

SENATE SUBSTITUTE NO. _____

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 401

AN ACT

To repeal sections 8.370, 8.400, and 8.420, RSMo, and to enact in lieu thereof thirteen 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:

1 Section A. Sections 8.370, 8.400, and 8.420, RSMo, are
2 repealed and thirteen new sections enacted in lieu thereof, to be
3 known as sections 8.370, 8.400, 8.420, 8.601, 8.625, 8.628,
4 8.631, 8.634, 8.637, 8.640, 8.643, 8.646, and 8.649, to read as
5 follows:

6 8.370. As used in sections 8.370 to 8.450 the following
7 words and phrases mean:

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

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

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

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

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

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

1 from any source.

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

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

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

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

7 8.420. 1. Bonds issued under and pursuant to the
8 provisions of sections 8.370 to 8.450 shall be of such
9 denomination or denominations, shall bear such rate or rates of
10 interest not to exceed fifteen percent per annum, and shall
11 mature at such time or times within forty years from the date
12 thereof, as the board determines. The bonds may be either serial
13 bonds or term bonds.

14 2. Serial bonds may be issued with or without the
15 reservation of the right to call them for payment and redemption
16 in advance of their maturity, upon the giving of such notice, and
17 with or without a covenant requiring the payment of a premium in
18 the event of such payment and redemption prior to maturity, as
19 the board determines.

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

24 4. The bonds, when issued, shall be sold at public sale for
25 the best price obtainable after giving such reasonable notice of
26 such sale as may be determined by the board, but in no event
27 shall such bonds be sold for less than ninety-eight percent of
28 the par value thereof, and accrued interest. Any such bonds may

1 be sold to the United States of America or to any agency or
2 instrumentality thereof, at a price not less than par and accrued
3 interest, without public sale and without the giving of notice as
4 herein provided.

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

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

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

25 8. No more than one hundred fifty million dollars of the
26 net proceeds of the bonds authorized pursuant to sections 8.370
27 to 8.450 may be applied to general revenue in fiscal year 2003.

28 8.601. The provisions of sections 8.500 to 8.590 shall

1 terminate upon the effective date of this act.

2 8.625. As used in sections 8.625 to 8.649 the following
3 words and phrases mean:

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

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

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

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

21 (5) "Project", one or more office buildings or other
22 structures, renovations, improvements and equipping of such
23 buildings and structures and any other facilities for the use and
24 occupancy of the agencies and instrumentalities of the state, and
25 energy retrofitting projects in state-owned facilities or any
26 eating facilities upon proper bids, at the rental costs that the
27 board determines to be reasonable and necessary under the
28 provisions of sections 8.625 to 8.649;

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

7 8.628. 1. The board of public buildings, after project
8 approval by the committee on legislative research of the general
9 assembly, may acquire, construct, erect, equip, furnish, operate,
10 control, manage and regulate a project, as herein defined, if, in
11 the judgment of the board, the project is necessary, advisable,
12 and suitable for the use of the agencies and instrumentalities of
13 the state.

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

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

26 4. When the board enters into a project authorized by
27 sections 8.625 to 8.649, it shall provide for sufficient space to
28 be included in the project to meet probable future requirements

1 occasioned by the growth and expansion of the agency.

2 5. The board may lease to state agencies and
3 instrumentalities of the state and other political subdivisions
4 of the state under the same terms and conditions prescribed under
5 section 8.631. Any such lease shall include a provision
6 requiring the payment of a portion of the costs of operation and
7 maintenance of the project under the formula prescribed under
8 section 8.631.

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

22 2. The board of public buildings may require any or all of
23 the agencies or instrumentalities of the state to participate in
24 the board's energy retrofitting projects and may require each
25 such agency to contribute from time to time from funds
26 appropriated for its support a proportional share of the costs of
27 energy retrofitting project necessary to be received under the
28 terms of the project agreement.

1 8.634. 1. For the purpose of providing funds for the
2 acquisition, construction, erection, renovation, improving,
3 equipment, and furnishing of any such project, and for providing
4 a site therefor, as herein provided, the board may issue and sell
5 revenue bonds, as herein defined, in an amount not to exceed the
6 estimated cost of the project, including costs necessarily
7 incidental thereto. At the time of the issuance of the bonds,
8 the board shall pledge the net income and revenues of the project
9 to the payment of the bonds, both principal and interest, and,
10 when applicable, shall covenant to fix, maintain and collect the
11 reasonable rates and charges for the use of the project that in
12 the judgment of the board will provide net income and revenues
13 sufficient to pay the reasonable cost of operating and
14 maintaining the project; to provide and maintain an interest and
15 sinking fund in an amount adequate promptly to pay the principal
16 of and interest on such bonds; to provide any required reserve
17 fund; and to provide any required fund for depreciation. In
18 addition to pledging such net income and revenues as herein
19 provided, the board, in its discretion, may pledge to the payment
20 of such bonds, both principal and interest, the proceeds of any
21 grant in aid of such project which may be received from any
22 source.

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

28 3. The board may covenant to request annual appropriations

1 in an amount sufficient to pay the principal, interest, and any
2 necessary reserve funds for any bonds issued by the board.

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

9 8.640. 1. Bonds issued under and pursuant to the
10 provisions of sections 8.625 to 8.649 shall be of such
11 denomination or denominations, shall bear such rate or rates of
12 interest not to exceed fifteen percent per annum, and shall
13 mature at such time or times within forty years from the date
14 thereof, as the board determines. The bonds may be either serial
15 bonds or term bonds.

16 2. Serial bonds may be issued with or without the
17 reservation of the right to call them for payment and redemption
18 in advance of their maturity, upon the giving of such notice, and
19 with or without a covenant requiring the payment of a premium in
20 the event of such payment and redemption prior to maturity, as
21 the board determines.

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

26 4. The bonds, when issued, shall be sold at public sale for
27 the best price obtainable after giving such reasonable notice of
28 such sale as may be determined by the board, but in no event

1 shall such bonds be sold for less than ninety-eight percent of
2 the par value thereof, and accrued interest. Any such bonds may
3 be sold to the United States of America or to any agency or
4 instrumentality thereof, at a price not less than par and accrued
5 interest, without public sale and without the giving of notice as
6 herein provided.

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

11 6. The board shall not issue revenue bonds pursuant to the
12 provisions of sections 8.625 to 8.649 for one or more projects,
13 as defined in section 8.370, in excess of a total par value of
14 one hundred seventy million dollars.

15 7. Any bonds which may be issued pursuant to the provisions
16 of sections 8.625 to 8.649 shall be issued only for projects
17 which have been approved by a majority of the house members and a
18 majority of the senate members of the committee on legislative
19 research of the general assembly, and the approval by the
20 committee on legislative research required by the provisions of
21 section 8.628 shall be given only in accordance with this
22 provision. For the purposes of approval of a project, the total
23 amount of bonds issued for purposes of energy retrofitting in
24 state-owned facilities shall be treated as a single project.

25 8. The provisions of sections 8.625 to 8.649 shall
26 terminate upon the satisfaction of all outstanding bonds, notes
27 and obligations issued pursuant to such sections. The
28 commissioner of the office of administration shall notify the

1 revisor of statutes when all outstanding bonds, notes, and
2 obligations have been satisfied.

3 8.643. 1. The revenue bonds issued pursuant to the
4 provisions of sections 8.625 to 8.649 may be refunded, in whole
5 or in part, in any of the following circumstances:

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

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

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

15 2. For the purpose of refunding any bonds issued hereunder,
16 including refunding bonds, the board may make and issue refunding
17 bonds in the amount necessary to pay off and redeem the bonds to
18 be refunded together with unpaid and past due interest thereon
19 and any premium which may be due under the terms of the bonds,
20 together also with the cost of issuing the refunding bonds, and
21 may sell the same in like manner as is herein provided for the
22 sale of revenue bonds, and with the proceeds thereof pay off,
23 redeem and cancel the old bonds and coupons that have matured, or
24 the bonds that have been called for payment and redemption,
25 together with the past due interest and the premium, if any, due
26 thereon, or the bonds may be issued and delivered in exchange for
27 a like par value amount of bonds to refund which the refunding
28 bonds were issued. No refunding bonds issued pursuant to the

1 provisions of sections 8.625 to 8.649 shall be payable in more
2 than forty years from the date thereof or shall bear interest at
3 a rate in excess of six percent per annum.

4 3. The refunding bonds shall be payable from the same
5 sources as were pledged to the payment of the bonds refunded
6 thereby and, in the discretion of the board, may be payable from
7 any other sources which under sections 8.625 to 8.649 may be
8 pledged to the payment of revenue bonds issued hereunder. Bonds
9 of two or more issues may be refunded by a single issue of
10 refunding bonds.

11 8.646. The board may prescribe the form, details and
12 incidents of the bonds, and make the covenants that in its
13 judgment are advisable or necessary properly to secure the
14 payment thereof; but the form, details, incidents and covenants
15 shall not be inconsistent with any of the provisions of sections
16 8.625 to 8.649. Such bonds may have the seal of the board
17 impressed thereon or affixed thereto or imprinted or otherwise
18 reproduced thereon. If such bonds shall be authenticated by the
19 bank or trust company acting as registrar for such bonds by the
20 manual signature of a duly authorized officer or employee
21 thereof, the duly authorized officers of the board executing and
22 attesting such bonds, may all do so by facsimile signature
23 provided such signatures have been duly filed as provided in the
24 uniform facsimile signature of public officials law, sections
25 105.273 to 105.278, RSMo, when duly authorized by resolution of
26 the board and the provisions of section 108.175, RSMo, shall not
27 apply to such bonds. The holder or holders of any bond or bonds
28 issued hereunder or of any coupons representing interest accrued

1 thereon may, by proper civil action either at law or in equity,
2 compel the board to perform all duties imposed upon it by the
3 provisions of sections 8.625 to 8.649, including the making and
4 collecting of sufficient rates and charges for the use of the
5 project for which the bonds were issued, and also to enforce the
6 performance of any and all other covenants made by the board in
7 the issuance of the bonds.

8 8.649. Bonds may be issued under the provisions of sections
9 8.625 to 8.649 pursuant to a resolution adopted by the
10 affirmative vote of two-thirds of the members of the board and no
11 other proceedings shall be required therefor.

12 Section B. Because immediate action is necessary to ensure
13 a balanced state budget section A of this act is deemed necessary
14 for the immediate preservation of the public health, welfare,
15 peace, and safety, and is hereby declared to be an emergency act
16 within the meaning of the constitution, and section A of this act
17 shall be in full force and effect upon its passage and approval.