

HOUSE _____ AMENDMENT NO. _____

Offered By _____

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 808,
Section 48.020, Page 2, Line 33, by inserting the following after all of said Section and Line:

“67.314. 1. The provisions of this section shall apply to contracts for construction
awarded by political subdivisions of the state of Missouri and shall be known as the "Political
Subdivision Construction Bidding Standards Act".

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

(1) "Contracts for construction", the construction, alteration, or repair of any building,
structure, highway, bridge, street, viaduct, water or sewer line or system, pipeline, demolition,
moving, or excavation connected therewith, and shall include the furnishing of surveying,
construction engineering, planning or management services, or labor, material, or equipment, as
required to perform work under the contract for construction;

(2) "Established local construction procurement policy", a policy and procedure for use in
soliciting bids for multiple construction projects that has been officially adopted by the governing
body of the political subdivision or established by the public works director, engineer, or similar
official authorized by the political subdivision to administer the award of construction contracts.

3. Nothing in this section shall be construed to require the design or engineering of any
project, as the term "project" is defined in section 8.287, to be awarded by competitive bidding if
the contract for such services is under a separate contract from a contract for construction and is
awarded under sections 8.285 to 8.291, or to construction management services governed by
sections 8.675 to 8.687. Neither shall this section be construed to apply to contracts awarded for
the design/build method of project delivery, if the political subdivision's procurement of
design/build projects is otherwise authorized by statute.

4. If a political subdivision is not subject to a specific requirement for advertising for bids
or soliciting, awarding, or rejecting bids under Missouri statutes or rules, or federal or state
funding requirements, and if the political subdivision has not adopted an established local
construction procurement policy that is applicable to the specific political subdivision regarding
contracts for construction, the political subdivision shall comply with the following provisions
when soliciting bids and awarding construction contracts of ten thousand dollars or more:

1 (1) Contracts for construction shall be advertised in advance of the acceptance of bids. If
2 no provision of Missouri statutes or rules, or federal or state funding requirements, or established
3 local construction procurement policy requiring advertising otherwise applies, bids shall be
4 solicited by advertisement once a week for two consecutive weeks in a newspaper of general
5 circulation, qualified under chapter 493, located in a county where the political subdivision is
6 located. If there is no newspaper in the county qualified under chapter 493, advertisements may
7 be placed in a newspaper in an adjoining county. The last insertion of the advertisement shall be
8 not less than ten days before the date stated in the advertisement for acceptance of bids. For
9 contracts for construction of over two hundred fifty thousand dollars, bids shall also be advertised
10 by providing project and bid solicitation information at least fifteen days in advance of bid
11 opening to one or more commercial or not-for-profit organization, which provides construction
12 project reporting services to construction contractors and suppliers, or that operates internet or
13 paper plan rooms for the use of contractors, subcontractors, and suppliers. Project advertisements
14 and bid solicitations shall state the date and time of the deadline for the acceptance of bids, the
15 place for submission of bids, and shall provide for informing bidders of the date, time, and place
16 where bids shall be opened;

17 (2) If no provision of Missouri statute or rules, or federal or state funding requirements, or
18 established local construction procurement policy otherwise applies, contracts for construction
19 shall be awarded in compliance with this subdivision. The contract shall be awarded to the lowest
20 qualified responsible bidder submitting a bid which is responsive to the contract as advertised by
21 the political subdivision. The political subdivision may reject the low bidder by declaring the
22 bidder ineligible for contract award based on the bidder's failure to provide a performance or
23 payment bond as required by section 107.170, the bidder's nonperformance on previous contracts
24 with the political subdivision, or for other reasons specified as to the bidder's inability to
25 adequately perform the contract. The reasons for bid rejection or award of the contract to another
26 bidder shall be stated in writing to the low bidder within five business days of the rejection of the
27 bid.

28 5. An established local construction procurement policy complies with this section if it
29 provides for advertising of construction contracts in a manner reasonably likely to inform
30 potential bidders of the project on a timely basis, including advertisement in a newspaper of
31 general circulation qualified under chapter 493, and requires that the date, time, and place for
32 submission of bids be stated in the advertisement or solicitation for bids and provides for
33 informing bidders of the date, time, and place bids will be opened. Such established local
34 construction procurement policy shall also state any requirements for prequalification of bidders.
35 If any additional project-specific qualifications are established, such qualifications shall be stated
36 to potential bidders in advance of submission of bids. The established local construction

1 procurement policy shall also state the bid award standard to be used in selecting contractors to
2 perform contracts under the policy.

3 6. In award of contracts for construction, a political subdivision is prohibited from acting
4 in an arbitrary or capricious manner, and shall act in good faith.

5 7. Notwithstanding any other provision of state law, state rule, or federal or state funding
6 requirement to the contrary or any provision of an established local construction procurement
7 policy, no contract for construction shall be awarded in violation of the following requirements:

8 (1) No bid shall be opened or contract awarded in advance of the advertised deadline for
9 submission of bids. No bid shall be opened in a place other than that established in subdivision
10 (4) of this subsection;

11 (2) No bid shall be accepted unless it is sealed and is in writing. If the letting of the
12 project for which bids were solicited is cancelled, bids shall be returned to the bidder unopened;

13 (3) No bid shall be accepted after the advertised deadline for acceptance of bids;

14 (4) All bids received shall be held secure and confidential from all persons until the bids
15 are opened on the date and at the time and place established in this section. Bids shall be opened
16 in a public meeting on the date and at the time and place stated in the advertisement and request
17 for bids or in an amended request for bids communicated to all known bidders or potential
18 bidders. If the date, time, or place of bid opening is changed from information stated in the
19 original or amended advertisement or solicitation for bids or other notice to bidders, notice of the
20 date, time, and place of bid opening shall be made to all known or potential bidders and the
21 general public at least two business days in advance of the bid opening. Bids shall be opened in a
22 public meeting. No political subdivision shall bar any person or persons from observing the bid
23 opening;

24 (5) No construction contract shall be awarded in substantial violation of a state statute or a
25 political subdivision's established local construction procurement policy;

26 (6) No construction contract shall be awarded in violation of section 107.170 requiring
27 performance and payment bonds.

28 8. Nothing in this section shall be construed to prohibit acceptance and processing of bids
29 through an established program of electronic bidding by computer, provided bids accepted and
30 processed electronically shall meet standards established by the requirements of the electronic
31 bidding program which are comparable to requirements for written bids established by this
32 section.

33 9. Any person submitting a bid for a contract for construction may file an action for any
34 violation of subsection 6 or 7 of this section or sections 34.203 to 34.216, and shall have standing
35 to seek equitable relief and monetary damages in a court of competent jurisdiction for monetary
36 losses resulting from violations of subsection 6 or 7 of this section or section 34.203 to 34.216,

1 including but not limited to, setting aside award of a contract, ordering a contract to be rebid,
2 requiring award of a contract to a different bidder than originally awarded, awarding monetary
3 damages deemed appropriate by the court, including award of reasonable attorney's fees, or
4 awarding a combination of such forms of relief. If a person would have submitted a bid, except
5 for violation of subdivision (1) of subsection 7 of this section or sections 34.203 to 34.216, such
6 person shall have standing to pursue the rights and remedies provided by this subsection. Any
7 action for violation of subsection 6 or 7 of this section that is brought by the contractor more than
8 fifteen business days after the award of a contract shall be dismissed by the court. If the court
9 finds there has been fraud, collusion, or corruption, or if the court finds there have been violations
10 of subsection 6 or 7 of this section or sections 34.203 to 34.216 in award of the contract and
11 awards monetary damages or equitable relief to the contractor bringing the action, the court may
12 also award attorney's fees to the contractor bringing the action. If the court finds there is no
13 substantial cause for the action or determines that the action was brought by the contractor for
14 purposes of harassment or disruption of the awarded contract, the court may order the contractor
15 to pay the political subdivision's costs of attorney's fees.

16 10. Nothing in this section shall be construed to prohibit the political subdivision from
17 rejecting any and all bids. Neither shall anything in this section prohibit a political subdivision
18 from awarding contracts without competitive bidding when the political subdivision deems it
19 necessary to remove an immediate danger to the public health or safety, to prevent loss to public
20 or private property which requires government action, or to prevent an interruption of or to restore
21 an essential public service.

22 11. Nothing in this section shall be construed to prohibit a political subdivision from
23 adopting an established local construction procurement policy governing contracts for
24 construction after the effective date of this section. Neither shall this section be construed to
25 allow a political subdivision to maintain or enact any provision governing construction contracts
26 in conflict with subsection 6 or 7 of this section or any state statute in effect on the effective date
27 of this section or as subsequently amended or enacted.”; and

28
29 Further amend said bill, Page 24, Section B, Line 6, by inserting after all of said line the
30 following:

31 “Section C. The emergency clause contained in Section B of this act shall not apply to
32 section 67.314 of Section A of this act.”; and

33
34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.