

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 883

89TH GENERAL ASSEMBLY

1998

S3728.05T

AN ACT

To repeal sections 43.030, 226.040 and 226.140, RSMo 1994, and sections 71.288 and 226.005, RSMo Supp. 1997, relating to transportation, and to enact in lieu thereof seven new sections relating to the same subject.

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

Section A. Sections 43.030, 226.040 and 226.140, RSMo 1994, and sections 71.288 and 226.005, RSMo Supp. 1997, are repealed and seven new sections enacted in lieu thereof, to be known as sections 21.795, 43.030, 71.288, 226.005, 226.040, 226.140 and 1, to read as follows:

21.795. 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house of representatives. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority

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

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

2. The department of transportation shall submit a written report prior to November tenth of each year to the governor and every member of the senate and house of representatives which shall contain the following:

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

(a) State revenues by sources, amounts of federal revenues by source;

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

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

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

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

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

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

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

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this

section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

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

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

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

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

3. Prior to December first of each year, the committee shall meet and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection 2 of this section. The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or department of transportation. The committee may make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

4. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

43.030. 1. The superintendent of the Missouri state highway patrol shall be appointed by the governor by and with the advice and consent of the senate. The superintendent shall hold office at the pleasure of the governor. The superintendent shall be a citizen of the United States and a resident taxpaying citizen of this state for a period of three years previous to being appointed as superintendent and shall be at least thirty years of age. The superintendent shall maintain an office and reside in Jefferson City.

2. The superintendent of the Missouri state highway patrol shall:

(1) Have command of the patrol and perform all duties imposed on the superintendent and exercise all of the powers and authority conferred upon the superintendent by the provisions of this chapter and the requirements of chapter 650, RSMo;

(2) Within available appropriations, establish an equitable pay plan for the members of the highway patrol and radio personnel taking into consideration ranks and length of service.

[3. The annual salary of members of the highway patrol and radio personnel shall be increased by the same percentage increase and lump sum increase granted to state merit employees covered by the provisions of chapter 36, RSMo. Such increases shall include only the cost-of-living portion of the pay plan appropriated for merit employees and shall be based upon the actual current salary.]

71.288. 1. [Any city that maintains the city engineer or other similar city official on the planning commission shall have the authority to place any restriction upon the height, spacing and lighting of outdoor advertising structures placed within the view of any highway within the city. Such ordinance may be more restrictive than sections 226.500 to 226.600, RSMo] **Any city or county shall have the authority to adopt regulations with respect to outdoor advertising that are more restrictive than the height, size, lighting and spacing provisions of sections 226.500 to 226.600, RSMo.**

2. No city [that elects to govern outdoor advertising structures as provided in subsection 1] **or county** shall have the authority to impose a fee of more than five hundred dollars for the initial inspection of an outdoor advertising structure, nor may the city **or county** impose a business tax on an outdoor advertising structure of more than [one hundred dollars per year] **two per cent of the gross annual revenue produced by the outdoor advertising structure within that city or county.**

226.005. 1. The department of highways and transportation shall hereafter be known as the "Department of Transportation". The department shall be in charge of a state [highway] **highways and transportation** commission as provided by the constitution and statutes.

2. The [chief engineer] **director** shall receive an annual salary of not less than that provided for in section 105.950, RSMo. The salaries of the **chief engineer, chief financial officer, chief counsel, assistant chief engineer, the secretary of the commission, and of the division chiefs, department heads, engineers, [and] clerks and other employees of the department** shall be fixed by the commission.

[226.040. The state highways and transportation commission shall appoint a chief engineer who is a resident of this state, and he shall have had executive or administrative experience for at least five years next prior to his appointment and he shall have had experience in highway work. Under the direction of the commission, the chief engineer shall have general charge and supervision of the state highways and transportation

department, and shall perform such duties and have such authority as the commission may designate. The chief engineer, with the consent and approval of the commission, shall appoint and prescribe the duties and authority of an assistant chief engineer and such other engineers, department heads, and other employees as the commission may designate and deem necessary.]

226.040. 1. The state highways and transportation commission shall appoint a chief executive officer with the title of director of the Missouri department of transportation. The director shall serve at the pleasure of the commission. The director shall be a citizen and a resident of this state, shall have had executive management experience for at least five years, and may be a registered professional engineer. The director's duties shall include appointment of a chief engineer, a chief financial officer and other department heads, engineers and other employees as the commission may designate and deem necessary. Under the direction of the commission, the director shall have general charge of, and be responsible for, the overall operations and performance of the department. The director shall provide quarterly to the commission at its regularly scheduled meetings a current unaudited written version of the report required in subsection 2 of section 21.795, RSMo, with changes from the most recent audited report clearly marked. Such report shall be made available to the public.

2. The chief engineer shall be a registered professional engineer responsible for preparation and approval of all engineering documents, plans and specifications and shall have general oversight of construction and maintenance work for the department as determined by the director.

3. Engineers of the department responsible for supervising the activities of road and bridge design, construction, maintenance and materials inspection and analysis shall be registered professional engineers in this state.

226.140. 1. [The commission shall make a report to the governor, prior to January thirty-first of each year, of the activities, work done, receipts and expenditures of the commission during the preceding fiscal year.] The governor may cause the books and accounts of the commission to be audited by the state auditor or otherwise at any time.

2. As authorized by article IV, section 30(c) of the Missouri Constitution, the commission shall develop a plan to modernize the state's transportation system, including but not limited to, mass transportation, aviation, railroads, ports and waterborne commerce. The commission shall make a report to the governor and the general assembly prior to January 1, 1994, and by January first of each year thereafter. The commission shall include in the report a review of its pursuit of federal funds including mass transit matching funds to ensure that Missouri is receiving all of the federal transportation assistance to which it is entitled.

3. The state auditor shall, where practicable, use but shall not be limited to, the

data and information developed for, and provided by, the report required pursuant to subdivision (1) of subsection 2 of section 21.795, RSMo, when performing an audit authorized by section 29.210, RSMo.

Section 1. 1. If a state agency for whom work is being performed by a contractor determines upon reasonable evidence that the contractor or a subcontractor engaged to complete work required by the contract hired one or more aliens who are unauthorized to work in the United States, the state agency shall order the contractor to cause the discharge of such unauthorized workers.

2. If upon reasonable evidence the state agency determines that a contractor or subcontractor has knowingly violated the Immigration Reform and Control Act of 1986, or its successor statute, in employing aliens unauthorized to work in the United States, the agency may cause up to twenty percent of the total amount of the contract or subcontract performed by the employer of such unauthorized workers to be withheld from payment to the employer in violation of such statute.

3. If a contractor is determined by a state agency upon reasonable evidence to have engaged a subcontractor to complete work required by the contract with knowledge that the subcontractor violated or intended to violate the Immigration Reform and Control Act of 1986, or its successor statute, in hiring or continuing to employ aliens unauthorized to work in the United States, the state agency may withhold from the contractor up to double the amount caused to be withheld from payments to the subcontractor.

4. Any contractor or subcontractor from whom payment is withheld under subsections 2 or 3 of this section shall be ineligible to perform other contracts or subcontracts for the state of Missouri for a period of two years from the date of such action.

5. No state agency or contractor taking any action authorized by this section shall be subject to any claim arising from such action and shall be deemed in compliance with the laws of this state regarding timely payment.

6. The provisions of this section shall only be effective to the extent that such provisions are not preempted or prohibited by section 1324a of title 8 of the United States Code, as now or hereafter amended, and any regulations promulgated thereunder, relating to the employment of unauthorized aliens.

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