

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1170

94TH GENERAL ASSEMBLY

2008

4809L.08T

AN ACT

To repeal section 177.088, RSMo, and to enact in lieu thereof two new sections relating to education boards and commissions, with an emergency clause for a certain section.

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

Section A. Section 177.088, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 160.459 and 177.088, to read as follows:

160.459. 1. There is hereby established the "Rebuild Missouri Schools Program" under which the state board of education shall distribute no-interest funding to eligible school districts from moneys appropriated by the general assembly to the rebuild Missouri schools program fund for the purposes of this section to assist in paying the costs of emergency projects.

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

(1) "Eligible school district", any public school district that has one or more school facilities that have experienced severe damage or destruction due to an act of God or extreme weather events, including but not limited to tornado, flood, or hail;

(2) "Emergency project", reconstruction, replacement or renovation of, or repair to, any school facilities located in an area that has been declared a disaster area by the governor or President of the United States because of severe damage;

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

16 (3) "Fund", the rebuild Missouri schools fund created by this
17 section and funded by appropriations of the general assembly;

18 (4) "Severe damage", such level of damage as to render all or a
19 substantial portion of a facility within a school district unusable for the
20 purpose for which it was being used immediately prior to the event
21 that caused the damage.

22 3. Under rules and procedures established by the state board of
23 education, eligible school districts may receive moneys from the fund
24 to pay for the costs of one or more emergency projects.

25 4. Each eligible school district applying for such funding shall
26 enter into an agreement with the state board of education which shall
27 provide for all of the following:

28 (1) The funding shall be used only to pay the costs of an
29 emergency project;

30 (2) The eligible school district shall pay no interest for the
31 funding;

32 (3) The eligible school district shall, subject to annual
33 appropriation as provided in this section, repay the amount of the
34 funding to the fund in annual installments, which may or may not be
35 equal in amount, not more than twenty years from the date the funding
36 is received by the eligible school district. If the fund is no longer in
37 existence, the eligible school district shall repay the amount of the
38 funding to the general revenue fund;

39 (4) The repayment described in subdivision (3) of this subsection
40 shall annually be subject to an appropriation by the board of education
41 of the eligible school district to make such repayment, such
42 appropriation to be, at the discretion of the eligible school district,
43 from such district's incidental fund or capital projects fund;

44 (5) As security for the repayment, a pledge from the eligible
45 school district to the state board of education of the use and occupancy
46 of the school facilities constituting the emergency project for a period
47 ending not earlier than the date the repayment shall be completed; and

48 (6) Such other provisions as the state board of education shall
49 provide for in its rules and procedures or as to which the state board
50 of education and the eligible school district shall agree.

51 5. The amount of funding awarded by the state board of
52 education for any emergency project shall not exceed the cost of that

53 emergency project less the amount of any insurance proceeds or other
54 moneys received by the eligible school district as a result of the severe
55 damage. If the eligible school district receives such insurance proceeds
56 or other moneys after it receives funding under the rebuild Missouri
57 schools program, it shall pay to the state board of education the
58 amount by which the sum of the funding under the rebuild Missouri
59 schools program plus the insurance proceeds and other moneys exceeds
60 the cost of the emergency project. Such payment shall:

61 (1) Be made at the time the annual payment under the agreement
62 is made;

63 (2) Be made whether or not the eligible school district has made
64 an appropriation for its annual payment;

65 (3) Be in addition to the annual payment; and

66 (4) Not be a credit against the annual payment.

67 6. Repayments from eligible school districts shall be paid into
68 the fund so long as it is in existence and may be used by the state board
69 of education to provide additional funding under the rebuild Missouri
70 schools program. If the fund is no longer in existence, repayments shall
71 be paid to the general revenue fund.

72 7. The funding provided for under the rebuild Missouri schools
73 program, and the obligation to repay such funding, shall not be taken
74 into account for purposes of any constitutional or statutory debt
75 limitation applicable to an eligible school district.

76 8. The state board of education shall establish procedures,
77 criteria, and deadlines for eligible school districts to follow in applying
78 for assistance under this section. The state board of education shall
79 promulgate rules and regulations necessary to implement this section.
80 No regulations, procedures, or deadline shall be adopted by the state
81 board of education that would serve to exclude or limit any public
82 school district that received severe damage after April 1, 2006, from
83 participation in the program established by this section. Any rule or
84 portion of a rule, as that term is defined in section 536.010, RSMo, that
85 is created under the authority delegated in this section shall become
86 effective only if it complies with and is subject to all of the provisions
87 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
88 section and chapter 536, RSMo, are nonseverable and if any of the
89 powers vested with the general assembly pursuant to chapter 536,

90 RSMo, to review, to delay the effective date, or to disapprove and annul
91 a rule are subsequently held unconstitutional, then the grant of
92 rulemaking authority and any rule proposed or adopted after August
93 28, 2008, shall be invalid and void.

94 9. There is hereby created in the state treasury the "Rebuild
95 Missouri Schools Fund", which shall consist of money appropriated or
96 collected under this section. The state treasurer shall be custodian of
97 the fund and may approve disbursements from the fund in accordance
98 with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
99 the fund shall be used solely for the purposes of this section. Any
100 moneys remaining in the fund at the end of the biennium shall revert
101 to the credit of the general revenue fund. The state treasurer shall
102 invest moneys in the fund in the same manner as other funds are
103 invested. Any interest and moneys earned on such investments shall be
104 credited to the fund.

105 10. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

106 (1) The provisions of the new program authorized under this
107 section shall sunset automatically six years after the effective date of
108 this section unless reauthorized by an act of the general assembly; and

109 (2) If such program is reauthorized, the program authorized
110 under this section shall sunset automatically twelve years after the
111 effective date of the reauthorization of this section; and

112 (3) This section shall terminate on September first of the
113 calendar year immediately following the calendar year in which the
114 program authorized under this section is sunset.

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
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.

Section B. Because of the importance of providing suitable and permanent
2 school facilities for students, the enactment of section 160.459 of section A of this
3 act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace and safety, and is hereby declared to be an emergency act within
5 the meaning of the constitution, and the enactment of section 160.459 of section
6 A of this act shall be in full force and effect upon its passage and approval.

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Bill

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