

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 675
92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, May 1, 2003, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 675, adopted May 5, 2003.

Taken up for Perfection May 5, 2003. Bill declared Perfected and Ordered Printed, as amended.

1921S.07P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 33.080, 166.300, 339.105, and 374.150, RSMo, and to enact in lieu thereof four new sections relating to certain special funds, with penalty provisions and an emergency clause.

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

Section A. Sections 33.080, 166.300, 339.105, and 374.150, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 33.080, 166.300, 339.105, and 374.150, to read as follows:

33.080. 1. All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages shall, by the official authorized to receive same, and at stated intervals of not more than thirty days, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state) shall at the end of the biennium and after all warrants on same have been discharged and

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

the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or any person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money received by the curators of the University of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations; gifts or grants from the federal government, private organizations and individuals; funds for or from student activities; farm or housing activities; and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same; and hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly.

2. Notwithstanding any provision of law to the contrary concerning the funds listed in subdivisions (1) to (34) of this subsection, an amount equal to the sum of all interest that has accrued in the funds listed in subdivisions (1) to (34) of this subsection during the two-year period beginning July 1, 2001, and ending June 30, 2003, shall be transferred and placed to the credit of the general revenue fund of the state by the state treasurer upon the effective date of this act. The funds subject to the provisions of this section are as follows:

(1) Residential mortgage licensing fund created pursuant to section 443.845, RSMo;

(2) Gaming commission bingo fund created pursuant to section 313.008, RSMo;

(3) Missouri air emission reduction fund created pursuant to section 643.350, RSMo;

(4) Mental health housing trust fund created pursuant to section 215.054, RSMo;

(5) Animal health laboratory fee fund created pursuant to section 267.122, RSMo;

(6) State fair fees fund created pursuant to section 262.260, RSMo;

(7) Agricultural product utilization business development loan program fund created pursuant to section 348.410, RSMo;

(8) Agricultural product utilization grant fund created pursuant to section 348.408, RSMo;

(9) Division of credit unions fund created pursuant to section 370.107, RSMo;

(10) Division of savings and loan supervision fund created pursuant to section 369.324, RSMo;

(11) Division of finance fund created pursuant to section 361.170, RSMo;

(12) Natural resources protection fund created pursuant to section 640.220, RSMo, with the exception of the water permit fees subaccount and damages subaccount;

(13) Endowed care cemetery audit fund created pursuant to section 193.265, RSMo;

(14) Metallic minerals waste management fund created pursuant to section 444.370, RSMo;

(15) Natural resources protection air pollution asbestos fee subaccount fund created pursuant to section 643.245, RSMo;

(16) Chemical emergency preparedness fund created pursuant to section 292.607, RSMo;

(17) Children's service commission fund created pursuant to section 210.103, RSMo;

(18) Livestock dealer law enforcement and administration fund created pursuant to section 276.617, RSMo;

(19) Grain inspection fees fund created pursuant to section 411.151, RSMo;

(20) Petroleum inspection fund created pursuant to section 414.082, RSMo;

(21) Legal defense and defender fund created pursuant to section 600.090, RSMo;

(22) Safe drinking water fund created pursuant to section 640.110, RSMo;

(23) Coal mine land reclamation fund created pursuant to section 444.960, RSMo;

(24) Missouri horse racing commission fund created pursuant to section 313.530, RSMo;

(25) Hazardous waste remedial fund created pursuant to section 260.480, RSMo;

(26) Missouri air pollution control fund created pursuant to section 307.366, RSMo;

(27) Property reuse fund created pursuant to section 447.710, RSMo;

(28) Concentrated animal feeding operation indemnity fund created pursuant to section 640.740, RSMo;

(29) State transportation assistance revolving fund created pursuant to section 226.191, RSMo;

(30) Correctional substance abuse earnings fund created pursuant to section 559.635, RSMo;

(31) Agriculture development fund created pursuant to section 261.027, RSMo;

(32) Mined land reclamation fund created pursuant to section 444.730, RSMo;

(33) Aviation trust fund created pursuant to section 155.090, RSMo.

166.300. 1. As used in this section, the following words and phrases shall mean:

(1) "Capital improvement projects", expenditures for lands or existing buildings, improvements of grounds, construction of buildings, additions to buildings, remodeling of buildings and initial equipment purchases;

(2) "School facility", a structure dedicated primarily to housing teachers and students in the instructional process, but shall not include buildings dedicated primarily to administrative and support functions within the school.

2. There is hereby created a revolving fund to be known as the "School Building Revolving Fund". All forfeitures of assets transferred pursuant to section 166.131, all gifts and bequests to such fund, and such moneys as may be appropriated to the fund shall be deposited into the school building revolving fund; except that no more than four hundred forty million dollars, in the aggregate, shall be transferred to the fund. After a fund balance has been established by prior years' deposits and interest, school districts may submit applications for lease purchases from the revolving fund for specific projects consistent with rules and regulations of the state board of education and subsection 3 of this section, except that no school district may be permitted to enter into a lease purchase from the school building revolving fund without first submitting a long-range capital improvements plan.

3. To be eligible for a lease purchase authorized by this section:

(1) A school district shall meet the minimum criteria for state aid and for increases in state aid established pursuant to section 163.021, RSMo;

(2) A school district shall provide a program which is accredited by the state board of education for grades kindergarten through twelve or for grades kindergarten through eight; and

(3) A school district shall have an equalized, assessed valuation per eligible pupil for the preceding year which is less than the statewide average equalized, assessed valuation per eligible pupil for the preceding year; and

(4) A school district shall have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.

4. Lease purchase applications shall be funded, as funds allow, first for all applications pursuant to subdivision (1) of this subsection and then for applications pursuant to subdivision (2) of this subsection and then for applications pursuant to subdivision (3) of this subsection, and for funding of applications pursuant to a particular subdivision, applications shall be funded in the order that the applications are received by the department. If two or more applications are received on the same day, the district with the lowest appraised valuation per pupil shall be given priority. Ranking of the applications for offering of lease purchases shall be done in the following order:

(1) Districts with capital replacement costs in excess of insurance proceeds due to facility destruction caused by fire or natural disaster shall be ranked on the basis of percentage of

bonding capacity;

(2) Districts with a cumulative percentage growth in fall membership for the third through the fifth preceding years in excess of twelve percent and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri; and

(3) Districts with an equalized assessed valuation per pupil which is less than the statewide average equalized assessed valuation per pupil and which have a bonded indebtedness which is no less than ninety percent of the constitutional limitation on indebtedness pursuant to section 26(b) of article VI of the Constitution of Missouri.

5. When building replacement is caused by fire or natural disaster, the requirement for a school district to have a long-range capital improvements plan may be waived by the state board of education.

6. Each school district participating in a lease purchase from the school building revolving fund shall repay such lease purchase in no more than ten annual payments made on or before June thirtieth of each year. The first such payment shall be due and payable on June thirtieth of the first full fiscal year following receipt of lease purchase proceeds. Lease purchase repayments shall be immediately deposited to the school building revolving fund by the department. Interest charged to the school district shall not exceed three percent.

7. Any school district which fails to obligate the full amount of a loan from the school building revolving fund for the allowable lease purchase must return the unobligated amount plus interest earned to the department no later than June thirtieth of the second full fiscal year after receipt of loan proceeds.

8. If a school district fails to make an annual payment to the school building revolving fund after notice of nonpayment by the department, members of the board of education and the school district's superintendent shall have violated section 162.091, RSMo, and the attorney general of the state of Missouri shall be notified by the state board of education to begin prosecution procedures.

9. All property purchased pursuant to a lease purchase from the school building revolving fund shall remain the property of the state until such time as the lease purchase has been fully repaid pursuant to this section. If a school district does not make an annual payment to the school building revolving fund after notice of nonpayment by the department, the state board of education may, if the delinquency exceeds one hundred eighty days, take possession of the property. As a part of the lease purchase agreement, the school district shall agree to assume all costs, obligations and liabilities for or arising out of establishment, operation and maintenance of the lease purchase property. Other provisions of law to the contrary notwithstanding, neither the state nor any state agency shall have any obligation for such costs, obligations or liabilities unless and until the state board of education takes possession of the property pursuant to this

subsection upon a school district's failure to make annual payments as required in the lease purchase agreement.

10. [Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the school building revolving fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All yield, interest, income, increment or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited by the state treasurer to the fund.] **Any unobligated cash balance in the school building revolving fund as of the effective date of this act, shall be transferred to aid the public schools of this state pursuant to section 163.031, RSMo. Any and all deposits made to the school building revolving fund after August 28, 2003, shall be immediately transferred to the state school moneys fund, pursuant to section 166.051.**

339.105. 1. Each broker **who holds funds belonging to another** shall maintain **such funds in** a separate bank [checking] account in a financial institution[, either a bank, savings and loan association or a credit union in this state, or in an adjoining state with written permission of the commission,] which shall be designated an escrow or trust account [in which all money not his own coming into his possession, including]. **This requirement includes** funds in which he **or she** may have some future interest or claim[.]. **Such funds** shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his **or her** personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed [five hundred] **one thousand** dollars in the account from his **or her** personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account. [The commission may, by written waiver issued for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain a separate escrow or trust account.]

2. [Before issuance of a broker license,] Each broker shall notify the commission of the name of **his or her intent not to maintain an escrow account, or the name of** the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission [but shall not be required in any case where maintenance of an escrow or trust account has been waived pursuant to subsection 1 of this section]. A broker shall notify the commission within [fifteen] **ten business** days of any change of **his or her intent to maintain an escrow account, the** financial institution [or], account numbers, **or change in account status.**

3. In conjunction with each escrow or trust account a broker shall maintain [at his usual place of business,] books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be [open]

provided to [inspection by] the commission and its duly authorized agents **for inspection** at all times during regular business hours at the broker's usual place of business.

4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

5. A broker shall not be entitled to any [part of the earnest] money or other money paid to him **or her** in connection with any real estate **sales** transaction as part or all of his **or her** commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

[5.] **6.** When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any [of his] assistants designated by [him] **the attorney general**, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

[6.] **7.** Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

[7.] **8.** In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

374.150. **1.** All fees due the state under the provisions of the insurance laws of this state shall be paid to the director of revenue and deposited in the state treasury to the credit of the insurance department fund unless otherwise provided for in subsection 2 of this section.

2. There is hereby established in the state treasury a special fund to be known as the "Department of Insurance Dedicated Fund". The fund shall be subject to appropriation of the general assembly and shall be devoted solely to the payment of expenditures incurred by the department of insurance attributable to duties performed by the department as required by law which are not paid for by another source of funds. Other provisions of law to the contrary notwithstanding, beginning on January 1, 1991, all fees charged under any provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385, RSMo, due the state shall

be paid into this fund. The state treasurer shall invest moneys in this fund in the same manner as other state funds and any interest or earnings on such moneys shall be credited to the department of insurance dedicated fund. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of the general revenue fund unless and then only to the extent to which the unencumbered balance at the close of the biennium year exceeds two times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

3. Notwithstanding the provisions of this section to the contrary, fifty-five percent of the balance in the department of insurance dedicated fund as of the effective date of this act, shall be subject to an immediate one-time transfer to the state general revenue fund.

Section B. Because of the need to increase access to certain state revenue in light of the current fiscal crisis, 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 section A of this act shall be in full force and effect upon its passage and approval.

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