

FIRST REGULAR SESSION

SENATE BILL NO. 481

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOLAN, CAUTHORN, GIBBONS, GROSS, LOUDON AND SCOTT.

Read 1st time February 11, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1166S.071

AN ACT

To repeal section 226.030, RSMo, and to enact in lieu thereof four new sections relating to the transportation accountability act.

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

Section A. Section 226.030, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 226.030, 226.033, 226.094 and 226.145, to read as follows:

226.030. 1. The state highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate[.]. Not more than three [thereof to be] members **of the commission shall be** of the same political party.

2. Each commissioner shall be a taxpayer and resident of **the state of Missouri** for at least five years **immediately** prior to [his] appointment. [Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. All commissioners appointed prior to October 13, 1965, shall serve the term for which they were appointed.]

3. Commissioners appointed pursuant to this section shall be appointed for terms of six years, **except as otherwise provided in this subsection, which terms shall begin on the first day of December in odd-numbered years provided that no more than two members' terms shall be scheduled to expire in the same year and the terms of members who are of the same political party shall not be scheduled to expire in the same year.** [Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of

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

six years shall thereafter be the length of term of each member of the commission unless removed as above provided.] **The present members of the commission may serve as members for the remainder of the scheduled terms for which they were appointed. The successors to the commissioners whose terms expire on December 1, 2003, shall be appointed for terms which shall expire on December 1, 2009. The successor to the commissioner whose term expires on December 1, 2005, shall be appointed for a term which shall expire on December 1, 2011. The successor to one of the commissioners whose term expires on October 13, 2007, shall be appointed for a term which shall expire on December 1, 2011. The successor to the other commissioner whose term expires on October 13, 2007, shall be appointed for a term which shall expire on December 1, 2013. The successor to the other commissioner whose term expires on December 1, 2007, shall be appointed for a term which shall expire on December 1, 2013.**

4. A member shall serve until a successor is appointed and qualified. If at any point a member is required to holdover and continue to serve past the scheduled expiration date of their term because a successor has not been appointed and qualified, then at such time as a successor has been appointed and qualified, such successor's term shall expire six years from the originally scheduled expiration date of the holdover member's term. If a vacancy occurs in any term of a commissioner due to death, resignation, or removal, a successor shall be appointed for only the remainder of the unexpired term.

5. All members of the commission shall, before entering upon the duties of a member of the commission, take and subscribe to an oath or affirmation to support the constitution and laws of the United States and of this state, and to faithfully and honestly discharge the duties of such office.

6. At the first regular meeting in January of each year, the members of the commission shall elect by secret ballot a member as chair and another member as vice chair of the commission, each of whom shall hold their respective offices until their successors are elected. The chair and vice chair shall not be members of the same political party.

7. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties.

8. Any commissioner may be removed from office by the governor if fully satisfied of the commissioner's inefficiency, neglect of duty, or misconduct in office.

226.033. 1. A commission member, during his or her tenure, shall not:

(1) Personally solicit political contributions in a speech given at a fundraiser;

(2) Allow his or her official title to be used in connection with fundraising activities;

(3) Solicit, accept, or receive political contributions;

(4) Organize, sell tickets to, promote, or actively participate in a fundraising activity of a candidate for partisan political office or of a political party or partisan political group;

(5) Take an active part in managing the political campaign of a candidate for partisan political office or a candidate for political party office; or

(6) Endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material.

2. If a commission member engages in any of the activities set forth in subsection 1 of this section, such activity shall be considered misconduct pursuant to section 226.030. If the governor finds that the commissioner's involvement in such activities affects the commissioner's ability to carry out his or her official duties in a nonpartisan manner, the governor may remove the offending commissioner from the commission.

226.094. 1. There is hereby created the office of the transportation inspector general, to be headed by the inspector general. The inspector general shall be responsible for promoting accountability, integrity, and efficiency of the department of transportation. The inspector general shall be appointed by the governor with the advice and consent of the senate, as provided in section 51 of article IV of the Constitution of Missouri. The inspector general shall hold office for a term coinciding with the term of the appointing governor. The inspector general shall report to and be under the general supervision of the governor and shall not report to or be subject to supervision by any officer of the department of transportation. The commission shall not prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation, issuing any subpoena during the course of any audit or investigation, or from carrying out any of the inspector general's duties provided for by this section.

2. The inspector general shall be subject to removal by the governor for cause.

3. The governor may request the inspector general to perform specific investigations, reviews, or other studies relating to the department of transportation.

4. The inspector general shall file a monthly report with the joint committee on transportation oversight as established pursuant to section 21.795, RSMo. The report shall include, but not be limited to, the following:

(1) The status of any investigation being conducted by the inspector general;

(2) Responses to inquiries made by members of the joint committee on transportation oversight;

(3) Any other matters the joint committee on transportation oversight deems appropriate.

The report required by this subsection may be presented in either a written or oral format. If the joint committee on transportation oversight calls a meeting, the committee may request that the inspector general present the report before the committee.

5. In addition to any duties which may be assigned to the inspector general by the governor, it shall be the duty of the inspector general to:

(1) Promote economy, efficiency, effectiveness, and public integrity in the administration of the programs and operations of the department of transportation;

(2) Detect and prevent fraud, waste, and abuse in programs and operations within the department of transportation;

(3) Conduct and supervise investigations and reviews relating to department of transportation programs and operations;

(4) Provide independent and objective assistance to help assure the department of transportation is operated in compliance with the constitutions and laws of the United States and this state;

(5) Keep the commission and the commission's staff fully and currently informed about any problems or deficiencies relating to the administration of department programs and operations and the necessity for and progress of any corrective actions taken;

(6) Review existing and proposed legislation and regulations relating to transportation programs and the operations of the department of transportation and to make recommendations in the annual report to the joint committee on transportation oversight required by section 21.795, RSMo;

(7) Report expeditiously to the office of the attorney general whenever the inspector general has reasonable grounds to believe there has been a violation of state or federal criminal law; and

(8) Investigate citizen complaints regarding the operation of the department of transportation. The inspector general shall also investigate complaints from employees of the department of transportation if the inspector general receives information from an employee which shows:

(a) The department is violating a law, rule, or regulation;

(b) Gross mismanagement by department officers;

(c) Waste of funds by the department; or

(d) That the department is engaging in activities which pose a danger to public health and safety.

6. To accomplish the duties of the inspector general, the inspector general may investigate, conduct reviews, or perform audits relating to the operations of the department of transportation and the use of highway user fees and taxes by the department of transportation, the department of revenue, the office of administration, and the state highway patrol. The accounts and records of the department of transportation, the state highway patrol, the office of administration, the department of revenue and other parties which use or receive taxes or fees derived from highway users as an incident to their use or right to use the highways of this state shall be open to inspection and review by the inspector general, for the purpose of obtaining information necessary in the performance of the duties of the inspector general. The inspector general shall have the power to subpoena witnesses or obtain the production of records when necessary for the performance of the inspector general's duties. The inspector general may also investigate and review any contract entered into by the department of transportation and any other party to determine compliance with federal and state law.

7. To accomplish the duties assigned to the inspector general, the inspector general shall maintain records of all investigations conducted by the inspector general, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. All such records shall be considered open records pursuant to the provisions contained in section 610.010, RSMo. Any records detained above which are prepared by the inspector general in conjunction with an investigation into a crime or suspected crime, or an investigation into an action that violates a civil law of this state, may be closed within the office of the inspector general during the investigation thereof of the matter until the matter becomes inactive, which shall be defined as an investigation in which no further action will be taken by the inspector general because it has decided not to pursue the case; expiration of the time to file criminal charges or civil suit or ten years after the commission of the act, whichever date earliest occurs; or finality of the conviction of all persons convicted on the basis of the information contained in the investigative report or termination of all civil action involving the information contained in the investigative report, by the exhaustion of or expiration of all rights of appeal by such person. All records not specifically closed by the above

provisions shall be deemed to be an open record except as otherwise provided by subdivision (13) of section 610.021, RSMo.

8. The office of the governor shall provide funding and administrative support for the inspector general.

226.145. 1. In addition to the audits authorized by section 29.210, RSMo, and section 226.140, the inspector general shall conduct a performance audit of the affairs of the department of transportation. The performance audit shall be open to public inspection. A copy of each audit prepared pursuant to this section shall be delivered to:

- (1) The governor;
- (2) The lieutenant governor;
- (3) The president pro tem of the senate;
- (4) The speaker of the house of representatives;
- (5) The state auditor; and
- (6) The joint committee on transportation oversight.

2. As used in this section, "performance audit" means an examination of a program, activity, or function of the department of transportation, conducted in accordance with applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. A performance audit shall also include an in-depth review of the fiscal management of the commission. The performance audit shall review the general financial operation and management of the department showing whether or not the operations are being handled in an efficient and economical manner and calling special attention to any excessive cost of operation or maintenance, any excessive expense and any excessive price paid for goods, supplies, services or labor by the department. The report shall call special attention to any illegal, improper or unnecessary expenditures and all inaccuracies, irregularities, and shortages and shall make specific recommendations for the future avoidance of the same. Performance audits of the department shall determine and evaluate program performance according to program objectives, responsibilities, and duties as set forth by statute or regulation. Performance audits, in accordance with generally accepted program evaluation standards, shall determine:

(1) Whether the program is being performed and administered as authorized or required by law, and whether this action conforms with statutory intent;

(2) Whether the objectives and intended benefits are being achieved, and whether efficiently and effectively;

(3) Benefits derived from any program in relation to the expenditures made therefor;

(4) Whether the program duplicates, overlaps, or conflicts with any other state program; and

(5) Whether the commission is fiscally responsible in managing the department's affairs and transactions.

T

Unofficial

Bill

Copy