

FIRST REGULAR SESSION

SENATE BILL NO. 31

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0330S.01I

AN ACT

To repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof two new sections relating to eliminating the position of transportation inspector general.

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

Section A. Sections 21.795 and 226.030, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 21.795 and 226.030, to
3 read as follows:

21.795. 1. There is established a permanent joint committee of the
2 general assembly to be known as the "Joint Committee on Transportation
3 Oversight" to be composed of seven members of the standing transportation
4 committees of both the senate and the house of representatives and three
5 nonvoting ex officio members. Of the fourteen members to be appointed to the
6 joint committee, the seven senate members of the joint committee shall be
7 appointed by the president pro tem of the senate and minority leader of the
8 senate and the seven house members shall be appointed by the speaker of the
9 house of representatives and the minority floor leader of the house of
10 representatives. No major party shall be represented by more than four members
11 from the house of representatives nor more than four members from the
12 senate. The ex officio members shall be the state auditor, the director of the
13 oversight division of the committee on legislative research, and the commissioner
14 of the office of administration or the designee of such auditor, director or
15 commissioner. The joint committee shall be chaired jointly by both chairs of the
16 senate and house transportation committees. A majority of the committee shall
17 constitute a quorum, but the concurrence of a majority of the members, other

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

18 than the ex officio members, shall be required for the determination of any matter
19 within the committee's duties.

20 2. [The transportation inspector general shall be appointed by majority
21 vote of a group consisting of the speaker of the house of representatives, the
22 minority floor leader of the house of representatives, the president pro tempore
23 of the senate, and the minority floor leader of the senate. It shall be the duty of
24 the inspector general to serve as the executive director of the joint committee on
25 transportation oversight. The compensation of the inspector general and other
26 personnel shall be paid from the joint contingent fund or jointly from the senate
27 and house contingent funds until an appropriation is made therefor. No funds
28 from highway user fees or other funds allocated for the operation of the
29 department of transportation shall be used for the compensation of the inspector
30 general and his or her staff. The joint committee inspector general initially
31 appointed pursuant to this section shall take office January 1, 2004, for a term
32 ending June 30, 2005. Subsequent joint committee on transportation oversight
33 directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint
34 committee on transportation oversight inspector general whose term is expiring
35 shall be eligible for reappointment. The inspector general of the joint committee
36 on transportation oversight shall:

37 (1) Be qualified by training or experience in transportation policy,
38 management of transportation organizations, accounting, auditing, financial
39 analysis, law, management analysis, or public administration;

40 (2) Report to and be under the general supervision of the joint
41 committee. The joint committee on transportation oversight shall, by a majority
42 vote, direct the inspector general to perform specific investigations, reviews,
43 audits, or other studies of the state department of transportation, in which
44 instance the director shall report the findings and recommendations directly to
45 the joint committee on transportation oversight. All investigations, reviews,
46 audits, or other studies performed by the director shall be conducted so that the
47 general assembly can procure information to assist it in formulating
48 transportation legislation and policy for this state;

49 (3) Receive and process citizen complaints relating to transportation
50 issues. The inspector general shall, when necessary, submit a written complaint
51 report to the joint committee on transportation oversight and the highways and
52 transportation commission. The complaint report shall contain the date, time,
53 nature of the complaint, and any immediate facts and circumstances surrounding

54 the initial report of the complaint. The inspector general shall investigate a
55 citizen complaint if he or she is directed to do so by a majority of the joint
56 committee on transportation oversight;

57 (4) Investigate complaints from current and former employees of the
58 department of transportation if the inspector general receives information from
59 an employee which shows:

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

61 (b) Gross mismanagement by department officers;

62 (c) Waste of funds by the department;

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

65 (5) Maintain confidentiality with respect to all matters and the identities
66 of the complainants or witnesses coming before the inspector general except
67 insofar as disclosures may be necessary to enable the inspector general to carry
68 out duties and to support recommendations;

69 (6) Maintain records of all investigations conducted, including any record
70 or document or thing, any summary, writing, complaint, data of any kind, tape
71 or video recordings, electronic transmissions, e-mail, or other paper or electronic
72 documents, records, reports, digital recordings, photographs, software programs
73 and software, expense accounts, phone logs, diaries, travel logs, or other things,
74 including originals or copies of any of the above. Records of investigations by the
75 inspector general shall be an "investigative report" of a law enforcement agency
76 pursuant to the provisions of section 610.100, RSMo. As provided in such section,
77 such records shall be a closed record until the investigation becomes inactive. If
78 the inspector general refers a violation of law to the appropriate prosecuting
79 attorney or the attorney general, such records shall be transmitted with the
80 referral. If the inspector general finds no violation of law or determines not to
81 refer the subject of the investigation to the appropriate prosecuting attorney or
82 the attorney general regarding matters referred to the appropriate prosecuting
83 attorney or the attorney general and the statute of limitations expires without
84 any action being filed, the record shall remain closed. As provided in section
85 610.100, RSMo, any person may bring an action pursuant to this section in the
86 circuit court having jurisdiction to authorize disclosure of information in the
87 records of the inspector general which would otherwise be closed pursuant to this
88 section. Any disclosure of records by the inspector general in violation of this
89 section shall be grounds for a suit brought by any individual, person, or

90 corporation to recover damages, and upon award to the plaintiff reasonable
91 attorney's fees.

92 3.] The department of transportation shall submit a written report prior
93 to November tenth of each year to the governor, lieutenant governor, and every
94 member of the senate and house of representatives. The report shall be posted
95 to the department's Internet web site so that general assembly members may
96 elect to access a copy of the report electronically. The written report shall contain
97 the following:

98 (1) A comprehensive financial report of all funds for the preceding state
99 fiscal year which shall include a report by independent certified public
100 accountants, selected by the commissioner of the office of administration,
101 attesting that the financial statements present fairly the financial position of the
102 department in conformity with generally accepted government accounting
103 principles. This report shall include amounts of:

104 (a) State revenues by sources, including all new state revenue derived
105 from highway users which results from action of the general assembly or
106 voter-approved measures taken after August 28, 2003, and projects funded in
107 whole or in part from such new state revenue, and amounts of federal revenues
108 by source;

109 (b) Any other revenues available to the department by source;

110 (c) Funds appropriated, the amount the department has budgeted and
111 expended for the following: contracts, right-of-way purchases, preliminary and
112 construction engineering, maintenance operations and administration;

113 (d) Total state and federal revenue compared to the revenue estimate in
114 the fifteen-year highway plan as adopted in 1992.

115 All expenditures made by, or on behalf of, the department for personal services
116 including fringe benefits, all categories of expense and equipment, real estate and
117 capital improvements shall be assigned to the categories listed in this subdivision
118 in conformity with generally accepted government accounting principles;

119 (2) A detailed explanation of the methods or criteria employed to select
120 construction projects, including a listing of any new or reprioritized projects not
121 mentioned in a previous report, and an explanation as to how the new or
122 reprioritized projects meet the selection methods or criteria;

123 (3) The proposed allocation and expenditure of moneys and the proposed
124 work plan for the current fiscal year, at least the next four years, and for any
125 period of time expressed in any public transportation plan approved by either the

126 general assembly or by the voters of Missouri. This proposed allocation and
127 expenditure of moneys shall include the amounts of proposed allocation and
128 expenditure of moneys in each of the categories listed in subdivision (1) of this
129 subsection;

130 (4) The amounts which were planned, estimated and expended for projects
131 in the state highway and bridge construction program or any other projects
132 relating to other modes of transportation in the preceding state fiscal year and
133 amounts which have been planned, estimated or expended by project for
134 construction work in progress;

135 (5) The current status as to completion, by project, of the fifteen-year road
136 and bridge program adopted in 1992. The first written report submitted pursuant
137 to this section shall include the original cost estimate, updated estimate and final
138 completed cost by project. Each written report submitted thereafter shall include
139 the cost estimate at the time the project was placed on the most recent five-year
140 highway and bridge construction plan and the final completed cost by project;

141 (6) The reasons for cost increases or decreases exceeding five million
142 dollars or ten percent relative to cost estimates and final completed costs for
143 projects in the state highway and bridge construction program or any other
144 projects relating to other modes of transportation completed in the preceding
145 state fiscal year. Cost increases or decreases shall be determined by comparing
146 the cost estimate at the time the project was placed on the most recent five-year
147 highway and bridge construction plan and the final completed cost by
148 project. The reasons shall include the amounts resulting from inflation,
149 department-wide design changes, changes in project scope, federal mandates, or
150 other factors;

151 (7) Specific recommendations for any statutory or regulatory changes
152 necessary for the efficient and effective operation of the department;

153 (8) An accounting of the total amount of state, federal and earmarked
154 federal highway funds expended in each district of the department of
155 transportation; and

156 (9) Any further information specifically requested by the joint committee
157 on transportation oversight.

158 [4.] 3. Prior to December first of each year, the committee shall hold an
159 annual meeting and call before its members, officials or employees of the state
160 highways and transportation commission or department of transportation, as
161 determined by the committee, for the sole purpose of receiving and examining the

162 report required pursuant to subsection [3] 2 of this section. [The joint committee
163 may also call before its members at the annual meeting, the inspector general of
164 the joint committee on transportation oversight for purposes authorized in this
165 section.] The committee shall not have the power to modify projects or priorities
166 of the state highways and transportation commission or department of
167 transportation. The committee may make recommendations to the state highways
168 and transportation commission or the department of transportation. Disposition
169 of those recommendations shall be reported by the commission or the department
170 to the joint committee on transportation oversight.

171 [5.] 4. In addition to the annual meeting required by subsection [4] 3 of
172 this section, the committee shall meet two times each year. The co-chairs of the
173 committee shall establish an agenda for each meeting that may include, but not
174 be limited to, the following items to be discussed with the committee members
175 throughout the year during the scheduled meeting:

- 176 (1) Presentation of a prioritized plan for all modes of transportation;
- 177 (2) Discussion of department efficiencies and expenditure of cost-savings
178 within the department;
- 179 (3) Presentation of a status report on department of transportation
180 revenues and expenditures, including a detailed summary of projects funded by
181 new state revenue as provided in paragraph (a) of subdivision (1) of subsection
182 [3] 2 of this section; **and**
- 183 (4) [Review of any report from the joint committee inspector general; and
184 (5)] Implementation of any actions as may be deemed necessary by the
185 committee as authorized by law.

186 The co-chairs of the committee may call special meetings of the committee with
187 ten days' notice to the members of the committee, the director of the department
188 of transportation, and the department of transportation.

189 [6.] 5. The committee shall also review for approval or denial all
190 applications for the development of specialty plates submitted to it by the
191 department of revenue. The committee shall approve such application by
192 unanimous vote. The committee shall not approve any application if the
193 committee receives a signed petition from five house members or two senators
194 that they are opposed to the approval of the proposed license plate. The
195 committee shall notify the director of the department of revenue upon approval
196 or denial of an application for the development of a specialty plate.

197 [7.] 6. The committee shall submit records of its meetings to the

198 secretary of the senate and the chief clerk of the house of representatives in
199 accordance with sections 610.020 and 610.023, RSMo.

226.030. 1. The highways and transportation commission shall consist of
2 six members, who shall be appointed by the governor, by and with the advice and
3 consent of the senate, not more than three thereof to be members of the same
4 political party. Each commissioner shall be a taxpayer and resident of state for
5 at least five years prior to his appointment. Any commissioner may be removed
6 by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct
7 in office. Commissioners appointed pursuant to this section shall be appointed
8 for terms of six years, except as otherwise provided in this subsection. Upon the
9 expiration of each of the foregoing terms of these commissioners a successor shall
10 be appointed for a term of six years or until his successor is appointed and
11 qualified which term of six years shall thereafter be the length of term of each
12 member of the commission unless removed as above provided. The members of
13 the commission shall receive as compensation for their services twenty-five
14 dollars per day for the time spent in the performance of their official duties, and
15 also their necessary traveling and other expenses incurred while actually engaged
16 in the discharge of their official duties. Members whose terms otherwise expire
17 December 1, 2003, shall serve with terms expiring March 1, 2004, and new
18 members or the members reappointed shall be appointed for terms expiring
19 March 1, 2005; a member whose term otherwise expires December 1, 2005, shall
20 serve with a term expiring March 1, 2007; a member whose term otherwise
21 expires December 1, 2007, shall serve with a term expiring March 1, 2009; and
22 one member whose term otherwise expires October 13, 2007, shall serve with a
23 term expiring March 1, 2007; and one member whose term otherwise expires
24 October 13, 2007, shall serve with a term expiring March 1, 2009. If a vacancy
25 occurs in any term of a commissioner due to death, resignation, or removal, a
26 successor shall be appointed for only the remainder of the unexpired term.

27 2. The two members of the commission, one each from opposing political
28 parties, who have the most seniority in commission service shall serve as
29 commission leadership with one member as chair and the other member as vice
30 chair, respectively, for terms ending March 1, 2005. The commission shall elect
31 one of the members as chair and the other as vice chair. Effective March 1, 2005,
32 the commission shall elect the two members of the commission, one from each
33 opposing political party who has the most seniority in commission service, who
34 shall serve as commission leadership with one member as chair and the other

35 member as vice chair, respectively, for one year. At the end of such year, the
36 member currently serving as chair shall then serve as vice chair, and the member
37 currently serving as vice chair shall serve as chair, each to serve in such position
38 for one year. Thereafter, commission leadership shall continue to rotate
39 accordingly with the two members from opposing political parties who have the
40 most seniority in terms of commission service being elected by the commission to
41 serve as commission leadership. If one of the commission leadership offices
42 becomes vacant due to death, resignation, removal, or refuses to serve before the
43 one-year leadership term expires, the commission shall elect one of its members
44 that is of the same political party as the vacating officer to serve the remainder
45 of the vacating officer's leadership term. Such election shall not prohibit that
46 member from later serving as chair and vice chair when such member's seniority
47 in commission service qualifies him or her for those offices as provided in this
48 subsection.

49 3. No more than one-half of the members of the commission shall be of the
50 same political party. The selection and removal of all employees of the
51 department of transportation shall be without regard to political affiliation.

52 4. The present members of the commission shall continue to serve as
53 members of the commission for the remainder of the terms for which they were
54 appointed, except as provided in subsection 1 of this section.

55 5. [The director of the department of transportation shall, by February
56 fifteenth of each year, present an annual state of the state of transportation to a
57 joint session of the general assembly. The six members of the commission shall
58 be present and available at such presentations for questions by members. The
59 transportation inspector general may also be present and report to the general
60 assembly on any matter of concern within his or her statutory authority. The
61 provisions of this subsection shall expire August 28, 2008.

62 6.] Any member reappointed shall only be eligible to serve as chair or
63 vice-chair during the final two years of such member's reappointment.

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