

# APPENDIX B

## REORGANIZATION ACT OF 1974

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Sec.

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**Section 1. General provisions.** — 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 service to the citizens of the state and for the most efficient and economical operations possible in the administration of the executive branch of state government. All officers and employees of the state government are directed to implement this act in accord with this purpose.

5. (1) Except as otherwise provided by this act, or the state constitution, all executive and

administrative powers, duties and functions, excepting those of the elective offices, previously vested by law or otherwise in the several state departments, commissions, boards, offices, bureaus, divisions or other agencies are vested in the following administrative departments or in the office of administration: department of agriculture; department of conservation; department of elementary and secondary education; department of higher education; department of highways and transportation; department of labor and industrial relations; department of natural resources; department of mental health; department of public safety; department of revenue; department of social services.

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

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

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

June 30, 1974, for the initial reorganization, and shall be effective when filed, unless the plan provides otherwise. Thereafter, any plan of reorganization shall be filed on or before December thirty-first of each year and shall become effective, as applicable to departments, divisions, agencies, boards, commissions, units or programs transferred by type II or type III transfers as provided in this act, only as provided in sections 26.500 to 26.540, RSMo, except as herein provided in subsections 12 and 13 of section 1. The plan shall provide for the level of compensation for division and other administrative positions, subject to appropriations therefor. The head of any department may cooperate with the head of any other department in the interchange of personnel, joint use of equipment and generally in any manner promoting the more effective and efficient rendering of service. The purpose of appropriations made to any department in the executive branch of government shall not be altered without the prior approval of the fiscal affairs committee and the concurrence of the commissioner of administration.

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

(4) (a) The head of each department, unless otherwise provided by this act, shall have exclusive budget-making powers for the department and for each division, commission, board, unit or other agency within the department. The head of the department shall submit estimates of requirements for appropriations on behalf of the department and each division, commission, board, unit or other agency within the department, as provided by section 33.220, RSMo. Each division, commission, board, unit or other agency within the department shall present its estimate of requirements to the department head each year at or before such time as the head of the department directs. The department head shall review each estimate submitted to it and may modify any estimate. The department head shall consolidate all estimates or requirements for appropriations and prepare an estimate for submission on behalf

of the department and each division, commission, board, unit or other agency within the department, subject to the form prescribed by section 33.220, RSMo.

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

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

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

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

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

(a) Under this act a "**type I transfer**" is the transfer to the new department or division of all the authority, powers, duties, functions, records, personnel, property, matters pending and all

other pertinent vestiges of the existing department, division, agency, board, commission, unit, or program to the director of the designated department or division for assimilation and assignment within the department or division as he shall determine, to provide maximum efficiency, economy of operation and optimum service. All rules, orders and related matter of such transferred operations shall be made under direction of the director of the new department.

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

(c) Under this act a **"type III transfer"** is the transfer of a department, division, agency, board, commission, unit or program to the new department with only such supervision by the head of the department for budgeting and reporting as provided under subdivisions (4) and (5) of subsection 6 of this section and any other supervision specifically provided in this act or later acts. Such supervisions shall not extend to substantive matters relating to policies, regulative functions or appeals from decisions of the depart-

ment, division, agency, board, or commission unless otherwise provided by this act or later acts. The method of appointment under type III transfer will remain unchanged unless specifically altered by this act or later acts.

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

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

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

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

8. (1) The transfers provided by this act shall be effected by June 30, 1974, by executive order of the governor in accord with the provisions of this act and subject to filing required transfer agreements, the appointment of officers, approval of transfer of appropriations and the approval of the commissioner of administration. The governor shall appoint the heads of the departments as soon as is possible, after the effective date of this act. The period from the

effective date of this act to the date of transfer shall be devoted to planning and arranging the transition and in establishing the internal structure of each department to insure the uninterrupted operations of state government. During the transition period, officers appointed to new departments may also serve in positions in existing agencies but shall receive only the compensation provided for the new position to which they will serve after transfer. If at any time positions in the executive branch are transferred to coverage under chapter 36, RSMo, all incumbents of such positions with at least twelve months of prior service on the effective date of this act shall have incumbency preference and shall be permitted to retain their positions provided they meet qualification standards acceptable to the personnel division of the office of administration. An employee with less than twelve months of prior service on the effective date of this act or an employee who is appointed to such a position after the effective date of this act and prior to the classification and allocation of the position by the personnel division shall be permitted to retain his position providing he meets acceptable qualification standards and subject to successful completion of a working test period which shall not exceed twelve months of total service in the position. After the allocation of any position to an established classification, such position shall thereafter be filled only in accordance with all the provisions of chapter 36, RSMo.

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

9. In establishing the positions and supporting staff of each department created by this act, the costs of such positions and operations will be met as far as possible by utilizing funds for existing positions or funds available from vacant positions within the appropriations of the departments, divisions, agencies, boards, commissions, units or programs assigned to the department.

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

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

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

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

14. (1) Unless otherwise provided, where this act establishes a method of appointment other than presently provided by law, those persons serving terms fixed by law shall serve out the remainder of the term for which they were appointed and on the expiration of terms, after July 1, 1974, the appointment shall be made as provided herein. The qualifications, terms, compensation and related matters will remain as in present law except as specifically altered by this act.

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

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

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

16. The staff of the committee on legislative research shall prepare reorganization-revision bills to be submitted to the eightieth general assembly to revise the statutes so as to reflect the changes made by or pursuant to this act and shall, for consideration of the eightieth general assembly, prepare such other reorganization-revision bills as may be found to be necessary to meet the requirements of the amendment to the constitution adopted August 8, 1972, and this act; except that the committee on legislative research shall use fully section 3.060, RSMo, where it will suffice. At such time as all statutory revision changes required pursuant to this act have gone into effect the revisor of statutes may prepare legislation to repeal this act.

(L.1973 1st Ex. Sess. S.B. 1, A.L. 1977 H.B. 841, A.L. 1980 S.B. 517)

\*Word "as" appears in original rolls.

(1976) Transfer of appropriations by commissioner of administration with the authorization of the fiscal affairs committee is unconstitutional and violates Art. III, § 36, Const. of Mo. State ex inf. Danforth v. Merrell (Mo.), 530 S.W.2d 209.

**Section 2. Department of agriculture.** — Transferred to Section 261.023

**Section 3. Department of conservation.** — Transferred to Section 252.002

**\*Section 4. Department of economic development.** — Section 4 was repealed and reenacted by Senate Bill 16 1st Regular Session of the 81st G.A. and has been assigned section number 620.010 in chapter 620, RSMo.

\*Changed 1984, to Department of Economic Development by reason of amendment of the Mo. Constitution Art. IV §§ 12, 36(a).

**Section 5. Department of elementary and secondary education.** — Transferred to Section 161.020

**Section 6. Department of higher education.** — Section 6 was repealed and reenacted by Senate Bill 113 1st Regular Session of the 82nd G.A. and has been assigned section number 173.005 in chapter 173, RSMo.

**\*Section 7. Department of highways and transportation.** — Transferred to Section 226.005

\*Changed Nov. 6, 1979, to Highways and Transportation by reason of amendment of the Mo. Constitution Art. IV § 12.

**Section 8. Department of labor and industrial relations.** — Section 8 was repealed and reenacted by Senate Bill 389 1st Regular Session of the 81st G.A. and has been assigned section number 286.005 in chapter 286, RSMo.

**Section 9. Department of mental health.** — Transferred to Section 630.003

**Section 10. Department of natural resources.** — Transferred to Section 640.010

**Section 11. Department of public safety.** — Section 11 was repealed and reenacted by H.B. 140 1st Reg. Sess. of 83rd G.A. and has been assigned section number 650.005 in Chap. 650, RSMo.

Adjutant general, *see* 650.005

Fire marshal, state, *see* 650.005

Highway patrol, state, *see* 650.005

Highway safety, *see* 650.005

Liquor control, supervisor, *see* 650.005

Militia, state, *see* 650.005

Public safety, department of, created, *see* 650.005

Division of veterans' affairs, *see* reorganization plan no. 3, February 4, 1981, appendix A, for transfer of division to department of public safety, adjutant general.

Water safety, division of, *see* 650.005

**Section 12. Department of revenue.** —  
Transferred to Section 32.028

\*Department of Transportation was merged with the highway department by constitutional amendment Art. III § 29 Nov. 6, 1979.

**Section 13. Department of social services.**  
— Section 13 was repealed and reenacted by Senate Bill 717 Second Regular Session of the 81st G.A. and has been assigned section number 660.010 in chapter 660, RSMo.

Effective 4-7-82

**\*Section 14. Department of transportation.**  
— Transferred to Section 226.007

**Section 15. Office of administration.** —  
Section 15 was repealed and reenacted by House Bill 353 1st Regular Session of the 82nd G.A. and has been assigned section number 37.005 in chapter 37, RSMo.

**Cross Reference**

Personnel advisory board transferred to office of administration, RSMo 36.050