



GOVERNOR OF MISSOURI

JEFFERSON CITY
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JEREMIAH W. (JAY) NIXON
GOVERNOR

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July 8, 2011

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you House Committee Substitute for Senate Bill No. 220 entitled:

AN ACT

To repeal sections 429.015 and 516.098, RSMo, and to enact in lieu thereof three new sections relating to liens for architects, professional engineers, land surveyors, and landscape architects.

I disapprove of House Committee Substitute for Senate Bill No. 220. My reasons for disapproval are as follows:

House Committee Substitute for Senate Bill No. 220 provides immunity to architects, landscape architects, land surveyors and professional engineers through a nebulous process that is ripe for manipulation, lacks transparency and potentiates conflicts of interest. Approval of this bill would reduce public safety and diminish the accountability of design professionals while substantially denying access to the courts by individuals injured through the negligent acts of these professionals.

House Committee Substitute for Senate Bill No. 220 does not establish a robust peer review process. The bill does not impose specific qualifications on the reviewers – other than being licensed under chapter 327, RSMo – and does not prohibit participation by professionals with an interest in the project being reviewed. Moreover, the bill is silent on procedural requirements, as well as the extent to which a record, if any, is to be kept of its proceedings and whether written findings or recommendations are required to be created. House Committee Substitute for Senate Bill No. 220 also cloaks the entire process in secrecy by strictly prohibiting the disclosure of “any information acquired in connection with or in the course of [the] proceeding, or to disclose any opinion, recommendation, or evaluation of the peer reviewer or any member of a peer review committee.”

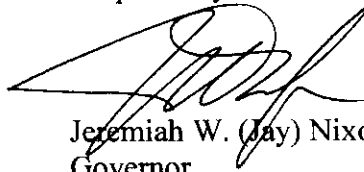
Despite the insufficient process established in the bill, House Committee Substitute for Senate Bill No. 220 nevertheless rewards participants in the review process with broad immunity from civil liability. Most concerning is that this includes immunity for the design professional whose project is being reviewed. Under House Committee Substitute for Senate Bill No. 220, a design professional can submit a proposed project for review and enjoy immunity from civil liability simply by acting upon the recommendations of his peers “so long as the acts are performed in good faith, without malice, and are reasonably related to the scope of inquiry of the peer review process.” The fact that House Committee Substitute for Senate Bill No. 220 allows for partners,

co-workers or others with an interest in the project to serve as reviewers – in secret – and then blanket the project with immunity underscores the fundamental flaws in this legislation and the bad public policy it promotes.

House Committee Substitute for Senate Bill No. 220 provides extraordinary protections to design professionals through an unacceptable process with minimal structure, a lack of transparency, a disregard for conflict of interest concerns, and the granting of broad immunity to not only the peer participants but also the design professionals whose project is being reviewed.

In accordance with the above stated reasons for disapproval, I am returning House Committee Substitute for Senate Bill No. 220 without my approval.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

Jeremiah W. (Jay) Nixon
Governor