

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1912**  
98TH GENERAL ASSEMBLY

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Reported from the Committee on Jobs, Economic Development and Local Government, May 4, 2016, with recommendation that the Senate Committee Substitute do pass.

5160S.08C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, 192.300, and 197.315, RSMo, and to enact in lieu thereof eleven new sections relating to political subdivisions, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 49.330, 49.410, 49.420, 49.430, 49.440, 50.660, 50.783, 2 50.790, 55.161, 64.875, 192.300, and 197.315, RSMo, are repealed and eleven new 3 sections enacted in lieu thereof, to be known as sections 49.410, 49.420, 49.430, 4 49.440, 50.660, 50.783, 50.790, 55.161, 64.875, 192.300, and 197.315, to read as 5 follows:

49.410. When the ground for erecting any public building shall be 2 designated, as aforesaid, [the superintendent shall prepare and submit to] the 3 county commission **shall have prepared** a plan of the building to be erected, the 4 dimensions thereof, and the materials of which it is to be composed, with an 5 estimate of the probable cost thereof.

49.420. When any plan shall be approved by the county commission, the 2 [superintendent] **county commission** shall immediately advertise for bids for 3 the erection and construction of same, stating in such advertisement a description 4 of such building or buildings, and shall contract with the person or firm who will 5 agree to do the work and furnish the necessary material on the lowest and best 6 terms not exceeding the amount appropriated or set apart for such building or 7 buildings; provided, that in case the lowest bid received shall be in excess of the 8 amount appropriated, after two successive advertisements for such bids, then, if

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

9 such county commission shall be of the opinion that such building or buildings  
10 can be constructed or built for a sum not in excess of the amount appropriated,  
11 or if the commission shall be of the opinion that there is collusion or combination  
12 between the bidders for the purpose of forcing the county to pay an exorbitant  
13 price for the construction of such building or buildings, then, the commission may,  
14 in its discretion, let such building or buildings at private contract, to be  
15 constructed according to original plans and specifications upon which bids were  
16 received and approved by the county commission.

49.430. The [superintendent] **county commission** shall take from the  
2 contractor a bond to the county, with sufficient security, for the performance of  
3 the work at the time and in the manner agreed on, according to the plan, under  
4 a penalty at least one hundred ten percent of the amount to be given for erecting  
5 the building. A copy of the plan shall be annexed to the bond.

49.440. The [superintendent shall oversee and direct] **county**  
2 **commission may contract for oversight and direction of** the execution of  
3 the work[, and] **to** see that the materials employed are good[,] and that the work  
4 is executed according to contract[, and make]. **The contractor shall** report [of]  
5 **on** the progress and condition thereof, from time to time, to the county  
6 commission.

50.660. [1.] All contracts shall be executed in the name of the county, or  
2 in the name of a township in a county with a township form of government, by the  
3 head of the department or officer concerned, except contracts for the purchase of  
4 supplies, materials, equipment or services other than personal made by the officer  
5 in charge of purchasing in any county or township having the officer. No contract  
6 or order **in excess of ten thousand dollars** imposing any financial obligation  
7 on the county or township is binding on the county or township unless it is in  
8 writing and unless there is a balance otherwise unencumbered to the credit of the  
9 appropriation to which it is to be charged and a cash balance otherwise  
10 unencumbered in the treasury to the credit of the fund from which payment is to  
11 be made, each sufficient to meet the obligation incurred and unless the contract  
12 or order **in excess of ten thousand dollars** bears the certification of the  
13 accounting officer so stating; except that in case of any contract for public works  
14 or buildings to be paid for from bond funds or from taxes levied for the purpose  
15 it is sufficient for the accounting officer to certify that the bonds or taxes have  
16 been authorized by vote of the people and that there is a sufficient unencumbered  
17 amount of the bonds yet to be sold or of the taxes levied and yet to be collected

18 to meet the obligation in case there is not a sufficient unencumbered cash balance  
19 in the treasury. All contracts and purchases shall be let to the lowest and best  
20 bidder after due opportunity for competition, including advertising the proposed  
21 letting in a newspaper in the county or township with a circulation of at least five  
22 hundred copies per issue, if there is one, except that the advertising is not  
23 required in case of contracts or purchases involving an expenditure of [less than  
24 six] **ten** thousand dollars **or less**. It is not necessary to obtain bids on any  
25 purchase in the amount of [four] **ten** thousand [five hundred] dollars or less  
26 made from any one person, firm or corporation during any [period of ninety days  
27 or, if the county is any county of the first classification with more than one  
28 hundred fifty thousand but fewer than two hundred thousand inhabitants or any  
29 county of the first classification with more than two hundred sixty thousand but  
30 fewer than three hundred thousand inhabitants, it is not necessary to obtain bids  
31 on such purchases in the amount of six thousand dollars or less] **fiscal year**. All  
32 bids for any contract or purchase may be rejected and new bids advertised  
33 for. Contracts which provide that the person contracting with the county or  
34 township shall, during the term of the contract, furnish to the county or township  
35 at the price therein specified the supplies, materials, equipment or services other  
36 than personal therein described, in the quantities required, and from time to time  
37 as ordered by the officer in charge of purchasing during the term of the contract,  
38 need not bear the certification of the accounting officer, as herein provided; but  
39 all orders for supplies, materials, equipment or services other than personal shall  
40 bear the certification. In case of such contract, no financial obligation accrues  
41 against the county or township until the supplies, materials, equipment or  
42 services other than personal are so ordered and the certificate furnished.

43 [2. Notwithstanding the provisions of subsection 1 of this section to the  
44 contrary, advertising shall not be required in any county in the case of contracts  
45 or purchases involving an expenditure of less than six thousand dollars.]

50.783. 1. The county commission may waive the requirement of  
2 competitive bids or proposals for supplies when the commission has determined  
3 in writing and entered into the commission minutes that there is only a single  
4 feasible source for the supplies. Immediately upon discovering that other feasible  
5 sources exist, the commission shall rescind the waiver and proceed to procure the  
6 supplies through the competitive processes as described in this chapter. A single  
7 feasible source exists when:

8 (1) Supplies are proprietary and only available from the manufacturer or

9 a single distributor; or

10 (2) Based on past procurement experience, it is determined that only one  
11 distributor services the region in which the supplies are needed; or

12 (3) Supplies are available at a discount from a single distributor for a  
13 limited period of time.

14 2. On any single feasible source purchase where the estimated  
15 expenditure is [three] **more than five** thousand dollars [or over], the  
16 commission shall post notice of the proposed purchase. Where the estimated  
17 expenditure is [five] **more than ten** thousand dollars [or over], the commission  
18 shall also advertise the commission's intent to make such purchase in at least one  
19 daily and one weekly newspaper of general circulation in such places as are most  
20 likely to reach prospective bidders or offerors and may provide such information  
21 through an electronic medium available to the general public at least ten days  
22 before the contract is to be let.

23 [3. Notwithstanding subsection 2 of this section to the contrary, on any  
24 single feasible service purchase by any county of the first classification with more  
25 than one hundred fifty thousand but fewer than two hundred thousand  
26 inhabitants or any county of the first classification with more than two hundred  
27 sixty thousand but fewer than three hundred thousand inhabitants where the  
28 estimated expenditure is six thousand dollars or over, the commission shall post  
29 notice of the proposed purchase and advertise the commission's intent to make  
30 such purchase in at least one daily and one weekly newspaper of general  
31 circulation in such places as are most likely to reach prospective bidders or  
32 offerors and may provide such information through an electronic medium  
33 available to the general public at least ten days before the contract is to be let.]

50.790. It shall hereafter be unlawful for the commissioners of the county  
2 commission of any county of this state to which sections 50.760 to 50.790 apply  
3 to draw, or authorize the drawing of, any check or county warrant, or other order  
4 for the payment of money for any supplies for any county officer for which an  
5 order or requisition has not first been obtained as in sections 50.760 to 50.790  
6 required. Whoever shall violate the provisions of this law shall be deemed  
7 guilty of [a misdemeanor] **an infraction** and upon conviction thereof shall be  
8 punished by a fine of not [less than fifty dollars nor more than one thousand]  
9 **more than one hundred** dollars[, or by imprisonment in the county jail for a  
10 term of not less than thirty days nor more than one year, or by both such fine and  
11 imprisonment]; provided, that if any such commissioner shall be absent at the

12 time, or shall cause his protest against such action to be entered in the minutes  
13 of the commission, when any violation of this law is ordered by the other  
14 commissioners of such commission, he shall not be deemed to have violated the  
15 provisions of this law.

55.161. In addition to all other duties imposed upon the county auditor  
2 in counties of the first class not having a charter form of government and in  
3 counties of the second class, **[he] the auditor** shall have the following duties:

4 (1) He **or she** shall audit, examine and adjust all accounts of county  
5 officials and courts operating in such counties where there is an accumulation of  
6 moneys, taxes, fees, fines and miscellaneous public funds received from any and  
7 all sources by county officials and courts operating in such counties, and which  
8 are accumulated and intended for public purposes other than the general  
9 administrative functions of the county, provided that such extra duty of  
10 accounting is to be performed in the same manner as is now by statute prescribed  
11 for the general county administrative business. He **or she** shall also audit  
12 moneys and funds belonging to any levee district organized and operating in such  
13 county, moneys to be disbursed to school districts organized and operating in such  
14 county, and moneys to be disbursed in the county for library, hospital, recreation,  
15 public health and civil defense purposes;

16 (2) He **or she** shall prepare a statement of the estimated revenues of the  
17 county, classified as to funds and sources, and shall furnish the budget officer of  
18 the county with an itemized list of county expenditures for as many previous  
19 fiscal years as may be deemed proper for enabling the budget officer to arrive at  
20 a reasonable estimate of the anticipated revenues and the necessary expenses of  
21 the county in the preparation of the county budget;

22 (3) **[He** shall countersign, on behalf of the county, all licenses issued for  
23 the sale of intoxicating liquor and shall keep in a readily accessible form a record  
24 of all such county licenses issued; and

25 (4) **In** counties of the second **[class] classification** only, he **or she** shall  
26 serve as a member of the county board of equalization.

64.875. The regulations imposed and the districts created under authority  
2 of sections 64.845 to 64.880 may be amended from time to time by the county  
3 commission by order after the order establishing the same has gone into effect but  
4 no amendments shall be made by the county commission except after  
5 recommendation of the county planning commission, or if there be no county  
6 planning commission, of the county zoning commission, after hearings thereon by

7 the **county** commission. Public notice of the hearings shall be given in the same  
8 manner as provided for the hearing in section 64.815. In case of written protest  
9 against any proposed change or amendment, signed and acknowledged by the  
10 owners of thirty percent of the frontage within one thousand feet to the right or  
11 left of the frontage proposed to be changed, or by the owners of thirty percent of  
12 the frontage directly opposite, or directly in the rear of the frontage proposed to  
13 be altered, or in cases where the land affected lies within one and one-half miles  
14 of the corporate limits of a municipality having in effect ordinances zoning  
15 property within the corporate limits of a municipality, made by resolution of the  
16 city council or board of trustees thereof, and filed with the county clerk, the  
17 amendment may not be passed except by the favorable vote of two-thirds of all  
18 the members of the county commission.

192.300. 1. The county commissions [and] **with the concurrence of** the  
2 county health center boards of the several counties may make and promulgate  
3 orders, ordinances, rules or regulations, respectively as will tend to enhance the  
4 public health and prevent the entrance of infectious, contagious, communicable  
5 or dangerous diseases into such county, but any orders, ordinances, rules or  
6 regulations shall not be in conflict with any rules or regulations authorized and  
7 made by the department of health and senior services in accordance with this  
8 chapter or by the department of social services under chapter 198. The county  
9 commissions [and] **with the concurrence of** the county health center boards  
10 of the several counties may establish reasonable fees to pay for any costs incurred  
11 in carrying out such orders, ordinances, rules or regulations, however, the  
12 establishment of such fees shall not deny personal health services to those  
13 individuals who are unable to pay such fees or impede the prevention or control  
14 of communicable disease. Fees generated shall be deposited in the county  
15 treasury. All fees generated under the provisions of this section shall be used to  
16 support the public health activities for which they were generated. After the  
17 promulgation and adoption of such orders, ordinances, rules or regulations by  
18 such county commission [or county health board], such commission [or county  
19 health board] shall make and enter an order or record declaring such orders,  
20 ordinances, rules or regulations to be printed and available for distribution to the  
21 public in the office of the county clerk, and shall require a copy of such order to  
22 be published in some newspaper in the county in three successive weeks, not later  
23 than thirty days after the entry of such order, ordinance, rule or regulation. Any  
24 person, firm, corporation or association which violates any of the orders or

25 ordinances adopted, promulgated and published by such county commission is  
26 guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise  
27 provided by law. The county commission [or county health board] of any such  
28 county has full power and authority to initiate the prosecution of any action  
29 under this section.

30 **2. Notwithstanding the provisions of subsection 1 of this section,**  
31 **in the event of an emergency, a county commission or the county health**  
32 **center board may make and promulgate any orders, ordinances, rules,**  
33 **or regulations in order to protect public health, safety, or welfare, but**  
34 **the orders, ordinances, rules, or regulations shall not be in conflict**  
35 **with any rules or regulations authorized and made by the department**  
36 **of health and senior services in accordance with this chapter or by the**  
37 **department of social services under chapter 198.**

197.315. 1. Any person who proposes to develop or offer a new  
2 institutional health service within the state must obtain a certificate of need from  
3 the committee prior to the time such services are offered.

4 2. Only those new institutional health services which are found by the  
5 committee to be needed shall be granted a certificate of need. Only those new  
6 institutional health services which are granted certificates of need shall be  
7 offered or developed within the state. No expenditures for new institutional  
8 health services in excess of the applicable expenditure minimum shall be made  
9 by any person unless a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or  
11 certify health care facilities shall issue a license to or certify any such facility, or  
12 distinct part of such facility, that is developed without obtaining a certificate of  
13 need.

14 4. If any person proposes to develop any new institutional health care  
15 service without a certificate of need as required by sections 197.300 to 197.366,  
16 the committee shall notify the attorney general, and he shall apply for an  
17 injunction or other appropriate legal action in any court of this state against that  
18 person.

19 5. After October 1, 1980, no agency of state government may appropriate  
20 or grant funds to or make payment of any funds to any person or health care  
21 facility which has not first obtained every certificate of need required pursuant  
22 to sections 197.300 to 197.366.

23 6. A certificate of need shall be issued only for the premises and persons

24 named in the application and is not transferable except by consent of the  
25 committee.

26 7. Project cost increases, due to changes in the project application as  
27 approved or due to project change orders, exceeding the initial estimate by more  
28 than ten percent shall not be incurred without consent of the committee.

29 8. Periodic reports to the committee shall be required of any applicant  
30 who has been granted a certificate of need until the project has been  
31 completed. The committee may order the forfeiture of the certificate of need upon  
32 failure of the applicant to file any such report.

33 9. A certificate of need shall be subject to forfeiture for failure to incur a  
34 capital expenditure on any approved project within six months after the date of  
35 the order. The applicant may request an extension from the committee of not  
36 more than six additional months based upon substantial expenditure made.

37 10. Each application for a certificate of need must be accompanied by an  
38 application fee. The time of filing commences with the receipt of the application  
39 and the application fee. The application fee is one thousand dollars, or one-tenth  
40 of one percent of the total cost of the proposed project, whichever is greater. All  
41 application fees shall be deposited in the state treasury. Because of the loss of  
42 federal funds, the general assembly will appropriate funds to the Missouri health  
43 facilities review committee.

44 11. In determining whether a certificate of need should be granted, no  
45 consideration shall be given to the facilities or equipment of any other health care  
46 facility located more than a fifteen-mile radius from the applying facility.

47 12. When a nursing facility shifts from a skilled to an intermediate level  
48 of nursing care, it may return to the higher level of care if it meets the licensure  
49 requirements, without obtaining a certificate of need.

50 13. In no event shall a certificate of need be denied because the applicant  
51 refuses to provide abortion services or information.

52 14. A certificate of need shall not be required for the transfer of ownership  
53 of an existing and operational health facility in its entirety.

54 15. A certificate of need may be granted to a facility for an expansion, an  
55 addition of services, a new institutional service, or for a new hospital facility  
56 which provides for something less than that which was sought in the application.

57 16. The provisions of this section shall not apply to facilities operated by  
58 the state, and appropriation of funds to such facilities by the general assembly  
59 shall be deemed in compliance with this section, and such facilities shall be

60 deemed to have received an appropriate certificate of need without payment of  
61 any fee or charge. **The provisions of this subsection shall not apply to**  
62 **hospitals operated by the state and licensed under chapter 197, except**  
63 **for department of mental health state-operated psychiatric hospitals.**

64 17. Notwithstanding other provisions of this section, a certificate of need  
65 may be issued after July 1, 1983, for an intermediate care facility operated  
66 exclusively for the intellectually disabled.

67 18. To assure the safe, appropriate, and cost-effective transfer of new  
68 medical technology throughout the state, a certificate of need shall not be  
69 required for the purchase and operation of:

70 (1) Research equipment that is to be used in a clinical trial that has  
71 received written approval from a duly constituted institutional review board of  
72 an accredited school of medicine or osteopathy located in Missouri to establish its  
73 safety and efficacy and does not increase the bed complement of the institution  
74 in which the equipment is to be located. After the clinical trial has been  
75 completed, a certificate of need must be obtained for continued use in such  
76 facility; or

77 (2) **Equipment that is to be used by an academic health center**  
78 **operated by the state in furtherance of its research or teaching**  
79 **missions.**

[49.330. The county commission shall appoint some suitable  
2 person to superintend the erection of the buildings who shall take  
3 an oath to discharge faithfully and impartially the duties enjoined  
4 on him by sections 49.310 to 49.470. The superintendent of the  
5 county buildings shall receive the compensation for his services  
6 that the county commission deems reasonable, to be paid out of the  
7 county treasury. The county commission shall fill any vacancy  
8 which occurs in the office of superintendent.]

Section B. Because immediate action is necessary to preserve access to  
2 quality health care facilities for the citizens of Missouri, the repeal and  
3 reenactment of section 197.315 of section A of this act is deemed necessary for the  
4 immediate preservation of the public health, welfare, peace, and safety, and is  
5 hereby declared to be an emergency act within the meaning of the constitution,  
6 and the repeal and reenactment of section 197.315 of section A of this act shall  
7 be in full force and effect upon its passage and approval.

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