

FIRST REGULAR SESSION

SENATE BILL NO. 442

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

Read 1st time February 5, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1972S.011

AN ACT

To repeal sections 3.070, 8.007, 8.110, 8.120, 8.180, 8.200, 8.250, 8.260, 8.291, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.420, 8.661, 8.679, 8.800, 8.830, 8.843, 33.710, 34.031, 37.010, 44.237, 217.575, 251.240, 253.320, 261.010, 311.650, 313.210, 320.260, 334.125, 361.010, and 630.525, RSMo, section 8.177 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353, ninety-third general assembly, first regular session, and section 8.177 as enacted by senate substitute for senate committee substitute for house bill no. 487, ninety-third general assembly, first regular session, and to enact in lieu thereof thirty-seven new sections relating to design and construction of public buildings.

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

Section A. Sections 3.070, 8.007, 8.110, 8.120, 8.180, 8.200, 8.250, 8.260, 2 8.291, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.420, 8.661, 8.679, 3 8.800, 8.830, 8.843, 33.710, 34.031, 37.010, 44.237, 217.575, 251.240, 253.320, 4 261.010, 311.650, 313.210, 320.260, 334.125, 361.010, and 630.525, RSMo, section 5 8.177 as enacted by conference committee substitute for senate substitute for 6 senate committee substitute for house committee substitute for house bill no. 353, 7 ninety-third general assembly, first regular session, and section 8.177 as enacted 8 by senate substitute for senate committee substitute for house bill no. 487, 9 ninety-third general assembly, first regular session, are repealed and thirty-seven 10 new sections enacted in lieu thereof, to be known as sections 3.070, 8.007, 8.110, 11 8.180, 8.200, 8.250, 8.251, 8.260, 8.291, 8.310, 8.316, 8.320, 8.325, 8.330, 8.340, 12 8.350, 8.360, 8.420, 8.661, 8.679, 8.800, 8.830, 8.843, 33.710, 34.031, 37.010,

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

13 44.237, 217.575, 251.240, 253.320, 261.010, 311.650, 313.210, 320.260, 334.125,
14 361.010, and 630.525, to read as follows:

3.070. The committee shall appoint and fix the compensation of a revisor
2 of statutes and other attorneys and assistants necessary to the performance of its
3 duties under this chapter. The compensation of the revisor of statutes and his
4 assistants and expenses incurred in connection with the performance of their
5 duties shall be paid from appropriations made for the committee on legislative
6 research. The revisor of statutes shall be duly licensed to practice law in this
7 state and serves at the pleasure of the committee. The revisor of statutes shall
8 perform all duties required by the committee in connection with its duties under
9 this chapter. He shall conform to all regulations prescribed for the internal
10 operation of the committee and shall render such assistance to the general
11 assembly in connection with pending or proposed legislation as required by the
12 committee or by any law imposing duties on the committee. He is subject also in
13 all respects to the law governing other persons appointed or employed by the
14 committee. The division of **facilities management**, design and construction
15 shall provide adequate office space in the capitol building for the revisor of
16 statutes and the attorneys and employees associated with him.

8.007. 1. The commission shall:

- 2 (1) Exercise general supervision of the administration of sections 8.001 to
3 8.007;
- 4 (2) Evaluate and recommend courses of action on the restoration and
5 preservation of the capitol, the preservation of historical significance of the
6 capitol and the history of the capitol;
- 7 (3) Evaluate and recommend courses of action to ensure accessibility to
8 the capitol for physically disabled persons;
- 9 (4) Advise, consult, and cooperate with the office of administration, the
10 archives division of the office of the secretary of state, the historic preservation
11 program within the department of natural resources, the division of tourism
12 within the department of economic development and the historical society of
13 Missouri in furtherance of the purposes of sections 8.001 to 8.007;
- 14 (5) Be authorized to cooperate or collaborate with other state agencies and
15 not-for-profit organizations to publish books and manuals concerning the history
16 of the capitol, its improvement or restoration;
- 17 (6) Before each September first, recommend options to the governor on
18 budget allocation for improvements or restoration of the capitol premises;

19 (7) Encourage, participate in, or conduct studies, investigations, and
20 research and demonstrations relating to improvement and restoration of the state
21 capitol it may deem advisable and necessary for the discharge of its duties
22 pursuant to sections 8.001 to 8.007; and

23 (8) Hold hearings, issue notices of hearings and take testimony as the
24 commission deems necessary.

25 2. The "Second Capitol Commission Fund" is hereby created in the state
26 treasury. Any moneys received from sources other than appropriation by the
27 general assembly, including from private sources, gifts, donations and grants,
28 shall be credited to the second capitol commission fund and shall be appropriated
29 by the general assembly.

30 3. The provisions of section 33.080, RSMo, to the contrary
31 notwithstanding, moneys in the second capitol commission fund shall not be
32 transferred and placed to the credit of the general revenue fund.

33 4. The commission is authorized to accept all gifts, bequests and donations
34 from any source whatsoever. The commission may also apply for and receive
35 grants consistent with the purposes of sections 8.001 to 8.007. All such gifts,
36 bequests, donations and grants shall be used or expended upon appropriation in
37 accordance with their terms or stipulations, and the gifts, bequests, donations or
38 grants may be used or expended for the preservation, restoration and improved
39 accessibility and for promoting the historical significance of the capitol.

40 **5. The commission may copyright or obtain a trademark for any**
41 **photograph, written work, art object, or any product created of the**
42 **capitol or capitol grounds. The commission may grant access, or use,**
43 **of any such works to other organizations or individuals for a fee, or at**
44 **its sole discretion, or waive all fees. All funds obtained through**
45 **licensing fees shall be credited to the capitol commission fund, in a**
46 **manner similar to funds the commission receives as gifts, donations,**
47 **and grants. The funds shall be used for repairs, refurbishing, or to**
48 **create art, exhibits, decorations, or other beatification or adornments**
49 **to the capitol or its grounds.**

8.110. There is hereby created within the office of administration a
2 "Division of Facilities Management, **Design and Construction**", which shall
3 **supervise the design, construction, renovations, maintenance and**
4 **repair of state facilities, except as provided in sections 8.015 and 8.017,**
5 **and except facilities belonging to the institutions of higher education,**

6 **the highways and transportation commission, and the conservation**
7 **commission, and which shall be responsible to review all requests for**
8 **appropriations for capital improvements.** Except as otherwise provided by
9 law, the director of the division [of facilities management] shall be responsible
10 for the management and operation of office buildings titled in the name of the
11 governor. The director shall exercise all diligence to ensure that all facilities
12 within his management and control comply with the designated building codes;
13 that they are clean, safe and secure, and in proper repair; and that they are
14 adequately served by all necessary utilities.

8.180. In all cases where a court or other officer performs any lawful
2 service, at the instance of any director of the division of **facilities management,**
3 design and construction in and about the collection of debts due the state, and the
4 costs have not nor cannot be made out of the defendant, the director of the
5 division of **facilities management,** design and construction shall pay the same
6 fees that other plaintiffs are bound to pay for similar services, and no other.

8.200. The director of the division of **facilities management,** design and
2 construction shall proceed against any sheriff or peace officer who refuses to
3 perform any duty, in the name of the state, in the same way and to the full extent
4 that any other plaintiff in an action might or could do.

8.250. 1. "Project" for the purposes of this chapter means the labor or
2 material necessary for the construction, renovation, or repair of improvements to
3 real property so that the work, when complete, shall be ready for service for its
4 intended purpose and shall require no other work to be a completed system or
5 component.

6 2. All contracts for projects, the cost of which exceeds twenty-five
7 thousand dollars, entered into by any officer or agency of this state or of any city
8 containing five hundred thousand inhabitants or more shall be let to the lowest,
9 responsive, responsible bidder or bidders after notice and publication of an
10 advertisement for five days in a daily newspaper in the county where the work
11 is located, or at least twice over a period of ten days or more in a newspaper in
12 the county where the work is located, and in two daily newspapers in the state
13 which do not have less than fifty thousand daily circulation, and by such other
14 means as are determined to be most likely to reach potential bidders.

15 3. **All contracts for projects, the cost of which exceeds one**
16 **hundred thousand dollars, entered into by any officer or agency of this**
17 **state shall be let to the lowest, responsive, responsible bidder or**

18 **bidders based on pre-established criteria, after notice and publication**
19 **of an advertisement for five days in a daily newspaper in the county**
20 **where the work is located, or at least twice over a period of ten days or**
21 **more in a newspaper in the county where the work is located, and in**
22 **one daily newspaper in the state which does not have less than fifty**
23 **thousand daily circulation, and by such other means as are determined**
24 **to be most likely to reach potential bidders. For all contracts for**
25 **projects between twenty-five thousand dollars and one hundred**
26 **thousand dollars, a minimum of three contractors will be solicited with**
27 **the award being made to the lowest, responsive, responsible bidder**
28 **based on the pre-established criteria.**

29 4. The number of such public bids shall not be restricted or curtailed, but
30 shall be open to all persons complying with the terms upon which the bids are
31 requested or solicited unless debarred for cause. No contract shall be awarded
32 when the amount appropriated for same is not sufficient to complete the work
33 ready for service.

34 [4.] 5. Dividing a project into component labor or material allocations for
35 the purpose of avoiding bidding or advertising provisions required by this section
36 is specifically prohibited.

8.251. **The division may award job order contracting for the**
2 **minor construction, repair, rehabilitation, or alternation of a facility**
3 **if the work is of a recurring nature, the delivery times are indefinite,**
4 **indefinite quantities and orders are awarded substantially on the basis**
5 **of prescribed and prepriced tasks, and the total expenditure per**
6 **project does not exceed three hundred thousand dollars. For the**
7 **purposes of this section, "job order contracting" shall mean a firm,**
8 **fixed-priced, competitively bid procurement process with an indefinite**
9 **quantity for small to medium-sized construction and repair projects.**

8.260. All appropriations made by the general assembly amounting to one
2 hundred thousand dollars or more for the construction, renovation, or repair of
3 facilities shall be expended in the following manner:

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

8 (2) All requests for payment shall be approved by the architect or engineer

9 registered to practice in the state of Missouri who designed the project or who has
10 been assigned to oversee it;

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

14 (4) A contractor may be paid for materials delivered to the site or to a
15 storage facility approved by the director of the division of **facilities**
16 **management**, design and construction as having adequate safeguards against
17 loss, theft or conversion.

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

8.291. 1. The agency shall list three highly qualified firms. The agency
2 shall then select the firm considered best qualified and capable of performing the
3 desired work and negotiate a contract for the project with the firm selected.

4 2. For a basis for negotiations the agency shall prepare a written
5 description of the scope of the proposed services.

6 3. If the agency is unable to negotiate a satisfactory contract with the firm
7 selected, negotiations with that firm shall be terminated. The agency shall then
8 undertake negotiations with another of the qualified firms selected. If there is
9 a failing of accord with the second firm, negotiations with such firm shall be
10 terminated. The agency shall then undertake negotiations with the third
11 qualified firm.

12 4. If the agency is unable to negotiate a contract with any of the selected
13 firms, the agency shall reevaluate the necessary architectural, engineering or
14 land surveying services, including the scope and reasonable fee requirements,
15 again compile a list of qualified firms and proceed in accordance with the
16 provisions of sections 8.285 to 8.291.

17 5. The provisions of sections 8.285 to 8.291 shall not apply to any political
18 subdivision which adopts a formal **qualifications-based selection** procedure
19 **commensurate with state policy** for the procurement of architectural,
20 engineering and land surveying services.

8.310. Any other provision of law to the contrary notwithstanding, no
2 contracts shall be let for design, repair, renovation or construction without
3 approval of the director of the division of **facilities management**, design and
4 construction, and no claim for design, repair, construction or renovation projects
5 under contract shall be accepted for payment by the commissioner of

6 administration without approval by the director of the division of **facilities**
7 **management**, design and construction; except that the department of
8 conservation, the boards of curators of the state university and Lincoln
9 University, the several boards of regents of the state colleges and the boards of
10 trustees of the community junior colleges may contract for architectural and
11 engineering services for the design and supervision of the construction, repair,
12 maintenance or improvement of buildings or institutions and may contract for
13 construction, repair, maintenance or improvement. The director of the division
14 of **facilities management**, design and construction shall not be required to
15 review any claim for payment under any such contract not originally approved by
16 him. No claim under any contract executed by the department of conservation or
17 an institution of higher learning, as provided above, shall be certified by the
18 commissioner of administration unless the entity making the claim shall certify
19 in writing that the payment sought is in accordance with the contract executed
20 by the entity and that the underlying construction, repair, maintenance or
21 improvement conforms with applicable regulations promulgated by the director
22 pursuant to section 8.320.

8.316. The division of **facilities management**, design and construction
2 shall promulgate a method to accurately calculate the replacement cost of all
3 buildings owned by public institutions of higher education. The method shall be
4 developed in cooperation with such institutions and shall include the necessary
5 components and factors to accurately calculate a replacement cost. The division
6 shall utilize a procedure to allow differences to be resolved and may include an
7 alternative calculation where the original cost plus an inflation factor is utilized
8 to determine a replacement cost value.

8.320. The director of the division of **facilities management**, design and
2 construction shall set forth reasonable conditions to be met and procedures to be
3 followed in the repair, maintenance, operation, construction and administration
4 of state facilities. The conditions and procedures shall be codified and filed with
5 the secretary of state in accordance with the provisions of the constitution. No
6 payment shall be made on claims resulting from work performed in violation of
7 these conditions and procedures, as certified by the director of the division of
8 **facilities management**, design and construction.

8.325. 1. In addition to providing the general assembly with estimates of
2 the cost of completing a proposed capital improvement project, the division of
3 **facilities management**, design and construction shall provide the general

4 assembly, at the same time as the division submits the estimate of the capital
5 improvement costs for the proposed capital improvement project, an estimate of
6 the operating costs of such completed capital improvement project for its first full
7 year of operation. Such estimate shall include, but not be limited to, an estimate
8 of the cost of:

9 (1) Personnel directly related to the operation of the completed capital
10 improvement project, such as janitors, security, and other persons who would
11 provide necessary services for the completed project or facility;

12 (2) Utilities for the completed project or facility; and

13 (3) Any maintenance contracts which would be entered into in order to
14 provide services for the completed project or facility, such as elevator
15 maintenance, boiler maintenance, and other similar service contracts with private
16 contractors to provide maintenance services for the completed project or facility.

17 2. The costs estimates required by this section shall clearly indicate the
18 additional operating costs of the building or facility due to the completion of the
19 capital improvement project where such proposed project is for an addition to an
20 existing building or facility.

21 3. Any agency of state government which removes from rental quarters
22 or state-owned buildings because of defective conditions or any other state
23 personnel shall be prevented from reoccupation of those quarters for a period of
24 three years unless such defective conditions are renovated within a reasonable
25 time before reoccupation.

8.330. The director of the division of **facilities management**, design and
2 construction may secure information and data relating to state facilities from all
3 departments and agencies of the state and each department and agency shall
4 furnish information and data when requested by the director of the division of
5 **facilities management**, design and construction. All information and data
6 collected by the director of the division of **facilities management**, design and
7 construction is available at all times to the general assembly upon request.

8.340. The director of the division of **facilities management**, design and
2 construction shall assemble and maintain complete files of information on the
3 repair, utilization, cost and other data for all state facilities, including power
4 plants, pump houses and similar facilities. He shall also assemble and maintain
5 files containing a full legal description of all real estate owned by the state and
6 blueprints of all state facilities.

8.350. The director of the division of **facilities management**, design and

2 construction shall deliver to his successor all property and papers of every kind
3 in his possession, relative to the affairs of state, make an inventory thereof, upon
4 which he shall take a receipt of his successor, and deliver the same to the
5 secretary of state.

8.360. The director of the division of **facilities management**, design and
2 construction shall inspect all facilities and report to the general assembly at the
3 commencement of each regular session on their condition, maintenance, repair
4 and utilization.

8.420. 1. Bonds issued under and pursuant to the provisions of sections
2 8.370 to 8.450 shall be of such denomination or denominations, shall bear such
3 rate or rates of interest not to exceed fifteen percent per annum, and shall mature
4 at such time or times within forty years from the date thereof, as the board
5 determines. The bonds may be either serial bonds or term bonds.

6 2. Serial bonds may be issued with or without the reservation of the right
7 to call them for payment and redemption in advance of their maturity, upon the
8 giving of such notice, and with or without a covenant requiring the payment of
9 a premium in the event of such payment and redemption prior to maturity, as the
10 board determines.

11 3. Term bonds shall contain a reservation of the right to call them for
12 payment and redemption prior to maturity at such time or times and upon the
13 giving of such notice, and upon the payment of such premium, if any, as the board
14 determines.

15 4. The bonds, when issued, shall be sold at public sale for the best price
16 obtainable after giving such reasonable notice of such sale as may be determined
17 by the board, but in no event shall such bonds be sold for less than ninety-eight
18 percent of the par value thereof, and accrued interest. Any such bonds may be
19 sold to the United States of America or to any agency or instrumentality thereof,
20 at a price not less than par and accrued interest, without public sale and without
21 the giving of notice as herein provided.

22 5. The bonds, when issued and sold, shall be negotiable instruments
23 within the meaning of the law merchant and the negotiable instruments law, and
24 the interest thereon shall be exempt from income taxes under the laws of the
25 state of Missouri.

26 6. The board shall not issue revenue bonds pursuant to the provisions of
27 sections 8.370 to 8.450 for one or more projects, as defined in section 8.370, in
28 excess of a total par value of seven hundred seventy-five million dollars.

29 [7. Any bonds which may be issued pursuant to the provisions of sections
30 8.370 to 8.450 shall be issued only for projects which have been approved by a
31 majority of the house members and a majority of the senate members of the
32 committee on legislative research of the general assembly, and the approval by
33 the committee on legislative research required by the provisions of section 8.380
34 shall be given only in accordance with this provision. For the purposes of
35 approval of a project, the total amount of bonds issued for purposes of energy
36 retrofitting in state-owned facilities shall be treated as a single project.]

8.661. 1. The board of public buildings[, after project approval by the
2 committee on legislative research of the general assembly,] may acquire,
3 construct, erect, equip, furnish, operate, control, manage and regulate a project,
4 as herein defined, if, in the judgment of the board, the project is necessary,
5 advisable, and suitable for the use of the agencies and instrumentalities of the
6 state.

7 2. The board may use real property now or hereafter belonging to the
8 state as a site for any such project, or acquire by purchase, lease, gift or
9 otherwise the real or personal property that in the judgment of the board is
10 necessary, advisable and suitable for such purpose.

11 3. In acquiring the property the board may condemn any and all rights or
12 property, either public or private, of every kind and character, necessary for the
13 purposes aforesaid, and in the exercise of such power of condemnation, it shall
14 follow the procedure which is now or may hereafter be provided by law for the
15 appropriation of land or other property taken for telegraph, telephone or railroad
16 right-of-way.

17 4. When the board enters into a project authorized by sections 8.660 to
18 8.670, it shall provide for sufficient space to be included in the project to meet
19 probable future requirements occasioned by the growth and expansion of the
20 agency.

21 5. The board may lease to state agencies and instrumentalities of the
22 state and other political subdivisions of the state under the same terms and
23 conditions prescribed under section 8.662. Any such lease shall include a
24 provision requiring the payment of a portion of the costs of operation and
25 maintenance of the project under the formula prescribed under section 8.662.

8.679. 1. When, in the discretion of the public owner, it is determined
2 that a public works project should be performed with a negotiated contract for
3 construction management services, such public owner shall advertise and solicit

4 proposals from qualified construction managers in the following manner: If the
5 total cost for the erection or construction of any building or structure or the
6 improvement, alteration or repair of a building or structure exceeds five hundred
7 thousand dollars, the public owner shall request and solicit proposals by
8 advertising for ten days in one newspaper of general circulation in the county
9 where the work is located. If the cost of the work contemplated exceeds one
10 million five hundred thousand dollars, proposals shall be solicited by
11 advertisement for ten days in two daily newspapers in the state which have not
12 less than fifty thousand daily circulation in addition to the advertisement in the
13 county where the work is located. The number of such proposals shall not be
14 restricted or curtailed, but shall be open to all construction managers complying
15 with the terms upon which the proposals are requested.

16 **2. Notwithstanding any provision of law to the contrary, the**
17 **division of facilities management, design and construction has the**
18 **authority to bid and award multiple projects to a single firm, if it is in**
19 **the best interest of the state.**

8.800. As used in sections 8.800 to 8.825, the following terms mean:

2 (1) "Builder", the prime contractor that hires and coordinates building
3 subcontractors or if there is no prime contractor, the contractor that completes
4 more than fifty percent of the total construction work performed on the
5 building. Construction work includes, but is not limited to, foundation, framing,
6 wiring, plumbing and finishing work;

7 (2) "Department", the department of natural resources;

8 (3) "Designer", the architect, engineer, landscape architect, builder,
9 interior designer or other person who performs the actual design work or is under
10 the direct supervision and responsibility of the person who performs the actual
11 design work;

12 (4) "District heating and cooling systems", heat pump systems which use
13 waste heat from factories, sewage treatment plants, municipal solid waste
14 incineration, lighting and other heat sources in office buildings or which use
15 ambient thermal energy from sources including temperature differences in rivers
16 to provide regional heating or cooling;

17 (5) "Division", the division of **facilities management**, design and
18 construction;

19 (6) "Energy efficiency", the increased productivity or effectiveness of
20 energy resources use, the reduction of energy consumption, or the use of

21 renewable energy sources;

22 (7) "Gray water", all domestic wastewater from a state building except
23 wastewater from urinals, toilets, laboratory sinks, and garbage disposals;

24 (8) "Life cycle costs", the costs associated with the initial construction or
25 renovation and the proposed energy consumption, operation and maintenance
26 costs over the useful life of a state building or over the first twenty-five years
27 after the construction or renovation is completed;

28 (9) "Public building", a building owned or operated by a governmental
29 subdivision of the state, including, but not limited to, a city, county or school
30 district;

31 (10) "Renewable energy source", a source of thermal, mechanical or
32 electrical energy produced from solar, wind, low-head hydropower, biomass,
33 hydrogen or geothermal sources, but not from the incineration of hazardous
34 waste, municipal solid waste or sludge from sewage treatment facilities;

35 (11) "State agency", a department, commission, authority, office, college
36 or university of this state;

37 (12) "State building", a building owned by this state or an agency of this
38 state.

8.830. For purposes of sections 8.830 to 8.851, the following terms mean:

2 (1) "Department", the department of natural resources;

3 (2) "Director", the director of the department of natural resources;

4 (3) "Division", the division of **facilities management**, design and
5 construction;

6 (4) "Public building", a building owned or operated by a governmental
7 subdivision of the state, including, but not limited to, a city, county or school
8 district;

9 (5) "State building", a building owned or operated by the state, a state
10 agency or department, a state college or a state university.

8.843. There is hereby established an interagency advisory committee on
2 energy cost reduction and savings. The committee shall consist of the
3 commissioner of administration, the director of the division of **facilities**
4 **management**, design and construction, the director of the department of natural
5 resources, the director of the environmental improvement and energy resources
6 authority, the director of the division of energy, the director of the department of
7 transportation, the director of the department of conservation and the
8 commissioner of higher education. The committee shall advise the department

9 on the development of the minimum energy efficiency standard and state building
10 energy efficiency rating system and shall assist the office of administration in
11 implementing sections 8.833 and 8.835.

33.710. 1. There is created "The Governmental Emergency Fund
2 Committee" consisting of the governor, the commissioner of administration, the
3 chairman and ranking minority member of the senate appropriations committee,
4 the chairman and ranking minority member of the house appropriations
5 committee and the director of the division of **facilities management**, design and
6 construction who shall serve as consultant to the committee without vote.

7 2. The members of the committee shall serve without compensation but
8 shall be reimbursed for actual and necessary expenses incurred by them in the
9 performance of their official duties.

10 3. The committee shall elect from among its members a chairman and vice
11 chairman and such other officers as it deems necessary.

34.031. 1. The commissioner of administration, in consultation with the
2 environmental improvement and energy resources authority of the department of
3 natural resources, shall give full consideration to the purchase of products made
4 from materials recovered from solid waste and to the reduction and ultimate
5 elimination of purchases of products manufactured in whole or in part of
6 thermoformed or other extruded polystyrene foam manufactured using any fully
7 halogenated chlorofluorocarbon (CFC). Products that utilize recovered materials
8 of a price and quality comparable to products made from virgin materials shall
9 be sought and purchased, with particular emphasis on recycled oil, retread tires,
10 compost materials and recycled paper products. The commissioner shall exercise
11 a preference for such products if their use is technically feasible and, where a bid
12 is required, their price is equal to, or less than, the price of items which are
13 manufactured or produced from virgin materials. Products that would be inferior,
14 violate safety standards or violate product warranties if the provisions of this
15 section are followed may be excluded from the provisions of this section.

16 2. The commissioner of administration shall:

17 (1) Review the procurement specifications in order to eliminate
18 discrimination against the procurement of recycled products;

19 (2) Review and modify the contract specifications for paper products and
20 increase the minimum required percentage of recycled paper in each product as
21 follows:

22 (a) Forty percent recovered materials for newsprint;

- 23 (b) Eighty percent recovered materials for paperboard;
- 24 (c) Fifty percent waste paper in high grade printing and writing paper;
- 25 (d) Five to forty percent in tissue products;
- 26 (3) Support federal incentives and policy guidelines designed to promote
- 27 these goals;
- 28 (4) Develop and implement a cooperative procurement policy to facilitate
- 29 bulk order purchases and to increase availability of recycled products. The policy
- 30 shall be distributed to all state agencies and shall be made available to political
- 31 subdivisions of the state;
- 32 (5) Conduct a survey using existing staff of those items customarily
- 33 required by the state that are manufactured in whole or part from polystyrene
- 34 plastic, and report its findings, together with an analysis of environmentally
- 35 acceptable alternatives thereto, prepared in collaboration with the department of
- 36 natural resources, to the general assembly and every state agency within six
- 37 months of August 28, 1995.
- 38 3. Notwithstanding the provisions of this section, no state agency may
- 39 purchase any food or beverage containers or wrapping manufactured from any
- 40 polystyrene foam manufactured using any fully halogenated chlorofluorocarbon
- 41 (CFC) found by the United States Environmental Protection Agency (EPA) to be
- 42 an ozone-depleting chemical.
- 43 4. No state agency may purchase any items made in whole or part of
- 44 thermoformed or other extruded polystyrene foam manufactured using any fully
- 45 halogenated chlorofluorocarbon (CFC) found by the United States Environmental
- 46 Protection Agency (EPA) to be an ozone-depleting chemical without approval from
- 47 the commissioner of administration. Approval shall not be granted unless the
- 48 purchasing agency demonstrates to the satisfaction of the director of the
- 49 department of natural resources and the commissioner that there is no
- 50 environmentally more acceptable alternatives or the quality of such alternatives
- 51 is not adequate for the purpose intended.
- 52 5. For each paper product type and corresponding recycled paper content
- 53 standard pursuant to subdivision (2) of subsection 2 of this section, attainment
- 54 goals for the percentage of paper products to be purchased that utilize
- 55 post-consumer recovered materials shall be:
- 56 (1) Ten percent in 1991 and 1992;
- 57 (2) Twenty-five percent in 1993 and 1994;
- 58 (3) Forty percent in 1995; and

59 (4) Sixty percent by 2000.

60 6. In the review of capital improvement projects for buildings and
61 facilities of state government, the commissioner of administration shall direct the
62 division of **facilities management**, design and construction to give full
63 consideration to alternatives which use solid waste, as defined in section 260.200,
64 RSMo, as a fuel for energy production or which use products composed of
65 materials recovered from solid waste.

66 7. The commissioner of administration, in consultation with the
67 environmental improvement and energy resources authority of the department of
68 natural resources, shall prepare and provide by January first of each year an
69 annual report summarizing past activities and accomplishments of the program
70 and proposed goals of the program including projections for each affected
71 agency. The report shall also include a list of products utilizing recovered
72 materials that could substitute for products currently purchased and a schedule
73 of amounts purchased of products utilizing recovered materials compared to
74 purchases of similar products utilizing virgin materials for the period covered by
75 the annual report.

76 8. The office of administration, department of natural resources and
77 department of economic development shall cooperate jointly and share to the
78 greatest extent possible, information and other resources to promote:

79 (1) Producers or potential producers of secondary material goods to
80 expand or develop their product lines;

81 (2) Increased demand for secondary materials recovered in Missouri; and

82 (3) Increased demand by state government for products which contain
83 secondary materials recovered in Missouri.

84 9. The commissioner of administration may increase minimum recycled
85 content percentages for paper products, minimum recycled content percentages
86 for other recycled products and establish minimum post-consumer content as such
87 products become available. The preference provided in subsection 1 of this
88 section shall apply to the minimum standards established by the commissioner.

37.010. 1. The governor, by and with the advice and consent of the
2 senate, shall appoint a commissioner of administration, who shall head the
3 "Office of Administration" which is hereby created. The commissioner of
4 administration shall receive a salary as provided by law and shall also receive his
5 actual and necessary expenses incurred in the discharge of his official
6 duties. Before taking office, the commissioner of administration shall take and

7 subscribe an oath or affirmation to support the Constitution of the United States
8 and of this state, and to demean himself faithfully in office. He shall also deposit
9 with the governor a bond, with sureties to be approved by the governor, in the
10 amount to be determined by the governor payable to the state of Missouri,
11 conditioned on the faithful performance of the duties of his office. The premium
12 of this bond shall be paid out of the appropriation for the office of the governor.

13 2. The governor shall appoint the commissioner of administration with the
14 advice and consent of the senate. The commissioner shall be at least thirty years
15 of age and must have been a resident and qualified voter of this state for the five
16 years next preceding his appointment. He must be qualified by training and
17 experience to assume the managerial and administrative functions of the office
18 of commissioner of administration.

19 3. The commissioner of administration shall, by virtue of his office,
20 without additional compensation, head the division of budget, the division of
21 purchasing, the division of **facilities management**, design and construction,
22 and the division of electronic data processing coordination. Whenever provisions
23 of the constitution grant powers, impose duties or make other reference to the
24 comptroller, they shall be construed as referring to the commissioner of
25 administration.

26 4. The commissioner of administration shall provide the governor with
27 such assistance in the supervision of the executive branch of state government as
28 the governor requires and shall perform such other duties as are assigned to him
29 by the governor or by law. The commissioner of administration shall work with
30 other departments of the executive branch of state government to promote
31 economy, efficiency and improved service in the transaction of state
32 business. The commissioner of administration, with the approval of the governor,
33 shall organize the work of the office of administration in such manner as to
34 obtain maximum effectiveness of the personnel of the office. He may consolidate,
35 abolish or reassign duties of positions or divisions combined within the office of
36 administration, except for the division of personnel. He may delegate specific
37 duties to subordinates. These subordinates shall take the same oath as the
38 commissioner and shall be covered by the bond of the director or by separate bond
39 as required by the governor.

40 5. The personnel division, personnel director and personnel advisory board
41 as provided in chapter 36, RSMo, shall be in the office of administration. The
42 personnel director and employees of the personnel division shall perform such

43 duties as directed by the commissioner of administration for personnel work in
44 agencies and departments of state government not covered by the merit system
45 law to upgrade state employment and to improve the uniform quality of state
46 employment.

47 6. The commissioner of administration shall prepare a complete inventory
48 of all real estate, buildings and facilities of state government and an analysis of
49 their utilization. Each year he shall formulate and submit to the governor a
50 long-range plan for the ensuing five years for the repair, construction and
51 rehabilitation of all state properties. The plan shall set forth the projects
52 proposed to be authorized in each of the five years with each project ranked in the
53 order of urgency of need from the standpoint of the state as a whole and shall be
54 upgraded each year. Project proposals shall be accompanied by workload and
55 utilization information explaining the need and purpose of each. Departments
56 shall submit recommendations for capital improvement projects and other
57 information in such form and at such times as required by the commissioner of
58 administration to enable him to prepare the long-range plan. The commissioner
59 of administration shall prepare the long-range plan together with analysis of
60 financing available and suggestions for further financing for approval of the
61 governor who shall submit it to the general assembly. The long-range plan shall
62 include credible estimates for operating purposes as well as capital outlay and
63 shall include program data to justify need for the expenditures included. The
64 long-range plan shall be extended, revised and resubmitted in the same manner
65 to accompany each executive budget. The appropriate recommendations for the
66 period for which appropriations are to be made shall be incorporated in the
67 executive budget for that period together with recommendations for
68 financing. Each revised long-range plan shall provide a report on progress in the
69 repair, construction and rehabilitation of state properties and of the operating
70 purposes program for the preceding fiscal period in terms of expenditures and
71 meeting program goals.

72 7. All employees of the office of administration, except the commissioner
73 and not more than three other executive positions designated by the governor in
74 an executive order, shall be subject to the provisions of chapter 36, RSMo. The
75 commissioner shall appoint all employees of the office of administration and may
76 discharge the employees after proper hearing, provided that the employment and
77 discharge conform to the practices governing selection and discharge of employees
78 in accordance with the provisions of chapter 36, RSMo.

79 8. The office of the commissioner of administration shall be in Jefferson
80 City.

81 9. In case of death, resignation, removal from office or vacancy from any
82 cause in the office of commissioner of administration, the governor shall take
83 charge of the office and superintend the business thereof until a successor is
84 appointed, commissioned and qualified.

 44.237. 1. In addition to its responsibilities listed in sections 44.225 to
2 44.237, the commission shall undertake a study to determine the feasibility of
3 establishing a comprehensive program of earthquake hazard reduction having as
4 its purposes the saving of lives and mitigating damage to property in Missouri.

5 2. The study shall accomplish the following tasks:

6 (1) Earthquake hazard reduction. The study shall develop a
7 comprehensive program for the reduction of earthquake hazards in Missouri. It
8 shall include, but not necessarily be limited to, the following:

9 (a) A review of and recommendations for improving the development and
10 implementation of technically and economically feasible codes, standards and
11 procedures for the design and construction of new structures and the
12 strengthening of existing structures so as to increase the earthquake resistance
13 of structures located in areas of significant seismic hazard;

14 (b) A review of current methods and recommendations for new methods
15 to improve the development, publication and promotion, in conjunction with local
16 officials, research organizations and professional organizations, of model codes
17 and other means to provide better information about seismic hazards to guide
18 land-use policy decisions and building activity;

19 (c) A review of and recommendations for methods, practices and
20 procedures to educate the public, including local officials, about the nature and
21 consequences of earthquakes, about procedures for identifying those locations and
22 structures especially susceptible to earthquake damage and about ways to reduce
23 and mitigate the adverse effects of an earthquake;

24 (d) A review of and recommendations for programs and techniques to
25 improve preparedness for and response to damaging earthquakes with special
26 attention being given to hazard control measures, pre-earthquake emergency
27 planning, readiness of emergency services and planning for post-earthquake
28 reconstruction and redevelopment.

29 (2) Implementation processes. With respect to implementation of
30 earthquake hazard reduction, the study shall include the following:

31 (a) Recommendations for new roles, responsibilities and programs for
32 state and local agencies, universities, private organizations and volunteer
33 organizations, including goals, priorities and expenditures of future state funds
34 specifically identified for the recommended hazards reduction program;

35 (b) Recommendations for methods and procedures to disseminate and
36 implement basic and applied earthquake research in order to achieve higher
37 levels of seismic safety.

38 (3) Coordination with other agencies. To the extent it is practical to do
39 so, the study required by this section shall be coordinated with the relevant local,
40 regional and federal government agencies, key elements of the private sector, and
41 at least the following state agencies: state emergency management agency,
42 division of geology and land survey, division of **facilities management**, design
43 and construction, Missouri housing development commission, department of
44 natural resources, department of labor and industrial relations, public service
45 commission, department of health and senior services, office of the state fire
46 marshal, department of transportation, department of revenue, office of the
47 adjutant general, department of insurance, and the department of elementary and
48 secondary education.

49 3. The study shall include recommendations for statutory changes and
50 specific executive actions to be taken by state and local agencies necessary to
51 establish and implement an earthquake hazards reduction program for the state
52 of Missouri.

53 4. The commission shall submit the study to the general assembly by June
54 30, 1997, or earlier at its discretion.

217.575. 1. All goods manufactured, services provided or produce of the
2 vocational enterprises program of the state shall, upon the requisition of the
3 proper official, be furnished to the state, to any public institution owned,
4 managed or controlled by the state, or to any private entity that is leasing space
5 to any agency of the state government for use in space leased to the state agency,
6 at such prices as shall be determined as provided in subsection 4 of this section.

7 2. No goods or services so manufactured, provided or produced shall be
8 purchased from any other source for the state or public institutions of the state
9 unless the department shall certify the goods or services included in the
10 requisition cannot be furnished or supplied by the vocational enterprises program
11 within ninety days, or, in the event the same goods or services cannot be procured
12 on the open market within ninety days, that the vocational enterprises program

13 cannot supply them within a reasonable time. No claims for the payment of such
14 goods or services shall be audited or paid without this certificate. One copy each
15 of the requisition or certificate shall be retained by the department.

16 3. The division of purchasing and the division of **facilities management**,
17 design and construction shall cooperate with the department in seeking to
18 promote for use by state agencies and in state-owned or -occupied facilities the
19 products manufactured and services provided by the vocational enterprises
20 program.

21 4. The vocational enterprises program shall fix and determine the prices
22 at which goods and produce so manufactured and produced and services so
23 provided shall be furnished, and the prices shall be uniform to all. The cost shall
24 not be fixed at more than the market price for like goods and services.

25 5. Any differences between the vocational enterprises program and the
26 state, its departments, divisions, agencies, institutions, or the political
27 subdivisions of the state as to style, design, price or quality of goods shall be
28 submitted to arbitrators whose decision shall be final. One of the arbitrators
29 shall be named by the program, one by the office, department, political
30 subdivision or institution concerned, and one by agreement of the other two. The
31 arbitrators shall receive no compensation; however, their necessary expenses
32 shall be paid by the office, department, political subdivision or institution against
33 which the award is given, or, in the event of a compromise decision, by both
34 parties, the amount to be paid by each party in portions to be determined by the
35 arbitrators.

36 6. The vocational enterprises program may sell office systems and
37 furniture to any department, agency, or institution of the state or any political
38 subdivision of the state either through outright purchase or through payment
39 plan agreement, including handling charges, over a specified number of months
40 contingent on the solvency of the working capital revolving fund. Prior approval
41 shall be required by the division of **facilities management**, design and
42 construction for state agencies in situations where the office of administration
43 controlled state-owned office space is involved and space in which a lease contract
44 executed by the office of administration is in effect.

251.240. The division of **facilities management**, design and construction
2 shall furnish office space for the state office; the headquarters office shall be
3 located in Jefferson City, Missouri.

253.320. Any lease granted under the provisions of sections 253.290 to

2 253.320 shall be conditioned as follows and also contain such provisions as the
3 attorney general may prescribe:

4 (1) The director of the department of natural resources shall retain the
5 right to enter upon the lands at all times;

6 (2) The director shall control the style of architecture used in construction
7 on the lands, and the quality of materials used in said construction shall be
8 approved by the director of the division of **facilities management**, design and
9 construction for the state of Missouri, and may control all fees and prices charged
10 to the public as may be required by the director;

11 (3) The director shall inspect and audit the books and records of the lessee
12 at least once every two years;

13 (4) The lessee shall provide such care, maintenance, repair, conservation
14 and improvement of the lands and shall render such services to the public as may
15 be required by the director;

16 (5) The lessee shall keep true and accurate records of his receipts and
17 disbursements arising out of the operation of facilities upon the leased lands and
18 shall permit the director to inspect and audit them at all reasonable times;

19 (6) Nothing in sections 253.290 to 253.320 shall be construed as denying
20 the lessees the right to execute mortgages and other evidences of interest in or
21 indebtedness upon their leasehold interest or properties thereon for the purpose
22 of installing, enlarging or improving plant and equipment and extending facilities
23 for the accommodation of the public within said state park; provided, however,
24 that no such mortgage or other encumbrance shall be valid unless authorized and
25 approved by the written order of the director; and further provided that the
26 period for payment of such mortgage or indebtedness shall not extend beyond the
27 lease period, and that no obligation or indebtedness shall incur to the state.

261.010. There is created a "Department of Agriculture", the main office
2 of which shall be in Jefferson City in quarters provided by the division of
3 **facilities management**, design and construction. The governor, by and with the
4 advice and consent of the senate, shall appoint a director of the department of
5 agriculture who shall be a practical farmer, well versed in agricultural science
6 and who shall serve at the pleasure of the governor. The director shall be in
7 charge of the department of agriculture.

311.650. The principal office of the supervisor of liquor control shall be at
2 the seat of government at Jefferson City, and the director of the division of
3 **facilities management**, design and construction at the capitol shall provide

4 offices for the liquor control department.

313.210. The "State Lottery Commission" is hereby created. The
2 commission shall control and manage the state lottery. The principal office of the
3 commission shall be located in Jefferson City in quarters provided by the division
4 of **facilities management**, design and construction. That division shall also
5 arrange for other needed office space for the commission or its staff. The
6 commission shall be assigned to the department of revenue as a type III division,
7 but the director of the department of revenue has no supervision, authority or
8 control over the actions or decisions of the lottery commission or the director of
9 the state lottery.

320.260. The division of **facilities management**, design and construction
2 shall provide office space for the state fire marshal and his employees.

334.125. 1. The board shall have a common seal and shall formulate rules
2 and regulations to govern its actions. Provision shall be made by the division of
3 **facilities management**, design and construction for office facilities in Jefferson
4 City, Missouri, where the records and register of the board shall be maintained.

5 2. No rule or portion of a rule promulgated under the authority of this
6 chapter shall become effective unless it has been promulgated pursuant to the
7 provisions of section 536.024, RSMo.

361.010. 1. There is hereby created a "State Division of Finance", which
2 shall be under the management and control of a chief officer who shall be called
3 the "Director of Finance".

4 2. The director of finance shall maintain his office at the City of Jefferson,
5 reside in the state of Missouri, and shall devote all of his time to the duties of his
6 office. The division of **facilities management**, design and construction is
7 hereby required to provide the director of finance and the state division of finance
8 with suitable rooms.

630.525. If any major building standing on property under the supervision
2 and control of the department is in such a state of dilapidation or disrepair as to
3 be, in the opinion of the director, dangerous to patients or residents, employees
4 of the department or other persons frequenting such property, the department
5 may, with the approval of the division of **facilities management**, design and
6 construction and, if necessary, with appropriations for this purpose from the
7 general assembly, cause such building to be torn down or razed. For such
8 purpose, the department may contract with any person under the rules and
9 regulations of the division of purchasing, and may sell or otherwise dispose of the

10 materials composing such building.

2 [8.120. There is hereby created within the office of
3 administration a "Division of Design and Construction", which shall
4 supervise the design, construction, renovations and repair of state
5 facilities, except as provided in sections 8.015 and 8.017, and
6 except in those belonging to the institutions of higher education
7 and the department of conservation. The division of design and
8 construction shall be responsible to review all requests for
appropriations for capital improvements.]

2 [8.177. 1. The director of the department of public safety
3 shall employ Missouri capitol police officers for public safety at the
4 seat of state government. Each Missouri capitol police officer, upon
5 appointment, shall take and subscribe an oath of office to support
6 the constitution and laws of the United States and the state of
7 Missouri and shall receive a certificate of appointment, a copy of
8 which shall be filed with the secretary of state, granting such police
9 officers all the same powers of arrest held by other police officers
10 to maintain order and preserve the peace in all state-owned or
11 leased buildings, and the grounds thereof, at the seat of
12 government and such buildings and grounds within the county
which contains the seat of government.

13 2. The director of the department of public safety shall
14 appoint a sufficient number of Missouri capitol police officers, with
15 available appropriations, as appropriated specifically for the
16 purpose designated in this subsection, so that the capitol grounds
17 may be patrolled at all times, and that traffic and parking upon the
18 capitol grounds and the grounds of other state buildings owned or
19 leased within the capital city and the county which contains the
20 seat of government may be properly controlled. Missouri capitol
21 police officers may make arrests for the violation of parking and
22 traffic regulations promulgated by the office of administration.

23 3. Missouri capitol police officers shall be authorized to
24 arrest a person anywhere in the county that contains the seat of
25 state government, when there is probable cause to believe the
26 person committed a crime within capitol police jurisdiction or when
27 a person commits a crime within capitol police jurisdiction or when

28 a person commits a crime in the presence of an on-duty capitol
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