

FIRST REGULAR SESSION

# SENATE BILL NO. 167

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Pre-filed December 10, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal section 107.170, RSMo, and to enact in lieu thereof one new section relating to contracts for construction services.

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

Section A. Section 107.170, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 107.170, to read as follows:

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

2 (1) "Contractor", a person or business entity who provides **or arranges**  
3 **for** construction services under contract to a public entity **by performing the**  
4 **construction services or entering into a contract with others to perform**  
5 **construction services**. Contractor specifically does not include professional  
6 engineers, architects or land surveyors licensed pursuant to chapter 327, those  
7 who provide environmental assessment services or those who design, create or  
8 otherwise provide works of art under a city's formally established program for the  
9 acquisition and installation of works of art and other aesthetic adornments to  
10 public buildings and property;

11 (2) "Public entity", any official, board, commission or agency of this state  
12 or any county, city, town, township, school, road district or other political  
13 subdivision of this state;

14 (3) "Public works", the erection, construction, alteration, repair or  
15 improvement of any building, road, street, public utility or other public facility  
16 owned by the public entity.

17 2. It is hereby made the duty of all public entities in this state, in making  
18 contracts for public works, the cost of which is estimated to exceed fifty thousand  
19 dollars, to be performed for the public entity, to require every contractor for such  
20 work to furnish to the public entity a bond with good and sufficient sureties, in

21 an amount fixed by the public entity, and such bond, among other conditions,  
22 shall be conditioned for the payment of any and all materials, incorporated,  
23 consumed or used in connection with the construction of such work, and all  
24 insurance premiums, both for compensation, and for all other kinds of insurance,  
25 said work, and for all labor performed in such work whether by subcontractor or  
26 otherwise.

27 3. All bonds executed and furnished under the provisions of this section  
28 shall be deemed to contain the requirements and conditions as herein set out,  
29 regardless of whether the same be set forth in said bond, or of any terms or  
30 provisions of said bond to the contrary notwithstanding.

31 4. Nothing in this section shall be construed to require a member of the  
32 school board of any public school district of this state to independently confirm  
33 the existence or solvency of any bonding company if a contractor represents to the  
34 member that the bonding company is solvent and that the representations made  
35 in the purported bond are true and correct. This subsection shall not relieve from  
36 any liability any school board member who has any actual knowledge of the  
37 insolvency of any bonding company, or any school board member who does not act  
38 in good faith in complying with the provisions of subsection 2 of this section.

39 5. A public entity may defend, save harmless and indemnify any of its  
40 officers and employees, whether elective or appointive, against any claim or  
41 demand, whether groundless or otherwise arising out of an alleged act or  
42 omission occurring in the performance of a duty under this section. The  
43 provisions of this subsection do not apply in case of malfeasance in office or  
44 willful or wanton neglect of duty.

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