

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 389**  
**98TH GENERAL ASSEMBLY**

1886H.03C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 34.040, 67.617, and 136.055, RSMo, and to enact in lieu thereof three new sections relating to state agencies and commissions, with an emergency clause for certain sections.

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

Section A. Sections 34.040, 67.617, and 136.055, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 34.040, 67.617, and 136.055, to read as follows:

34.040. 1. All purchases in excess of three thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.

2. On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, except as provided in subsection 5 of this section, the commissioner of administration shall:

(1) Advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders 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 bids for such purchases are to be opened. Other methods of advertisement, which may include minority business purchase councils, 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 a notice of the proposed purchase in his or her office; and

(3) Solicit bids by mail or other reasonable method generally available to the public from prospective suppliers. All bids 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 bids.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           3. The contract shall be let to the lowest and best bidder. The commissioner of  
18 administration shall have the right to reject any or all bids and advertise for new bids, or purchase  
19 the required supplies on the open market if they can be so purchased at a better price. When bids  
20 received pursuant to this section are unreasonable or unacceptable as to terms and conditions,  
21 noncompetitive, or the low bid exceeds available funds and it is determined in writing by the  
22 commissioner of administration that time or other circumstances will not permit the delay  
23 required to resolicit competitive bids, a contract may be negotiated pursuant to this section,  
24 provided that each responsible bidder who submitted such bid under the original solicitation is  
25 notified of the determination and is given a reasonable opportunity to modify their bid and  
26 submit a best and final bid to the state. In cases where the bids received are noncompetitive or  
27 the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected  
28 bid of any responsible bidder under the original solicitation.

29           4. **The director of the department of revenue shall follow bidding procedures as**  
30 **contained in this chapter and may promulgate rules necessary to establish such procedures.**  
31 **No points shall be awarded on a request for proposal for a contract license office to a**  
32 **bidder for a return-to-the-state provision offer.**

33           5. All bids shall be based on standard specifications wherever such specifications have  
34 been approved by the commissioner of administration. The commissioner of administration shall  
35 make rules governing the delivery, inspection, storage and distribution of all supplies so  
36 purchased and governing the manner in which all claims for supplies delivered shall be  
37 submitted, examined, approved and paid. The commissioner shall determine the amount of bond  
38 or deposit and the character thereof which shall accompany bids or contracts.

39           [5.] 6. The department of natural resources may, without the approval of the  
40 commissioner of administration required pursuant to this section, enter into contracts of up to  
41 five hundred thousand dollars to abate illegal waste tire sites pursuant to section 260.276 when  
42 the director of the department determines that urgent action is needed to protect public health,  
43 safety, natural resources or the environment. The department shall follow bidding procedures  
44 pursuant to this section and may promulgate rules necessary to establish such procedures. Any  
45 rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
46 authority delegated in this section shall become effective only if it complies with and is subject  
47 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
48 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant  
49 to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are  
50 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
51 or adopted after August 28, 1999, shall be invalid and void.

52 [6.] 7. The commissioner of administration and other agencies to which the state  
53 purchasing law applies shall not contract for goods or services with a vendor if the vendor or an  
54 affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of  
55 storage, use, or consumption in this state but fails to collect and properly pay the tax as provided  
56 in chapter 144. For the purposes of this section, "affiliate of the vendor" shall mean any person  
57 or entity that is controlled by or is under common control with the vendor, whether through stock  
58 ownership or otherwise.

67.617. 1. Each regional convention and visitors commission shall, before the second  
2 Monday in October, make an annual report to the chief executive officers and governing bodies  
3 of the city and county, respectively, and to the general assembly stating the condition of the  
4 commission on the first day of July of that year, and the various sums of money received and  
5 distributed by it during the preceding calendar year. The fiscal year for each regional convention  
6 and visitors commission shall begin on the first day of July and end on the thirtieth day of June  
7 of the following calendar year.

8 2. Before the close of the first fiscal year of such commission, and at the close of every  
9 third fiscal year thereafter, the chief executives of the city and county, jointly, shall appoint one  
10 or more certified public accountants, who shall annually examine the books, accounts, and  
11 vouchers of the regional convention and visitors commission, and who shall make due report  
12 thereof to the chief executives and the board of the district. The commission shall produce and  
13 submit to the accountants for examination all books, papers, documents, vouchers, and accounts  
14 of their office belonging or pertaining to the office, and shall in every way assist the accountants  
15 in their work. In the report to be made by the accountants they may make any recommendation  
16 they deem proper as to the business methods of the officers and employees. A reasonable  
17 compensation for the services of the accountants shall be paid by the commission.

18 **3. In addition to the exceptions available under sections 610.010 to 610.225, the**  
19 **leases, agreements, contracts or subleases, and any amendments thereto, for space, usage**  
20 **or services in any convention center or related facilities owned or operated by a regional**  
21 **convention and visitors commission, or any drafts or unexecuted versions of such**  
22 **documents, shall not be considered public records within the meaning of subdivision (6)**  
23 **of section 610.010 if, in the reasonable judgment of the commission, the disclosure of the**  
24 **information in the records may endanger the competitiveness of the business or prospects**  
25 **of the commission or provide an unfair advantage to its competitors; provided, however,**  
26 **that the foregoing may not be deemed to include any leases, agreements, contracts or**  
27 **subleases involving a professional sports franchise.**

136.055. 1. Any person who is selected or appointed by the state director of revenue as  
2 provided in subsection 2 of this section to act as an agent of the department of revenue, whose

3 duties shall be the processing of motor vehicle title and registration transactions and the  
4 collection of sales and use taxes when required under sections 144.070 and 144.440, and who  
5 receives no salary from the department of revenue, shall be authorized to collect from the party  
6 requiring such services additional fees as compensation in full and for all services rendered on  
7 the following basis:

8 (1) For each motor vehicle or trailer registration issued, renewed or transferred--three  
9 dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant  
10 to section 301.147;

11 (2) For each application or transfer of title--two dollars and fifty cents;

12 (3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's  
13 license issued for a period of three years or less--two dollars and fifty cents and five dollars for  
14 licenses or instruction permits issued or renewed for a period exceeding three years;

15 (4) For each notice of lien processed--two dollars and fifty cents;

16 (5) No notary fee or other fee or additional charge shall be paid or collected except for  
17 electronic telephone transmission reception--two dollars.

18 2. The director of revenue shall award fee office contracts under this section through a  
19 competitive bidding process. The competitive bidding process shall give priority to  
20 organizations and entities that are exempt from taxation under Section 501(c)(3) [or], 501(c)(6),  
21 **or 501(c)(4), except those civic organizations that would be considered action organizations**  
22 **under 26 C.F.R. Section 1.501(c)(3)-1(c)(3)**, of the Internal Revenue Code of 1986, as  
23 amended, **with special consideration given to those organizations and entities that reinvest**  
24 **a minimum of seventy-five percent of the net proceeds to charitable organizations in**  
25 **Missouri**, and political subdivisions, including but not limited to, municipalities, counties, and  
26 fire protection districts. The director of the department of revenue may promulgate rules and  
27 regulations necessary to carry out the provisions of this subsection. Any rule or portion of a rule,  
28 as that term is defined in section 536.010, that is created under the authority delegated in this  
29 subsection shall become effective only if it complies with and is subject to all of the provisions  
30 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable  
31 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to  
32 delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
33 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009,  
34 shall be invalid and void.

35 3. All fees collected by a tax-exempt organization may be retained and used by the  
36 organization.

37           4. All fees charged shall not exceed those in this section. The fees imposed by this  
38 section shall be collected by all permanent offices and all full-time or temporary offices  
39 maintained by the department of revenue.

40           5. Any person acting as agent of the department of revenue for the sale and issuance of  
41 registrations, licenses, and other documents related to motor vehicles shall have an insurable  
42 interest in all license plates, licenses, tabs, forms and other documents held on behalf of the  
43 department.

44           6. The fees authorized by this section shall not be collected by motor vehicle dealers  
45 acting as agents of the department of revenue under section 32.095 or those motor vehicle dealers  
46 authorized to collect and remit sales tax under subsection 8 of section 144.070.

47           7. Notwithstanding any other provision of law to the contrary, the state auditor may audit  
48 all records maintained and established by the fee office in the same manner as the auditor may  
49 audit any agency of the state, and the department shall ensure that this audit requirement is a  
50 necessary condition for the award of all fee office contracts. No confidential records shall be  
51 divulged in such a way to reveal personally identifiable information.

          Section B. Because of the need to ensure a fair bidding process for contract license  
2 offices, the repeal and reenactment of sections 34.040 and 136.055 of section A of this act are  
3 deemed necessary for the immediate preservation of the public health, welfare, peace and safety,  
4 and are hereby declared to be an emergency act within the meaning of the constitution, and  
5 sections 34.040 and 136.055 of section A of this act shall be in full force and effect upon its  
6 passage and approval.

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