

be so mailed within ten days after such filing with the secretary of state. Such notification shall be mailed to each ~~such~~ foreign corporation at the address of its principal office in the state or country under the laws of which it is incorporated and to each such nonresident person at ~~his~~ an address in the state of ~~his~~ residence. The defendant shall have sixty days from the date of such filing with the secretary of state within which to appear. Proof of service shall be made by filing in court the duplicate copy of the process or original notice with the secretary of state's certificate of filing, and the affidavit of the plaintiff or ~~his~~ the plaintiff's attorney of compliance herewith.

Approved May 18, 1981

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CHAPTER 22  
TRANSPORTATION REGULATION  
S. F. 524

AN ACT establishing a transportation regulation authority to replace the three-member transportation regulation board with a January 1, 1982 effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 13.7, Code 1981, is amended to read as follows:

13.7 SPECIAL COUNSEL. No compensation shall be allowed to any person for services as an attorney or counselor to any executive department of the state government, or the head thereof, or to any state board or commission, but the executive council may employ legal assistance, at a reasonable compensation, in any pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform said service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section shall not affect the office of the commerce counsel, the transportation regulation ~~board~~ authority counsel, or the legal counsel of the Iowa department of job service.

Sec. 2. Section 307.1, subsection 4, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Authority" means the transportation regulation authority, and "superintendent" means the superintendent of the authority.

Sec. 3. Section 307.14, subsection 1, Code 1981, is amended to read as follows:

1. Transportation regulation ~~board~~ authority.

Sec. 4. Section 307.15, Code 1981, is amended to read as follows:

307.15 ~~TRANSPORTATION REGULATION BOARD AUTHORITY--SUPERINTENDENT. The transportation-regulation-board-shall-consist-of-three-members,-not-more-than two-of-whom-shall-be-from-the--same--political--party.~~ The governor shall appoint ~~the--members--of--the--board~~ a superintendent of the transportation regulation authority for a term of six years beginning and ending as provided by section 69.19, subject to confirmation by the senate. The appointee shall be selected solely on the basis of the person's qualifications and fitness to discharge the duties of office, and a person shall not qualify for appointment unless the person has at least five years experience in the transportation industry, or in the regulation of the types of carriers that are subject to regulation by the transportation regulation authority or the interstate commerce commission. The superintendent shall exercise the powers and perform the duties delegated to the authority.

Sec. 5. Section 307.16, Code 1981, is amended to read as follows:

307.16 ~~VACANCIES-ON-BOARD VACANCY. Any A~~ vacancy shall be filled in the same manner as the regular appointments--are appointment is made for the unexpired portion of the regular term.

~~In-the-event~~ If the governor fails to make ~~an~~ the appointment to fill a vacancy or fails to submit the appointment to the senate for confirmation as required by section 2.32, the senate may make the appointment prior to the adjournment of the general assembly.

Sec. 6. Section 307.17, Code 1981, is amended to read as follows:

307.17 ~~COMPENSATION OF BOARD-MEMBERS SUPERINTENDENT. Each-member-of-the transportation-regulation-board~~ The superintendent shall receive a salary as fixed by the general assembly. ~~Each--member~~ The superintendent shall be allowed actual and necessary expenses in the same amounts paid to other state employees incurred in the performance of ~~his~~ the superintendent's duties.

Sec. 7. Section 307.18, unnumbered paragraph 1 and subsections 4 and 5, Code 1981, are amended to read as follows:

The transportation regulation ~~board-shall-have~~ authority has the following duties and responsibilities:

4. Appoint ~~such~~ counsel as it deems necessary. The counsel ~~shall-have~~ has the following duties and responsibilities:

a. Investigate the legality of all rates, charges, tariffs, rules, regulations and practices of all common carriers and persons under the jurisdiction of the ~~board~~ authority, and institute civil proceedings before the ~~board~~ authority or any proper court to correct any illegality on the part of any common carrier and prosecute the ~~same~~ proceedings to final determination.

b. Investigate the reasonableness of rates, tariffs, charges, rules, regulations and practices of all such common carriers in interstate transportation when directed by the ~~board~~ authority, or when in ~~his~~ the

authority's judgment they are unlawful, prejudicial, and discriminate against any city, community, business, industry or citizen of the state and institute before the interstate commerce commission or any other tribunal having jurisdiction and prosecute to final determination any proceeding growing out of such matters.

5. Approve any ordinance or resolution adopted by a political subdivision of this state which relates to the speed of a train in an area within the jurisdiction of the political subdivision. Any ~~such~~ speed ordinance or resolution adopted by a political subdivision of the state prior to July 1, 1975 which has not been approved by the Iowa state commerce commission shall be referred to the board authority by the political subdivision and shall be in full force and effect upon approval of the ordinance or resolution by the board authority. ~~Nothing-in-this~~ This subsection ~~shall-be-construed-to~~ does ~~not~~ abrogate, modify, or alter any historical or contractual agreement between a political subdivision of the state and a railroad corporation in existence on July 1, 1975.

Sec. 8. Section 307.19, Code 1981, is amended to read as follows:

307.19 PROCEEDINGS. The transportation regulation board authority shall conduct ~~its~~ hearings pursuant to rules ~~promulgated~~ adopted under the ~~provisions-of~~ chapter 17A.

Sec. 9. Section 307.20, Code 1981, is amended to read as follows:

307.20 ENFORCEMENT. The department ~~shall--be~~ is responsible for the enforcement of all orders issued by the board authority.

Sec. 10. Section 325.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~The board-is-hereby-vested-with-power--and--authority,--and--it~~ authority shall ~~be-its-duty-to~~:

Sec. 11. Section 325.3, Code 1981, is amended to read as follows:

325.3 GENERAL POWERS. ~~The board-shall-also-have-power-and~~ authority may by general order or otherwise ~~to~~ prescribe rules and regulations applicable to ~~any--and--all~~ motor carriers. The department ~~is-hereby-authorized-and empowered-to~~ may prescribe and enforce safety regulations in the operation of motor carriers, and require a periodic inspection of the equipment of every motor carrier from the standpoint of enforcement of safety regulations, and ~~such~~ the equipment ~~shall-be~~ is at all times subject to inspection by properly authorized representatives of the department.

Sec. 12. Section 327.2, subsection 1, Code 1981, is amended to read as follows:

1. Fix or approve the rates, charges, classifications, and rules and regulations pertaining thereto, of each truck operator, after complaint has been filed ~~in-accordance-with-rules-established-by-the-board~~.

Sec. 13. Section 327.3, Code 1981, is amended to read as follows:

327.3 RULES. ~~The board--shall--also--have--power-and~~ authority may by general or special order ~~to~~ prescribe rules applicable to ~~any-and--all~~ truck operators and contract carriers, provided that only the department shall prescribe and enforce safety regulations.

Sec. 14. Section 327.7, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Before a permit ~~shall--be~~ is issued, the person seeking the ~~same~~ permit shall file an application ~~therefor~~ with the department. All ~~such~~ applications shall be in writing, ~~--and--in--addition--to--other--information--required,~~ ~~shall~~ and contain the following:

Sec. 15. Section 327A.17, Code 1981, is amended to read as follows:

327A.17 RULES. The ~~board--shall--also--have--power--and~~ authority may by general order or otherwise ~~to~~ prescribe rules applicable to liquid transport carriers. The state department ~~is--hereby--authorized--and--empowered--to~~ may prescribe and enforce safety rules in the operation of liquid transport carriers, and require a periodic inspection of the equipment of every liquid transport carrier from the standpoint of enforcement of safety rules, and ~~such~~ the equipment shall be at all times subject to inspection by properly authorized representatives of the department.

Sec. 16. Section 327D.66, Code 1981, is amended to read as follows:

327D.66 RATE SCHEDULES--FILING AND PUBLIC ACCESS. Every common carrier, subject to the provisions of this chapter shall file with the ~~board~~ authority and shall print schedules showing the rates for the transportation within this state of persons and property from each point upon its route to all other points ~~thereon~~ on the route and from all points upon its route to all points upon every other route leased, operated, or controlled by it; and from each point on its route or upon any route leased, operated, or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate ~~shall--have~~ has been established or ordered between any two ~~such~~ points. If no joint rate over a through route has been established, the schedules of the several carriers in ~~such~~ the through route shall show the separately established rates, applicable to the through transportation.

~~Subject--to--rules--which--the--board--shall--adopt,~~ The schedules shall be plainly printed and a copy of often used schedules shall be kept by every carrier readily accessible to and for inspection by the public in every station and office of the carrier where passengers or property are received for transportation when the station or office is in the charge of an agent. A notice printed in bold type and stating that the often used schedules are on file with the agent and open to public inspection, and that the agent will assist any person to determine from the schedule any rate shall be posted by the carrier in public and conspicuous places in each station or office. The ~~board~~ authority shall, by rule, provide that adequate public access to schedules not often used be provided in a different manner.

Sec. 17. Section 327D.73, Code 1981, is amended to read as follows:

327D.73 PARTIAL SCHEDULES. In lieu of filing its often used schedule in each station or office, any common carrier may file with the ~~board~~ authority and keep posted at ~~such~~ the stations or offices, schedules of ~~such~~ the rates ~~as--are~~ applicable at, to, and from the places where ~~such~~ the stations or offices are located ~~subject--to--rules--adopted--by--the--board~~.

Sec. 18. Section 327D.160, Code 1981, is amended to read as follows:

327D.160 RULES. The ~~board~~ authority shall prescribe ~~by--rule,~~ pursuant to chapter 17A, ~~such~~ rules ~~as--may--be~~ reasonably necessary for the orderly disposition of claims arising from loss or damage to property tendered for transportation.

Sec. 19. Section 327G.16, Code 1981, is amended to read as follows:

327G.16 DISAGREEMENT--APPLICATION--NOTICE. If the persons specified in section 327G.15 cannot reach an agreement, either party may make written application to the board authority requesting resolution of the disagreement. The board authority shall fix a date for hearing and give the other party ten days' written notice by mail of such the date. The board authority shall promulgate rules, ~~pursuant to chapter 17A,~~ subject to department approval for processing applications which are filed with the board authority prior to a written disagreement. The board authority may set a hearing date after the disagreement has been filed.

Sec. 20. Section 327G.32, unnumbered paragraph 3, Code 1981, is amended to read as follows:

~~The provisions of this~~ This section notwithstanding, a political subdivision may pass a resolution or ordinance regulating the length of time a specific crossing may be blocked if the political subdivision demonstrates such that a resolution or ordinance is necessary for public safety or convenience. If such a resolution or ordinance is passed the political subdivision shall within thirty days of the effective date of the resolution or ordinance notify the board authority and the railroad corporation using the crossing affected by the resolution or ordinance. The resolution or ordinance shall not become effective unless the board authority and the railroad corporation are notified within thirty days. The resolution or ordinance shall become effective thirty days after such notification unless a person files an objection to the resolution or ordinance with the board authority. If an objection is filed the board authority shall hold a hearing ~~according to the rules established by the board.~~ The board authority may disapprove the resolution or ordinance if public safety or convenience does not require such a resolution or ordinance. The resolution approved by the political subdivision ~~shall be~~ is prima-facie evidence that the resolution is adopted to preserve public safety or convenience.

Sec. 21. Section 472.42, subsection 3, Code 1981, is amended to read as follows:

3. The displacement allowance to be paid by a railroad subject to ~~the provisions of~~ section 327C.2, shall be paid in the manner provided in sections 316.4, 316.5, 316.6, and 316.8 and pursuant to rules promulgated by the transportation regulation board authority. Any person aggrieved by a determination as to eligibility for a payment or the amount of the payment may, upon application, have the matter reviewed by the transportation regulation board authority. The decision of the transportation regulation board authority upon review shall be final as to all parties.

Sec. 22. Sections 307.18, 307.29, 322A.1, 322A.6, 322A.7, 322A.8, 322A.9, 322A.10, 322A.13, 322A.15, 322A.16, 322A.17, 325.1, 325.2, 325.4, 325.6, 325.7, 325.9, 325.10, 325.11, 325.13, 325.17, 325.19, 325.21, 325.25, 325.26, 325.32, 325.33, 326.18, 327.1, 327.2, 327.4, 327.6, 327.8, 327.11, 327.15, 327.16, 327.19, 327.21, 327.23, 327A.1, 327A.2, 327A.4, 327A.5, 327A.9, 327A.12, 327A.14, 327A.18, 327A.20, 327C.1, 327C.8, 327C.9, 327C.10, 327C.12, 327C.13, 327C.17, 327C.20, 327C.25, 327C.26, 327C.27, 327C.28, 327C.29, 327C.30, 327C.31, 327C.33, 327C.34, 327D.2, 327D.4, 327D.7, 327D.9, 327D.13,

327D.14, 327D.45, 327D.53, 327D.67, 327D.72, 327D.74, 327D.75, 327D.78, 327D.79, 327D.80, 327D.81, 327D.82, 327D.83, 327D.85, 327D.86, 327D.87, 327D.89, 327D.90, 327D.128, 327G.1, 327G.12, 327G.17, 327G.31, 327G.32, 327G.61, 327G.62, 327G.64, 327G.65, 327G.77, 471.10, 471.11, and 472.42, Code 1981, are amended by striking the words "Board" or "board" and inserting in lieu thereof the words "Authority" or "authority".

Sec. 23. All rules, forms, orders, and directives adopted by and in effect for the transportation regulation board on the effective date of this Act shall continue in full force and effect as rules, forms, orders, and directives of the transportation regulation authority.

Sec. 24. Section 327.14, Code 1981, is repealed.

Sec. 25. This Act takes effect January 1, 1982.

Approved May 18, 1981

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CHAPTER 23  
APPELLATE DEFENDER  
S. F. 332

AN ACT relating to the office of appellate defender.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Appellate defender" means the state appellate defender.
2. "Indigent" means a person found by the trial court to be unable to retain legal counsel without prejudicing the person's financial ability to provide economic necessities for the person and the person's dependents.

Sec. 2. NEW SECTION. CREATION OF OFFICE. The office of state appellate defender is established. The governor shall appoint the state appellate defender and establish the appellate defender's salary.

Sec. 3. NEW SECTION. QUALIFICATIONS OF APPELLATE DEFENDER. Only persons admitted to practice law in this state shall be appointed appellate defender or assistant appellate defender.

Sec. 4. NEW SECTION. DUTIES OF APPELLATE DEFENDER. The appellate defender shall represent indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed to do so by the district court in which the judgment or order was issued and shall not engage in the private practice of law. The court may, upon the application of the indigent or the indigent's trial attorney, or on its own motion, appoint the appellate defender to represent the indigent on appeal or on appeal in postconviction proceedings.

Sec. 5. NEW SECTION. STAFF. The appellate defender may appoint assistant appellate defenders who, subject to the direction of the appellate