

HCS HB 1900 -- STATE AND LOCAL ISSUES

(Vetoed by the Governor)

This bill changes the laws regarding executive branch reorganization, tax increment financing, annexation, workforce transition services for youth with disabilities, persons with mental disabilities, service dogs, employment security laws, accessible parking, the Brain Injury Fund, and employment disqualification lists for home care employees and establishes the Iran Energy Divestment Act.

EXECUTIVE BRANCH REORGANIZATION

The bill:

(1) Authorizes the Joint Committee on Legislative Research to incorporate executive department reorganization under Sections 26.500 to 26.540, RSMo. The authority is limited to name changes and movement of statutory sections or portions of sections to the appropriate chapters of law (Section 3.060);

(2) Renames the Division of Design and Construction in the Office of Administration to the Division of Facilities Management, Design and Construction and the Division of Data Processing and Telecommunications to the Information Technology Services Division (Section 3.070);

(3) Repeals an outdated provision requiring the Missouri Minority Advocacy Commission to submit a plan to increase procurement from minority businesses by state departments and recommended legislation to the General Assembly (Section 33.753);

(4) Renames the Missouri Minority Business Development Commission to the Missouri Minority Business Advocacy Commission (Section 37.013);

(5) Repeals an outdated provision requiring the Department of Economic Development and the Office of Administration to develop a plan to increase procurements from minority businesses by all state departments and submit that plan to the Governor by July 1994 and requires the Office of Administration, instead of the Department of Economic Development, to furnish administrative support and staff for the effective operation of the commission (Section 37.014);

(6) Transfers the duty to establish a procedure for the reimbursement of the costs of tuition, books, and fees to any public community college or vocational or technical school under the A+ Schools Program from the Commissioner of Education by rule

and regulation of the State Board of Education and with the advice of the Coordinating Board for Higher Education to the Department of Higher Education (Section 160.545);

(7) Moves the Missouri Assistive Technology Advisory Council from the Office of Administration to the Department of Elementary and Secondary Education (Section 161.920);

(8) Moves the Life Sciences Research Board from the Office of Administration to the Department of Economic Development and changes it from a III division to a III agency (Section 196.1103); and

(9) Allows any person to appeal to the Administrative Hearing Commission any decision made by the Department of Public Safety regarding a claim filed on or after August 28, 2012, for compensation to victims of crime and specifies a person's rights regarding the appeal (Sections 595.036 and 621.275).

IRAN ENERGY DIVESTMENT ACT (Section 34.225)

The Iran Energy Divestment Act is established which prohibits any person or entity that engages in investment activities in the energy sector in Iran from contracting with the state or its political subdivisions for goods or services in excess of \$1 million. A person or entity will be considered to be engaging in investment activities in the energy sector in Iran under these provisions if the person or entity has an investment of \$20 million or more in the energy sector in Iran; provides oil or liquified natural gas tankers or products used to construct or maintain pipelines for the energy sector in Iran; or is a financial institution that extends \$20 million or more in a commercial loan to another person for 45 days or more if the institution had knowledge that the person would use the proceeds from the loan to invest in the energy sector in Iran.

The bill specifies that a public entity must require any person who submits a bid or proposal to enter into a contract with a public entity for goods or services in excess of \$1 million that currently has business activities or other operations outside of the United States to certify that he or she is not a proscribed investor in the energy sector in Iran as specified in the bill.

If the Attorney General determines that a person or entity has submitted a false certification, the person must be subject to a civil penalty of \$250,000; termination, without penalty, of an existing contract with the awarding body; and ineligibility to bid on or enter into a contract with a public entity for three years.

ANNEXATION (Sections 71.012 - 71.015)

The bill specifies that a petition requesting a voluntary annexation needs to be notarized instead of verified. Any action to invalidate a previous annexation must be brought within three years of the date of the adoption of the annexation ordinance. Any action to deannex an area for failure of the annexing municipality to provide required services to the area within three years must be filed in the circuit court no later than four years after the effective date of the annexation.

TAX INCREMENT FINANCING FUNDS (Section 99.845)

The bill adds the St. Louis County sales tax for an emergency communication system to the list of taxes that may not be deposited into a special allocation fund for the purposes of tax increment financing.

YOUTH WITH DISABILITIES WORK GROUP (Section 161.870)

The Department of Elementary and Secondary Education must establish, by September 1, 2012, a work group to assess the available resources that youth with disabilities need for effective work experiences. The work group must review all interagency coordination of services for employer matching services to ensure that the services adequately meet the specified needs of students and young adults with disabilities who seek employment and need job placement assistance. The goal of the work group must be to evaluate the current efforts and available resources and to promote the involvement of specified key stakeholders in planning and implementing services to provide successful transitions to employment, lifelong learning, and quality of life. The work group must focus on secondary students and young adults with disabilities. The work group must assess the strengths and need for improvement in services for transition services, instruction, and experiences that reinforce core curriculum concepts and skills that lead to gainful employment. It must determine whether any additional state partnerships through nonfinancial interagency agreements are needed to enhance the employment potential of students and young adults with disabilities. The work group must focus its efforts in developing careers for these youth in order to prevent economic and social dependence on state and community agencies and resources.

The department must submit recommendations based on the findings of the work group to the General Assembly prior to January 1, 2013. The work group must be administered and its members chosen by the Commissioner of Education within the department and the members must include existing personnel and human resources

available to the Department of Elementary Education or members of the General Assembly.

PERSONS WITH MENTAL DISABILITIES (Section 209.150)

The bill adds an individual with mental disabilities to the list of people who must be afforded the same rights as those without disabilities to use streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. An individual with mental disabilities is also entitled to equal accommodation from common carriers, airlines, motor vehicles, trains, buses, taxis, and any other public conveyances or modes of transportation, as well as hotels, places of public accommodation, and other places to which the general public is invited and the right to be accompanied by a guide, hearing, or service dog in any of these places without being required to pay an extra charge.

SERVICE DOGS (Sections 209.152, 209.200, and 209.202)

A member of a service dog team has the right to be accompanied by the dog while the dog is in training without being required to pay an extra charge but will be liable for any damages to a facility caused by the dog during training. A service dog team consists of a trained service dog, a disabled person or child, and an adult person who has been trained to handle the dog. The term "service dog" is revised to include a search and rescue dog, which is a dog that is trained to search for or prevent a person with a mental disability from becoming lost; a service team dog, which is a team consisting of a trained service dog, a disabled person or child, and an adult person who has been trained to handle the service dog; and a professional therapy dog, which is a dog that is selected, trained, and tested to provide specific physical therapeutic functions under the direction and control of a qualified handler who works with the dog as a team as a part of the handler's occupation or profession. "Service dog" does not include dogs used by volunteers in visitation therapy.

Currently, any person who knowingly, intentionally, or recklessly causes substantial physical injury to or the death of a service dog is guilty of a class A misdemeanor. The bill repeals this provision and specifies that any person who, with reckless disregard, injures or kills or permits a dog that he or she owns or is in the immediate control of to injure or kill a service animal will be guilty of a class A misdemeanor.

Currently, any person who knowingly or intentionally fails to exercise sufficient control over an animal he or she owns, keeps, harbors, or exercises control over to prevent substantial physical injury to or the death of a service dog, or the

inability to function as a service dog as a result, is guilty of a class A misdemeanor. The bill repeals this provision and specifies that any person who, with reckless disregard, interferes with or permits a dog that he or she owns or is in the immediate control of to interfere with the use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or its user is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second or subsequent violation.

The bill repeals the provisions regarding harassing or chasing a service dog and specifies that any person who intentionally injures or kills or permits a dog that he or she owns or is in the immediate control of to injure or kill a service animal is guilty of a class D felony.

The bill repeals provisions allowing for a cause of action by an owner of a service dog to recover civil damages and specifies that any person who is convicted of a violation of these provisions must make full restitution for all damages that arise out of or are related to the offense. Restitution includes, but is not limited to, the value of the animal, replacement and training or retraining expenses, veterinary and other medical and boarding expenses for the animal, medical expenses for the owner, and lost wages or income incurred during any period that the owner is without the services of the animal.

EMPLOYMENT SECURITY LAWS (Section 288.034)

For the purposes of the employment security laws, the term "employment" will not mean in-home or community-based services performed by a provider contracted to provide the services for the clients of a county board for developmental disability services organized and commonly known as "SB 40 boards"; however, the vendor will be responsible for the payroll and fringe benefits accounting functions for the consumer. The services must be deemed to be employment if the provider is a nonprofit entity, governmental entity, or federally recognized Indian tribe.

ACCESSIBLE PARKING (Section 301.143)

The bill specifies that when any political subdivision or owner of private property restripes a parking lot or constructs a new parking lot with 25 or more parking spaces, the lot and accessible signs must meet the minimum requirements of the federal Americans with Disabilities Act for the number of required accessible parking spaces but not less than one must be served by an access aisle that is a minimum of 96 inches wide and designated "van accessible." If any accessible space is 132

inches wide or wider, the adjacent access aisle must be a minimum of 60 inches wide. If any accessible space is less than 132 inches wide, the adjacent aisle must be a minimum of 96 inches wide. Currently, any parking lot that is restriped or constructed must have one in every four accessible spaces served by an access aisle that is a minimum of 96 inches wide and designated "lift van accessible only."

BRAIN INJURY FUND (Section 304.028)

The bill adds community-based consumer services in comprehensive brain injury day rehabilitation therapy, vocational, and home and community support to the list of services for which the Department of Health and Senior Services must expend funds from the Brain Injury Fund to individuals with brain injury. The department, in cooperation with the Department of Social Services, must seek federal waivers from the federal Department of Health and Human Services to allow moneys in the fund to be used for brain injury services under the MO HealthNet Program. Upon the granting of a waiver, 50% of all moneys in the fund must be designated as MO HealthNet federal match moneys. Any approved federal waiver must be designed so that parity is established in funding for each of the eligible program service areas to create a balance for access to all brain injury services. A 10-member committee must be established to develop service descriptions, regulations, and parity of funding for the eligible service areas, as needed. The committee must meet at least annually to review services using the most current Department of Health and Senior Services brain injury needs assessments and to address any modifications needed in the program services to ensure services are meeting the needs of brain injury consumers.

EMPLOYMENT DISQUALIFICATION LIST FOR HOME CARE EMPLOYEES (Section 660.315)

The bill specifies that any home care employer required to deny employment to an applicant or discharge an employee as a result of information obtained through any portion of the background screening and employment eligibility determination process or subsequent periodic screenings required under the Family Care Safety Registry provisions cannot be liable in any action brought by the applicant or employee relating to discharge.

The employer cannot be charged for unemployment insurance benefits based on wages paid to the employee or an employer making payments in lieu of contributions for work prior to the date of discharge if the employer terminated the employee because the employee:

- (1) Has been found guilty of or pled guilty or nolo contendere

in this state or any other state of a crime that, if committed in Missouri, would be a class A or B felony violation of certain specified crimes including offenses against the person, sexual offenses, and robbery, arson, or burglary offenses;

(2) Was placed on the employee disqualification list maintained by the Department of Health and Senior Services after the date of hire;

(3) Was placed on the employee disqualification list maintained by the Department of Mental Health after the date of hire;

(4) Is listed on any of the background check lists in the Family Care Safety Registry; or

(5) Has a disqualifying finding or was denied a good cause waiver under the employee disqualification list maintained by the Department of Health and Senior Services.

The provisions of the bill regarding the youth with disabilities work group expire January 1, 2013.