

FIRST REGULAR SESSION

HOUSE BILL NO. 735

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (158) (Sponsor), LEMBKE, HODGES, THRELKELD, STEVENSON, WRIGHT, SILVEY, LIPKE, SCHOELLER, CORCORAN, ROBB, RICHARD, ZIMMERMAN, HUBBARD, CASEY, PORTWOOD, TILLEY, CUNNINGHAM (86), QUINN (7), ROBINSON, VILLA, FALLERT, DENISON, GRILL, BIVINS, STREAM, SCHLOTTACH, McGHEE, MUNZLINGER, SALVA, SCHAD, PRATT, MOORE AND DOUGHERTY (Co-sponsors).

Read 1st time February 1, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1301L.02I

AN ACT

To repeal sections 8.007, 8.110, 8.120, 8.250, 8.255, 8.291, 8.420, 8.661, and 8.679, RSMo, and section 8.177 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353, ninety-third general assembly, first regular session, and to enact in lieu thereof eight new sections relating to public buildings.

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

Section A. Sections 8.007, 8.110, 8.120, 8.250, 8.255, 8.291, 8.420, 8.661, and 8.679, RSMo, and section 8.177 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353, ninety-third general assembly, first regular session, are repealed and eight new sections enacted in lieu thereof, to be known as sections 8.007, 8.110, 8.250, 8.255, 8.291, 8.420, 8.661, and 8.679, to read as follows:

8.007. 1. The commission shall:

(1) Exercise general supervision of the administration of sections 8.001 to 8.007;

(2) Evaluate and recommend courses of action on the restoration and preservation of the capitol, the preservation of historical significance of the capitol and the history of the capitol;

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.

5 (3) Evaluate and recommend courses of action to ensure accessibility to the capitol for
6 physically disabled persons;

7 (4) Advise, consult, and cooperate with the office of administration, the archives division
8 of the office of the secretary of state, the historic preservation program within the department of
9 natural resources, the division of tourism within the department of economic development and
10 the historical society of Missouri in furtherance of the purposes of sections 8.001 to 8.007;

11 (5) Be authorized to cooperate or collaborate with other state agencies and not-for-profit
12 organizations to publish books and manuals concerning the history of the capitol, its
13 improvement or restoration;

14 (6) Before each September first, recommend options to the governor on budget allocation
15 for improvements or restoration of the capitol premises;

16 (7) Encourage, participate in, or conduct studies, investigations, and research and
17 demonstrations relating to improvement and restoration of the state capitol it may deem
18 advisable and necessary for the discharge of its duties pursuant to sections 8.001 to 8.007; and

19 (8) Hold hearings, issue notices of hearings and take testimony as the commission deems
20 necessary.

21 2. The "Second Capitol Commission Fund" is hereby created in the state treasury. Any
22 moneys received from sources other than appropriation by the general assembly, including from
23 private sources, gifts, donations and grants, shall be credited to the second capitol commission
24 fund and shall be appropriated by the general assembly.

25 3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in
26 the second capitol commission fund shall not be transferred and placed to the credit of the
27 general revenue fund.

28 4. The commission is authorized to accept all gifts, bequests and donations from any
29 source whatsoever. The commission may also apply for and receive grants consistent with the
30 purposes of sections 8.001 to 8.007. All such gifts, bequests, donations and grants shall be used
31 or expended upon appropriation in accordance with their terms or stipulations, and the gifts,
32 bequests, donations or grants may be used or expended for the preservation, restoration and
33 improved accessibility and for promoting the historical significance of the capitol.

34 **5. The commission may copyright or obtain a trademark for any photograph,**
35 **written work, art object, or any product created of the capitol or capitol grounds. The**
36 **commission may grant access or use of any such works to other organizations or**
37 **individuals for a fee, at its sole discretion, or waive all fees. All funds obtained through**
38 **licensing fees shall be credited to the capitol commission fund in a manner similar to funds**
39 **the commission receives as gifts, donations, and grants. The funds shall be used for**

40 **repairs, refurbishing, or to create art, exhibits, decorations, or other beautifications or**
41 **adornments to the capitol or its grounds.**

8.110. There is hereby created within the office of administration a "Division of
2 Facilities Management, **Design, and Construction**", which shall supervise the design,
3 **construction, renovations, maintenance, and repair of state facilities, except as provided**
4 **in sections 8.015 and 8.017, and except those facilities belonging to the institutions of higher**
5 **education, the highways and transportation commission, and the conservation commission,**
6 **which shall be responsible to review all requests for appropriations for capitol**
7 **improvements.** Except as otherwise provided by law, the director of the division of facilities
8 management, **design, and construction** shall be responsible for the management and operation
9 of office buildings titled in the name of the governor. The director shall exercise all diligence
10 to ensure that all facilities within his management and control comply with the designated
11 building codes; that they are clean, safe and secure, and in proper repair; and that they are
12 adequately served by all necessary utilities.

8.250. 1. "Project" for the purposes of this chapter means the labor or material necessary
2 for the construction, renovation, or repair of improvements to real property so that the work,
3 when complete, shall be ready for service for its intended purpose and shall require no other
4 work to be a completed system or component.

5 2. All contracts for projects, the cost of which exceeds twenty-five thousand dollars,
6 entered into by any officer or agency of this state or of any city containing five hundred thousand
7 inhabitants or more shall be let to the lowest, responsive, responsible bidder or bidders after
8 notice and publication of an advertisement for five days in a daily newspaper in the county where
9 the work is located, or at least twice over a period of ten days or more in a newspaper in the
10 county where the work is located, and in two daily newspapers in the state which do not have less
11 than fifty thousand daily circulation, and by such other means as are determined to be most likely
12 to reach potential bidders.

13 3. **All contracts for projects, the cost of which exceeds one hundred thousand**
14 **dollars, entered into by an officer or agency of this state shall be let to the lowest,**
15 **responsive, responsible bidder or bidders based on preestablished criteria after notice and**
16 **publication of an advertisement for five days in a daily newspaper in the county where the**
17 **work is located, or at least twice over a period of ten days or more in a newspaper in the**
18 **county where the work is located and in one daily newspaper in the state which does not**
19 **have less than fifty thousand daily circulation and by such other means as determined to**
20 **be most likely to reach potential bidders. For all contracts for projects between twenty-five**
21 **thousand dollars and one hundred thousand dollars, a minimum of three contractors shall**

22 **be solicited with the award being made to the lowest responsive, responsible bidder based**
23 **on preestablished criteria.**

24 **4.** The number of such public bids shall not be restricted or curtailed, but shall be open
25 to all persons complying with the terms upon which the bids are requested or solicited unless
26 debarred for cause. No contract shall be awarded when the amount appropriated for same is not
27 sufficient to complete the work ready for service.

28 **[4.] 5.** Dividing a project into component labor or material allocations for the purpose
29 of avoiding bidding or advertising provisions required by this section is specifically prohibited.

 8.255. 1. The director may authorize any agency of the state to establish standing
2 contracts for the purpose of accomplishing construction, renovation, maintenance and repair
3 projects not exceeding one hundred thousand dollars. Such contracts shall be advertised and bid
4 in the same manner as contracts for work which exceeds one hundred thousand dollars, except
5 that each contract shall allow for multiple projects, the cost of each of which does not exceed one
6 hundred thousand dollars. Each contract shall be of a stated duration and shall have a stated
7 maximum total expenditure. **For job order contracts, the total expenditure per project shall**
8 **not exceed three hundred thousand dollars.**

9 2. The director, with full documentation, shall have the authority to authorize any agency
10 to contract for any design or construction, renovation, maintenance, or repair work which in his
11 judgment can best be procured directly by such agency. The director shall establish, by rule, the
12 procedures which the agencies must follow to procure contracts for design, construction,
13 renovation, maintenance or repair work. Each agency which procures such contracts pursuant
14 to a delegation shall file an annual report as required by rule. The director shall provide general
15 supervision over the process. The director may establish procedures by which such contracts are
16 to be procured, either generally or in accordance with each authorization.

17 3. The director, in his sole discretion, may with full documentation approve a
18 recommendation from a project designer that a material, product or system within a specification
19 for construction, renovation or repair work be designated by brand, trade name or individual
20 mark, when it is determined to be in the best interest of the state. The specification may include
21 a preestablished price for purchase of the material, product or system where required by the
22 director.

 8.291. 1. The agency shall list three highly qualified firms. The agency shall then select
2 the firm considered best qualified and capable of performing the desired work and negotiate a
3 contract for the project with the firm selected.

4 2. For a basis for negotiations the agency shall prepare a written description of the scope
5 of the proposed services.

6 3. If the agency is unable to negotiate a satisfactory contract with the firm selected,
7 negotiations with that firm shall be terminated. The agency shall then undertake negotiations
8 with another of the qualified firms selected. If there is a failing of accord with the second firm,
9 negotiations with such firm shall be terminated. The agency shall then undertake negotiations
10 with the third qualified firm.

11 4. If the agency is unable to negotiate a contract with any of the selected firms, the
12 agency shall reevaluate the necessary architectural, engineering or land surveying services,
13 including the scope and reasonable fee requirements, again compile a list of qualified firms and
14 proceed in accordance with the provisions of sections 8.285 to 8.291.

15 5. The provisions of sections 8.285 to 8.291 shall not apply to any political subdivision
16 which adopts a [formal] **qualification-based selection** procedure **commensurate with state**
17 **policy** for the procurement of architectural, engineering and land surveying services.

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. The board shall not issue revenue bonds pursuant to the provisions of sections 8.370
22 to 8.450 for one or more projects, as defined in section 8.370, in excess of a total par value of
23 seven hundred seventy-five million dollars.

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

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

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

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

14 4. When the board enters into a project authorized by sections 8.660 to 8.670, it shall
15 provide for sufficient space to be included in the project to meet probable future requirements
16 occasioned by the growth and expansion of the agency.

17 5. The board may lease to state agencies and instrumentalities of the state and other
18 political subdivisions of the state under the same terms and conditions prescribed under section
19 8.662. Any such lease shall include a provision requiring the payment of a portion of the costs
20 of operation and maintenance of the project under the formula prescribed under section 8.662.

8.679. 1. When, in the discretion of the public owner, it is determined that a public
2 works project should be performed with a negotiated contract for construction management
3 services, such public owner shall advertise and solicit proposals from qualified construction
4 managers in the following manner: If the total cost for the erection or construction of any
5 building or structure or the improvement, alteration or repair of a building or structure exceeds
6 five hundred thousand dollars, the public owner shall request and solicit proposals by advertising
7 for ten days in one newspaper of general circulation in the county where the work is located. If
8 the cost of the work contemplated exceeds one million five hundred thousand dollars, proposals
9 shall be solicited by advertisement for ten days in two daily newspapers in the state which have

10 not less than fifty thousand daily circulation in addition to the advertisement in the county where
11 the work is located. The number of such proposals shall not be restricted or curtailed, but shall
12 be open to all construction managers complying with the terms upon which the proposals are
13 requested.

14 **2. Notwithstanding any provision of law to the contrary, the division of facilities**
15 **management, design, and construction has the authority to bid and award multiple**
16 **projects for construction management services to a single firm if it is in the best interest of**
17 **this state.**

2 [8.120. There is hereby created within the office of administration a
3 "Division of Design and Construction", which shall supervise the design,
4 construction, renovations and repair of state facilities, except as provided in
5 sections 8.015 and 8.017, and except in those belonging to the institutions of
6 higher education and the department of conservation. The division of design and
7 construction shall be responsible to review all requests for appropriations for
8 capital improvements.]

2 [8.177. 1. The director of the department of public safety shall employ
3 Missouri capitol police officers for public safety at the seat of state government.
4 Each Missouri capitol police officer, upon appointment, shall take and subscribe
5 an oath of office to support the constitution and laws of the United States and the
6 state of Missouri and shall receive a certificate of appointment, a copy of which
7 shall be filed with the secretary of state, granting such police officers all the same
8 powers of arrest held by other police officers to maintain order and preserve the
9 peace in all state-owned or leased buildings, and the grounds thereof, at the seat
10 of government and such buildings and grounds within the county which contains
11 the seat of government.

12 2. The director of the department of public safety shall appoint a
13 sufficient number of Missouri capitol police officers, with available
14 appropriations, as appropriated specifically for the purpose designated in this
15 subsection, so that the capitol grounds may be patrolled at all times, and that
16 traffic and parking upon the capitol grounds and the grounds of other state
17 buildings owned or leased within the capital city and the county which contains
18 the seat of government may be properly controlled. Missouri capitol police
19 officers may make arrests for the violation of parking and traffic regulations
20 promulgated by the office of administration.

21 3. Missouri capitol police officers shall be authorized to arrest a person
22 anywhere in the county that contains the seat of state government, when there is
23 probable cause to believe the person committed a crime within capitol police
24 jurisdiction or when a person commits a crime within capitol police jurisdiction
25 or when a person commits a crime in the presence of an on-duty capitol police
officer.]

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