

SECOND REGULAR SESSION

HOUSE BILL NO. 1707

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BAKER (123) (Sponsor), DUSENBERG, WELLS, NANCE, SANDER, WHORTON, SCAVUZZO, FLOOK, FAITH, SATER, CUNNINGHAM (86), RUCKER, McGHEE, ERVIN AND MOORE (Co-sponsors).

Read 1st time January 17, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4167L.01I

AN ACT

To amend chapter 177, RSMo, by adding thereto six new sections relating to the procurement of construction by the design-build method by school districts.

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

Section A. Chapter 177, RSMo, is amended by adding thereto six new sections, to be known as sections 177.201, 177.202, 177.203, 177.204, 177.205, and 177.206, to read as follows:

177.201. As used in this section, the following terms shall mean:

- (1) **"Design-build", a project for which the design and construction services are furnished under one contract;**
- (2) **"Design-build contract", a contract between a school district and a design-build contractor to furnish the architecture, engineering, and related design services, and the labor, materials, and other construction services required for a specific construction project;**
- (3) **"Design-build contractor", any individual, partnership, joint venture, corporation, or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts;**

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.

11 (4) "Design-build project", the design, construction, alteration, addition,
12 remodeling, or improvement of any school buildings or facilities under contract with a
13 school district;

14 (5) "Design criteria package", performance-oriented specifications for the
15 design-build project sufficient to permit a design-build contractor to prepare a response
16 to the school district's request for proposals for a design-build project, which may include
17 preliminary designs for the project or portions thereof.

 177.202. 1. Notwithstanding any provision of this chapter to the contrary, as an
2 alternative to the requirements and procedures specified by sections 177.086 to 177.171,
3 any school district of this state is authorized to enter into design-build contracts for
4 design-build projects that exceed an expenditure of fifteen thousand dollars.

5 2. In using a design-build contract, the school district shall establish a written
6 procedure by rule for prequalifying design-build contractors before such design-build
7 contractors will be allowed to make a proposal on the project.

8 3. The school board shall adopt procedures for the prequalification review team;
9 specifications for the design criteria package; the method of advertising, receiving and
10 evaluating proposals from design-build contractors; the criteria for awarding the
11 design-build contract based on the design criteria package and a separate proposal stating
12 the cost of construction; and other methods, procedures and criteria necessary to
13 administer this section.

14 4. The school district is authorized to issue a request for proposals to a maximum
15 of five design-build contractors who are prequalified in accordance with subsection 2 of
16 this section.

17 5. The school district may require approval of any person performing subcontract
18 work on the design-build project including, but not limited to, those furnishing design
19 services, labor, materials or equipment.

 177.203. 1. The school district shall publicly advertise, once a week for two
2 consecutive weeks, in a newspaper of general circulation, qualified under chapter 493,
3 RSMo, located within the city in which the school district is located, or if there be no such
4 newspaper, in a qualified newspaper of general circulation in the county, or if there be no
5 such newspaper, in a qualified newspaper of general circulation in an adjoining county,
6 and may advertise in business, trade, or minority newspapers, for proposals on said
7 design-build project.

8 2. If the school district fails to receive at least two responsive submissions from
9 design-build contractors considered qualified, submissions shall not be opened and it shall
10 readvertise the project.

11 **3. The school district shall have the right to reject any and all submissions and**
12 **proposals.**

13 **4. The proposals from prequalified design-build contractors shall be submitted**
14 **sealed and in writing, to be opened publicly at the time and place of the school district's**
15 **choosing. Technical proposals and qualifications submissions shall be submitted**
16 **separately from any cost proposals. No cost proposal shall be opened until the technical**
17 **proposals and qualifications submissions are first opened, evaluated, and ranked in**
18 **accordance with the criteria identified by the school district in the request for proposals.**

19 **5. The design-build contract shall be awarded to the design-build contractor whose**
20 **proposal represents the best overall value to the school district in terms of quality,**
21 **technical skill, schedule and cost.**

22 **6. No proposal shall be entertained by the school district which is not made in**
23 **accordance with the request for proposals furnished by the school district.**

24 **7. The school district shall pay a reasonable stipend to prequalified responsive**
25 **design-build contractors who submit a proposal, but are not awarded the design-build**
26 **contract.**

177.204. 1. The payment bond requirements of section 107.170, RSMo, shall apply
2 **to the design-build project. All persons furnishing design services shall be deemed to be**
3 **covered by the payment bond the same as any person furnishing labor or materials;**
4 **however, the performance bond for the design-build contractor does not need to cover the**
5 **design services as long as the design-build contractor or its subcontractors providing**
6 **design services carry professional liability insurance in an amount established by the**
7 **school district in the request for proposals.**

8 **2. Except as provided in section 177.205, the provisions of sections 8.285 to 8.291,**
9 **RSMo, shall not apply to the procurement of design-build contracts for the design-build**
10 **project; however, any person providing architectural, engineering, or land surveying**
11 **services for the design-build contractor on the design-build project shall be duly licensed**
12 **or authorized in Missouri to provide such services as required by chapter 327, RSMo.**

177.205. 1. A school district planning a design-build project may retain an
2 **architect or engineer, as appropriate to the project type, under sections 8.285 to 8.291,**
3 **RSMo, to assist with programming, site selection, master plan, the design criteria package,**
4 **preparation of the request for proposals, prequalifying design-build contractors,**
5 **evaluation of proposals, and preparation of forms necessary to award the design-build**
6 **contract. The school district may also retain that same architect or engineer or another to**
7 **perform contract administration functions on behalf of the school district during the**
8 **construction phase and after project completion.**

9 **2. Any architect or engineer who is retained by a school district under this section**
10 **shall be ineligible to act as the design-build contractor, or to participate as part of the**
11 **design-build contractor's team as a subcontractor, joint venturer, partner or otherwise for**
12 **the same design-build project for which the architect or engineer was hired by the school**
13 **district.**

177.206. Under section 327.465, RSMo, any design-build contractor that enters into
2 **a design-build contract for a school district is exempt from the requirement that such**
3 **person or entity hold a certificate of registration or such corporation hold a certificate of**
4 **authority if the architectural, engineering, or land surveying services to be performed**
5 **under the contract are performed through subcontracts with properly licensed and**
6 **authorized persons or entities, and not performed by the design-build contractor or its own**
7 **employees.**

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