

SECOND REGULAR SESSION

SENATE BILL NO. 867

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Pre-filed January 2, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3578S.011

AN ACT

To amend chapter 227, RSMo, by adding thereto one new section relating to the state highway system, with an emergency clause.

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

Section A. Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.107, to read as follows:

227.107. 1. Notwithstanding any provision of section 227.100 to the contrary, as an alternative to the requirements and procedures specified by sections 227.040 to 227.100, the state highways and transportation commission is authorized to enter into design-build highway project contracts.

2. For the purpose of this section, "persons" are defined as individuals, corporations, partnerships, joint ventures or other entities including combinations of such entities.

3. For the purpose of this section, "design-build highway project contract" is defined as the procurement of all materials and services necessary for the design, construction, reconstruction, improvement or maintenance of a state highway project in a single contract with a person, entity or company or combination of persons, entities or companies capable of providing the necessary materials and services.

4. For the purposes of this section, "highway project" is defined as the construction, establishment or maintenance of highways or bridges which is funded by solely state funds, or by solely federal funds or by any combination of state and federal funds.

5. In using a design-build highway project contract, the commission after

establishing a written procedure, will pre-qualify persons before the persons will be allowed to bid on a project.

6. The commission is authorized to issue a request for proposals to all persons pre-qualified in accordance with subsection 5 of this section.

7. The commission may require approval of any person performing subcontract work on a design-build highway project contract.

8. The bid bond and performance bond requirements of section 227.100, and the payment bond requirements of section 107.170, RSMo, shall apply to a design-build highway project contract.

9. A design-build contract may be for construction or work for any length of road.

10. The commission is authorized to prescribe the form of the contracts for the work.

11. The commission is empowered to make all final decisions concerning the performance of the work under its contracts, including claims for additional time and compensation.

12. The provisions of section 8.285 to 8.291, RSMo, do not apply to the procurement of architectural, engineering or land surveying services for a design-build highway project contract; except that any person providing architectural, engineering or land surveying services for a design-build highway project contract must be licensed in Missouri to provide such services.

13. The commission is authorized at the commission's sole discretion to pay a reasonable fee to responsive bidders who are not awarded a design-build highway project.

14. The commission is authorized and directed to comply with the provisions of any act of Congress or any regulations of any federal administrative agency which provides and authorizes the use of federal funds for highway projects using the design-build process.

15. The commission is authorized to promulgate administrative rules to implement this section or to secure federal funds. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or

adopted after August 28, 2002, shall be invalid and void.

Section B. Because there is a serious and immediate need for transportation projects for this state, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

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