall be used to support the public health activities for which they were generated. After the promulgation and adoption of such orders, ordinances, rules or regulations by such county commission [or county health board], such commission [or county health board] shall make and enter an order or record declaring such orders, ordinances, rules or regulations to be printed and available for distribution to the public in the office of the county clerk, and shall require a copy of such order to be published in some newspaper in the county in three successive weeks, not later than thirty days after the entry of such order, ordinance, rule or regulation. Any person, firm, corporation or association which violates any of the orders or
ordinances adopted, promulgated and published by such county commission is
guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise
provided by law. The county commission [or county health board] of any such
county has full power and authority to initiate the prosecution of any action
under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be
deemed to have received an appropriate certificate of need without payment of any fee or charge. The provisions of this subsection shall not apply to hospitals operated by the state and licensed under chapter 197, except for department of mental health state-operated psychiatric hospitals.

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

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

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

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

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

Section B. Because immediate action is necessary to preserve access to quality health care facilities for the citizens of Missouri, the repeal and reenactment of section 197.315 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of 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.