1995

Section 2. Autopsy required, when—reports to be maintained by department.—It shall be the duty of the department of corrections to ensure that an autopsy is performed upon all offenders within the custody of the department who die under violent or suspicious circumstances or apparent suicide to ascertain as nearly as possible the cause of death. The department shall maintain a record of the findings and conclusions of each such autopsy.

Section 3. Electrified security fence systems authorized.—1. The department of corrections shall install high voltage electrified security fence systems at all existing and proposed maximum security correctional centers. The department of corrections may, in its discretion, design and install high voltage electrified security fence systems at any or all existing and proposed medium security correctional centers.

2. All reasonable and necessary precautions consistent with industry standards shall be taken by the department to protect the safety of the local community and department personnel.

Section 4. Prison impact statements, required, when.—1. The fiscal note of any legislation introduced into either house of the general assembly that would affect the number of persons supervised by the Missouri department of corrections or affect any program or service provided by the department shall be accompanied by a prison impact statement, as defined in subsection 2 of this section.

2. The department of corrections shall, in consultation with the oversight division of the committee on legislative research, prepare and furnish prison impact statements. Such impact statement shall be provided to the legislative committee to which such bill is assigned prior to holding the public hearing on the pending bill, and to all members of the general assembly prior to perfection of pending bill. A prison impact statement shall include:

(1) Projections of the impact on prison, probation and parole populations;

(2) An estimate of the fiscal impact of such populations, including the need for construction and the operation of correctional centers for the current fiscal year and up to ten succeeding fiscal years;

(3) An analysis of any other significant factors affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

(4) A statement of the assumptions and the methodologies utilized in preparing the statement.

Section 5. Insurers may not cancel health or dental insurance solely because the insured is incarcerated—insurer, defined.—1. As used in this section, the term "insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, adjusters and third-party administrators. "Insurer" also includes health services corporations, health maintenance organizations, prepaid limited health care service plans, dental, optometric and other similar health service plans. For purposes of sections 375.930 to 375.948, RSMo, such entities shall be deemed to be engaged in the business of insurance. "Insurer" shall also include all companies organized, incorporated or doing business under the provisions of chapters 325, 375, 376, 377, 378, 379, 381, and 383, RSMo.

2. No insurer shall cancel or deny coverage on a contract or policy of health insurance or dental insurance to any person solely on the grounds that the person is incarcerated under authority of law.

Section 6. Repayment for medical care to be term of probation, parole or conditional release.—All persons placed upon probation, parole or conditional release from any county jail or county correctional facility shall upon request of the authority concerned, as a term of such county probation, parole, or conditional release, repay the county for medicine, dental care, or medical attention as provided in section 221.120, RSMo.

Section 7. Municipal probation services, fee, Kansas City, exemptions.—1. Any city with a population of more than three hundred fifty thousand inhabitants which is located in more than one county which provides probation services for persons convicted of its ordinance violations may collect from the person placed on probation a fee of ten dollars per month for providing supervision and rehabilitation services.

2. The court may exempt a person from all or part of the contribution required in subsection 1 of this section if it finds any of the following factors exist:

(1) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to make such payments;

(2) The offender is a student in school, college, university or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the court by the educational institution in which the offender is enrolled;

(3) The offender has an employment handicap, as determined by a physical, psychological or psychiatric examination acceptable to or ordered by the court;

(4) The offender's age prevents him from obtaining employment;

(5) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender;

(6) There are other extenuating circumstances as determined by the court to exempt or partially reduce such payments; or

(7) The offender has been transferred outside the state under an interstate compact adopted pursuant to law.

Section 8. Municipalities in St. Louis county, authority to enact ordinances and enforce them with fines or imprisonments.—Any municipality located within any county of the first classification with a population in excess of nine hundred thousand, for any purpose or purposes mentioned in this chapter, may enact and make all necessary ordinances, rules and regulations; and they may enact and make all such ordinances and rules, not inconsistent with the laws of the state, as may be expedient for maintaining the peace and good government and welfare of the city and its trade and commerce; and all ordinances may be enforced by prescribing and inflicting upon its inhabitants, or other persons violating the same, such fine not exceeding one thousand dollars, and such imprisonment not exceeding three months, or both such fine and imprisonment, as may be just for any offense, recoverable with costs of suit, together with judgement of imprisonment, until the fine and costs are paid or satisfied; and any person committed for the nonpayment of fine and costs, or either, may be compelled to work out the same as herein provided; but, in any case wherein the penalty for an offense is fixed by any statute, the council shall affix the same penalty by ordinance for the punishment of such offense, except that imprisonments, when made under city ordinances, may be in the city prison or workhouse instead of the county jail.

Approved July 5, 1995.

[H. C. S. S. B. 212]

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

ROADS AND WATERWAYS: Transportation.

AN ACT to repeal section 238.400, RSMo 1994, relating to transportation, and to enact in lieu thereof nine new sections relating to the same subject.

SECTION

A. Enacting clause.
226.181. Parks, requests for federal aid, notice to be given department.
226.799. Factors considered in designating a road or highway a scenic byway—rating system to be established—procedure to designate a road or highway as scenic, publication—hearing—county or city in area affected to notify commission of approval or rejection, effect—signs and outdoor advertising, rules and regulations.
226.950. Definitions.
226.952. Approved location of highway corridor certified copy of corridor map filed where—requirements prior to filing—revision of corridor map, procedure—commission to certify if highway not constructed within twelve years—exceptions to highway corridor law—fee to be paid to city or county on filing of corridor map by commission.
226.954. Applications and requests by land owners on land abutting or in corridor, copies to be furnished to commission—applications or requests not to be approved by city or county without commission approval—procedure—approval by commission may be conditioned upon modification or limits—rejection by city, county or landowner procedure—commission not concurring with application or request may acquire property—notice of intent, procedure—notice of intent to acquire by commission, procedure, time limitation, effect—corridor location changes, prior property owner first refusal to reacquire property at cost.
226.956. Recorder of deeds not to record plat, or city or county issue building permits, until commission has time to act on request or agreement to acquire.
226.958. Violations, authority of commission to bring actions in circuit court—restoration of property to its original condition by court order—acts in violation to be unenforceable.

SECTION
226.960. Cities and counties to have authority to take actions to preserve and enforce highway corridor.
238.400. County first class transit authority created—members, appointment, qualifications.

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

Section A. Enacting clause.—Section 238.400, RSMo 1994, is repealed and nine new sections enacted in lieu thereof, to be known as sections 226.181, 226.799, 226.950, 226.952, 226.954, 226.956, 226.958, 226.960, and 238.400, to read as follows:

226.181. Parks, requests for federal aid, notice to be given department.—Any agency, department or political subdivision of the state shall, at least thirty days prior to requesting any federal funds or any other federal assistance for a public park or recreation area, notify the Missouri highways and transportation department of such request.

226.799. Factors considered in designating a road or highway a scenic byway—rating system to be established—procedure to designate a road or highway as scenic, publication—hearing—county or city in area affected to notify commission of approval or rejection, effect—signs and outdoor advertising, rules and regulations.—1. The highways and transportation commission shall consider, at a minimum, the following factors in designating a road or highway as a scenic byway:

(1) Highway design which preserves and protects the natural beauty or scenery of the area;

(2) Significant scenic, natural, historical, cultural or recreational resources in the area;

(3) Adequate land area to accommodate safe enjoyment of scenic attractions;

(4) Compatibility of the scenic byway with recreational, aesthetic and environmental management needs of the area; and

(5) Presence of existing protected areas near, or adjacent to, the scenic byway, such as national forests or federal or state park land.

2. The commission shall adopt a rating system to ensure that only roads and highways that display outstanding characteristics pursuant to the provision of subsection 1 of this section are designated as scenic byways as provided by the provisions of section 226.797.

3. Prior to the designation of a road or highway as a scenic byway pursuant to the provisions of section 226.797, the commission shall provide written notice of its intent to designate the road or highway as a scenic byway to newspapers of general circulation in the area or areas affected and to the governing body of each county and each municipality that has jurisdiction over all or part of the road or highway. Within thirty days after receipt of such notice, the governing body of each such county or municipality shall conduct a public hearing on the matter. Within ninety days after the receipt of the notice from the commission, each such governing body of a county or municipality, after such hearing, shall approve or reject the proposed designation of the road or highway as a scenic byway and notify the commission of its approval or rejection of the proposed scenic byway. The commission shall only designate a portion of a road or highway as a scenic byway if the governing body of the county or municipality containing that portion of the road or highway approves the proposed scenic byway as prescribed in this subsection.

4. The commission may adopt rules to regulate or prohibit outdoor advertising in order to preserve scenic corridors adjacent to, and visible from, roads and highways designated as scenic byways pursuant to the provisions of section 226.797, except, that on-premise signs may be regulated, but not prohibited. Areas zoned commercial or industrial shall not be designated as scenic byways.

5. The commission may adopt rules to implement a program for the erection and maintenance of tourist oriented directional signs within the right-of-way of scenic byways in the state. The tourist oriented directional signs shall provide business identification and directional information for businesses, services, natural attractions and activities which, during a normal business season, derive the major portion of the income and visitors for the business or activity from motorists not residing in the immediate area of the business or activity. Tourist oriented directional signs shall only be used on roads and highways designated as scenic byways under section 226.797.

226.950. Definitions.—As used in sections 226.950 to 226.960, the following words and phrases mean:

(1) "City", any incorporated city, town, village or municipality of the state of Missouri;

(2) "Commission", the state highways and transportation commission;

(3) "Corridor map", a legal description of the metes and bounds of the area within a highway corridor, tied to an existing or reestablished government corner, and accompanied by a county map showing the general location of the highway corridor. The legal description shall govern in the case of any inconsistency with the corridor drawn on the map;

(4) "County", any county of the state of Missouri;

(5) "Highway corridor", the area projected to be needed as right-of-way for the construction and maintenance of a future new or relocated state highway, as determined by the commission;

(6) "Regulatory authority", any city or county governmental entity within a county of the first or second classification which zones or regulates the use of land, approves plats of proposed subdivisions or other real property development, establishes and regulates setback lines from highways, grants zoning variances or exceptions, or which issues building or construction permits.

226.952. Approved location of highway corridor certified copy of corridor map filed where—requirements prior to filing—revision of corridor map, procedure—commission to certify if highway not constructed within twelve years—exceptions to highway corridor law—fee to be paid to city or county on filing of corridor map by commission.—1. Whenever the commission has approved the location of the highway corridor of a new or relocated state highway it may file a certified copy of a corridor map with each regulatory authority having jurisdiction over any portion of the property contained within the highway corridor, and with the recorder of deeds in every county in which a portion of the highway corridor is located.

2. The commission shall not file or record a corridor map in any county or city without first advertising and conducting a public hearing to learn of any objections that the residents and any appropriate regulatory authorities may have to the proposed location of the highway corridor. The commission shall consult with all regulatory authorities having jurisdiction over the property contained within the proposed highway corridor regarding the appropriate location of such highway corridor. In areas within the boundaries of a metropolitan planning organization, as designated under 23 U.S.C. 134, the location of a proposed highway corridor shall be selected by the commission in cooperation with the metropolitan planning organization for the area. At least thirty days prior to holding this hearing, the commission shall send a notice of the hearing by certified mail, addressed to the owner of record of each parcel crossed by or within the highway corridor, at the address shown for such owner on the county tax records.

3. Any corridor map filed pursuant to this section may be revised from time to time by filing with the same regulatory authorities and county recorders who received the prior corridor map, in the manner set forth in this section, certified copies of an amended corridor map indicating any changes to be made in the location of the highway corridor. In the event that the commission fails to initiate construction of the new or relocated highway which was to be located within the approved corridor within twelve years after the certified copy of the corridor map is filed under this section, the commission shall, in order to maintain the corridor, recertify such corridor in the manner prescribed in sections 226.950 to 226.960.

4. This section shall not apply to and the commission shall not attempt to file or record corridor maps in those areas of the state having no regulatory authority.

5. This section shall not apply to, and the commission shall not file or record a corridor map for a highway corridor of a new or relocated state highway project funded with state funds and without any federal funds.

6. In order to compensate a regulatory authority for the activities required under sections 226.950 to 226.960, the commission shall pay a filing fee in the sum of two hundred and fifty dollars to the regulatory authority when a corridor map or a revised corridor map is filed with the regulatory authority.

7. This section shall not apply to, and the commission shall not file or record a corridor map for, a highway corridor for a new or relocated state highway to be located within an area which is already developed at or near its maximum use with commercial, industrial or residential structures.

226.954. Applications and requests by landowners on land abutting or in corridor, copies to be furnished to commission—applications or requests not to be approved by city or county without commission approval—procedure—approval by commission may be conditioned upon modification or limits—rejection by city, county or landowner procedure—commission not concurring with application or request may acquire property—notice of intent, procedure—notice of intent to acquire by commission, procedure, time limitation, effect—corridor location changes, prior property owner first refusal to reacquire property at cost.—1. Whenever a corridor map or any amendment thereto

has been filed by the commission pursuant to sections 226.950 to 226.960, each affected regulatory authority shall refer to the commission a copy of any of the following when it is received, with respect to any lot, tract or parcel of land which abuts or is located wholly or partially within the highway corridor:

(1) An application or request for a building permit for the construction of a new commercial, industrial or residential building or an increase in the square footage of an existing commercial or industrial building;

(2) An application or request for a zoning change, variance or exception;

(3) An application or request to approve a subdivision plat or plat of other proposed development; or

(4) An application or request for a modification of existing setback lines from highways.

2. A city or county regulatory authority shall not approve any application or request described in this section concerning property abutting or within a highway corridor without the concurrence of the commission until at least forty-five days have elapsed after the commission received the application or request, unless the regulatory authority has received a notice of concurrence in the application or request from the commission.

3. Within the forty-five-day period, the commission by written notice to the regulatory authority and the property owner may concur in the application or request, may recommend that the approval of the application or request be conditioned upon certain modifications or limits set forth in the notice, or may give notice of probable intent to acquire the whole or any part of the subject property which is within the highway corridor.

4. If the commission concurs in the application or request, the regulatory authority shall be free to act upon the application in such manner as may be provided by law.

5. If the commission recommends that the approval of the application or request be conditioned upon special modifications or limits, either the regulatory authority or the applicant property owner may reject the conditions, and written notice of this rejection shall be served upon the commission and the regulatory authority or applicant by personal delivery or certified mail. In the event the conditions requested by the commission are rejected, the commission shall be deemed to have given notice of probable intent to acquire the whole or any part of the subject property which is within the highway corridor on the date it received the written notice of rejection of its conditions, and no action shall be taken by the regulatory authority to approve the application or request at that time.

6. If the commission does not concur in the application or request, and determines that it may wish to acquire the property or any portion of it before action is taken upon the application or request, it shall serve written notice on the regulatory authority and the property owner of its probable intent to acquire the subject property within the forty-five-day-period provided, and no action shall be taken by the regulatory authority to approve the application or request at that time.

7. From the date the commission gives notice of probable intent to acquire the whole or any part of the subject property which is within the highway corridor, or is deemed to have given such notice, the regulatory authority shall take no action to approve the property owner's application or request for a further period of one hundred twenty days. If the commission does not acquire, agree to acquire, or commence an action in circuit court to condemn the property within this one hundred twenty-day period, the regulatory authority shall then be free to act upon the pending application in such manner as may be provided by law. If the location of a corridor is changed after property is acquired by the commission, the person from whom the property was acquired shall have the right of first refusal to reacquire the property at a cost of not more than the compensation paid by the commission to such person for the property.

226.956. Recorder of deeds not to record plat, or city or county issue building permits, until commission has time to act on request or agreement to acquire.—1. No recorder of deeds shall record any plat for a subdivision or other real property development when either the property owner, or a regulatory authority, or both, has not complied in full with the provisions of sections 226.950 to 226.960.

2. No regulatory authority shall issue any building permit for the construction of a new commercial, industrial or residential building or an increase in the square footage of an existing commercial or industrial building, approve a subdivision or other plat, or zone, rezone, or grant a zoning variance or exception for any real property which is within a corridor map that has been properly filed and recorded, until the commission has been given the required time to act on the application or request and if appropriate, to acquire, agree to acquire or commence a condemnation action on any part of the subject property.

226.958. Violations, authority of commission to bring actions in circuit court—restoration of property to its original condition by court order—acts in violation to be unenforceable.—1. The commission may institute any action it deems necessary in the circuit courts of this state to prevent a violation of any provision of sections 226.950 to 226.960, or to undo any action taken in violation of sections 226.950 to 226.960. The commission may obtain a court order to stop any construction in violation of sections 226.950 to 226.960. If the commission acquires the property upon which development has occurred in violation of sections 226.950 to 226.960, the court shall order the property returned to its original condition prior to the commencement of the construction at the property owner's expense and without charge or cost to the commission.

2. Any action taken by a regulatory authority or recorder of deeds in violation of sections 226.950 to 226.960 shall be void and unenforceable.

226.960. Cities and counties to have authority to take actions to preserve and enforce highway corridor.—1. Nothing in sections 226.950 to 226.960 shall be construed to prohibit or limit the ability of any regulatory authority from incorporating a highway corridor into its master plan, zoning ordinances or regulations, or to adjust setback lines from highways accordingly, or from taking any lawful action that may be within the scope of its jurisdiction to preserve, protect and enforce the highway corridor.

2. Nothing in sections 226.950 to 226.960 shall be deemed to limit or restrict the general authority of the commission to purchase or condemn fee simple or such lesser title or interest in real property for right-of-way or other authorized purposes.

238.400. County first class transit authority created—members, appointment, qualifications.—1. [There is hereby created in each first class county which adjoins both a first class county with a charter form of government having a population of nine hundred thousand or more inhabitants, and not more than one second class county,] **Any county of the first class may, by ordinance or order of the county governing body, establish** a county transit authority, which shall be known as the "..... County Transit Authority" and shall consist of five members appointed by the governing body of the county. The county transit authority shall have the powers prescribed in sections 238.400 to 238.412. **Any county transit authority created by this section prior to August 28, 1995, shall continue in existence under sections 238.400 to 238.412.**

2. The members of the transit authority shall be residents of the county and shall have been qualified voters in the county for a period of at least one year preceding their appointment. Not more than three members of the transit authority shall belong to the same political party.

3. Each member shall be appointed by a majority of the governing body of the county for a term of four years, except that of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years. The members shall elect from among their membership a chairman and such other officers as the members deem necessary. Vacancies in the transit authority shall be filled for the unexpired term in the same manner as original appointments are made. The governing body of the county may remove any member for cause following a hearing.

4. Three members of the transit authority shall constitute a quorum, and any action or order of the transit authority shall require the approval of at least three members. All members shall be reimbursed for actual and necessary expenses incurred by them in the performance of their duties.

Approved June 27, 1995.

[S. B. 214]

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

LANDS, LEVEES, DRAINAGE, SEWERS AND PUBLIC WATER SUPPLY: Levee districts.

AN ACT to repeal section 246.300, RSMo 1994, relating to levee districts, and to enact in lieu thereof one new section relating to the same subject, with an emergency clause.

SECTION

A. Enacting clause.
246.300. Voting by representation authorized, when, certain districts.
B. Emergency clause.