The Division of Motor Vehicle Services (DMV) is one of the State's principal customer service agencies with regular and direct contact with virtually every citizen;

b. The DMV has over 15 million contacts a year with the public, including 39 million transactions, more than any other State agency;

c. The DMV has responsibility for issuing and certifying motor vehicle driver's licenses, ensuring the proper registration of motor vehicles, as well as conducting safety and emissions inspections of motor vehicles;

d. The public expects courteous, efficient and accessible service from government agencies, including the DMV;

e. The DMV's failed security systems are contributing to a growing national problem of identity theft that is costing New Jersey and the nation millions of dollars each week;

f. In the past, the DMV has been unable to deal with fraud and corruption because of inadequate funding, training, security, internal controls and oversight;

g. The DMV must improve its security system and equipment, and its fraud detection, training and monitoring so that fraudulent driver's licenses, such as those used in the furtherance of terroristic activities, will be eliminated;

h. Internal audits and controls and investigations are also needed to detect patterns of fraud, theft, corruption, identity theft and mismanagement in the issuance of driver's licenses, registrations, and titles because DMV documents must be more resistant to compromise;

i. Criminals have used counterfeit passports, Social Security cards, county identification cards, pay stubs and W-2 forms to obtain fraudulent driver's licenses and identification cards in furtherance of identity-theft schemes;

j. Proper identification must be required at all phases of the licensing and driver testing process to assure that only those persons qualified to legally obtain licenses do so;

k. It is essential that DMV records be matched with Social Security Administration records in order to verify the validity of Social Security numbers in DMV databases;

l. Cameras, armed security guards, panic buttons, alarms, safety upgrades, card access systems and door replacements are needed in order to prevent fraud;

m. Employees or agents of the DMV should be required to undergo background checks and fingerprinting;
n. Cleaning crews and maintenance workers at DMV facilities must be supervised by DMV employees to ensure the security of DMV records;

o. In a time of rapidly changing information technology and Internet communications, the DMV lacks an information technology plan to bring it to the 21st Century and still operates on a decades-old computer network with patchwork hardware, antiquated software and obsolete display terminals that lack processing abilities;

p. Previous DMV efforts to implement complex technological mandates have failed, due to bureaucratic mismanagement, inefficient planning and inadequate oversight, as characterized by reports of the State Commission of Investigation;

q. The DMV has become a reactive agency, struggling to keep up with the demands of newly legislated responsibilities, and without the necessary resources to prevent fraud and corruption at its front-line agencies and without the ability to provide even adequate service to its six million customers;

r. The DMV needs a strategic business plan, which is a key to the operation of an agency, and must work within the confines of such plan in an effort to adopt best practices, improve customer service and gain back the confidence of New Jersey citizens and the Legislature;

s. The DMV's privatization of some of its agencies in July 1995 has created poor, disjointed and confused service delivery without consistency among the agencies in terms of policies and procedures, which has led to confusion and frustration in the minds of New Jersey citizens;

t. The DMV privatization has also resulted in poorly paid employees who have received inadequate benefits, resulting in a high turnover rate at DMV agencies;

u. A major benefit to a State-operated DMV system is the ability to centralize anti-fraud policies and procedures;

v. Historically, the privately-operated local motor vehicle agencies have been plagued with long lines, poor customer service and inadequate business practices that have routinely caused network delays and failures for hours at a time;

w. The DMV would be in a better position to plan for long-term improvements, replacements and daily operations if it had a dedicated and consistent source of funding;

x. In order to address the various problems with the DMV, a "FIX DMV Commission" was formed on April 25, 2002, by Governor's Executive Order Number 19 to conduct a comprehensive review of the DMV and to make recommendations on the restructuring and reorganization of the agency;

y. The "FIX DMV Commission" has reported that the DMV is in crisis and has recommended that a New Jersey Motor Vehicle Commission be formed in, but not of, the Department of Transportation to replace the current New Jersey Division of Motor Vehicles with the purposes of: (1) identifying and regulating drivers and motor vehicles to deter unlawful and unsafe acts; (2) identifying and correcting vehicle defects and limiting the amount of vehicle-produced air pollution; (3) focusing on and responding to customer service and security issues; and (4) effectuating change by bringing greater attention and resources to the needs of the organization;
z. It is therefore in the public interest to create a New Jersey Motor Vehicle Commission, the duties of which would include, but not be limited to: (1) addressing the multitude of functions assigned to it while curtailling fraudulent and criminal activities that present threats to the State's security system; (2) following a multi-year strategic business plan that is constantly reviewed and updated, thus avoiding the need for the cyclical reforms that have characterized its history; and (3) conducting operations on a fiscal year budget, controlling fees sufficient to fund the budget, adopting regulations regarding processes and fees; and implementing an annual strategic business plan.


COMMENT

The substance of this section is identical to the original. The first sentence of the first paragraph is the former 39:2A-1. The balance of this section is the former 39:2A-2. It is not clear if all of the language of the former 39:2A-2 must remain in the statute.

39A:MVC-2. Definitions

As used in this act:

a. "Agency" or "motor vehicle agency" means that enterprise run by an agent designated by the commission to be the commission's agent for the registering of motor vehicles, issuing registration certificates and licensing of drivers, as provided in 39:3-3 and 39:10-25.

b. "Agent" or "Motor Vehicle Agent" means a person designated as agent in 39:3-3 and 39:10-25.

c. "Chair" means the chair of the commission.

d. "Chief Administrator" or "administrator" means the chief administrator of the commission.


f. "Commissioner" means the Commissioner of Transportation of this State.

g. "Department" means the Department of Transportation of this State.

h. "Deputy Chief Administrator" or "deputy administrator" means the deputy chief administrator of the commission and all references in any law, rule, regulation or order to the Deputy Director of the division shall mean and refer to the deputy administrator.

i. "Director" means the Director of the Division of Motor Vehicles.

j. "Division" or "DMV" means the Division of Motor Vehicles in the Department of Transportation.

k. "Motor vehicle record" means any record that pertains to a motor vehicle operator's permit, driver's license, motor vehicle title, motor vehicle registration, or identification card issued by the Division of Motor Vehicles.
"Personal information" means information that identifies an individual, including an individual's photograph; social security number; driver identification number; name; address other than the five-digit zip code; telephone number; and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

"Service charge" means an amount charged by the commission for services rendered, which includes all new fees and surcharges, increases in existing fees and surcharges, and such amounts as provided in 39:2A-36. Service charges are revenue of the commission and are not subject to appropriation as Direct State Services by the Legislature.


**COMMENT**

Most of the substance of this section is identical to the original. The definitions from 39:2-2.3, however, have been consolidated with this section. Subsections 39:2-3.3(a), (b) and (d) were removed as duplicative of language found in this section or, in the case of (d), of language found elsewhere. Subsection (k) is the former 39:2-3.3(c). Subsection (l) is the former 39:2-3.3(e).


a. There is hereby established a body corporate and politic, with corporate succession, to be known as the "New Jersey Motor Vehicle Commission" ("MVC"). The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the MVC is allocated, in but not of, the Department of Transportation. Notwithstanding this allocation, the MVC shall be independent of any supervision and control by the department or by any board or officer thereof. The MVC is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the MVC of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.

b. The Division of Motor Vehicles, transferred to the Department of Transportation pursuant to Reorganization Plan No. 002-1995, is abolished as a division in the Department of Transportation, and all of its functions, powers and duties, except as herein otherwise provided, are transferred to, and are continued in the MVC and shall be exercised by the chief administrator of the MVC. The powers and responsibilities previously vested in the Department of Motor Vehicles, see 39:2A-4, created and established by an act passed March 24, 1926 (L.1926, c. 147, p. 228), as amended and supplemented, are continued. The MVC shall have full charge of the registration and regulation of all motor vehicles as provided by L.1921, c. 208, p. 643, effective January 1, 1922, and the amendments and supplements thereto. The MVC shall also have such other duties and powers as are described in said L.1921, c. 208, p. 643, or as may hereafter be provided by law.

c. Unless otherwise specified in this act, this transfer shall be subject to the provisions of the "State Agency Transfer Act," (52:14D-1 et seq.). All records, equipment and other personal property, appropriations, and any unexpended balances of funds
appropriated or otherwise available to the division, shall be transferred to the MVC pursuant to the "State Agency Transfer Act."

d. Whenever any law, rule, regulation, order, contract, tariff, document, reorganization plan, judicial, or administrative proceeding or otherwise thereunder, refers to the Division of Motor Vehicles in the Department of Law and Public Safety or in the Department of Transportation, or to the director thereof, the reference shall mean and refer to the MVC, unless otherwise stated in this act.

e. Regulations adopted by the division shall continue with full force and effect until amended or repealed pursuant to law.

f. The MVC shall operate on a fiscal year budget cycle.

g. The MVC shall continue in existence until dissolved by act of the Legislature. However, any dissolution of the MVC shall be on condition that the MVC has no debts, contractual duties or obligations outstanding, or that provision has been made for the payment, discharge or retirement of these debts, contractual duties or obligations. Upon any dissolution of the MVC, all property, rights, funds and assets thereof shall pass to and become vested in the State.


COMMENT

The substance of this section is identical to the original with an addition from the DMV provisions. References to this “act” have been replaced with the term “chapter”. Subsections (a) and (c) - (g) are the original 39:2A-4.

The first sentence of (b) is the original 39:2A-4 and the balance of that subsection is from 39:2-1. The substance of the language from 39:2-1 is the same as that contained in the original statute but it has been modified slightly to update it. Instead of being included in a footnote, the reference to the MVC has been inserted into the text of the section. The long title to the Act approved in 1921 and passed in 1926 has been removed. The long title of the 1921 Act effective in 1922 was removed. Instead of being written in words, the dates have been modified to use numbers.

References to the “commission” have been replaced with “MVC”.

It is of concern that confusion may result from a number of sections in Title 39 as a result of the fact that there are, throughout the Title, references to the division, department, commission, and commissioner. Even with the assistance of a definition section, the terms are easy to confuse. The references to the commission, for example, refer to the MVC, but the head of the commission is not the commissioner. Instead, the head of the MVC is either the chair or the chief administrator. The term “commissioner” refers to the head of the Department of Transportation. As a result, an effort is being made throughout the revised Title to use very specific terms when possible to do so without excessive duplication of language.

39A:MVC-4. Powers and duties of Chief Administrator

The chief administrator shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor during the Governor’s term of office and until the chief administrator's successor is appointed and has qualified. The chief administrator shall receive such salary as shall be provided by law and shall give bond, conditioned for the faithful discharge of his or her duties, in the sum of $50,000, which bond shall be approved by a justice of the supreme court or a
judge of the superior court, and shall be filed with the State Treasurer. The chief administrator shall take an oath before one of the Supreme Court justices or superior court judges, in form similar to that now required by the State Treasurer, which oath shall be filed with the Secretary of State. In addition to any powers and duties otherwise imposed by this act, the chief administrator shall have general responsibility for the implementation of this act, and shall, without limitation:

a. Perform, exercise and discharge the functions, powers and duties of the MVC through such offices as may be established by this act or otherwise by law;

b. Administer the MVC and organize the work of the MVC in such organizational units, and from time to time alter the plan of organization as deemed expedient, as necessary for the secure, efficient and effective operation of the MVC;

c. Appoint, remove and fix the compensation of subordinate officers and other personnel employed by the MVC in accordance with the MVC's table of organization, except as herein otherwise specifically provided;

d. Appoint, remove, and fix the compensation and terms of employment of the deputy administrator, who shall serve in the State unclassified service, in accordance with the MVC's table of organization;

e. Organize and maintain an administrative office and employ therein such secretarial, clerical and other assistants in the MVC as the internal operations of the MVC may require;

f. Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the MVC, its officers and employees;

g. Prepare an annual budget, and submit it to the MVC;

h. Prepare annually, a strategic business plan and submit it to the MVC, including a facilities improvement and management plan and a table of organization;

i. Institute or cause to be instituted such legal proceedings or processes as may be necessary to properly enforce and give effect to any of the powers or duties of the administrator;

j. Report as the Governor shall from time to time request or as may be required by law;

k. Have charge and supervision of the administration and enforcement of this Title and attend to the enforcement thereof, and for the purpose of enforcement may communicate with the police departments and police officers in the state;

l. Collect such data with respect to the proper restrictions to be placed upon motor vehicles and their use upon the public roads, turnpikes and thoroughfares as shall seem for the public good;

m. Execute all contracts entered into by the MVC and approve all bills for disbursement of money under any provision of this chapter and chapter 3 of this title (39:3-1 et seq.), which bills shall be paid by the State Treasurer upon the warrant of the comptroller out of any appropriation regularly made therefor.
n. Collect all fees, fines, penalties, surcharges, service charges and other charges imposed by this act and the regulations issued pursuant thereto or pursuant to law;

o. Develop and maintain a master list of all assets;

p. Oversee the implementation of the facilities improvement and management plan, in consultation with the State Treasurer;

q. Perform such other functions as may be prescribed in this act or by any other law or by the MVC; and

r. Keep a record of all his or her official acts, and preserve copies of all decisions, rules and orders. Copies of any act, rule, order or decision made by the chief administrator and of any paper filed in the chief administrator’s office may be authenticated under seal, at a cost not to exceed $5 per authentication, and when so authenticated shall be evidence the same as the original.


COMMENT

The substance of this section is substantially identical to the original 39:2A-28 but the section has been moved closer to the beginning of the chapter so the provisions are more visible and precede the section pertaining to the deputy chief administrator. The language of this section was modified to include language from the former 39:2-2 and 39:2-3. The introductory paragraph was modified to include language from 39:2-2, but it is not clear what parts of that language remains applicable, and some may need to be removed after comments on that section are received. Subsection (b) was altered slightly to emphasize the administration of the MVC as indicated in 39:2-2(a). Subsections (k)-(m) are the language from the former 39:2-3(b)-(d). The former 39:2-3(a) was eliminated as duplicative of language already included in this section. The former 39:2-10 is included here as subsection (r). As with other sections of this chapter, it is not clear which language that was imported from 39:2-1 et seq. is still applicable, and which is not. Alterations will be made after comments are received.

39A:MVC-56. Deputy Chief Administrator

a. The chief administrator shall appoint a deputy chief administrator for a term to correspond with the chief administrator’s term of office. The deputy chief administrator shall give bond, conditioned for the faithful discharge of his or her duties, in the sum of $50,000, which bond shall be approved by a judge of the Superior Court and filed with the State Treasurer. The deputy director shall also take an oath of office before a judge of the Superior Court, in form similar to that now required of the State Treasurer, which oath shall be filed with the Secretary of State. The Deputy Chief Administrator shall assist the administrator in the day-to-day administration of the MVC and shall have all of the powers and duties of the administrator, as authorized and assigned by the administrator.

b. The deputy administrator shall carry out all of the administrator's duties and responsibilities during the administrator's absence, disqualification or inability to serve, and shall perform such other duties and responsibilities as the administrator shall determine and assign. The deputy administrator shall serve at the pleasure of the administrator and shall receive such salary as fixed by the administrator in accordance with the table of organization. The deputy administrator shall be in the State unclassified service.
This section is substantially identical to the original 39:2A-10. The first sentence of subsection (a) is taken from the former 39:2-4(a) (the remainder of that section was eliminated as duplicative of language already included in this chapter. The second and third sentences of (a) are taken from 39:2-4(b). As with other sections of this chapter, it is not clear which language that was imported from 39:2-1 et seq. is still applicable, and which is not. Alterations will be made after comments are received.

39A: MVC-6. Authorized actions of administrator and deputy chief administrator

The administrator, and the deputy administrator under the direction of the administrator, shall have as their immediate goal the improvement of the safety and security of the State's motor vehicle licensing, registration, titling and inspection system and to this end are authorized to:

a. Make technological improvements, including the modernization of software and hardware, the addition of surveillance cameras, alarms, and access systems, and the utilization of biometrics;

b. Increase the number of audit staff, security guards, and other security-related employees;

c. Improve training and monitoring procedures;

d. Utilize document imaging from the field;

e. Integrate the New Jersey title database with the National Motor Vehicle Title Information System;

f. Improve license plate management, including an automated inventory system and reissuance program;

g. Acquire the ability to access State vital statistics data to immediately update driver's license information;

h. Implement additional proofs of identity verification for a non-driver identification card, driver's license, permits, and registrations;

i. Implement card access systems, clear visibility barriers and door replacements where needed;

j. Replace the written driver's license knowledge test with an online test;

k. Increase the use of credit or debit cards or any other electronic payment device;

l. Increase the use of scanned documents;

m. Match motor vehicle records with Social Security records to verify Social Security numbers in the motor vehicle database, to the extent allowable; and

n. Seek the assistance of the Immigration and Naturalization Service to verify authenticity of motor vehicle applicants and their eligibility for documents.

39A:MVC-7. Electronic processing; regulations

a. Whenever any law, rule or regulation requires or permits documents or information to be prepared by or submitted to the MVC, the chief administrator may permit the documents or information to be prepared by or submitted to the MVC in electronic or digital form, or processed electronically. An individual shall not be required to submit documents or information only in electronic or digital form; nor shall documents or information be made available to an individual only in electronic or digital form. Submission in electronic or digital form may be permitted pursuant to this section notwithstanding that any law, rule or regulation requires documents or information to be written or to be submitted in writing, specifies that documents or information be signed, certified, verified or witnessed, or otherwise explicitly or implicitly requires the preparation or submission of documents or information on paper or in written form. As used in this subsection, "individual" means a natural person.

b. The chief administrator, after consultation with the State Records Committee in the Department of State, shall adopt regulations specifying how the signature, verification, certification, witnessing or other formal requirements shall be met with respect to documents or information permitted to be prepared or submitted in electronic or digital form pursuant to this section and specifying such additional safeguards as the director deems necessary to protect the privacy, and prevent improper access to or disclosure, of any personal information as defined in this chapter that may be transmitted in an electronic or digital form, or processed electronically. Regulations adopted pursuant to this subsection may permit the use of digital signature technology for the signing of documents and other appropriate purposes.


COMMENT

This section is substantially unchanged. It is not entirely clear whether this language is still needed. Alterations will be made as appropriate after comments are received.

39A:MVC-8. Appointing authority

Except as otherwise provided by law, the administrator shall be considered the "appointing authority" for the MVC within the contemplation of the civil service laws and the table of organization. The administrator may delegate such appointing authority to the deputy administrator as the administrator deems necessary.


COMMENT

The substance of this section is identical to the original.


a. The MVC shall consist of the following eight members:
(1) The Commissioner of Transportation, who shall serve as an ex officio voting member;

(2) The State Attorney General, who shall serve as an ex officio voting member;

(3) The Chair of the commission who shall be a nonvoting member. The Chair shall be appointed by the Governor with the advice and consent of the Senate. The Chair shall serve at the pleasure of the Governor during the Governor's term of office, and shall receive such salary as shall be fixed by the Governor which is not greater than the salary of a cabinet-level official of the State. Prior to nomination, the Governor shall cause the Attorney General to conduct an inquiry into the nominee's background, financial stability, integrity and responsibility and reputation for good character, honesty and integrity. The person appointed and serving as Chair shall also be Chief Administrator of the commission and shall devote full time to the performance of his duties. The Chief Administrator shall be in the State unclassified service;

(4) The State Treasurer, who shall serve as an ex officio voting member; and

(5) Four public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. These members shall be New Jersey residents who shall provide appropriate geographic representation from throughout the State and who shall have experience and familiarity with public safety, customer service, security, or business operations. At least one member shall reside in a northern county (Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex and Warren), at least one member shall reside in a central county (Hunterdon, Mercer, Middlesex, Monmouth and Somerset), and at least one member shall reside in a southern county (Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem).

b. Initial appointments of public members to the MVC shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. After the initial appointments, all public members shall be appointed for terms of four years; and may be appointed for any number of successive terms. A member's term shall be deemed to commence on January 1 of the year in which the member is appointed. The MVC may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

c. Each ex officio member of the MVC may designate two employees of the member's department or agency, who may represent the member at meetings of the commission. A designee may lawfully vote and otherwise act on behalf of the member. The designation shall be in writing delivered to the MVC and shall continue in effect until revoked or amended by writing delivered to the MVC.
d. Each public member shall continue in office after the expiration of the member's term until a successor is appointed and qualified. The successor shall be appointed in like manner for the unexpired term only.

e. A vacancy in the membership of the MVC occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

f. Members of the MVC shall be subject to the provisions of the "New Jersey Conflicts of Interest Law," (52:13D-12 et seq.).

g. Each appointed member of the MVC may be removed from office by the Governor for cause, after a public hearing and may be suspended by the Governor pending the completion of the hearing. Before assuming the duties of MVC membership, each member shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member's ability. A record of the oaths shall be filed in the office of the Secretary of State.


COMMENT
This section is substantially identical to the original. Language specifying the first chair and chief administrator of the commission has been removed as no longer necessary. Subsections (a) – (e) are the former 39:2A-12. Subsection (f) is the former 39:2A-18. Subsection (g) is the former 39:2A-19.

39A:MVC-10. Powers and duties of commission

a. In addition to any powers and duties conferred upon it elsewhere in this act, the MVC shall be authorized to:

(1) Make, amend and repeal bylaws not inconsistent with State and federal law;

(2) Adopt an official seal;

(3) Maintain an office at such place or places within the State as it may designate;

(4) Apply for and accept grants from the State or federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, or any private source, and comply with the terms, conditions and limitations thereof, as necessary and proper to carry out the purposes of this act;

(5) Delegate to the administrator and any other officers of the MVC such powers and duties as necessary and proper to carry out the purposes of this act;

(6) Operate, lease, license or contract in such manner as to produce revenue for the MVC, as provided in this act;

(7) Accept and use any funds available to the MVC;

(8) Enter into agreements or contracts to pay for services rendered from any public or private entity, and receive payment for services rendered to any public or private entity; and
(9) Enter into agreements or contracts, execute any and all instruments, and do and perform acts or things necessary, convenient or desirable for the purposes of the MVC, or to carry out any power expressly or implicitly given in this act.

b. The MVC is further authorized to:

(1) Review and approve a statement of the vision, mission, and goals of the MVC, as submitted by the administrator;

(2) Review and approve the strategic business plan of the MVC which shall include the commission's long-term objectives, policies, and programs, including a facilities improvement and management plan and a table of organization, as submitted by the administrator;

(3) Review and approve the annual budget of the MVC as submitted by the administrator and ensure that projected revenues and service charges are sufficient to adequately fund the MVC both in the short and long-term;

(4) Receive reports and recommendations from the Advisory Councils created pursuant to this act and provide policy direction related thereto to the administrator;

(5) Review and recommend all capital purchases and construction projects undertaken by the MVC;

(6) Review any proposed bill, joint resolution or concurrent resolution introduced in either House of the Legislature which establishes or modifies any motor vehicle statute or regulation in this State. Such a review shall include, but not be limited to, an analysis of the fiscal impact of the bill or resolution on the MVC and any comments upon or recommendations concerning the legislation including rejection, modification or approval. Additionally, the MVC shall suggest alternatives to the legislation which it deems may be appropriate; and

(7) Recommend to the Governor and the Legislature any statutory changes it deems appropriate, including, but not limited to, any revisions to fees or service charges or changes to programs, in order to insure the proper functioning and operation of the MVC.

c. Except as provided in this section and section 39:2A-21 all administrative functions, powers and duties of the MVC may be exercised by the administrator and any reference to the MVC in any law, rule or regulation may for this purpose be deemed to refer to the administrator.

d. The MVC shall elect annually, by a majority of the full membership, one of its members, other than the Chair, to serve as Vice-Chair for the ensuing year. The Vice-Chair shall hold office until January 1 next ensuing. The Vice-Chair, acting in the capacity of presiding officer, shall carry out all of the responsibilities of the Chair of the MVC during the Chair's absence, disqualification, or inability to serve.

e. Members other than those serving ex officio shall serve without compensation, but the MVC shall reimburse commission members for actual expenses necessarily incurred in the discharge of their duties.
39A:MVC-11. Meetings

  a. The MVC shall meet monthly or at more frequent times at the discretion of the Chair or as a majority of the MVC shall decide. Meetings of the MVC shall be held at such times and places as the Chair may deem necessary and convenient.

  b. The meetings shall be subject to the provisions of the "Open Public Meetings Act," (10:4-6 et seq.).

  c. Any other law, rule or regulation to the contrary notwithstanding, the MVC shall take all necessary steps to ensure that all interested persons are given adequate notice of MVC meetings and the agenda of such meetings, using media engaged in the dissemination of information.

  d. The powers of the MVC shall be vested in the members thereof. Four members of the MVC shall constitute a quorum at any meeting. Actions may be taken and motions and resolutions adopted by the MVC by the affirmative vote of at least four members. No vacancy in the membership of the MVC shall impair the right of a quorum to exercise all the rights and perform all the duties of the MVC.

  e. A true copy of the minutes of every meeting of the MVC shall be delivered by and under the certification of the secretary of the MVC, without delay, to the Governor. No action taken at the meeting shall have force or effect until 10 days, Saturdays, Sundays, and public holidays excepted, after the minutes are delivered, unless during the 10-day period the Governor approves the minutes, in which case the action shall become effective upon approval. If, in that 10-day period, the Governor returns copies of the minutes with a veto of any action taken by the MVC or any member, the action shall be null and void and of no effect.


COMMENT

This language in this section is substantially identical to the original. Subsections (a) – (c) are the former 39:2A-16. Subsection (e) is the former 39:2A-17. It is anticipated that changes will be made to this section to streamline the language.

39A:MVC-12. Actions and responsibilities; liability; immunity

  a. The MVC may, in acceptance of payment of any fees, fines, penalties, surcharges, service charges or other charges, authorize the use of a credit or debit card or any other electronic payment device.

  b. The MVC shall adopt all rules and regulations in accordance with the "Administrative Procedure Act," (52:14B-1 et seq.) for the proper functioning of the MVC, and as necessary to effectuate the purposes of this act, except for those relating to the internal governance of the MVC adopted by the administrator. Current rules and
regulations of the division shall remain in full force and effect until such time as they are repealed or amended by the MVC or in accordance with any other law.

c. The administrator is directed to immediately commence a study on the location and adequacy of agency facilities. Special attention shall be paid to siting agencies which are accessible to transit and parking facilities. The study shall examine the affordability and practicality of using smaller satellite offices. The study shall reexamine the location and number of the MVC's regional service centers. The study shall reevaluate the core business practices used in the administration of motor vehicle services and so report to the MVC.

d. Members, officers and employees of the MVC shall not be liable in an action for damages to any person for any action taken or recommendation made within the scope of their employment as a member, officer or employee if the action or recommendation was taken or made without malice. The members of the MVC shall be indemnified and their defense of any action provided for in the same manner and to the same extent as employees of the State under the "New Jersey Tort Claims Act," (59:1-1 et seq.) on account of acts or omissions in the scope of their employment.

e. As the MVC is a State agency, all absolute and qualified immunities and defenses provided to public entities and public employees by the "New Jersey Tort Claims Act," (59:1-1 et seq.), the "New Jersey Contractual Liability Act," (59:13-1 et seq.), and any other law shall apply to all interests held and activities performed by the MVC and its employees pursuant to this act.

f. The Attorney General shall provide legal representation to the commission and its employees to the same extent as representation is provided to other State agencies and their employees.


COMMENT

This language in this section is substantially identical to the original. Subsection (a) is the former 39:2A-20. Subsection (b) is the former 39:2A-21. Subsection (c) is the former 39:2A-27. Subsection (d) is the former 39:2A-23. Subsection (e) is the former 39:2A-24. Subsection (f) is the former 39:2A-25.

39A:MVC-13. Employees of MVC

a. Upon the abolishment of the division, all career service employees serving in the division on that date shall be employees of the commission and shall be transferred to the MVC pursuant to the "State Agency Transfer Act," (52:14D-1 et seq.) and shall retain their present career service employment status and their collective bargaining status, including all rights of tenure, retirement, pension, disability, leave of absence, or similar benefits. Future employees of the MVC shall be hired consistent with the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder.

b. The Commercial Bus Unit in the Department of Transportation, together with all of its functions, powers and duties is transferred to and vested in the commission. This transfer shall be subject to the provisions of the "State Agency Transfer Act," (52:14D-1 et seq.). All career service employees who serve in the Commercial Bus Unit shall be employees of the commission and shall retain their present civil service employment
status and their collective bargaining status, including all rights of tenure, retirement pension, disability, leave of absence, or similar benefits. All records, property appropriations, and any unexpended balance of funds appropriated or otherwise available to the Commercial Bus Unit, shall be transferred to the commission pursuant to the "State Agency Transfer Act."

c. Upon action of the MVC, all agency employees shall become employees of the MVC. Such employees shall be assigned to appropriate titles by the Department of Personnel. Those private motor vehicle agency employees who were employed by the agency on or before January 1, 2003 and who are assigned to career service titles upon employment with the MVC shall, upon completion of the special probationary period described in 39:2A-7, attain permanent, regular appointments in their respective titles. No special probationary period shall be required for those who have previously completed a probationary period during their previous State service employment. Except for managerial and confidential employees as defined by the "New Jersey Employer--Employee Relations Act," (34:13A-1 et seq.), such employees shall be covered under the State of New Jersey's collective bargaining agreements and shall obtain all employment and collective bargaining rights consistent therewith.

d. Officers and employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," (52:14-17.25 et seq.).

e. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and rules promulgated thereunder to the contrary, employees of a private motor vehicle agency who were employed with that agency immediately after serving in the division prior to its privatization, shall, upon returning to State service as employees of the MVC, receive civil service seniority credit for all years of employment service retroactive to the date upon which they commenced State employment prior to employment with the private motor vehicle agency. These employees shall also receive civil service seniority credit for all years of employment with the private motor vehicle agency as if the employment were total and continuous.

f. Employees employed by the private motor vehicle agency who enter State service as employees of the MVC but who have no prior State service shall receive civil service seniority credit for all years of employment with the private motor vehicle agency.

g. Civil service seniority credit for all employees referred to in subsections (d) and (e) of this section shall only be used to determine seniority credit for layoff and promotional purposes and accrual of paid leave.

h. Accumulated sick and vacation leave for employees entering or returning to State service as provided in subsections (d) and (e) of this section shall be transferred and credited to their State leave accounts immediately upon their return to State service.

i. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, all employees entering or returning to State service other than those on a Special Reemployment List as employees of the MVC...
following employment with a private motor vehicle agency, who have been employed with the private motor vehicle agency on or before January 1, 2003, and assigned to the career service shall be subject to a special probationary period unless they have already completed a probationary period during their previous State service employment. The special probationary period shall have a duration of six months from the date that the employees enter or return to State service as employees of the MVC. Each employee's work performance shall be evaluated to determine whether the employee can satisfactorily perform the duties of the title to which the employee is appointed and progress reports shall be provided to the employee as provided by the rules of the Merit System Board in the Department of Personnel. An employee who is determined to have satisfactorily performed the duties of the employee's career service title shall attain permanent status in that title at the conclusion of the special probationary period. An employee who is determined not to have satisfactorily performed the duties of that title during or at the conclusion of the special probationary period shall be immediately separated from State service and shall not have any right of appeal regarding the separation to the Merit System Board.

j. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, the employees entering or returning to State service as employees of the MVC in career service titles following employment with a private motor vehicle agency, shall receive a salary commensurate with total years of service as determined by the MVC in the salary range assigned to the career service titles to which they have received an appointment.

k. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder to the contrary, employees entering State service other than those on a Special Reemployment List as employees of the MVC in career service titles following employment after January 1, 2003 with a private motor vehicle agency shall be considered provisional employees subject to competitive testing.

l. Notwithstanding the provisions of Title 11A of the New Jersey Statutes and the rules promulgated thereunder, employees entering State service as provided in subsection (j) of this section shall not be subject to displacement by persons on preexisting Special Reemployment Lists. Special Reemployment Lists for applicable titles shall be used only to fill vacant positions in the MVC.


COMMENT

The substance of this section is identical to the original sections of 39:2A from which the language has been consolidated. The older provisions, found in 39:2-9.1 through 39:2-9.8 were eliminated as no longer applicable in light of the later provisions. It is not entirely clear whether any language from those older sections is still needed. Alterations will be made after comments are received. Subsections (a) and (c) – (d) are the former 39:2A-5. Subsection (b) is the former 39:2A-35. Subsections (e) – (h) are the former 39:2A-6. Subsection (i) is the former 39:2A-7. Subsection (j) is the former 39:2A-8. Subsections (k) and (l) are the former 39:2A-9. Some minor changes are anticipated to this section to streamline and consolidate the language.

The exercise of the powers granted by this act will be in all respects for the benefit of the people of the State, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of facilities and assets by the MVC will constitute the performance of essential governmental functions, the MVC shall not be required to pay any taxes or assessments upon any facility and assets or any property acquired or used by the MVC under the provisions of this act or upon the income therefrom, and any facility and assets and any property acquired or used by the MVC under the provisions of this act and the income therefrom shall be exempt from taxation.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language.

39A:MVC-14. Fingerprinting of employees; criminal history background checks

a. The MVC shall require the fingerprinting of all prospective employees, employees of the MVC, and employees of the agents of the MVC, for purposes of determining employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, permits, business licenses, identification cards, driving records, or vehicle registrations and titles, and of all independent contractors and their employees who work on a motor vehicle premises or have access to motor vehicle records or documents. The MVC is hereby authorized to exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation and the Division of State Police, consistent with the provisions of Pub.L.92-544, for use in determining employment eligibility.

b. The MVC may, as deemed necessary by the MVC, receive the results of periodic follow-ups of criminal history record checks of all employees of the MVC and employees of its agents, for purposes of determining continuing employment eligibility in any title or capacity that is either directly or indirectly involved in the issuance or processing of driver's licenses, identification cards, driving records, or vehicle registrations and titles.

c. If the information from the criminal history record background check discloses that a prospective or current employee has a record of criminal history, the MVC shall review the information with respect to the type and date of the criminal offense to determine if the person is qualified for employment with the MVC. Criminal offenses which shall disqualify an individual from employment include, but are not limited to, any crime or offense, whether committed in New Jersey or in another jurisdiction, which in New Jersey would constitute murder, assault with intent to murder, espionage, treason, rape, kidnaping, unlawful possession of an explosive or weapon, extortion, armed robbery, distribution of or intent to distribute a controlled substance, possession of a controlled substance, willful destruction of property, burglary, theft, fraud, forgery, terrorism, solicitation of money or resources for a terrorist organization and aggravated assault.
d. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

e. An individual who has been disqualified under the provisions of this act shall be entitled to reapply for the position if the disqualifying conviction is reversed.

f. Notwithstanding the provisions of subsection b. or c. of this section, an individual shall not be disqualified from employment or service on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the individual has affirmatively demonstrated to the administrator, clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

   (1) the nature and responsibility of the position which the applicant would hold, has held or currently holds, as the case may be;
   (2) the nature and seriousness of the offense;
   (3) the circumstances under which the offense occurred;
   (4) the date of the offense;
   (5) the age of the applicant when the offense was committed;
   (6) whether the offense was an isolated or repeated incident;
   (7) any social conditions which may have contributed to the offense; and
   (8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the applicant under their supervision.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language.

39A:MVC-15. Contracts for ancillary services

a. The MVC may contract for ancillary services at facilities used by the MVC, including food and beverage concessions, service concessions that would be beneficial to its customers, and information services that would be of interest or informative to its customers, such as television displays, public service displays, and the like.

b. In entering into a contract pursuant to this section, the MVC shall award a contract on the basis of competitive public bids or proposals to the responsible bidder or proposer whose bid or proposal is determined to be in the best interest of the State, price and other factors considered.
c. The MVC is authorized to receive funds from the contract and shall have the right to use the same. The revenue shall not be subject to appropriation as Direct State Services by the Legislature. In addition, this revenue shall not be restricted from use by the MVC in any manner except as provided by law. This revenue shall be used in the furtherance of MVC purposes. This revenue shall be considered revenue of the MVC and shall not be subject to the calculation of proportional revenue remitted to the MVC pursuant to section 105 of this act.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language.

39A:MVC-16. Procedure for simultaneous application for driver's license and registration to vote

a. The Secretary of State, with the assistance and concurrence of the Director of the Division of Motor Vehicles, shall formulate a means of permitting a person to simultaneously apply for a motor vehicle driver's license and to register to vote which satisfies both the requirements necessary to receive a license to operate a motor vehicle, pursuant to 39:3-10, and to be permitted to register to vote, pursuant to 19:4-1. The Division of Motor Vehicles, upon receipt of a completed voter registration application under this section, shall stamp or otherwise mark the lower right hand corner of the document with the date on which it was so received and forward the document to the Secretary of State no later than the 10th day following the date of acceptance.

b. Each application for voter registration which is received by the Division of Motor Vehicles shall be considered and processed as the replacement for any pre-existing voter registration of the applicant.

c. Each change of address notification submitted to the Director of the Division of Motor Vehicles for the purpose of maintaining current information on a person's motor vehicle license shall be reported to the Secretary of State no later than the 10th day following its receipt by the Division of Motor Vehicles and shall serve as notification for the change of address process, unless the registrant indicates that the change of address is not for voter registration purposes.

Source: 39:2-3.2.

COMMENT

This section is identical to the original. Some clarification of the language should be done to reflect the current titles of the individuals and entities referred to, but more information is needed before those changes may be made. As with other sections that were imported from the 39:2-1 et seq. it is not clear if all of the provisions included in this section are still applicable and modifications will be made as appropriate after comments are received.

39A:MVC-17. Disclosure of personal information

a. Notwithstanding the provisions of 47:1A-1 et seq. or any other law to the contrary, except as provided in this act, the Motor Vehicle Commission and any officer,
employee or contractor thereof shall not knowingly disclose or otherwise make available to any person personal information about any individual obtained by the commission in connection with a motor vehicle record.

b. A person requesting a motor vehicle record including personal information shall produce proper identification and shall complete and submit a written request form provided by the chief administrator for the commission's approval. The written request form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the requestor's name and address; the requestor's driver's license number or corporate identification number; the requestor's reason for requesting the record; the driver's license number or the name, address and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; any additional information determined by the chief administrator to be appropriate and the requestor's certification as to the truth of the foregoing statements. Prior to the approval of the written request form, the commission may also require the requestor to submit documentary evidence supporting the reason for the request.

c. In lieu of completing a written request form for each record requested, the commission may permit a person to complete and submit for approval of the chief administrator or the chief administrator's designee, on a case by case basis, a written application form for participation in a public information program on an ongoing basis. The written application form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the applicant's name, address and telephone number; the nature of the applicant's business activity; a description of each of the applicant's intended uses of the information contained in the motor vehicle records to be requested; the number of employees with access to the information; the name, title and signature of the authorized company representative; and any additional information determined by the chief administrator to be appropriate. The chief administrator may also require the applicant to submit a copy of its business credentials, such as license to do business or certificate of incorporation. Prior to approval by the chief administrator or the chief administrator's designee, the applicant shall certify in writing as to the truth of all statements contained in the completed application form.

d. Personal information shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, Pub.L.85-506, the Motor Vehicle Information and Cost Saving Act, Pub.L.92-513, the National Traffic and Motor Vehicle Safety Act of 1966, Pub.L.89-563, the Anti-Car Theft Act of 1992, Pub.L.102-519, and the Clean Air Act, Pub.L.88-206, and may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf of a federal, State or local agency in carrying out its functions.
(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and the removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees or contractors, but only:

   (A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

   (B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual.

(4) For use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, State or local court or agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, State or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the "Commercial Motor Vehicle Safety Act," 49 U.S.C.App.s.2710 et seq.

(9) For use in connection with the operation of private toll transportation facilities.

(10) For use by any requestor, if the requestor demonstrates it has obtained the notarized written consent of the individual to whom the information pertains.

(11) For product and service mail communications from automotive-related manufacturers, dealers and businesses, if the commission has implemented methods and procedures to ensure that:

   (A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

   (B) product and service mail communications from automotive-related manufacturers, dealers and businesses will not be directed at
individuals who exercise their option under subparagraph (a) of this paragraph.

(12) For use by an organ procurement organization designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, or any donor registry established by any such organization, exclusively for the purposes of determining, verifying, and recording organ and tissue donor designation and identity. For these purposes, an organ procurement organization shall have electronic access at all times, without exception, to real time organ donor designation and identification information. An organ procurement organization may also have information for research activities, pursuant to paragraph (5) of subsection c. of this section.

e. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under paragraphs (1) through (10) of subsection d. of this section may resell or redisclose the personal information only for a use permitted by paragraphs (1) through (10) of subsection d. of this section subject to regulation by the commission. A person authorized to receive personal information under paragraph (11) of subsection c. of this section may resell or redisclose the personal information pursuant to paragraph (11) of subsection c. of this section subject to regulation by the commission. An organization authorized to receive personal information under paragraph (12) of subsection c. of this section may redisclose the personal information only for the purposes set forth in that paragraph.

f. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under this section who resells or rediscloses personal information covered by the provisions of this act shall keep for a period of five years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and shall make such records available to the commission upon request. Any person who receives, from any source, personal information from a motor vehicle record shall release or disclose that information only in accordance with this act.

g. The release of personal information under this section shall not include an individual's social security number except in accordance with applicable State or federal law.

h. A person who knowingly obtains or discloses personal information from a motor vehicle record for any use not permitted under this section is guilty of a crime of the fourth degree.

i. A person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under this section shall be liable to the individual to whom the information pertains, who may bring a civil action in the Superior Court. The court may award:

(1) actual damages, but not less than liquidated damages in the amount of $2,500;
(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

j. Nothing in this section shall be construed as authorizing the division to obtain personal information, except as provided in subsection (b) and (c).


COMMENT

The section is substantially unchanged except subsection (b), which was originally two paragraphs, has been divided into two separate subsections for purposes of reference, and the remaining subsections have been relettered accordingly. Subsection (h) is the former 39:2-3.5. Subsection (i) is the former 39:2-3.6. Subsection (j) is the former 39:2-3.7. As with other sections that were imported from the 39:2-1 et seq. it is not clear if all of the provisions included in this section are still applicable and modifications will be made as appropriate after comments are received.

39A:MVC-18. Service charges; fees; revenue

a. The first $200,000,000 of fees and surcharges thereon collected pursuant to the following statutes shall be considered service charges which are revenues to be remitted to the MVC and the remainder shall be remitted to the General Fund, provided that if the total amount of such fees and surcharges collected, as verified by the relevant fiscal year New Jersey Comprehensive Annual Financial Report, produce more or less revenue than the sum of $200,000,000 and the amount anticipated in the fiscal year 2004 Appropriations Act for those statutes, then the $200,000,000 in revenue from those service charges to the MVC shall be increased or lowered proportionately:


Proportional revenues remitted to the commission for the fiscal years beginning July 1, 2004 and thereafter shall have the same proportion as the proportional revenues remitted to the MVC for the fiscal year beginning July 1, 2003, and this calculation shall not be impacted by the acceleration of revenue attributable to new passenger automobile registrations implemented pursuant to P.L. 2004, c. 64.
b. In addition to the proportionately increased or lowered revenue provided for in subsection a. of this section, the MVC shall receive 100 percent of the revenues collected from any new service charge and 100 percent of the increased revenues collected from any existing service charge increased by law. Any new or increased service charge shall not be included in the calculation of the proportional revenue remitted to the MVC.

c. In addition to the revenues provided for in subsections a. and b. of this section, all fees collected pursuant to Chapter 3 of Title 39 of the Revised Statutes required to defray the costs of the MVC with respect to producing, issuing, renewing, and publicizing license plates, or related computer programming shall be considered revenues of the commission notwithstanding any other provision of law.

d. Notwithstanding any other provision of law, all fees established pursuant to P.L. 2001, c. 391 shall take effect on the enactment of 39:2A-1 et al. The $6 digitized picture fee shall be charged regardless of whether the license or identification card displays a picture, and shall be revenues of the MVC for use in the furtherance of any MVC purpose. This fee shall be considered revenues of the MVC and shall not be subject to the calculation of proportional revenue remitted to the MVC pursuant to this section.

e. In addition to the vehicle registration fees imposed pursuant to the provisions of chapters 3, 4, and 8 of Title 39 of the Revised Statutes, the MVC shall impose and collect an additional $7 for each new and renewal vehicle registration as a security surcharge, which surcharge shall take effect on the enactment of 39:2A-1 et al. and shall expire ten years thereafter. The security surcharges collected pursuant to this section shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the MVC pursuant to this section. The security surcharge shall not be imposed on the registration of passenger vehicles registered to persons possessing a valid handicapped person identification card issued pursuant to 39:4-205 or to persons aged 65 years of age or older at the time of registration or registration renewal.

f. Revenues of the MVC shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the MVC shall not be restricted from use by the MVC in any manner except as provided by law. Revenues of the MVC may be used in the furtherance of any purpose of the MVC or as otherwise provided for by law.

g. All monies paid to the MVC pursuant to 39:6-58 are revenues of the MVC and shall not be subject to the calculation of proportional revenues remitted to the MVC pursuant to this section.


COMMENT
This language in this section is substantially identical to the original. Subsections (a) – (c) and (f) are the former 39:2A-36. Subsection (d) is the former 39:2A-37 (that former section also included language like that in subsection (f). Subsection (e) is the former 39:2A-38 (that former section also included language like that in subsection (f). Subsection (g) is the former 39:2A-39. The statutory citation form has been shortened as in other sections, it is anticipated that additional minor changes will be made to streamline the language.
39A:MVC-19. Annual report; audit; semi-annual report

a. On or before September 30 of each year, the MVC shall file with the Governor and the presiding officer of each House of the Legislature a report setting forth the operational, capital and financial expenditures of the previous year, the operational, capital and financial plan, and the table of organization and staffing plan, for the current year and a proposed operational, capital and financial plan for the next ensuing year. The report may include recommendations for revisions to fees or service charges which the MVC deems appropriate and shall include the latest audited annual financial statement. In this statement, the MVC shall disclose all revenues remitted to the commission and provide a detailed listing of the various categories in which it receives revenue, including any surplus revenue from the prior year.

b. The MVC shall cause a financial audit of its books and accounts to be made at least once each year by certified public accountants and a copy thereof shall be filed with the State Treasurer.

c. On or before September 30 and March 30 of each year, the MVC shall file with the Governor and the presiding officer of each House of the Legislature a report providing an assessment of the quality of service provided by the MVC and a description of any security improvements made by the commission in the prior six month period and those anticipated in the current six month period. To the extent practicable, the report also shall include data setting forth in detail the number of transactions annually performed at each MVC agency or facility and by other means including, but not limited to, electronic transactions. This portion of the report also shall disclose, to the extent practicable, the average waiting time to process a transaction at each MVC agency or facility and, where applicable, through other means. If the MVC determines that it is not able to ascertain these data for inclusion in the six month report, the report shall set forth the reasons the data could not be included and provide a date by which the MVC reasonably estimates that it will be able to provide these data. In addition, the report shall include the number of criminal complaints filed against any MVC employee or any other person, in connection with commission related activity. Complaints which are determined to be unfounded shall not be included. The report shall set forth the various crimes and offenses for which complaints were filed against any MVC employee or in connection with any MVC activity.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language.

39A:MVC-20. Advisory councils

There are created within the MVC five advisory councils, which shall provide the MVC with advice, technical expertise, information, guidance, and recommendations in four general areas. The MVC shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the councils, with no council having more than five members. Federal government representatives and representatives of national
organizations shall be asked to serve, and if willing, shall be designated by the MVC to serve. All council members shall be designated by MVC action and shall serve on rotating terms so as to provide stability and continuity on each council. The Chair, or the Chair's designee, shall serve on each council. The councils shall meet and report to the commission monthly, or as frequently as the MVC requests. The councils are as follows:

a. The Safety Advisory Council, which shall advise the MVC regarding its policies, operating practices, regulations and standards in regard to driver, motor vehicle and traffic safety and consider new initiatives or legislation to enhance the safety of the motoring public.

b. The Customer Service Advisory Council, which shall advise the MVC regarding its policies, operating practices, employee communications, regulations, and standards in providing appropriate customer service. The council shall: examine benchmarking performance and level of service standards for the Telephone Center; examine internal communications to ensure consistency and systematic application; make recommendations regarding marketing and the dissemination of information to the public to re-establish a robust marketing and public information program which informs and educates public consumers; and advise on all aspects of customer service at the MVC.

c. The Security and Privacy Advisory Council, which shall: advise the MVC as to how to effectively maintain its system and business processes in the securest manner; help it to address its most serious security breaches; advise as to new or modified programs needed to achieve heightened security; recommend methods to curtail fraudulent and criminal activities that present threats to the State's security as well as measures to protect the privacy of driver information, including but not limited to the Driver's Privacy Protection Act of 1994.

d. The Business Advisory Council, which shall advise the MVC on improvements in the MVC's business practices which affect its public and private partners, regulated entities, interest groups, businesses, and constituents in providing motor vehicle services.

e. The Technology Advisory Council, which shall advise the MVC on the latest and best technological services and equipment to ensure continued modernization of the MVC's facilities, equipment, operations, security, and customer service.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language.

39A:MVC-21. Medical advisory panel

a. There is hereby created in the Division of Motor Vehicles a special study and advisory panel to be known as the Medical Advisory Panel consisting of physicians licensed to practice medicine and surgery (including physicians specialty-board certified in internal medicine, psychiatry, neurology, physical medicine, and ophthalmology), licensed optometrists, and officials of the division supervising motor vehicle driver licensing.
b. The members of the panel shall be appointed by the Governor upon recommendations by the director and shall be in such number as the Governor and director shall deem appropriate. In recommending the physician and optometrist members, the director shall seek the advice and recommendations of the Medical Society of New Jersey with respect to the physician members, and the New Jersey Optometric Association with respect to the optometrist member or members. The panel and the members thereof shall serve at the pleasure of the Governor. They shall receive no compensation for their services but shall be reimbursed for the reasonable expenses actually incurred in the performance of their duties as approved by the director.

c. The Medical Advisory Panel shall study and review all medical criteria and vision standards applicable to the licensing of motor vehicle drivers by the division and recommend such additions and revisions thereof as it shall deem necessary and appropriate. Any such recommended additions and revisions may be adopted by the division on a trial basis to determine the necessity and validity thereof.

d. The director may from time to time require panel members to give testimony at administrative hearings concerning applicants and licensees who may suffer from medical, vision, psychiatric, psychological or characterological disorders relating to a person's ability to safely operate a motor vehicle.

e. No member of the Medical Advisory Panel, the Director of the Division of Motor Vehicles or his employees, or any physician or optometrist licensed to practice in this State shall be liable for any civil damages as a result of providing any reports, records, examinations, opinions or recommendations pursuant to this section.


COMMENT

This substance of this section is identical to the original. Subsection (a) is the former 39:2-13. Subsection (b) is the former 39:2-14. Subsections (c) and (d) are the former 39:2-15. Subsection (e) is the former 39:2-16. It is not clear if this language is still applicable and it will be modified as necessary after comments are received.


a. There is created a task force to be known as the "Motor Vehicles Affordability & Fairness Task Force" to study the impact of the current point system and non-driving related suspension of driving privileges, in particular, the Merit Rating Plan Surcharges, on the driving public and make recommendations for the reform of the surcharge suspension program to increase motorist safety. In addition, the task force shall examine "The Parking Offenses Adjudication Act," (39:4-139.2 et seq.) and municipal court processes related thereto, as well as court actions on surcharge assessments and license suspensions related to nonpayment of fines or tickets as well as motor vehicle moving violations.

b. The task force shall consist of 19 members as follows: the Commissioner of Transportation, ex officio, or a designated representative; the Chair of the New Jersey Motor Vehicle Commission, ex officio or a designated representative; a representative of the Administrative Office of the Courts; the Director of the Office of Highway Traffic Safety, in the Department of Law and Public Safety, ex officio, or a designated
representative; the Director of the Division of Insurance in the Department of Banking and Insurance, ex officio, or a designated representative; the Chairperson of the State Employment and Training Commission, ex officio or a designated representative; and nine public members, to be appointed by the Governor, among whom shall be included a representative of the New Jersey Highway Traffic Safety Policy Advisory Council, a representative of a not-for-profit highway safety organization, a representative of the automobile retailers industry, a representative of the automobile insurance industry, a regular operator of a motor vehicle weighing in excess of twenty-six thousand pounds, one law enforcement officer engaged in highway patrol, a representative from the New Jersey State League of Municipalities, a representative from the New Jersey Institute for Social Justice and a representative of a New Jersey based chapter of the American Automobile Association. The Speaker of the General Assembly and the President of the Senate shall each appoint two members who may be public members or members of the Legislature. No more than two of the legislative appointees shall be from the same political party. Legislative appointees shall serve during the legislative term of the appointing authority.

c. The members of the task force shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties.

d. The task force shall organize as soon as may be practicable after the appointment of a majority of its members and shall select a chairperson from among the members. The members shall select a secretary, who need not be a member of the task force.

e. The task force shall meet at the call of the chairperson.

f. The task force shall be entitled to call to its assistance and avail itself of the services of the employees of any State department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

g. The task force shall study and develop recommendations concerning the following issues, including but not limited to:

(1) the rapid growth in the number of driver's license suspensions;

(2) identification and regulation of drivers to deter unlawful and unsafe acts;

(3) establishment of a mechanism to assist low-income residents that are hard pressed to secure the restoration of driving privileges;

(4) reform of the parking ticket suspension system and "The Parking Offenses Adjudication Act"; and

(5) increasing the collection of outstanding surcharges.

h. The study shall include, but not be limited to, investigating issues of motor vehicle safety, insurance, finance, and socioeconomic conditions. The task force shall review and analyze studies examining the social impacts of driver's license and
registration suspensions. The task force shall also review and analyze studies and statistics regarding surcharges and suspensions to develop recommendations for reform.

i. The task force shall develop recommendations for public and private strategies and recommendations for legislative or regulatory action, if deemed appropriate, to address these issues. The recommendations shall include suggestions for the development of public information campaigns to educate and inform motorists about driver's license and registration suspensions, and methods of lessening financial and social burdens on motorists.

j. The task force's recommendations shall be aimed at developing and implementing an amnesty policy and a reform of the surcharge suspension. The task force shall review the impact of suspension of driving privileges upon businesses and individuals dependent upon having a valid driver's license for gainful employment and to conduct commerce in this State.

k. The task force shall prepare and submit a final report containing its findings and recommendations, including any recommendations for legislative or regulatory action that it deems appropriate, no later than one year after the task force organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Transportation Committee and the Assembly Transportation Committee, or their successors.

l. Upon the submission of the final report the task force shall dissolve. Any and all materials, records, work products or other property of the task force shall become property of the MVC.


COMMENT

This language in this section is substantially identical to the original. It is anticipated that some minor changes will be made to streamline the language. The words “hard pressed” in (g)(3) should be replaced with some other term.

39A:MVC-23. Reorganization plans; inconsistencies superceded

To the extent that Reorganization Plans Nos. 002-1995 and 005-1998 are inconsistent with any provisions of this act, they are superseded to the extent of such inconsistencies and any reference in such Plans to the Division of Motor Vehicles in the Department of Transportation shall mean and refer to the MVC.

Source: 39:2A-34.

COMMENT

This language in this section is substantially identical to the original.

39A:MVC-24. Inconsistency and severability

a. All acts and parts of acts inconsistent with any of the provisions of this act are superseded to the extent of such inconsistencies.

b. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence or provision of this act is declared to be unconstitutional or the
applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

c. This act shall be liberally construed to obtain the objectives and effect the purposes thereof.


COMMENT

This language in this section is substantially identical to the original sections. Subsection (a) is the former 39:2A-40. Subsections (b) and (c) are the former 39:2A-41.