

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 719

97TH GENERAL ASSEMBLY

2014

5270S.01T

AN ACT

To repeal sections 105.454, 171.181, 177.011, and 177.088, RSMo, and to enact in lieu thereof four new sections relating to school purchases, with existing penalty provisions.

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

Section A. Sections 105.454, 171.181, 177.011, and 177.088, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 105.454, 171.181, 177.011, and 177.088, to read as follows:

105.454. 1. No elected or appointed official or employee of the state or
2 any political subdivision thereof, serving in an executive or administrative
3 capacity, shall:

4 (1) Perform any service for any agency of the state, or for any political
5 subdivision thereof in which he or she is an officer or employee or over which he
6 or she has supervisory power for receipt or payment of any compensation, other
7 than of the compensation provided for the performance of his or her official
8 duties, in excess of five hundred dollars per transaction or five thousand dollars
9 per annum, except on transactions made pursuant to an award on a contract let
10 or sale made after public notice and competitive bidding, provided that the bid
11 or offer is the lowest received;

12 (2) Sell, rent or lease any property to any agency of the state, or to any
13 political subdivision thereof in which he or she is an officer or employee or over
14 which he or she has supervisory power and received consideration therefor in
15 excess of five hundred dollars per transaction or five thousand dollars per year,
16 unless the transaction is made pursuant to an award on a contract let or sale
17 made after public notice and in the case of property other than real property,

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

18 competitive bidding, provided that the bid or offer accepted is the lowest received;

19 (3) Participate in any matter, directly or indirectly, in which he or she
20 attempts to influence any decision of any agency of the state, or political
21 subdivision thereof in which he or she is an officer or employee or over which he
22 or she has supervisory power, when he or she knows the result of such decision
23 may be the acceptance of the performance of a service or the sale, rental, or lease
24 of any property to that agency for consideration in excess of five hundred dollars'
25 value per transaction or five thousand dollars' value per annum to him or her, to
26 his or her spouse, to a dependent child in his or her custody or to any business
27 with which he or she is associated unless the transaction is made pursuant to an
28 award on a contract let or sale made after public notice and in the case of
29 property other than real property, competitive bidding, provided that the bid or
30 offer accepted is the lowest received;

31 (4) Perform any services during the time of his or her office or
32 employment for any consideration from any person, firm or corporation, other
33 than the compensation provided for the performance of his or her official duties,
34 by which service he or she attempts to influence a decision of any agency of the
35 state, or of any political subdivision in which he or she is an officer or employee
36 or over which he or she has supervisory power;

37 (5) Perform any service for consideration, during one year after
38 termination of his or her office or employment, by which performance he or she
39 attempts to influence a decision of any agency of the state, or a decision of any
40 political subdivision in which he or she was an officer or employee or over which
41 he or she had supervisory power, except that this provision shall not be construed
42 to prohibit any person from performing such service and receiving compensation
43 therefor, in any adversary proceeding or in the preparation or filing of any public
44 document or to prohibit an employee of the executive department from being
45 employed by any other department, division or agency of the executive branch of
46 state government. For purposes of this subdivision, within ninety days after
47 assuming office, the governor shall by executive order designate those members
48 of his or her staff who have supervisory authority over each department, division
49 or agency of state government for purposes of application of this subdivision. The
50 executive order shall be amended within ninety days of any change in the
51 supervisory assignments of the governor's staff. The governor shall designate not
52 less than three staff members pursuant to this subdivision;

53 (6) Perform any service for any consideration for any person, firm or

54 corporation after termination of his or her office or employment in relation to any
55 case, decision, proceeding or application with respect to which he or she was
56 directly concerned or in which he or she personally participated during the period
57 of his or her service or employment.

58 **2. No elected or appointed official or employee of any school**
59 **district shall perform a service or sell, rent, or lease any property to**
60 **the school district for consideration in excess of five hundred dollars'**
61 **value per transaction or five thousand dollars' value per annum to him**
62 **or her, to his or her spouse, to a dependent child in his or her custody**
63 **or to any business with which he or she is associated unless the**
64 **transaction is made pursuant to an award on a contract let or sale**
65 **made after public notice and in the case of property other than real**
66 **property, competitive bidding, provided that the bid or offer accepted**
67 **is the lowest received.**

171.181. In making purchases, the school board, officer, or employee of
2 any school district shall give preference to all commodities, manufactured, mined,
3 produced or grown within the state and to all firms, corporations or individuals
4 doing business as Missouri firms, corporations, or individuals, when quality and
5 price are approximately the same; provided, however, that any board member,
6 officer or employee of a seven-director school district, [any portion of which is
7 located in a first class county, selling or providing such commodities to the school
8 district shall be guilty of a class A misdemeanor and shall forfeit his position with
9 the school district and provided further that any board member, officer or
10 employee of a seven-director school district,] any portion of which is located in a
11 county of the **first**, second, third, or fourth class, selling or providing such
12 commodities to the school district except as provided in sections 105.450 to
13 105.458 shall be guilty of a class A misdemeanor and shall forfeit his position
14 with the school district.

177.011. 1. The title of all schoolhouse sites and other school property is
2 vested in the district in which the property is located, or if the directors of both
3 school districts involved agree, a school district may own property outside of the
4 boundaries of the district and operate upon such property for school purposes;
5 provided that, such property may only be used for school purposes for students
6 residing in the school district owning such property or students who are enrolled
7 in such school district as part of a court-ordered desegregation plan. All property
8 leased or rented for school purposes shall be wholly under the control of the

9 school board during such time. **With the exception of lease agreements**
10 **entered into under the provisions of section 177.088**, no board shall lease
11 or rent any building for school purposes while the district schoolhouse is
12 unoccupied, and no schoolhouse or school site shall be abandoned or sold until
13 another site and house are provided for the school district.

14 2. Notwithstanding the provisions of section 178.770, the provisions of
15 this section shall not apply to community college districts. Nothing in this
16 subsection shall be construed to impair the duty and authority of the coordinating
17 board for higher education to approve academic programs under section 173.005.

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

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

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

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

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

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

15 (2) Notwithstanding the provisions of this chapter or any other provision
16 of law to the contrary, sell or lease at fair market value, which may be
17 determined by appraisal, [to the corporation] any existing sites [owned by the
18 educational institution], together with any existing buildings and facilities
19 thereon, in order [for the corporation] to acquire, construct, improve, extend,
20 repair, remodel, renovate, furnish and equip buildings and facilities thereon, and
21 [then] lease back or purchase such sites, buildings and facilities [from the
22 corporation]; provided that upon selling or leasing the sites, buildings or
23 facilities, [the corporation agrees to enter into a lease for] **any lease back to**
24 **the educational institution is not more than one year [but] in length, and**
25 with not more than twenty-five successive options by the educational institution
26 to renew the lease under the same conditions; and provided further that [the
27 corporation agrees] **there is an agreement** to convey or sell the sites, buildings

28 or facilities, including any improvements, extensions, renovations, furnishings or
29 equipment, back to the educational institution with clear title at the end of the
30 period of successive one-year options or at any time bonds, notes or other
31 obligations issued [by the corporation] to pay for the improvements, extensions,
32 renovations, furnishings or equipment have been paid and discharged.

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

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

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

58 7. The interest on such bonds, notes and other obligations [of the
59 corporation] and the income therefrom shall be exempt from taxation by the state
60 and its political subdivisions, except for death and gift taxes on transfers. Sites,
61 buildings, facilities, furnishings and equipment owned [by a corporation] in
62 connection with any project pursuant to this section shall be exempt from
63 taxation.

64 8. The board may make all other contracts or agreements [with the
65 corporation] necessary or convenient in connection with any project pursuant to
66 this section. [The corporation shall comply with sections 290.210 to 290.340.]

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

74 10. [Provisions of other law to the contrary notwithstanding, the board
75 may refinance any lease purchase agreement that satisfies at least one of the
76 conditions specified in subsection 6 of section 165.011 for the purpose of payment
77 on any lease with the corporation under this section for sites, buildings, facilities,
78 furnishings or equipment which the corporation has acquired or constructed, but
79 such refinance shall not extend the date of maturity of any obligation, and the
80 refinancing obligation shall not exceed the amount necessary to pay or provide for
81 the payment of the principal of the outstanding obligations to be refinanced,
82 together with the interest accrued thereon to the date of maturity or redemption
83 of such obligations and any premium which may be due under the terms of such
84 obligations and any amounts necessary for the payments of costs and expenses
85 related to issuing such refunding obligations and to fund a capital projects
86 reserve fund for the obligations.

87 11.] Provisions of other law to the contrary notwithstanding, payments
88 made from any source by a school district, after the latter of July 1, 1994, or July
89 12, 1994, that result in the transfer of the title of real property to the school
90 district, other than those payments made from the capital projects fund, shall be
91 deducted as an adjustment to the funds payable to the district pursuant to section
92 163.031 beginning in the year following the transfer of title to the district, as
93 determined by the department of elementary and secondary education. No
94 district with modular buildings leased in fiscal year 2004, with the lease
95 payments made from the incidental fund and that initiates the transfer of title
96 to the district after fiscal year 2007, shall have any adjustment to the funds
97 payable to the district under section 163.031 as a result of the transfer of title.

98 [12.] 11. Notwithstanding provisions of this section to the contrary, the
99 board of education of any school district may enter into agreements with the

100 county in which the school district is located, or with a city, town, or village
101 wholly or partially located within the boundaries of the school district, in order
102 to provide for the acquisition, construction, improvement, extension, repair,
103 remodeling, renovation, and financing of sites, buildings, facilities, furnishings,
104 and equipment for the use of the school district for educational purposes. Such
105 an agreement may provide for the present or future acquisition of an ownership
106 interest in such facilities by the school district, by lease, lease-purchase
107 agreement, option to purchase agreement, or similar provisions, and may provide
108 for a joint venture between the school district and other entity or entities that are
109 parties to such an agreement providing for the sharing of the costs of acquisition,
110 construction, repair, maintenance, and operation of such facilities. The school
111 district may wholly own such facilities, or may acquire a partial ownership
112 interest along with the county, city, town, or village with which the agreement
113 was executed. ✓

Bill

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