

FIRST REGULAR SESSION

SENATE BILL NO. 347

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time January 29, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1673S.02I

AN ACT

To repeal sections 217.035 and 374.080, RSMo, and to enact in lieu thereof two new sections relating to the sole purpose of codifying the omnibus state reorganization act of 1974.

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

Section A. Sections 217.035 and 374.080, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 26.900 and 217.035, to read as follows:

26.900. 1. This act shall be known as the "Omnibus State Reorganization Act of 1974."

2. The state constitution contemplates the separation of powers within state government among the legislative, the executive, and the judicial branches of the government. The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the legislature and of making policy recommendations to the legislature. The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

3. Except for specific changes provided, the powers, duties, and responsibilities of the elective offices of state government are not affected by this act.

4. It is the purpose of the general assembly in enacting this statute to provide for the improved accountability in performance of

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

18 service to the citizens of the state and for the most efficient and
19 economical operations possible in the administration of the executive
20 branch of state government. All officers and employees of the state
21 government are directed to implement this act in accord with this
22 purpose.

23 5. (1) Except as otherwise provided by this act, or the state
24 constitution, all executive and administrative powers, duties, and
25 functions, excepting those of the elective offices, previously vested by
26 law or otherwise in the several state departments, commissions, boards,
27 offices, bureaus, divisions, or other agencies are vested in the following
28 administrative departments or in the office of administration:
29 department of agriculture; department of conservation; department of
30 elementary and secondary education; department of higher education;
31 department of highways and transportation; department of labor and
32 industrial relations; department of natural resources; department of
33 mental health; department of public safety; department of revenue;
34 department of social services.

35 (2) Whenever the term "head of the department" is used, it shall
36 mean the head of one of the administrative departments created by this
37 section or the office of administration, unless otherwise provided in
38 this act.

39 6. (1) The head of each department shall be appointed, as
40 provided by the constitution, by the governor with the advice and
41 consent of the senate. The head of each department shall serve at the
42 pleasure of the governor unless otherwise provided by the constitution
43 or this act.

44 (2) Unless otherwise provided by this act, the head of each
45 department is authorized to establish the internal organization of the
46 department and allocate and reallocate duties and functions to promote
47 economic and efficient administration and operation of the department.
48 A departmental plan shall be developed by the head of each department
49 and approved by the governor in accordance with the transfer by type
50 provided in this act. A plan of such organization with any subsequent
51 changes shall be filed with the secretary of state in the manner in
52 which administrative rules are filed, and copies of the plan shall also
53 be filed with the commissioner of administration and revisor of
54 statutes, and such plans shall be published in an appendix to the

55 revised statutes of Missouri and supplements to the revised
56 statutes. Plans shall be filed before June 30, 1974, for the initial
57 reorganization, and shall be effective when filed, unless the plan
58 provides otherwise. Thereafter, any plan of reorganization shall be
59 filed on or before December thirty-first of each year and shall become
60 effective, as applicable to departments, divisions, agencies, boards,
61 commissions, units, or programs transferred by type II or type III
62 transfers as provided in this act, only as provided in sections 26.500 to
63 26.540, except as herein provided in subsections 12 and 13 of this
64 section. The plan shall provide for the level of compensation for
65 division and other administrative positions, subject to appropriations
66 therefor. The head of any department may cooperate with the head of
67 any other department in the interchange of personnel, joint use of
68 equipment and generally in any manner promoting the more effective
69 and efficient rendering of service. The purpose of appropriations made
70 to any department in the executive branch of government shall not be
71 altered without the prior approval of the fiscal affairs committee and
72 the concurrence of the commissioner of administration.

73 (3) When the head of the department is a commission or board
74 it shall appoint a director of the department unless otherwise provided
75 by this act and may delegate such duties, powers, and authority to the
76 director of the department as it deems necessary to fulfill the duties
77 and obligations of the department. Such director shall serve at the
78 pleasure of the head of the department and shall have the title of office
79 provided herein.

80 (4) (a) The head of each department, unless otherwise provided
81 by this act, shall have exclusive budget-making powers for the
82 department and for each division, commission, board, unit, or other
83 agency within the department. The head of the department shall
84 submit estimates of requirements for appropriations on behalf of the
85 department and each division, commission, board, unit, or other agency
86 within the department, as provided by section 33.220. Each division,
87 commission, board, unit, or other agency within the department shall
88 present its estimate of requirements to the department head each year
89 at or before such time as the head of the department directs. The
90 department head shall review each estimate submitted to it and may
91 modify any estimate. The department head shall consolidate all

92 estimates or requirements for appropriations and prepare an estimate
93 for submission on behalf of the department and each division,
94 commission, board, unit, or other agency within the department,
95 subject to the form prescribed by section 33.220.

96 (b) The head of the department shall prepare all budgets for
97 agencies within his or her department and shall present the budget to
98 the commissioner of administration. The commissioner shall
99 consolidate all department budgets and submit the same in a single
100 document to the general assembly.

101 (5) The head of the department shall approve all written annual
102 reports which are required by law, of each division, board, commission,
103 unit, or agency within the department before the reports are submitted
104 for printing and distribution.

105 (6) The director of each department shall designate by written
106 order filed with the governor and president pro tempore of the senate
107 a deputy director of the department, to act for and exercise the powers
108 of the director only during the department director's absence for
109 official business, vacation, illness, death, resignation, or
110 incapacity. When a deputy director acts as director of the department
111 he or she shall receive a salary at the level provided for the director of
112 the department when he or she has acted in such a capacity for longer
113 than thirty days. A deputy director, however, shall not exercise the
114 powers of the director for more than six consecutive months. Subject
115 to the provisions of chapter 36, where they apply, the department
116 director shall appoint all division heads unless otherwise provided in
117 this act and such division heads and the deputy director of the
118 department shall serve at the pleasure of the director of the
119 department or unless otherwise provided by this act.

120 (7) Nothing in this act shall be construed so as to remove any
121 state agency or unit thereof or any position of employment from
122 coverage under the provisions of the merit system law if the agency or
123 position was covered by that law on the effective date of this act.

124 7. (1) To effect an orderly transition to the departments
125 established by this act, each existing department, division, agency,
126 board, commission, unit, or program shall be transferred, as provided,
127 by July 1, 1974.

128 (a) Under this act a "type I transfer" is the transfer to the new

129 department or division of all the authority, powers, duties, functions,
130 records, personnel, property, matters pending, and all other pertinent
131 vestiges of the existing department, division, agency, board,
132 commission, unit, or program to the director of the designated
133 department or division for assimilation and assignment within the
134 department or division as he shall determine, to provide maximum
135 efficiency, economy of operation, and optimum service. All rules,
136 orders, and related matter of such transferred operations shall be made
137 under the direction of the director of the new department.

138 (b) Under this act a "type II transfer" is the transfer of a
139 department, division, agency, board, commission, unit, or program to
140 the new department in its entirety with all the powers, duties,
141 functions, records, personnel, property, matters pending, and all other
142 pertinent vestiges retained by the department, division, agency, board,
143 commission, unit, or program transferred subject to supervision by the
144 director of the department. Supervision by the director of the
145 department under a type II transfer shall include, but shall be limited
146 to: budgeting and reporting under subdivisions (4) and (5) of
147 subsection 6 of this section; to abolishment of positions, other than
148 division, agency, unit, or program heads specified by statute; to the
149 employment and discharge of division directors; to the employment and
150 discharge of employees, except as otherwise provided in this act; to
151 allocation and reallocation of duties, functions, and personnel; and to
152 supervision of equipment utilization, space utilization, procurement of
153 supplies, and services to promote economic and efficient administration
154 and operation of the department and of each agency within the
155 department. Supervision by the director of the department under a
156 type II transfer shall not extend to substantive matters relative to
157 policies, regulative functions, or appeals from decisions of the
158 transferred department, division, agency, board, commission, unit, or
159 program, unless specifically provided by law. The method of
160 appointment under type II transfer will remain unchanged unless
161 specifically altered by this act or later acts.

162 (c) Under this act a "type III transfer" is the transfer of a
163 department, division, agency, board, commission, unit, or program to
164 the new department with only such supervision by the head of the
165 department for budgeting and reporting as provided under

166 subdivisions (4) and (5) of subsection 6 of this section and any other
167 supervision specifically provided in this act or later acts. Such
168 supervisions shall not extend to substantive matters relating to
169 policies, regulative functions or appeals from decisions of the
170 department, division, agency, board, or commission unless otherwise
171 provided by this act or later acts. The method of appointment under
172 type III transfer will remain unchanged unless specifically altered by
173 this act or later acts.

174 (d) Under this act a specific type transfer is any transfer other
175 than type I, type II and type III transfers.

176 (e) All references in this act are to the whole department,
177 division, agency, board, commission, unit, or program of state
178 government or all the chapters or sections of the statutes named except
179 any sections, part of sections, parts of chapters, or parts of the
180 department, division, agency, board, commission, unit, or program
181 otherwise transferred by other provisions of this act.

182 (2) Heads of departments or agencies affected shall prepare
183 orderly transfer arrangements relating to personnel, equipment, other
184 property and matters pending, and they shall prepare a formal transfer
185 agreement which shall not go into effect until approved by the
186 commissioner of administration. Unencumbered appropriation
187 balances in whole or in part may be transferred on approval of the
188 governor and the state fiscal affairs committee. Copies of all transfer
189 agreements and approved transfers of appropriation balances shall be
190 filed in the office of the state fiscal affairs committee, office of the
191 revisor of statutes, office of administration and the secretary of state's
192 office, and such copies shall be available in those offices for public
193 inspection.

194 (3) Any matter pending before any department or agency on the
195 effective date of transfer shall be assumed by the department or agency
196 which will exercise the duty or power relating to the matter after the
197 effective date of transfer and there shall be no interruption of process
198 in such a transfer. All rules, forms, and procedures will remain
199 unchanged for a period of ninety days following transition and then
200 may be changed only as provided by law, the transfer agreement, or by
201 executive order.

202 8. (1) The transfers provided by this act shall be effected by

203 **June 30, 1974, by executive order of the governor in accord with the**
204 **provisions of this act and subject to filing required transfer**
205 **agreements, the appointment of officers, approval of transfer of**
206 **appropriations, and the approval of the commissioner of**
207 **administration. The governor shall appoint the heads of the**
208 **departments as soon as is possible, after the effective date of this**
209 **act. The period from the effective date of this act to the date of**
210 **transfer shall be devoted to planning and arranging the transition and**
211 **in establishing the internal structure of each department to insure the**
212 **uninterrupted operations of state government. During the transition**
213 **period, officers appointed to new departments may also serve in**
214 **positions in existing agencies but shall receive only the compensation**
215 **provided for the new position to which they will serve after transfer.**
216 **If at any time positions in the executive branch are transferred to**
217 **coverage under chapter 36, all incumbents of such positions with at**
218 **least twelve months of prior service on the effective date of this act**
219 **shall have incumbency preference and shall be permitted to retain**
220 **their positions provided they meet qualification standards acceptable**
221 **to the personnel division of the office of administration. An employee**
222 **with less than twelve months of prior service on the effective date of**
223 **this act or an employee who is appointed to such a position after the**
224 **effective date of this act and prior to the classification and allocation**
225 **of the position by the personnel division shall be permitted to retain**
226 **his position providing he meets acceptable qualification standards and**
227 **subject to successful completion of a working test period which shall**
228 **not exceed twelve months of total service in the position. After the**
229 **allocation of any position to an established classification, such position**
230 **shall thereafter be filled only in accordance with all the provisions of**
231 **chapter 36.**

232 **(2) All expenditures of state funds by any department, division,**
233 **or other agency within the executive branch of state government shall**
234 **be made only in the amounts and for the purposes as directed by the**
235 **general assembly in the act appropriating the money to the department,**
236 **division, or other agency, except as provided in subsection 6,**
237 **subparagraph (2) and subsection 9 of this section.**

238 **9. In establishing the positions and supporting staff of each**
239 **department created by this act, the costs of such positions and**

240 operations will be met as far as possible by utilizing funds for existing
241 positions or funds available from vacant positions within the
242 appropriations of the departments, divisions, agencies, boards,
243 commissions, units, or programs assigned to the department.

244 10. In financing the administrative transfers provided in this act
245 it is the intent of the general assembly to respect the segregation of
246 funding provided by the constitution or law.

247 11. Nothing in this act shall be interpreted as transferring any
248 employee from one state pension or retirement system to another.

249 12. The governor is authorized to create by executive order such
250 advisory councils or committees as may be required to conform with
251 requirements to receive federal grants, provided that such executive
252 orders shall be submitted as provided in sections 26.500 to 26.540,
253 except that such executive orders shall be effective immediately, but
254 will be void if a resolution to disapprove is adopted by either house of
255 the general assembly as provided in sections 26.500 to 26.540. The head
256 of the department shall appoint all members of such advisory councils
257 unless federal law or regulation or this act requires otherwise, in which
258 case they shall be subject to the federal requirement as shall be
259 provided by executive order. Members of such advisory councils shall
260 be allowed only reimbursement for their actual and necessary expenses
261 from the appropriations made to the department or agency to which
262 they render advice. All advisory councils or committees shall annually
263 make a report on their activities to the director of the department
264 including all recommendations. A copy of each such report shall be
265 transmitted by the advisory committee to the governor and to the
266 legislative library.

267 13. If any matter, relating only to assignment of agencies,
268 programs, or operations, is left unresolved by this act, or must be
269 adjusted to conform with federal law or regulation to receive federal
270 aids, the governor may by executive order resolve the matter; provided
271 that such executive orders shall be submitted, as provided in sections
272 26.500 to 26.540, except that such executive orders shall be effective
273 immediately, but will be void if a resolution to disapprove is adopted
274 by either house of the general assembly as provided in sections 26.500
275 to 26.540.

276 14. (1) Unless otherwise provided, where this act establishes a

277 method of appointment other than presently provided by law, those
278 persons serving terms fixed by law shall serve out the remainder of the
279 term for which they were appointed and on the expiration of terms,
280 after July 1, 1974, the appointment shall be made as provided
281 herein. The qualifications, terms, compensation, and related matters
282 will remain as in present law except as specifically altered by this act.

283 (2) All department heads, directors of departments, members of
284 boards and commissions, and such other officers as directed by law
285 shall qualify for their office by taking an oath to support the
286 Constitution of the United States and the Constitution of the state of
287 Missouri and to faithfully demean himself, in the office to which he has
288 been appointed.

289 15. (1) Where this act changes titles or eliminates positions,
290 departments, divisions, commissions, boards, agencies, or units, the
291 office as changed or the position assuming the duties of abolished
292 positions, departments, divisions, commissions, boards, agencies, or
293 units shall fulfill all duties, serve in all ex officio capacities and in
294 every way be read into the law as the official or agency named as
295 successor unless otherwise provided by this act. Where this act
296 changes the method of appointment of officials, said provision also
297 requires that any reports to be rendered be rendered to the authority
298 making the appointment unless otherwise provided herein.

299 (2) All officers or employees shall be bonded, as required by law
300 or by the governor by executive order. The commissioner of
301 administration shall have the authority, however, to place all elected
302 or appointed officers or employees, required to be bonded, under a
303 blanket bond to the extent feasible. All bonds, blanket or individual,
304 shall be obtained on the basis of competitive bidding.

305 16. The staff of the committee on legislative research shall
306 prepare reorganization-revision bills to be submitted to the eightieth
307 general assembly to revise the statutes so as to reflect the changes
308 made by or pursuant to this act and shall, for consideration of the
309 eightieth general assembly, prepare such other reorganization-revision
310 bills as may be found to be necessary to meet the requirements of the
311 amendment to the constitution adopted August 8, 1972, and this act;
312 except that the committee on legislative research shall use fully section
313 3.060, where it will suffice. At such time as all statutory revision

314 **changes required pursuant to this act have gone into effect the revisor**
315 **of statutes may prepare legislation to repeal this act.**

316 **17. For the purposes of this section, the phrase "this act" shall**
317 **also refer to sections 32.028, 37.005, 161.020, 173.005, 226.005, 226.007,**
318 **252.002, 261.023, 286.005, 630.003, 640.010, 650.005, and 660.010.**

319 **18. The revisor of statutes is hereby directed to change all**
320 **references to "section 1 of the Omnibus State Reorganization Act of**
321 **1974" in the revised statutes to "section 26.900".**

217.035. The director shall have the authority to:

2 (1) Establish, with approval of the governor, the internal organization of
3 the department and file the plan thereof with the secretary of state in the manner
4 in which administrative rules are filed, the commissioner of administration and
5 the revisor of statutes;

6 (2) Exclusively prepare the budgets of the department and each division
7 within the department in the form and manner set out by statute or by the
8 commissioner of administration;

9 (3) [Designate by written order filed with the governor, the president pro
10 tem of the senate, and the chairman of the joint committee on corrections, a
11 deputy director of the department to act for and exercise the powers of the
12 director during the director's absence for official business, vacation, illness or
13 incapacity. The deputy director shall serve as acting director no longer than six
14 months; however, after the deputy director has acted as director for longer than
15 thirty days the deputy director shall receive compensation equal to that of the
16 director;

17 (4) Procure, either through the division of purchasing or by other means
18 authorized by law, supplies, material, equipment or contractual services for the
19 department and each of its divisions;

20 [(5)] (4) Establish policy for the department and each of its divisions;

21 [(6)] (5) Designate any responsibilities, duties and powers given by
22 sections 217.010, 217.810, 558.011 and 558.026 to the department or the
23 department director to any division or division director.

[374.080. 1. The director may appoint a deputy, who shall
2 be subject to removal at pleasure by the director, and who shall
3 possess all the powers and perform all the duties attached by law
4 to the office of director during a vacancy in the office, and during
5 the absence, inability or suspension of his principal. The director

6 shall be responsible for the acts of his deputy, who shall, before
7 entering upon the duties of his office, take the oath and be bonded
8 as required of the director in section 374.030. The deputy director
9 shall assist the director in the administration of the department,
10 and perform such duties and have such powers as the director may
11 direct.

12 2. In the event there is an absence of the director and no
13 deputy has been appointed, the governor shall appoint the acting
14 director from among the division directors within the department.]

Unofficial



Bill

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