

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1904
94TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, April 30, 2008, with recommendation that the Senate Committee Substitute do pass.

4669S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 177.088 and 215.160, RSMo, and to enact in lieu thereof two new sections relating to financial limitations placed on boards and commissions.

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

Section A. Sections 177.088 and 215.160, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 177.088 and 215.160, to
3 read as follows:

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
3 board of governors of an educational institution;

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

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

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

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

16 (2) Notwithstanding the provisions of this chapter or any other provision

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 of law to the contrary, sell or lease at fair market value, which may be
18 determined by appraisal, to the corporation any existing sites owned by the
19 educational institution, together with any existing buildings and facilities
20 thereon, in order for the corporation to acquire, construct, improve, extend,
21 repair, remodel, renovate, furnish and equip buildings and facilities thereon, and
22 then lease back or purchase such sites, buildings and facilities from the
23 corporation; provided that upon selling or leasing the sites, buildings or facilities,
24 the corporation agrees to enter into a lease for not more than one year but with
25 not more than [twenty] **twenty-five** successive options by the educational
26 institution to renew the lease under the same conditions; and provided further
27 that the corporation agrees to convey or sell the sites, buildings or facilities,
28 including any improvements, extensions, renovations, furnishings or equipment,
29 back to the educational institution with clear title at the end of the period of
30 successive one-year options or at any time bonds, notes or other obligations issued
31 by the corporation to pay for the improvements, extensions, renovations,
32 furnishings or equipment have been paid and discharged.

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

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

46 6. Any bonds, notes and other obligations issued by a corporation to pay
47 for the acquisition, construction, improvements, extensions, repairs, remodeling
48 or renovations of sites, buildings and facilities, pursuant to this section, may be
49 secured by a mortgage, pledge or deed of trust of the sites, buildings and facilities
50 and a pledge of the revenues received from the rental thereof to the educational
51 institution. Such bonds, notes and other obligations issued by a corporation shall
52 not be a debt of the educational institution and the educational institution shall

53 not be liable thereon, and in no event shall such bonds, notes or other obligations
54 be payable out of any funds or properties other than those acquired for the
55 purposes of this section, and such bonds, notes and obligations shall not
56 constitute an indebtedness of the educational institution within the meaning of
57 any constitutional or statutory debt limitation or restriction.

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

64 8. The board may make all other contracts or agreements with the
65 corporation necessary or convenient in connection with any project pursuant to
66 this section. The corporation shall comply with sections 290.210 to 290.340,
67 RSMo.

68 9. Notice that the board is considering a project pursuant to this section
69 shall be given by publication in a newspaper published within the county in
70 which all or a part of the educational institution is located which has general
71 circulation within the area of the educational institution, once a week for two
72 consecutive weeks, the last publication to be at least seven days prior to the date
73 of the meeting of the board at which such project will be considered and acted
74 upon.

75 10. Provisions of other law to the contrary notwithstanding, the board
76 may refinance any lease purchase agreement that satisfies at least one of the
77 conditions specified in subsection 6 of section 165.011, RSMo, for the purpose of
78 payment on any lease with the corporation under this section for sites, buildings,
79 facilities, furnishings or equipment which the corporation has acquired or
80 constructed, but such refinance shall not extend the date of maturity of any
81 obligation, and the refinancing obligation shall not exceed the amount necessary
82 to pay or provide for the payment of the principal of the outstanding obligations
83 to be refinanced, together with the interest accrued thereon to the date of
84 maturity or redemption of such obligations and any premium which may be due
85 under the terms of such obligations and any amounts necessary for the payments
86 of costs and expenses related to issuing such refunding obligations and to fund
87 a capital projects reserve fund for the obligations.

88 11. Provisions of other law to the contrary notwithstanding, payments

89 made from any source by a school district, after the latter of July 1, 1994, or July
90 12, 1994, that result in the transfer of the title of real property to the school
91 district, other than those payments made from the capital projects fund, shall be
92 deducted as an adjustment to the funds payable to the district pursuant to section
93 163.031, RSMo, beginning in the year following the transfer of title to the district,
94 as determined by the department of elementary and secondary education.

215.160. The commission shall not have outstanding at any one time
2 bonds and notes for any of its purposes in an aggregate principal amount
3 exceeding two hundred million dollars, excluding bonds and notes issued to
4 refund outstanding bonds and notes; provided, however, that the limitation
5 contained in this section shall not apply to:

6 (1) Any bonds or notes of the commission which are secured, directly or
7 indirectly, by first mortgage loans which have been insured or guaranteed by an
8 agency or instrumentality of the United States[,]; or

9 (2) Any bonds or notes of the commission which at the time of issuance
10 are rated not lower than "Aa" by Moody's Investors Service, Inc., in the case of
11 long-term obligations or rated Moody's "Investment Grade I" by Moody's Investors
12 Service, Inc., in the case of short-term obligations; or rated not lower than "AA"
13 by Standard & Poor's Corporation in the case of long-term obligations or rated
14 "SP-1+" by Standard & Poor's Corporation in the case of short-term obligations,
15 or the equivalent ratings by Moody's Investors Service, Inc., or Standard & Poor's
16 Corporation in the event the ratings described in this section are changed; or

17 (3) Any conduit revenue bonds or notes of the commission, if the
18 payment of all debt services is the responsibility of an approved
19 mortgagor.

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