

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 206, Page 4, Section 8.231, Line 91, by
2 inserting after all of said section and line the following:

3
4 "33.150. The original of all accounts, or an exact digital facsimile of the original, vouchers
5 and documents approved or to be approved by the commissioner of administration shall be
6 preserved in his office; and copies thereof shall be given without charge to any person, county, city,
7 town, township and school or special road district interested therein, that may require the same for
8 the purpose of being used as evidence in the trial of the cause, and like copies shall be furnished to
9 any corporation or association requiring the same, under tender of the fees allowed by law;
10 provided, that the commissioner of administration may destroy or dispose in the manner provided by
11 law of all paid accounts, vouchers and duplicate receipts of the state treasurer and other documents
12 which may have been on file in the office of the commissioner of administration or his predecessor
13 as custodian of such documents for a period of five years or longer, except such documents as may
14 at the time be the subject of litigation or dispute.

15 34.040. 1. All purchases in excess of ~~three~~ ten thousand dollars shall be based on
16 competitive bids, except as otherwise provided in this chapter.

17 2. On any purchase where the estimated expenditure shall be ~~twenty-five~~ one hundred
18 thousand dollars or over, except as provided in subsection 6 of this section, the commissioner of
19 administration shall:

20 (1) Advertise for bids in at least two daily newspapers of general circulation in such places
21 as are most likely to reach prospective bidders and may advertise in at least two weekly minority
22 newspapers and may provide such information through an electronic medium available to the
23 general public at least five days before bids for such purchases are to be opened. Other methods of
24 advertisement, which may include minority business purchase councils, however, may be adopted
25 by the commissioner of administration when such other methods are deemed more advantageous for
26 the supplies to be purchased;

27 (2) Post a notice of the proposed purchase in his or her office; and

28 (3) Solicit bids by mail or other reasonable method generally available to the public from
29 prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the
30 commissioner of administration so as to reach such office before the time set for opening bids.

31 3. The contract shall be let to the lowest and best bidder. The commissioner of
32 administration shall have the right to reject any or all bids and advertise for new bids, or purchase
33 the required supplies on the open market if they can be so purchased at a better price. When bids
34 received pursuant to this section are unreasonable or unacceptable as to terms and conditions,
35 noncompetitive, or the low bid exceeds available funds and it is determined in writing by the
36 commissioner of administration that time or other circumstances will not permit the delay required

Action Taken _____ Date _____

1 to resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that
2 each responsible bidder who submitted such bid under the original solicitation is notified of the
3 determination and is given a reasonable opportunity to modify their bid and submit a best and final
4 bid to the state. In cases where the bids received are noncompetitive or the low bid exceeds
5 available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible
6 bidder under the original solicitation.

7 4. The director of the department of revenue shall follow bidding procedures as contained in
8 this chapter and may promulgate rules necessary to establish such procedures. No points shall be
9 awarded on a request for proposal for a contract license office to a bidder for a return-to-the-state
10 provision offer.

11 5. All bids shall be based on standard specifications wherever such specifications have been
12 approved by the commissioner of administration. The commissioner of administration shall make
13 rules governing the delivery, inspection, storage and distribution of all supplies so purchased and
14 governing the manner in which all claims for supplies delivered shall be submitted, examined,
15 approved and paid. The commissioner shall determine the amount of bond or deposit and the
16 character thereof which shall accompany bids or contracts.

17 6. The department of natural resources may, without the approval of the commissioner of
18 administration required pursuant to this section, enter into contracts of up to five hundred thousand
19 dollars to abate illegal waste tire sites pursuant to section 260.276 when the director of the
20 department determines that urgent action is needed to protect public health, safety, natural resources
21 or the environment. The department shall follow bidding procedures pursuant to this section and
22 may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that
23 term is defined in section 536.010, that is created under the authority delegated in this section shall
24 become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
25 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers
26 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to
27 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

29 7. The commissioner of administration and other agencies to which the state purchasing law
30 applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the
31 vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or
32 consumption in this state but fails to collect and properly pay the tax as provided in chapter 144.
33 For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is
34 controlled by or is under common control with the vendor, whether through stock ownership or
35 otherwise.

36 8. The commissioner of administration shall be authorized to hold reverse auctions to
37 procure merchandise, supplies, raw materials, or finished goods if price is the primary factor in
38 evaluating bids, excluding items in section 34.047. The office of administration shall promulgate
39 rules regarding the handling of the reverse auction process.

40 9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
41 under the authority delegated in this section shall become effective only if it complies with and is
42 subject to all the provisions of chapter 536 and, if applicable, section 536.028. This section and
43 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
44 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
45 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
46 August 28, 2019, shall be invalid and void.

47 34.042. 1. When the commissioner of administration determines that the use of competitive
48 bidding is either not practicable or not advantageous to the state, supplies may be procured by
49 competitive proposals. The commissioner shall state the reasons for such determination, and a

1 report containing those reasons shall be maintained with the vouchers or files pertaining to such
 2 purchases. All purchases in excess of ~~[five]~~ ten thousand dollars to be made under this section shall
 3 be based on competitive proposals.

4 2. On any purchase where the estimated expenditure shall be ~~[twenty-five]~~ one hundred
 5 thousand dollars or over, the commissioner of administration shall:

6 (1) Advertise for proposals in at least two daily newspapers of general circulation in such
 7 places as are most likely to reach prospective offerors and may advertise in at least two weekly
 8 minority newspapers and may provide such information through an electronic medium available to
 9 the general public at least five days before proposals for such purchases are to be opened. Other
 10 methods of advertisement, however, may be adopted by the commissioner of administration when
 11 such other methods are deemed more advantageous for the supplies to be purchased;

12 (2) Post notice of the proposed purchase; and

13 (3) Solicit proposals by mail or other reasonable method generally available to the public
 14 from prospective offerors.

15
 16 All proposals for such supplies shall be mailed or delivered to the office of the commissioner of
 17 administration so as to reach such office before the time set for opening proposals. Proposals shall
 18 be opened in a manner to avoid disclosure of contents to competing offerors during the process of
 19 negotiation.

20 3. The contract shall be let to the lowest and best offeror as determined by the evaluation
 21 criteria established in the request for proposal and any subsequent negotiations conducted pursuant
 22 to this subsection. In determining the lowest and best offeror, as provided in the request for
 23 proposals and under rules promulgated by the commissioner of administration, negotiations may be
 24 conducted with responsible offerors who submit proposals selected by the commissioner of
 25 administration on the basis of reasonable criteria for the purpose of clarifying and assuring full
 26 understanding of and responsiveness to the solicitation requirements. Those offerors shall be
 27 accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent
 28 revision of proposals; however, a request for proposal may set forth the manner for determining
 29 which offerors are eligible for negotiation, including, but not limited to, the use of shortlisting.
 30 Revisions may be permitted after submission and before award for the purpose of obtaining best and
 31 final offers. In conducting negotiations there shall be no disclosure of any information derived from
 32 proposals submitted by competing offerors. The commissioner of administration shall have the right
 33 to reject any or all proposals and advertise for new proposals or purchase the required supplies on
 34 the open market if they can be so purchased at a better price.

35 4. The commissioner shall make available, upon request, to any members of the general
 36 assembly, information pertaining to competitive proposals, including the names of bidders and the
 37 amount of each bidder's offering for each contract.

38 34.044. 1. The commissioner of administration may waive the requirement of competitive
 39 bids or proposals for supplies when the commissioner has determined in writing that there is only a
 40 single feasible source for the supplies. Immediately upon discovering that other feasible sources
 41 exist, the commissioner shall rescind the waiver and proceed to procure the supplies through the
 42 competitive processes as described in this chapter. A single feasible source exists when:

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

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

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

48 2. On any single feasible source purchase where the estimated expenditure shall be ~~[five]~~ ten
 49 thousand dollars or over, the commissioner of administration shall post notice of the proposed

purchase. Where the estimated expenditure is ~~[twenty-five]~~ one hundred thousand dollars or over, the commissioner of administration shall also advertise the commissioner's intent to make such purchase in at least two daily newspapers 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 five days before the contract is to be let. Other methods of advertisement, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased. The requirement for advertising may be waived, if not feasible, due to the supplies being available at a discount for only a limited period of time.

34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other law to the contrary, departments shall have the authority to purchase products and services related to information technology when the estimated expenditure of such purchase shall not exceed ~~[seventy-five]~~ one hundred fifty thousand dollars, the length of any contract or agreement does not exceed twelve months, the department complies with the informal methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than ~~[twenty-five]~~ one hundred thousand dollars, and the department posts notice of such proposed purchase on the online bidding/vendor registration system maintained by the office of administration. For the purposes of this section, "information technology" shall mean any computer or electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including audio, graphic, and text."; and

Further amend said bill, Page 12, Section 167.2015, Line 46, by inserting after said line a new section as follows:

"167.2018. 1. Except as otherwise provided in this section, if an agent of a public school or school board possesses any individually identifiable information about a child receiving instruction under subsection 2 of section 167.031, such information shall remain confidential, shall not be posted or published in any format or medium, and shall not be disclosed to any other person or entity without the written consent of:

(1) The child, if the child is eighteen years of age or older; or
(2) The parent, guardian, or other person having charge, control, or custody of the child, if the child is under eighteen years of age.

2. Except as otherwise provided in this section, if an agent of a public school or school board possesses any individually identifiable information about the parent, guardian, or other person having charge, control, or custody of a child receiving instruction under subsection 2 of section 167.031, such information shall remain confidential, shall not be posted or published in any format or medium, and shall not be disclosed to any other person or entity without the written consent of the parent, guardian, or other person having charge, control, or custody of the child.

3. Notwithstanding subsections 1 and 2 of this section, any individually identifiable information about a child receiving instruction under subsection 2 of section 167.031 or the parent, guardian, or other person having charge, control, or custody of such child:

(1) May be disclosed internally to another agent of a public school or school board for the sole purpose of enforcing subsection 2 of section 167.031;

(2) May be transmitted to the local prosecuting attorney if the agent has a reasonable suspicion of a violation of section 167.031; or

(3) May be disclosed for other purposes as authorized by law."; and

Further amend said bill, Page 14, Section 177.086, Line 27, by inserting after said line a new section

1 as follows:

2
3 "610.021. Except to the extent disclosure is otherwise required by law, a public
4 governmental body is authorized to close meetings, records and votes, to the extent they relate to the
5 following:

6 (1) Legal actions, causes of action or litigation involving a public governmental body and
7 any confidential or privileged communications between a public governmental body or its
8 representatives and its attorneys. However, any minutes, vote or settlement agreement relating to
9 legal actions, causes of action or litigation involving a public governmental body or any agent or
10 entity representing its interests or acting on its behalf or with its authority, including any insurance
11 company acting on behalf of a public government body as its insured, shall be made public upon
12 final disposition of the matter voted upon or upon the signing by the parties of the settlement
13 agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court
14 after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly
15 outweighs the public policy considerations of section 610.011, however, the amount of any moneys
16 paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in
17 matters involving the exercise of the power of eminent domain, the vote shall be announced or
18 become public immediately following the action on the motion to authorize institution of such a
19 legal action. Legal work product shall be considered a closed record;

20 (2) Leasing, purchase or sale of real estate by a public governmental body where public
21 knowledge of the transaction might adversely affect the legal consideration therefor. However, any
22 minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real
23 estate by a public governmental body shall be made public upon execution of the lease, purchase or
24 sale of the real estate;

25 (3) Hiring, firing, disciplining or promoting of particular employees by a public
26 governmental body when personal information about the employee is discussed or recorded.
27 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,
28 promote or discipline an employee of a public governmental body shall be made available with a
29 record of how each member voted to the public within seventy-two hours of the close of the meeting
30 where such action occurs; provided, however, that any employee so affected shall be entitled to
31 prompt notice of such decision during the seventy-two-hour period before such decision is made
32 available to the public. As used in this subdivision, the term "personal information" means
33 information relating to the performance or merit of individual employees;

34 (4) The state militia or national guard or any part thereof;

35 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
36 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
37 treatment;

38 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
39 records of individual test or examination scores; however, personally identifiable student records
40 maintained by public educational institutions shall be open for inspection by the parents, guardian or
41 other custodian of students under the age of eighteen years and by the parents, guardian or other
42 custodian and the student if the student is over the age of eighteen years;

43 (7) Testing and examination materials, before the test or examination is given or, if it is to
44 be given again, before so given again;

45 (8) Welfare cases of identifiable individuals;

46 (9) Preparation, including any discussions or work product, on behalf of a public
47 governmental body or its representatives for negotiations with employee groups;

48 (10) Software codes for electronic data processing and documentation thereof;

49 (11) Specifications for competitive bidding, until either the specifications are officially

1 approved by the public governmental body or the specifications are published for bid;

2 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals and
3 related documents or any documents related to a negotiated contract until a contract is executed, or
4 all proposals are rejected;

5 (13) Individually identifiable personnel records, performance ratings or records pertaining to
6 employees or applicants for employment, except that this exemption shall not apply to the names,
7 positions, salaries and lengths of service of officers and employees of public agencies once they are
8 employed as such, and the names of private sources donating or contributing money to the salary of
9 a chancellor or president at all public colleges and universities in the state of Missouri and the
10 amount of money contributed by the source;

11 (14) Records which are protected from disclosure by law;

12 (15) Meetings and public records relating to scientific and technological innovations in
13 which the owner has a proprietary interest;

14 (16) Records relating to municipal hotlines established for the reporting of abuse and
15 wrongdoing;

16 (17) Confidential or privileged communications between a public governmental body and
17 its auditor, including all auditor work product; however, all final audit reports issued by the auditor
18 are to be considered open records pursuant to this chapter;

19 (18) Operational guidelines, policies and specific response plans developed, adopted, or
20 maintained by any public agency responsible for law enforcement, public safety, first response, or
21 public health for use in responding to or preventing any critical incident which is or appears to be
22 terrorist in nature and which has the potential to endanger individual or public safety or health.
23 Financial records related to the procurement of or expenditures relating to operational guidelines,
24 policies or plans purchased with public funds shall be open. When seeking to close information
25 pursuant to this exception, the public governmental body shall affirmatively state in writing that
26 disclosure would impair the public governmental body's ability to protect the security or safety of
27 persons or real property, and shall in the same writing state that the public interest in nondisclosure
28 outweighs the public interest in disclosure of the records;

29 (19) Existing or proposed security systems and structural plans of real property owned or
30 leased by a public governmental body, and information that is voluntarily submitted by a nonpublic
31 entity owning or operating an infrastructure to any public governmental body for use by that body to
32 devise plans for protection of that infrastructure, the public disclosure of which would threaten
33 public safety:

34 (a) Records related to the procurement of or expenditures relating to security systems
35 purchased with public funds shall be open;

36 (b) When seeking to close information pursuant to this exception, the public governmental
37 body shall affirmatively state in writing that disclosure would impair the public governmental body's
38 ability to protect the security or safety of persons or real property, and shall in the same writing state
39 that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

40 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the
41 receiving agency within ninety days of submission to determine if retention of the document is
42 necessary in furtherance of a state security interest. If retention is not necessary, the documents
43 shall be returned to the nonpublic governmental body or destroyed;

44 (20) The portion of a record that identifies security systems or access codes or authorization
45 codes for security systems of real property;

46 (21) Records that identify the configuration of components or the operation of a computer,
47 computer system, computer network, or telecommunications network, and would allow
48 unauthorized access to or unlawful disruption of a computer, computer system, computer network,
49 or telecommunications network of a public governmental body. This exception shall not be used to

1 limit or deny access to otherwise public records in a file, document, data file or database containing
2 public records. Records related to the procurement of or expenditures relating to such computer,
3 computer system, computer network, or telecommunications network, including the amount of
4 moneys paid by, or on behalf of, a public governmental body for such computer, computer system,
5 computer network, or telecommunications network shall be open;

6 (22) Credit card numbers, personal identification numbers, digital certificates, physical and
7 virtual keys, access codes or authorization codes that are used to protect the security of electronic
8 transactions between a public governmental body and a person or entity doing business with a
9 public governmental body. Nothing in this section shall be deemed to close the record of a person
10 or entity using a credit card held in the name of a public governmental body or any record of a
11 transaction made by a person using a credit card or other method of payment for which
12 reimbursement is made by a public governmental body;

13 (23) Records submitted by an individual, corporation, or other business entity to a public
14 institution of higher education in connection with a proposal to license intellectual property or
15 perform sponsored research and which contains sales projections or other business plan information
16 the disclosure of which may endanger the competitiveness of a business; ~~and~~

17 (24) Records relating to foster home or kinship placements of children in foster care under
18 section 210.498; and

19 (25) Individually identifiable customer usage and billing records for customers of a
20 municipally owned utility, unless the records are requested by the customer or authorized for release
21 by the customer, except that a municipally owned utility shall make available to the public the
22 customer's name, billing address, location of service, and dates of service provided for any
23 commercial service account."; and
24

25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.