

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 122**  
93RD GENERAL ASSEMBLY

---

Reported from the Committee on Governmental Accountability and Fiscal Oversight, February 14, 2005, with recommendation that the Senate Committee Substitute do pass.

0177S.03C

TERRY L. SPIELER, Secretary.

---

**AN ACT**

To repeal sections 8.255, 8.260, and 8.270, RSMo, and to enact in lieu thereof four new sections relating to energy efficiency.

---

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

Section A. Sections 8.255, 8.260, and 8.270, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 8.238, 8.255, 8.260, and 8.270, to read as follows:

**8.238. 1. This section shall be known as the "Energy Efficiency Implementation Act".**

**2. The office of administration shall identify and cause to be deposited into the office of administration revolving "Administrative Trust Fund" created in section 37.005, RSMo, no more than two and one-half percent of the total cost savings realized as a result of implementing sections 8.231 to 8.237. "Cost savings" shall be defined as expenses eliminated and future replacement expenditures avoided as a direct result of implementing sections 8.231 to 8.237. The percentage of cost savings and the means of calculating such cost savings shall be determined by the commissioner of administration or his designated agent and shall be set forth in the performance contract.**

**3. At least annually, a report shall be prepared and forwarded to the governor, the speaker of the house of representatives and the president pro tem of the senate outlining the cost savings identified by the office of administration pursuant to subsection 2 of this section.**

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

4. In order to advise the governor, and consistent with this section, the office of administration shall have authority to:

(1) Establish policies and procedures for facility management and valuation;

(2) Coordinate a state facility review;

(3) Implement a capital improvement plan;

(4) Solicit and evaluate state facility investment proposals;

(5) Establish performance measures for facility management operations; and

(6) Prepare annual reports and plans concerning operation savings.

5. Subject to appropriation from the general assembly, the office of administration may expend the cost savings and the interest thereon, if any, at such time or times as are necessary to offset all reasonable costs associated with the implementation of sections 8.231 to 8.237.

6. The provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the general revenue fund of the state shall not apply to funds identified and not otherwise expended for the implementation of this section.

7. The office of administration shall have the authority, pursuant to chapter 537, RSMo, to promulgate rules regarding the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

8.255. 1. The director may authorize any agency of the state to establish standing contracts for the purpose of accomplishing construction, renovation, maintenance and repair projects not exceeding [twenty-five] **one hundred** thousand dollars. Such contracts shall be advertised and bid in the same manner as contracts for work which exceeds [twenty-five] **one hundred** thousand dollars,

except that each contract shall allow for multiple projects, the cost of each of which does not exceed [twenty-five] **one hundred** thousand dollars. Each contract shall be of a stated duration and shall have a stated maximum total expenditure.

2. The director, with full documentation, shall have the authority to authorize any agency to contract for any design or construction, renovation, maintenance, or repair work which in his judgment can best be procured directly by such agency. The director shall establish, by rule, the procedures which the agencies must follow to procure contracts for design, construction, renovation, maintenance or repair work. Each agency which procures such contracts pursuant to a delegation shall file an annual report as required by rule. The director shall provide general supervision over the process. The director may establish procedures by which such contracts are to be procured, either generally or in accordance with each authorization.

3. The director, in his sole discretion, may with full documentation approve a recommendation from a project designer that a material, product or system within a specification for construction, renovation or repair work be designated by brand, trade name or individual mark, when it is determined to be in the best interest of the state. The specification may include a preestablished price for purchase of the material, product or system where required by the director.

8.260. All appropriations made by the general assembly amounting to [twenty-five] **one hundred** thousand dollars or more for the construction, renovation, or repair of facilities shall be expended in the following manner:

(1) The agency requesting payment shall provide the commissioner of administration with satisfactory evidence that a bona fide contract, procured in accordance with all applicable procedures, exists for the work for which payment is requested;

(2) All requests for payment shall be approved by the architect or engineer registered to practice in the state of Missouri who designed the project or who has been assigned to oversee it;

(3) In order to guarantee completion of the contract, the agency or officer shall retain a portion of the contract value in accordance with the provisions of section 34.057, RSMo;

(4) A contractor may be paid for materials delivered to the site or to a storage facility approved by the director of the division of design and construction

as having adequate safeguards against loss, theft or conversion.

In no case shall the amount contracted for exceed the amount appropriated by the general assembly for the purpose.

8.270. If the amount appropriated is less than [twenty-five] **one hundred** thousand dollars for constructing, renovating or for repairing, or for both building and repairing, no warrant shall be drawn on the state treasury payable out of the appropriation for any part thereof, until satisfactory evidence is furnished to the commissioner of administration that the work has been completed according to the contract, and not in excess of the amount appropriated therefor.

**T**

Unofficial

Bill

Copy