

SECOND REGULAR SESSION

HOUSE BILL NO. 2614

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZPATRICK.

6589H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 260.010, 260.035, 260.115, 260.125, and 640.010, RSMo, and to enact in lieu thereof five new sections relating to the state environmental improvement and energy resources authority.

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

Section A. Sections 260.010, 260.035, 260.115, 260.125, and 640.010, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 260.010, 260.035,
3 260.115, 260.125, and 640.010, to read as follows:

260.010. There is hereby created and established [as a governmental instrumentality of
2 the state of Missouri] **within the department of natural resources**, the "State Environmental
3 Improvement and Energy Resources Authority"[, which shall constitute a body corporate and
4 politic].

260.035. 1. **Subject to appropriations**, the authority is hereby granted and may
2 exercise all powers necessary or appropriate to carry out and effectuate its purposes pursuant to
3 the provisions of sections 260.005 to 260.125, including, but not limited to, the following:

4 (1) To adopt bylaws and rules after having held public hearings thereon for the regulation
5 of its affairs and the conduct of its business;

6 (2) To adopt an official seal;

7 (3) To maintain a principal office and such other offices within the state as it may
8 designate;

9 (4) To sue and be sued;

10 (5) To make and execute leases, contracts, releases, compromises and other instruments
11 necessary or convenient for the exercise of its powers or to carry out its purposes;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair,
13 operate, lease, finance and sell equipment, structures, systems and projects and to lease the same
14 to any private person, firm, or corporation, or to any public body, political subdivision or
15 municipal corporation. Any such lease may provide for the construction of the project by the
16 lessee;

17 (7) To issue bonds and notes as hereinafter provided and to make, purchase, or
18 participate in the purchase of loans or municipal obligations and to guarantee loans to finance
19 the acquisition, construction, reconstruction, enlargement, improvement, furnishing, equipping,
20 maintaining, repairing, operating or leasing of a project;

21 (8) To invest any funds not required for immediate disbursement in obligations of the
22 state of Missouri or of the United States or any agency or instrumentality thereof, or in bank
23 certificates of deposit; provided, however, the foregoing limitations on investments shall not
24 apply to proceeds acquired from the sale of bonds or notes which are held by a corporate trustee
25 pursuant to section 260.060;

26 (9) To acquire by gift or purchase, hold and dispose of [real and] personal property in
27 the exercise of its powers and the performance of its duties hereunder;

28 (10) To employ managers and other employees and retain or contract with architects,
29 engineers, accountants, financial consultants, attorneys and such other persons, firms or
30 corporations who are necessary in its judgment to carry out its duties, and to fix the
31 compensation thereof;

32 (11) To receive and accept appropriations, bequests, gifts and grants and to utilize or
33 dispose of the same to carry out its purposes pursuant to the provisions of sections 260.005 to
34 260.125;

35 (12) To engage in research and development with respect to pollution control facilities
36 and solid waste or sewage disposal facilities, and water facilities, resource recovery facilities and
37 the development of energy resources;

38 (13) To collect rentals, fees and other charges in connection with its services or for the
39 use of any project hereunder;

40 (14) To sell at private sale any of its property or projects to any private person, firm or
41 corporation, or to any public body, political subdivision or municipal corporation on such terms
42 as it deems advisable, including the right to receive for such sale the note or notes of any such
43 person to whom the sale is made. Any such sale shall provide for payments adequate to pay the
44 principal of and interest and premiums, if any, on the bonds or notes issued to finance such
45 project or portion thereof. Any such sale may provide for the construction of the project by the
46 purchaser of the project;

47 (15) To make, purchase or participate in the purchase of loans to finance the
48 development and marketing of:

49 (a) Means of energy production utilizing energy sources other than fossil or nuclear fuel,
50 including, but not limited to, wind, water, solar, biomass, solid waste, and other renewable
51 energy resource technologies;

52 (b) Fossil fuels and recycled fossil fuels which are indigenous energy resources produced
53 in the state of Missouri, including coal, heavy oil, and tar sands; and

54 (c) Synthetic fuels produced in the state of Missouri;

55 (16) To insure any loan, the funds of which are to be used for the development and
56 marketing of energy resources as authorized by sections 260.005 to 260.125;

57 (17) To make temporary loans, with or without interest, but with such security for
58 repayment as the authority deems reasonably necessary and practicable, to defray development
59 costs of energy resource development projects;

60 (18) To collect reasonable fees and charges in connection with making and servicing its
61 loans, notes, bonds and obligations, commitments, and other evidences of indebtedness made,
62 issued or entered into to develop energy resources, and in connection with providing technical,
63 consultative and project assistance services in the area of energy development. Such fees and
64 charges shall be limited to the amounts required to pay the costs of the authority, including
65 operating and administrative expenses, and reasonable allowance for losses which may be
66 incurred;

67 (19) To enter into agreements or other transactions with any federal or state agency, any
68 person and any domestic or foreign partnership, corporation, association, or organization to carry
69 out the provisions of sections 260.005 to 260.125;

70 (20) To sell, at public or private sale, any mortgage and any real or personal property
71 subject to that mortgage, negotiable instrument, or obligation securing any loan;

72 (21) To procure insurance against any loss in connection with its property in such
73 amounts, and from such insurers, as may be necessary or desirable;

74 (22) To consent to the modification of the rate of interest, time of payment for any
75 installment of principal or interest, or any other terms, of any loan, loan commitment, temporary
76 loan, contract, or agreement made directly by the authority;

77 (23) To make and publish rules and regulations concerning its lending, insurance of
78 loans, and temporary lending to defray development costs, along with such other rules and
79 regulations as are necessary to effectuate its purposes. No rule or portion of a rule promulgated
80 under the authority of sections 260.005 to 260.125 shall become effective unless it has been
81 promulgated pursuant to the provisions of section 536.024;

82 (24) To borrow money to carry out and effectuate its purpose in the area of energy
83 resource development and to issue its negotiable bonds or notes as evidence of any such
84 borrowing in such principal amounts and upon such terms as shall be determined by the
85 authority, and to secure such bonds or notes by the pledge of revenues, mortgages, or notes of
86 others as authorized by sections 260.005 to 260.125.

87 2. The authority shall develop a hazardous waste facility if the study required in section
88 260.037 demonstrates that a facility is economically feasible. The facility, which shall not
89 include a hazardous waste landfill, may be operated by any eligible party as specified in this
90 section. The authority shall begin development of the facility by July 1, 1985.

260.115. 1. All loans authorized under section 260.035 for the development of energy
2 resources shall be made only upon determination by the authority that loans are not otherwise
3 available, either wholly or in part, from private lenders upon reasonably equivalent terms and
4 conditions. No commitment for a loan shall be made unless all plans for development have been
5 completed and submitted to and found to be satisfactory by the authority.

6 2. The authority shall charge a reasonable fee on all loans not federally insured to insure
7 such loans. The proceeds of such fees shall be deposited in a separate fund to be known as the
8 "Energy Resources Insured Loan Fund". [The provisions of section 33.080 to the contrary
9 notwithstanding, money in this fund shall not be transferred and placed to the credit of general
10 revenue. This fund shall be deposited when received in a bank approved for deposit of state
11 funds. No moneys shall be withdrawn from the fund unless it is to be used for the purchase of
12 loan insurance or to pay for any losses on such loans.] **The state treasurer shall be custodian
13 of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may
14 approve disbursements. The fund shall be a dedicated fund and, upon appropriation,
15 moneys in the fund shall be used solely for the administration of sections 260.005 to
16 260.125. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
17 remaining in the fund at the end of the biennium shall not revert to the credit of the
18 general revenue fund. The state treasurer shall invest moneys in the fund in the same
19 manner as other funds are invested. Any interest and moneys earned on such investments
20 shall be credited to the fund.**

260.125. 1. If any provision of sections 260.005 to 260.125 is found by a court of
2 competent jurisdiction to be unconstitutional, the remaining provisions of sections 260.005 to
3 260.125 are valid unless the court finds the valid provisions of the statute are so essentially and
4 inseparably connected with, and so dependent upon, the valid provision that the valid provisions,
5 standing alone, are incomplete and are incapable of being executed. It is the intent of the
6 Missouri general assembly that the valid provisions of sections 260.005 to 260.125 shall remain
7 valid so long as they can so stand alone.

8 2. **Subject to appropriations**, general revenue funds [shall not] **may** be used to carry
9 out the provisions of sections 260.005 to 260.125.

640.010. 1. There is hereby created a department of natural resources in charge of a
2 director appointed by the governor, by and with the advice and consent of the senate. The
3 director shall administer the programs assigned to the department relating to environmental
4 control and the conservation and management of natural resources. The director shall coordinate
5 and supervise all staff and other personnel assigned to the department. He shall faithfully cause
6 to be executed all policies established by the boards and commissions assigned to the
7 department, be subject to their decisions as to all substantive and procedural rules and his or her
8 decisions shall be subject to appeal as provided by law. The director shall recommend policies
9 to the various boards and commissions assigned to the department to achieve effective and
10 coordinated environmental control and natural resource conservation policies.

11 2. The director shall appoint directors of staff to service each of the policy making
12 boards or commissions assigned to the department. Each director of staff shall be qualified by
13 education, training and experience in the technical matters of the board to which he is assigned
14 and his or her appointment shall be approved by the board to which he is assigned and he shall
15 be removed or reassigned on their request in writing to the director of the department. All other
16 employees of the department and of each board and commission assigned to the department shall
17 be appointed by the director of the department in accord with chapter 36, and shall be assigned
18 and may be reassigned as required by the director of the department in such a manner as to
19 provide optimum service, efficiency and economy.

20 3. The air conservation commission, chapter [203] **643** and others, the clean water
21 commission, chapter [204] **644** and others, are transferred by type II transfer to the department
22 of natural resources. The governor shall appoint the members of these bodies in accord with the
23 laws establishing them, with the advice and consent of the senate. The bodies hereby transferred
24 shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies
25 transferred to their jurisdiction. All the powers, duties and functions of the state environmental
26 improvement **and energy resources** authority, chapter 260 and others, are transferred by type
27 [III] **I** transfer to the [air conservation commission] **department of natural resources**. All the
28 powers, duties and functions of the water resources board, chapter 256 and others, are transferred
29 by type I transfer to the clean water commission and the board is abolished. No member of the
30 clean water commission shall receive or shall have received, during the previous two years from
31 the date of his or her appointment, a significant portion of his or her income directly or indirectly
32 from permit holders or applicants for a permit under the jurisdiction of the clean water
33 commission. The state park board, chapter 253, is transferred to the department of natural
34 resources by type I transfer.

35 4. All the powers, duties and functions of the state soil and water districts commission,
36 chapter 278 and others, are transferred by a type II transfer to the department.

37 5. All the powers, duties and functions of the state geologist, chapter 256 and others, are
38 transferred by type I transfer to the department of natural resources. All the powers, duties and
39 functions of the state oil and gas council, chapter 259 and others, are transferred to the
40 department of natural resources by type II transfer. The director of the department shall appoint
41 a state geologist who shall have the duties to supervise and coordinate the work formerly done
42 by the departments or authorities abolished by this subsection, and shall provide staff services
43 for the state oil and gas council.

44 6. All the powers, duties and functions of the land reclamation commission, chapter 444
45 and others, are transferred to the department of natural resources by type II transfer. All
46 necessary personnel required by the commission shall be selected, employed and discharged by
47 the commission. The director of the department shall not have the authority to abolish positions.

48 7. The functions performed by the division of health in relation to the maintenance of
49 a safe quality of water dispensed to the public, sections 640.100 to 640.115, and others, and for
50 licensing and regulating solid waste management systems and plans are transferred by type I
51 transfer to the department of natural resources.

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