

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 758  
AN ACT

To repeal sections 8.250, 8.260, 8.420, 34.055, 34.057, 34.058, 34.100, 34.203, 34.206, 34.209, 34.212, 34.217, and 34.218, RSMo, and to enact in lieu thereof fifteen new sections relating to procedures for certain public projects for facilities.

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

Section A. Sections 8.250, 8.260, 8.420, 34.055, 34.057,  
2 34.058, 34.100, 34.203, 34.206, 34.209, 34.212, 34.217, and  
3 34.218, RSMo, are repealed and fifteen new sections enacted in  
4 lieu thereof, to be known as sections 8.250, 8.260, 8.420,  
5 8.690, 8.960, 8.962, 8.964, 8.966, 8.968, 8.970, 8.972, 8.974,  
6 34.055, 34.100, and 67.5065, to read as follows:

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

7 2. All contracts for projects, the cost of which  
8 exceeds twenty-five thousand dollars, entered into by any  
9 city containing five hundred thousand inhabitants or more  
10 shall be let to the lowest, responsive, responsible bidder  
11 or bidders after [notice and] publication of an  
12 advertisement for [five days in a daily newspaper in the  
13 county where the work is located, or at least twice over] a

14 period of ten days or more in a newspaper in the county  
15 where the work is located, [and] in two daily newspapers in  
16 the state which do not have less than fifty thousand daily  
17 circulation, and [by such other means as are determined to  
18 be most likely to reach potential bidders] on the website of  
19 the city or through an electronic procurement system.

20 3. All contracts for projects, the cost of which  
21 exceeds one hundred thousand dollars, entered into by an  
22 officer or agency of this state shall be let to the lowest,  
23 responsive, responsible bidder or bidders based on  
24 preestablished criteria after [notice and] publication of an  
25 advertisement for [five days in a daily newspaper in the  
26 county where the work is located, or at least twice over] a  
27 period of ten days or more in a newspaper in the county  
28 where the work is located [and], in one daily newspaper in  
29 the state which does not have less than fifty thousand daily  
30 circulation, and [by such other means as determined to be  
31 most likely to reach potential bidders] on the website of  
32 the officer or agency or through an electronic procurement  
33 system. For all contracts for projects between twenty-five  
34 thousand dollars and one hundred thousand dollars, a minimum  
35 of three contractors shall be solicited with the award being  
36 made to the lowest responsive, responsible bidder based on  
37 preestablished criteria.

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

44 5. Dividing a project into component labor or material  
45 allocations for the purpose of avoiding bidding or

46 advertising provisions required by this section is  
47 specifically prohibited.

8.260. All appropriations made by the general assembly  
2 amounting to one hundred thousand dollars or more for the  
3 construction, renovation, or repair of facilities shall be  
4 expended in the following manner:

5 (1) The agency requesting payment shall provide the  
6 commissioner of administration with satisfactory evidence  
7 that a bona fide contract, procured in accordance with all  
8 applicable procedures, exists for the work for which payment  
9 is requested;

10 (2) All requests for payment shall be approved by the  
11 architect or engineer registered to practice in the state of  
12 Missouri who designed the project or who has been assigned  
13 to oversee it;

14 (3) In order to guarantee completion of the contract,  
15 the agency or officer shall retain a portion of the contract  
16 value in accordance with the provisions of section [34.057]  
17 8.960;

18 (4) A contractor may be paid for materials delivered  
19 to the site or to a storage facility approved by the  
20 director of the division of facilities management, design  
21 and construction as having adequate safeguards against loss,  
22 theft or conversion.

23 In no case shall the amount contracted for exceed the amount  
24 appropriated by the general assembly for the purpose.

8.420. 1. Bonds issued under and pursuant to the  
2 provisions of sections 8.370 to 8.450 shall be of such  
3 denomination or denominations, shall bear such rate or rates  
4 of interest not to exceed fifteen percent per annum, and  
5 shall mature at such time or times within forty years from  
6 the date thereof, as the board determines. The bonds may be  
7 either serial bonds or term bonds.

8           2. Serial bonds may be issued with or without the  
9 reservation of the right to call them for payment and  
10 redemption in advance of their maturity, upon the giving of  
11 such notice, and with or without a covenant requiring the  
12 payment of a premium in the event of such payment and  
13 redemption prior to maturity, as the board determines.

14           3. Term bonds shall contain a reservation of the right  
15 to call them for payment and redemption prior to maturity at  
16 such time or times and upon the giving of such notice, and  
17 upon the payment of such premium, if any, as the board  
18 determines.

19           4. The bonds, when issued, shall be sold at public  
20 sale for the best price obtainable after giving such  
21 reasonable notice of such sale as may be determined by the  
22 board, but in no event shall such bonds be sold for less  
23 than ninety-eight percent of the par value thereof, and  
24 accrued interest. Any such bonds may be sold to the United  
25 States of America or to any agency or instrumentality  
26 thereof, at a price not less than par and accrued interest,  
27 without public sale and without the giving of notice as  
28 herein provided.

29           5. The bonds, when issued and sold, shall be  
30 negotiable instruments within the meaning of the law  
31 merchant and the negotiable instruments law, and the  
32 interest thereon shall be exempt from income taxes under the  
33 laws of the state of Missouri.

34           6. The board shall not issue revenue bonds pursuant to  
35 the provisions of sections 8.370 to 8.450 for one or more  
36 projects, as defined in section 8.370, in excess of a total  
37 par value of one billion one hundred seventy-five million  
38 dollars.

39           7. Any bonds which may be issued pursuant to the  
40 provisions of sections 8.370 to 8.450 shall be issued only

41 for projects which have been approved by a majority of the  
42 house members and a majority of the senate members of the  
43 committee on legislative research of the general assembly,  
44 and the approval by the committee on legislative research  
45 required by the provisions of section 8.380 shall be given  
46 only in accordance with this provision. For the purposes of  
47 approval of a project, the total amount of bonds issued for  
48 purposes of energy retrofitting in state-owned facilities  
49 shall be treated as a single project.

50 [8. Any bonds which may be issued due to the increase  
51 of the cap amount in subsection 6 of this section occurring  
52 on August 28, 2014, shall not be issued for construction of  
53 new buildings and shall only be used for repair or  
54 renovation of existing buildings and facilities, except that  
55 bonds may be issued for the construction of a new mental  
56 health facility in any county of the first classification  
57 with more than forty thousand but fewer than fifty thousand  
58 inhabitants and with a home rule city with more than twelve  
59 thousand one hundred but fewer than twelve thousand two  
60 hundred inhabitants as the county seat.]

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

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

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

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

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

12 2. The office of administration shall not be subject  
13 to subsection 15 of section 67.5050 and subsection 22 of

14 section 67.5060 in executing contracts pursuant to this  
15 section.

16 3. The office of administration shall not be subject  
17 to subsection 4 of section 67.5060. The office of  
18 administration shall publish its advertisement for proposals  
19 in the publications; and on the website of the officer or  
20 agency or through an electronic procurement system as set  
21 forth in subsection 3 of section 8.250. The selection and  
22 award shall follow sections 67.5050 and 67.5060, as  
23 applicable.

[34.057.] 8.960. 1. Unless contrary to any federal  
2 funding requirements or unless funds from a state grant are  
3 not timely received by the contracting public municipality  
4 but notwithstanding any other law to the contrary, all  
5 public works contracts made and awarded by the appropriate  
6 officer, board or agency of the state or of a political  
7 subdivision of the state or of any district therein,  
8 including any municipality, county and any board referred to  
9 as the public owner, for construction, reconstruction or  
10 alteration of any public works project, shall provide for  
11 prompt payment by the public owner to the contractor, and  
12 any professional engineer, architect, landscape architect,  
13 or land surveyor, as well as prompt payment by the  
14 contractor to the subcontractor and material supplier in  
15 accordance with the following:

16 (1) A public owner shall make progress payments to the  
17 contractor and any professional engineer, architect,  
18 landscape architect, or land surveyor on at least a monthly  
19 basis as the work progresses, or, on a lump sum basis  
20 according to the terms of the lump sum contract. Except in  
21 the case of lump sum contracts, payments shall be based upon  
22 estimates prepared at least monthly of work performed and  
23 material delivered, as determined by the project architect

24 or engineer. Retainage withheld on any construction  
25 contract or subcontract for public works projects shall not  
26 exceed five percent of the value of the contract or  
27 subcontract. If the contractor is not required to obtain a  
28 bond under section 107.170 because the cost of the public  
29 works contract is not estimated to exceed fifty thousand  
30 dollars, the public owner may withhold retainage on the  
31 public works project in an amount not to exceed ten percent  
32 of the value of the contract or subcontract. The public  
33 owner shall pay the contractor the amount due, less a  
34 retainage, within thirty days following the latter of the  
35 following:

36 (a) The date of delivery of materials or construction  
37 services purchased;

38 (b) The date, as designated by the public owner, upon  
39 which the invoice is duly delivered to the person or place  
40 designated by the public owner; or

41 (c) In those instances in which the contractor  
42 approves the public owner's estimate, the date upon which  
43 such notice of approval is duly delivered to the person or  
44 place designated by the public owner;

45 (2) Payments shall be considered received within the  
46 context of this section when they are duly posted with the  
47 United States Postal Service or other agreed upon delivery  
48 service or when they are hand-delivered to an authorized  
49 person or place as agreed to by the contracting parties;

50 (3) If, in the discretion of the owner and the project  
51 architect or engineer and the contractor, it is determined  
52 that a subcontractor's performance has been completed and  
53 the subcontractor can be released prior to substantial  
54 completion of the public works contract without risk to the  
55 public owner, the contractor shall request such adjustment  
56 in retainage, if any, from the public owner as necessary to

57 enable the contractor to pay the subcontractor in full. The  
58 public owner may reduce or eliminate retainage on any  
59 contract payment if, in the public owner's opinion, the work  
60 is proceeding satisfactorily. If retainage is released and  
61 there are any remaining minor items to be completed, an  
62 amount equal to one hundred fifty percent of the value of  
63 each item as determined by the public owner's duly  
64 authorized representatives shall be withheld until such item  
65 or items are completed;

66 (4) The public owner shall pay at least ninety-eight  
67 percent of the retainage, less any offsets or deductions  
68 authorized in the contract or otherwise authorized by law,  
69 to the contractor. The contractor shall pay the  
70 subcontractor or supplier after substantial completion of  
71 the contract work and acceptance by the public owner's  
72 authorized contract representative, or as may otherwise be  
73 provided by the contract specifications for state highway,  
74 road or bridge projects administered by the state highways  
75 and transportation commission. Such payment shall be made  
76 within thirty days after acceptance, and the invoice and all  
77 other appropriate documentation and certifications in  
78 complete and acceptable form are provided, as may be  
79 required by the contract documents. If the public owner or  
80 the owner's representative determines the work is not  
81 substantially completed and accepted, then the owner or the  
82 owner's representative shall provide a written explanation  
83 of why the work is not considered substantially completed  
84 and accepted within fourteen calendar days to the  
85 contractor, who shall then provide such notice to the  
86 subcontractor or suppliers responsible for such work. If  
87 such written explanation is not given by the public body,  
88 the public body shall pay at least ninety-eight percent of  
89 the retainage within thirty calendar days. If at that time



90 there are any remaining minor items to be completed, an  
91 amount equal to one hundred fifty percent of the value of  
92 each item as determined by the public owner's representative  
93 shall be withheld until such items are completed;

94 (5) All estimates or invoices for supplies and  
95 services purchased, approved and processed, or final  
96 payments, shall be paid promptly and shall be subject to  
97 late payment charges provided in this section. Except as  
98 provided in subsection 4 of this section, if the contractor  
99 has not been paid within thirty days as set forth in  
100 subdivision (1) of subsection 1 of this section, the  
101 contracting agency shall pay the contractor, in addition to  
102 the payment due him, interest at the rate of one and one-  
103 half percent per month calculated from the expiration of the  
104 thirty-day period until fully paid;

105 (6) When a contractor receives any payment, the  
106 contractor shall pay each subcontractor and material  
107 supplier in proportion to the work completed by each  
108 subcontractor and material supplier his application less any  
109 retention not to exceed five percent. If the contractor  
110 receives less than the full payment due under the public  
111 construction contract, the contractor shall be obligated to  
112 disburse on a pro rata basis those funds received, with the  
113 contractor, subcontractors and material suppliers each  
114 receiving a prorated portion based on the amount of  
115 payment. When, however, the public owner does not release  
116 the full payment due under the contract because there are  
117 specific areas of work or materials he is rejecting or  
118 because he has otherwise determined such areas are not  
119 suitable for payment then those specific subcontractors or  
120 suppliers involved shall not be paid for that portion of the  
121 work rejected or deemed not suitable for payment; provided  
122 the public owner or the owner's representative gives a

123 written explanation to the contractor, subcontractor, or  
124 supplier involved as to why the work or supplies were  
125 rejected or deemed not suitable for payment, and all other  
126 subcontractors and suppliers shall be paid in full;

127 (7) If the contractor, without reasonable cause, fails  
128 to make any payment to his subcontractors and material  
129 suppliers within fifteen days after receipt of payment under  
130 the public construction contract, the contractor shall pay  
131 to his subcontractors and material suppliers, in addition to  
132 the payment due them, interest in the amount of one and one-  
133 half percent per month, calculated from the expiration of  
134 the fifteen-day period until fully paid. This subdivision  
135 shall also apply to any payments made by subcontractors and  
136 material suppliers to their subcontractors and material  
137 suppliers and to all payments made to lower tier  
138 subcontractors and material suppliers throughout the  
139 contracting chain;

140 (8) The public owner shall make final payment of all  
141 moneys owed to the contractor, including any retainage  
142 withheld under subdivision (4) of this subsection, less any  
143 offsets or deductions authorized in the contract or  
144 otherwise authorized by law, within thirty days of the due  
145 date. Final payment shall be considered due upon the  
146 earliest of the following events:

147 (a) Completion of the project and filing with the  
148 owner of all required documentation and certifications, in  
149 complete and acceptable form, in accordance with the terms  
150 and conditions of the contract;

151 (b) The project is certified by the architect or  
152 engineer authorized to make such certification on behalf of  
153 the owner as having been completed, including the filing of  
154 all documentation and certifications required by the  
155 contract, in complete and acceptable form; or

156 (c) The project is certified by the contracting  
157 authority as having been completed, including the filing of  
158 all documentation and certifications required by the  
159 contract, in complete and acceptable form.

160 2. Nothing in this section shall prevent the  
161 contractor or subcontractor, at the time of application or  
162 certification to the public owner or contractor, from  
163 withholding such applications or certifications to the owner  
164 or contractor for payment to the subcontractor or material  
165 supplier. Amounts intended to be withheld shall not be  
166 included in such applications or certifications to the  
167 public owner or contractor. Reasons for withholding such  
168 applications or certifications shall include, but not be  
169 limited to, the following: unsatisfactory job progress;  
170 defective construction work or material not remedied;  
171 disputed work; failure to comply with other material  
172 provisions of the contract; third-party claims filed or  
173 reasonable evidence that a claim will be filed; failure of  
174 the subcontractor to make timely payments for labor,  
175 equipment and materials; damage to a contractor or another  
176 subcontractor or material supplier; reasonable evidence that  
177 the contract cannot be completed for the unpaid balance of  
178 the subcontract sum or a reasonable amount for retention,  
179 not to exceed the initial percentage retained by the owner.

180 3. Should the contractor determine, after application  
181 or certification has been made and after payment has been  
182 received from the public owner, or after payment has been  
183 received by a contractor based upon the public owner's  
184 estimate of materials in place and work performed as  
185 provided by contract, that all or a portion of the moneys  
186 needs to be withheld from a specific subcontractor or  
187 material supplier for any of the reasons enumerated in this  
188 section, and such moneys are withheld from such

189 subcontractor or material supplier, then such undistributed  
190 amounts shall be specifically identified in writing and  
191 deducted from the next application or certification made to  
192 the public owner or from the next estimate by the public  
193 owner of payment due the contractor, until a resolution of  
194 the matter has been achieved. Disputes shall be resolved in  
195 accordance with the terms of the contract documents. Upon  
196 such resolution the amounts withheld by the contractor from  
197 the subcontractor or material supplier shall be included in  
198 the next application or certification made to the public  
199 owner or the next estimate by the public owner and shall be  
200 paid promptly in accordance with the provisions of this  
201 section. This subsection shall also apply to applications  
202 or certifications made by subcontractors or material  
203 suppliers to the contractor and throughout the various tiers  
204 of the contracting chain.

205         4. The contracts which provide for payments to the  
206 contractor based upon the public owner's estimate of  
207 materials in place and work performed rather than  
208 applications or certifications submitted by the contractor,  
209 the public owner shall pay the contractor within thirty days  
210 following the date upon which the estimate is required by  
211 contract to be completed by the public owner, the amount due  
212 less a retainage not to exceed five percent. All such  
213 estimates by the public owner shall be paid promptly and  
214 shall be subject to late payment charges as provided in this  
215 subsection. After the thirtieth day following the date upon  
216 which the estimate is required by contract to be completed  
217 by the public owner, the contracting agency shall pay the  
218 contractor, in addition to the payment due him, interest at  
219 a rate of one and one-half percent per month calculated from  
220 the expiration of the thirty-day period until fully paid.

221           5. The public owner shall pay or cause to be paid to  
222 any professional engineer, architect, landscape architect,  
223 or land surveyor the amount due within thirty days following  
224 the receipt of an invoice prepared and submitted in  
225 accordance with the contract terms. In addition to the  
226 payment due, the contracting agency shall pay interest at  
227 the rate of one and one-half percent per month calculated  
228 from the expiration of the thirty-day period until fully  
229 paid.

230           6. Nothing in this section shall prevent the owner  
231 from withholding payment or final payment from the  
232 contractor, or a subcontractor or material supplier.  
233 Reasons for withholding payment or final payment shall  
234 include, but not be limited to, the following: liquidated  
235 damages; unsatisfactory job progress; defective construction  
236 work or material not remedied; disputed work; failure to  
237 comply with any material provision of the contract; third  
238 party claims filed or reasonable evidence that a claim will  
239 be filed; failure to make timely payments for labor,  
240 equipment or materials; damage to a contractor,  
241 subcontractor or material supplier; reasonable evidence that  
242 a subcontractor or material supplier cannot be fully  
243 compensated under its contract with the contractor for the  
244 unpaid balance of the contract sum; or citation by the  
245 enforcing authority for acts of the contractor or  
246 subcontractor which do not comply with any material  
247 provision of the contract and which result in a violation of  
248 any federal, state or local law, regulation or ordinance  
249 applicable to that project causing additional costs or  
250 damages to the owner.

251           7. Nothing in this section shall be construed to  
252 require direct payment by a public owner to a subcontractor  
253 or supplier, except in the case of the default, as

254 determined by a court, of the contractor on the contract  
255 with the public owner where no performance or payment bond  
256 is required or where the surety fails to execute its duties,  
257 as determined by a court.

258 8. Notwithstanding any other provisions in this  
259 section to the contrary, no late payment interest shall be  
260 due and owing for payments which are withheld in good faith  
261 for reasonable cause pursuant to subsections 2, 5, and 6 of  
262 this section. If it is determined by a court of competent  
263 jurisdiction that a payment which was withheld pursuant to  
264 subsections 2, 5, and 6 of this section was not withheld in  
265 good faith for reasonable cause, the court may impose  
266 interest at the rate of one and one-half percent per month  
267 calculated from the date of the invoice and may, in its  
268 discretion, award reasonable attorney fees to the prevailing  
269 party. In any civil action or part of a civil action  
270 brought pursuant to this section, if a court determines  
271 after a hearing for such purpose that the cause was  
272 initiated, or a defense was asserted, or a motion was filed,  
273 or any proceeding therein was done frivolously and in bad  
274 faith, the court shall require the party who initiated such  
275 cause, asserted such defense, filed such motion, or caused  
276 such proceeding to be had to pay the other party named in  
277 such action the amount of the costs attributable thereto and  
278 reasonable expenses incurred by such party, including  
279 reasonable attorney fees.

[34.058.] 8.962. 1. As used in this section, the term  
2 "public works contract" means a contract of the state,  
3 county, city and other political subdivisions of the state,  
4 except the Missouri transportation department, for the  
5 construction, alteration, repair, or maintenance of any  
6 building, structure, highway, bridge, viaduct, pipeline,  
7 public works, or any other works dealing with construction,

8 which shall include, but need not be limited to, moving,  
9 demolition, or excavation performed in conjunction with such  
10 work.

11 2. Any clause in a public works contract that purports  
12 to waive, release, or extinguish the rights of a contractor  
13 to recover costs or damages, or obtain an equitable  
14 adjustment, for delays in performing such contract, if such  
15 delay is caused in whole, or in part, by acts or omissions  
16 within the control of the contracting public entity or  
17 persons acting on behalf thereof, is against public policy  
18 and is void and unenforceable.

19 3. Subsection 2 of this section is not intended to  
20 render void any contract provision of a public works  
21 contract that:

22 (1) Precludes a contractor from recovering that  
23 portion of delay costs caused by the acts or omissions of  
24 the contractor or its agents;

25 (2) Requires notice of any delay by the party  
26 responsible for such delay;

27 (3) Provides for reasonable liquidated damages; or

28 (4) Provides for arbitration or any other procedure  
29 designed to settle contract disputes.

[34.203.] 8.964. The provisions of sections [34.203 to  
2 34.216] 8.964 to 8.974 shall be known and may be cited as  
3 the "Fairness in Public Construction Act".

[34.206.] 8.966. The purpose of sections [34.203 to  
2 34.216] 8.964 to 8.974 is to fulfill the state's proprietary  
3 objectives in maintaining and promoting the economical,  
4 nondiscriminatory, and efficient expenditures of public  
5 funds in connection with publicly funded or assisted  
6 construction projects. Nothing in sections [34.203 to  
7 34.216] 8.964 to 8.974 shall prohibit employers or other  
8 parties covered by the National Labor Relations Act from

9 entering into agreements or engaging in any other activity  
10 arguably protected by law, nor shall any aspect of sections  
11 [34.203 to 34.216] 8.964 to 8.974 be interpreted in such a  
12 way as to interfere with the labor relations of parties  
13 covered by the National Labor Relations Act.

[34.209.] 8.968. 1. The state, any agency of the  
2 state, any political subdivision of the state, or any  
3 instrumentality thereof, when engaged in procuring or  
4 letting contracts for construction, repair, remodeling, or  
5 demolition of a facility shall ensure that bid  
6 specification, project agreements, and other controlling  
7 documents entered into, required, or subject to approval by  
8 the state, agency, political subdivision, or instrumentality  
9 do not:

10 (1) Require or prohibit bidders, offerors,  
11 contractors, or subcontractors to enter into or adhere to  
12 agreements with one or more labor organizations on the same  
13 or related projects; or

14 (2) Discriminate against, encourage, or give  
15 preferential treatment to bidders, offerors, contractors, or  
16 subcontractors for:

17 (a) Entering or refusing to enter agreements with one  
18 or more labor organizations on the same or related  
19 construction projects; or

20 (b) Remaining or refusing to remain signatory with one  
21 or more labor organizations on the same or related  
22 construction projects.

23 2. Nothing in this section shall be construed to  
24 prohibit the state, any agency of the state, any political  
25 subdivision of the state, or any instrumentality thereof  
26 from requiring bidders, offerors, contractors, or  
27 subcontractors, as a condition of receiving work or



28 submitting a bid, to test its workers and employees for the  
29 presence of illegal drugs.

    [34.212.] 8.970. 1. The state, any agency of the  
2 state, any political subdivision of the state, or any  
3 instrumentality thereof shall not issue or award grants, tax  
4 abatements, or tax credits or enter into cooperative  
5 agreements for construction projects or for the improvement,  
6 maintenance, or renovation of real property or fixtures, a  
7 condition of which requires that bid specifications, project  
8 agreements, or other controlling documents pertaining to the  
9 grant, tax abatement, tax credit, or cooperative agreement  
10 contain any of the elements specified in section [34.209]  
11 8.968.

12 2. The state, any agency of the state, any political  
13 subdivision, or any instrumentality thereof shall exercise  
14 such authority as may be required to preclude a grant, tax  
15 abatement, or tax credit recipient or party to a cooperative  
16 agreement from imposing any of the elements specified in  
17 section [34.209] 8.968 in connection with any grant or  
18 cooperative agreement awarded or entered into. Nothing in  
19 sections [34.203 to 34.217] 8.964 to 8.974 shall prohibit  
20 contractors or subcontractors from voluntarily entering into  
21 agreements described in section [34.209] 8.968.

    [34.217.] 8.972. Notwithstanding the provisions of  
2 section 1.140, the provisions of sections 290.095 and  
3 290.250 and sections [34.203 to 34.216] 8.964 to 8.974 shall  
4 not be severable. In the event a court of competent  
5 jurisdiction rules that any part of this act is  
6 unenforceable, the entire act shall be rendered null and  
7 void.

    [34.218.] 8.974. 1. Any entity which violates the  
2 provisions of sections [34.203 to 34.217] 8.964 to 8.974  
3 shall be liable to the person affected for such equitable

4 relief as may be appropriate, including reasonable  
5 attorney's fees.

6 2. Any entity which violates the provisions of  
7 sections [34.203 to 34.217] 8.964 to 8.974 shall not be  
8 eligible for any state funding or tax credits issued by the  
9 state for two years.

10 3. The prosecuting attorney or circuit attorney with  
11 jurisdiction over the location where a violation of sections  
12 [34.203 to 34.217] 8.964 to 8.974 occurs, or the attorney  
13 general of this state, shall investigate complaints of  
14 violation of such sections, and use all means at their  
15 command to ensure the effective enforcement of this section.

34.055. 1. Except as otherwise provided in section  
2 [34.057] 8.960, all invoices for supplies and services  
3 purchased by the state, duly approved and processed, shall  
4 be subject to interest charges or late payment charges as  
5 provided in this section.

6 2. After the forty-fifth day following the later of  
7 the date of delivery of the supplies and services or the  
8 date upon which the invoice is duly approved and processed,  
9 interest retroactive to the thirtieth day shall be paid on  
10 any unpaid balance, except balances for services provided by  
11 a gas corporation, electrical corporation, water  
12 corporation, or sewer corporation which has received  
13 authorization from the public service commission to impose  
14 late payment charges on delinquent utility bills, upon  
15 application of the vendor thereof. The rate of such  
16 interest shall be three percentage points above the average  
17 predominant prime rate quoted by commercial banks to large  
18 businesses, as determined by the Board of Governors of the  
19 Federal Reserve System.

20 3. The state shall be liable for late payment charges  
21 on any delinquent bill for services purchased by the state

22 from a gas corporation, electrical corporation, water  
23 corporation, or sewer corporation which has received  
24 authorization from the public service commission to impose  
25 late payment charges on delinquent utility bills. The rate  
26 of such late payment charges shall be as established for  
27 each such corporation by order of the public service  
28 commission, but bills rendered to the state shall not be  
29 considered delinquent until thirty days after rendition of  
30 the bill by the corporation.

31 4. Any such interest charges or late payment charges  
32 shall be paid from appropriations which were made for the  
33 fiscal year in which the supplies or services were delivered  
34 to the respective departments purchasing such supplies or  
35 services. The commissioner of administration shall be  
36 responsible for the timely implementation of this section  
37 and all officers, departments, institutions and agencies of  
38 state government shall fully cooperate with the commissioner  
39 of administration in the implementation of this section. No  
40 late payment penalty shall be assessed against, nor payable  
41 by, the state unless pursuant to the provisions of this  
42 section.

43 5. Notwithstanding any other provision of this  
44 section, recipients of funds from the low-income energy  
45 assistance program shall be exempt from interest charges  
46 imposed by such section for the duration of the recipient's  
47 participation in the program.

34.100. The commissioner of administration may, when  
2 in the commissioner's best judgment it is in the best  
3 interests of the state, delegate the commissioner's  
4 procurement authority pursuant to this chapter to an  
5 individual department; provided, however, that each instance  
6 of single feasible source purchasing authority in excess of  
7 [five] ten thousand dollars under section 34.044 must be

8 specifically delegated by the commissioner. The delegation  
9 may allow departments to negotiate in accordance with  
10 section 34.042 the purchase of services for patients,  
11 residents or clients with funds appropriated for this  
12 purpose. In accepting this delegated authority the  
13 department acknowledges its ability to, and agrees to,  
14 fulfill all of the requirements of this chapter in making  
15 purchases and entering into contracts and keeping records.  
16 No claim for payment based upon any purchase under this  
17 section shall be certified by the commissioner unless  
18 accompanied by such documentation of compliance with the  
19 provisions of this chapter as the commissioner may require.  
20 Any department that fails to fulfill all such requirements  
21 may have its delegated authority rescinded by the  
22 commissioner of administration.

2 67.5065. For purposes of section 67.5050 and section  
3 67.5060, the term "political subdivision" includes any  
public institution of higher education.