

SECOND REGULAR SESSION

HOUSE BILL NO. 1170

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CRAWFORD.

Read 1st time January 20, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4004L.011

AN ACT

To repeal section 21.795, RSMo, and to enact in lieu thereof one new section relating to certain department of transportation reports.

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

Section A. Section 21.795, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.795, to read as follows: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. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader 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 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 transportation inspector general shall be appointed by majority vote of a group 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 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 tenth
78 of each year to the governor, lieutenant governor, and every member of the senate and house of
79 representatives. The report shall be posted to the department's Internet website so that general
80 assembly members may elect to access a copy of the report electronically. The written report
81 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.

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98 All expenditures made by, or on behalf of, the department for personal services including fringe
99 benefits, all categories of expense and equipment, real estate **purchases**, and capital
100 improvements shall be assigned to the categories listed in this subdivision in conformity with
101 generally accepted government accounting principles. **The report shall include information**
102 **concerning the department's system of inventory of records relating to real property owned**
103 **by the department and a description of all real estate transactions engaged in by the**
104 **department for the preceding state fiscal year, including but not limited to the date of each**
105 **transaction, the source of revenue used by the department for each transaction, and the**
106 **allocation of any income produced by the real estate;**

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

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

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

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

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

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

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

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

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

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

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

157 (2) Discussion of department efficiencies and expenditure of cost-savings within the
158 department;

159 (3) Presentation of a status report on department of transportation revenues and
160 expenditures, including a detailed summary of projects funded by new state revenue as provided
161 in paragraph (a) of subdivision (1) of subsection 3 of this section;

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

163 (5) Implementation of any actions as may be deemed necessary by the committee as
164 authorized by law.

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

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