

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]

# SENATE BILL NO. 1190

94TH GENERAL ASSEMBLY

2008

4993S.02T

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## AN ACT

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

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*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Section A. Section 620.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.010, to read as follows: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 Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

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

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

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

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