

SECOND REGULAR SESSION

SENATE BILL NO. 645

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LeVOTA.

Pre-filed December 20, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4374S.02I

AN ACT

To repeal section 324.001, 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Section A. Section 324.001, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 324.001, to read as follows:

324.001. 1. For the purposes of this section, the following terms mean:

2 (1) "Department", the department of insurance, financial institutions and
3 professional registration;

4 (2) "Director", the director of the division of professional registration; and

5 (3) "Division", the division of professional registration.

6 2. There is hereby established a "Division of Professional Registration"
7 assigned to the department of insurance, financial institutions and professional
8 registration as a type III transfer, headed by a director appointed by the governor
9 with the advice and consent of the senate. All of the general provisions,
10 definitions and powers enumerated in section 1 of the Omnibus State
11 Reorganization Act of 1974 and Executive Order 06-04 shall apply to this
12 department and its divisions, agencies, and personnel.

13 3. The director of the division of professional registration shall promulgate
14 rules and regulations which designate for each board or commission assigned to
15 the division the renewal date for licenses or certificates. After the initial
16 establishment of renewal dates, no director of the division shall promulgate a rule
17 or regulation which would change the renewal date for licenses or certificates if
18 such change in renewal date would occur prior to the date on which the renewal
19 date in effect at the time such new renewal date is specified next occurs. Each

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

20 board or commission shall by rule or regulation establish licensing periods of one,
21 two, or three years. Registration fees set by a board or commission shall be
22 effective for the entire licensing period involved, and shall not be increased
23 during any current licensing period. Persons who are required to pay their first
24 registration fees shall be allowed to pay the pro rata share of such fees for the
25 remainder of the period remaining at the time the fees are paid. Each board or
26 commission shall provide the necessary forms for initial registration, and
27 thereafter the director may prescribe standard forms for renewal of licenses and
28 certificates. Each board or commission shall by rule and regulation require each
29 applicant to provide the information which is required to keep the board's records
30 current. Each board or commission shall have the authority to collect and
31 analyze information required to support workforce planning and policy
32 development. Such information shall not be publicly disclosed so as to identify
33 a specific health care provider, as defined in section 376.1350. Each board or
34 commission shall issue the original license or certificate.

35 4. The division shall provide clerical and other staff services relating to
36 the issuance and renewal of licenses for all the professional licensing and
37 regulating boards and commissions assigned to the division. The division shall
38 perform the financial management and clerical functions as they each relate to
39 issuance and renewal of licenses and certificates. "Issuance and renewal of
40 licenses and certificates" means the ministerial function of preparing and
41 delivering licenses or certificates, and obtaining material and information for the
42 board or commission in connection with the renewal thereof. It does not include
43 any discretionary authority with regard to the original review of an applicant's
44 qualifications for licensure or certification, or the subsequent review of licensee's
45 or certificate holder's qualifications, or any disciplinary action contemplated
46 against the licensee or certificate holder. The division may develop and
47 implement microfilming systems and automated or manual management
48 information systems.

49 5. The director of the division shall maintain a system of accounting and
50 budgeting, in cooperation with the director of the department, the office of
51 administration, and the state auditor's office, to ensure proper charges are made
52 to the various boards for services rendered to them. The general assembly shall
53 appropriate to the division and other state agencies from each board's funds
54 moneys sufficient to reimburse the division and other state agencies for all
55 services rendered and all facilities and supplies furnished to that board.

56 6. For accounting purposes, the appropriation to the division and to the
57 office of administration for the payment of rent for quarters provided for the
58 division shall be made from the "Professional Registration Fees Fund", which is
59 hereby created, and is to be used solely for the purpose defined in subsection 5
60 of this section. The fund shall consist of moneys deposited into it from each
61 board's fund. Each board shall contribute a prorated amount necessary to fund
62 the division for services rendered and rent based upon the system of accounting
63 and budgeting established by the director of the division as provided in
64 subsection 5 of this section. Transfers of funds to the professional registration
65 fees fund shall be made by each board on July first of each year; provided,
66 however, that the director of the division may establish an alternative date or
67 dates of transfers at the request of any board. Such transfers shall be made until
68 they equal the prorated amount for services rendered and rent by the
69 division. The provisions of section 33.080 to the contrary notwithstanding, money
70 in this fund shall not be transferred and placed to the credit of general revenue.

71 7. The director of the division shall be responsible for collecting and
72 accounting for all moneys received by the division or its component agencies. Any
73 money received by a board or commission shall be promptly given, identified by
74 type and source, to the director. The director shall keep a record by board and
75 state accounting system classification of the amount of revenue the director
76 receives. The director shall promptly transmit all receipts to the department of
77 revenue for deposit in the state treasury to the credit of the appropriate
78 fund. The director shall provide each board with all relevant financial
79 information in a timely fashion. Each board shall cooperate with the director by
80 providing necessary information.

81 8. All educational transcripts, test scores, complaints, investigatory
82 reports, and information pertaining to any person who is an applicant or licensee
83 of any agency assigned to the division of professional registration by statute or
84 by the department are confidential and may not be disclosed to the public or any
85 member of the public, except with the written consent of the person whose records
86 are involved. The agency which possesses the records or information shall
87 disclose the records or information if the person whose records or information is
88 involved has consented to the disclosure. Each agency is entitled to the
89 attorney-client privilege and work-product privilege to the same extent as any
90 other person. Provided, however, that any board may disclose confidential
91 information without the consent of the person involved in the course of voluntary

92 interstate exchange of information, or in the course of any litigation concerning
93 that person, or pursuant to a lawful request, or to other administrative or law
94 enforcement agencies acting within the scope of their statutory authority, **or**
95 **when the information is requested by a member of the general assembly**
96 **or his or her employee.** Information regarding identity, including names and
97 addresses, registration, and currency of the license of the persons possessing
98 licenses to engage in a professional occupation and the names and addresses of
99 applicants for such licenses is not confidential information.

100 9. Any deliberations conducted and votes taken in rendering a final
101 decision after a hearing before an agency assigned to the division shall be closed
102 to the parties and the public. Once a final decision is rendered, that decision
103 shall be made available to the parties and the public.

104 10. A compelling governmental interest shall be deemed to exist for the
105 purposes of section 536.025 for licensure fees to be reduced by emergency rule, if
106 the projected fund balance of any agency assigned to the division of professional
107 registration is reasonably expected to exceed an amount that would require
108 transfer from that fund to general revenue.

109 11. (1) The following boards and commissions are assigned by specific
110 type transfers to the division of professional registration: Missouri state board of
111 accountancy, chapter 326; board of cosmetology and barber examiners, chapters
112 328 and 329; Missouri board for architects, professional engineers, professional
113 land surveyors and landscape architects, chapter 327; Missouri state board of
114 chiropractic examiners, chapter 331; state board of registration for the healing
115 arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers
116 and funeral directors, chapter 333; state board of optometry, chapter 336;
117 Missouri state board of nursing, chapter 335; board of pharmacy, chapter 338;
118 state board of podiatric medicine, chapter 330; Missouri real estate appraisers
119 commission, chapter 339; and Missouri veterinary medical board, chapter
120 340. The governor shall appoint members of these boards by and with the advice
121 and consent of the senate.

122 (2) The boards and commissions assigned to the division shall exercise all
123 their respective statutory duties and powers, except those clerical and other staff
124 services involving collecting and accounting for moneys and financial
125 management relating to the issuance and renewal of licenses, which services shall
126 be provided by the division, within the appropriation therefor. Nothing herein
127 shall prohibit employment of professional examining or testing services from

128 professional associations or others as required by the boards or commissions on
129 contract. Nothing herein shall be construed to affect the power of a board or
130 commission to expend its funds as appropriated. However, the division shall
131 review the expense vouchers of each board. The results of such review shall be
132 submitted to the board reviewed and to the house and senate appropriations
133 committees annually.

134 (3) Notwithstanding any other provisions of law, the director of the
135 division shall exercise only those management functions of the boards and
136 commissions specifically provided in the Reorganization Act of 1974, and those
137 relating to the allocation and assignment of space, personnel other than board
138 personnel, and equipment.

139 (4) "Board personnel", as used in this section or chapters [317,] 326, 327,
140 328, 329, 330, 331, 332, 333, 334, 335, 336, [337,] 338, 339, [340,] and 345, shall
141 mean personnel whose functions and responsibilities are in areas not related to
142 the clerical duties involving the issuance and renewal of licenses, to the collecting
143 and accounting for moneys, or to financial management relating to issuance and
144 renewal of licenses; specifically included are executive [secretaries] **directors** (or
145 comparable positions), consultants, inspectors, investigators, counsel, and
146 secretarial support staff for these positions; and such other positions as are
147 established and authorized by statute for a particular board or
148 commission. Boards and commissions may employ legal counsel, if authorized by
149 law, and temporary personnel if the board is unable to meet its responsibilities
150 with the employees authorized above. Any board or commission which hires
151 temporary employees shall annually provide the division director and the
152 appropriation committees of the general assembly with a complete list of all
153 persons employed in the previous year, the length of their employment, the
154 amount of their remuneration, and a description of their responsibilities.

155 (5) Board personnel for each board or commission shall be employed by
156 and serve at the pleasure of the board or commission, shall be supervised as the
157 board or commission designates, and shall have their duties and compensation
158 prescribed by the board or commission, within appropriations for that purpose,
159 except that compensation for board personnel shall not exceed that established
160 for comparable positions as determined by the board or commission pursuant to
161 the job and pay plan of the department of insurance, financial institutions and
162 professional registration. Nothing herein shall be construed to permit salaries
163 for any board personnel to be lowered except by board action.

164 12. All the powers, duties, and functions of the division of athletics,
165 chapter 317, and others, are assigned by type I transfer to the division of
166 professional registration.

167 13. Wherever the laws, rules, or regulations of this state make reference
168 to the "division of professional registration of the department of economic
169 development", such references shall be deemed to refer to the division of
170 professional registration.

171 **14. Any board personnel who functions as a full-time equivalent**
172 **executive director or comparable position on a board or commission**
173 **assigned to the division shall be limited to serving as an executive**
174 **director or comparable position on one board or commission assigned**
175 **to the division or a combination of boards or commissions assigned to**
176 **the division when the total number of licensees under the authority of**
177 **the boards or commissions is no more than two thousand. A person**
178 **functioning as a full-time equivalent executive director or comparable**
179 **position on a board or commission may still serve on multiple boards**
180 **or commissions as board personnel in any other capacity other than an**
181 **executive director or comparable position.**

✓

Copy