

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 752

95TH GENERAL ASSEMBLY

1739L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 21.795 and 226.030, RSMo, and to enact in lieu thereof two new sections relating to transportation appointees.

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Section A. Sections 21.795 and 226.030, RSMo, are repealed and two new sections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

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

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.

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

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

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

41 (3) Receive and process citizen complaints relating to transportation issues. The
42 inspector general shall, when necessary, submit a written complaint report to the joint committee
43 on transportation oversight and the highways and transportation commission. The complaint
44 report shall contain the date, time, nature of the complaint, and any immediate facts and
45 circumstances surrounding the initial report of the complaint. The inspector general shall
46 investigate a citizen complaint if he or she is directed to do so by a majority of the joint
47 committee on transportation oversight;

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

- 50 (a) The department is violating a law, rule, or regulation;
51 (b) Gross mismanagement by department officers;
52 (c) Waste of funds by the department;

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

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

58 (6) Maintain records of all investigations conducted, including any record or document
59 or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic
60 transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings,
61 photographs, software programs and software, expense accounts, phone logs, diaries, travel logs,
62 or other things, including originals or copies of any of the above. Records of investigations by
63 the inspector general shall be an "investigative report" of a law enforcement agency pursuant to
64 the provisions of section 610.100, RSMo. As provided in such section, such records shall be a
65 closed record until the investigation becomes inactive. If the inspector general refers a violation
66 of law to the appropriate prosecuting attorney or the attorney general, such records shall be
67 transmitted with the referral. If the inspector general finds no violation of law or determines not
68 to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney
69 general regarding matters referred to the appropriate prosecuting attorney or the attorney general
70 and the statute of limitations expires without any action being filed, the record shall remain
71 closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this
72 section in the circuit court having jurisdiction to authorize disclosure of information in the
73 records of the inspector general which would otherwise be closed pursuant to this section. Any
74 disclosure of records by the inspector general in violation of this section shall be grounds for a
75 suit brought by any individual, person, or corporation to recover damages, and upon award to the
76 plaintiff reasonable attorney's fees.

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

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

87 (a) State revenues by sources, including all new state revenue derived from highway
88 users which results from action of the general assembly or voter-approved measures taken after

89 August 28, 2003, and projects funded in whole or in part from such new state revenue, and
90 amounts of federal revenues by source;

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

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

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

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

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

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

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

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

121 (6) The reasons for cost increases or decreases exceeding five million dollars or ten
122 percent relative to cost estimates and final completed costs for projects in the state highway and
123 bridge construction program or any other projects relating to other modes of transportation
124 completed in the preceding state fiscal year. Cost increases or decreases shall be determined by

125 comparing the cost estimate at the time the project was placed on the most recent five-year
126 highway and bridge construction plan and the final completed cost by project. The reasons shall
127 include the amounts resulting from inflation, department-wide design changes, changes in project
128 scope, federal mandates, or other factors;

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

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

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

135 [4.] 3. Prior to December first of each year, the committee shall hold an annual meeting
136 and call before its members, officials or employees of the state highways and transportation
137 commission or department of transportation, as determined by the committee, for the sole
138 purpose of receiving and examining the report required pursuant to subsection [3] 2 of this
139 section. [The joint committee may also call before its members at the annual meeting, the
140 inspector general of the joint committee on transportation oversight for purposes authorized in
141 this section.] The committee shall not have the power to modify projects or priorities of the state
142 highways and transportation commission or department of transportation. The committee may
143 make recommendations to the state highways and transportation commission or the department
144 of transportation. Disposition of those recommendations shall be reported by the commission
145 or the department to the joint committee on transportation oversight.

146 [5.] 4. In addition to the annual meeting required by subsection [4] 3 of this section, the
147 committee shall meet two times each year. The co-chairs of the committee shall establish an
148 agenda for each meeting that may include, but not be limited to, the following items to be
149 discussed with the committee members throughout the year during the scheduled meeting:

150 (1) Presentation of a prioritized plan for all modes of transportation;

151 (2) Discussion of department efficiencies and expenditure of cost-savings within the
152 department;

153 (3) Presentation of a status report on department of transportation revenues and
154 expenditures, including a detailed summary of projects funded by new state revenue as provided
155 in paragraph (a) of subdivision (1) of subsection [3] 2 of this section; **and**

156 (4) [Review of any report from the joint committee inspector general; and

157 (5)] Implementation of any actions as may be deemed necessary by the committee as
158 authorized by law.

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

162 [6.] 5. The committee shall also review for approval or denial all applications for the
163 development of specialty plates submitted to it by the department of revenue. The committee
164 shall approve such application by unanimous vote. The committee shall not approve any
165 application if the committee receives a signed petition from five house members or two senators
166 that they are opposed to the approval of the proposed license plate. The committee shall notify
167 the director of the department of revenue upon approval or denial of an application for the
168 development of a specialty plate.

169 [7.] 6. The committee shall submit records of its meetings to the secretary of the senate
170 and the chief clerk of the house of representatives in accordance with sections 610.020 and
171 610.023, RSMo.

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

24 2. [The two members of the commission, one each from opposing political parties, who
25 have the most seniority in commission service shall serve as commission leadership with one
26 member as chair and the other member as vice chair, respectively, for terms ending March 1,
27 2005. The commission shall elect one of the members as chair and the other as vice chair.]
28 Effective March 1, [2005] **2010**, the commission shall **annually** elect the two members of the
29 commission, one from each opposing political party who has the most seniority in commission
30 service, who shall serve as commission leadership with one member as chair and the other
31 member as vice chair, respectively, for one year. At the end of such year, the member currently
32 serving as chair shall then serve as vice chair, and the member currently serving as vice chair
33 shall serve as chair, each to serve in such position for one year[. Thereafter, commission
34 leadership shall continue to rotate accordingly with the two members from opposing political
35 parties who have the most seniority in terms of commission service being elected by the
36 commission to serve as commission leadership]. If one of the commission leadership offices
37 becomes vacant due to death, resignation, removal, or refuses to serve before the [one-year]
38 leadership term expires, the commission shall elect one of its members that is of the same
39 political party as the vacating officer to serve the remainder of the vacating officer's leadership
40 term. Such election shall not prohibit that member from later serving as chair and vice chair
41 when such member's seniority in commission service qualifies him or her for those offices as
42 provided in this subsection.

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

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

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

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

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