

STATE TRANSPORTATION COMMISSION

Act 286 of 1964

AN ACT to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts.

History: 1964, Act 286, Imd. Eff. June 12, 1964;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978;-- Am. 1984, Act 398, Imd. Eff. Dec. 28, 1984.

The People of the State of Michigan enact:

247.801 Definitions.

Sec. 1. As used in this act:

- (1) "Commission" means the state transportation commission.
- (2) "Director" means the director of transportation.
- (3) "Department" means the department of transportation.

History: 1964, Act 286, Imd. Eff. June 12, 1964;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.802 Office of state highway commissioner abolished; transfer of power and duties; references.

Sec. 2. The office of state highway commissioner is abolished and the powers and duties of that office are transferred to and vested in the commission. Any law referring to the state highway commissioner or office of state highway commissioner shall be considered to refer to the department.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.803 State transportation commission; appointment and terms of members; vacancies; bond.

Sec. 3. The governor with the advice and consent of the senate shall appoint the first members of the commission for terms of 1, 2, 3, and 4 years, commencing on July 1, 1964. Except for terms commenced before the effective date of section 6a, the term of office of a member of the commission shall be for 3 years. Vacancies on the commission shall be filled by the governor for the unexpired terms. Each member shall give to the people of the state a bond in the penal sum of \$25,000.00, with sureties approved by the state treasurer, conditioned upon the faithful discharge of the duties of his or her office, the premium to be paid from the state transportation fund.

History: 1964, Act 286, Imd. Eff. June 12, 1964;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.804 State transportation commission; officers; quorum; transaction of business.

Sec. 4. The governor shall appoint 1 of the members of the commission as chairperson to serve at the pleasure of the governor. Each year by a majority vote of the members elected to and serving on the commission, the commission shall elect 1 of its members as vice-chairperson and other officers as it considers advisable. In addition to the powers granted the vice-chairperson by commission bylaws, the vice-chairperson shall act as chairperson when the office of chairperson is vacant or the chairperson is absent or unable to serve. Four members of the commission constitute a quorum. The affirmative vote of a majority of those members elected to and serving is necessary for the transaction of business.

History: 1964, Act 286, Imd. Eff. June 12, 1964;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979.

247.805 Director; appointment, qualifications, and term; deputy director.

Sec. 5. (1) The governor shall appoint the director with the advice and consent of the senate.

(2) The director shall possess proven executive and administrative abilities, preferably in the field of public or private transportation or public administration.

(3) If the director is not a licensed professional engineer, the director shall designate a deputy director of the department who shall be a licensed professional engineer who shall be responsible to the director for the engineering content of policies and programs.

(4) The director shall serve at the pleasure of the governor.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979;-- Am. 1982, Act 235, Eff. Jan. 1, 1983.

247.805a Bureau of urban and public transportation; chief administrative officer; deputy director of state transportation department.

Sec. 5a. The chief administrative officer of the bureau of urban and public transportation of the state transportation department shall be appointed by the governor, shall serve at the pleasure of the governor, and shall serve as a deputy director of the department. The appointment made pursuant to this section shall be made with the advice and consent of the senate.

History: Add. 1978, Act 484, Imd. Eff. Dec. 1, 1978;-- Am. 1979, Act 65, Imd. Eff. July 25, 1979.

247.806 State highway commission; transitional powers.

Sec. 6. Before assuming the powers and duties of the present state highway commissioner the commission shall meet at least monthly at the call of the state highway commissioner and shall have the following powers and duties:

- (a) To consult with the state highway commissioner and serve as members of the advisory board created by section 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, being section 225.2a of the Compiled Laws of 1948, the membership of which board is hereby increased to 9.
- (b) To request information from the state highway commissioner concerning highway matters.
- (c) To assist in the preparation of budget requests for the fiscal year commencing July 1, 1965.
- (d) To designate the director whose employment will not begin until the commission assumes the powers and duties of the present state highway commissioner.

History: 1964, Act 286, Imd. Eff. June 12, 1964.

247.806a Powers of director.

Sec. 6a. The director may do the following:

- (a) Organize the department and its work, supervise the work of the employees of the department, create, merge, and abolish organizational divisions within the department, and transfer or merge functions among those divisions in the interest of economy and efficiency.
- (b) Employ personnel necessary to carry out the duties of the director and the responsibilities of the department subject to laws governing state employment.
- (c) Delegate to any employee of the department, subject to the approval of the commission, any powers vested in the director or delegated to the director by the commission.
- (d) Establish a program of current and long-range planning for the transportation systems under the department's jurisdiction.
- (e) Direct the preparation of budget requests, expenditures, programs and periodical allotments.
- (f) Purchase materials, supplies and equipment as necessary and proper to carry out the duties of the department as provided by law governing state purchasing.
- (g) Dispose of obsolete equipment, surplus supplies and material that cannot be used by the department as provided by law governing the disposal.
- (h) Do anything necessary and proper to comply fully with the provisions of present or future federal aid acts.
- (i) Do anything necessary and proper to carry out the duties imposed upon the department by the constitution and other duties as may be imposed by law.

History: Add. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.806b Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions.

Sec. 6b. (1) The director or the commission may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the commission for the purpose of producing a film under terms and conditions established by the director or commission. The economic and other benefits to this state of film production located in this state shall be deemed to be the value received by this state in exchange for the use of property under this section.

(2) The director or the commission shall not authorize the use of property owned by or under the control of the commission for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department and the commission shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the commission and the use of property owned by or under the control of the commission.

(4) As used in this section:

(a) "Film" means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) "Michigan film office" means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) "Obscene matter or an obscene performance" means matter described in 1984 PA 343, MCL 752.361 to 752.374.

History: Add. 2008, Act 83, Imd. Eff. Apr. 8, 2008.

247.807 Powers and duties of commission.

Sec. 7. (1) The commission's powers and duties shall include:

(a) The awarding of all contracts for the construction, improvement, and maintenance of the highways and transportation facilities under its jurisdiction, as provided by law.*

(b) The establishment of transportation policies for the guidance and direction of the director.

(2) The commission may do the following:

(a) Delegate to any member of the commission, the director, or any subordinate, any powers, other than the power to establish policy, vested in the commission as it considers necessary and proper; and permit the director to delegate any powers delegated to him or her by the commission.

(b) Acquire, own, and hold real and personal property in the name of the state or the commission and sell, lease or otherwise dispose of, or encumber, the same in connection with, and in furtherance of, its duties and the purposes of this act.*

(c) Do anything necessary and proper to carry out the duties imposed upon it by the constitution and such other duties as may be imposed by law.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1969, Act 148, Eff. Mar. 20, 1970;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

*In a formal opinion, the Attorney General found subsections (1)(a) and (2)(b) to be unconstitutional, stating:

"[T]he powers sought to be vested in the State Transportation Commission by 1964 PA 86, Sec. 7(1)(a) and (2)(b), supra, are not policy-making powers and therefore impinge upon the powers of the director in violation of the Constitution. These powers deal with the awarding of contracts and the selling, leasing or other disposition of real and personal property." See OAG, 1979-1980, No 5547, p 355, (August 16, 1979).

247.807a Definitions; partial payments to contractor; retaining portion of total amount earned; specifications; escrow account; escrow agent; escrow agreement; terms.

Sec. 7a. (1) As used in this section:

(a) "Completion" means the date when the construction, improvement, or maintenance of a bridge, highway, or other transportation facility is accepted in accordance with the contract documents, so that the bridge, highway, or other transportation facility may be used for its intended purpose.

(b) "Construction contract" means an agreement between a contractor and the department for the construction, improvement, or maintenance of a bridge, highway, or other transportation facility.

(c) "Contractor" means an individual; sole proprietorship; partnership; corporation; joint venture; or other legal entity, other than the state, or an agency or department of the state, who is a party to a construction contract.

(d) "Project" means the specific section 9 of the highway construction to be performed under the construction contract.

(2) A construction contract may provide for partial payments to be made periodically to a contractor. The department may establish specifications regarding the retention of a portion of the total amount earned under the construction contract.

(3) At the request of the contractor and upon the approval of the department, the portion retained pursuant to the specifications established under subsection (2) shall be placed in an escrow account pursuant to this section.

(4) An escrow agent may be selected by the contractor. For purposes of this section, an escrow agent shall be a state or national bank, a state or federally chartered savings and loan association, or a state or federally chartered credit union whose principal place of business is located in this state.

(5) An escrow agreement shall be entered into between the contracting parties and the escrow agent. The escrow agreement shall contain all of the following terms:

(a) That the escrow agent shall promptly invest all of the escrowed funds.

- (b) That the escrow agent shall hold the escrowed funds until receipt of notice from the department. Upon receipt of a notice of release from the department, the escrow agent shall promptly remit the designated portion of escrowed funds to the contractor involved in the contract. Upon receipt of a notice of overpayment or default of the contract, the escrow agent shall promptly remit the designated portion of escrowed funds to the department.
- (c) That the escrow agent is responsible for all investments and money as a result of the deposit of the amount until released from responsibility pursuant to the escrow agreement.
- (d) That the contractor shall pay all expenses regarding the deposit, investment, and administration of the retained amount and all other charges made by the escrow agent.
- (e) Any other provision agreed to by the contracting parties and the escrow agent necessary or proper for purposes of this section.

History: Add. 1980, Act 447, Eff. Mar. 31, 1981;-- Am. 1981, Act 122, Imd. Eff. July 23, 1981.

247.808 Adoption of bylaws by commission.

Sec. 8. The commission by an affirmative vote of a majority of its members may adopt bylaws pertaining to the following:

- (a) Any aspect of the commission's organization and internal management not otherwise prescribed by law.
- (b) The administration of oaths.
- (c) The posting of bond by the director or a subordinate in the amount the commission determines to be reasonable and proper, the premium to be paid from the state transportation fund.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.809 Rules; violation as misdemeanor.

Sec. 9. (1) Except as provided in subsection (2), the commission shall by an affirmative vote of 4 members promulgate rules to implement its powers and duties under this act, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The department, subject to the policies of the state transportation commission, shall promulgate rules to implement its powers and duties under this act permitting and regulating the operation, maintenance, and use of rest areas, travel information centers, roadside parks, and other state owned motorist service areas along state trunk line highways pursuant to Act No. 306 of the Public Acts of 1969, as amended. The rules promulgated under this subsection may apply to all state owned motorist service areas or only to specific state owned motorist service areas.

(3) The department shall not promulgate a rule under subsection (2) which rule applies only to a specific state owned motorist service area until the department gives notification to the county board of commissioners of the county or counties in which the specific state owned motorist service area to be covered by the rule is located and allows 30 days for that county or counties to respond.

(4) A person who violates any of the rules promulgated under this act shall be guilty of a misdemeanor.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1980, Act 173, Imd. Eff. June 23, 1980;-- Am. 1984, Act 398, Imd. Eff. Dec. 28, 1984. **Admin Rule:** R 247.1 et seq. of the Michigan Administrative Code.

247.809a Conducting business at public meeting; notice.

Sec. 9a. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

History: Add. 1979, Act 201, Imd. Eff. Jan. 2, 1980.

247.810 State highway commission; issuance and execution of documents and instruments.

Sec. 10. Documents and instruments of any kind authorized to be issued or executed by the commission shall be issued or executed in the name of the "Michigan state highway commission" by the chairman of the commission, or to the extent expressly authorized by bylaw or resolution, by the vice chairman, other member, director, or other subordinate. Documents or instruments which convey interests or rights in land shall be executed by the chairman or vice chairman and the director or a deputy director designated by the commission.

History: 1964, Act 286, Eff. Jan. 4, 1965.

247.811 State highway commission; compensation, expenses, meetings, offices.

Sec. 11. The members of the commission and the director shall receive, in addition to compensation that may be appropriated, all reasonable and necessary expenses while performing their duties. The members of the commission are not required to devote their full time to their duties, but shall participate in all activities necessary to perform their duties and functions. Except as provided in section 6, commission meetings shall be called by the chairman or as prescribed by the commission. The main office of the commission shall be located in Lansing, but the commission may meet anywhere in the state.

History: 1964, Act 286, Imd. Eff. June 12, 1964.

247.812 State highway commission; conflict of interest.

Sec. 12. Neither a member of the commission, the director, nor any officer of the department shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

History: 1964, Act 286, Imd. Eff. June 12, 1964.

247.813 State highway commission; records of acts, proceedings and transactions.

Sec. 13. The commission shall keep accurate records of all its acts and proceedings and a complete account of all financial transactions of the department in accordance with the accounting laws of the state. In addition to other reports required by law, the commission shall submit to the governor and the legislature, on or before January 1 in each year, an annual report of its activities.

History: 1964, Act 286, Eff. Jan. 4, 1965.

247.813a Availability of writings to public.

Sec. 13a. A writing prepared, owned, used, in the possession of, or retained by the department or the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1979, Act 201, Imd. Eff. Jan. 2, 1980.

247.814 Replacement of state highway commissioner on boards, commissions, authorities, and agencies.

Sec. 14. The director or other person designated by the director shall replace the state highway commissioner on all boards, commissions, authorities, and agencies on which the commissioner holds membership by virtue of that office.

History: 1964, Act 286, Eff. Jan. 4, 1965;-- Am. 1978, Act 484, Imd. Eff. Dec. 1, 1978.

247.815 Repeal.

Sec. 15. Sections 2 and 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, as amended, being sections 225.2 and 225.2a of the Compiled Laws of 1948, are repealed.

History: 1964, Act 286, Eff. Jan. 4, 1965.

247.816 Effective date of certain sections.

Sec. 16. Sections 2, 5, 7, 8, 9, 10, 13, 14 and 15 of this act shall take effect on July 1, 1965, or when the present state highway commissioner no longer holds his office, whichever occurs first.

History: 1964, Act 286, Imd. Eff. June 12, 1964.