

FIRST REGULAR SESSION

HOUSE BILL NO. 768

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FAITH (Sponsor), FUNDERBURK, JONES (89), ONDER,
FALLERT, SMITH (14), SUTHERLAND AND QUINN (7) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

1489L.01I

AN ACT

To repeal section 144.062, RSMo, and to enact in lieu thereof one new section relating to a sales tax exemption for highway construction materials.

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

Section A. Section 144.062, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.062, to read as follows:

144.062. 1. With respect to exempt sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for:

(1) A county, other political subdivision or instrumentality thereof exempt from taxation under subdivision (10) of section 39 of article III of the Constitution of Missouri; or

(2) An organization sales to which are exempt from taxation under the provisions of subdivision (19) of subsection 2 of section 144.030; or

(3) Any institution of higher education supported by public funds or any private not-for-profit institution of higher education, exempt from taxation under subdivision (20) of subsection 2 of section 144.030; or

(4) Any private not-for-profit elementary or secondary school exempt from taxation under subdivision (22) of subsection 2 of section 144.030; or

(5) **The department of transportation of the state highway and transportation commission**, hereinafter collectively referred to as exempt entities, such exemptions shall be allowed for such purchases if the purchases are related to the entities' exempt functions and

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.

15 activities. In addition, the sales shall not be rendered nonexempt nor shall any material supplier
16 or contractor be obligated to pay, collect or remit sales tax with respect to such purchases made
17 by or on behalf of an exempt entity due to such purchases being billed to or paid for by a
18 contractor or the exempt entity contracting with any entity to render any services in relation to
19 such purchases, including but not limited to selection of materials, ordering, pickup, delivery,
20 approval on delivery, taking of delivery, transportation, storage, assumption of risk of loss to
21 materials or providing warranties on materials as specified by contract, use of materials or other
22 purchases for construction of the building or other facility, providing labor, management
23 services, administrative services, design or technical services or advice to the exempt entity,
24 whether or not the contractor or other entity exercises dominion or control in any other manner
25 over the materials in conjunction with services or labor provided to the exempt entity.

26 2. When any exempt entity contracts for the purpose of constructing, repairing or
27 remodeling facilities, and purchases of tangible personal property and materials to be
28 incorporated into or consumed in the construction of the project are to be made on a tax-exempt
29 basis, such entity shall furnish to the contractor an exemption certificate authorizing such
30 purchases for the construction, repair or remodeling project. The form and content of such
31 project exemption certificate shall be approved by the director of revenue. The project
32 exemption certificate shall include but not be limited to:

33 (1) The exempt entity's name, address, Missouri tax identification number and signature
34 of authorized representative;

35 (2) The project location, description, and unique identification number;

36 (3) The date the contract is entered into, which is the earliest date materials may be
37 purchased for the project on a tax-exempt basis;

38 (4) The estimated project completion date; and

39 (5) The certificate expiration date.

40 Such certificate is renewable for a given project at the option of the exempt entity, only for the
41 purpose of revising the certificate expiration date as necessary to complete the project.

42 3. The contractor shall furnish the certificate prescribed in subsection 2 of this section
43 to all subcontractors, and any contractor purchasing materials shall present such certificate to all
44 material suppliers as authorization to purchase, on behalf of the exempt entity, all tangible
45 personal property and materials to be incorporated into or consumed in the construction of that
46 project and no other on a tax-exempt basis. Such suppliers shall execute to the purchasing
47 contractor invoices bearing the name of the exempt entity and the project identification number.
48 Nothing in this section shall be deemed to exempt the purchase of any construction machinery,
49 equipment or tools used in constructing, repairing or remodeling facilities for the exempt entity.
50 All invoices for all personal property and materials purchased under a project exemption

51 certificate shall be retained by the purchasing contractor for a period of five years and shall be
52 subject to audit by the director of revenue.

53 4. Any excess resalable tangible personal property or materials which were purchased
54 for the project by a contractor under a project exemption certificate but which were not
55 incorporated into or consumed in the construction of the project shall either be returned to the
56 supplier for credit or the appropriate sales or use tax on such excess property or materials shall
57 be reported on a return and paid by such contractor not later than the due date of the contractor's
58 Missouri sales or use tax return following the month in which it was determined that the
59 materials were not to be used in the project.

60 5. No contractor or material supplier shall, upon audit, be required to pay tax on tangible
61 personal property and materials incorporated into or consumed in the construction of the project,
62 due to the failure of the exempt entity to revise the certificate expiration date as necessary to
63 complete any work required by the contract. If it is determined that tax is owed on such property
64 and materials due to the failure of the exempt entity to revise such certificate expiration date, the
65 exempt entity shall be liable for the tax owed.

66 6. If an entity issues exemption certificates for the purchase of tangible personal property
67 and materials which are incorporated into or consumed in the construction of its project and such
68 entity is found not to have had the authority granted by this section to issue such exemption
69 certificates, then such entity shall be liable for the tax owed on such personal property and
70 materials. In addition, if an entity which does have the authority granted by this section to issue
71 exemption certificates issues such certificates for the purchase of tangible personal property and
72 materials which are incorporated into or consumed in the construction of a project, or part of a
73 project, which is found not to be related to such entity's exempt functions and activities, then
74 such entity shall be liable for the tax owed on such personal property and materials.

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