

FIRST REGULAR SESSION

# HOUSE BILL NO. 775

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HICKS.

1510H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 260.225, 260.273, 260.325, and 260.335, RSMo, and to enact in lieu thereof four new sections relating to solid waste management and recycling.

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

Section A. Sections 260.225, 260.273, 260.325, and 260.335, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 260.225, 260.273, 260.325, and 260.335, to read as follows:

260.225. 1. The department shall administer sections 260.200 to 260.345 to maximize the amount of recovered materials and to minimize disposal of solid waste in sanitary landfills. The department shall, through its rules and regulations, policies and programs, encourage to the maximum extent practical, the use of alternatives to disposal. To accomplish these objectives, the department shall:

(1) Administer the state solid waste management program pursuant to the provisions of sections 260.200 to 260.345;

(2) Cooperate with appropriate federal, state, and local units of government of this or any other state, and with appropriate private organizations in carrying out its authority under sections 260.200 to 260.345;

(3) Promulgate and adopt, after public hearing, such rules and regulations relating to solid waste management systems as shall be necessary to carry out the purposes and provisions of sections 260.200 to 260.345;

(4) Develop a statewide solid waste management plan in cooperation with local governments, regional planning commissions, districts, and appropriate state agencies;

(5) Provide technical assistance to cities, counties, districts, and authorities;

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.

17 (6) Develop and conduct a mandatory solid waste technician training course of study;

18 (7) Conduct and contract for research and investigations in the overall area of solid waste  
19 storage, collection, recycling, recovery, processing, transportation and disposal, including, but  
20 not limited to, new and novel procedures;

21 (8) Subject to appropriation by the general assembly, establish criteria for awarding  
22 state-funded solid waste management grants **as provided in subdivision (1) of subsection 2 of**  
23 **section 260.335** to cities, counties, and districts, allocate funds, and monitor the proper  
24 expenditure of funds **in accordance with sections 260.200 to 260.345 and in particular the**  
25 **provisions of subsection 5 of section 260.335;**

26 (9) Issue such permits and orders and conduct such inspections as may be necessary to  
27 implement the provisions of sections 260.200 to 260.345 and the rules and regulations adopted  
28 pursuant to sections 260.200 to 260.345;

29 (10) Initiate, conduct and support research, demonstration projects, and investigations  
30 with applicable federal programs pertaining to solid waste management systems;

31 (11) Contract with cities, counties, districts and other persons to act as its agent in  
32 carrying out the provisions of sections 260.200 to 260.345 under procedures and conditions as  
33 the department shall prescribe.

34 2. The department shall prepare model solid waste management plans suitable for rural  
35 and urban areas which may be used by districts, counties and cities. In preparing the model  
36 plans, the department shall consider the findings and recommendations of the study of resource  
37 recovery conducted pursuant to section 260.038, and other relevant information. The plans shall  
38 conform with the requirements of section 260.220 and section 260.325 and shall:

39 (1) Emphasize waste reduction and recycling;

40 (2) Provide for economical waste management through regional and district cooperation;

41 (3) Be designed to achieve a reduction of forty percent in solid waste disposed, by  
42 weight, by January 1, 1998;

43 (4) Establish a means to measure the amount of reduction in solid waste disposal;

44 (5) Provide for the elimination of small quantities of hazardous waste, including  
45 household hazardous waste, from the solid waste stream; and

46 (6) Be designed to guide planning in districts, cities and counties including cities and  
47 counties not within a district.

48 3. The model plan shall be distributed to the executive board of each solid waste district  
49 and to counties and cities not within a district by December 1, 1991.

50 4. No rule or portion of a rule promulgated under the authority of sections 260.200 to  
51 260.345 shall become effective unless it has been promulgated pursuant to the provisions of  
52 section 536.024.

53           5. In coordination with other appropriate state agencies, including, but not limited to, the  
54 division of commerce and industrial development, the office of administration, the  
55 environmental improvement and energy [~~resource~~] **resources** authority, and the public service  
56 commission, the department shall **create and maintain a waste reduction and recycling unit**  
57 **to perform at least** the following duties in order to promote resource recovery in the state in  
58 ways which are economically feasible:

59           (1) Identify markets for recovered materials and for energy which could be produced  
60 from solid waste and household hazardous waste;

61           (2) Provide technical assistance pertaining to all aspects of resource recovery to cities,  
62 counties, districts, industries and other persons;

63           (3) Identify opportunities for resource recovery programs in state government and initiate  
64 actions to implement such programs;

65           (4) Expand state contracts for procurement of items made from recovered materials;

66           (5) Initiate recycling programs within state government;

67           (6) Provide a clearinghouse of consumer information regarding the need to support  
68 resource recovery, utilize and develop new resource recovery programs around existing  
69 enterprises, request and purchase recycled products, participate in resource conservation  
70 activities and other relevant issues;

71           (7) Identify barriers to resource recovery and resource conservation, and propose  
72 remedies to these barriers; and

73           (8) Initiate activities with appropriate state and local entities to develop markets for  
74 recovered materials.

260.273. 1. Any person purchasing a new tire may present to the seller the used tire or  
2 remains of such used tire for which the new tire purchased is to replace.

3           2. A fee for each new tire sold at retail shall be imposed on any person engaging in the  
4 business of making retail sales of new tires within this state. The fee shall be charged by the  
5 retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed  
6 at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the  
7 purchaser at retail after all applicable sales taxes on the tires have been computed. The fee  
8 imposed, less six percent of fees collected, which shall be retained by the tire retailer as  
9 collection costs, shall be paid to the department of revenue in the form and manner required by  
10 the department of revenue and shall include the total number of new tires sold during the  
11 preceding month. The department of revenue shall promulgate rules and regulations necessary  
12 to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do  
13 not include the sale of new tires to a person solely for the purpose of resale, if the subsequent  
14 retail sale in this state is to the ultimate consumer and is subject to the fee.

15           3. The department of revenue shall administer, collect and enforce the fee authorized  
16 pursuant to this section pursuant to the same procedures used in the administration, collection  
17 and enforcement of the general state sales and use tax imposed pursuant to chapter 144 except  
18 as provided in this section. The proceeds of the new tire fee, less four percent of the proceeds,  
19 which shall be retained by the department of revenue as collection costs, shall be transferred by  
20 the department of revenue into an appropriate subaccount of the solid waste management fund,  
21 created pursuant to section 260.330.

22           4. ~~[Up to]~~ Five percent of the revenue available ~~[may]~~ **shall** be allocated, upon  
23 appropriation, to the department of natural resources to be used ~~[cooperatively with the~~  
24 ~~department of elementary and secondary education]~~ for the purposes of **supporting waste**  
25 **reduction and recycling by** developing **information**, environmental educational materials,  
26 programs, and curriculum that assist in the department's implementation of sections 260.200 to  
27 260.345.

28           5. Up to fifty percent of the moneys received pursuant to this section may, upon  
29 appropriation, be used to administer the programs imposed by this section. Up to forty-five  
30 percent of the moneys received under this section may, upon appropriation, be used for the grants  
31 authorized in subdivision (2) of subsection 6 of this section. All remaining moneys shall be  
32 allocated, upon appropriation, for the projects authorized in section 260.276, except that any  
33 unencumbered moneys may be used for public health, environmental, and safety projects in  
34 response to environmental or public health emergencies and threats as determined by the  
35 director.

36           6. The department shall promulgate, by rule, a statewide plan for the use of moneys  
37 received pursuant to this section to accomplish the following:

38           (1) Removal of scrap tires from illegal tire dumps;

39           (2) Providing grants to persons that will use products derived from scrap tires, or use  
40 scrap tires as a fuel or fuel supplement; and

41           (3) Resource recovery activities conducted by the department pursuant to section  
42 260.276.

43           7. The fee imposed in subsection 2 of this section shall begin the first day of the month  
44 which falls at least thirty days but no more than sixty days immediately following August 28,  
45 2005, and shall terminate December 31, 2025.

260.325. 1. The executive board of each district ~~[shall]~~ **may** submit to the department  
2 a plan which has been approved by the council for a solid waste management system serving  
3 areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of  
4 its plan as it deems necessary or the department may require. In developing the district's solid  
5 waste management plan, the board shall consider the model plan distributed to the board

6 pursuant to section 260.225. Districts may contract with a licensed professional engineer or as  
7 provided in chapter 70 for the development and submission of a joint plan.

8           2. The board shall hold at least one public hearing in each county in the district when it  
9 prepares a proposed plan or substantial revisions to a plan in order to solicit public comments  
10 on the plan.

11           3. The solid waste management plan shall be submitted to the department within  
12 eighteen months of the formation of the district. The plan shall be prepared and submitted  
13 according to the procedures specified in section 260.220 and this section.

14           4. Each plan shall:

15           (1) Delineate areas within the district where solid waste management systems are in  
16 existence;

17           (2) Reasonably conform to the rules and regulations adopted by the department for  
18 implementation of sections 260.200 to 260.345;

19           (3) Delineate provisions for the collection of recyclable materials or collection points for  
20 recyclable materials;

21           (4) Delineate provisions for the collection of compostable materials or collection points  
22 for compostable materials;

23           (5) Delineate provisions for the separation of household waste and other small quantities  
24 of hazardous waste at the source or prior to disposal;

25           (6) Delineate provisions for the orderly extension of solid waste management services  
26 in a manner consistent with the needs of the district, including economic impact, and in a manner  
27 which will minimize degradation of the waters or air of the state, prevent public nuisances or  
28 health hazards, promote recycling and waste minimization and otherwise provide for the safe and  
29 sanitary management of solid waste;

30           (7) Take into consideration existing comprehensive plans, population trend projections,  
31 engineering and economics so as to delineate those portions of the district which may reasonably  
32 be expected to be served by a solid waste management system;

33           (8) Specify how the district will achieve a reduction in solid waste placed in sanitary  
34 landfills through waste minimization, reduction and recycling;

35           (9) Establish a timetable, with milestones, for the reduction of solid waste placed in a  
36 landfill through waste minimization, reduction and recycling;

37           (10) Establish an education program to inform the public about responsible waste  
38 management practices;

39           (11) Establish procedures to minimize the introduction of small quantities of hazardous  
40 waste, including household hazardous waste, into the solid waste stream;

41 (12) Establish a time schedule and proposed method of financing for the development,  
42 construction and operation of the planned solid waste management system together with the  
43 estimated cost thereof;

44 (13) Identify methods by which rural households that are not served by a regular solid  
45 waste collection service may participate in waste reduction, recycling and resource recovery  
46 efforts within the district; and

47 (14) Include such other reasonable information as the department shall require.

48 5. The board shall review the district's solid waste management plan at least every  
49 twenty-four months for the purpose of evaluating the district's progress in meeting the  
50 requirements and goals of the plan, and shall submit plan revisions to the department and  
51 council.

52 6. In the event any plan or part thereof is disapproved, the department shall furnish any  
53 and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The  
54 executive board shall within sixty days revise and resubmit the plan for approval or request a  
55 hearing in accordance with section 260.235. Any plan submitted by a district shall stand  
56 approved one hundred twenty days after submission unless the department disapproves the plan  
57 or some provision thereof.

58 7. The director may institute appropriate action under section 260.240 to compel  
59 submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations  
60 adopted pursuant to sections 260.200 to 260.345.

61 8. Funds may, upon appropriation, be made available to districts under section 260.335  
62 for the purpose of implementing the requirements of this section.

63 9. Based upon the financial assistance amounts set forth in this section, the district  
64 executive board shall arrange for an independent financial statement audit of the records and  
65 accounts of its operations by a certified public accountant or a firm of certified public  
66 accountants. Districts receiving more than eight hundred thousand dollars of financial assistance  
67 annually shall have annual independent financial statement audits; districts receiving between  
68 two hundred fifty thousand dollars and eight hundred thousand dollars of financial assistance  
69 annually shall have a biennial independent financial statement audit for the two-year period. All  
70 other districts shall be monitored biennially by the department and, based upon the findings  
71 within the monitoring report, may be required to arrange for an independent financial statement  
72 audit for the biennial monitoring period under review. ~~[Subject to limitations caused by the  
73 availability of resources, the department shall conduct a performance audit of grants to each  
74 district at least once every five years, or as deemed necessary by the department based upon  
75 district grantee performance.]~~

260.335. 1. Each fiscal year ~~[eight]~~ **six** hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars from the solid waste management fund ~~[may be used by the department upon appropriation for grants]~~ **shall be allocated** to solid waste management districts for district grants **or projects** and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these ~~[grants]~~ **funds**. An eligible district shall receive a proportionate share of these ~~[grants]~~ **funds** based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. **In addition, each fiscal year up to two hundred thousand dollars shall also be made available to districts receiving less than one hundred twenty thousand dollars for that fiscal year. An eligible district shall receive a proportionate share of these funds based on increasing funds for all eligible districts to as close to one hundred twenty thousand dollars as possible. Such revenues shall be transferred as soon as all district funds for that fiscal year have been received. These funds shall be used for grants or projects.** The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine percent of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, 2027, under section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) **(a)** Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, 2027, which shall be used solely

37 to fund the operating costs of the department, shall be allocated to solid waste management  
38 districts. **Such revenues shall be immediately transferred to districts on a quarterly basis.**

39 **(b)** Revenues to be allocated under this subdivision shall be divided as follows: forty  
40 percent shall be allocated based on the population of each district in the latest decennial census,  
41 and sixty percent shall be allocated based on the amount of revenue generated within each  
42 district. For the purposes of this subdivision, revenue generated within each district shall be  
43 determined from the previous year's data. No more than fifty percent of the revenue allocable  
44 under this subdivision may be allocated ~~[to]~~ **by the districts** ~~[upon approval of the department~~  
45 ~~for implementation of a solid waste management plan and]~~ **for district operations**, and at least  
46 fifty percent of the revenue allocable to the districts under this subdivision shall be allocated to  
47 **grants or projects serving** the cities and counties of the district or to persons or entities  
48 providing solid waste management, waste reduction, recycling and related services in these cities  
49 and counties. ~~[Each district shall receive a minimum of seventy-five thousand dollars under this~~  
50 ~~subdivision.]~~ After August 28, 2015, each district shall receive a minimum of ninety-five  
51 thousand dollars under this subdivision for district grants **and projects** and district operations.  
52 ~~[Each district receiving moneys under this subdivision shall expend such moneys pursuant to a~~  
53 ~~solid waste management plan required under section 260.325, and only in the case that the~~  
54 ~~district is in compliance with planning requirements established by the department.]~~ Moneys  
55 shall be awarded **by the districts** based upon grant applications **or project proposals**.

56 **(c)** The following criteria may be considered **by districts** to establish the order of district  
57 grant priority:

58 ~~[(a)]~~ **a.** Grants to facilities of organizations employing individuals with disabilities under  
59 sections 178.900 to 178.960 or sections 205.968 to 205.972;

60 ~~[(b)]~~ **b.** Grants for proposals that will promote and maximize the sharing of district  
61 resources;

62 ~~[(c)]~~ **c.** Grants for proposals which provide methods of recycling and solid waste  
63 reduction; and

64 ~~[(d)]~~ **d.** All other grants.

65 **(d)** Any allocated district moneys remaining in any fiscal year due to insufficient or  
66 inadequate grant applications **or project proposals** shall be reallocated for grant applications  
67 **or project proposals** in subsequent years or for solid waste management projects other than  
68 district operations, including a district's next request for solid waste management **grant**  
69 **applications or project proposals**. Any allocated district moneys remaining after a period of five  
70 years shall revert to the credit of the solid waste management fund created under section  
71 260.330;



72 (3) Except for the amount up to one-fourth of the department's previous fiscal year  
73 expense, any remaining unencumbered funds generated under subdivision (1) of this subsection  
74 in prior fiscal years shall be reallocated under this section;

75 (4) Funds may be made available under this subsection for the administration and grants  
76 of the used motor oil program described in section 260.253[;

77 ~~\_\_\_\_\_ (5) The department and the environmental improvement and energy resources authority  
78 shall conduct sample audits of grants provided under this subsection].~~

79 3. In addition to the criteria listed in this section, the advisory board created in section  
80 260.345 shall recommend criteria to be used to allocate grant moneys **made available under**  
81 **subdivision (1) of subsection 2 of this section** to districts, cities and counties. These criteria  
82 shall establish a priority for proposals which provide methods of solid waste reduction and  
83 recycling. The department shall promulgate criteria for evaluating **state grants made available**  
84 **under subdivision (1) of subsection 2 of this section** by rule and regulation. ~~[Projects of cities  
85 and counties located within a district which are funded by grants under this section shall conform  
86 to the district solid waste management plan.]~~

87 4. The funds awarded to the districts pursuant to this section shall be used for the  
88 purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds  
89 appropriated by counties and cities for solid waste management and shall not supplant county  
90 or city appropriated funds.

91 5. Once grants are approved by the solid waste management district, the district shall  
92 submit to the department **only** the ~~[appropriate forms associated with the grant application and  
93 any]~~ supporting information to verify that appropriate public notice procedures were followed,  
94 that grant proposals were reviewed and ranked by the district, and that only eligible costs as set  
95 forth in regulations are to be funded. Within ~~[thirty]~~ **ten** days, the department shall review the  
96 ~~[grant application]~~ **information**. If the department finds any deficiencies, or needs more  
97 information in order to evaluate the ~~[grant application]~~ **information**, the department shall notify  
98 the district in writing. The district shall have an additional ~~[thirty]~~ **ten** days to respond to the  
99 department's request and to submit any additional information to the department. Within ~~[thirty]~~  
100 **ten** days of receiving additional information, the department shall either approve or deny the  
101 ~~[grant application]~~ **information**. If the department takes no action, the ~~[grant application]~~  
102 **information** shall be deemed approved. The ~~[department, in conjunction with the solid waste  
103 advisory board,]~~ **district** shall review the performance of all grant recipients to ensure that grant  
104 moneys were appropriately and effectively expended to further the purposes of the grant, as  
105 expressed in the recipient's grant ~~[application]~~ **agreement**. The grant ~~[application]~~ **agreement**  
106 shall contain specific goals and implementation dates, and grant recipients shall be contractually  
107 obligated to fulfill same. The ~~[department]~~ **district** may require the recipient to submit periodic

108 reports and such other data as are necessary, both during the grant period and up to five years  
109 thereafter, to ensure compliance with this section. The [department] district may audit the  
110 records of any recipient to ensure compliance with this section. Recipients of grants under  
111 sections 260.300 to 260.345 shall maintain such records as required by the [department] district  
112 **to demonstrate compliance with this section.** If a grant recipient fails to maintain records or  
113 submit reports as required herein, refuses the [department] district access to the records, or fails  
114 to meet the [department's] district's performance standards, the [department] district may  
115 withhold subsequent grant payments, if any, and may compel the repayment of funds provided  
116 to the recipient pursuant to a grant.

117 6. The [department] district shall provide for a security interest in any machinery or  
118 equipment purchased through grant moneys distributed pursuant to this section.

119 7. If the moneys are not transmitted to the department within the time frame established  
120 by the rule promulgated **under section 260.330**, interest shall be imposed on the moneys due the  
121 department at the rate of ten percent per annum from the prescribed due date until payment is  
122 actually made. These interest amounts shall be deposited to the credit of the solid waste  
123 management fund.

124 8. **If a solid waste management district receives an unfavorable decision on a**  
125 **request submitted to the department, the district may send such request to the solid waste**  
126 **advisory board established in section 260.345 within thirty days and such request shall be**  
127 **deemed stayed until a final decision. The solid waste advisory board shall act on the**  
128 **request within thirty days at a regular or special meeting. The solid waste advisory board's**  
129 **decision regarding the request may be appealed to the administrative hearing commission**  
130 **within thirty days. The administrative hearing commission shall promptly issue a final**  
131 **decision on the request so appealed.**

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