

FIRST REGULAR SESSION

SENATE BILL NO. 193

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 12, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0693S.011

AN ACT

To repeal sections 226.010, 226.200, 226.210, and 226.220, RSMo, and to enact in lieu thereof nine new sections relating to the state highways and transportation commission, with a contingent effective date.

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

Section A. Sections 226.010, 226.200, 226.210, and 226.220, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 226.010, 226.141, 226.143, 226.200, 226.205, 226.210, 226.215, 226.220, and 226.222, to read as follows:

226.010. Whenever in sections 226.010 to [226.190] **226.270**, or any proceeding thereunder, the following words or terms are used, they shall be deemed and taken to have the meaning ascribed to them as follows:

(1) "Civil subdivision", a county, township, road district or other political subdivision of the state or quasi public corporation having legal jurisdiction of the construction and maintenance of public roads;

(2) "Commission", the state highways and transportation commission created [under the provisions of sections 226.010 to 226.190] **pursuant to section 29, article IV of the Constitution of Missouri;**

(3) "Commissioner", one of the members of the commission;

(4) "Engineer", the chief engineer of the highways and transportation commission;

(5) "Hard-surfaced road", a highway surfaced with concrete, comparable types, macadam, properly bound gravel, or the equivalent of properly bound gravel, to be approved by the commission and meeting the federal requirements;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(6) "Municipality" includes a city, town or village;

(7) "State highway", a highway constructed or maintained at the cost of the state, or constructed with the aid of state funds or [the] United States government funds, or any highway included by authority of law in the state highway system[.];

(8) "Toll facility", a toll road or highway, toll bridge or any other facility or service operated by the commission for the transport of vehicular traffic, for which a toll or charge is imposed for its use.

226.141. 1. The commission may:

(1) Conduct feasibility studies for toll facilities;

(2) Design, acquire, construct, maintain, reconstruct, and operate toll facilities within the state highway system, either alone or in conjunction with a political subdivision of this state;

(3) Design, acquire, construct, maintain, reconstruct, and operate toll facilities across a river or stream comprising a portion of the boundary between Missouri and another state, either alone or in conjunction with any agency of an adjacent state having authority to cooperate in such facilities;

(4) Fix, revise, and collect tolls for transit over toll facilities;

(5) Contract with any person, firm, corporation, or political subdivision for the installation and maintenance of utility lines, pipes, conduits, towers, railroads, mass transit facilities, and other facilities upon property acquired for the construction and maintenance of toll facilities, and charge, rents or fees for such installation, maintenance, or use;

(6) Contract as is necessary or desirable with any person, corporation, federal, state or local government agency, or authority to fund or effectuate the feasibility studies for and the proper and economic design, acquisition, construction, maintenance, reconstruction, or operation of any toll facility;

(7) Issue state toll facility revenue bonds to finance any toll facility project. Such bonds shall not be an obligation of the state and may be issued without the consent of any other department, commission, board, bureau, or agency of the state. The bonds shall be payable from revenues deposited within the state toll facility bond and interest sinking fund, or if appropriate, the sums within the state toll facility construction fund, or from reserve funds or escrow accounts established by the commission for such bonds; or

(8) Refund any outstanding commission bonds at any time by the issuance of its state toll facility revenue refunding bonds. Such bonds may be issued in any amount the commission may deem necessary, but shall not exceed the amount sufficient to refund the principal of the bonds to be refunded plus any unpaid interest

thereon and any premiums, commissions, service fees, and other expenses necessary to be paid in connection with the refunding. Any such refunding may be effected whether the bonds to be refunded then shall have matured or are subject to redemption, or thereafter shall mature or be subject to redemption. The proceeds from the sale of the refunding bonds may be applied to the payment of the bonds being refunded, or the refunding bonds may be exchanged for the bonds being refunded. The refunding bonds may be issued regardless of whether the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise. Proceeds from the sale of state road revenue refunding bonds shall be paid directly into the state toll facility bond and interest sinking fund. The commission may provide that, upon deposit to the state toll facility bond and interest sinking fund, such proceeds may be paid into an irrevocable escrow account or other reserve fund established for the payment of any bonds to be refunded. The costs of issuance, and all principal and interest on such refunding bonds, shall be payable from those revenues deposited within the state toll facility bond and interest sinking fund, or any reserve fund or escrow account established by the commission for that purpose.

2. The aggregate principal amount of all outstanding state toll facility revenue bonds and state toll facility revenue refunding bonds shall not exceed at any one time the amount of five hundred million dollars.

3. The proceeds of state toll facility revenue bonds and state toll facility revenue refunding bonds issued pursuant to this section, and the interest thereon, shall be exempt from taxation by this state for all purposes.

226.143. 1. Prior to authorizing any toll facility project, the commission shall obtain a feasibility study of the project by a qualified independent consultant. No project shall be authorized or undertaken unless the commission determines on the basis of the feasibility study that the project is economically feasible.

2. If the commission determines, based upon its feasibility studies, that it is economically feasible and in the public interest, it may combine two or more economically feasible projects, whether completed or proposed, or parts thereof, to establish a single unit or facility.

226.200. 1. There is hereby created a "State Highways and Transportation Department Fund" into which shall be paid or transferred all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes), and all other revenue received

or held for expenditure by or under the department of transportation or the state highways and transportation commission, except:

- (1) Money arising from the sale of bonds;
- (2) Money received from the United States government; or
- (3) Money received for some particular use or uses other than for the payment of principal and interest on outstanding state road **revenue** bonds.

2. Subject to the limitations of subsection 3 of this section, from said fund shall be paid or credited the cost:

(1) Of collection of all said state revenue derived from highway users as an incident to their use or right to use the highways of the state, **except the collection of revenue received from toll facilities;**

- (2) Of maintaining the state highways and transportation commission;
- (3) Of maintaining the state transportation department;
- (4) Of any workers' compensation for state transportation department employees;
- (5) Of the share of the transportation department in any retirement program for state employees, only as may be provided by law; and
- (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

3. Beginning in fiscal year 2004, the total amount of appropriations from the state highways and transportation department fund for all state offices and departments, except for the highway patrol, and actual costs incurred by the office of administration for or on behalf of the highway patrol and employees of the department of transportation, shall not exceed the total amount appropriated for such offices and departments from said fund for fiscal year 2001. Appropriations to the highway patrol from the state highways and transportation department fund shall be made in accordance with article IV, section 30(b) of the Missouri Constitution. Appropriations allocated from the state highways and transportation department fund to the highway patrol shall only be used by the highway patrol to administer and enforce state motor vehicle laws or traffic regulations. Beginning July 1, 2007, any activities or functions conducted by the highway patrol not related to enforcing or administering state motor vehicle laws or traffic regulations shall not be funded by the state highways and transportation department fund, but shall be funded from general revenue or any other applicable source. Any current funding from the highways and transportation department fund used for activities not related to enforcing state motor vehicle laws or traffic regulations shall expire on June 30, 2007. The state auditor shall annually audit and examine the appropriations made to the highway patrol to determine whether such appropriations are actually being used for administering and enforcing state motor vehicle laws and traffic regulations pursuant to the constitution. The state auditor shall submit its annual findings to the general assembly by January fifteenth of each year.

4. The provisions of subsection 3 of this section shall not apply to appropriations from the state highways and transportation department fund to the highways and transportation commission and the state transportation department or to appropriations to the office of administration for department of transportation employee fringe benefits and OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel tax refunds [under] **pursuant to** chapter 142, RSMo, or to appropriations to the department of revenue for refunds or overpayments or erroneous payments from the state highways and transportation department fund.

5. All interest earned upon the state highways and transportation department fund shall be deposited in and to the credit of such fund.

6. Any balance remaining in [said] **such** fund after payment of said costs shall be transferred to the state road fund.

7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372, RSMo, after April 1, 1992, shall not be used for administrative purposes or administrative expenses of the transportation department.

226.205. 1. There is hereby created in the state treasury the "State Toll Facility Revenue Fund" into which shall be paid or transferred all state revenue derived from toll facilities. Separate accounts for each toll facility project shall be maintained within the state toll facility revenue fund. All interest earned upon the sums within the accounts in the state toll facility revenue fund shall be deposited within and to the credit of such accounts.

2. From the appropriate account in such fund shall be paid or credited the cost of collection of revenue received from the toll facility project, and the cost of operation, maintenance, and reconstruction of the toll facility project. Any balance in the accounts in such fund in excess of the amount necessary to meet the payment of such costs for the next succeeding six-month period shall be transferred to the appropriate account of the state toll facility bond and interest sinking fund in the amount necessary to meet the payment of principal and interest of any outstanding and unpaid state road revenue bonds, including state road revenue bonds, state road revenue refunding bonds, or unpaid transfers from the state road fund to the state toll facility bond and interest sinking fund, for the next succeeding twelve- month period. There shall be next paid from the state toll facility revenue fund any amounts necessary to meet the requirements of any reserve funds or escrow accounts established by the commission for the operation, maintenance, and reconstruction of toll facilities and for the payment of principal and interest on state road revenue and state road revenue refunding bonds.

3. At such time as all principal and interest obligations on state road revenue bonds and state road revenue refunding bonds have been paid, and all transfers from the state road fund to the state toll facility revenue fund, the state toll facility bond and interest sinking fund, and the state toll facility construction fund have been repaid on a toll facility project, the commission shall discontinue the collection of tolls, fees, rents, and other charges on such toll facility. Any remaining balance in the state toll facility revenue fund for that facility shall be paid or transferred to the state road fund, and all further costs of maintenance and reconstruction of that facility shall be paid from the state road fund.

4. The commission shall separately account for the costs of feasibility studies for, the design, construction, maintenance, reconstruction, and operation of, and the revenues from, each toll facility project. Upon the final payment of all principal and interest on the bonds issued and transfers from the state road fund made to finance a particular toll facility, the commission shall maintain such facility as a free facility, although the commission may continue to operate other facilities as toll facilities.

5. If the revenues in an account in the state toll facility revenue fund applicable to any toll facility project become exhausted prior to the time the toll facility project becomes part of the free state highway system, the commission shall transfer amounts periodically as necessary from the state road fund to keep the account for the project in the state toll facility revenue fund solvent. Such transfers shall be repaid to the state road fund at the rate of interest that the commission deems appropriate, considering bond market rates on the date of transfer from the state road fund, when the state account for the project in the toll facility revenue fund is financially capable of doing so, but not before sums have been deposited to the account within the state toll facility bond and interest sinking fund sufficient, with the interest to be earned by that fund, to satisfy the interest and principal obligations of all outstanding state road revenue bonds and state road revenue refunding bonds for the toll facility project for the next succeeding twelve- month period.

226.210. 1. There is hereby created and set up the "State [Road] Toll Facility Bond and Interest Sinking Fund" into which shall be paid or transferred moneys from the state toll facility revenue fund to pay principal of and interest on state road revenue bonds and state road revenue refunding bonds, and to pay unpaid transfers from the state road fund to the state road bond and interest sinking fund, the balance remaining in the state [highway department fund as provided in section 226.200.] toll facility construction fund after payment of the costs required to be paid from that fund, and all receipts from the sale of state road revenue refunding bonds. All interest earned upon the sums within the accounts in the state road bond and interest sinking fund shall be

deposited within and to the credit of such accounts. From this fund shall be paid the interest and principal upon all outstanding state road revenue bonds and state road revenue refunding bonds as they become due[. Any balance in excess of the amount necessary to meet the payment of the principal and interest of any state road bonds for the next succeeding twelve months shall be transferred to the state road fund], and the costs of issuing state road revenue refunding bonds.

2. If the amounts in the appropriate account of the state toll facility bond and interest sinking fund are insufficient at any time to pay the interest and principal upon all outstanding state road revenue bonds or state road revenue refunding bonds, accrued as to the particular project involved, as they become due, the commission shall transfer from the state road fund to the appropriate account in such fund an amount sufficient to meet the current bond interest and principal obligations. Such transfers shall be repaid to the state road fund from the project account at such rate of interest as the commission deems appropriate, considering bond market rates on the date of transfer from the state road fund, when the appropriate account in the state toll facility bond and interest sinking fund is financially capable of doing so, but not before additional sums have been deposited in the account sufficient, with the interest to be earned thereon, to satisfy the principal and interest obligations of all outstanding state road revenue bonds and state road revenue refunding bonds for the project for the next succeeding twelve-month period.

3. At such time as all state road revenue bonds and state road revenue refunding bonds have been paid and all transfers from the state road fund for any toll facility project have been repaid with interest, the commission shall transfer all sums remaining in the project account of the state toll facility bond and interest sinking fund to the state road fund.

226.215. 1. There is hereby created in the state treasury the "State Toll Facility Construction Fund" into which shall be paid or transferred all moneys or credits from:

(1) The sale of state road revenue bonds;
(2) The United States government, which are intended for toll facility purposes or funding; and

(3) Any other source, if such moneys or credits are for expenditure by the commission for feasibility studies or for the design, acquisition, construction or reconstruction of a toll facility. All interest earned upon the sums within the accounts in the state toll facility construction fund shall be deposited within and to the credit of such accounts.

2. Separate accounts within the state toll facility construction fund shall be maintained for each specific toll facility project.

3. The sums in this fund shall be used exclusively to pay the costs of issuing state road revenue bonds and the costs of feasibility studies for and the design, acquisition, construction and reconstruction of a commission toll facility project, and, if sufficient additional sums exist in the fund, to pay the principal and interest obligations for outstanding state road revenue bonds for the project which become due before sufficient sums are available in the state toll facility bond and interest sinking fund to pay such obligations. Any sums remaining in the state toll facility construction fund after the costs for the project are paid shall be transferred immediately to the appropriate account of the state toll facility bond and interest sinking fund.

4. The commission may direct the transfer of sums to the state toll facility construction fund from the state road fund to pay costs of the feasibility studies for, or the design of, a toll facility project before bonds are issued. Such sums shall be repaid to the state road fund from the proceeds of state road revenue bonds deposited in the state toll facility construction fund, with appropriate interest from the date of transfer of each sum to the state toll facility construction fund, in the same time and manner as provided in section 226.210 for repayment of transfers from the state road fund to the state toll facility bond and interest sinking fund.

226.220. 1. There is hereby created and set up the "State Road Fund" which shall receive all moneys and credits from

(1) The sale of state road bonds;
(2) The United States government ~~[and]~~ intended for highway purposes **other than a toll facility**;

(3) The state ~~[road]~~ **toll facility** bond and interest sinking fund as provided in section 226.210; ~~[and]~~

(4) The state toll facility revenue fund, but only at the time and in the manner provided in section 226.205; and

~~[[4)]~~ (5) Any other source if they are held for expenditure by or under the department of transportation or the state highways and transportation commission **for highway purposes other than a toll facility**, and if they are not required by ~~[section 226.200]~~ law to be transferred to ~~[the state highway department]~~ **any other** fund.

All interest earned upon the sums within the accounts in the state road fund shall be deposited within and to the credit of such accounts.

2. The **following** costs and expenses **shall be** withdrawn from the state treasury **and paid from the state road fund upon warrants and vouchers preapproved and certified for payment by the commissioner of administration and by the commission, acting through such of its employees as it may designate:**

(1) For locating, relocating, establishing, acquiring, reimbursing for, constructing, improving and maintaining state highways in the systems specified in article IV, section 30(b), of the constitution;

(2) For acquiring materials, equipment and buildings; and

(3) For other purposes and contingencies relating and appertaining to the construction and maintenance of [said] **such** highways [shall be paid from the state road fund upon warrants drawn by the state auditor, based upon bills of particulars and vouchers preapproved and certified for payment by the commissioner of administration and by the state highways and transportation commission acting through such of their employees as may be designated by them] **other than toll facilities.**

3. No payments or transfers shall ever be made from the state road fund except for an expenditure made

(1) Under the supervision and direction of the state highways and transportation commission; and

(2) For a purpose set out in [subparagraph (1), (2), (3), (4), or (5)] **subdivisions (1) to (6) of subsection 1** of section 30(b), article IV, of the constitution **of this state.**

4. Notwithstanding the provisions of subsection 3 of this section to the contrary, payments or transfers may be made by the commission from the state road fund to the state toll facility revenue fund, the state toll facility bond and interest sinking fund and the state toll facility construction fund for the purposes of, and in the time and manner provided in, sections 30(b) and 30(d) of article IV of the constitution of this state and in sections 226.200 to 226.222.

226.222. The commission may direct the creation of segregated accounts within the state toll facility revenue fund, the state toll facility construction fund, and the state toll facility bond and interest sinking fund. The commission may direct the establishment of separate reserve funds and escrow accounts and may direct the transfer of moneys between the toll facility funds created in this chapter, provided that moneys received from tolls, fees, and rentals on toll projects shall not be transferred from one project account to another project account. The commission may prescribe the terms for contracting with a corporate trustee for the administration of any fund or account.

Section B. Section A of this act shall become effective only upon approval by the voters of an amendment to article IV, Constitution of Missouri, authorizing the state highways and transportation commission to fund, acquire, construct, maintain, reconstruct and operate toll facilities, and to issue state road revenue refunding bonds for that purpose.