

HOUSE**AMENDMENT NO. _____****Offered by _____****of _____**

1 AMEND House Committee Substitute for Senate Substitute for Senate
 2 Committee Substitute for Senate Bill No. 58, Page 1, Section A,
 3 Line 5, by inserting after all of said line the following:

4 "227.107. 1. Notwithstanding any provision of section
 5 227.100 to the contrary, as an alternative to the requirements
 6 and procedures specified by sections 227.040 to 227.100, the
 7 state highways and transportation commission is authorized to
 8 enter into highway design-build project contracts. The total
 9 number of highway design-build project contracts awarded by the
 10 commission in any state fiscal year shall not exceed two percent
 11 of the total number of all state highway system projects awarded
 12 to contracts for construction from projects listed in the
 13 commission's approved statewide transportation improvement
 14 project for that state fiscal year. Authority to enter into
 15 design-build projects granted by this section shall expire on
 16 July 1, [2012] 2018, unless extended by statute.

17 2. Notwithstanding provisions of subsection 1 of this
 18 section to the contrary, the state highways and transportation
 19 commission is authorized to enter into additional design-build
 20 contracts for the design, construction, reconstruction, or
 21 improvement of Missouri Route 364 as contained in any county with
 22 a charter form of government and with more than two hundred fifty
 23 thousand but fewer than three hundred fifty thousand inhabitants
 24 and in any county with a charter form of government and with more
 25 than one million inhabitants, and the State Highway 169 and 96th
 26 Street intersection located within a home rule city with more
 27 than four hundred thousand inhabitants and located in more than
 28 one county. The state highways and transportation commission is
 29 authorized to enter into an additional design-build contract for

Action Taken _____ Date _____

1 the design, construction, reconstruction, or improvement of State
2 Highway 92, contained in a county of the first classification
3 with more than one hundred eighty-four thousand but fewer than
4 one hundred eighty-eight thousand inhabitants, from its
5 intersection with State Highway 169, east to its intersection
6 with State Highway E. The state highways and transportation
7 commission is authorized to enter into an additional design-build
8 contract for the design, construction, reconstruction, or
9 improvement of US 40/61 I-64 Missouri River Bridge as contained
10 in any county with a charter form of government and with more
11 than one million inhabitants and any county with a charter form
12 of government and with more than two hundred fifty thousand but
13 fewer than three hundred fifty thousand inhabitants. The
14 authority to enter into a design-build highway project under this
15 subsection shall not be subject to the time limitation expressed
16 in subsection 1 of this section.

17 3. For the purpose of this section a "design-builder" is
18 defined as an individual, corporation, partnership, joint venture
19 or other entity, including combinations of such entities making a
20 proposal to perform or performing a design-build highway project
21 contract.

22 4. For the purpose of this section, "design-build highway
23 project contract" is defined as the procurement of all materials
24 and services necessary for the design, construction,
25 reconstruction or improvement of a state highway project in a
26 single contract with a design-builder capable of providing the
27 necessary materials and services.

28 5. For the purpose of this section, "highway project" is
29 defined as the design, construction, reconstruction or
30 improvement of highways or bridges under contract with the state
31 highways and transportation commission, which is funded by state,
32 federal or local funds or any combination of such funds.

33 6. In using a design-build highway project contract, the
34 commission shall establish a written procedure by rule for
35 prequalifying design-builders before such design-builders will be
36 allowed to make a proposal on the project.

37 7. In any design-build highway project contract, whether

1 involving state or federal funds, the commission shall require
2 that each person submitting a request for qualifications provide
3 a detailed disadvantaged business enterprise participation plan.
4 The plan shall provide information describing the experience of
5 the person in meeting disadvantaged business enterprise
6 participation goals, how the person will meet the department of
7 transportation's disadvantaged business enterprise participation
8 goal and such other qualifications that the commission considers
9 to be in the best interest of the state.

10 8. The commission is authorized to issue a request for
11 proposals to a maximum of five design-builders prequalified in
12 accordance with subsection 6 of this section.

13 9. The commission may require approval of any person
14 performing subcontract work on the design-build highway project.

15 10. Notwithstanding the provisions of sections 107.170, and
16 227.100, to the contrary, the commission shall require the
17 design-builder to provide to the commission directly such bid,
18 performance and payment bonds, or such letters of credit, in such
19 terms, durations, amounts, and on such forms as the commission
20 may determine to be adequate for its protection and provided by a
21 surety or sureties authorized to conduct surety business in the
22 state of Missouri or a federally insured financial institution or
23 institutions, satisfactory to the commission, including but not
24 limited to:

25 (1) A bid or proposal bond, cash or a certified or
26 cashier's check;

27 (2) A performance bond or bonds for the construction period
28 specified in the design-build highway project contract equal to a
29 reasonable estimate of the total cost of construction work under
30 the terms of the design-build highway project contract. If the
31 commission determines in writing supported by specific findings
32 that the reasonable estimate of the total cost of construction
33 work under the terms of the design-build highway project contract
34 is expected to exceed two-hundred fifty million dollars and a
35 performance bond or bonds in such amount is impractical, the
36 commission shall set the performance bond or bonds at the largest
37 amount reasonably available, but not less than two-hundred fifty

1 million dollars, and may require additional security, including
2 but not limited to letters of credit, for the balance of the
3 estimate not covered by the performance bond or bonds;

4 (3) A payment bond or bonds that shall be enforceable under
5 section 522.300 for the protection of persons supplying labor and
6 material in carrying out the construction work provided for in
7 the design-build highway project contract. The aggregate amount
8 of the payment bond or bonds shall equal a reasonable estimate of
9 the total amount payable for the cost of construction work under
10 the terms of the design-build highway project contract unless the
11 commission determines in writing supported by specific findings
12 that a payment bond or bonds in such amount is impractical, in
13 which case the commission shall establish the amount of the
14 payment bond or bonds; except that the amount of the payment bond
15 or bonds shall not be less than the aggregate amount of the
16 performance bond or bonds and any additional security to such
17 performance bond or bonds; and

18 (4) Upon award of the design-build highway project
19 contract, the sum of the performance bond and any required
20 additional security established under subdivisions (2) and (3) of
21 this subsection shall be stated, and shall be a matter of public
22 record.

23 11. The commission is authorized to prescribe the form of
24 the contracts for the work.

25 12. The commission is empowered to make all final decisions
26 concerning the performance of the work under the design-build
27 highway project contract, including claims for additional time
28 and compensation.

29 13. The provisions of sections 8.285 to 8.291 shall not
30 apply to the procurement of architectural, engineering or land
31 surveying services for the design-build highway project, except
32 that any person providing architectural, engineering or land
33 surveying services for the design-builder on the design-build
34 highway project must be licensed in Missouri to provide such
35 services.

36 14. The commission shall pay a reasonable stipend to
37 prequalified responsive design-builders who submit a proposal,

1 but are not awarded the design-build highway project.

2 15. The commission shall comply with the provisions of any
3 act of congress or any regulations of any federal administrative
4 agency which provides and authorizes the use of federal funds for
5 highway projects using the design-build process.

6 16. The commission shall promulgate administrative rules to
7 implement this section or to secure federal funds. Such rules
8 shall be published for comment in the Missouri Register and shall
9 include prequalification criteria, the make-up of the
10 prequalification review team, specifications for the design
11 criteria package, the method of advertising, receiving and
12 evaluating proposals from design-builders, the criteria for
13 awarding the design-build highway project based on the design
14 criteria package and a separate proposal stating the cost of
15 construction, and other methods, procedures and criteria
16 necessary to administer this section.

17 17. The commission shall make a status report to the
18 members of the general assembly and the governor following the
19 award of the design-build project, as an individual component of
20 the annual report submitted by the commission to the joint
21 transportation oversight committee in accordance with the
22 provisions of section 21.795. The annual report prior to
23 advertisement of the design-build highway project contracts shall
24 state the goals of the project in reducing costs and/or the time
25 of completion for the project in comparison to the
26 design-bid-build method of construction and objective
27 measurements to be utilized in determining achievement of such
28 goals. Subsequent annual reports shall include: the time
29 estimated for design and construction of different phases or
30 segments of the project and the actual time required to complete
31 such work during the period; the amount of each progress payment
32 to the design-builder during the period and the percentage and a
33 description of the portion of the project completed regarding
34 such payment; the number and a description of design change
35 orders issued during the period and the cost of each such change
36 order; upon substantial and final completion, the total cost of
37 the design-build highway project with a breakdown of costs for

1 design and construction; and such other measurements as specified
2 by rule. The annual report immediately after final completion of
3 the project shall state an assessment of the advantages and
4 disadvantages of the design-build method of contracting for
5 highway and bridge projects in comparison to the design-bid-build
6 method of contracting and an assessment of whether the goals of
7 the project in reducing costs and/or the time of completion of
8 the project were met.

9 18. The commission shall give public notice of a request
10 for qualifications in at least two public newspapers that are
11 distributed wholly or in part in this state and at least one
12 construction industry trade publication that is distributed
13 nationally.

14 19. The commission shall publish its cost estimates of the
15 design-build highway project award and the project completion
16 date along with its public notice of a request for qualifications
17 of the design-build project.

18 20. If the commission fails to receive at least two
19 responsive submissions from design-builders considered qualified,
20 submissions shall not be opened and it shall readvertise the
21 project.

22 21. For any highway design-build project constructed under
23 this section, the commission shall negotiate and reach agreements
24 with affected railroads. Such agreements shall include
25 clearance, safety, insurance, and indemnification provisions, but
26 are not required to include provisions on right-of-way
27 acquisitions."; and

28 Further amend said title, enacting clause and intersectional
29 references accordingly.