

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 256

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCHAEFER.

Read 1st time January 27, 2009, and ordered printed.

Read 2nd time January 29, 2009, and referred to the Committee on Jobs, Economic Development and Local Government.

Reported from the Committee March 4, 2009, with recommendation that the bill do pass and be placed on the Consent Calendar.

Removed from the Consent Calendar March 4, 2009.

Re-reported from the Committee March 12, 2009, with recommendation that the bill do pass.

Taken up for Perfection March 25, 2009. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1337S.01P

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## AN ACT

To repeal sections 50.660 and 50.783, RSMo, and to enact in lieu thereof three new sections relating to county purchases.

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

Section A. Sections 50.660 and 50.783, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 50.660, 50.783, and  
3 67.319, to read as follows:

50.660. 1. All contracts shall be executed in the name of the county, or  
2 in the name of a township in a county with a township form of government, by the  
3 head of the department or officer concerned, except contracts for the purchase of  
4 supplies, materials, equipment or services other than personal made by the officer  
5 in charge of purchasing in any county or township having the officer. No contract  
6 or order imposing any financial obligation on the county or township is binding  
7 on the county or township unless it is in writing and unless there is a balance  
8 otherwise unencumbered to the credit of the appropriation to which it is to be  
9 charged and a cash balance otherwise unencumbered in the treasury to the credit  
10 of the fund from which payment is to be made, each sufficient to meet the  
11 obligation incurred and unless the contract or order bears the certification of the  
12 accounting officer so stating; except that in case of any contract for public works  
13 or buildings to be paid for from bond funds or from taxes levied for the purpose

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

14 it is sufficient for the accounting officer to certify that the bonds or taxes have  
15 been authorized by vote of the people and that there is a sufficient unencumbered  
16 amount of the bonds yet to be sold or of the taxes levied and yet to be collected  
17 to meet the obligation in case there is not a sufficient unencumbered cash balance  
18 in the treasury. All contracts and purchases shall be let to the lowest and best  
19 bidder after due opportunity for competition, including advertising the proposed  
20 letting in a newspaper in the county or township with a circulation of at least five  
21 hundred copies per issue, if there is one, except that the advertising is not  
22 required in case of contracts or purchases involving an expenditure of less than  
23 six thousand dollars. It is not necessary to obtain bids on any purchase in the  
24 amount of [four] ~~six~~ thousand [five hundred] dollars or less made from any one  
25 person, firm or corporation during any period of ninety days. All bids for any  
26 contract or purchase may be rejected and new bids advertised for. Contracts  
27 which provide that the person contracting with the county or township shall,  
28 during the term of the contract, furnish to the county or township at the price  
29 therein specified the supplies, materials, equipment or services other than  
30 personal therein described, in the quantities required, and from time to time as  
31 ordered by the officer in charge of purchasing during the term of the contract,  
32 need not bear the certification of the accounting officer, as herein provided; but  
33 all orders for supplies, materials, equipment or services other than personal shall  
34 bear the certification. In case of such contract, no financial obligation accrues  
35 against the county or township until the supplies, materials, equipment or  
36 services other than personal are so ordered and the certificate furnished.

37 2. Notwithstanding the provisions of subsection 1 of this section to the  
38 contrary, advertising shall not be required in any county in the case of contracts  
39 or purchases involving an expenditure of less than six thousand dollars.

50.783. 1. The county commission may waive the requirement of  
2 competitive bids or proposals for supplies when the commission has determined  
3 in writing and entered into the commission minutes that there is only a single  
4 feasible source for the supplies. Immediately upon discovering that other feasible  
5 sources exist, the commission shall rescind the waiver and proceed to procure the  
6 supplies through the competitive processes as described in this chapter. A single  
7 feasible source exists when:

8 (1) Supplies are proprietary and only available from the manufacturer or  
9 a single distributor; or

10 (2) Based on past procurement experience, it is determined that only one

11 distributor services the region in which the supplies are needed; or

12 (3) Supplies are available at a discount from a single distributor for a  
13 limited period of time.

14 2. On any single feasible source purchase where the estimated  
15 expenditure is [three] **six** thousand dollars or over, the commission shall post  
16 notice of the proposed purchase[. Where the estimated expenditure is five  
17 thousand dollars or over, the commission shall also] **and** advertise the  
18 commission's intent to make such purchase in at least one daily and one weekly  
19 newspaper of general circulation in such places as are most likely to reach  
20 prospective bidders or offerors and may provide such information through an  
21 electronic medium available to the general public at least ten days before the  
22 contract is to be let.

**67.319. 1. The provisions of this section shall apply to contracts  
2 for services awarded by political subdivisions of the state of Missouri  
3 and shall be known as the "Political Subdivision Services Bidding  
4 Standards Act".**

5 **2. Contracts for services by any political subdivision shall be  
6 advertised and bids solicited and awarded in compliance with other  
7 Missouri statutes, state rules, and federal and state funding  
8 requirements applicable to the specific political subdivision which are  
9 in effect on August 28, 2009, or as such requirements may be enacted or  
10 amended, and any provision of a local charter, ordinance, order,  
11 resolution, or policy applicable to the specific political subdivision  
12 which are in effect or which are subsequently adopted by the political  
13 subdivision after August 28, 2009.**

14 **3. If a political subdivision is not subject to a specific  
15 requirement for advertising for bids or soliciting, awarding, or  
16 rejecting bids under requirements specified in subsection 2 of this  
17 section regarding contracts for services, the political subdivision shall  
18 comply with the following provisions when soliciting bids and awarding  
19 service contracts:**

20 **(1) Contracts for services shall be advertised in advance of the  
21 acceptance of bids. If no provision of state law, state rule, federal or  
22 state funding requirement, or local charter, ordinance, order,  
23 resolution, or policy requiring advertising otherwise applies, bids shall  
24 be solicited by advertisement once per week for four consecutive weeks  
25 in one daily or weekly newspaper of general circulation, as qualified by**

26 chapter 493, RSMo, in a county or city not within a county where the  
27 political subdivision is located, with the first advertisement for bids  
28 appearing in the newspaper at least thirty days in advance of the date  
29 stated in the advertisement for acceptance of bids. For contracts over  
30 fifty thousand dollars, bids shall also be advertised by providing  
31 service and bid solicitation information at least thirty days in advance  
32 of bid opening to one or more commercial or not-for-profit  
33 organizations, which regularly provides information on contracts to be  
34 awarded to contractors providing the type of service  
35 needed. Advertisements and bid solicitations shall state the deadline  
36 for submission of bids and the time and place where bids shall be  
37 received and opened;

38 (2) In absence of a bid award or rejection standard specified  
39 under subsection 2 of this section, contracts for services shall be  
40 awarded in compliance with this subdivision. If no provision of state  
41 law, state rule, federal or state funding requirement, or local charter,  
42 ordinance, order, resolution, or policy otherwise applies, the contract  
43 shall be awarded to the lowest responsible bidder that submits a bid  
44 which is responsive to the contract as advertised by the political  
45 subdivision. The determination of the bidder's qualification shall be  
46 made based on his or her education and training. The political  
47 subdivision may reject the low bidder by declaring the bidder ineligible  
48 for the contract award based on the bidder's failure to provide a  
49 performance or payment bond as required by section 107.170, RSMo, if  
50 applicable, the bidder's nonperformance on previous contracts with the  
51 political subdivision, or other reasons specified as to the bidder's  
52 inability to adequately perform the contract. The reasons for bid  
53 rejection or award of the contract to another bidder shall be stated in  
54 writing to the low bidder within five business days of the rejection of  
55 the bid.

56 4. Notwithstanding any other provision of state law, state rule,  
57 or federal or state funding requirement to the contrary, or any  
58 provision of a charter, ordinance, order, resolution, or policy to the  
59 contrary, adopted by a political subdivision, no contract for services  
60 shall be awarded in violation of the following requirements:

61 (1) No bid shall be opened in advance of the advertised deadline  
62 for submission of bids or in a place other than that specified in the

63 original solicitation of bids or in an amendment to the solicitation  
64 communicated in advance to all known bidders;

65 (2) No bid shall be accepted unless it is sealed and is in writing.  
66 If the letting of the services for which bids were solicited is cancelled,  
67 bids shall be returned to the bidder unopened;

68 (3) No bid shall be accepted after the advertised deadline for  
69 acceptance of bids;

70 (4) All bids received shall be held secure and confidential from  
71 all persons until the bids are opened at the time and place announced  
72 by the political subdivision. Bids shall be opened in a public meeting,  
73 as defined in chapter 610, RSMo.

74 Nothing in this section shall be construed to prohibit acceptance and  
75 processing of bids through an established program of electronic  
76 bidding by computer, provided bids accepted and processed  
77 electronically shall meet standards of confidentiality established by the  
78 requirements of the electronic bidding program which are comparable  
79 to requirements for written bids established by this section.

80 5. Any person submitting a bid, or who would have submitted a  
81 bid except for violations of subsection 4 of this section, shall have  
82 standing to seek equitable relief and monetary damages in a court of  
83 competent jurisdiction for monetary losses resulting from violations of  
84 subsection 4 of this section, including but not limited to, setting aside  
85 award of a contract, ordering a contract to be re-bid, requiring award  
86 of a contract to a different bidder than originally awarded, awarding  
87 monetary damages deemed appropriate by the court, including award  
88 of reasonable attorney's fees, or awarding a combination of such forms  
89 of relief.

90 6. Nothing in this section shall be construed to require  
91 acceptance of a bid which exceeds the amount estimated by the  
92 political subdivision for the contract. Neither shall any provision in  
93 this section prohibit a political subdivision from awarding contracts  
94 without competitive bidding when the political subdivision deems it  
95 necessary to remove an immediate danger to the public health or  
96 safety, to prevent loss to public or private property which requires  
97 government action, or to prevent an interruption of or to restore an  
98 essential public service; however, the political subdivision shall  
99 produce a written public record documenting the need to contract for

100 **such services without competitive bidding.**

101 **7. The provisions of this section shall not apply to procurement**  
102 **procedures and advertising procedures contained in sections 8.285 to**  
103 **8.291, RSMo.**

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Unofficial

Bill

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