

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 782

AN ACT

To repeal sections 8.250, 8.679, 8.690, 34.042, 64.231, 493.050, and 493.070, RSMo, and to enact in lieu thereof seven new sections relating to publication of notice.

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

Section A. Sections 8.250, 8.679, 8.690, 34.042, 64.231, 493.050, and 493.070, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 8.250, 8.679, 8.690, 34.042, 64.231, 493.050, and 493.070, to read as follows:

8.250. 1. "Project" for the purposes of this chapter means the labor or material necessary for the construction, renovation, or repair of improvements to real property so that the work, when complete, shall be ready for service for its intended purpose and shall require no other work to be a completed system or component.

2. All contracts for projects, the cost of which exceeds twenty-five thousand dollars, entered into by any city containing five hundred thousand inhabitants or more shall be let to the lowest, responsive, responsible bidder or bidders after publication of an advertisement for a period of ten days or more in a newspaper in the county where the work is located, in two daily newspapers in the state which do not have less than fifty thousand daily circulation, and on the website of the city or through an electronic procurement system.

3. All contracts for projects, the cost of which exceeds one hundred thousand dollars, entered into by an officer or agency of this state shall be let to the lowest, responsive, responsible bidder or bidders based on

preestablished criteria after publication of an advertisement [for a period of ten days or more in a newspaper in the county where the work is located, in one daily newspaper in the state which does not have less than fifty thousand daily circulation, and on the website of the officer or agency or through an electronic procurement system] in a newspaper in the county where the work is located and advertising the invitation for bid through an electronic medium available to the general public for a period of at least five days before bids are to be opened. For all contracts for projects between twenty-five thousand dollars and one hundred thousand dollars, a minimum of three contractors shall be solicited with the award being made to the lowest responsive, responsible bidder based on preestablished criteria.

4. The number of such public bids shall not be restricted or curtailed, but shall be open to all persons complying with the terms upon which the bids are requested or solicited unless debarred for cause. No contract shall be awarded when the amount appropriated for same is not sufficient to complete the work ready for service.

5. Dividing a project into component labor or material allocations for the purpose of avoiding bidding or advertising provisions required by this section is specifically prohibited.

8.679. When, in the discretion of the public owner, it is determined that a public works project should be performed with a negotiated contract for construction management services, such public owner shall advertise and solicit proposals from qualified construction managers in the following manner: [If the total cost for the erection or construction of any building or structure or the improvement, alteration or repair of a building or structure

exceeds five hundred thousand dollars, the public owner shall request and solicit proposals by advertising for ten days in one newspaper of general circulation in the county where the work is located . If the cost of the work contemplated exceeds one million five hundred thousand dollars, proposals shall be solicited by advertisement for ten days in two daily newspapers in the state which have not less than fifty thousand daily circulation in addition to the advertisement] by advertising in a newspaper in the county where the work is located and by advertising the request for proposals through an electronic medium available to the general public for a period of at least five days before proposals are to be opened. The number of such proposals shall not be restricted or curtailed, but shall be open to all construction managers complying with the terms upon which the proposals are requested.

8.690. 1. The office of administration shall have the authority to utilize:

(1) The construction manager-at-risk delivery method, as provided for in section 67.5050; and

(2) The design-build delivery method, as provided for in section 67.5060, only as follows:

(a) For noncivil works projects, as that term is used in section 67.5060, in excess of seven million dollars; and

(b) No more than five noncivil works projects, as that term is used in section 67.5060, may be contracted for in any fiscal year that are less than seven million dollars.

2. The office of administration shall not be subject to subsection 15 of section 67.5050 and subsection 22 of section 67.5060 in executing contracts pursuant to this section.

3. The office of administration shall not be subject to subsection 4 of section 67.5060 or the provisions of

subsection 3 of section 67.5050 that require disclosure at a public meeting. The office of administration shall [publish its advertisement for proposals in the publications , and on the website of the officer or agency or through an electronic procurement system] advertise its intent to solicit qualifications or proposals, as applicable, for a design-builder or construction manager-at-risk as set forth in subsection 3 of section 8.250. The selection and award shall follow sections 67.5050 and 67.5060, as applicable.

34.042. 1. When the commissioner of administration determines that the use of competitive bidding is either not practicable or not advantageous to the state, supplies may be procured by competitive proposals. The commissioner shall state the reasons for such determination, and a report containing those reasons shall be maintained with the vouchers or files pertaining to such purchases. All purchases in excess of ten thousand dollars to be made under this section shall be based on competitive proposals.

2. On any purchase where the estimated expenditure shall be one hundred thousand dollars or over, the commissioner of administration shall:

(1) Advertise for proposals in at least two daily newspapers of general circulation in such places as are most likely to reach prospective offerors and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before proposals for such purchases are to be opened. Other methods of advertisement, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post notice of the proposed purchase; and

(3) Solicit proposals by mail or other reasonable method generally available to the public from prospective offerors.

All proposals for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening proposals. Proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation.

3. The contract shall be let to the lowest and best offeror as determined by the evaluation criteria established in the request for proposal and any subsequent negotiations conducted pursuant to this subsection. In determining the lowest and best offeror, as provided in the request for proposals and under rules promulgated by the commissioner of administration, negotiations may be conducted with responsible offerors who submit proposals selected by the commissioner of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent revision of proposals; however, a request for proposal may set forth the manner for determining which offerors are eligible for negotiation, including, but not limited to, the use of shortlisting. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting negotiations there shall be no disclosure of any information derived from proposals submitted by competing offerors. The commissioner of administration shall have the right to reject any or all proposals and advertise for new

proposals or purchase the required supplies on the open market if they can be so purchased at a better price.

4. The commissioner shall make available, upon request, to any members of the general assembly, information pertaining to competitive proposals, including the names of bidders and the amount of each bidder's offering for each contract.

5. If identified in the solicitation, the commissioner may award a contract to the lowest and best responsive vendors as determined by the evaluation criteria set out in the solicitation while reserving certain contract provisions for negotiation after the notice of award. The reserved contract provisions for post-award negotiation shall not be provisions that were part of the evaluation criteria and scoring or provisions that impacted such criteria or scoring. The timeframe for such post-award negotiations shall be set out in the solicitation itself and if such negotiations fail, the commissioner may cancel the award and award the contract to the next lowest and best vendor. If satisfied with the lowest and best responsive vendor's proposal, the commissioner may waive post-award negotiations.

64.231. 1. The county planning board shall have power to make, adopt and may publish an official master plan for the county for the purpose of bringing about coordinated physical development in accordance with present and future needs. The master plan shall be developed so as to conserve the natural resources of the county, to ensure efficient expenditure of public funds, and to promote the health, safety, convenience, prosperity and general welfare of the inhabitants. The master plan may include, among other things, a land use plan, studies and recommendations relative to the locations, character and extent of highways, railroads, bus, streetcar and other transportation routes,

bridges, public buildings, schools, sewers, parks and recreation facilities, parkways, forests, wildlife refuges, dams and projects affecting conservation of natural resources. The county planning board may adopt the master plan in whole or in part, and subsequently amend or extend the adopted plan or any portion thereof. Before the adoption, amendment or extension of the plan or portion thereof, the board shall hold at least one public hearing thereon, fifteen days' notice of the time and place of which shall be published in at least one newspaper having general circulation within the county, and notice of the hearing shall also be posted [at least fifteen days in advance thereof in at least two conspicuous places in each township] on the county's website. The hearing may be adjourned from time to time. The adoption of the plan shall be by resolution carried by not less than a majority vote of the full membership of the county planning board. After the adoption of the master plan an attested copy shall be certified to the county clerk and a copy shall be recorded in the office of the recorder of deeds.

2. The master plan, with the accompanying maps, diagrams, charts, descriptive matter, and reports, shall include the plans specified by this section which are appropriate to the county and which may be made the basis for its physical development. The master plan may comprise any, all, or any combination of the plans specified in this section, for all or any part of the county.

493.050. 1. All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate shall be published in some daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located, and [which] such a newspaper shall have:

(1) Been admitted to the post office as periodicals class matter in the city of publication; [shall have]

(2) Been either:

(a) Published regularly and consecutively for a period of [three years] one year, except that a newspaper of general circulation may be deemed to be the successor to a defunct newspaper of general circulation, and subject to all of the rights and privileges of said prior newspaper under this statute, if the successor newspaper shall begin publication no later than [thirty] ninety consecutive days after the termination of publication of the prior newspaper; [shall have] or

(b) Purchased or newly established by a newspaper that satisfies the requirements of paragraph (a) of this subdivision; and

(3) A list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time[; provided, that when].

2. If a public notice, required by law to be published once a week for a given number of weeks, [shall] is to be published in a daily, triweekly, semiweekly or weekly newspaper, the notice shall appear once a week, on the same day of each week[, and further provided, that]. Every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section[; provided further, that]. The duration of consecutive publication provided for in this section shall not affect newspapers which have become legal publications prior to September 6, 1937[; provided, however, that when]. If any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the Armed Forces of

the United States, the newspaper may be reinstated within one year after actual hostilities have ceased, with all the benefits provided pursuant to the provisions of this section, upon the filing with the secretary of state of notice of intention of such owner or publisher, the owner's surviving spouse or legal heirs, to republish such newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as periodicals class mail matter, and [when] if it [shall have] has a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 493.070 to 493.120, are hereby repealed.

493.070. In all cities of this state which now have, or shall hereafter have, a population of one hundred thousand inhabitants or more, all public notices and advertisements, directed by any court[,], or required by law to be published in a newspaper, shall be published in some daily newspaper of such city, of general circulation therein, which shall have been established and continuously published as such for a period of at least [three consecutive years] one year next prior to the publication of any such notice.