

FIRST REGULAR SESSION

HOUSE BILL NO. 881

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (118) (Sponsor), BLACK, DETHROW, HUNTER, SMITH (14), CUNNINGHAM (86), PHILLIPS, CUNNINGHAM (145), SATER, MUNZLINGER, POLLOCK AND WILSON (130) (Co-sponsors).

Read 1st time March 30, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2169L.011

AN ACT

To repeal sections 105.525, 286.005, 295.030, 295.050, 295.060, 295.070, RSMo, and section 286.060 as enacted by house committee substitute for senate substitute for senate bill no 3, eighty-eighth general assembly, first regular session and section 286.060 as enacted by senate committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth general assembly, first regular session and to enact in lieu thereof seven new sections relating to the state board of mediation.

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

Section A. Sections 105.525, 286.005, 295.030, 295.050, 295.060, 295.070, RSMo, and
2 section 286.060 as enacted by house committee substitute for senate substitute for senate bill no
3 3, eighty-eighth general assembly, first regular session and section 286.060 as enacted by senate
4 committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth
5 general assembly, first regular session are repealed and seven new section enacted in lieu thereof,
6 to be known as sections 105.525, 286.005, 286.060, 295.030, 295.050, 295.060, and 295.070,
7 read as follows:

105.525. Issues with respect to appropriateness of bargaining units and majority
2 representative status shall be resolved by the state board of mediation. In the event that the
3 appropriate administrative body or any of the bargaining units shall be aggrieved by the decision
4 of the state board of mediation, an appeal may be had to the circuit court of the county where the
5 administrative body is located or in the circuit court of Cole County. [The state board of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 mediation shall use the services of the state hearing officer in all contested cases.]

286.005. 1. There is hereby created a "Department of Labor and Industrial Relations"
2 to be headed by a labor and industrial relations commission as provided by section 49, article IV,
3 Constitution of Missouri. All the powers, duties and functions of the industrial commission are
4 transferred by type I transfer to the labor and industrial relations commission and the industrial
5 commission is abolished. The commission shall nominate and the governor shall appoint, with
6 the advice and consent of the senate, the director of the department to be the chief administrative
7 officer of the department. Members of the industrial commission on May 2, 1974, shall become
8 members of the commission and the terms of the commission members shall be the same as
9 provided by law for the industrial commission. Individuals appointed as members of the
10 industrial commission shall serve the remainder of the term to which they were appointed as
11 members of the commission. The members of the commission shall receive an annual salary of
12 seventy-two thousand seven hundred thirty-five dollars plus any salary adjustment provided
13 pursuant to section 105.005, RSMo, payable out of the state treasury. The board of rehabilitation
14 is abolished as hereinafter set out and on May 2, 1974, no compensation shall be paid to any
15 person as a member of the board of rehabilitation, other provisions of the law notwithstanding.
16 The director of the department shall appoint other division heads in the department. For the
17 purposes of subsections 6, 7, 8 and 9 of section 1 of the reorganization act of 1974, the director
18 of the department shall be construed as the head of the department of labor and industrial
19 relations.

20 2. All powers, duties, and functions vested by law in the division of employment
21 security, chapter 288, RSMo, and others, are transferred by type II transfer to the department.

22 3. All powers, duties, and functions vested by law in the division of workers'
23 compensation, chapter 287, RSMo, and others, are transferred by type II transfer to the
24 department.

25 4. All the powers, duties, and functions of the board of rehabilitation, chapter 287,
26 RSMo, and others, are transferred by type I transfer to the division of workers' compensation of
27 the department and the board of rehabilitation is abolished.

28 5. All powers, duties and functions vested by law in the division of industrial
29 inspections and the division of mine inspections, chapters 286, 290, 291, 292, 293, 294 and 444,
30 RSMo, which were previously transferred by type I transfer to the inspection section of the
31 department, are transferred to the division of labor standards of the department. Employees of
32 the division performing duties related to the mine safety and health act and the occupational
33 safety health act shall be selected in accord with chapter 36, RSMo.

34 6. All the powers, duties, and functions vested by law in the state board of mediation
35 under chapter 295, RSMo, and others, are transferred by type II transfer to the [department]

36 **commission.**

37 7. All employees of the division of employment security shall be selected in accord with
38 chapter 36, RSMo.

39 8. The Missouri commission on human rights, and all the authority, powers, duties,
40 functions, records, personnel, property, matters pending and other pertinent vestiges thereof
41 vested in the Missouri commission on human rights under chapters 213, 296, 314, and others,
42 RSMo, are transferred by type III transfer to the department. Members of the Missouri
43 commission on human rights shall be nominated by the director for appointment by the governor,
44 by and with the advice and consent of the senate.

45 [9. The department shall act as the administrative entity for the governor's council on
46 disability. The federal and state funds necessary for the administration and implementation of
47 the programs and services provided by the governor's council on disability shall be appropriated
48 through the department.]

286.060. 1. It shall be the duty of the labor and industrial relations commission, and it
2 shall have power, jurisdiction and authority:

3 (1) To sue and be sued in its official name;

4 (2) To have and use an official seal bearing the following inscription: "The Labor and
5 Industrial Relations Commission of the State of Missouri", which shall be judicially noticed;

6 (3) To have all powers, duties and responsibilities conferred or imposed upon it by the
7 workers' compensation law (chapter 287, RSMo) and by the unemployment compensation law
8 (chapter 288, RSMo);

9 (4) To approve or disapprove all rules or regulations promulgated by any division within
10 the department. Such rules or regulations shall not become effective until ten days after their
11 approval by the commission and copies thereof have been filed in the office of the secretary of
12 state;

13 (5) To establish and maintain as far as practicable a central system of collecting,
14 preparing, compiling and reporting all material for statistical use in all divisions of the
15 department of labor and industrial relations, and to this end the department shall have access to
16 the books and records of all state departments, except those which are required by law to be kept
17 confidential. The commission may by regulation permit employers or other persons to file
18 combined reports of information required by law to be reported to the several divisions within
19 the department whenever it finds that same or similar information is required by law to be
20 reported by such employers or persons to more than one division within the department;

21 (6) To maintain, as far as practicable, a central system for payroll and other accounting
22 for the several divisions in the department;

23 (7) To compile and publish, in printed form, the laws under which the commission and

24 the various divisions in the department operate, together with all rules and regulations (except
25 such rules and regulations which relate to the internal management of the department) which
26 have been adopted by or with the approval of the commission, and to furnish copies thereof to
27 any citizen of the state upon request;

28 (8) To adopt all regulations necessary to the efficient internal management of the
29 department, not inconsistent with any provisions of law, and such regulations shall become
30 effective immediately upon adoption, unless the commission shall otherwise order; to adopt
31 regulations governing its proceedings in connection with the exercise of its quasi-judicial
32 functions, and such regulations shall become effective ten days after copies thereof are filed in
33 the office of the secretary of state;

34 (9) The commission or any member thereof may hold hearings, require the attendance
35 of witnesses, administer oaths and take testimony;

36 (10) Each of the commissioners shall have power to certify to official acts;

37 (11) To prepare and submit to each regular session of the general assembly and to the
38 governor at the beginning of each session of the general assembly, a complete and detailed report
39 of the activities of the department, including the activities of each division within the department,
40 during the preceding biennial period. Such report shall include a balance sheet of the moneys
41 in the various administrative funds under its jurisdiction as well as all information required to
42 be reported by the various laws under its jurisdiction, which reports shall be in lieu of any report
43 to the general assembly now required by law for any department or office, the powers and duties
44 of which are by this chapter vested in a division in the department of labor and industrial
45 relations;

46 (12) To require the division of employment security to furnish it with a stenographer or
47 clerk to file, process and keep records of all cases appealed from that division to the labor and
48 industrial relations commission;

49 **(13) To perform all the duties and responsibilities conferred or imposed on the state**
50 **board of mediation under chapter 105 or 295, RSMo;** and

51 [(13)] **(14)** To have and perform such other powers and duties as may be conferred or
52 imposed upon it by law.

53 2. No rule or portion of a rule promulgated under the authority of this chapter shall
54 become effective unless it has been promulgated pursuant to the provisions of section 536.024,
RSMo.

2 [286.060. 1. It shall be the duty of the commission, and it shall have
power, jurisdiction and authority:

3 (1) To sue and be sued in its official name;

4 (2) To have and use an official seal bearing the following inscription:

5 "The Labor and Industrial Relations Commission of the State of Missouri", which

6 shall be judicially noticed;

7 (3) To have all powers, duties and responsibilities conferred or imposed
8 upon it by the workers' compensation law (chapter 287, RSMo), the victims of
9 crime law, chapter 595, RSMo, the division of labor standards law (within
10 chapters 286, 290, 291, 292, 293, 294 and 444, RSMo), and the unemployment
11 compensation law (chapter 288, RSMo);

12 (4) To approve or disapprove all rules or regulations promulgated by any
13 division within the department;

14 (5) To establish and maintain as far as practicable a central system of
15 collecting, preparing, compiling and reporting all material for statistical use in all
16 divisions of the department of labor and industrial relations, and to this end the
17 department shall have access to the books and records of all state departments,
18 except those which are required by law to be kept confidential. The commission
19 may by regulation permit employers or other persons to file combined reports of
20 information required by law to be reported to the several divisions within the
21 department whenever it finds that same or similar information is required by law
22 to be reported by such employers or persons to more than one division within the
23 department;

24 (6) To maintain, as far as practicable, a central system for payroll and
25 other accounting for the several divisions in the department;

26 (7) To compile and publish, in printed form, at the expense of the
27 divisions within the department all rules and regulations (except such rules and
28 regulations which relate to the internal management of the department) which
29 have been adopted by or with the approval of the commission, and to furnish
30 copies thereof to any citizen of the state upon request;

31 (8) To adopt all regulations necessary to the efficient internal
32 management of the department, not inconsistent with any provisions of law; and
33 to adopt regulations governing its proceedings in connection with the exercise of
34 its quasi-judicial functions;

35 (9) The commission or any member of the commission may hold
36 hearings, require the attendance of witnesses, administer oaths and take
37 testimony;

38 (10) Each of the commissioners shall have power to certify to official
39 acts;

40 (11) To prepare and submit to each regular session of the general
41 assembly and to the governor at the beginning of each session of the general
42 assembly, a complete and detailed report of the activities of the department,
43 including the activities of each division within the department, during the
44 preceding biennial period. Such report shall include a balance sheet of the
45 moneys in the various administrative funds under its jurisdiction as well as all
46 information required to be reported by the various laws under its jurisdiction,
47 which reports shall be in lieu of any report to the general assembly now required
48 by law for any department or office, the powers and duties of which are by this

49 chapter vested in a division in the department of labor and industrial relations;

50 (12) To require the division of employment security to furnish it with a
51 stenographer or clerk to file, process and keep records of all cases appealed from
52 that division to the labor and industrial relations commission; and

53 (13) To have and perform such other powers and duties as may be
54 conferred or imposed upon it by law.

55 2. No rule or portion of a rule promulgated under the authority of this
56 chapter shall become effective until it has been approved by the joint committee
57 on administrative rules in accordance with the procedures provided in this
58 section, and the delegation of the legislative authority to enact law by the
59 adoption of such rules is dependent upon the power of the joint committee on
60 administrative rules to review and suspend rules pending ratification by the
61 senate and the house of representatives as provided in this section.

62 3. Upon filing any proposed rule with the secretary of state, the filing
63 agency shall concurrently submit such proposed rule to the committee, which
64 may hold hearings upon any proposed rule or portion thereof at any time.

65 4. A final order of rulemaking shall not be filed with the secretary of state
66 until thirty days after such final order of rulemaking has been received by the
67 committee. The committee may hold one or more hearings upon such final order
68 of rulemaking during the thirty-day period. If the committee does not disapprove
69 such order of rulemaking within the thirty-day period, the filing agency may file
70 such order of rulemaking with the secretary of state and the order of rulemaking
71 shall be deemed approved.

72 5. The committee may, by majority vote of the members, suspend the
73 order of rulemaking or portion thereof by action taken prior to the filing of the
74 final order of rulemaking only for one or more of the following grounds:

75 (1) An absence of statutory authority for the proposed rule;

76 (2) An emergency relating to public health, safety or welfare;

77 (3) The proposed rule is in conflict with state law;

78 (4) A substantial change in circumstance since enactment of the law upon
79 which the proposed rule is based.

80 6. If the committee disapproves any rule or portion thereof, the filing
81 agency shall not file such disapproved portion of any rule with the secretary of
82 state and the secretary of state shall not publish in the Missouri Register any final
83 order of rulemaking containing the disapproved portion.

84 7. If the committee disapproves any rule or portion thereof, the
85 committee shall report its findings to the senate and the house of representatives.
86 No rule or portion thereof disapproved by the committee shall take effect so long
87 as the senate and the house of representatives ratify the act of the joint committee
88 by resolution adopted in each house within thirty legislative days after such rule
89 or portion thereof has been disapproved by the joint committee.

90 8. Upon adoption of a rule as provided in this section, any such rule or
91 portion thereof may be suspended or revoked by the general assembly either by

92 bill or, pursuant to section 8, article IV of the Constitution of Missouri, by
93 concurrent resolution upon recommendation of the joint committee on
94 administrative rules. The committee shall be authorized to hold hearings and
95 make recommendations pursuant to the provisions of section 536.037, RSMo.
96 The secretary of state shall publish in the Missouri Register, as soon as
97 practicable, notice of the suspension or revocation.]

295.030. 1. [Within thirty days after the effective date of this chapter] The governor, by
2 and with the advice and consent of the senate, shall appoint [five] **four** competent persons [to]
3 **who along with the chairperson of the labor and industrial relations commission shall** serve
4 as a state board of mediation; two of whom shall be employers of labor, or selected from some
5 association representing employers of labor, and two of whom shall be employees holding
6 membership in some bona fide trade or labor union[; the fifth shall be some person who is
7 neither an employee nor an employer of labor and who shall be chairman of said state board of
8 mediation]. **The chairperson of the labor and industrial relations commission shall assume**
9 **the duties of and serve as the chairperson of the state board of mediation. For purposes**
10 **of this chapter the chairperson of the labor and industrial relations commission shall be**
11 **a member of the state board of mediation.**

12 2. [Two members of said board shall be appointed for one year, two for two years, and
13 one for three years, and] All appointments [thereafter] shall be for three years or until their
14 respective successors are appointed in the manner herein provided.

15 3. If a vacancy occurs in said board by death or otherwise, at any time, the governor shall
16 appoint some competent person having the same qualifications as his predecessor to fill the
17 unexpired term.

295.050. The chairman of the [board shall devote his full time to his duties and] **labor**
2 **and industrial relations commission** shall have charge of the office of the board. He **or she**
3 shall keep all records of the proceedings of the board, and shall supervise the work [of the
4 employees] of the board, and shall have such other powers and duties as may be conferred, or
5 imposed upon him **or her** by the board.

295.060. The chairman of the [board] **labor and industrial relations commission** shall
2 receive [a salary in an amount to be determined by the director of the department of labor and
3 industrial relations and within the limits of the appropriations for the purpose] **no additional**
4 **compensation for assuming the duties of the chairperson of the board of mediation.** Each
5 of the other members of the state board of mediation shall receive as compensation for their
6 services an amount to be determined by the director of the department of labor and industrial
7 relations, but not to exceed fifty dollars per day; and in addition thereto shall receive all
8 necessary travel and other expenses incurred while actually engaged in the performance of their
9 duties as such members.

295.070. 1. The [state board of mediation] **chairperson of the labor and industrial relations commission** shall have power to employ and fix the compensation of conciliators and other assistants and to delegate to such assistants such powers as may be necessary to carry out [its] **the duties of the state board of mediation** under this chapter. The board shall by regulation prescribe the methods of procedure before it.

2. The board shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter under investigation by the board. In cases of refusal to obey a subpoena issued by the board the circuit court of Cole County or of any county where the person refusing to obey such subpoena may be found, on application by the board, shall have power to issue an order requiring such person to appear before the board and to testify and produce evidence ordered touching the matter under investigation, and any failure to obey such order shall be punished by the court as a contempt thereof.