

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 3/18/87

HOUSE BILL 2004

By: Representatives Thicksten, Hendrix, AS ENGROSSED 3/23/87

and Stewart

"AN ACT TO ABOLISH THE ARKANSAS TRANSPORTATION COMMISSION CREATED BY ACT 132 OF 1957, AS AMENDED [ARK. STAT. ANN. 73-151, ET SEQ.], AND RENAMED BY SECTION 16 OF ACT 38 OF 1971 [ARK. STAT. ANN. SECTION 5-916], AND TO TRANSFER ITS POWERS, DUTIES, AND FUNCTIONS TO THE TRANSPORTATION SAFETY AGENCY BY A TYPE 2 TRANSFER; TO TRANSFER THE HIGHWAY SAFETY PROGRAM AS AUTHORIZED BY ACT 161 OF 1967 [ARK. STAT. ANN. SECTION 76-138 -- 76-139] AND ALL ITS POWERS, FUNCTIONS, DUTIES, TO THE TRANSPORTATION SAFETY AGENCY AS THE HIGHWAY SAFETY DIVISION OF THE TRANSPORTATION SAFETY AGENCY; TO ESTABLISH THE TRANSPORTATION SAFETY AGENCY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Upon the appointment and qualification of the Commissioners as provided herein, the Arkansas Transportation Commission shall cease to exist, and all authority, rights, powers, duties, records, personnel, property, unexpended balances of appropriations, allocations or other funds, privileges and jurisdiction of the Arkansas Transportation Commission, or any member thereof, now prescribed by law, with respect to the regulation of transportation for compensation, safety of operation of public carriers, certification and review of assessment for ad valorem taxation, and matters concerning rates, charges and services of such carriers, are hereby expressly conferred upon the Transportation Safety Agency as fully as if so named in any law or laws of this State are transferred by a Type 2 transfer as defined in Section 2 of Act 38 of 1971; all orders heretofore issued by the Arkansas Transportation Commission shall remain in full force and effect; all actions, proceedings and hearings of whatsoever nature, then or hereafter pending

before the said Arkansas Transportation Commission shall be transferred to the Transportation Safety Agency in the same manner and subject to the same incident and with the same results as though they had originated with the Transportation Safety Agency, and all orders, actions, proceedings and hearings of whatsoever nature then or hereafter pending in the name of the Arkansas Transportation Commission shall survive and be continued, heard and determined by and in the name of the Transportation Safety Agency; and no rights, privileges, immunities or appropriations made, given or granted to or on behalf of the Arkansas Transportation Commission shall lapse or be lost by reason of such change of commissions, but shall be conferred, transferred and imposed on the Transportation Safety Agency, and all furniture, fixtures, supplies, books, records, reports, equipment and funds derived from whatever source belonging to the Arkansas Transportation Commission shall be delivered to the Transportation Safety Agency and become its property, and taxes, assessments and fees levied by the laws of the State of Arkansas for the support of the Arkansas Transportation Commission shall be enforced and collected for the support of the Transportation Safety Agency.

The regulatory functions, powers, and duties of the Arkansas Transportation Commission shall be vested in the Transportation Regulatory Board of the Transportation Safety Agency. The functions, powers, and duties of the Arkansas Transportation Commission relating to motor carrier safety, including but not limited to, enforcement of motor carrier safety legislation and the collection and reporting of statistical information relating to motor carrier safety, shall be administered by the Enforcement Division of the Transportation Safety Agency.

SECTION 2. The Highway Safety Program authorized by Act 161 of 1967 (Ark. Stat. Ann. Section 76-138 -- 76-139) and its functions, powers, and duties are transferred by a Type 2 transfer as defined in Section 2 of Act 38 of 1971. Those powers, duties, and functions shall be vested in the Traffic Safety Division of the Transportation Safety Agency.

SECTION 3. There is hereby created the Transportation Safety Agency. The executive head of the Transportation Safety Agency shall be the Director who shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Transportation Safety Agency shall consist of the Traffic

Safety Division, the Enforcement Division, the Administrative Division, the Transportation Regulatory Board and such other divisions as may be created by law and placed under the Transportation Safety Agency.

The Director of the Transportation Safety Agency, with the advice and consent of the Governor, shall appoint the heads of the respective divisions.

SECTION 4. (a) There is hereby created the Transportation Regulatory Board which shall consist of three qualified electors of the State of Arkansas who shall have resided in the State for five (5) years immediately preceding the date of their appointment. Upon the effective date of this Act, the Governor shall appoint, subject to approval of the Senate, three (3) eligible persons as members of the Transportation Regulatory Board, who shall serve six (6) year staggered terms. At the time of appointment, the Governor shall designate one (1) member to serve for a two (2) year term expiring on January 15, 1989, one (1) member for a four (4) year term expiring on January 15, 1991, and one (1) member for a term of six (6) years expiring on January 15, 1993. At the expiration of the above terms, the Governor shall appoint successors who shall hold office for a term of six (6) years. The Commissioners duly appointed and qualified shall hold office for the term for which they were appointed and until their successor is appointed and qualified. The Governor shall designate one (1) member of the Transportation Regulatory Board as Chairman of such Board to serve as Chairman for such time as the Governor shall direct. The members of the Transportation Regulatory Board before entering on their duties shall take the oath prescribed the Constitution and shall swear that they are not pecuniarily interested in any transportation company as an employee, stockholder, or security holder.

(b) The members of the Transportation Regulatory Board shall be paid as established by law and shall be eligible for reimbursement for actual expenses incurred in carrying out their duties as members of the Transportation Regulatory Board.

SECTION 5. (a) Hereafter, when any member of the Arkansas Transportation Regulatory Board is temporarily unable to perform his duties because of illness or other reason or when any member of the Transportation Regulatory Board disqualifies himself or is disqualified for any reason to participate in any matter pending before the Board, the Governor shall appoint a temporary

member of the board to serve during the regular member's absence or to serve in the matter pending before the Board for which the regular member is disqualified, as the case may be. The person so appointed as a temporary member of the Board shall be a qualified elector of the State of Arkansas and shall have resided in the State for at least five (5) years immediately preceding the time of appointment. The special member so appointed shall have all authority and responsibility with respect to the particular matter before the Board as if such person were a regular member of the Board but shall have no authority or responsibility with respect to any other matter before the Board.

(b) Any person appointed by the Governor to serve as a temporary member of the Transportation Regulatory Board shall be entitled to compensation at the rate of fifty dollars (\$50.00) per day for each day such person spends in actual attendance at the Transportation Regulatory Board meetings and for each day such person is actually engaged in carrying out his or her official responsibilities as a member of the Board.

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the 76th General Assembly of the State of Arkansas that the provisions of this Act are essential to the efficient administration of the programs named herein. Therefore, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1987.

/s/ Edward Thicksten et al

