

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 265

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

1206S.02P

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 600.042, RSMo, and to enact in lieu thereof four new sections relating to funds established within the state treasury.

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

Section A. Section 600.042, RSMo, is repealed and four
2 new sections enacted in lieu thereof, to be known as sections
3 68.080, 136.415, 256.800, and 600.042, to read as follows:

68.080. 1. **There is hereby established in the state**
2 **treasury the "Waterways and Ports Trust Fund". The fund**
3 **shall consist of revenues appropriated to it by the general**
4 **assembly.**

2. **The fund may also receive any gifts, contributions,**
6 **grants, or bequests received from federal, private, or other**
7 **sources.**

3. **The fund shall be a revolving trust fund exempt**
9 **from the provisions of section 33.080 relating to the**
10 **transfer of unexpended balances by the state treasurer to**
11 **the general revenue fund of the state. All interest earned**
12 **upon the balance in the fund shall be deposited to the**
13 **credit of the fund.**

4. **Moneys in the fund shall be withdrawn only upon**
15 **appropriation by the general assembly, to be administered by**

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

16 the state highways and transportation commission and the
17 department of transportation, in consultation with Missouri
18 public ports, for the purposes in subsection 2 of section
19 68.035 and for no other purpose. To be eligible to receive
20 an appropriation from the fund, a project shall be:

21 (1) A capital improvement project implementing
22 physical improvements designed to improve commerce or
23 terminal and transportation facilities on or adjacent to the
24 navigable rivers of this state;

25 (2) Located on land owned or held in long term lease
26 by a Missouri port authority, or within a navigable river
27 adjacent to such land, and within the boundaries of a port
28 authority;

29 (3) Funded by alternate sources so that moneys from
30 the fund comprise no more than eighty percent of the cost of
31 the project;

32 (4) Selected and approved by the highways and
33 transportation commission, in consultation with Missouri
34 public ports, to support a statewide plan for waterborne
35 commerce, in accordance with subdivision (1) of section
36 68.065; and

37 (5) Capable of completion within two years of approval
38 by the highways and transportation commission.

39 5. Appropriations made from the fund established in
40 this section may be used as a local share in applying for
41 other grant programs.

42 6. The provisions of this section shall terminate on
43 August 28, 2033, pending the discharge of all warrant. On
44 December 31, 2033, the fund shall be dissolved and the
45 unencumbered balance shall be transferred to the general
46 revenue fund.

136.415. 1. There is hereby created in the state
2 treasury the "Interstate 70 Improvement Fund", which shall
3 consist of revenues appropriated to it by the general
4 assembly. The state treasurer shall be custodian of the
5 fund. In accordance with sections 30.170 and 30.180, the
6 state treasurer may approve disbursements. The fund shall
7 be a dedicated fund and money in the fund shall be used
8 solely by the highways and transportation commission for the
9 purposes of completing and widening or otherwise improving
10 and maintaining Interstate 70.

11 2. Notwithstanding the provisions of section 33.080 to
12 the contrary, any moneys remaining in the fund at the end of
13 the biennium shall not revert to the credit of the general
14 revenue fund.

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

256.800. 1. This section shall be known and may be
2 cited as the "Flood Resiliency Act".

3 2. As used in this section, unless the context
4 otherwise requires, the following terms shall mean:

5 (1) "Director", the director of the department of
6 natural resources;

7 (2) "Flood resiliency measures", structural
8 improvements, studies, and activities employed to improve
9 flood resiliency in local to regional or multi-
10 jurisdictional areas;

11 (3) "Flood resiliency project", a project containing
12 planning, design, construction, or renovation of flood
13 resiliency measures or the conduct of studies or activities
14 in support of flood resiliency measures;

15 (4) "Partner", a political subdivision, entity, or
16 person working in conjunction with a promoter to facilitate
17 the completion of a flood resiliency project;

18 (5) "Plan", a preliminary report describing the need
19 for, and implementation of, flood resiliency measures;

20 (6) "Promoter", any political subdivision of the
21 state, or any levee district or drainage district organized
22 or incorporated in the state.

23 3. (1) There is hereby established in the state
24 treasury a fund to be known as the "Flood Resiliency
25 Improvement Fund", which shall consist of all moneys
26 deposited in such fund from any source, whether public or
27 private. The state treasurer shall be custodian of the
28 fund. In accordance with sections 30.170 and 30.180, the
29 state treasurer may approve disbursements. The fund shall
30 be a dedicated fund and moneys in the fund shall be used
31 solely for the purposes of this section. Notwithstanding
32 the provisions of section 33.080 to the contrary, any moneys
33 remaining in the fund at the end of the biennium shall not
34 revert to the credit of the general revenue fund. The state
35 treasurer shall invest moneys in the fund in the same manner
36 as other funds are invested. Any interest and moneys earned
37 on such investments shall be credited to the fund.

38 (2) Upon appropriation, the department of natural
39 resources shall use moneys in the fund created by this
40 subsection for the purposes of carrying out the provisions
41 of this section including, but not limited to, the provision
42 of grants or other financial assistance and, if limitations
43 or conditions are imposed, only upon such other limitations
44 or conditions specified in the instrument that appropriates,
45 grants, bequeaths, or otherwise authorizes the transmission
46 of moneys to the fund.

47 4. In order to increase flood resiliency along the
48 Missouri and Mississippi Rivers and their tributaries and
49 improve statewide flood forecasting and monitoring ability,
50 there is hereby established a "Flood Resiliency Program".
51 The program shall be administered by the department of
52 natural resources. The state may participate with a
53 promoter in the development, construction, or renovation of
54 a flood resiliency project if the promoter has a plan which
55 has been submitted to and approved by the director, or the
56 state may promote a flood resiliency project and initiate a
57 plan on its own accord.

58 5. The plan shall include a description of the flood
59 resiliency project, the need for the project, the flood
60 resiliency measures to be implemented, the partners to be
61 involved in the project, and other such information as the
62 director may require to adequately evaluate the merit of the
63 project.

64 6. The director shall only approve a plan upon a
65 determination that long-term flood mitigation is needed in
66 that area of the state and that such a plan proposes flood
67 resiliency measures that will provide long-term flood
68 resiliency.

69 7. Promoters with approved flood resiliency plans and
70 their partners shall be eligible to receive any gifts,
71 contributions, grants, or bequests from federal, state,
72 private, or other sources for costs associated with flood
73 resiliency projects that are part of such plans.

74 8. Promoters with approved flood resiliency plans and
75 their partners may be granted moneys from the flood
76 resiliency improvement fund under subsection 3 of this
77 section for eligible costs associated with flood resiliency
78 projects that are part of such plans.

79 9. The department of natural resources is hereby
80 granted authority to promulgate rules to implement this
81 section. Any rule or portion of a rule, as that term is
82 defined in section 536.010, that is created under the
83 authority delegated in this section shall become effective
84 only if it complies with and is subject to all of the
85 provisions of chapter 536 and, if applicable, section
86 536.028. This section and chapter 536 are nonseverable, and
87 if any of the powers vested with the general assembly
88 pursuant to chapter 536 to review, to delay the effective
89 date, or to disapprove and annul a rule are subsequently
90 held unconstitutional, then the grant of rulemaking
91 authority and any rule proposed or adopted after August 28,
92 2023, shall be invalid and void.

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy
3 directors and other state public defender office personnel
4 appointed pursuant to this chapter; and he or she and the
5 deputy director or directors may participate in the trial
6 and appeal of criminal actions at the request of the
7 defender;

8 (2) Submit to the commission, between August fifteenth
9 and September fifteenth of each year, a report which shall
10 include all pertinent data on the operation of the state
11 public defender system, the costs, projected needs, and
12 recommendations for statutory changes. Prior to October
13 fifteenth of each year, the commission shall submit such
14 report along with such recommendations, comments,
15 conclusions, or other pertinent information it chooses to
16 make to the chief justice, the governor, and the general
17 assembly. Such reports shall be a public record, shall be
18 maintained in the office of the state public defender, and

19 shall be otherwise distributed as the commission shall
20 direct;

21 (3) With the approval of the commission, establish
22 such divisions, facilities and offices and select such
23 professional, technical and other personnel, including
24 investigators, as he deems reasonably necessary for the
25 efficient operation and discharge of the duties of the state
26 public defender system under this chapter;

27 (4) Administer and coordinate the operations of
28 defender services and be responsible for the overall
29 supervision of all personnel, offices, divisions and
30 facilities of the state public defender system, except that
31 the director shall have no authority to direct or control
32 the legal defense provided by a defender to any person
33 served by the state public defender system;

34 (5) Develop programs and administer activities to
35 achieve the purposes of this chapter;

36 (6) Keep and maintain proper financial records with
37 respect to the provision of all public defender services for
38 use in the calculating of direct and indirect costs of any
39 or all aspects of the operation of the state public defender
40 system;

41 (7) Supervise the training of all public defenders and
42 other personnel and establish such training courses as shall
43 be appropriate;

44 (8) With approval of the commission, promulgate
45 necessary rules, regulations and instructions consistent
46 with this chapter defining the organization of the state
47 public defender system and the responsibilities of division
48 directors, district defenders, deputy district defenders,
49 assistant public defenders and other personnel;

50 (9) With the approval of the commission, apply for and
51 accept on behalf of the public defender system any funds
52 which may be offered or which may become available from
53 government grants, private gifts, donations or bequests or
54 from any other source. Such moneys shall be deposited in
55 the [state general revenue] **public defender - federal and**
56 **other** fund;

57 (10) Contract for legal services with private
58 attorneys on a case-by-case basis and with assigned counsel
59 as the commission deems necessary considering the needs of
60 the area, for fees approved and established by the
61 commission;

62 (11) With the approval and on behalf of the
63 commission, contract with private attorneys for the
64 collection and enforcement of liens and other judgments owed
65 to the state for services rendered by the state public
66 defender system.

67 2. No rule or portion of a rule promulgated under the
68 authority of this chapter shall become effective unless it
69 has been promulgated pursuant to the provisions of section
70 536.024.

71 3. The director and defenders shall, within guidelines
72 as established by the commission and as set forth in
73 subsection 4 of this section, accept requests for legal
74 services from eligible persons entitled to counsel under
75 this chapter or otherwise so entitled under the constitution
76 or laws of the United States or of the state of Missouri and
77 provide such persons with legal services when, in the
78 discretion of the director or the defenders, such provision
79 of legal services is appropriate.

80 4. The director and defenders shall provide legal
81 services to an eligible person:

82 (1) Who is detained or charged with a felony,
83 including appeals from a conviction in such a case;

84 (2) Who is detained or charged with a misdemeanor
85 which will probably result in confinement in the county jail
86 upon conviction, including appeals from a conviction in such
87 a case, unless the prosecuting or circuit attorney has
88 waived a jail sentence;

89 (3) Who is charged with a violation of probation when
90 it has been determined by a judge that the appointment of
91 counsel is necessary to protect the person's due process
92 rights under section 559.036;

93 (4) Who has been taken into custody pursuant to
94 section 632.489, including appeals from a determination that
95 the person is a sexually violent predator and petitions for
96 release, notwithstanding any provisions of law to the
97 contrary;

98 (5) For whom the federal constitution or the state
99 constitution requires the appointment of counsel; and

100 (6) Who is charged in a case in which he or she faces
101 a loss or deprivation of liberty, and in which the federal
102 or the state constitution or any law of this state requires
103 the appointment of counsel; however, the director and the
104 defenders shall not be required to provide legal services to
105 persons charged with violations of county or municipal
106 ordinances, or misdemeanor offenses except as provided in
107 this section.

108 5. The director may:

109 (1) Delegate the legal representation of an eligible
110 person to any member of the state bar of Missouri;

111 (2) Designate persons as representatives of the
112 director for the purpose of making indigency determinations
113 and assigning counsel.

114 6. There is hereby created within the state treasury
115 the "Public Defender - Federal and Other Fund", which shall
116 be funded annually by appropriation, and which shall contain
117 moneys received from any other funds from government grants,
118 private gifts, donations, bequests, or any other source to
119 be used for the purpose of funding local offices of the
120 office of the state public defender. The state treasurer
121 shall be the custodian of the fund and shall approve
122 disbursements from the fund upon the request of the director
123 of the office of state public defender. Any interest or
124 other earnings with respect to amounts transferred to the
125 fund shall be credited to the fund. Notwithstanding the
126 provisions of section 33.080 to the contrary, any unexpended
127 balances in the fund at the end of any fiscal year shall not
128 be transferred to the general revenue fund or any other fund.

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