

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 173

96TH GENERAL ASSEMBLY

2011

1048S.04T

AN ACT

To repeal sections 21.920, 227.107, 227.410, 238.202, 238.225, 238.235, 319.016, and 319.025, RSMo, and to enact in lieu thereof twelve new section relating to infrastructure.

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

Section A. Sections 21.920, 227.107, 227.410, 238.202, 238.225, 238.235, 319.016, and 319.025, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 21.920, 226.195, 227.107, 227.410, 227.424, 227.430, 238.202, 238.225, 238.235, 249.425, 319.016, and 319.025, to read as follows:

21.920. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Missouri's Promise" to be composed of five members of the senate and five members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than three members from the house of representatives nor more than three members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the

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

14 determination of any matter within the committee's duties.

15 2. The committee shall be charged with the following:

16 (1) Examining issues that will be impacting the future of the state of
17 Missouri and its citizens;

18 (2) Developing long-term strategies and plans for:

19 (a) Increasing the economic prosperity and opportunities for the
20 citizens of this state;

21 (b) Improving the health status of our citizens;

22 (c) An education system that educates students who are capable of
23 attending and being productive and successful citizens and designed to
24 successfully prepare graduates for global competition; [and]

25 (d) **Investing in, and maintaining, a modern infrastructure and**
26 **transportation system and identifying potential sources of revenue**
27 **to sustain such efforts; and**

28 (e) Other areas that the committee determines are vital to improving
29 the lives of the citizens of Missouri;

30 (3) Developing three-, five-, and ten-year plans for the general
31 assembly to meet the long-term strategies outlined in subdivision (2) of this
32 subsection;

33 (4) Implementing budget forecasting for the upcoming ten years in
34 order to plan for the long-term financial soundness of the state; and

35 (5) Such other matters as the committee may deem necessary in order
36 to determine the proper course of future legislative and budgetary action
37 regarding these issues.

38 3. The committee may solicit input and information necessary to fulfill
39 its obligations, including, but not limited to, soliciting input and information
40 from any state department or agency the committee deems relevant, political
41 subdivisions of this state, and the general public.

42 4. By January 1, 2011, and every year thereafter, the committee shall
43 issue a report to the general assembly with any findings or recommendations
44 of the committee with regard to its duties under subsection 2 of this section.

45 5. Members of the committee shall receive no compensation but may be
46 reimbursed for reasonable and necessary expenses associated with the
47 performance of their official duties.

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

2 (1) **"Commission", the Missouri highways and transportation**

3 **commission;**

4 **(2) "Department", the Missouri department of transportation;**

5 **(3) "Public mass transportation service provider", a city, a city**
6 **transit authority, a city utilities board, or an interstate**
7 **transportation authority as such terms are defined in section 94.600,**
8 **an intrastate transportation authority, or an agency receiving**
9 **funding from either the federal transit administration urban or**
10 **nonurban formula transit program.**

11 **2. There is hereby created the Missouri state transit assistance**
12 **program. The purpose of this program is to provide state financial**
13 **assistance to defray the operating and capital costs incurred by**
14 **public mass transportation service providers.**

15 **3. Funds appropriated to the Missouri state transit assistance**
16 **program shall be appropriated to the department and administered**
17 **by the department on behalf of the commission. The distribution of**
18 **funds to public mass transportation service providers shall be**
19 **determined by evaluating factors including but not limited to the**
20 **following:**

21 **(1) Population;**

22 **(2) Ridership;**

23 **(3) Cost and efficiency of the program;**

24 **(4) Availability of alternative transportation in the area;**

25 **(5) Local effort or tax support.**

26 **4. The commission shall promulgate rules to implement the**
27 **provisions of this section. Any rule or portion of a rule, as that term**
28 **is defined in section 536.010, that is created under the authority**
29 **delegated in this section shall become effective only if it complies**
30 **with and is subject to all of the provisions of chapter 536 and, if**
31 **applicable, section 536.028. This section and chapter 536 are**
32 **nonseverable and if any of the powers vested with the general**
33 **assembly pursuant to chapter 536 to review, to delay the effective**
34 **date, or to disapprove and annul a rule are subsequently held**
35 **unconstitutional, then the grant of rulemaking authority and any**
36 **rule proposed or adopted after August 28, 2011, shall be invalid and**
37 **void.**

227.107. 1. Notwithstanding any provision of section 227.100 to the

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

12 2. Notwithstanding provisions of subsection 1 of this section to the
13 contrary, the state highways and transportation commission is authorized to
14 enter into additional design-build contracts for the design, construction,
15 reconstruction, or improvement of Missouri Route 364 as contained in any
16 county with a charter form of government and with more than two hundred
17 fifty thousand but fewer than three hundred fifty thousand inhabitants and
18 in any county with a charter form of government and with more than one
19 million inhabitants, and the State Highway 169 and 96th Street intersection
20 located within a home rule city with more than four hundred thousand
21 inhabitants and located in more than one county. The state highways and
22 transportation commission is authorized to enter into an additional
23 design-build contract for the design, construction, reconstruction, or
24 improvement of State Highway 92, contained in a county of the first
25 classification with more than one hundred eighty-four thousand but fewer than
26 one hundred eighty-eight thousand inhabitants, from its intersection with
27 State Highway 169, east to its intersection with State Highway E. **The state**
28 **highways and transportation commission is authorized to enter into**
29 **an additional design-build contract for the design, construction,**
30 **reconstruction, or improvement of US 40/61 I-64 Missouri River**
31 **Bridge as contained in any county with a charter form of government**
32 **and with more than one million inhabitants and any county with a**
33 **charter form of government and with more than two hundred fifty**
34 **thousand but fewer than three hundred fifty thousand**
35 **inhabitants.** The authority to enter into a design-build highway project
36 under this subsection shall not be subject to the time limitation expressed in
37 subsection 1 of this section.

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

42 4. For the purpose of this section, "design-build highway project
43 contract" is defined as the procurement of all materials and services necessary
44 for the design, construction, reconstruction or improvement of a state highway
45 project in a single contract with a design-builder capable of providing the
46 necessary materials and services.

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

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

54 7. In any design-build highway project contract, whether involving
55 state or federal funds, the commission shall require that each person
56 submitting a request for qualifications provide a detailed disadvantaged
57 business enterprise participation plan. The plan shall provide information
58 describing the experience of the person in meeting disadvantaged business
59 enterprise participation goals, how the person will meet the department of
60 transportation's disadvantaged business enterprise participation goal and such
61 other qualifications that the commission considers to be in the best interest
62 of the state.

63 8. The commission is authorized to issue a request for proposals to a
64 maximum of five design-builders prequalified in accordance with subsection
65 6 of this section.

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

68 10. Notwithstanding the provisions of sections 107.170, and 227.100,
69 to the contrary, the commission shall require the design-builder to provide to
70 the commission directly such bid, performance and payment bonds, or such
71 letters of credit, in such terms, durations, amounts, and on such forms as the
72 commission may determine to be adequate for its protection and provided by
73 a surety or sureties authorized to conduct surety business in the state of

74 Missouri or a federally insured financial institution or institutions,
75 satisfactory to the commission, including but not limited to:

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

77 (2) A performance bond or bonds for the construction period specified
78 in the design-build highway project contract equal to a reasonable estimate of
79 the total cost of construction work under the terms of the design-build highway
80 project contract. If the commission determines in writing supported by specific
81 findings that the reasonable estimate of the total cost of construction work
82 under the terms of the design-build highway project contract is expected to
83 exceed two-hundred fifty million dollars and a performance bond or bonds in
84 such amount is impractical, the commission shall set the performance bond or
85 bonds at the largest amount reasonably available, but not less than
86 two-hundred fifty million dollars, and may require additional security,
87 including but not limited to letters of credit, for the balance of the estimate
88 not covered by the performance bond or bonds;

89 (3) A payment bond or bonds that shall be enforceable under section
90 522.300 for the protection of persons supplying labor and material in carrying
91 out the construction work provided for in the design-build highway project
92 contract. The aggregate amount of the payment bond or bonds shall equal a
93 reasonable estimate of the total amount payable for the cost of construction
94 work under the terms of the design-build highway project contract unless the
95 commission determines in writing supported by specific findings that a
96 payment bond or bonds in such amount is impractical, in which case the
97 commission shall establish the amount of the payment bond or bonds; except
98 that the amount of the payment bond or bonds shall not be less than the
99 aggregate amount of the performance bond or bonds and any additional
100 security to such performance bond or bonds; and

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

105 11. The commission is authorized to prescribe the form of the contracts
106 for the work.

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

110 13. The provisions of sections 8.285 to 8.291 shall not apply to the
111 procurement of architectural, engineering or land surveying services for the
112 design-build highway project, except that any person providing architectural,
113 engineering or land surveying services for the design-builder on the
114 design-build highway project must be licensed in Missouri to provide such
115 services.

116 14. The commission shall pay a reasonable stipend to prequalified
117 responsive design-builders who submit a proposal, but are not awarded the
118 design-build highway project.

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

123 16. The commission shall promulgate administrative rules to
124 implement this section or to secure federal funds. Such rules shall be
125 published for comment in the Missouri Register and shall include
126 prequalification criteria, the make-up of the prequalification review team,
127 specifications for the design criteria package, the method of advertising,
128 receiving and evaluating proposals from design-builders, the criteria for
129 awarding the design-build highway project based on the design criteria
130 package and a separate proposal stating the cost of construction, and other
131 methods, procedures and criteria necessary to administer this section.

132 17. The commission shall make a status report to the members of the
133 general assembly and the governor following the award of the design-build
134 project, as an individual component of the annual report submitted by the
135 commission to the joint transportation oversight committee in accordance with
136 the provisions of section 21.795. The annual report prior to advertisement of
137 the design-build highway project contracts shall state the goals of the project
138 in reducing costs and/or the time of completion for the project in comparison
139 to the design-bid-build method of construction and objective measurements to
140 be utilized in determining achievement of such goals. Subsequent annual
141 reports shall include: the time estimated for design and construction of
142 different phases or segments of the project and the actual time required to
143 complete such work during the period; the amount of each progress payment
144 to the design-builder during the period and the percentage and a description
145 of the portion of the project completed regarding such payment; the number

146 and a description of design change orders issued during the period and the
147 cost of each such change order; upon substantial and final completion, the
148 total cost of the design-build highway project with a breakdown of costs for
149 design and construction; and such other measurements as specified by
150 rule. The annual report immediately after final completion of the project shall
151 state an assessment of the advantages and disadvantages of the design-build
152 method of contracting for highway and bridge projects in comparison to the
153 design-bid-build method of contracting and an assessment of whether the goals
154 of the project in reducing costs and/or the time of completion of the project
155 were met.

156 18. The commission shall give public notice of a request for
157 qualifications in at least two public newspapers that are distributed wholly or
158 in part in this state and at least one construction industry trade publication
159 that is distributed nationally.

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

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

166 21. For any highway design-build project constructed under this
167 section, the commission shall negotiate and reach agreements with affected
168 railroads. Such agreements shall include clearance, safety, insurance, and
169 indemnification provisions, but are not required to include provisions on
170 right-of-way acquisitions.

227.410. [The portion of U.S. Highway 160 in Greene County from the
2 intersection of Farm Road 142 to the intersection of West Sunshine Street
3 shall be designated the "Rabbi Abraham Joshua Heschel Memorial
4 Highway".] **The portion of U.S. Highway 160 in Greene County from
5 the intersection of West Mount Vernon Street to one-half mile south
6 of the intersection of West Sunshine Street shall be designated the
7 "Rabbi Ernest I. Jacob Memorial Highway".** The department of
8 transportation shall erect and maintain appropriate signs designating such
9 highway, with the costs for such designation to be paid for by private donation.

**227.424. The portion of Interstate 40/64 in St. Louis County
2 from the Boone's Crossing overpass at mile marker 17.0 west to the**

3 **Spirit of St. Louis Airport overpass at mile marker 13.8 shall be**
4 **designated as the "Missouri State Highway Patrol Sergeant Joseph G.**
5 **Schuengel Memorial Highway". The department of transportation**
6 **shall erect and maintain appropriate signs designating such**
7 **highway, with the costs to be paid for by private donations.**

227.430. **The portion of Missouri Highway 30 from State Route**
2 **NN north three miles to one tenth of a mile southwest of old Missouri**
3 **30 in Jefferson County shall be designated the "SFC Wm. Brian**
4 **Woods, Jr. Memorial Highway". The department of transportation**
5 **shall erect and maintain appropriate signs designating such**
6 **highway, with the cost to be paid for by private donations.**

238.202. 1. As used in sections 238.200 to 238.275, the following terms
2 mean:

3 (1) "Board", the board of directors of a district;

4 (2) "Commission", the Missouri highways and transportation
5 commission;

6 (3) "District", a transportation development district organized under
7 sections 238.200 to 238.275;

8 (4) "Local transportation authority", a county, city, town, village,
9 county highway commission, special road district, interstate compact agency,
10 or any local public authority or political subdivision having jurisdiction over
11 any bridge, street, highway, dock, wharf, ferry, lake or river port, airport,
12 railroad, light rail or other transit improvement or service;

13 (5) "Project" includes any bridge, street, road, highway, access road,
14 interchange, intersection, signing, signalization, parking lot, bus stop, station,
15 garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port,
16 airport, railroad, light rail, or [other mass transit] **public mass**
17 **transportation system** and any similar or related improvement or
18 infrastructure. **In the case of a district located in a home rule city**
19 **with more than four hundred thousand inhabitants and located in**
20 **more than one county, whose district boundaries are contained solely**
21 **within that portion of such a home rule city that is contained within**
22 **a county with a charter form of government and with more than six**
23 **hundred thousand but fewer than seven hundred thousand**
24 **inhabitants, the term "project" shall also include the operation of a**
25 **street car or other rail-based or fixed guideway public mass**

26 **transportation system, and the revenue of such district may be used**
27 **to pay for the design, construction, ownership and operation of such**
28 **a street car or other rail-based or fixed guideway public mass**
29 **transportation system, but not the operation of a bus system located**
30 **within such district, by such district or such municipality, or by a**
31 **local transportation authority having jurisdiction within such**
32 **municipality;**

33 **(6) "Public mass transportation system", a transportation**
34 **system owned or operated by a governmental or quasi-governmental**
35 **entity, employing motor buses, rails, or any other means of**
36 **conveyance, by whatsoever type of power, operated for public use in**
37 **the conveyance of persons, mainly providing local transportation**
38 **service within a municipality or a single metropolitan statistical**
39 **area.**

40 2. For the purposes of sections 11(c), 16 and 22 of article X of the
41 Constitution of Missouri, section 137.073, and as used in sections 238.200 to
42 238.275, the following terms shall have the meanings given:

43 (1) "Approval of the required majority" or "direct voter approval", a
44 simple majority;

45 (2) "Qualified electors", "qualified voters" or "voters":

46 (a) Within a proposed or established district, except for a district
47 proposed under subsection 1 of section 238.207, any persons residing therein
48 who have registered to vote pursuant to chapter 115; or

49 (b) Within a district proposed or established under subsection 1 of
50 section 238.207 which has no persons residing therein who have registered to
51 vote pursuant to chapter 115, the owners of record of all real property located
52 in the district, who shall receive one vote per acre, provided that if a
53 registered voter subsequent to the creation of the district becomes a resident
54 within the district and obtains ownership of property within the district, such
55 registered voter must elect whether to vote as an owner of real property or as
56 a registered voter, which election once made cannot thereafter be changed;

57 (3) "Registered voters", persons qualified and registered to vote
58 pursuant to chapter 115.

238.225. 1. Before construction or funding of any project the district
2 shall submit the proposed project to the commission for its prior approval. If
3 the commission by minute finds that the project will improve or is a necessary

4 or desirable extension of the state highways and transportation system, the
5 commission may preliminarily approve the project subject to the district
6 providing plans and specifications for the proposed project and making any
7 revisions in the plans and specifications required by the commission and the
8 district and commission entering into a mutually satisfactory agreement
9 regarding development and future maintenance of the project. After such
10 preliminary approval, the district may impose and collect such taxes and
11 assessments as may be included in the commission's preliminary
12 approval. After the commission approves the final construction plans and
13 specifications, the district shall obtain prior commission approval of any
14 modification of such plans or specifications.

15 2. If the proposed project is not intended to be merged into the state
16 highways and transportation system under the commission's jurisdiction, the
17 district shall also submit the proposed project and proposed plans and
18 specifications to the local transportation authority that will become the owner
19 of the project for its prior approval.

20 3. In those instances where a local transportation authority is required
21 to approve a project and the commission determines that it has no direct
22 interest in that project, the commission may decline to consider the
23 project. Approval of the project shall then vest exclusively with the local
24 transportation authority subject to the district making any revisions in the
25 plans and specifications required by the local transportation authority and the
26 district and the local transportation authority entering into a mutually
27 satisfactory agreement regarding development and future maintenance of the
28 project. After the local transportation authority approves the final
29 construction plans and specifications, the district shall obtain prior approval
30 of the local transportation authority before modifying such plans or
31 specifications.

32 **4. Notwithstanding any provision of this section to the**
33 **contrary, this section shall not apply to any district whose project is**
34 **a public mass transportation system.**

238.235. 1. (1) Any transportation development district may by
2 resolution impose a transportation development district sales tax on all retail
3 sales made in such transportation development district which are subject to
4 taxation pursuant to the provisions of sections 144.010 to 144.525, except such
5 transportation development district sales tax shall not apply to the sale or use

6 of motor vehicles, trailers, boats or outboard motors nor to all sales of
 7 electricity or electrical current, water and gas, natural or artificial, nor to
 8 sales of service to telephone subscribers, either local or long distance. Such
 9 transportation development district sales tax may be imposed for any
 10 transportation development purpose designated by the transportation
 11 development district in its ballot of submission to its qualified voters, except
 12 that no resolution enacted pursuant to the authority granted by this section
 13 shall be effective unless:

14 (a) The board of directors of the transportation development district
 15 submits to the qualified voters of the transportation development district a
 16 proposal to authorize the board of directors of the transportation development
 17 district to impose or increase the levy of an existing tax pursuant to the
 18 provisions of this section; or

19 (b) The voters approved the question certified by the petition filed
 20 pursuant to subsection 5 of section 238.207.

21 (2) If the transportation district submits to the qualified voters of the
 22 transportation development district a proposal to authorize the board of
 23 directors of the transportation development district to impose or increase the
 24 levy of an existing tax pursuant to the provisions of paragraph (a) of
 25 subdivision (1) of this subsection, the ballot of submission shall contain, but
 26 need not be limited to, the following language:

27 Shall the transportation development district of..... (transportation
 28 development district's name) impose a transportation development
 29 district-wide sales tax at the rate of (insert amount) for a period of
 30 (insert number) years from the date on which such tax is first imposed
 31 for the purpose of (insert transportation development purpose)?

32 YES NO

33 If you are in favor of the question, place an "X" in the box opposite "YES". If
 34 you are opposed to the question, place an "X" in the box opposite "NO".

35 If a majority of the votes cast on the proposal by the qualified voters voting
 36 thereon are in favor of the proposal, then the resolution and any amendments
 37 thereto shall be in effect. If a majority of the votes cast by the qualified voters
 38 voting are opposed to the proposal, then the board of directors of the
 39 transportation development district shall have no power to impose the sales
 40 tax authorized by this section unless and until the board of directors of the
 41 transportation development district shall again have submitted another

42 proposal to authorize it to impose the sales tax pursuant to the provisions of
43 this section and such proposal is approved by a majority of the qualified voters
44 voting thereon.

45 (3) The sales tax authorized by this section shall become effective on
46 the first day of the second calendar quarter after the department of revenue
47 receives notification of the tax.

48 (4) In each transportation development district in which a sales tax has
49 been imposed in the manner provided by this section, every retailer shall add
50 the tax imposed by the transportation development district pursuant to this
51 section to the retailer's sale price, and when so added such tax shall constitute
52 a part of the price, shall be a debt of the purchaser to the retailer until paid,
53 and shall be recoverable at law in the same manner as the purchase price.

54 (5) In order to permit sellers required to collect and report the sales tax
55 authorized by this section to collect the amount required to be reported and
56 remitted, but not to change the requirements of reporting or remitting tax or
57 to serve as a levy of the tax, and in order to avoid fractions of pennies, the
58 transportation development district may establish appropriate brackets which
59 shall be used in the district imposing a tax pursuant to this section in lieu of
60 those brackets provided in section 144.285.

61 (6) All revenue received by a transportation development district from
62 the tax authorized by this section which has been designated for a certain
63 transportation development purpose shall be deposited in a special trust fund
64 and shall be used solely for such designated purpose. Upon the expiration of
65 the period of years approved by the qualified voters pursuant to subdivision
66 (2) of this subsection or if the tax authorized by this section is repealed
67 pursuant to subsection 6 of this section, all funds remaining in the special
68 trust fund shall continue to be used solely for such designated transportation
69 development purpose. Any funds in such special trust fund which are not
70 needed for current expenditures may be invested by the board of directors in
71 accordance with applicable laws relating to the investment of other
72 transportation development district funds.

73 (7) The sales tax may be imposed in increments of one-eighth of one
74 percent, up to a maximum of one percent on the receipts from the sale at retail
75 of all tangible personal property or taxable services at retail within the
76 transportation development district adopting such tax, if such property and
77 services are subject to taxation by the state of Missouri pursuant to the

78 provisions of sections 144.010 to 144.525, except such transportation
79 development district sales tax shall not apply to the sale or use of motor
80 vehicles, trailers, boats or outboard motors nor to public utilities. Any
81 transportation development district sales tax imposed pursuant to this section
82 shall be imposed at a rate that shall be uniform throughout the district.

83 2. The resolution imposing the sales tax pursuant to this section shall
84 impose upon all sellers a tax for the privilege of engaging in the business of
85 selling tangible personal property or rendering taxable services at retail to the
86 extent and in the manner provided in sections 144.010 to 144.525, and the
87 rules and regulations of the director of revenue issued pursuant thereto;
88 except that the rate of the tax shall be the rate imposed by the resolution as
89 the sales tax and the tax shall be reported and returned to and collected by
90 the transportation development district.

91 3. On and after the effective date of any tax imposed pursuant to this
92 section, the director of revenue shall perform all functions incident to the
93 administration, collection, enforcement, and operation of the tax, and the
94 director of revenue shall collect, in addition to all other sales taxes imposed
95 by law, the additional tax authorized pursuant to this section. The tax
96 imposed pursuant to this section and the taxes imposed pursuant to all other
97 laws of the state of Missouri shall be collected together and reported upon
98 such forms and pursuant to such administrative rules and regulations as may
99 be prescribed by the director of revenue.

100 4. (1) All applicable provisions contained in sections 144.010 to
101 144.525, governing the state sales tax, sections 32.085 and 32.087 and section
102 32.057, the uniform confidentiality provision, shall apply to the collection of
103 the tax imposed by this section, except as modified in this section.

104 (2) All exemptions granted to agencies of government, organizations,
105 persons and to the sale of certain articles and items of tangible personal
106 property and taxable services pursuant to the provisions of sections 144.010
107 to 144.525 are hereby made applicable to the imposition and collection of the
108 tax imposed by this section.

109 (3) The same sales tax permit, exemption certificate and retail
110 certificate required by sections 144.010 to 144.525 for the administration and
111 collection of the state sales tax shall satisfy the requirements of this section,
112 and no additional permit or exemption certificate or retail certificate shall be
113 required; except that the transportation development district may prescribe

114 a form of exemption certificate for an exemption from the tax imposed by this
115 section.

116 (4) All discounts allowed the retailer pursuant to the provisions of the
117 state sales tax laws for the collection of and for payment of taxes pursuant to
118 such laws are hereby allowed and made applicable to any taxes collected
119 pursuant to the provisions of this section.

120 (5) The penalties provided in section 32.057 and sections 144.010 to
121 144.525 for violation of those sections are hereby made applicable to violations
122 of this section.

123 (6) For the purpose of a sales tax imposed by a resolution pursuant to
124 this section, all retail sales except retail sales of motor vehicles shall be
125 deemed to be consummated at the place of business of the retailer unless the
126 tangible personal property sold is delivered by the retailer or the retailer's
127 agent to an out-of-state destination or to a common carrier for delivery to an
128 out-of-state destination. In the event a retailer has more than one place of
129 business in this state which participates in the sale, the sale shall be deemed
130 to be consummated at the place of business of the retailer where the initial
131 order for the tangible personal property is taken, even though the order must
132 be forwarded elsewhere for acceptance, approval of credit, shipment or billing.
133 A sale by a retailer's employee shall be deemed to be consummated at the
134 place of business from which the employee works.

135 5. All sales taxes received by the transportation development district
136 shall be deposited by the director of revenue in a special fund to be expended
137 for the purposes authorized in this section. The director of revenue shall keep
138 accurate records of the amount of money which was collected pursuant to this
139 section, and the records shall be open to the inspection of officers of each
140 transportation development district and the general public.

141 6. (1) No transportation development district imposing a sales tax
142 pursuant to this section may repeal or amend such sales tax unless such
143 repeal or amendment will not impair the district's ability to repay any
144 liabilities which it has incurred, money which it has borrowed or revenue
145 bonds, notes or other obligations which it has issued or which have been
146 issued by the commission or any local transportation authority to finance any
147 project or projects.

148 (2) Whenever the board of directors of any transportation development
149 district in which a transportation development sales tax has been imposed in

150 the manner provided by this section receives a petition, signed by ten percent
151 of the qualified voters calling for an election to repeal such transportation
152 development sales tax, the board of directors shall, if such repeal will not
153 impair the district's ability to repay any liabilities which it has incurred,
154 money which it has borrowed or revenue bonds, notes or other obligations
155 which it has issued or which have been issued by the commission or any local
156 transportation authority to finance any project or projects, submit to the
157 qualified voters of such transportation development district a proposal to
158 repeal the transportation development sales tax imposed pursuant to the
159 provisions of this section. If a majority of the votes cast on the proposal by the
160 qualified voters voting thereon are in favor of the proposal to repeal the
161 transportation development sales tax, then the resolution imposing the
162 transportation development sales tax, along with any amendments thereto, is
163 repealed. If a majority of the votes cast by the qualified voters voting thereon
164 are opposed to the proposal to repeal the transportation development sales tax,
165 then the ordinance or resolution imposing the transportation development
166 sales tax, along with any amendments thereto, shall remain in effect.

167 **7. Notwithstanding any provision of sections 99.800 to 99.865,**
168 **and this section to the contrary, the sales tax imposed by a district**
169 **whose project is a public mass transportation system shall not be**
170 **considered economic activity taxes as such term is defined under**
171 **sections 99.805 and 99.918 and shall not be subject to allocation**
172 **under the provisions of subsection 3 of section 99.845, or subsection**
173 **4 of section 99.957.**

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

2 (1) "Design-build", a project for which the design and
3 construction services are furnished under one contract;

4 (2) "Design-build contract", a contract between a sewer district
5 and a design-build contractor to furnish the architecture,
6 engineering, and related design services, and the labor, materials,
7 and other construction services required for a specific construction
8 project;

9 (3) "Design-build contractor", any individual, partnership, joint
10 venture, corporation, or other legal entity that furnishes
11 architecture or engineering services and construction services either
12 directly or through subcontracts;

13 (4) "Design-build project", the design, construction, alteration,
14 addition, remodeling, or improvement of any sewer district buildings
15 or facilities under contract with a sewer district. Contracts for
16 design-build projects that involve the construction, replacement or
17 rehabilitation of a sewer district pump station or any other project
18 that is located solely on sewer district property, such that in all
19 cases, the project must exceed an expenditure of one million
20 dollars. Design-build projects shall not include projects built on
21 easements or rights-of-way dedicated to the sewer district involving
22 open-cut sewer lines or rehabilitation of sewer district sewer lines;

23 (5) "Design criteria package", performance-oriented
24 specifications for the design-build project sufficient to permit a
25 design-build contractor to prepare a response to the sewer district's
26 request for proposals for a design-build project, which may include
27 preliminary designs for the project or portions thereof;

28 (6) "Sewer district", any metropolitan sewer district
29 established under section 30(a), article VI, Constitution of Missouri.

30 2. (1) Notwithstanding any other provision of law to the
31 contrary, any sewer district is authorized to enter into design-build
32 contracts for design-build projects that exceed an expenditure of one
33 million dollars.

34 (2) In using a design-build contract, the sewer district shall
35 establish a written procedure by rule for prequalifying design-build
36 contractors before such design-build contractors will be allowed to
37 make a proposal on the project.

38 (3) The sewer district shall adopt procedures for:

39 (a) The prequalification review team;

40 (b) Specifications for the design criteria package;

41 (c) The method of advertising, receiving, and evaluating
42 proposals from design-build contractors;

43 (d) The criteria for awarding the design-build contract based
44 on the design criteria package and a separate proposal stating the
45 cost of construction; and

46 (e) Other methods, procedures, and criteria necessary to
47 administer this section.

48 (4) The sewer district is authorized to issue a request for

49 proposals to a maximum of five design-build contractors who are
50 prequalified in accordance with this section.

51 (5) The sewer district may require approval of any person
52 performing subcontract work on the design-build project including,
53 but not limited to, those furnishing design services, labor, materials
54 or equipment.

55 3. (1) Before the prequalification process specified in this
56 section, the sewer district shall publicly advertise, once a week for
57 two consecutive weeks, in a newspaper of general circulation,
58 qualified under Chapter 493, located within the cities located in the
59 sewer district, or if there be no such newspaper, in a qualified
60 newspaper of general circulation in the county, or if there be no such
61 newspaper, in a qualified newspaper of general circulation in an
62 adjoining county, and may advertise in business, trade, or minority
63 newspapers, for qualification submissions on said design-build
64 project.

65 (2) If the sewer district fails to receive at least two responsive
66 submissions from prequalified design-build contractors, submissions
67 shall not be opened and the sewer shall readvertise the project.

68 (3) The sewer district shall have the right to reject any and all
69 submissions and proposals.

70 (4) The proposals from prequalified design-build contractors
71 shall be submitted sealed and in writing, to be opened publicly at the
72 time and place of the sewer district's choosing. Technical proposals
73 and qualifications submissions shall be submitted separately from
74 any cost proposals. No cost proposal shall be opened until the
75 technical proposals and qualifications submissions are first opened,
76 evaluated, and ranked in accordance with the criteria identified by
77 the sewer district in the request for proposals.

78 (5) The design-build contract shall be awarded to the
79 design-build contractor whose proposal represents the best overall
80 value to the sewer district in terms of quality, technical skill,
81 schedule, and cost.

82 (6) No proposal shall be entertained by the sewer district that
83 is not made in accordance with the request for proposals furnished
84 by the sewer district.

85 4. (1) The payment bond requirements of section 107.170 shall
86 apply to the design-build project. All persons furnishing design
87 services shall be deemed to be covered by the payment bond the same
88 as any person furnishing labor or materials; however, the
89 performance bond for the design-build contractor does not need to
90 cover the design services as long as the design-build contractor or its
91 subcontractors providing design services carry professional liability
92 insurance in an amount established by the sewer district in the
93 request for proposals.

94 (2) Any person or firm providing architectural, engineering,
95 or land surveying services for the design-build contractor on the
96 design-build project shall be duly licensed or authorized in this state
97 to provide such services as required by chapter 327.

98 5. (1) A sewer district planning a design-build project shall
99 retain an architect or engineer, as appropriate to the project type,
100 under sections 8.285 to 8.291, to assist with programming, site
101 selection, master plan, the design criteria package, preparation of
102 the request for proposals, prequalifying design-build contractors,
103 evaluation of proposals, and preparation of forms necessary to award
104 the design-build contract. The sewer district shall also retain that
105 same architect or engineer or another to perform contract
106 administration functions on behalf of the sewer district during the
107 construction phase and after project completion. If the sewer
108 district has an architect or engineer capable of fulfilling the
109 functions described in this section, the sewer district is exempt from
110 being required to retain another such professional.

111 (2) Any architect or engineer who is retained by a sewer
112 district under this section shall be ineligible to act as the
113 design-build contractor, or to participate as part of the design-build
114 contractor's team as a subcontractor, joint venturer, partner, or
115 otherwise for the same design-build project for which the architect
116 or engineer was hired by the sewer district.

117 6. Under section 327.465, any design-build contractor that
118 enters into a design-build contract for a sewer district is exempt
119 from the requirement that such person or entity hold a certificate of
120 registration or such corporation hold a certificate of authority if the

121 **architectural, engineering, or land surveying services to be**
122 **performed under the contract are performed through subcontracts**
123 **with properly licensed and authorized persons or entities, and not**
124 **performed by the design-build contractor or its own employees.**

319.016. Notwithstanding any provision of sections 319.010 to 319.050
2 to the contrary, the state highways and transportation commission shall not
3 be required to be a notification center participant after December 31, [2011]
4 **2014**, but nothing in this section shall prohibit the commission from
5 voluntarily choosing to be a notification center participant after that date.

319.025. 1. Except as provided in subsection 3 of section 319.030 and
2 in section 319.050, a person shall not make or begin any excavation in any
3 public street, road or alley, right-of-way dedicated to the public use or utility
4 easement of record or within any private street or private property without
5 first giving notice to the notification center and obtaining information
6 concerning the possible location of any underground facilities which may be
7 affected by said excavation from underground facility owners whose names
8 appear on the current list of participants in the notification center and who
9 were communicated to the excavator as notification center participants who
10 would be informed of the excavation notice. Prior to January 1, 2003, a person
11 shall not make or begin any excavation pursuant to this subsection without
12 also making notice to owners or operators of underground facilities which do
13 not participate in a notification center and whose name appears on the current
14 list of the recorder of deeds in and for the county in which the excavation is
15 to occur. Beginning January 1, 2003, notice to the notification center of
16 proposed excavation shall be deemed notice to all owners and operators of
17 underground facilities. The notice referred to in this section shall comply with
18 the provisions of section 319.026. [As part of the process to request the
19 locating of underground facilities and having them properly marked, the
20 notification center shall ask excavators to identify whether or not the proposed
21 excavation will be on a public right-of-way or easement dedicated to public use
22 for vehicular traffic.]

23 2. An excavator's notice to owners and operators of underground
24 facilities participating in the notification center pursuant to section 319.022
25 is ineffective for purposes of subsection 1 of this section unless given to such
26 notification center. Prior to January 1, 2003, the notice required by subsection
27 1 of this section shall be given directly to owners or operators of underground

28 facilities who are not represented by a notification center.

29 3. Notification center participants shall be relieved of the responsibility
30 to respond to a notice of intent to excavate received directly from the person
31 intending to commence an excavation, except for requests for clarification of
32 markings through on-site meetings as provided in subsection 1 of section
33 319.030 and requests for locations at the time of an emergency as provided by
34 section 319.050.

35 4. If the owner or operator notifies the excavator that the area of
36 excavation cannot be determined from the description provided by the
37 excavator through the notice required by this section, the excavator shall
38 provide clarification of the area of excavation by markings or by providing
39 project plans to the owner or operator, or by meeting on the site of the
40 excavation with representatives of the owner or operator as provided by
41 subsection 1 of section 319.030.

42 5. Notwithstanding the provisions of this section to the contrary, a
43 person shall not make or begin any excavation in any state highway, or on the
44 right-of-way of any state highway, without first obtaining a permit from the
45 state highways and transportation commission pursuant to section 227.240,
46 provided however, the provisions of this subsection shall not apply to railroad
47 right-of-way owned or operated by a railroad.

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