

SECOND REGULAR SESSION

SENATE BILL NO. 1190

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Read 1st time February 26, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4993S.02I

AN ACT

To repeal section 620.010, RSMo, and to enact in lieu thereof one new section relating to the division of professional registration.

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

Section A. Section 620.010, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 620.010, to read as follows:

620.010. 1. There is hereby created a "Department of Economic
2 Development" to be headed by a director appointed by the governor, by and with
3 the advice and consent of the senate. All of the general provisions, definitions
4 and powers enumerated in section 1 of the Omnibus State Reorganization Act of
5 1974 shall continue to apply to this department and its divisions, agencies and
6 personnel.

7 2. The office of director of the department of business and administration,
8 chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and
9 property of that office, not previously reassigned by executive reorganization plan
10 no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are
11 transferred by type I transfer to the director of the department of economic
12 development. The department of business and administration is hereby
13 abolished.

14 3. The duties and responsibilities relating to subsection 2 of section
15 35.010, RSMo, are transferred by type I transfer to the personnel division, office
16 of administration.

17 4. The powers, duties and functions vested in the public service
18 commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others,
19 and the administrative hearing commission, sections 621.015 to 621.198, RSMo,
20 and others, are transferred by type III transfers, and the state banking board,

21 chapter 361, RSMo, and others, and the savings and loan commission, chapter
22 369, RSMo, and others, are transferred by type II transfers to the department of
23 economic development. The director of the department is directed to provide and
24 coordinate staff and equipment services to these agencies in the interest of
25 facilitating the work of the bodies and achieving optimum efficiency in staff
26 services common to all the bodies. Nothing in the Reorganization Act of 1974
27 shall prevent the chairman of the public service commission from presenting
28 additional budget requests or from explaining or clarifying its budget requests to
29 the governor or general assembly.

30 5. The powers, duties and functions vested in the office of the public
31 counsel are transferred by type III transfer to the department of economic
32 development. Funding for the general counsel's office shall be by general
33 revenue.

34 6. The public service commission is authorized to employ such staff as it
35 deems necessary for the functions performed by the general counsel other than
36 those powers, duties and functions relating to representation of the public before
37 the public service commission.

38 7. There is hereby created a "Division of Credit Unions" in the department
39 of economic development, to be headed by a director, nominated by the
40 department director and appointed by the governor with the advice and consent
41 of the senate. All the powers, duties and functions vested in the state supervisor
42 of credit unions in chapter 370, RSMo, and the powers and duties relating to
43 credit unions vested in the commissioner of finance in chapter 370, RSMo, are
44 transferred to the division of credit unions of the department of economic
45 development, by a type II transfer, and the office of the state supervisor of credit
46 unions is abolished. The salary of the director of the division of credit unions
47 shall be set by the director of the department within the limits of the
48 appropriations therefor. The director of the division shall assume all the duties
49 and functions of the state supervisor of credit unions and the commissioner of
50 finance only where the director has duties and responsibilities relating to credit
51 unions as set out in chapter 370, RSMo.

52 8. The powers, duties and functions vested in the division of finance,
53 chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by
54 type II transfer to the department of economic development. There shall be a
55 director of the division who shall be nominated by the department director and
56 appointed by the governor with the advice and consent of the senate.

57 9. All the powers, duties and functions vested in the director of the
58 division of savings and loan supervision in chapter 369, RSMo, sections 443.700
59 to 443.712, RSMo, or by any other provision of law are transferred to the division
60 of finance of the department of economic development by a type I transfer. The
61 position of the director of the division of savings and loan supervision is hereby
62 abolished. The director of the division of finance shall assume all the duties and
63 functions of the director of the division of savings and loan supervision as
64 provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any
65 other provision of law. The division of savings and loan is hereby abolished. The
66 powers of the savings and loan commission are hereby limited to hearing appeals
67 from decisions of the director of the division of finance approving or denying
68 applications to incorporate savings and loan associations or to establish branches
69 of savings and loan associations and approving regulations pertaining to savings
70 and loan associations. Any appeals shall be held in accordance with section
71 369.319, RSMo.

72 10. On and after August 28, 1990, the status of the division is modified
73 under a specific type transfer pursuant to section 1 of the Omnibus
74 Reorganization Act of 1974. The status of the division is modified from that of
75 a division transferred to the department of economic development pursuant to a
76 type II transfer, as provided for in this section, to that of an agency possessing
77 the characteristics of a division transferred pursuant to a type III transfer;
78 provided, however, that the division will remain within the department of
79 economic development. The division of insurance shall be assigned to the
80 department of economic development as a type III division, and the director of the
81 department of economic development shall have no supervision, authority or
82 control over the actions or decisions of the director of the division. All authority,
83 records, property, personnel, powers, duties, functions, matter pending and all
84 other pertinent vestiges pertaining thereto shall be retained by the division
85 except as modified by this section. If the division of insurance becomes a
86 department by operation of a constitutional amendment, the department of
87 economic development shall continue until December 31, 1991, to provide at least
88 the same assistance as was provided in previous fiscal years for personnel, data
89 processing support and other benefits from appropriations.

90 11. All the powers, duties and functions of the commerce and industrial
91 development division and the industrial development commission, chapters 184
92 and 255, RSMo, and others, not otherwise transferred, are transferred by type I

93 transfer to the department of economic development, and the industrial
94 development commission is abolished. All powers, duties and functions of the
95 division of commerce and industrial development and the division of community
96 development are transferred by a type I transfer to the department of economic
97 development, and the division of commerce and industrial development and the
98 division of community development are abolished.

99 12. All the powers, duties and functions vested in the tourism commission,
100 chapter 258, RSMo, and others, are transferred to the "Division of Tourism",
101 which is hereby created, by type III transfer.

102 13. All the powers, duties and functions of the department of community
103 affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred
104 by type I transfer to the department of economic development, and the
105 department of community affairs is abolished. The director of the department of
106 economic development may assume all the duties of the director of community
107 affairs or may establish within the department such subunits and advisory
108 committees as may be required to administer the programs so transferred. The
109 director of the department shall appoint all members of such committees and
110 heads of subunits.

111 14. (1) There is hereby established a "Division of Professional
112 Registration" assigned to the department of economic development as a type III
113 division, headed by a director appointed by the governor with the advice and
114 consent of the senate.

115 (2) The director of the division of professional registration shall
116 promulgate rules and regulations which designate for each board or commission
117 assigned to the division the renewal date for licenses or certificates. After the
118 initial establishment of renewal dates, no director of the division shall
119 promulgate a rule or regulation which would change the renewal date for licenses
120 or certificates if such change in renewal date would occur prior to the date on
121 which the renewal date in effect at the time such new renewal date is specified
122 next occurs. Each board or commission shall by rule or regulation establish
123 licensing periods of one, two, or three years. Registration fees set by a board or
124 commission shall be effective for the entire licensing period involved, and shall
125 not be increased during any current licensing period. Persons who are required
126 to pay their first registration fees shall be allowed to pay the pro rata share of
127 such fees for the remainder of the period remaining at the time the fees are
128 paid. Each board or commission shall provide the necessary forms for initial

129 registration, and thereafter the director may prescribe standard forms for renewal
130 of licenses and certificates. Each board or commission shall by rule and
131 regulation require each applicant to provide the information which is required to
132 keep the board's records current. Each board or commission shall issue the
133 original license or certificate.

134 (3) The division shall provide clerical and other staff services relating to
135 the issuance and renewal of licenses for all the professional licensing and
136 regulating boards and commissions assigned to the division. The division shall
137 perform the financial management and clerical functions as they each relate to
138 issuance and renewal of licenses and certificates. "Issuance and renewal of
139 licenses and certificates" means the ministerial function of preparing and
140 delivering licenses or certificates, and obtaining material and information for the
141 board or commission in connection with the renewal thereof. It does not include
142 any discretionary authority with regard to the original review of an applicant's
143 qualifications for licensure or certification, or the subsequent review of licensee's
144 or certificate holder's qualifications, or any disciplinary action contemplated
145 against the licensee or certificate holder. The division may develop and
146 implement microfilming systems and automated or manual management
147 information systems.

148 (4) The director of the division shall establish a system of accounting and
149 budgeting, in cooperation with the director of the department, the office of
150 administration, and the state auditor's office, to ensure proper charges are made
151 to the various boards for services rendered to them. The general assembly shall
152 appropriate to the division and other state agencies from each board's funds,
153 moneys sufficient to reimburse the division and other state agencies for all
154 services rendered and all facilities and supplies furnished to that board.

155 (5) For accounting purposes, the appropriation to the division and to the
156 office of administration for the payment of rent for quarters provided for the
157 division shall be made from the "Professional Registration Fees Fund", which is
158 hereby created, and is to be used solely for the purpose defined in subdivision (4)
159 of this subsection. The fund shall consist of moneys deposited into it from each
160 board's fund. Each board shall contribute a prorated amount necessary to fund
161 the division for services rendered and rent based upon the system of accounting
162 and budgeting established by the director of the division as provided in
163 subdivision (4) of this subsection. Transfers of funds to the professional
164 registration fees fund shall be made by each board on July first of each year;

165 provided, however, that the director of the division may establish an alternative
166 date or dates of transfers at the request of any board. Such transfers shall be
167 made until they equal the prorated amount for services rendered and rent by the
168 division. The provisions of section 33.080, RSMo, to the contrary
169 notwithstanding, money in this fund shall not be transferred and placed to the
170 credit of general revenue until the amount in the fund at the end of the biennium
171 exceeds three times the appropriation from the professional registration fees fund
172 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
173 is that amount in the fund which exceeds the appropriate multiple of the
174 appropriations from the professional registration fees fund for the preceding fiscal
175 year.

176 (6) The director of the division shall be responsible for collecting and
177 accounting for all moneys received by the division or its component agencies. Any
178 money received by a board or commission shall be promptly given, identified by
179 type and source, to the director. The director shall keep a record by board and
180 state accounting system classification of the amount of revenue the director
181 receives. The director shall promptly transmit all receipts to the department of
182 revenue for deposit in the state treasury to the credit of the appropriate
183 fund. The director shall provide each board with all relevant financial
184 information in a timely fashion. Each board shall cooperate with the director by
185 providing necessary information.

186 (7) All educational transcripts, test scores, complaints, investigatory
187 reports, and information pertaining to any person who is an applicant or licensee
188 of any agency assigned to the division of professional registration by statute or
189 by the department of economic development are confidential and may not be
190 disclosed to the public or any member of the public, except with the written
191 consent of the person whose records are involved. The agency which possesses
192 the records or information shall disclose the records or information if the person
193 whose records or information is involved has consented to the disclosure. Each
194 agency is entitled to the attorney-client privilege and work-product privilege to
195 the same extent as any other person. Provided, however, that any board may
196 disclose confidential information without the consent of the person involved in the
197 course of voluntary interstate exchange of information, or in the course of any
198 litigation concerning that person, or pursuant to a lawful request, or to other
199 administrative or law enforcement agencies acting within the scope of their
200 statutory authority. Information regarding identity, including names and

201 addresses, registration, and currency of the license of the persons possessing
202 licenses to engage in a professional occupation and the names and addresses of
203 applicants for such licenses is not confidential information.

204 (8) Any deliberations conducted and votes taken in rendering a final
205 decision after a hearing before an agency assigned to the division shall be closed
206 to the parties and the public. Once a final decision is rendered, that decision
207 shall be made available to the parties and the public.

208 **(9) A compelling governmental interest shall be deemed to exist**
209 **for the purposes of section 536.025, RSMo, for licensure fees to be**
210 **reduced by emergency rule, if the projected fund balance of any agency**
211 **assigned to the division of professional registration is reasonably**
212 **expected to exceed an amount that would require transfer from that**
213 **fund to general revenue.**

214 15. (1) The division of registration and examination, department of
215 education, within chapter 161, RSMo, and others, is abolished and the following
216 boards and commissions are transferred by specific type transfers to the division
217 of professional registration, department of economic development: state board
218 of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328,
219 RSMo; state board of registration for architects, professional engineers and land
220 surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331,
221 RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts,
222 chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of
223 embalmers and funeral directors, chapter 333, RSMo; state board of optometry,
224 chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of
225 pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo;
226 Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary
227 medical board chapter 340, RSMo. The governor shall appoint members of these
228 boards by and with the advice and consent of the senate from nominees submitted
229 by the director of the department.

230 (2) The boards and commissions assigned to the division shall exercise all
231 their respective statutory duties and powers, except those clerical and other staff
232 services involving collecting and accounting for moneys and financial
233 management relating to the issuance and renewal of licenses, which services shall
234 be provided by the division, within the appropriation therefor. All clerical and
235 other staff services relating to the issuance and renewal of licenses of the
236 individual boards and commissions are abolished. All clerical and other staff

237 services pertaining to collecting and accounting for moneys and to financial
238 management relative to the issuance and renewal of licenses of the individual
239 boards and commissions are abolished. Nothing herein shall prohibit employment
240 of professional examining or testing services from professional associations or
241 others as required by the boards or commissions on contract. Nothing herein
242 shall be construed to affect the power of a board or commission to expend its
243 funds as appropriated. However, the division shall review the expense vouchers
244 of each board. The results of such review shall be submitted to the board
245 reviewed and to the house and senate appropriations committees annually.

246 (3) Notwithstanding any other provisions of law, the director of the
247 division shall exercise only those management functions of the boards and
248 commissions specifically provided in the Reorganization Act of 1974, and those
249 relating to the allocation and assignment of space, personnel other than board
250 personnel, and equipment.

251 (4) "Board personnel", as used in this section or chapters 326, 327, 328,
252 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean
253 personnel whose functions and responsibilities are in areas not related to the
254 clerical duties involving the issuance and renewal of licenses, to the collecting
255 and accounting for moneys, or to financial management relating to issuance and
256 renewal of licenses; specifically included are executive secretaries (or comparable
257 positions), consultants, inspectors, investigators, counsel, and secretarial support
258 staff for these positions; and such other positions as are established and
259 authorized by statute for a particular board or commission. Boards and
260 commissions may employ legal counsel, if authorized by law, and temporary
261 personnel if the board is unable to meet its responsibilities with the employees
262 authorized above. Any board or commission which hires temporary employees
263 shall annually provide the division director and the appropriation committees of
264 the general assembly with a complete list of all persons employed in the previous
265 year, the length of their employment, the amount of their remuneration and a
266 description of their responsibilities.

267 (5) Board personnel for each board or commission shall be employed by
268 and serve at the pleasure of the board or commission, shall be supervised as the
269 board or commission designates, and shall have their duties and compensation
270 prescribed by the board or commission, within appropriations for that purpose,
271 except that compensation for board personnel shall not exceed that established
272 for comparable positions as determined by the board or commission pursuant to

273 the job and pay plan of the department of economic development. Nothing herein
274 shall be construed to permit salaries for any board personnel to be lowered except
275 by board action.

276 (6) Each board or commission shall receive complaints concerning its
277 licensees' business or professional practices. Each board or commission shall
278 establish by rule a procedure for the handling of such complaints prior to the
279 filing of formal complaints before the administrative hearing commission. The
280 rule shall provide, at a minimum, for the logging of each complaint received, the
281 recording of the licensee's name, the name of the complaining party, the date of
282 the complaint, and a brief statement of the complaint and its ultimate
283 disposition. The rule shall provide for informing the complaining party of the
284 progress of the investigation, the dismissal of the charges or the filing of a
285 complaint before the administrative hearing commission.

286 16. All the powers, duties and functions of the division of athletics,
287 chapter 317, RSMo, and others, are transferred by type I transfer to the division
288 of professional registration. The athletic commission is abolished.

289 17. The state council on the arts, chapter 185, RSMo, and others, is
290 transferred by type II transfer to the department of economic development, and
291 the members of the council shall be appointed by the director of the department.

292 18. The Missouri housing development commission, chapter 215, RSMo,
293 is assigned to the department of economic development, but shall remain a
294 governmental instrumentality of the state of Missouri and shall constitute a body
295 corporate and politic.

296 19. All the authority, powers, duties, functions, records, personnel,
297 property, matters pending and other pertinent vestiges of the division of
298 manpower planning of the department of social services are transferred by a type
299 I transfer to the "Division of Job Development and Training", which is hereby
300 created, within the department of economic development. The division of
301 manpower planning within the department of social services is abolished. The
302 provisions of section 1 of the Omnibus State Reorganization Act of 1974,
303 Appendix B, relating to the manner and procedures for transfers of state agencies
304 shall apply to the transfers provided in this section.

305 20. Any rule or portion of a rule, as that term is defined in section
306 536.010, RSMo, that is created under the authority delegated in this chapter shall
307 become effective only if it complies with and is subject to all of the provisions of
308 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking

309 authority delegated prior to August 28, 1999, is of no force and effect and
310 repealed. Nothing in this section shall be interpreted to repeal or affect the
311 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
312 with all applicable provisions of law. This section and chapter 536, RSMo, are
313 nonseverable and if any of the powers vested with the general assembly pursuant
314 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
315 annul a rule are subsequently held unconstitutional, then the grant of
316 rulemaking authority and any rule proposed or adopted after August 28, 1999,
317 shall be invalid and void.

Unofficial ✓

Bill

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