

SECOND REGULAR SESSION

HOUSE BILL NO. 2090

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BEARDEN AND HOLT (Co-sponsors).

Read 1st time March 4, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4390L.011

AN ACT

To repeal section 620.010, RSMo, and to enact in lieu thereof one new section relating to 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Section A. Section 620.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.010, to read as follows: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 369, RSMo, and others, are transferred by type II transfers to the

19 department of economic development. The director of the department is directed to provide and
20 coordinate staff and equipment services to these agencies in the interest of facilitating the work
21 of the bodies and achieving optimum efficiency in staff services common to all the bodies.
22 Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service
23 commission from presenting additional budget requests or from explaining or clarifying its
24 budget requests to the governor or general assembly.

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

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

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

42 8. The powers, duties and functions vested in the division of finance, chapters 361, 362,
43 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department
44 of economic development. There shall be a director of the division who shall be nominated by
45 the department director and appointed by the governor with the advice and consent of the senate.

46 9. All the powers, duties and functions vested in the director of the division of savings
47 and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other
48 provision of law are transferred to the division of finance of the department of economic
49 development by a type I transfer. The position of the director of the division of savings and loan
50 supervision is hereby abolished. The director of the division of finance shall assume all the
51 duties and functions of the director of the division of savings and loan supervision as provided
52 in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law.
53 The division of savings and loan is hereby abolished. The powers of the savings and loan
54 commission are hereby limited to hearing appeals from decisions of the director of the division

55 of finance approving or denying applications to incorporate savings and loan associations or to
56 establish branches of savings and loan associations and approving regulations pertaining to
57 savings and loan associations. Any appeals shall be held in accordance with section 369.319,
58 RSMo.

59 10. On and after August 28, 1990, the status of the division is modified under a specific
60 type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of
61 the division is modified from that of a division transferred to the department of economic
62 development pursuant to a type II transfer, as provided for in this section, to that of an agency
63 possessing the characteristics of a division transferred pursuant to a type III transfer; provided,
64 however, that the division will remain within the department of economic development. The
65 division of insurance shall be assigned to the department of economic development as a type III
66 division, and the director of the department of economic development shall have no supervision,
67 authority or control over the actions or decisions of the director of the division. All authority,
68 records, property, personnel, powers, duties, functions, matter pending and all other pertinent
69 vestiges pertaining thereto shall be retained by the division except as modified by this section.
70 If the division of insurance becomes a department by operation of a constitutional amendment,
71 the department of economic development shall continue until December 31, 1991, to provide at
72 least the same assistance as was provided in previous fiscal years for personnel, data processing
73 support and other benefits from appropriations.

74 11. All the powers, duties and functions of the commerce and industrial development
75 division and the industrial development commission, chapters 184 and 255, RSMo, and others,
76 not otherwise transferred, are transferred by type I transfer to the department of economic
77 development, and the industrial development commission is abolished. All powers, duties and
78 functions of the division of commerce and industrial development and the division of community
79 development are transferred by a type I transfer to the department of economic development, and
80 the division of commerce and industrial development and the division of community
81 development are abolished.

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

85 13. All the powers, duties and functions of the department of community affairs, chapter
86 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the
87 department of economic development, and the department of community affairs is abolished.
88 The director of the department of economic development may assume all the duties of the
89 director of community affairs or may establish within the department such subunits and advisory
90 committees as may be required to administer the programs so transferred. The director of the

91 department shall appoint all members of such committees and heads of subunits.

92 14. (1) There is hereby established a "Division of Professional Registration" assigned
93 to the department of economic development as a type III division, headed by a director appointed
94 by the governor with the advice and consent of the senate.

95 (2) The director of the division of professional registration shall promulgate rules and
96 regulations which designate for each board or commission assigned to the division the renewal
97 date for licenses or certificates. After the initial establishment of renewal dates, no director of
98 the division shall promulgate a rule or regulation which would change the renewal date for
99 licenses or certificates if such change in renewal date would occur prior to the date on which the
100 renewal date in effect at the time such new renewal date is specified next occurs. Each board or
101 commission shall by rule or regulation establish licensing periods of one, two, or three years.
102 Registration fees set by a board or commission shall be effective for the entire licensing period
103 involved, and shall not be increased during any current licensing period. Persons who are
104 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees
105 for the remainder of the period remaining at the time the fees are paid. Each board or
106 commission shall provide the necessary forms for initial registration, and thereafter the director
107 may prescribe standard forms for renewal of licenses and certificates. Each board or commission
108 shall by rule and regulation require each applicant to provide the information which is required
109 to keep the board's records current. Each board or commission shall issue the original license
110 or certificate.

111 (3) The division shall provide clerical and other staff services relating to the issuance and
112 renewal of licenses for all the professional licensing and regulating boards and commissions
113 assigned to the division. The division shall perform the financial management and clerical
114 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
115 renewal of licenses and certificates" means the ministerial function of preparing and delivering
116 licenses or certificates, and obtaining material and information for the board or commission in
117 connection with the renewal thereof. It does not include any discretionary authority with regard
118 to the original review of an applicant's qualifications for licensure or certification, or the
119 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action
120 contemplated against the licensee or certificate holder. The division may develop and implement
121 microfilming systems and automated or manual management information systems.

122 (4) The director of the division shall establish a system of accounting and budgeting, in
123 cooperation with the director of the department, the office of administration, and the state
124 auditor's office, to ensure proper charges are made to the various boards for services rendered
125 to them. The general assembly shall appropriate to the division and other state agencies from
126 each board's funds, moneys sufficient to reimburse the division and other state agencies for all

127 services rendered and all facilities and supplies furnished to that board.

128 (5) For accounting purposes, the appropriation to the division and to the office of
129 administration for the payment of rent for quarters provided for the division shall be made from
130 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
131 the purpose defined in subdivision (4) of subsection 14 of this section. The fund shall consist
132 of moneys deposited into it from each board's fund. Each board shall contribute a prorated
133 amount necessary to fund the division for services rendered and rent based upon the system of
134 accounting and budgeting established by the director of the division as provided in subdivision
135 (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made
136 by each board on July first of each year; provided, however, that the director of the division may
137 establish an alternative date or dates of transfers at the request of any board. Such transfers shall
138 be made until they equal the prorated amount for services rendered and rent by the division. The
139 provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall
140 not be transferred and placed to the credit of general revenue.

141 (6) The director of the division shall be responsible for collecting and accounting for all
142 moneys received by the division or its component agencies. Any money received by a board or
143 commission shall be promptly given, identified by type and source, to the director. The director
144 shall keep a record by board and state accounting system classification of the amount of revenue
145 the director receives. The director shall promptly transmit all receipts to the department of
146 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall
147 provide each board with all relevant financial information in a timely fashion. Each board shall
148 cooperate with the director by providing necessary information.

149 (7) All educational transcripts, test scores, complaints, investigatory reports, and
150 information pertaining to any person who is an applicant or licensee of any agency assigned to
151 the division of professional registration by statute or by the department of economic development
152 are confidential and may not be disclosed to the public or any member of the public, except with
153 the written consent of the person whose records are involved. The agency which possesses the
154 records or information shall disclose the records or information if the person whose records or
155 information is involved has consented to the disclosure. Each agency is entitled to the
156 attorney-client privilege and work-product privilege to the same extent as any other person.
157 Provided, however, that any board may disclose confidential information without the consent of
158 the person involved in the course of voluntary interstate exchange of information, or in the
159 course of any litigation concerning that person, or pursuant to a lawful request, or to other
160 administrative or law enforcement agencies acting within the scope of their statutory authority.
161 Information regarding identity, including names and **business** addresses, registration, and
162 currency of the license of the persons possessing licenses to engage in a professional occupation

163 and the names and **business** addresses of applicants for such licenses is not confidential
164 information, **but information regarding the home address or home telephone number of any**
165 **person who is an applicant or licensee of any agency is confidential information and may**
166 **only be disclosed with written consent of that person.**

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

171 15. (1) The division of registration and examination, department of education, within
172 chapter 161, RSMo, and others, is abolished and the following boards and commissions are
173 transferred by specific type transfers to the division of professional registration, department of
174 economic development: state board of accountancy, chapter 326, RSMo; state board of barber
175 examiners, chapter 328, RSMo; state board of registration for architects, professional engineers
176 and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331,
177 RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334,
178 RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral
179 directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of
180 nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry,
181 chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri
182 veterinary medical board chapter 340, RSMo. The governor shall appoint members of these
183 boards by and with the advice and consent of the senate from nominees submitted by the director
184 of the department.

185 (2) The boards and commissions assigned to the division shall exercise all their
186 respective statutory duties and powers, except those clerical and other staff services involving
187 collecting and accounting for moneys and financial management relating to the issuance and
188 renewal of licenses, which services shall be provided by the division, within the appropriation
189 therefor. All clerical and other staff services relating to the issuance and renewal of licenses of
190 the individual boards and commissions are abolished. All clerical and other staff services
191 pertaining to collecting and accounting for moneys and to financial management relative to the
192 issuance and renewal of licenses of the individual boards and commissions are abolished.
193 Nothing herein shall prohibit employment of professional examining or testing services from
194 professional associations or others as required by the boards or commissions on contract.
195 Nothing herein shall be construed to affect the power of a board or commission to expend its
196 funds as appropriated. However, the division shall review the expense vouchers of each board.
197 The results of such review shall be submitted to the board reviewed and to the house and senate
198 appropriations committees annually.

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

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

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

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

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

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type

235 II transfer to the department of economic development, and the members of the council shall be
236 appointed by the director of the department.

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

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

248 20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
249 is created under the authority delegated in this chapter shall become effective only if it complies
250 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
251 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and
252 effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity
253 of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable
254 provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the
255 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
256 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
257 grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be
258 invalid and void.