

FIRST REGULAR SESSION

# HOUSE BILL NO. 791

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GRIESHEIMER.

1570H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 107.170, RSMo, and to enact in lieu thereof one new section relating to public works contractors.

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

Section A. Section 107.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 107.170, to read as follows:

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

(1) "Contractor", a person or business entity who:

(a) Provides construction services under contract to a public entity; or

(b) **Provides or arranges for construction services to a public entity under a contract or agreement with a private person or entity who is acting as a lessee, agent, designee, or representative of a public entity.**

"Contractor" specifically does not include professional engineers, architects, or land surveyors licensed pursuant to chapter 327[5] ; those who provide environmental assessment services; or those who design, create, or otherwise provide works of art under a city's formally established program for the acquisition and installation of works of art and other aesthetic adornments to public buildings and property;

(2) "Public entity", any official, board, commission or agency of this state or any county, city, town, township, school, road district or other political subdivision of this state;

(3) "Public works", the erection, construction, alteration, repair or improvement of any building, road, street, public utility or other public facility owned by the public entity, **even if the work is to be used for nongovernmental purposes.**

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.

18           2. It is hereby made the duty of all public entities in this state, in making contracts for  
19 public works **in their own names or when requiring private persons or entities to enter into**  
20 **such contracts**, the cost of which is estimated to exceed fifty thousand dollars, to be performed  
21 for the public entity **or its agent, designee, lessee, or representative**, to require every contractor  
22 for such work to furnish to the public entity a bond with good and sufficient sureties, in an  
23 amount fixed by the public entity~~[, and]~~ . Such bond, among other conditions, shall be  
24 conditioned for the payment of any and all materials, incorporated, consumed, or used in  
25 connection with the construction of such work~~[, and]~~ ; all insurance premiums, both for  
26 compensation~~;~~ and for all other kinds of insurance~~;~~ **of** said work~~;~~ ; and for all labor  
27 performed in such work whether by subcontractor, **supplier at any tier**, or otherwise.

28           3. All bonds executed and furnished under the provisions of this section shall be deemed  
29 to contain the requirements and conditions as herein set out, regardless of whether the same be  
30 set forth in said bond, or of any terms or provisions of said bond to the contrary notwithstanding.

31           4. Nothing in this section shall be construed to require a member of the school board of  
32 any public school district of this state to independently confirm the existence or solvency of any  
33 bonding company if a contractor represents to the member that the bonding company is solvent  
34 and that the representations made in the purported bond are true and correct. This subsection  
35 shall not relieve from any liability any school board member who has any actual knowledge of  
36 the insolvency of any bonding company, or any school board member who does not act in good  
37 faith in complying with the provisions of subsection 2 of this section.

38           5. A public entity may defend, save harmless and indemnify any of its officers and  
39 employees, whether elective or appointive, against any claim or demand, whether groundless or  
40 otherwise arising out of an alleged act or omission occurring in the performance of a duty under  
41 this section. The provisions of this subsection do not apply in case of malfeasance in office or  
42 willful or wanton neglect of duty.

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