

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1868
95TH GENERAL ASSEMBLY

4774L.06T

2010

AN ACT

To repeal sections 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 43.040, 43.050, 58.445, 105.055, 109.250, 208.215, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 542.261, 544.157, 577.090, 621.015, 630.060, and 650.005, RSMo, and to enact in lieu thereof thirty-seven new sections relating to duties of agencies and officials operating within the executive branch, with penalty provisions.

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

Section A. Sections 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 43.040, 43.050, 58.445, 105.055, 109.250, 208.215, 301.716, 306.010, 306.161, 306.163, 306.165, 306.167, 306.168, 306.185, 306.227, 306.228, 306.229, 306.230, 306.232, 542.261, 544.157, 577.090, 621.015, 630.060, and 650.005, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 8.016, 21.910, 23.156, 34.047, 36.031, 36.050, 36.060, 36.150, 36.280, 36.370, 36.380, 36.390, 36.400, 37.320, 37.900, 43.040, 43.050, 43.390, 58.445, 104.810, 105.055, 109.250, 208.215, 301.716, 306.010, 306.165, 306.167, 306.168, 306.185, 542.261, 544.157, 577.090, 621.015, 621.075, 630.060, 650.005, and 1, to read as follows:

8.016. 1. The commissioner of the office of administration shall provide each member of the senate and each member of the house of representatives with a key that accesses the dome of the state capitol.

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.

4 **2. The president pro tem of the senate and the speaker of the house of**
5 **representatives shall be responsible for providing a training program for the members and**
6 **staff of the general assembly regarding access to secured areas of the capitol building.**
7 **They may consult with the office of administration and department of public safety when**
8 **developing such program.**

21.910. 1. There is hereby created the "Joint Committee on the Reduction and
2 **Reorganization of Programs within State Government". The committee shall be composed**
3 **of thirteen members as follows:**

4 **(1) Three majority party members and two minority party members of the senate,**
5 **to be appointed by the president pro tem of the senate;**

6 **(2) Three majority party members and two minority party members of the house**
7 **of representatives, to be appointed by the speaker of the house of representatives;**

8 **(3) The commissioner of the office of administration, or his or her designee;**

9 **(4) A representative of the governor's office; and**

10 **(5) A supreme court judge, or his or her designee, as selected by the Missouri**
11 **supreme court.**

12 **2. The committee shall study programs within every department that should be**
13 **eliminated, reduced, or combined with another program or programs. As used in this**
14 **section, the term "program" shall have the same meaning as in section 23.253.**

15 **3. In order to assist the committee with its responsibilities under this section, each**
16 **department shall comply with any request for information made by the committee with**
17 **regard to any programs administered by such department.**

18 **4. The members of the committee shall elect a chairperson and vice chairperson.**

19 **5. The committee shall submit a report to the general assembly by December 31,**
20 **2010, and such report shall contain any recommendations of the committee for eliminating,**
21 **reducing, or combining any program with another program or programs in the same or**
22 **a different department.**

23 **6. The provisions of this section shall expire on January 1, 2011.**

23.156. 1. Every employee of the oversight division of the joint committee on
2 **legislative research shall, before entering upon his or her duties, take and file in the offices**
3 **of the secretary of the senate and the chief clerk of the house of representatives an oath:**

4 **(1) To support the constitution of the state, to faithfully demean himself or herself**
5 **in office;**

6 **(2) To not disclose to any unauthorized person any information furnished by any**
7 **state department, state agency, political subdivision, or instrumentality of the state; and**

8 **(3) To not accept as presents or emoluments any pay, directly or indirectly, for the**
9 **discharge of any act in the line of his or her duty other than the remuneration fixed and**
10 **accorded to the employee by law.**

11 **2. For any violation of his or her oath of office or of any duty imposed upon him**
12 **or her by this section, any employee shall be guilty of a class A misdemeanor.**

34.047. Notwithstanding any provision in section 34.040, section 34.100, or any
2 **other law to the contrary, departments shall have the authority to purchase products and**
3 **services related to information technology when the estimated expenditure of such**
4 **purchase shall not exceed seventy-five thousand dollars, the length of any contract or**
5 **agreement does not exceed twelve months, the department complies with the informal**
6 **methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for**
7 **expenditures of less than twenty-five thousand dollars, and the department posts notice of**
8 **such proposed purchase on the online bidding/vendor registration system maintained by**
9 **the office of administration. For the purposes of this section, "information technology"**
10 **shall mean any computer or electronic information equipment or interconnected system**
11 **that is used in the acquisition, storage, manipulation, management, movement, control,**
12 **display, switching, interchange, transmission, or reception of information, including audio,**
13 **graphic, and text.**

 36.031. Any provision of law to the contrary notwithstanding, except for the elective
2 offices, institutions of higher learning, the department of transportation, the department of
3 conservation, those positions in the Missouri state highway patrol the compensation of which is
4 established by subdivision (2) of subsection 2 of section 43.030, RSMo, and section 43.080,
5 RSMo, [those positions in the Missouri state water patrol the compensation of which is
6 established by section 306.229, RSMo,] those positions in the division of finance and the
7 division of credit unions compensated through a dedicated fund obtained from assessments and
8 license fees under sections 361.170 and 370.107, RSMo, and those positions for which the
9 constitution specifically provides the method of selection, classification, or compensation, and
10 the positions specified in subsection 1 of section 36.030, but including attorneys, those
11 departments, agencies and positions of the executive branch of state government which have not
12 been subject to these provisions of the state personnel law shall be subject to the provisions of
13 sections 36.100, 36.110, 36.120 and 36.130, and the regulations adopted pursuant to sections
14 36.100, 36.110, 36.120 and 36.130 which relate to the preparation, adoption and maintenance
15 of a position classification plan, the establishment and allocation of positions within the
16 classification plan and the use of appropriate class titles in official records, vouchers, payrolls
17 and communications. Any provision of law which confers upon any official or agency subject
18 to the provisions of this section the authority to appoint, classify or establish compensation for

19 employees shall mean the exercise of such authority subject to the provisions of this section.
20 This section shall not extend coverage of any section of this chapter, except those specifically
21 named in this section, to any agency or employee. In accordance with sections 36.100, 36.110,
22 36.120 and 36.130, and after consultation with appointing authorities, the director of the division
23 of personnel shall conduct such job studies and job reviews and establish such additional new
24 and revised job classes as the director finds necessary for appropriate classification of the
25 positions involved. Such classifications and the allocation of positions to classes shall be
26 maintained on a current basis by the division of personnel. The director of the division of
27 personnel shall, at the same time, notify all affected agencies of the appropriate assignment of
28 each job classification to one of the salary ranges within the pay plan then applicable to merit
29 system agencies. The affected agencies and employees in the classifications set pursuant to this
30 section shall be subject to the pay plan and rates of compensation established and administered
31 in accordance with the provisions of this section, and the regulations adopted pursuant to this
32 section, on the same basis as for merit agency employees. In addition, any elected official,
33 institution of higher learning, the department of transportation, the department of conservation,
34 the general assembly, or any judge who is the chief administrative officer of the judicial branch
35 of state government may request the division of personnel to study salaries within the requestor's
36 office, department or branch of state government for classification purposes.

36.050. 1. The personnel advisory board and its functions, duties and powers prescribed
2 in this chapter is transferred by type III transfer to the office of administration.

3 2. The personnel advisory board shall consist of seven members. Four members of the
4 board shall be public members, citizens of the state who are not state employees or officials, of
5 good character and reputation, who are known to be in sympathy with the application of merit
6 principles to public employment. Two members shall be employees of state agencies covered
7 by section 36.030 or section 36.031, one a member of executive management, and one a
8 nonmanagement employee. [Members who are employees shall not participate in disciplinary
9 appeal decisions from their agencies.] The state equal employment opportunity officer shall be
10 a member of the board. No member of the board, during the member's term of office, or for at
11 least one year prior thereto, shall be a member of any local, state or national committee of a
12 political party or an officer or member of a committee in any partisan political club or
13 organization, or hold, or be a candidate for, a partisan public office. An employee member who
14 leaves state employment or otherwise fails to further qualify for the appointment shall vacate the
15 position.

16 3. The members of the board shall be appointed by the governor by and with the advice
17 and consent of the senate. The three current members of the board serving terms which expire
18 July 31, 1998, July 31, 2000, and July 31, 2002, shall continue to serve for the terms for which

19 they were previously appointed. One new public member shall be appointed for a term ending
20 July 31, 1998, one employee member shall be appointed for a term ending July 31, 2000, and one
21 employee member shall be appointed for a term ending July 31, 2002. Thereafter, appointments
22 of all members shall be for terms of six years. Any vacancy shall be filled by an appointment
23 for the unexpired term. Each member of the board shall hold office until such member's
24 successor is appointed and qualified.

25 4. A member of the board is removable by the governor only for just cause, after being
26 given a written notice setting forth in substantial detail the charges against the member and an
27 opportunity to be heard publicly on the charges before the governor. A copy of the charges and
28 a transcript of the record of the hearing shall be filed with the secretary of state.

29 5. Each public member of the board shall be paid an amount for each day devoted to the
30 work of the board which shall be determined by the commissioner of administration and filed
31 with the reorganization plan of the office of administration; provided, however, that such amount
32 shall not exceed that paid to members of boards and commissions with comparable
33 responsibilities. All board members are entitled to reimbursement for necessary travel and other
34 expenses pertaining to the duties of the board. Duties performed for the board by any employee
35 member of the board shall be considered duties in connection with the appointment of the
36 individual, and such employee member shall suffer no loss of regular compensation by reason
37 of performance of such duties.

38 6. The board shall elect from among its membership a chairman and vice chairman, who
39 shall act as chairman in the chairman's absence. It shall meet at the times and places specified
40 by call of the chairman, the governor, or the director. At least one meeting shall be held every
41 three months. All regular meetings are open to the public. Notice of each meeting shall be given
42 in writing to each member by the director. Two members shall constitute a quorum until January
43 1, 1997, thereafter, four members shall constitute a quorum for the transaction of official
44 business.

45 7. To assist in the performance of its duties the board may employ staff from funds
46 appropriated for this purpose; provided, however, that this provision shall not be interpreted to
47 limit the ability of the personnel director to provide assistance to the board.

36.060. 1. In addition to the duties imposed upon it elsewhere in this chapter, it shall
2 be the duty of the board:

3 (1) [To conduct hearings and render decisions on appeals as provided in this act;

4 (2)] To make any investigation which it may consider desirable concerning the
5 administration of personnel subject to this law;

6 [(3)] (2) To hold regular meetings with appointing authorities to propose methods of
7 resolving general personnel problems;

8 [(4)] (3) To make annual reports, and such special reports as it considers desirable, to
9 the governor and the general assembly regarding personnel administration in the state service and
10 recommendations there. These special reports shall evaluate the effectiveness of the personnel
11 division and the appointing authority in their operations under this law;

12 [(5)] (4) To make such suggestions and recommendations to the governor and the
13 director relating to the state's employment policies as will promote morale, efficiency and
14 uniformity in compensation of the various employees in the state service;

15 [(6)] (5) To promulgate rules and regulations to ensure that no applicant or employee is
16 discriminated against on the basis of race, creed, color, religion, national origin, sex, ancestry or
17 handicap.

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

 36.150. 1. Every appointment or promotion to a position covered by this chapter shall
2 be made on the basis of merit as provided in this chapter. Demotions in and dismissals from
3 employment shall be made for cause under rules and regulations of the board uniformly
4 applicable to all positions of employment. No appointment, promotion, demotion or dismissal
5 shall be made because of favoritism, prejudice or discrimination. The regulations shall prohibit
6 discrimination in other phases of employment and personnel administration and shall provide
7 such remedy as is required by federal merit system standards for grant-in-aid programs [and is
8 not provided in chapter 296, RSMo].

9 2. Political endorsements shall not be considered in connection with any such
10 appointment.

11 3. No person shall use or promise to use, directly or indirectly, for any consideration
12 whatsoever, any official authority or influence to secure or attempt to secure for any person an
13 appointment or advantage in appointment to any such position or an increase in pay, promotion
14 or other advantage in employment.

15 4. No person shall in any manner levy or solicit any financial assistance or subscription
16 for any political party, candidate, political fund, or publication, or for any other political purpose,
17 from any employee in a position subject to this chapter, and no such employee shall act as agent
18 in receiving or accepting any such financial contribution, subscription, or assignment of pay. No
19 person shall use, or threaten to use, coercive means to compel an employee to give such
20 assistance, subscription, or support, nor in retaliation for the employee's failure to do so.

21 5. No such employee shall be a candidate for nomination or election to any partisan
22 public office or nonpartisan office in conflict with that employee's duties unless such person
23 resigns, or obtains a regularly granted leave of absence, from such person's position.

24 6. No person elected to partisan public office shall, while holding such office, be
25 appointed to any position covered by this chapter.

26 7. Any officer or employee in a position subject to this chapter who purposefully violates
27 any of the provisions of this section shall forfeit such office or position. If an appointing
28 authority finds that such a violation has occurred, or is so notified by the director, this shall
29 constitute cause for dismissal pursuant to section 36.390 and a final determination by the [board]
30 **administrative hearing commission** as to the occurrence of a violation.

 36.280. 1. An appointing authority may at any time assign an employee from one
2 position to another position in the same class in the appointing authority's division; except that,
3 transfers of employees made because of a layoff, or shortage of work or funds which might
4 require a layoff, shall be governed by the regulations. Upon making such an assignment the
5 appointing authority shall forthwith give written notice of the appointing authority's action to the
6 director. A transfer of an employee from a position in one division to a position in the same
7 class in another division may be made with the approval of the director and of the appointing
8 authorities of both divisions. No employee shall be transferred from a position in one class to
9 a position in another class of a higher rank or for which there are substantially dissimilar
10 requirements for appointment unless the employee is appointed to such latter position after
11 certification of the employee's name from a register in accordance with the provisions of this
12 chapter. Any change of an employee from a position in one class to a position in a class of lower
13 rank shall be considered a demotion and shall be made only in accordance with the procedure
14 prescribed by section 36.380 for cases of dismissal. An employee thus involuntarily demoted
15 shall have the right to appeal to the [board] **administrative hearing commission** pursuant to
16 section 36.390.

17 2. An employee who has successfully served at least one year in a position not subject
18 to subsection 1 of section 36.030, but which is subject to section 36.031, may be transferred to
19 a position subject to subsection 1 of section 36.030 in the same class with the approval of the
20 director and of the appointing authorities of both divisions, provided he or she possesses the
21 qualifications and has successfully completed a noncompetitive examination for the position
22 involved.

 36.370. 1. An appointing authority may, for disciplinary purposes, suspend without pay
2 any employee in his division for such length of time as he considers appropriate, not exceeding
3 twenty working days in any twelve-month period except that this limitation shall not apply in the
4 event of a terminal suspension given in conjunction with a dismissal. In case of a suspension,
5 the director shall be furnished with a statement in writing specifically setting forth the reasons
6 for such suspension. Upon request, a copy of such statement shall be furnished to such
7 employee. With the approval of the director, any employee may be suspended for a longer period

8 pending the investigation or trial of any charges against him. Any regular employee who is
9 suspended for more than five working days shall have the right to appeal to the [board]
10 **administrative hearing commission** as provided under section 36.390.

11 2. An appointing authority may not suspend without pay any employee in his division
12 who is a member of the national guard and is engaged in the performance of duty or training in
13 the service of this state at the call of the governor and as ordered by the adjutant general, but
14 shall grant a leave of absence from duty without loss of time, pay, regular leave, impairment of
15 efficiency rating, or of any other rights or benefits, to which otherwise entitled, and shall pay that
16 employee his salary or compensation for the entire period of absence for that purpose.

36.380. An appointing authority may dismiss for cause any employee in his division
2 occupying a position subject hereto when he considers that such action is required in the interests
3 of efficient administration and that the good of the service will be served thereby. No dismissal
4 of a regular employee shall take effect unless, prior to the effective date thereof, the appointing
5 authority gives to such employee a written statement setting forth in substance the reason
6 therefor and files a copy of such statement with the director. When it is not practicable to give
7 the notice of dismissal to an employee in person, it may be sent to the employee by certified or
8 registered mail, return receipt requested, at his last mailing address as shown in the personnel
9 records of the appointing authority. Proof of refusal of the employee to accept delivery or the
10 inability of postal authorities to deliver such mail shall be accepted as evidence that the required
11 notice of dismissal has been given. If the director determines that the statement of reasons for
12 the dismissal given by the appointing authority shows that such dismissal does not reflect
13 discredit on the character or conduct of the employee, he may, upon request of the employee,
14 approve reemployment under section 36.240, in any class in which the employee has held regular
15 status. Any regular employee who is dismissed shall have the right to appeal to the [board]
16 **administrative hearing commission** as provided under section 36.390.

36.390. 1. An applicant whose request for admission to any examination has been
2 rejected by the director may appeal to the [board] **administrative hearing commission** in
3 writing within fifteen days of the mailing of the notice of rejection by the director, and in any
4 event before the holding of the examination. The [board's] **commission's** decision on all matters
5 of fact shall be final.

6 2. Applicants may be admitted to an examination pending a consideration of the appeal,
7 but such admission shall not constitute the assurance of a passing grade in education and
8 experience.

9 3. Any applicant who has taken an examination and who feels that he or she has not been
10 dealt with fairly in any phase of the examination process may request that the director review his
11 or her case. Such request for review of any examination shall be filed in writing with the director

12 within [thirty] **fifteen** days after the date on which notification of the results of the examination
13 was mailed to the applicant. A candidate may appeal the decision of the director in writing to
14 the [board] **administrative hearing commission**. This appeal shall be filed with the [board]
15 **administrative hearing commission** within [thirty] **fifteen** days after date on which notification
16 of the decision of the director was mailed to the applicant. The [board's] **commission's** decision
17 with respect to any changes shall be final, and shall be entered in the minutes. A correction in
18 the rating shall not affect a certification or appointment which may have already been made from
19 the register.

20 4. An eligible whose name has been removed from a register for any of the reasons
21 specified in section 36.180 or in section 36.240 may appeal to the [board] **administrative**
22 **hearing commission** for reconsideration. Such appeal shall be filed in writing [at] **with** the
23 [office of the director] **administrative hearing commission** within [thirty] **fifteen** days after the
24 date on which notification was mailed to the [board] **eligible**. The [board] **commission**, after
25 investigation, shall make its decision which shall be recorded in the minutes and the eligible shall
26 be notified accordingly by the director.

27 5. Any regular employee who is dismissed or involuntarily demoted for cause or
28 suspended for more than five working days may appeal in writing to the [board] **administrative**
29 **hearing commission** within thirty days after the effective date thereof, setting forth in substance
30 the employee's reasons for claiming that the dismissal, suspension or demotion was for political,
31 religious, or racial reasons, or not for the good of the service. [Upon such appeal, both the
32 appealing employee and the appointing authority whose action is reviewed shall have the right
33 to be heard and to present evidence at a hearing which, at the request of the appealing employee,
34 shall be public. At the hearing of such appeals, technical rules of evidence shall not apply. After
35 the hearing and consideration of the evidence for and against a suspension, demotion, or
36 dismissal, the board shall approve or disapprove such action and may make any one of the
37 following appropriate orders:

38 (1) Order the reinstatement of the employee to the employee's former position;

39 (2) Sustain the dismissal of such employee;

40 (3) Except as provided in subdivisions (1) and (2) of this subsection, the board may
41 sustain the dismissal, but may order the director to recognize reemployment rights for the
42 dismissed employee pursuant to section 36.240, in an appropriate class or classes, or may take
43 steps to effect the transfer of such employee to an appropriate position in the same or another
44 division of service.

45 6. Any order by the board under subsection 5 of this section shall be a final decision on
46 the merits and may be appealed as provided in chapter 536, RSMo.

47 7. After an order of reinstatement has been issued and all parties have let the time for
48 appeal lapse or have filed an appeal and that appeal process has become final and the order of
49 reinstatement has been affirmed, the board shall commence a separate action to determine the
50 date of reinstatement and the amount of back pay owed to the employee. This action may be
51 done by hearing, or by affidavit, depositions, or stipulations, or by agreement on the amount of
52 back pay owed. If the parties cannot reach an agreement as to how the parties shall be heard on
53 this separate action, then the board shall decide on the method through its hearing officer. No
54 hearing will be public unless requested to be public by the employee.

55 8. The board shall establish such rules as may be necessary to give effect to the
56 provisions of this section. The rules may provide that the board or the chairman of the board
57 may delegate responsibility for the conduct of investigations and the hearing of appeals provided
58 pursuant to any section of this chapter to a member of the board or to a hearing officer designated
59 by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses,
60 compel the production of records pertinent to any hearing, and take any action in connection with
61 such hearing which the board itself is authorized to take by law other than making the final
62 decision and appropriate order. When the hearing has been completed, the individual board
63 member or the hearing officer who conducted the hearing shall prepare a summary thereof and
64 recommend a findings of fact, conclusions of law, decision and appropriate order for approval
65 of the board. The board may adopt such recommendations in whole or in part, require the
66 production of additional testimony, reassign the case for rehearing, or may itself conduct such
67 new or additional hearing as is deemed necessary prior to rendering a final decision. The board
68 may also establish rules which provide for alternative means of resolving one or more of the
69 types of appeals outlined in this section.]

70 [9.]6. The provisions for appeals provided in subsection 5 of this section for dismissals
71 of regular merit employees may be adopted by nonmerit agencies of the state for any or all
72 employees of such agencies.

73 [10.]7. Agencies not adopting the provisions for appeals provided in subsection 5 of this
74 section shall adopt dismissal procedures substantially similar to those provided for merit
75 employees. However, these procedures need not apply to employees in policy-making positions,
76 or to members of military or law enforcement agencies.

77 [11.]8. Hearings under this section shall be deemed to be a contested case and the
78 procedures applicable to the processing of such hearings and determinations shall be those
79 established by chapter 536, RSMo. Decisions of the [personnel advisory board] **administrative**
80 **hearing commission** shall be final and binding subject to appeal by either party. Final decisions
81 of the [personnel advisory board] **administrative hearing commission** pursuant to this

82 subsection shall be subject to review on the record by the circuit court pursuant to chapter 536,
83 RSMo.

36.400. The [board] **administrative hearing commission**, each [member of the board,]
2 **commissioner** and the director shall have power to administer oaths, subpoena witnesses, and
3 compel the production of books and papers pertinent to any investigation or hearing authorized
4 by this law. Any person who shall fail to appear in response to a subpoena or to answer any
5 question or produce any books or papers pertinent to any such investigation or hearing, or who
6 shall knowingly give false testimony therein, shall be guilty of a misdemeanor.

37.320. 1. The commissioner of administration shall appoint a director as the executive
2 head of the unit. The director must be experienced in the principles of information and forms
3 management, archives, and the affairs and organization of state government. **He or she** shall be
4 a person who is qualified by training and experience to administer the affairs of the unit.

5 2. The director shall appoint such staff as may be necessary to implement the provisions
6 of sections 37.300 to 37.390, 109.250 and 181.100 to 181.110, RSMo. All staff members shall
7 be appointed pursuant to the provisions of chapter 36, RSMo.

8 [3. The director shall also serve as an additional voting member of the state records
9 commission established by the provisions of section 109.250, RSMo.]

**37.900. 1. Any statewide elected official may request the office of administration
2 to determine the lowest and best bidder with respect to any contract for purchasing,
3 printing, or services for which the official has the authority to contract.**

4 **2. The official shall submit the original request for proposal and any pertinent
5 information explaining the evaluation criteria established in the request and any additional
6 information the official deems necessary.**

7 **3. The office of administration shall not be required to inquire of or negotiate with
8 any offeror submitting a bid and shall only be required to reply to the elected official
9 within forty-five days after the submission of the request by naming the offeror the office
10 of administration determines to be the lowest and best bidder based on all submitted
11 documents.**

43.040. The superintendent shall appoint from the membership of the patrol one
2 lieutenant colonel and [five] **six** majors, who shall have the same qualifications as the
3 superintendent, and who may be relieved of the rank of lieutenant colonel or major, as the case
4 may be, and the duties of the position by the superintendent at his pleasure.

43.050. 1. The superintendent may appoint not more than [twenty-five] **thirty-four**
2 captains and one director of radio, each of whom shall have the same qualifications as the
3 superintendent, nor more than [sixty] **sixty-eight** lieutenants, and such additional force of
4 sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not

5 exceed [nine hundred sixty-five] **one thousand sixty-four** officers and patrolmen and such
6 numbers of radio personnel as the superintendent deems necessary.

7 2. In case of a national emergency the superintendent may name additional patrolmen
8 and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel
9 called into military services.

10 3. The superintendent may enter into an agreement with the Missouri gaming
11 commission to enforce any law, rule, or regulation, conduct background investigations under the
12 laws of this state, and enforce the regulations of licensed gaming activities governed by chapter
13 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement
14 shall be in writing and executed not less than one year from the effective date of the termination
15 or modification, unless mutually agreed upon by the superintendent and the Missouri gaming
16 commission. Members of the patrol hired in conjunction with any agreement with the Missouri
17 gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this
18 section. If such agreement is subsequently terminated or modified to reduce the number of
19 personnel used in such agreement, those members affected by such termination or modification
20 shall not be subject to the personnel cap referenced in subsection 1 of this section for a period
21 of five years.

22 4. Member positions of the patrol originally acquired in conjunction with the
23 community-oriented policing services federal grant or members assigned to fulfill the duties
24 established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in
25 subsection 1 of this section.

26 5. Applicants shall not be discriminated against because of race, creed, color, national
27 origin or sex.

**43.390. 1. Notwithstanding the provisions of subsection 1 of section 43.025, there
2 is hereby created within the Missouri state highway patrol a "Division of Water Patrol".**

3 **2. The superintendent of the Missouri state highway patrol shall appoint a director
4 of the division of water patrol who shall be responsible for the operation of the division.**

5 **3. The superintendent of the Missouri state highway patrol may assign highway
6 patrol members under the superintendent's command to serve in the division of water
7 patrol on a permanent or temporary basis.**

8 **4. All officers assigned to the division of water patrol shall be vested with the
9 powers prescribed in sections 306.165, 306.167, and 306.168.**

10 **5. All salaries, expenses, and other costs relating to the assignment of Missouri state
11 highway patrol members to the division of water patrol shall be paid within the limits of
12 appropriations from general revenue, the Missouri state water patrol fund established in
13 section 306.185, or from such other funding as may be authorized by the general assembly.**

58.445. 1. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motor vehicle, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state highway patrol in writing. If any person within a coroner's or medical examiner's jurisdiction dies within eight hours of, and as a result of, an accident involving a motorized watercraft and was thought to have been the operator of such watercraft, the coroner or medical examiner shall report the death and circumstances of the accident to the Missouri state **highway patrol, water patrol division**, in writing. The report required by this subsection shall be made within five days of the conclusion of the tests required in subsection 2 of this section.

2. The coroner or medical examiner shall make, or cause to be made, such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the deceased. The results of these tests shall be included in the coroner's or medical examiner's report to the state highway patrol [or the Missouri state water patrol,] as required by subsection 1 of this section.

104.810. 1. Employees of the Missouri state water patrol who are earning creditable service in the closed plan of the Missouri state employees' retirement system and who are transferred to the division of water patrol with the Missouri state highway patrol shall elect within ninety days of January 1, 2011, to either remain a member of the Missouri state employees' retirement system or transfer membership and creditable service to the closed plan of the Missouri department of transportation and highway patrol employees' retirement system. The election shall be made in writing after the employee has received a detailed analysis comparing retirement, life insurance, disability benefits, and medical benefits of a member of the Missouri state employees' retirement system with the corresponding benefits provided an employee of the highway patrol covered by the closed plan of the Missouri department of transportation and highway patrol employees' retirement system. In electing plan membership the employee shall acknowledge and agree that an election made under this subsection is irrevocable, and constitutes a waiver to receive retirement, life insurance, disability benefits, and medical benefits except as provided by the system elected by the employee. Furthermore, in connection with the election, the employee shall be required to acknowledge that the benefits provided by virtue of membership in either system, and any associated costs to the employee, may be different now or in the future as a result of the election and that the employee agrees to hold both systems harmless with regard to benefit differences resulting from the election.

2. Employees of the Missouri state water patrol who are earning credited service in the year 2000 plan of the Missouri state employees' retirement system and who are transferred to the division of water patrol with the Missouri state highway patrol shall elect

23 within ninety days of January 1, 2011, to either remain a member of the Missouri state
24 employees' retirement system or transfer membership and creditable service to the year
25 2000 plan of the Missouri department of transportation and highway patrol employees'
26 retirement system. The election shall be made in writing after the employee has received
27 a detailed analysis comparing retirement, life insurance, disability benefits, and medical
28 benefits of a member of the Missouri state employees retirement system with the
29 corresponding benefits provided an employee of the highway patrol covered by the year
30 2000 plan of the Missouri department of transportation and highway patrol employees'
31 retirement system. In electing plan membership the employee shall acknowledge and agree
32 that an election made under this subsection is irrevocable, and constitutes a waiver to
33 receive retirement, life insurance, disability benefits, and medical benefits except as
34 provided by the system elected by the employee. Furthermore, in connection with the
35 election, the employee shall be required to acknowledge that the benefits provided by
36 virtue of membership in either system, and any associated costs to the employee, may be
37 different now or in the future as a result of the election and that the employee agrees to
38 hold both systems harmless with regard to benefit differences resulting from the election.

39 3. The Missouri state employees' retirement system shall pay to the Missouri
40 department of transportation and highway patrol employees' retirement system, by June
41 30, 2011, an amount actuarially determined to equal the liability at the time of the transfer
42 for any employee who elects under subsection 1 or 2 of this section to transfer to the
43 Missouri department of transportation and highway patrol employees' retirement system,
44 to the extent that liability is funded as of the most recent actuarial valuation and based on
45 the actuarial value of assets not to exceed one hundred percent.

46 4. In no event shall any employee receive service credit for the same period of
47 service under more than one retirement system as a result of the provisions of this section.

48 5. The only medical coverage available for any employee who elects under
49 subsection 1 or 2 of this section to transfer to the Missouri department of transportation
50 and highway patrol employees' retirement system shall be the medical coverage provided
51 in section 104.270. The effective date for commencement of medical coverage shall be July
52 1, 2011. However, this does not preclude medical coverage for the transferred employee
53 as a dependent under any other health care plan.

54 6. Any employee who elects under subsection 1 or 2 of this section to transfer to the
55 Missouri department of transportation and highway patrol employees' retirement system
56 and who is also thereafter a uniformed member of the highway patrol shall be subject to
57 the mandatory retirement age stated in section 104.081.

105.055. 1. No supervisor or appointing authority of any state agency shall prohibit any
2 employee of the agency from discussing the operations of the agency, either specifically or
3 generally, with any member of the legislature, state auditor, attorney general, or any state official
4 or body charged with investigating such alleged misconduct.

5 2. No supervisor or appointing authority of any state agency shall:

6 (1) Prohibit a state employee from or take any disciplinary action whatsoever against a
7 state employee for the disclosure of any alleged prohibited activity under investigation or any
8 related activity, or for the disclosure of information which the employee reasonably believes
9 evidences:

10 (a) A violation of any law, rule or regulation; or

11 (b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and
12 specific danger to public health or safety, if the disclosure is not specifically prohibited by law;
13 or

14 (2) Require any such employee to give notice to the supervisor or appointing authority
15 prior to making any such report.

16 3. This section shall not be construed as:

17 (1) Prohibiting a supervisor or appointing authority from requiring that an employee
18 inform the supervisor or appointing authority as to legislative requests for information to the
19 agency or the substance of testimony made, or to be made, by the employee to legislators on
20 behalf of the employee to legislators on behalf of the agency;

21 (2) Permitting an employee to leave the employee's assigned work areas during normal
22 work hours without following applicable rules and regulations and policies pertaining to leaves,
23 unless the employee is requested by a legislator or legislative committee to appear before a
24 legislative committee;

25 (3) Authorizing an employee to represent the employee's personal opinions as the
26 opinions of a state agency; or

27 (4) Restricting or precluding disciplinary action taken against a state employee if: the
28 employee knew that the information was false; the information is closed or is confidential under
29 the provisions of the open meetings law or any other law; or the disclosure relates to the
30 employee's own violations, mismanagement, gross waste of funds, abuse of authority or
31 endangerment of the public health or safety.

32 4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer,
33 reassignment, suspension, reprimand, warning of possible dismissal or withholding of work,
34 whether or not the withholding of work has affected or will affect the employee's compensation.

35 5. Any employee may file an administrative appeal whenever the employee alleges that
36 disciplinary action was taken against the employee in violation of this section. The appeal shall

37 be filed with the [state personnel advisory board] **administrative hearing commission**; provided
38 that the appeal shall be filed with the appropriate agency review board or body of nonmerit
39 agency employers which have established appeal procedures substantially similar to those
40 provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed
41 within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be
42 in accordance with chapter [36] **536**, RSMo. If the [board] **commission** or appropriate review
43 body finds that disciplinary action taken was unreasonable, the [board] **commission** or
44 appropriate review body shall modify or reverse the agency's action and order such relief for the
45 employee as the [board] **commission** considers appropriate. If the [board] **commission** finds a
46 violation of this section, it may review and recommend to the appointing authority that the
47 violator be suspended on leave without pay for not more than thirty days or, in cases of willful
48 or repeated violations, may review and recommend to the appointing authority that the violator
49 forfeit the violator's position as a state officer or employee and disqualify the violator for
50 appointment to or employment as a state officer or employee for a period of not more than two
51 years. The decision of the [board] **commission** or appropriate review body in such cases may
52 be appealed by any party pursuant to law.

53 6. Each state agency shall prominently post a copy of this section in locations where it
54 can reasonably be expected to come to the attention of all employees of the agency.

55 7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges
56 a violation of this section may bring a civil action for damages within ninety days after the
57 occurrence of the alleged violation.

58 (2) A civil action commenced pursuant to this subsection may be brought in the circuit
59 court for the county where the alleged violation occurred, the county where the complainant
60 resides, or the county where the person against whom the civil complaint is filed resides.

61 (3) An employee must show by clear and convincing evidence that he or she or a person
62 acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited
63 activity or a suspected prohibited activity.

64 (4) A court, in rendering a judgment in an action brought pursuant to this section, shall
65 order, as the court considers appropriate, actual damages, and may also award the complainant
66 all or a portion of the costs of litigation, including reasonable attorney fees.

109.250. 1. There is hereby created the "State Records Commission". It shall consist
2 of the following members: the secretary of state, or his **or her** authorized representative, who
3 shall act as [chairman] **chairperson**; the attorney general, or his **or her** authorized
4 representative; the state auditor, or his **or her** authorized representative; [the director of the
5 forms management unit appointed pursuant to section 37.320, RSMo] **the commissioner of the**
6 **office of administration, or his or her authorized representative**; a member of the house of

7 representatives appointed by the speaker of the house; a member of the senate appointed by the
8 president pro tem of the senate; the director of the state historical society; and the chief
9 information officer. The director of the records management and archives service will serve as
10 secretary to the commission. While serving as secretary to the commission, he **or she** shall have
11 no vote on matters considered by the commission.

12 2. It shall be the duty of the commission to determine what records no longer have any
13 administrative, legal, research, or historical value and should be destroyed or disposed of
14 otherwise. The commission will prescribe the procedures for compiling and submitting to the
15 commission lists and schedules of records proposed for disposal and the procedures for the
16 physical destruction or other disposition of records. Procedures prescribed by the commission
17 will be promulgated by the director of the records management and archives service, only upon
18 written approval of the commission.

19 3. The commission shall meet whenever called by the [chairman] **chairperson**.

208.215. 1. MO HealthNet is payer of last resort unless otherwise specified by law.
2 When any person, corporation, institution, public agency or private agency is liable, either
3 pursuant to contract or otherwise, to a participant receiving public assistance on account of
4 personal injury to or disability or disease or benefits arising from a health insurance plan to
5 which the participant may be entitled, payments made by the department of social services or
6 MO HealthNet division shall be a debt due the state and recoverable from the liable party or
7 participant for all payments made [in] **on** behalf of the participant and the debt due the state shall
8 not exceed the payments made from MO HealthNet benefits provided under sections 208.151
9 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate
10 for payments on account of the injury, disease, or disability or benefits arising from a health
11 insurance program to which the participant may be entitled. **Any health benefit plan as defined**
12 **in section 376.1350, third party administrator, administrative service organization, and**
13 **pharmacy benefits manager, shall process and pay all properly submitted medical**
14 **assistance subrogation claims or MO HealthNet subrogation claims using standard**
15 **electronic transactions or paper claim forms:**

16 (1) **For a period of three years from the date services were provided or rendered;**
17 **however, an entity:**

18 (a) **Shall not be required to reimburse for items or services which are not covered**
19 **under MO HealthNet;**

20 (b) **Shall not deny a claim submitted by the state solely on the basis of the date of**
21 **submission of the claim, the type or format of the claim form, failure to present proper**
22 **documentation of coverage at the point of sale, or failure to provide prior authorization;**

23 (c) **Shall not be required to reimburse for items or services for which a claim was**
24 **previously submitted to the health benefit plan, third party administrator, administrative**
25 **service organization, or pharmacy benefits manager by the health care provider or the**
26 **participant and the claim was properly denied by the health benefit plan, third party**
27 **administrator, administrative service organization, or pharmacy benefits manager for**
28 **procedural reasons, except for timely filing, type or format of the claim form, failure to**
29 **present proper documentation of coverage at the point of sale, or failure to obtain prior**
30 **authorization;**

31 (d) **Shall not be required to reimburse for items or services which are not covered**
32 **under or were not covered under the plan offered by the entity against which a claim for**
33 **subrogation has been filed; and**

34 (e) **Shall reimburse for items or services to the same extent that the entity would**
35 **have been liable as if it had been properly billed at the point of sale, and the amount due**
36 **is limited to what the entity would have paid as if it had been properly billed at the point**
37 **of sale; and**

38 (2) **If any action by the state to enforce its rights with respect to such claim is**
39 **commenced within six years of the state's submission of such claim.**

40 2. The department of social services, MO HealthNet division, or its contractor may
41 maintain an appropriate action to recover funds paid by the department of social services or MO
42 HealthNet division or its contractor that are due under this section in the name of the state of
43 Missouri against the person, corporation, institution, public agency, or private agency liable to
44 the participant, minor or estate.

45 3. Any participant, minor, guardian, conservator, personal representative, estate,
46 including persons entitled under section 537.080, RSMo, to bring an action for wrongful death
47 who pursues legal rights against a person, corporation, institution, public agency, or private
48 agency liable to that participant or minor for injuries, disease or disability or benefits arising
49 from a health insurance plan to which the participant may be entitled as outlined in subsection
50 1 of this section shall upon actual knowledge that the department of social services or MO
51 HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify
52 the MO HealthNet division as to the pursuit of such legal rights.

53 4. Every applicant or participant by application assigns his right to the department of
54 social services or MO HealthNet division of any funds recovered or expected to be recovered to
55 the extent provided for in this section. All applicants and participants, including a person
56 authorized by the probate code, shall cooperate with the department of social services, MO
57 HealthNet division in identifying and providing information to assist the state in pursuing any
58 third party who may be liable to pay for care and services available under the state's plan for MO

59 HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and
60 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party
61 resources due to the applicant, participant, or child for whom assistance is claimed. Failure to
62 cooperate without good cause as determined by the department of social services, MO HealthNet
63 division in accordance with federally prescribed standards shall render the applicant or
64 participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections
65 208.162 and 208.204. A [recipient] **participant** who has notice or who has actual knowledge
66 of the department's rights to third-party benefits who receives any third-party benefit or proceeds
67 for a covered illness or injury is either required to pay the division within sixty days after receipt
68 of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet
69 benefits provided or to place the full amount of the third-party benefits in a trust account for the
70 benefit of the division pending judicial or administrative determination of the division's right to
71 third-party benefits.

72 5. Every person, corporation or partnership who acts for or on behalf of a person who
73 is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections
74 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which
75 accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in
76 the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing
77 to assist such person and further shall notify the MO HealthNet division of any institution of a
78 proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before
79 any judgment, award, or settlement may be satisfied in any action or any claim by the applicant
80 or participant to recover damages for such injuries, disease, or disability, or benefits arising from
81 a health insurance program to which the participant may be entitled.

82 6. Every participant, minor, guardian, conservator, personal representative, estate,
83 including persons entitled under section 537.080, RSMo, to bring an action for wrongful death,
84 or his attorney or legal representative shall promptly notify the MO HealthNet division of any
85 recovery from a third party and shall immediately reimburse the department of social services,
86 MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other
87 recovery in any action or claim initiated against any such third party. A judgment, award, or
88 settlement in an action by a [recipient] **participant** to recover damages for injuries or other
89 third-party benefits in which the division has an interest may not be satisfied without first giving
90 the division notice and a reasonable opportunity to file and satisfy the claim or proceed with any
91 action as otherwise permitted by law.

92 7. The department of social services, MO HealthNet division or its contractor shall have
93 a right to recover the amount of payments made to a provider under this chapter because of an
94 injury, disease, or disability, or benefits arising from a health insurance plan to which the

95 participant may be entitled for which a third party is or may be liable in contract, tort or
96 otherwise under law or equity. Upon request by the MO HealthNet division, all third-party
97 payers shall provide the MO HealthNet division with information contained in a 270/271 Health
98 Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal
99 Health Insurance Portability and Accountability Act, except that third-party payers shall not
100 include accident-only, specified disease, disability income, hospital indemnity, or other fixed
101 indemnity insurance policies.

102 8. The department of social services or MO HealthNet division shall have a lien upon
103 any moneys to be paid by any insurance company or similar business enterprise, person,
104 corporation, institution, public agency or private agency in settlement or satisfaction of a
105 judgment on any claim for injuries or disability or disease benefits arising from a health
106 insurance program to which the participant may be entitled which resulted in medical expenses
107 for which the department or MO HealthNet division made payment. This lien shall also be
108 applicable to any moneys which may come into the possession of any attorney who is handling
109 the claim for injuries, or disability or disease or benefits arising from a health insurance plan to
110 which the participant may be entitled which resulted in payments made by the department or MO
111 HealthNet division. In each case, a lien notice shall be served by certified mail or registered
112 mail, upon the party or parties against whom the applicant or participant has a claim, demand or
113 cause of action. The lien shall claim the charge and describe the interest the department or MO
114 HealthNet division has in the claim, demand or cause of action. The lien shall attach to any
115 verdict or judgment entered and to any money or property which may be recovered on account
116 of such claim, demand, cause of action or suit from and after the time of the service of the notice.

117 9. On petition filed by the department, or by the participant, or by the defendant, the
118 court, on written notice of all interested parties, may adjudicate the rights of the parties and
119 enforce the charge. The court may approve the settlement of any claim, demand or cause of
120 action either before or after a verdict, and nothing in this section shall be construed as requiring
121 the actual trial or final adjudication of any claim, demand or cause of action upon which the
122 department has charge. The court may determine what portion of the recovery shall be paid to
123 the department against the recovery. In making this determination the court shall conduct an
124 evidentiary hearing and shall consider competent evidence pertaining to the following matters:

125 (1) The amount of the charge sought to be enforced against the recovery when expressed
126 as a percentage of the gross amount of the recovery; the amount of the charge sought to be
127 enforced against the recovery when expressed as a percentage of the amount obtained by
128 subtracting from the gross amount of the recovery the total attorney's fees and other costs
129 incurred by the participant incident to the recovery; and whether the department should, as a

130 matter of fairness and equity, bear its proportionate share of the fees and costs incurred to
131 generate the recovery from which the charge is sought to be satisfied;

132 (2) The amount, if any, of the attorney's fees and other costs incurred by the participant
133 incident to the recovery and paid by the participant up to the time of recovery, and the amount
134 of such fees and costs remaining unpaid at the time of recovery;

135 (3) The total hospital, doctor and other medical expenses incurred for care and treatment
136 of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the
137 participant, by insurance provided by the participant, and by the department, and the amount of
138 such previously incurred expenses which remain unpaid at the time of recovery and by whom
139 such incurred, unpaid expenses are to be paid;

140 (4) Whether the recovery represents less than substantially full recompense for the injury
141 and the hospital, doctor and other medical expenses incurred to the date of recovery for the care
142 and treatment of the injury, so that reduction of the charge sought to be enforced against the
143 recovery would not likely result in a double recovery or unjust enrichment to the participant;

144 (5) The age of the participant and of persons dependent for support upon the participant,
145 the nature and permanency of the participant's injuries as they affect not only the future
146 employability and education of the participant but also the reasonably necessary and foreseeable
147 future material, maintenance, medical rehabilitative and training needs of the participant, the cost
148 of such reasonably necessary and foreseeable future needs, and the resources available to meet
149 such needs and pay such costs;

150 (6) The realistic ability of the participant to repay in whole or in part the charge sought
151 to be enforced against the recovery when judged in light of the factors enumerated above.

152 10. The burden of producing evidence sufficient to support the exercise by the court of
153 its discretion to reduce the amount of a proven charge sought to be enforced against the recovery
154 shall rest with the party seeking such reduction. **The computerized records of the MO**
155 **HealthNet division, certified by the director or his designee, shall be prima facie evidence**
156 **of proof of moneys expended and the amount of the debt due the state.**

157 11. The court may reduce and apportion the department's or MO HealthNet division's
158 lien proportionate to the recovery of the claimant. The court may consider the nature and extent
159 of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it
160 applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The
161 department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on
162 the department's or MO HealthNet division's lien as it compares to the total settlement agreed
163 upon. This section shall not affect the priority of an attorney's lien under section 484.140,
164 RSMo. The charges of the department or MO HealthNet division or contractor described in this

165 section, however, shall take priority over all other liens and charges existing under the laws of
166 the state of Missouri with the exception of the attorney's lien under such statute.

167 12. Whenever the department of social services or MO HealthNet division has a statutory
168 charge under this section against a recovery for damages incurred by a participant because of its
169 advancement of any assistance, such charge shall not be satisfied out of any recovery until the
170 attorney's claim for fees is satisfied, [irrespective] **regardless** of whether [or not] an action based
171 on participant's claim has been filed in court. Nothing herein shall prohibit the director from
172 entering into a compromise agreement with any participant, after consideration of the factors in
173 subsections 9 to 13 of this section.

174 13. This section shall be inapplicable to any claim, demand or cause of action arising
175 under the workers' compensation act, chapter 287, RSMo. From funds recovered pursuant to this
176 section the federal government shall be paid a portion thereof equal to the proportionate part
177 originally provided by the federal government to pay for MO HealthNet benefits to the
178 participant or minor involved. The department or MO HealthNet division shall enforce TEFRA
179 liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently
180 institutionalized individuals. The department or MO HealthNet division shall have the right to
181 enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other
182 institutionalized individuals. For the purposes of this subsection, "permanently institutionalized
183 individuals" includes those people who the department or MO HealthNet division determines
184 cannot reasonably be expected to be discharged and return home, and "property" includes the
185 homestead and all other personal and real property in which the participant has sole legal interest
186 or a legal interest based upon co-ownership of the property which is the result of a transfer of
187 property for less than the fair market value within thirty months prior to the participant's entering
188 the nursing facility. The following provisions shall apply to such liens:

189 (1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be
190 paid on behalf of a participant. The amount of the lien shall be for the full amount due the state
191 at the time the lien is enforced;

192 (2) The MO HealthNet division shall file for record, with the recorder of deeds of the
193 county in which any real property of the participant is situated, a written notice of the lien. The
194 notice of lien shall contain the name of the participant and a description of the real estate. The
195 recorder shall note the time of receiving such notice, and shall record and index the notice of lien
196 in the same manner as deeds of real estate are required to be recorded and indexed. The director
197 or the director's designee may release or discharge all or part of the lien and notice of the release
198 shall also be filed with the recorder. The department of social services, MO HealthNet division,
199 shall provide payment to the recorder of deeds the fees set for similar filings in connection with
200 the filing of a lien and any other necessary documents;

201 (3) No such lien may be imposed against the property of any individual prior to the
202 individual's death on account of MO HealthNet benefits paid except:

203 (a) In the case of the real property of an individual:

204 a. Who is an inpatient in a nursing facility, intermediate care facility for the mentally
205 retarded, or other medical institution, if such individual is required, as a condition of receiving
206 services in such institution, to spend for costs of medical care all but a minimal amount of his
207 or her income required for personal needs; and

208 b. With respect to whom the director of the MO HealthNet division or the director's
209 designee determines, after notice and opportunity for hearing, that he cannot reasonably be
210 expected to be discharged from the medical institution and to return home. The hearing, if
211 requested, shall proceed under the provisions of chapter 536, RSMo, before a hearing officer
212 designated by the director of the MO HealthNet division; or

213 (b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf
214 of such individual;

215 (4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on
216 such individual's home if one or more of the following persons is lawfully residing in such home:

217 (a) The spouse of such individual;

218 (b) Such individual's child who is under twenty-one years of age, or is blind or
219 permanently and totally disabled; or

220 (c) A sibling of such individual who has an equity interest in such home and who was
221 residing in such individual's home for a period of at least one year immediately before the date
222 of the individual's admission to the medical institution;

223 (5) Any lien imposed with respect to an individual pursuant to subparagraph b of
224 paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge
225 from the medical institution and return home.

226 14. The debt due the state provided by this section is subordinate to the lien provided by
227 section 484.130, RSMo, or section 484.140, RSMo, relating to an attorney's lien and to the
228 participant's expenses of the claim against the third party.

229 15. Application for and acceptance of MO HealthNet benefits under this chapter shall
230 constitute an assignment to the department of social services or MO HealthNet division of any
231 rights to support for the purpose of medical care as determined by a court or administrative order
232 and of any other rights to payment for medical care.

233 16. All participants receiving benefits as defined in this chapter shall cooperate with the
234 state by reporting to the family support division or the MO HealthNet division, within thirty
235 days, any occurrences where an injury to their persons or to a member of a household who

236 receives MO HealthNet benefits is sustained, on such form or forms as provided by the family
237 support division or MO HealthNet division.

238 17. If a person fails to comply with the provision of any judicial or administrative decree
239 or temporary order requiring that person to maintain medical insurance on or be responsible for
240 medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies
241 available, that person shall be liable to the state for the entire cost of the medical care provided
242 pursuant to eligibility under any public assistance program on behalf of that dependent child,
243 spouse, or ex-spouse during the period for which the required medical care was provided. Where
244 a duty of support exists and no judicial or administrative decree or temporary order for support
245 has been entered, the person owing the duty of support shall be liable to the state for the entire
246 cost of the medical care provided on behalf of the dependent child or spouse to whom the duty
247 of support is owed.

248 18. The department director or the director's designee may compromise, settle or waive
249 any such claim in whole or in part in the interest of the MO HealthNet program.
250 Notwithstanding any provision in this section to the contrary, the department of social services,
251 MO HealthNet division is not required to seek reimbursement from a liable third party on claims
252 for which the amount it reasonably expects to recover will be less than the cost of recovery or
253 for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on
254 the following:

255 (1) Actual and legal issues of liability as may exist between the [recipient] **participant**
256 and the liable party;

257 (2) Total funds available for settlement; and

258 (3) An estimate of the cost to the division of pursuing its claim.

301.716. 1. Any violation of the provisions of sections 301.700 to 301.714 shall be an
2 infraction. An arrest or service of summons for violations of the provisions of sections 301.700
3 to 301.714 and section 577.065, RSMo, or the provisions of this chapter, chapter 304 or 307,
4 RSMo, as such provisions relate to all-terrain vehicles may be made by the duly authorized law
5 enforcement officer of any political subdivision of the state, the highway patrol [and the state
6 water patrol].

7 2. Violations of sections 301.700 to 301.714 and section 577.065, RSMo, or the
8 provisions of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain
9 vehicles or any rule or order hereunder may be referred to the proper prosecuting attorney or
10 circuit attorney who may, with or without such reference, institute appropriate proceedings.

11 3. Nothing in sections 301.700 to 301.714 and section 577.065, RSMo, or the provisions
12 of this chapter, chapter 304 or 307, RSMo, as such provisions relate to all-terrain vehicles limits

13 the power of the state to punish any person for any conduct which constitutes a crime by statute
14 or at common law.

306.010. As used in this chapter the following terms mean:

2 (1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is
3 a principal source of propulsion;

4 (2) "Operate", to navigate or otherwise use a motorboat or a vessel;

5 (3) "Operator", the person who operates or has charge of the navigation or use of a
6 vessel;

7 (4) "Owner", a person other than a lienholder, having the property in or title to a
8 motorboat. The term includes a person entitled to the use or possession of a motorboat subject
9 to an interest of another person, reserved or created by agreement and securing payment or
10 performance of an obligation, but the term excludes a lessee under a lease not intended as
11 security;

12 (5) "Parasailing", the towing of any person equipped with a parachute or kite equipment
13 by any watercraft operating on the waters of this state;

14 (6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length,
15 propelled by machinery which is designed to be operated by a person sitting, standing or kneeling
16 on the vessel, rather than being operated by a person sitting or standing inside the vessel;

17 (7) "Skiing", any activity that involves a person or persons being towed by a vessel,
18 including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and
19 tubing;

20 (8) "Vessel", every motorboat and every description of motorized watercraft, and any
21 watercraft more than twelve feet in length which is powered by sail alone or by a combination
22 of sail and machinery, used or capable of being used as a means of transportation on water, but
23 not any watercraft having as the only means of propulsion a paddle or oars;

24 (9) "Watercraft", any boat or craft, including a vessel, used or capable of being used as
25 a means of transport on waters;

26 (10) **"Water patrol division of the state highway patrol" or "water patrol division",**
27 **the division responsible for enforcing the provisions of this chapter on the waters of this**
28 **state. The revisor of statutes is instructed to replace the terms "Missouri state water**
29 **patrol" or "state water patrol" wherever those terms exist in this chapter with the term**
30 **"water patrol division";**

31 (11) "Waters of this state", any waters within the territorial limits of this state and lakes
32 constructed or maintained by the United States Army Corps of Engineers except bodies of water
33 owned by a person, corporation, association, partnership, municipality or other political
34 subdivision, public water supply impoundments, and except drainage ditches constructed by a

35 drainage district, but the term does include any body of water which has been leased to or owned
36 by the state department of conservation.

306.165. Each [water] patrol officer [appointed by the Missouri state water patrol and
2 each of such other employees as may be designated by the patrol, before entering upon his or her
3 duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially,
4 and shall be given a certificate of appointment, a copy of which shall be filed with the secretary
5 of state, granting] **assigned to the water patrol division by the superintendent of the highway**
6 **patrol as provided in section 43.390 shall possess** all the powers of a peace officer to enforce
7 all laws of this state, upon all of the following:

8 (1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4),
9 and (5) of this section;

10 (2) All federal land, where not prohibited by federal law or regulation, and state land
11 adjoining the waterways of this state;

12 (3) All land within three hundred feet of the areas in subdivision (2) of this section;

13 (4) All land adjoining and within six hundred feet of any waters impounded in areas not
14 covered in subdivision (2) with a shoreline in excess of four miles;

15 (5) All land adjoining and within six hundred feet of the rivers and streams of this state;

16 (6) Any other jurisdictional area, pursuant to the provisions of section 306.167;

17 (7) All premises leased or owned or under control of the Missouri state [water] **highway**
18 patrol.

19

20 Each [water] patrol officer **assigned to the water patrol division** may board any watercraft at
21 any time, with probable cause, for the purpose of making any inspection necessary to determine
22 compliance with the provisions of this chapter. Each [water] patrol officer may arrest on view
23 and without a warrant any person he or she sees violating or who such patrol officer has
24 reasonable grounds to believe has violated any law of this state, upon any water or land area
25 subject to his or her jurisdiction as provided in this section or may arrest anyone violating any
26 law in his or her presence throughout the state. Each [water] patrol officer, while investigating
27 an accident or crime that was originally committed within such patrol officer's jurisdiction, as
28 set forth in this section, may arrest any person who he or she has probable cause to believe has
29 committed such crime, even if the suspect is currently out of the **division of** water patrol's
30 jurisdiction. [Water] Patrol officers, if practicable, shall notify the sheriff or the police
31 department prior to making an arrest within their respective county or city. Each [water] patrol
32 officer shall comply with the training and certification provisions of chapter 590, RSMo.

306.167. The uniformed members of the [state] water patrol **division**, with the exception
2 of radio personnel, shall have full power and authority as now or hereafter vested by law in peace

3 officers when working with and at the special request of the sheriff of any county, the chief park
4 ranger of any first class county not having a charter form of government and containing a portion
5 of a city with a population exceeding four hundred thousand inhabitants, the chief of police of
6 any city, or the superintendent of the state highway patrol [as directed by the commissioner of
7 the water patrol]; provided, however, that such power and authority shall be exercised only upon
8 the prior notification of the chief law enforcement officer of each jurisdiction.

306.168. In the investigation of an accident or crime that was originally committed
2 within such patrol officer's jurisdiction, as set forth in section 306.165, the members of the water
3 patrol **division** may request that the prosecuting or circuit attorney apply for, and members of
4 the water patrol **division** may serve, search warrants anywhere within the state of Missouri,
5 provided the sheriff of the county in which the warrant is to be served, or his designee, shall be
6 notified upon application by the applicant of the search warrant. **The sheriff or his designee**
7 **shall participate in serving the search warrant except for offenses pertaining to boating**
8 **while intoxicated and the investigation of vessel accidents. Any designee of the sheriff shall**
9 **be a deputy sheriff or other person certified as a peace officer under chapter 590. The**
10 **sheriff shall always have a designee available.**

306.185. 1. There is hereby created in the state treasury the "Missouri State Water Patrol
2 Fund", which shall consist of money collected under section 306.030. The state treasurer shall
3 be custodian of the fund and shall approve disbursements from the fund in accordance with
4 sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely
5 for the expenses of the Missouri state **highway patrol**, water patrol **division**, including but not
6 limited to [personal] **personnel** expense, training expense, and equipment expense **for the**
7 **purpose of enforcing the laws of this chapter.**

8 2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in
9 the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as other funds
11 are invested. Any interest and moneys earned on such investments shall be credited to the fund.

12 [4. Within available appropriations in this section, the commissioner of the water patrol
13 shall establish with the advice of the director of personnel an equitable pay plan for the members
14 of the water patrol and radio personnel taking into consideration ranks and length of service.

15 5. If in the immediate previous fiscal year, the state's net general revenue did not increase
16 by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or
17 bequests, received under this section beginning January first of the current fiscal year into the
18 state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in
19 accordance with the provisions of this section.]

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol [or water patrol] to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

544.157. 1. Any law enforcement officer certified pursuant to chapter 590, RSMo, of any political subdivision of this state, any authorized agent of the department of conservation, any commissioned member of the Missouri capitol police[,] **and** any commissioned member of the Missouri state park rangers [and any authorized agent of the Missouri state water patrol] in fresh pursuit of a person who is reasonably believed by such officer to have committed a felony in this state or who has committed, or attempted to commit, in the presence of such officer or agent, any criminal offense or violation of a municipal or county ordinance, or for whom such officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold in custody such person anywhere in this state. Fresh pursuit may only be initiated from within the pursuing peace officer's, conservation agent's, capitol police officer's[,] **or** state park ranger's [or water patrol officer's] jurisdiction and shall be terminated once the pursuing peace officer is outside of such officer's jurisdiction and has lost contact with the person being pursued. If the offense is a traffic violation, the uniform traffic ticket shall be used as if the violator had been apprehended in the municipality or county in which the offense occurred.

2. If such an arrest is made in obedience to a warrant, the disposition of the prisoner shall be made as in other cases of arrest under a warrant; if the violator is served with a uniform traffic ticket, the violator shall be directed to appear before a court having jurisdiction to try the offense; if the arrest is without a warrant, the prisoner shall be taken forthwith before a judge of a court with original criminal jurisdiction in the county wherein such arrest was made or before a municipal judge thereof having original jurisdiction to try such offense, who may release the person as provided in section 544.455, conditioned upon such person's appearance before the court having jurisdiction to try the offense. The person so arrested need not be taken before a judge as herein set out if given a summons by the arresting officer.

3. The term "fresh pursuit", as used in this section, shall include hot or fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or is reasonably suspected of having committed a felony in this state, or who has committed or attempted to commit in this state a criminal offense or violation of municipal or county ordinance in the presence of the arresting officer referred to in subsection 1 of this section or for whom such officer holds a warrant of arrest for a criminal offense. It shall include also the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing. "Fresh pursuit" as used herein shall imply instant pursuit.

33 4. A public agency electing to institute vehicular pursuits shall adopt a policy for the safe
34 conduct of vehicular pursuits by peace officers. Such policy shall meet the following minimum
35 standards:

36 (1) There shall be supervisory control of the pursuit;

37 (2) There shall be procedures for designating the primary pursuit vehicle and for
38 determining the total number of vehicles to be permitted to participate at one time in the pursuit;

39 (3) There shall be procedures for coordinating operation with other jurisdictions; and

40 (4) There shall be guidelines for determining when the interests of public safety and
41 effective law enforcement justify a vehicular pursuit and when a vehicular pursuit should not be
42 initiated or should be terminated.

577.090. Any law enforcement officer shall and any agent of the conservation
2 commission or deputy or **member of the highway patrol**, water patrol [officer] **division**, may
3 enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that
4 conservation agents [and water patrolmen] may enforce such provisions only upon the water, the
5 banks thereof or upon public land.

621.015. The "Administrative Hearing Commission" is assigned to the office of
2 administration. It shall consist of no more than [three] **five** commissioners. The commissioners
3 shall be appointed by the governor with the advice and consent of the senate. The term of each
4 commissioner shall be for six years and until his successor is appointed, qualified and sworn.
5 The commissioners shall be attorneys at law admitted to practice before the supreme court of
6 Missouri, but shall not practice law during their term of office. Each commissioner shall receive
7 annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant
8 to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary
9 expenses in the performance of his duties. The office of the administrative hearing commission
10 shall be located in the City of Jefferson and it may employ necessary clerical assistance,
11 compensation and expenses of the commissioners to be paid from appropriations made for that
12 purpose.

**621.075. 1. Except as otherwise provided by law, any employee with merit status
2 who has been dismissed or involuntarily demoted for cause or suspended for more than
3 five working days shall have the right to appeal to the administrative hearing commission.
4 Any such person shall be entitled to a hearing before the administrative hearing
5 commission by the filing of an appeal setting forth in substance the employee's reasons for
6 claiming that the dismissal, suspension, or demotion was for political, religious, or racial
7 reasons, or not for the good of the service with the administrative hearing commission
8 within thirty days after the effective date of the action. The decision of the appointing**

9 authority shall contain a notice of the right of appeal in substantially the following
10 language:

11 "Any employee with regular status who has been dismissed or involuntarily
12 demoted for cause or suspended for more than five working days may appeal to the
13 administrative hearing commission. To appeal, you must file an appeal with the
14 administrative hearing commission within thirty days after the effective date of the
15 decision. If any such appeal is sent by registered mail or certified mail, it will be deemed
16 filed on the date it is mailed; if it is sent by any method other than registered mail or
17 certified mail, it will be deemed filed on the date it is received by the commission."

18 2. The procedures applicable to the processing of such hearings and determinations
19 shall be those established by chapter 536. The administrative hearing commission may
20 hold hearings or may make decisions based on stipulation of the parties, consent order,
21 agreed settlement, or by disposition in the nature of default judgment, judgment on the
22 pleadings, or summary determination, in accordance with the rules and procedures of the
23 administrative hearing commission. No hearing shall be public unless requested to be
24 public by the employee. The administrative hearing commission shall maintain a
25 transcript of all testimony and proceedings in hearings governed by this section, and
26 decisions of the administrative hearing commission under this section shall be binding
27 subject to appeal by either party. The administrative hearing commission may make any
28 one of the following appropriate orders:

29 (1) Order the reinstatement of the employee to the employee's former position;

30 (2) Sustain the dismissal of such employee;

31 (3) Except as provided in subdivisions (1) and (2) of this subsection, the
32 administrative hearing commission may sustain the dismissal, but may order the director
33 of personnel to recognize reemployment rights for the dismissed employee pursuant to
34 section 36.240, in an appropriate class or classes, or may take steps to effect the transfer
35 of such employee to an appropriate position in the same or another division of service.

36 3. After an order of reinstatement has been issued and all parties have let the time
37 for appeal lapse or have filed an appeal and that appeal process has become final and the
38 order of reinstatement has been affirmed, the administrative hearing commission shall
39 commence a separate action to determine the date of reinstatement and the amount of back
40 pay owed to the employee. This action may be done by hearing, or by affidavit,
41 depositions, or stipulations, or by agreement on the amount of back pay owed. No hearing
42 shall be public unless requested to be public by the employee.

630.060. 1. The department shall seek and encourage cooperation and active
2 participation of communities, counties, organizations, agencies, private and not-for-profit

3 corporations and individuals in the effort to establish and maintain quality programs and services
4 for persons affected by mental disorders, developmental disabilities or alcohol or drug abuse.
5 The department shall develop programs of public information and education for this purpose.

6 **2. The department shall cooperate with and may directly contract with all state**
7 **agencies, local units of government, and any of the governor's advisory councils or**
8 **commissions, or their successor agencies, and with the Missouri Mental Health Foundation,**
9 **or its successor entity, in delivery of programs designed to improve public understanding**
10 **of attitudes toward mental disorders, developmental disabilities, and alcohol and drug**
11 **abuse pursuant to subdivision (3) of subsection 1 of section 630.020. For purposes of this**
12 **section, the contracting process of the department with these entities need not be governed**
13 **by the provisions of chapter 34.**

650.005. 1. There is hereby created a "Department of Public Safety" in charge of a
2 director appointed by the governor with the advice and consent of the senate. The department's
3 role will be to provide overall coordination in the state's public safety and law enforcement
4 program, to provide channels of coordination with local and federal agencies in regard to public
5 safety, law enforcement and with all correctional and judicial agencies in regard to matters
6 pertaining to its responsibilities as they may interrelate with the other agencies or offices of state,
7 local or federal governments.

8 2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo,
9 and others, are transferred by type II transfer to the department of public safety. The governor
10 by and with the advice and consent of the senate shall appoint the superintendent of the patrol.
11 With the exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the
12 director of public safety shall succeed the state highways and transportation commission in
13 approving actions of the superintendent and related matters as provided in chapter 43, RSMo.
14 Uniformed members of the patrol shall be selected in the manner provided by law and shall
15 receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however,
16 shall be interpreted to affect the funding of appropriations or the operation of chapter 104,
17 RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers'
18 compensation for members of the patrol.

19 3. All the powers, duties and functions of the supervisor of liquor control, chapter 311,
20 RSMo, and others, are transferred by type II transfer to the department of public safety. The
21 supervisor shall be nominated by the department director and appointed by the governor with the
22 advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies
23 and inspectors as limited by appropriations. All employees shall have the qualifications provided
24 by law and may be removed by the supervisor or director of the department as provided in
25 section 311.670, RSMo.

26 4. The director of public safety, superintendent of the highway patrol and transportation
27 division of the department of economic development are to examine the motor carrier inspection
28 laws and practices in Missouri to determine how best to enforce the laws with a minimum of
29 duplication, harassment of carriers and to improve the effectiveness of supervision of weight and
30 safety requirements and to report to the governor and general assembly by January 1, 1975, on
31 their findings and on any actions taken.

32 5. The Missouri division of highway safety is transferred by type I transfer to the
33 department of public safety. The division shall be in charge of a director who shall be appointed
34 by the director of the department.

35 6. All the powers, duties and functions of the safety and fire prevention bureau of the
36 department of public health and welfare are transferred by type I transfer to the director of public
37 safety.

38 7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and
39 others, are transferred to the department of public safety by a type I transfer.

40 8. All the powers, duties and functions of the law enforcement assistance council
41 administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and
42 related acts of Congress are transferred by type I transfer to the director of public safety. The
43 director of public safety shall appoint such advisory bodies as are required by federal laws or
44 regulations. The council is abolished.

45 9. The director of public safety shall promulgate motor vehicle regulations and be ex
46 officio a member of the safety compact commission in place of the director of revenue and all
47 powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to
48 the director of public safety.

49 10. The office of adjutant general and the state militia are assigned to the department of
50 public safety; provided, however, nothing herein shall be construed to interfere with the powers
51 and duties of the governor as provided in article IV, section 6 of the Constitution of the state of
52 Missouri or chapter 41, RSMo.

53 11. All the powers, duties and functions of the Missouri boat commission, chapter 306,
54 RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which
55 is hereby created, in the department of public safety. The Missouri boat commission and the
56 office of secretary to the commission are abolished. [The Missouri state water patrol shall be
57 headed by a boat commissioner who shall be appointed by the governor, with the advice and
58 consent of the senate.] All deputy boat commissioners and all other employees of the
59 commission who were employed on February 1, 1974, shall be transferred to the water patrol
60 without further qualification. **Effective January 1, 2011, all the powers, duties, and functions**

61 **of the Missouri state water patrol are transferred to the division of water patrol within the**
62 **Missouri state highway patrol as set out in section 43.390.**

63 12. The [division of veterans affairs] **Missouri veterans's commission**, chapter 42,
64 RSMo, is assigned to the [office of adjutant general. The adjutant general, with the advice of the
65 veterans' board, shall appoint the director of the division of veterans affairs who shall serve at
66 the pleasure of the adjutant general] **department of public safety**.

67 13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
68 is created under the authority delegated in this section shall become effective only if it complies
69 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
70 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
71 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
72 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
73 grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
74 invalid and void.

Section 1. In any contract for purchasing supplies as defined in section 34.010 not
2 **exceeding the threshold for competitive bids set forth under section 34.040, the office of**
3 **administration shall not prevent any department, office, board, commission, bureau,**
4 **institution, political subdivision, or any other agency of the state from purchasing supplies**
5 **from an authorized General Services Administration vendor including "GSA Advantage",**
6 **"GSA e-Buy", or successor sources.**

2 [306.161. The Missouri state water patrol is authorized to employ, within
3 the limits of appropriations and notwithstanding any other provision of law to the
4 contrary, such personnel as may be necessary to properly perform the duties of
5 the water patrol, and the water patrol shall prescribe the duties and
6 responsibilities of such personnel.]

2 [306.163. 1. The governor, by and with the advice and consent of the
3 senate, shall appoint a commissioner of the Missouri state water patrol to serve
4 at the pleasure of the governor. The commissioner shall take and subscribe an
5 oath of office to perform the commissioner's duties faithfully and impartially.
6 The commissioner appointed by the governor shall have at least ten years of
7 experience in law enforcement similar to the duties exercised by uniformed
8 officers of the state water patrol or at least five years of experience as a
9 uniformed officer of the state water patrol.

10 2. The commissioner shall prescribe rules for instruction and discipline
11 and make administrative rules and regulations and fix the hours of duty for the
12 members of the patrol. The commissioner shall have charge of the office of the
13 patrol, shall be custodian of the records of the patrol, and shall direct the
day-to-day activities of the officers, patrolmen and office personnel.

14 3. The commissioner shall be given a certificate of appointment, a copy
 15 of which shall be filed with the secretary of state, granting him or her all the
 16 powers of a peace officer to enforce all the laws of this state within the
 17 jurisdiction of the water patrol as listed in section 306.165, provided that he has
 18 completed a law enforcement training course which meets the standards
 19 established in chapter 590, RSMo.

20 4. In the absence, or upon the disability, of the commissioner, or at the
 21 time the commissioner designates, the lieutenant colonel shall assume the duties
 22 of the commissioner. In case of the disability of the commissioner and the
 23 lieutenant colonel, the governor may designate a major as acting commissioner
 24 and when so designated, the acting commissioner shall have all the powers and
 25 duties of the commissioner.]
 26

 [306.227. Patrolmen and radio personnel of the water patrol shall not be
 2 less than twenty-one years of age. No person shall be appointed as commissioner
 3 or as a member of the patrol or as a member of the radio personnel who:

4 (1) Has been convicted of a felony or any crime involving moral
 5 turpitude, or against whom any indictment or information may then be pending
 6 charging the person with having committed a crime;

7 (2) Is not of good character;

8 (3) Is not a citizen of the United States;

9 (4) At the time of appointment is not a citizen of the state of Missouri;

10 (5) Has not completed a high school program of education under chapter
 11 167, RSMo, or has not obtained a General Educational Development (GED)
 12 certificate, and who has not obtained advanced education and experience as
 13 approved by the commissioner; or

14 (6) Does not possess ordinary physical strength, and who is not able to
 15 pass the physical and mental examination that the commissioner prescribes.]
 16

 [306.228. 1. The commissioner may appoint from within the
 2 membership not more than one assistant commissioner, two majors, nine
 3 captains, nine lieutenants, and one director of radio, each of whom shall have the
 4 same qualifications as the commissioner, and such additional force of sergeants,
 5 corporals and patrolmen and such numbers of radio personnel as the
 6 commissioner deems necessary.

7 2. In case of a national emergency the commissioner may name
 8 additional patrolmen and radio personnel in a number sufficient to replace,
 9 temporarily, patrolmen and radio personnel called into military services.

10 3. Applicants shall not be discriminated against because of race, creed,
 11 color, national origin, religion or sex.]
 12

 [306.229. 1. The commissioner is authorized and empowered to
 2 prescribe policies providing increases in the salaries of patrolmen and radio

3 personnel of the water patrol, subject to appropriations. Each year, prior to
4 January first, the commissioner shall submit a salary schedule report to the
5 governor, speaker of the house of representatives, and the president pro tem of
6 the senate. The salary schedule report prepared by the commissioner shall
7 include, in addition to other matters deemed pertinent to the commissioner, a
8 comparison of the salaries of police officers of three police departments that
9 employ similar numbers of patrol officers in the state. Such report shall also
10 include a full description and comparison of each department position used to
11 determine parity for all patrol positions of sergeant and above. The governor may
12 make additional recommendations to the report and forward them to the speaker
13 of the house of representatives and president pro tem of the senate. The speaker
14 of the house of representatives and the president pro tem of the senate may assign
15 the salary schedule report to the appropriate standing committees to review the
16 salary comparisons to ensure that parity, as adjusted for equivalent duties and
17 functions, in the salary of patrolmen and radio personnel of the water patrol and
18 officers of the three police departments that employ similar numbers of patrol
19 officers in the state is maintained. The commissioner of the water patrol shall
20 testify before the appropriate committee on the salary schedule report if called up
21 by such committee.

22 2. The service of a member of the patrol, who has served in the armed
23 forces of the United States and who has subsequently been reinstated as a
24 member of the patrol within ninety days after receiving a discharge other than
25 dishonorable from the armed forces of the United States, shall be considered
26 service with the patrol as a member of the patrol rendered since last becoming a
27 member prior to entrance into the armed forces of the United States; except that
28 no member shall be entitled to any credit, privilege or benefit provided by this
29 chapter if such reenlistment, waiver of discharge, acceptance of commission or
30 any other action with the armed forces beyond the period of service for which
31 such member was originally commissioned, enlisted, inducted or called.]

32 [306.230. 1. The commissioner shall prescribe rules for instruction and
2 discipline and make all administrative rules and regulations and fix the hours of
3 duty for the members of the patrol. Any rule or portion of a rule, as that term is
4 defined in section 536.010, RSMo, that is created under the authority delegated
5 in this section shall become effective only if it complies with and is subject to all
6 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
7 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
8 powers vested with the general assembly under chapter 536, RSMo, to review,
9 to delay the effective date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking authority and any rule
11 proposed or adopted after August 28, 2007, shall be invalid and void. The
12 commissioner shall divide the state into districts and assign members of the
13 patrol to such districts in a manner deemed proper to carry out the purposes of

14 this chapter. The commissioner may call members of the patrol from one district
15 to another.

16 2. The commissioner may, by general order, establish for the
17 circumstances under which members of the patrol are promoted. The
18 commissioner shall classify and, by promotion, increase the rank of lieutenant
19 colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio
20 personnel from the next lower rank after not less than one year of service
21 satisfactorily performed therein. If the commissioner finds the candidate pool to
22 fill a position through promotion is not sufficient from which to select, the
23 commissioner may promote an individual from the next lower rank.]
24

2 [306.232. 1. After a probation period of one year, members of the patrol
3 shall be subject to removal, reduction in rank, or suspension of more than three
4 days only for cause after a petition with a formal charge has been filed in writing
5 before or by the commissioner and upon a finding and vote by a majority of a
6 board of six patrol members after a hearing. The members of the board shall be
7 randomly selected from districts or divisions other than that of the accused. The
8 board shall be composed of six unbiased members including one nonvoting
9 captain, one lieutenant, and four members of the same rank as the accused
10 member. The randomly selected captain shall serve as presiding officer at the
11 hearing. Within thirty days after the petition is filed, unless the accused consents
12 to an extension of the time, the board shall conduct a hearing and report to the
13 commissioner the finding and vote of the majority of the board, whether the
14 charges are true, and what discipline, if any, should be imposed. All lawful rules,
15 regulations, and orders of the commissioner shall be obeyed by the members of
16 the patrol, who shall be subject to dismissal or one or more of the following as
17 adjudged by the commissioner:

18 (1) Suspension without pay for not more than thirty days;

19 (2) Reduction in rank; or

20 (3) Disciplinary transfer at the member's expense. Nothing in this section
21 shall be construed to prevent nondisciplinary transfers of members if the
22 commissioner determines that such transfers are for the good of the patrol. No
23 hearings shall be required in the case of reprimands or suspensions of three days
24 or less which may be imposed at the discretion of the commissioner.

25 2. If a complaint is filed against a member, the member shall be provided
26 a copy of the complaint promptly after the complaint is filed by or received by the
27 patrol. Unless the member consents in writing to an earlier time, the member
28 shall not be questioned by the patrol about the complaint or ordered to respond
29 in writing to the complaint until forty-eight hours after the member has received
30 a copy of the complaint. The member shall have a reasonable opportunity to
31 have counsel present during any questioning related to the complaint. Prior to the
32 commissioner or the patrol making an initial recommendation of discipline, the
member shall be entitled to a copy of any investigation reports and any other

33 written or recorded information or other evidence reviewed by the patrol which
34 relates to the complaint; and the member will be afforded an opportunity to
35 present a written response thereto.

36 3. Notwithstanding the provisions of this subsection or subsection 2 of
37 this section to the contrary, the commissioner may postpone notifying a member
38 that a complaint has been filed against him or her and may withhold the
39 complaint and part or all of the investigation report and other evidence if the
40 commissioner determines that such disclosures shall seriously interfere with the
41 investigation regarding such complaint or any other investigation being
42 conducted by the patrol or may likely jeopardize the health or safety of any
43 person. Nothing in this subsection shall be construed to limit the rights of parties
44 to discovery in civil or criminal litigation.]

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