

FIRST REGULAR SESSION

# HOUSE BILL NO. 58

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor),  
SMITH (118) AND SCHNEIDER (Co-sponsors).

Pre-filed December 3, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To repeal sections 50.760, 50.770, 50.780, 50.800, 50.810, 50.815, and 250.140, RSMo, and to enact in lieu thereof seven new sections relating to political subdivisions, with penalty provisions.

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

Section A. Sections 50.760, 50.770, 50.780, 50.800, 50.810, 50.815, and 250.140, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 50.760, 50.770, 50.780, 50.783, 50.784, 50.815, and 250.140, to read as follows:

50.760. **1.** It shall be the duty of the commissioners of the county commission in all counties [of the second class, and in all counties of the first class not having a charter form of government], if there is no purchasing agent appointed pursuant to section 50.753, on or before the first day of February of each year, to [determine] **estimate** the kind and quantity of supplies, including any advertising or printing which the county may be required to do, required by law to be paid for out of the county funds, which will be necessary for the use of the several officers of such county [during the current] **for the following** year, and to advertise for sealed bids and contract with the lowest and best bidder for such supplies. Before letting any such contract or contracts the commission shall cause notice that it will receive sealed bids for such supplies to be given by advertisement in some daily newspaper of general circulation published in the county, such notice to be published [on Thursday of] each week for three consecutive weeks, the last insertion of which shall not be less than ten days before the date in said advertisement fixed

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

13 for the letting of such contract or contracts, which shall be let on the first Monday in March, or  
14 on such other day and date as the commission may fix between the first Monday of March and  
15 the first Saturday after the second Monday in March next following the publication of such  
16 notice; except that if by the nature or quantity of any article or thing needed for any county  
17 officer in any county of this state to which sections 50.760 to 50.790 apply, the same may not  
18 be included in such contract at a saving to such county, then such article or thing may be  
19 purchased for such officer upon an order of the county commission first being made and entered  
20 as provided in sections 50.760 to 50.790; and except further, that if any supplies not included in  
21 such contract are required by any such officer or if the supplies included in such contract are  
22 exhausted then such article or thing may be purchased for such officer upon order of the county  
23 commission first being made and entered of record as provided in sections 50.760 to 50.790.

24 **2. The county commission may authorize the purchase of supplies at any public**  
25 **auction held within the county.**

26 **3. No contract for a purchase under this section shall arise until the commission has**  
27 **approved a purchase order for the supplies for which the bids were advertised and**  
28 **submitted under this section.**

50.770. The word "supplies", as used in sections 50.760 to 50.790, **means materials,**  
2 **equipment, contractual services, and** shall be held and construed to include every article or  
3 thing, **excluding utility services regulated under chapters 392 and 393, RSMo,** for which  
4 payment may by law be required to be made by the county, and including advertising and  
5 printing required to be done by the county. **The term "purchase" includes the rental or**  
6 **leasing of any equipment, articles, or things.**

50.780. **1.** It shall hereafter be unlawful for any county or township officer in any county  
2 to which sections 50.760 to 50.790 apply to purchase any supplies not contracted for as provided  
3 in sections 50.760 to 50.790 for [his] **the officer's** official use and for which payment is by law  
4 required to be made by the county unless [he] **the officer** shall first apply to and obtain from the  
5 county commission an order in writing and under the official seal of the commission for the  
6 purchase of such supplies, and in all cases where the supplies requested by such officer have  
7 been contracted for by the county commission as provided in sections 50.760 to 50.790, the order  
8 shall be in the form of a requisition by said officer addressed to the person, firm, company or  
9 corporation with whom or which the county commission has made a contract for such supplies,  
10 and presented to the county commission for approval or disapproval; and unless approval be  
11 given such requisition shall not be filled and any such requisition filled without such approval  
12 shall not be paid for out of county funds. The county shall not be liable for any debts for supplies  
13 except debts contracted as provided in sections 50.760 to 50.790. The best price and the quality  
14 of supplies shall be considered and supplies of a higher price or quality than is reasonably

15 required for the purposes to which they are to be applied shall not be purchased or contracted for.  
16 Preference to merchants and dealers within their counties may be given by such commissioners,  
17 provided the price offered is not above that offered elsewhere.

18 **2. The county commission may waive the requirement of competitive bids or**  
19 **proposals for supplies when the county commission has determined that there exists a**  
20 **threat to life, property, public health, or public safety or when immediate expenditure is**  
21 **necessary for repairs to county property in order to protect against further loss of, or**  
22 **damage to, county property, to prevent or minimize serious disruption in county services**  
23 **or to ensure the integrity of county records. Emergency procurements shall be made with**  
24 **as much competition as is practicable under the circumstances.**

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

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

9 **(2) Based on past procurement experience, it is determined that only one**  
10 **distributor services the region in which the supplies are needed; or**

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

13 **2. On any single feasible source purchase where the estimated expenditure is five**  
14 **thousand dollars or over, the commission shall post notice of the proposed purchase.**  
15 **Where the estimated expenditure is twenty-five thousand dollars or over, the commission**  
16 **shall also advertise the commission's intent to make such purchase in at least two daily**  
17 **newspapers of general circulation in such places as are most likely to reach prospective**  
18 **bidders or offerors and may provide such information through an electronic medium**  
19 **available to the general public at least five days before the contract is to be let. Other**  
20 **methods of advertisement may be adopted by the commission when such other methods are**  
21 **deemed more advantageous for the supplies to be purchased. The requirement for**  
22 **advertising may be waived if not feasible due to the supplies being available at a discount**  
23 **for only a limited period of time.**

**50.784. The county commission may, when in the commission's best judgment it is**  
2 **in the best interests of the county, delegate the commission's procurement authority under**  
3 **this chapter to an individual county department; provided, however, that each instance of**

4 single feasible source purchasing authority in excess of five thousand dollars under section  
5 50.783 shall be specifically delegated by the commission. The delegation may allow county  
6 departments to negotiate the purchase of services for patients, residents, or clients with  
7 funds appropriated for this purpose. In accepting this delegated authority the department  
8 acknowledges its ability to, and agrees to, fulfill all of the requirements of this chapter in  
9 making purchases and entering into contracts and keeping records. No claim for payment  
10 based upon any purchase under this section shall be certified by the commission unless  
11 accompanied by such documentation of compliance with the provisions of this chapter as  
12 the commission may require. Any department that fails to fulfill all such requirements  
13 may have its delegated authority rescinded by the commission.

50.815. 1. On or before the first Monday in March of each year, the county commission  
2 of each county [of the first class] not having a charter form of government shall, with the  
3 assistance of the county clerk, prepare and publish in some newspaper of general circulation  
4 published in the county a financial statement of the county for the year ending the preceding  
5 December thirty-first.

6 2. The financial statement shall show at least the following:

7 (1) A summary of the receipts of each fund of the county for the year;

8 (2) A summary of the disbursements and transfers of each fund of the county for the  
9 year;

10 (3) A statement of the cash balance at the beginning and at the end of the year for each  
11 fund of the county;

12 (4) A summary of delinquent taxes and other due bills for each fund of the county;

13 (5) A summary of warrants of each fund of the county outstanding at the end of the year;

14 (6) A statement of bonded indebtedness, if any, at the beginning and at the end of the  
15 year for each fund of the county; and

16 (7) A statement of the tax levies of each fund of the county for the year.

17 3. The financial statement need not show specific disbursements, warrants issued, or the  
18 names of specific payees, but every individual warrant, voucher, receipt, court order and all other  
19 items, records, documents and other information which are not specifically required to be  
20 retained by the officer having initial charge thereof [and which would be required to be included  
21 in or to construct a financial statement in the form prescribed for other counties by section  
22 50.800] shall be filed on or before the date of publication of the financial statement prescribed  
23 by subsection 1 in the office of the county clerk, and the county clerk shall preserve the same,  
24 and shall cause the same to be available for inspection during normal business hours on the  
25 request of any person, for a period of five years following the date of filing in his office, after

26 which five-year period these records may be disposed of according to law unless they are the  
27 subject of a legal suit pending at the expiration of that period.

28 4. At the end of the financial statement, each commissioner of the county commission  
29 and the county clerk shall sign and append the following certificate:

30 We, ....., ....., and ....., duly elected commissioners of the county commission of .....  
31 County, Missouri, and I, ..... ....., county clerk of that county, certify that the above and foregoing  
32 is a complete and correct statement of every item of information required in section 50.815,  
33 RSMo, for the year ending December 31, [19] 20.., and we have checked every receipt from  
34 every source and every disbursement of every kind and to whom and for what each disbursement  
35 was made, and each receipt and disbursement is accurately included in the above and foregoing  
36 totals. (If for any reason complete and accurate information is not given the following shall be  
37 added to the certificate.) Exceptions: the above report is incomplete because proper information  
38 was not available in the following records ..... which are in the keeping of the following officer  
39 or officers ..... Date .....

40 .....  
41 .....  
42 Commissioners, County Commission  
43 .....  
44 County Clerk

45 5. Any person falsely certifying to any fact covered by the certificate is liable on his bond  
46 and is guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not less  
47 than two hundred dollars or more than one thousand dollars, or by confinement in the county jail  
48 for a period of not less than thirty days nor more than six months, or by both such fine and  
49 confinement. Any person charged with preparing the financial report who willfully or knowingly  
50 makes a false report of any record is, in addition to the penalties otherwise provided for in this  
51 section, guilty of a felony, and upon conviction thereof shall be sentenced to imprisonment by  
52 the division of corrections for a term of not less than two years nor more than five years.

53 [6. The provisions of sections 50.800 and 50.810 do not apply to counties of the first  
54 class not having a charter form of government, except as provided in subsection 3 of this  
55 section.]

250.140. 1. Sewerage services, **water services**, or water and sewerage services  
2 combined shall be deemed to be furnished to [both] the occupant [and owner] of the premises  
3 receiving such service and the city, town [or], village or sewer district **or water supply district**  
4 **organized and incorporated under chapter 247, RSMo**, rendering such services shall have  
5 power to sue the occupant [or owner, or both,] of such real estate in a civil action to recover any  
6 sums due for such services **less any deposit that is held by the city, town, village, or sewer**

7 **district or water supply district organized and incorporated under chapter 247, RSMo, for**  
8 **such services**, plus a reasonable attorney's fee to be fixed by the court.

9       2. [If the occupant of the premises receives the billing,] Any notice of termination of  
10 service shall be sent to both the occupant and owner of the premises receiving such service[, if  
11 such owner has requested in writing to receive any notice of termination and has provided the  
12 entity rendering such service with the owner's business addresses].

      [50.800. 1. On or before the first Monday in March of each year, the  
2 county commission of each county of the second, third, or fourth class shall  
3 prepare and publish in some newspaper as provided for in section 493.050,  
4 RSMo, if there is one, and if not by notices posted in at least ten places in the  
5 county, a detailed financial statement of the county for the year ending December  
6 thirty-first, preceding.

7       2. The statement shall show the bonded debt of the county, if any, kind  
8 of bonds, date of maturity, interest rate, rate of taxation levied for interest and  
9 sinking fund and authority for the levy, the total amount of interest and sinking  
10 fund that has been collected and interest and sinking fund on hand in cash.

11       3. The statement shall also show separately the total amount of the  
12 county and township school funds on hand and loaned out, the amount of  
13 penalties, fines, levies, utilities, forfeitures, and any other taxes collected and  
14 disbursed or expended during the year and turned into the permanent school fund,  
15 the name of each person who has a loan from the permanent school fund, whether  
16 county or township, the amount of the loan, date loan was made and date of  
17 maturity, description of the security for the loan, amount, if any, of delinquent  
18 interest on each loan.

19       4. The statement shall show the total valuation of the county for purposes  
20 of taxation, the highest rate of taxation the constitution permits the county  
21 commission to levy for purposes of county revenue, the rate levied by the county  
22 commission for the year covered by the statement, division of the rate levied  
23 among the several funds and total amount of delinquent taxes for all years as of  
24 December thirty-first.

25       5. The statement shall show receipts or revenues into each and every fund  
26 separately. Each fund shall show the beginning balance of each fund; each  
27 source of revenue; the total amount received from each source of revenue; the  
28 total amount available in each fund; the total amount of disbursements or  
29 expenditures from each fund and the ending balance of each fund as of December  
30 thirty-first. The total receipts or revenues for the year into all funds shall be  
31 shown in the recapitulation. In counties with the township form of government,  
32 each township shall be considered a fund pursuant to this subsection.

33       6. Total disbursements or expenditures shall be shown for warrants  
34 issued in each category contained in the forms developed or approved by the state  
35 auditor pursuant to section 50.745. Total amount of warrants, person or vendor  
36 to whom issued and purpose for which issued shall be shown except as herein

provided. Under a separate heading in each fund the statements shall show what warrants are outstanding and unpaid for the lack of funds on that date with appropriate balance or overdraft in each fund as the case may be.

7. Warrants issued to pay for the service of election judges and clerks of elections shall be in the following form:

Names of judges and clerks of elections at \$..... per day (listing the names run in and not listing each name by lines, and at the end of the list of names giving the total of the amount of all the warrants issued for such election services).

8. Warrants issued to pay for the service of jurors shall be in the following form:

Names of jurors at \$..... per day (listing the names run in and not listing each name by lines, and at the end of the list of names giving the total of the amount of all the warrants issued for such election service).

9. Warrants to Internal Revenue Service for Social Security and withholding taxes shall be brought into one call.

10. Warrants to the director of revenue of Missouri for withholding taxes shall be brought into one call.

11. Warrants to the division of employment security shall be brought into one call.

12. Warrants to Missouri local government employees' retirement system or other retirement funds for each office shall be brought into one call.

13. Warrants for utilities such as gas, water, lights and power shall be brought into one call except that the total shall be shown for each vendor.

14. Warrants issued to each telephone company shall be brought into one call for each office in the following form:

(Name of Telephone Company for ..... office and total amount of warrants issued).

15. Warrants issued to the postmaster for postage shall be brought into one call for each office in the following form:

(Postmaster for ..... office and total amount of warrants issued).

16. Disbursements or expenditures by road districts shall show the warrants, if warrants have been issued in the same manner as provided for in subsection 5 of this section. If money has been disbursed or expended by overseers the financial statement shall show the total paid by the overseer to each person for the year, and the purpose of each payment. Receipts or revenues into the county distributive school fund shall be listed in detail, disbursements or expenditures shall be listed and the amount of each disbursement or expenditure. If any taxes have been levied by virtue of section 12(a) of article X of the Constitution of Missouri the financial statement shall contain the following:

By virtue and authority of the discretionary power conferred upon the county commissions of the several counties of this state to levy a tax of not to exceed 35 cents on the \$100 assessed valuation the county commission of .....

County did for the year covered by this report levy a tax rate of ..... cents on the \$100 assessed valuation which said tax amounted to \$...... and was disbursed or expended as follows:

The statement shall show how the money was disbursed or expended and if any part of the sum has not been accounted for in detail under some previous appropriate heading the portion not previously accounted for shall be shown in detail.

17. At the end of the statement the person designated by the county commission to prepare the financial statement herein required shall append the following certificate:

I, ....., the duly authorized agent appointed by the county commission of ..... County, state of Missouri, to prepare for publication the financial statement as required by section 50.800, RSMo, hereby certify that I have diligently checked the records of the county and that the above and foregoing is a complete and correct statement of every item of information required in section 50.800, RSMo, for the year ending December 31, ....., and especially have I checked every receipt from every source whatsoever and every disbursement or expenditure of every kind and to whom and for what each such disbursement or expenditure was made and that each receipt or revenue and disbursement or expenditure is accurately shown. (If for any reason complete and accurate information is not given the following shall be added to the certificate.) Exceptions: The above report is incomplete because proper information was not available in the following records ..... which are in the keeping of the following officer or officers. The person designated to prepare the financial statement shall give in detail any incomplete data called for by this section.

Date .....

Officer designated by county commission to prepare financial statement required by section 50.800, RSMo.

Or if no one has been designated said statement having been prepared by the county clerk, signature shall be in the following form:

Clerk of the county commission and ex officio officer designated to prepare financial statement required by section 50.800, RSMo.

18. Any person falsely certifying to any fact covered by the certificate is liable on his bond and upon conviction of falsely certifying to any fact covered by the certificate is guilty of a misdemeanor and punishable by a fine of not less than two hundred dollars or more than one thousand dollars or by imprisonment in the county jail for not less than thirty days nor more than six months or by both fine and imprisonment. Any person charged with the responsibility of preparing the financial report who willfully or knowingly makes a false report of any record, is, in addition to the penalty otherwise provided for in this law, deemed guilty of a felony and upon conviction shall be sentenced to the penitentiary for not less than two years nor more than five years.]



2 [50.810. 1. The statement shall be printed in not less than 8-point type,  
3 but not more than the smallest point type over 8-point type available and in the  
4 standard column width measure that will take the least space. The publisher shall  
5 file two proofs of publication with the county commission and the commission  
6 shall forward one proof to the state auditor and shall file the other in the office  
7 of the commission. The county commission shall not pay the publisher until  
8 proof of publication is filed with the commission and shall not pay the person  
9 designated to prepare the statement for the preparation of the copy for the  
10 statement until the state auditor notifies the commission that proof of publication  
has been received and that it complies with the requirements of this section.

11 2. The statement shall be spread on the record of the commission and for  
12 this purpose the publisher shall be required to furnish the commission with at  
13 least two copies of the statement that may be pasted on the record. The publisher  
14 shall itemize the cost of publishing said statement by column inch as properly  
15 chargeable to the several funds and shall submit such costs for payment to the  
16 county commission. The county commission shall pay out of each fund in the  
17 proportion that each item bears to the total cost of publishing said statement and  
18 shall issue warrants therefor; provided any part not properly chargeable to any  
19 specific fund shall be paid from the county general revenue fund.

20 3. The state auditor shall notify the county treasurer immediately of the  
21 receipt of the proof of publication of the statement. After the first of April of  
22 each year the county treasurer shall not pay or enter for protest any warrant for  
23 the pay of any commissioner of any county commission until notice is received  
24 from the state auditor that the required proof of publication has been filed. Any  
25 county treasurer paying or entering for protest any warrant for any commissioner  
26 of the county commission prior to the receipt of such notice from the state auditor  
27 shall be liable on his official bond therefor.

28 4. The state auditor shall prepare sample forms for financial statements  
29 and shall mail the same to the county clerks of the several counties in this state.  
30 If the county commission employs any person other than a bonded county officer  
31 to prepare the financial statement the county commission shall require such  
32 person to give bond with good and sufficient sureties in the penal sum of one  
33 thousand dollars for the faithful performance of his duty. If any county officer  
34 or other person employed to prepare the financial statement herein provided for  
35 shall fail, neglect, or refuse to, in any manner, comply with the provisions of this  
36 law he shall, in addition to other penalties herein provided, be liable on his  
37 official bond for dereliction of duty.]