

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1170
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Rural Community Development May 9, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 1170 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4809L.08C

AN ACT

To repeal section 177.088, RSMo, and to enact in lieu thereof two new sections relating to education boards and commissions, with an emergency clause for a certain section.

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

Section A. Section 177.088, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 160.459 and 177.088, to read as follows:

- 160.459. 1. There is hereby established the "Rebuild Missouri Schools Program" under which the state board of education shall distribute no-interest funding to eligible school districts from moneys appropriated by the general assembly to the rebuild Missouri schools program fund for the purposes of this section to assist in paying the costs of emergency projects.**
- 2. As used in this section, the following terms mean:**
- (1) "Eligible school district", any public school district that has one or more school facilities that have experienced severe damage or destruction due to an act of God or extreme weather events, including but not limited to tornado, flood, or hail;**
- (2) "Emergency project", reconstruction, replacement or renovation of, or repair to, any school facilities located in an area that has been declared a disaster area by the governor or President of the United States because of severe damage;**

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 (3) "Fund", the rebuild Missouri schools fund created by this section and funded
14 by appropriations of the general assembly;

15 (4) "Severe damage", such level of damage as to render all or a substantial portion
16 of a facility within a school district unusable for the purpose for which it was being used
17 immediately prior to the event that caused the damage.

18 3. Under rules and procedures established by the state board of education, eligible
19 school districts may receive moneys from the fund to pay for the costs of one or more
20 emergency projects.

21 4. Each eligible school district applying for such funding shall enter into an
22 agreement with the state board of education which shall provide for all of the following:

23 (1) The funding shall be used only to pay the costs of an emergency project;

24 (2) The eligible school district shall pay no interest for the funding;

25 (3) The eligible school district shall, subject to annual appropriation as provided
26 in this section, repay the amount of the funding to the fund in annual installments, which
27 may or may not be equal in amount, not more than twenty years from the date the funding
28 is received by the eligible school district. If the fund is no longer in existence, the eligible
29 school district shall repay the amount of the funding to the general revenue fund;

30 (4) The repayment described in subdivision (3) of this subsection shall annually be
31 subject to an appropriation by the board of education of the eligible school district to make
32 such repayment, such appropriation to be, at the discretion of the eligible school district,
33 from such district's incidental fund or capital projects fund;

34 (5) As security for the repayment, a pledge from the eligible school district to the
35 state board of education of the use and occupancy of the school facilities constituting the
36 emergency project for a period ending not earlier than the date the repayment shall be
37 completed; and

38 (6) Such other provisions as the state board of education shall provide for in its
39 rules and procedures or as to which the state board of education and the eligible school
40 district shall agree.

41 5. The amount of funding awarded by the state board of education for any
42 emergency project shall not exceed the cost of that emergency project less the amount of
43 any insurance proceeds or other moneys received by the eligible school district as a result
44 of the severe damage. If the eligible school district receives such insurance proceeds or
45 other moneys after it receives funding under the rebuild Missouri schools program, it shall
46 pay to the state board of education the amount by which the sum of the funding under the
47 rebuild Missouri schools program plus the insurance proceeds and other moneys exceeds
48 the cost of the emergency project. Such payment shall:

49 (1) Be made at the time the annual payment under the agreement is made;

50 (2) Be made whether or not the eligible school district has made an appropriation
51 for its annual payment;

52 (3) Be in addition to the annual payment; and

53 (4) Not be a credit against the annual payment.

54 6. Repayments from eligible school districts shall be paid into the fund so long as
55 it is in existence and may be used by the state board of education to provide additional
56 funding under the rebuild Missouri schools program. If the fund is no longer in existence,
57 repayments shall be paid to the general revenue fund.

58 7. The funding provided for under the rebuild Missouri schools program, and the
59 obligation to repay such funding, shall not be taken into account for purposes of any
60 constitutional or statutory debt limitation applicable to an eligible school district.

61 8. The state board of education shall establish procedures, criteria, and deadlines
62 for eligible school districts to follow in applying for assistance under this section. The state
63 board of education shall promulgate rules and regulations necessary to implement this
64 section. No regulations, procedures, or deadline shall be adopted by the state board of
65 education that would serve to exclude or limit any public school district that received
66 severe damage after April 1, 2006, from participation in the program established by this
67 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
68 that is created under the authority delegated in this section shall become effective only if
69 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
70 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
71 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
72 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
73 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
74 adopted after August 28, 2008, shall be invalid and void.

75 9. There is hereby created in the state treasury the "Rebuild Missouri Schools
76 Fund", which shall consist of money appropriated or collected under this section. The
77 state treasurer shall be custodian of the fund and may approve disbursements from the
78 fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money
79 in the fund shall be used solely for the purposes of this section. Any moneys remaining in
80 the fund at the end of the biennium shall revert to the credit of the general revenue fund.
81 The state treasurer shall invest moneys in the fund in the same manner as other funds are
82 invested. Any interest and moneys earned on such investments shall be credited to the
83 fund.

84 10. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

85 **(1) The provisions of the new program authorized under this section shall sunset**
86 **automatically six years after the effective date of this section unless reauthorized by an act**
87 **of the general assembly; and**

88 **(2) If such program is reauthorized, the program authorized under this section**
89 **shall sunset automatically twelve years after the effective date of the reauthorization of this**
90 **section; and**

91 **(3) This section shall terminate on September first of the calendar year immediately**
92 **following the calendar year in which the program authorized under this section is sunset.**

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

2 (1) "Board", the board of education, board of trustees, board of regents, or board of
3 governors of an educational institution;

4 (2) "Educational institution", any school district, including all junior college districts,
5 and any state college or university organized under chapter 174, RSMo.

6 2. The board of any educational institution may enter into agreements as authorized in
7 this section with a not-for-profit corporation formed under the general not for profit corporation
8 law of Missouri, chapter 355, RSMo, in order to provide for the acquisition, construction,
9 improvement, extension, repair, remodeling, renovation and financing of sites, buildings,
10 facilities, furnishings and equipment for the use of the educational institution for educational
11 purposes.

12 3. The board may on such terms as it shall approve:

13 (1) Lease from the corporation sites, buildings, facilities, furnishings and equipment
14 which the corporation has acquired or constructed; or

15 (2) Notwithstanding the provisions of this chapter or any other provision of law to the
16 contrary, sell or lease at fair market value, which may be determined by appraisal, to the
17 corporation any existing sites owned by the educational institution, together with any existing
18 buildings and facilities thereon, in order for the corporation to acquire, construct, improve,
19 extend, repair, remodel, renovate, furnish and equip buildings and facilities thereon, and then
20 lease back or purchase such sites, buildings and facilities from the corporation; provided that
21 upon selling or leasing the sites, buildings or facilities, the corporation agrees to enter into a lease
22 for not more than one year but with not more than [twenty] **twenty-five** successive options by
23 the educational institution to renew the lease under the same conditions; and provided further
24 that the corporation agrees to convey or sell the sites, buildings or facilities, including any
25 improvements, extensions, renovations, furnishings or equipment, back to the educational
26 institution with clear title at the end of the period of successive one-year options or at any time
27 bonds, notes or other obligations issued by the corporation to pay for the improvements,
28 extensions, renovations, furnishings or equipment have been paid and discharged.

29 4. Any consideration, promissory note or deed of trust which an educational institution
30 receives for selling or leasing property to a not-for-profit corporation pursuant to this section
31 shall be placed in a separate fund or in escrow, and neither the principal or any interest thereon
32 shall be commingled with any other funds of the educational institutions. At such time as the
33 title or deed for property acquired, constructed, improved, extended, repaired, remodeled or
34 renovated under this section is conveyed to the educational institution, the consideration shall
35 be returned to the corporation.

36 5. The board may make rental payments to the corporation under such leases out of its
37 general funds or out of any other available funds, provided that in no event shall the educational
38 institution become indebted in an amount exceeding in any year the income and revenue of the
39 educational institution for such year plus any unencumbered balances from previous years.

40 6. Any bonds, notes and other obligations issued by a corporation to pay for the
41 acquisition, construction, improvements, extensions, repairs, remodeling or renovations of sites,
42 buildings and facilities, pursuant to this section, may be secured by a mortgage, pledge or deed
43 of trust of the sites, buildings and facilities and a pledge of the revenues received from the rental
44 thereof to the educational institution. Such bonds, notes and other obligations issued by a
45 corporation shall not be a debt of the educational institution and the educational institution shall
46 not be liable thereon, and in no event shall such bonds, notes or other obligations be payable out
47 of any funds or properties other than those acquired for the purposes of this section, and such
48 bonds, notes and obligations shall not constitute an indebtedness of the educational institution
49 within the meaning of any constitutional or statutory debt limitation or restriction.

50 7. The interest on such bonds, notes and other obligations of the corporation and the
51 income therefrom shall be exempt from taxation by the state and its political subdivisions, except
52 for death and gift taxes on transfers. Sites, buildings, facilities, furnishings and equipment
53 owned by a corporation in connection with any project pursuant to this section shall be exempt
54 from taxation.

55 8. The board may make all other contracts or agreements with the corporation necessary
56 or convenient in connection with any project pursuant to this section. The corporation shall
57 comply with sections 290.210 to 290.340, RSMo.

58 9. Notice that the board is considering a project pursuant to this section shall be given
59 by publication in a newspaper published within the county in which all or a part of the
60 educational institution is located which has general circulation within the area of the educational
61 institution, once a week for two consecutive weeks, the last publication to be at least seven days
62 prior to the date of the meeting of the board at which such project will be considered and acted
63 upon.

64 10. Provisions of other law to the contrary notwithstanding, the board may refinance any
65 lease purchase agreement that satisfies at least one of the conditions specified in subsection 6 of
66 section 165.011, RSMo, for the purpose of payment on any lease with the corporation under this
67 section for sites, buildings, facilities, furnishings or equipment which the corporation has
68 acquired or constructed, but such refinance shall not extend the date of maturity of any
69 obligation, and the refinancing obligation shall not exceed the amount necessary to pay or
70 provide for the payment of the principal of the outstanding obligations to be refinanced, together
71 with the interest accrued thereon to the date of maturity or redemption of such obligations and
72 any premium which may be due under the terms of such obligations and any amounts necessary
73 for the payments of costs and expenses related to issuing such refunding obligations and to fund
74 a capital projects reserve fund for the obligations.

75 11. Provisions of other law to the contrary notwithstanding, payments made from any
76 source by a school district, after the latter of July 1, 1994, or July 12, 1994, that result in the
77 transfer of the title of real property to the school district, other than those payments made from
78 the capital projects fund, shall be deducted as an adjustment to the funds payable to the district
79 pursuant to section 163.031, RSMo, beginning in the year following the transfer of title to the
80 district, as determined by the department of elementary and secondary education.

 Section B. Because of the importance of providing suitable and permanent school
2 facilities for students, the enactment of section 160.459 of section A of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
4 hereby declared to be an emergency act within the meaning of the constitution, and the enactment
5 of section 160.459 of section A of this act shall be in full force and effect upon its passage and
6 approval.

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