

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 401

92ND GENERAL ASSEMBLY

1552S.08T

2003

AN ACT

To repeal sections 8.370, 8.400, and 8.420, RSMo, and to enact in lieu thereof fourteen new sections relating to the board of public buildings, with an emergency clause and a termination date for certain sections.

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

Section A. Sections 8.370, 8.400, and 8.420, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 8.370, 8.400, 8.420, 8.601, 8.625, 8.628, 8.631, 8.634, 8.637, 8.640, 8.643, 8.646, 8.649, and 1, to read as follows:

8.370. As used in sections 8.370 to 8.450 the following words and phrases mean:

(1) "Agency", any state department or any division or branch thereof, or any bureau, board, commission, institution, officer or office of the state of Missouri;

(2) "Board", the state board of public buildings;

(3) "Instrumentalities", any elected official of the state, state office, state agency or any individual who spends more than fifty percent of his time in work for the state that receives all or any part of its funds or compensation from appropriated funds of this state;

(4) "Net income and revenues", **at the discretion of the board, any of the following:** the income arising from the operation of a project remaining after providing for the costs of

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

10 operation of the project and the costs of maintenance thereof[.]; **appropriations of the general**
11 **assembly for the payment of bonds issued by the board for any project**; or, in the case of
12 energy retrofitting projects, the income arising from agreement between the board of public
13 buildings and the department responsible for the operation of the facility;

14 (5) "Project", one or more office buildings or other structures, **renovations,**
15 **improvements and equipping of such buildings and structures** and **any other** facilities for
16 the use and occupancy of the agencies and instrumentalities of the state, including the department
17 of corrections and human resources [and], the department of mental health and, at the discretion
18 of the board, energy retrofitting projects in state-owned facilities or any eating facilities which
19 may be rented to a desirable person, firm or corporation, upon proper bids, at the rental costs that
20 the board determines to be reasonable and necessary under the provisions of sections 8.370 to
21 8.450;

22 (6) "Revenue bonds", bonds issued hereunder for the purposes herein authorized and
23 payable, both as to principal and interest, solely and only out of [the] net income and revenues
24 [arising from the operation of the project for which the bonds are issued after providing for the
25 costs of operation and maintenance of such project] **relating to any project**, and, in addition
26 thereto, in the discretion of the board, out of the proceeds of any grant in aid of the project which
27 may be received from any source.

8.400. 1. For the purpose of providing funds for the acquisition, construction, erection,
2 **renovation, improving,** equipment and furnishing of any such project, and for providing a site
3 therefor, as herein provided, the board may issue and sell revenue bonds, as herein defined, in
4 an amount not to exceed the estimated cost of the project, including costs necessarily incidental
5 thereto. At the time of the issuance of the bonds, the board shall pledge the net income and
6 revenues of the project to the payment of the bonds, both principal and interest, and, **when**
7 **applicable**, shall covenant to fix, maintain and collect the reasonable rates and charges for the
8 use of the project that in the judgment of the board will provide **net income and** revenues
9 sufficient to pay the reasonable cost of operating and maintaining the project; to provide and
10 maintain an interest and sinking fund in an amount adequate promptly to pay the principal of and
11 interest on such bonds; to provide [a reasonable] **any required** reserve fund; and to provide [a
12 reasonable] **any required** fund for depreciation. In addition to pledging such net income and
13 revenues as herein provided, the board, in its discretion, may pledge to the payment of such
14 bonds, both principal and interest, the proceeds of any grant in aid of such project which may be
15 received from any source.

16 2. In case of energy retrofitting projects, bond sale proceeds shall be provided for the
17 purpose of retrofitting existing state facilities. The board shall pledge the income received and
18 interest charged therefor to the payments of the bonds as prescribed in subsection 1 of this

19 section.

20 **3. The board may issue bonds to provide funds to refinance the payment of general**
21 **revenue fund temporary notes issued by the tobacco settlement financing authority.**

22 **4. The board may covenant to request annual appropriations in an amount**
23 **sufficient to pay the principal, interest, and to restore any necessary reserve funds for any**
24 **bonds issued by the board.**

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

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

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

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

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

21 6. After August 13, 1976, the board shall not issue revenue bonds pursuant to the
22 provisions of sections 8.370 to 8.450 for one or more projects, as defined in section 8.370, in
23 excess of a total par value of [four] **six** hundred [twenty-five] **fifty-five** million dollars.

24 7. After August 13, 1976, any bonds which may be issued pursuant to the provisions of
25 sections 8.370 to 8.450 shall be issued only for projects which have been approved by a majority
26 of the house members and a majority of the senate members of the committee on legislative
27 research of the general assembly, and the approval by the committee on legislative research
28 required by the provisions of section 8.380 shall be given only in accordance with this provision.
29 For the purposes of approval of a project, the total amount of bonds issued for purposes of energy
30 retrofitting in state-owned facilities shall be treated as a single project.

31 **8. No more than one hundred fifty million dollars of the net proceeds of the bonds**
32 **authorized pursuant to sections 8.370 to 8.450 or sections 8.625 to 8.649 may be applied to**
33 **general revenue in fiscal year 2003.**

8.601. The tobacco settlement financing authority and the board of public buildings
2 **shall have no further authority to issue bonds and notes pursuant to the provisions of**
3 **sections 8.500 to 8.590 upon the effective date of this act.**

8.625. As used in sections 8.625 to 8.649 the following words and phrases mean:

2 **(1) "Agency", any state educational institution as defined by section 176.010,**
3 **RSMo, of the state of Missouri;**

4 **(2) "Board", the state board of public buildings;**

5 **(3) "Instrumentalities", any elected official of the state, state office, state agency or**
6 **any individual who spends more than fifty percent of his time in work for the state that**
7 **receives all or any part of its funds or compensation from appropriated funds of this state;**

8 **(4) "Net income and revenues", at the discretion of the board, any of the following:**
9 **the income arising from the operation of a project remaining after providing for the costs**
10 **of operation of the project and the costs of maintenance thereof; appropriations of the**
11 **general assembly for the payment of bonds issued by the board for any project; or, in the**
12 **case of energy retrofitting projects, the income arising from agreement between the board**
13 **of public buildings and the department responsible for the operation of the facility;**

14 **(5) "Project", one or more office buildings or other structures, renovations,**
15 **improvements and equipping of such buildings and structures and any other facilities for**
16 **the use and occupancy of the agencies and instrumentalities of the state, and energy**
17 **retrofitting projects in state-owned facilities or any eating facilities upon proper bids, at**
18 **the rental costs that the board determines to be reasonable and necessary under the**
19 **provisions of sections 8.625 to 8.649;**

20 **(6) "Revenue bonds", bonds issued hereunder for the purposes herein authorized**
21 **and payable, both as to principal and interest, solely and only out of net income and**
22 **revenues relating to any project, and, in addition thereto, in the discretion of the board, out**
23 **of the proceeds of any grant in aid of the project which may be received from any source.**

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

6 **2. The board may use real property now or hereafter belonging to the state as a site**
7 **for any such project, or acquire by purchase, lease, gift or otherwise the real or personal**

8 property that in the judgment of the board is necessary, advisable and suitable for such
9 purpose.

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

15 4. When the board enters into a project authorized by sections 8.625 to 8.649, it
16 shall provide for sufficient space to be included in the project to meet probable future
17 requirements occasioned by the growth and expansion of the agency.

18 5. The board may lease to state agencies and instrumentalities of the state and other
19 political subdivisions of the state under the same terms and conditions prescribed under
20 section 8.631. Any such lease shall include a provision requiring the payment of a portion
21 of the costs of operation and maintenance of the project under the formula prescribed
22 under section 8.631.

8.631. 1. If the board of public buildings enters into a project authorized by
2 sections 8.625 to 8.649, except energy retrofitting projects, it may require any or all of the
3 agencies or instrumentalities of the state which occupy rented or leased quarters in the city
4 in which the project is located to occupy quarters in the project and may require each such
5 agency to contribute from time to time from funds appropriated for its support a
6 proportion of the rentals necessary to be received from the project under the terms of the
7 project contract determined by the board on the basis of the ratio which the number of
8 square feet of floor space occupied by the agency or instrumentality bears to the total
9 number of usable square feet of space in the entire project.

10 2. The board of public buildings may require any or all of the agencies or
11 instrumentalities of the state to participate in the board's energy retrofitting projects and
12 may require each such agency to contribute from time to time from funds appropriated for
13 its support a proportional share of the costs of energy retrofitting project necessary to be
14 received under the terms of the project agreement.

8.634. 1. For the purpose of providing funds for the acquisition, construction,
2 erection, renovation, improving, equipment, and furnishing of any such project, and for
3 providing a site therefor, as herein provided, the board may issue and sell revenue bonds,
4 as herein defined, in an amount not to exceed the estimated cost of the project, including
5 costs necessarily incidental thereto. At the time of the issuance of the bonds, the board
6 shall pledge the net income and revenues of the project to the payment of the bonds, both
7 principal and interest, and, when applicable, shall covenant to fix, maintain and collect the

8 reasonable rates and charges for the use of the project that in the judgment of the board
9 will provide net income and revenues sufficient to pay the reasonable cost of operating and
10 maintaining the project; to provide and maintain an interest and sinking fund in an
11 amount adequate promptly to pay the principal of and interest on such bonds; to provide
12 any required reserve fund; and to provide any required fund for depreciation. In addition
13 to pledging such net income and revenues as herein provided, the board, in its discretion,
14 may pledge to the payment of such bonds, both principal and interest, the proceeds of any
15 grant in aid of such project which may be received from any source.

16 2. In case of energy retrofitting projects, bond sale proceeds shall be provided for
17 the purpose of retrofitting existing state facilities. The board shall pledge the income
18 received and interest charged therefor to the payments of the bonds as prescribed in
19 subsection 1 of this section.

20 3. The board may covenant to request annual appropriations in an amount
21 sufficient to pay the principal, interest, and any necessary reserve funds for any bonds
22 issued by the board.

2 8.637. Any bonds issued under and pursuant to sections 8.625 to 8.649 shall not be
3 deemed to be an indebtedness of the state of Missouri or of the board, or of the individual
4 members of the board, and shall not be deemed to be an indebtedness within the meaning
5 of any constitutional or statutory limitation upon the incurring of indebtedness.

2 8.640. 1. Bonds issued under and pursuant to the provisions of sections 8.625 to
3 8.649 shall be of such denomination or denominations, shall bear such rate or rates of
4 interest not to exceed fifteen percent per annum, and shall mature at such time or times
5 within forty years from the date thereof, as the board determines. The bonds may be either
6 serial bonds or term bonds.

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

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

14 4. The bonds, when issued, shall be sold at public sale for the best price obtainable
15 after giving such reasonable notice of such sale as may be determined by the board, but in
16 no event shall such bonds be sold for less than ninety-eight percent of the par value thereof,
17 and accrued interest. Any such bonds may be sold to the United States of America or to
any agency or instrumentality thereof, at a price not less than par and accrued interest,

18 without public sale and without the giving of notice as herein provided.

19 **5. The bonds, when issued and sold, shall be negotiable instruments within the**
20 **meaning of the law merchant and the negotiable instruments law, and the interest thereon**
21 **shall be exempt from income taxes under the laws of the state of Missouri.**

22 **6. The board shall not issue revenue bonds pursuant to the provisions of sections**
23 **8.625 to 8.649 for one or more projects, as defined in section 8.625, in excess of a total par**
24 **value of one hundred seventy million dollars.**

25 **7. Any bonds which may be issued pursuant to the provisions of sections 8.625 to**
26 **8.649 shall be issued only for projects which have been approved by a majority of the house**
27 **members and a majority of the senate members of the committee on legislative research of**
28 **the general assembly, and the approval by the committee on legislative research required**
29 **by the provisions of section 8.628 shall be given only in accordance with this provision. For**
30 **the purposes of approval of a project, the total amount of bonds issued for purposes of**
31 **energy retrofitting in state-owned facilities shall be treated as a single project.**

32 **8. The provisions of sections 8.625 to 8.649 shall terminate upon the satisfaction of**
33 **all outstanding bonds, notes and obligations issued pursuant to such sections. The**
34 **commissioner of the office of administration shall notify the revisor of statutes when all**
35 **outstanding bonds, notes, and obligations have been satisfied.**

8.643. 1. The revenue bonds issued pursuant to the provisions of sections 8.625 to
2 **8.649 may be refunded, in whole or in part, in any of the following circumstances:**

3 **(1) When any such bonds have by their terms become due and payable and there**
4 **are not sufficient funds in the interest and sinking fund provided for their payment to pay**
5 **such bonds and the interest thereon;**

6 **(2) When any such bonds are by their terms callable for payment and redemption**
7 **in advance of their date of maturity and are duly called for payment and redemption;**

8 **(3) When any such bonds are voluntarily surrendered by the holder or holders**
9 **thereof for exchange for refunding bonds.**

10 **2. For the purpose of refunding any bonds issued hereunder, including refunding**
11 **bonds, the board may make and issue refunding bonds in the amount necessary to pay off**
12 **and redeem the bonds to be refunded together with unpaid and past due interest thereon**
13 **and any premium which may be due under the terms of the bonds, together also with the**
14 **cost of issuing the refunding bonds, and may sell the same in like manner as is herein**
15 **provided for the sale of revenue bonds, and with the proceeds thereof pay off, redeem and**
16 **cancel the old bonds and coupons that have matured, or the bonds that have been called**
17 **for payment and redemption, together with the past due interest and the premium, if any,**
18 **due thereon, or the bonds may be issued and delivered in exchange for a like par value**

19 amount of bonds to refund which the refunding bonds were issued. No refunding bonds
20 issued pursuant to the provisions of sections 8.625 to 8.649 shall be payable in more than
21 forty years from the date thereof or shall bear interest at a rate in excess of six percent per
22 annum.

23 3. The refunding bonds shall be payable from the same sources as were pledged to
24 the payment of the bonds refunded thereby and, in the discretion of the board, may be
25 payable from any other sources which under sections 8.625 to 8.649 may be pledged to the
26 payment of revenue bonds issued hereunder. Bonds of two or more issues may be refunded
27 by a single issue of refunding bonds.

8.646. The board may prescribe the form, details and incidents of the bonds, and
2 make the covenants that in its judgment are advisable or necessary properly to secure the
3 payment thereof; but the form, details, incidents and covenants shall not be inconsistent
4 with any of the provisions of sections 8.625 to 8.649. Such bonds may have the seal of the
5 board impressed thereon or affixed thereto or imprinted or otherwise reproduced thereon.
6 If such bonds shall be authenticated by the bank or trust company acting as registrar for
7 such bonds by the manual signature of a duly authorized officer or employee thereof, the
8 duly authorized officers of the board executing and attesting such bonds, may all do so by
9 facsimile signature provided such signatures have been duly filed as provided in the
10 uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo,
11 when duly authorized by resolution of the board and the provisions of section 108.175,
12 RSMo, shall not apply to such bonds. The holder or holders of any bond or bonds issued
13 hereunder or of any coupons representing interest accrued thereon may, by proper civil
14 action either at law or in equity, compel the board to perform all duties imposed upon it
15 by the provisions of sections 8.625 to 8.649, including the making and collecting of
16 sufficient rates and charges for the use of the project for which the bonds were issued, and
17 also to enforce the performance of any and all other covenants made by the board in the
18 issuance of the bonds.

8.649. Bonds may be issued under the provisions of sections 8.625 to 8.649 pursuant
2 to a resolution adopted by the affirmative vote of two-thirds of the members of the board
3 and no other proceedings shall be required therefor.

Section 1. The provisions of sections 8.500 to 8.590 shall terminate upon the
2 satisfaction of all outstanding notes and obligations issued pursuant to such sections. The
3 commissioner of the office of administration shall notify the revisor of statutes when all
4 outstanding notes and obligations have been satisfied.

Section B. Because immediate action is necessary to ensure a balanced state budget
2 section A of this act is deemed necessary for the immediate preservation of the public health,

3 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.

Speaker of the House

President Pro Tem of the Senate

Governor