

SECOND REGULAR SESSION

# SENATE BILL NO. 1006

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 25, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4862S.03I

## AN ACT

To repeal sections 640.100 and 701.033, RSMo, and to enact in lieu thereof six new sections relating to water quality.

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

Section A. Sections 640.100 and 701.033, RSMo, are repealed and six new  
2 sections enacted in lieu thereof, to be known as sections 341.230, 640.011,  
3 640.085, 640.100, 640.128, and 701.033, to read as follows:

341.230. 1. Within three years of the effective date of this  
2 section, any county that contains any portion of a body of water that  
3 runs through, adjacent to, or in any way touches any portion of state  
4 park or national park property, shall adopt a plumbing code that shall  
5 be applicable to both residential and commercial buildings. As used in  
6 this section, "body of water" shall have the same meaning as "waters of  
7 the state" in section 644.016.

8 2. Except as provided in subsection 3 of this section, any  
9 plumbing code adopted under this section shall meet or exceed the  
10 requirements of a nationally recognized plumbing code, such as that  
11 contained in the Uniform Building Code or the Standard Plumbing  
12 Code.

13 3. Buildings or structures intended for agricultural use shall not  
14 be required to comply with any plumbing code established under  
15 subsection 1 of this section.

16 4. Any county in compliance with sections 341.090 through  
17 341.220 shall be deemed to be in compliance with this section.

640.011. 1. It shall be the policy of the department of natural

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 resources to carry out its mission with full transparency to the  
3 public. Environmental data collected in the course of its duties shall  
4 be made available to the public in a timely fashion. The results of any  
5 environmental testing activities conducted by the department shall be  
6 easily accessible by any member of the public.

7 2. The department shall broadly interpret any request for  
8 information under section 610.023:

9 (1) Even if such request for information does not use the words  
10 "sunshine request", "open records request", "public records request", or  
11 any such similar wording;

12 (2) Even if the communication is simply an inquiry as to the  
13 availability or existence of data or information; and

14 (3) Regardless of the format in which the communication is  
15 made, including electronic mail, facsimile, internet, postal mail, in  
16 person, telephone, or any other format.

17 3. Any failure by the department to release information shall, in  
18 addition to any other applicable violation of law, be considered a  
19 violation of the department's policy under this section and shall  
20 constitute a breach of the public's trust.

21 4. This section shall not be construed to limit or exceed the  
22 requirements of the provisions in chapter 610.

640.085. The functions and duties of the department of natural  
2 resources' environmental services program are hereby transferred to  
3 the department of health and senior services. All necessary  
4 administrative and staff changes associated with this transfer shall be  
5 completed by June 30, 2012.

640.100. 1. The safe drinking water commission created in section  
2 640.105 shall promulgate rules necessary for the implementation, administration  
3 and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking  
4 Water Act as amended.

5 2. No standard, rule or regulation or any amendment or repeal thereof  
6 shall be adopted except after a public hearing to be held by the commission after  
7 at least thirty days' prior notice in the manner prescribed by the rulemaking  
8 provisions of chapter 536, RSMo, and an opportunity given to the public to be  
9 heard; the commission may solicit the views, in writing, of persons who may be  
10 affected by, knowledgeable about, or interested in proposed rules and regulations,  
11 or standards. Any person heard or registered at the hearing, or making written  
12 request for notice, shall be given written notice of the action of the commission

13 with respect to the subject thereof. Any rule or portion of a rule, as that term is  
14 defined in section 536.010, RSMo, that is promulgated to administer and enforce  
15 sections 640.100 to 640.140 shall become effective only if the agency has fully  
16 complied with all of the requirements of chapter 536, RSMo, including but not  
17 limited to section 536.028, RSMo, if applicable, after June 9, 1998. All  
18 rulemaking authority delegated prior to June 9, 1998, is of no force and effect and  
19 repealed as of June 9, 1998, however, nothing in this section shall be interpreted  
20 to repeal or affect the validity of any rule adopted or promulgated prior to June  
21 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this  
22 section are nonseverable and if any of the powers vested with the general  
23 assembly pursuant to section 536.028, RSMo, to review, to delay the effective  
24 date, or to disapprove and annul a rule or portion of a rule are held  
25 unconstitutional or invalid, the purported grant of rulemaking authority and any  
26 rule so proposed and contained in the order of rulemaking shall be invalid and  
27 void, except that nothing in this chapter or chapter 644, RSMo, shall affect the  
28 validity of any rule adopted and promulgated prior to June 9, 1998.

29 3. The commission shall promulgate rules and regulations for the  
30 certification of public water system operators, backflow prevention assembly  
31 testers and laboratories conducting tests pursuant to sections 640.100 to  
32 640.140. Any person seeking to be a certified backflow prevention assembly  
33 tester shall satisfactorily complete standard, nationally recognized written and  
34 performance examinations designed to ensure that the person is competent to  
35 determine if the assembly is functioning within its design specifications. Any  
36 such state certification shall satisfy any need for local certification as a backflow  
37 prevention assembly tester. However, political subdivisions may set additional  
38 testing standards for individuals who are seeking to be certified as backflow  
39 prevention assembly testers. Notwithstanding any other provision of law to the  
40 contrary, agencies of the state or its political subdivisions shall only require  
41 carbonated beverage dispensers to conform to the backflow protection  
42 requirements established in the National Sanitation Foundation standard  
43 eighteen, and the dispensers shall be so listed by an independent testing  
44 laboratory. The commission shall promulgate rules and regulations for collection  
45 of samples and analysis of water furnished by municipalities, corporations,  
46 companies, state establishments, federal establishments or individuals to the  
47 public. The [department of natural resources or the] department of health and  
48 senior services shall, at the request of any supplier, make any analyses or tests  
49 required pursuant to the terms of section 192.320, RSMo, and sections 640.100  
50 to 640.140. The department shall collect fees to cover the reasonable cost of

51 laboratory services[, both within] **provided by** the [department of natural  
 52 resources and the] department of health and senior services, laboratory  
 53 certification and program administration as required by sections 640.100 to  
 54 640.140. The laboratory services and program administration fees pursuant to  
 55 this subsection shall not exceed two hundred dollars for a supplier supplying less  
 56 than four thousand one hundred service connections, three hundred dollars for  
 57 supplying less than seven thousand six hundred service connections, five hundred  
 58 dollars for supplying seven thousand six hundred or more service connections,  
 59 and five hundred dollars for testing surface water. Such fees shall be deposited  
 60 in the safe drinking water fund as specified in section 640.110. The analysis of  
 61 all drinking water required by section 192.320, RSMo, and sections 640.100 to  
 62 640.140 shall be made by the [department of natural resources laboratories,]  
 63 department of health and senior services laboratories [or laboratories certified by  
 64 the department of natural resources].

65           4. The department of natural resources shall establish and maintain an  
 66 inventory of public water supplies and conduct sanitary surveys of public water  
 67 systems. Such records shall be available for public inspection during regular  
 68 business hours.

69           5. (1) For the purpose of complying with federal requirements for  
 70 maintaining the primacy of state enforcement of the federal Safe Drinking Water  
 71 Act, the department is hereby directed to request appropriations from the general  
 72 revenue fund and all other appropriate sources to fund the activities of the public  
 73 drinking water program and in addition to the fees authorized pursuant to  
 74 subsection 3 of this section, an annual fee for each customer service connection  
 75 with a public water system is hereby authorized to be imposed upon all customers  
 76 of public water systems in this state. The fees collected shall not exceed the  
 77 amounts specified in this subsection and the commission may set the fees, by  
 78 rule, in a lower amount by proportionally reducing all fees charged pursuant to  
 79 this subsection from the specified maximum amounts. Reductions shall be  
 80 roughly proportional but in each case shall be divisible by twelve. Each customer  
 81 of a public water system shall pay an annual fee for each customer service  
 82 connection.

83           (2) The annual fee per customer service connection for unmetered  
 84 customers and customers with meters not greater than one inch in size shall be  
 85 based upon the number of service connections in the water system serving that  
 86 customer, and shall not exceed:

87	1 to 1,000 connections	.....	\$ 3.24
88	1,001 to 4,000 connections	.....	3.00

89	4,001 to 7,000 connections	2.76
90	7,001 to 10,000 connections	2.40
91	10,001 to 20,000 connections	2.16
92	20,001 to 35,000 connections	1.92
93	35,001 to 50,000 connections	1.56
94	50,001 to 100,000 connections	1.32
95	More than 100,000 connections	1.08.

96           (3) The annual user fee for customers having meters greater than one inch  
97 but less than or equal to two inches in size shall not exceed seven dollars and  
98 forty-four cents; for customers with meters greater than two inches but less than  
99 or equal to four inches in size shall not exceed forty-one dollars and sixteen cents;  
100 and for customers with meters greater than four inches in size shall not exceed  
101 eighty-two dollars and forty-four cents.

102           (4) Customers served by multiple connections shall pay an annual user  
103 fee based on the above rates for each connection, except that no single facility  
104 served by multiple connections shall pay a total of more than five hundred dollars  
105 per year.

106           6. Fees imposed pursuant to subsection 5 of this section shall become  
107 effective on August 28, 2006, and shall be collected by the public water system  
108 serving the customer beginning September 1, 2006, and continuing until such  
109 time that the safe drinking water commission, at its discretion, specifies a lower  
110 amount under subdivision (1) of subsection 5 of this section. The commission  
111 shall promulgate rules and regulations on the procedures for billing, collection  
112 and delinquent payment. Fees collected by a public water system pursuant to  
113 subsection 5 of this section are state fees. The annual fee shall be enumerated  
114 separately from all other charges, and shall be collected in monthly, quarterly or  
115 annual increments. Such fees shall be transferred to the director of the  
116 department of revenue at frequencies not less than quarterly. Two percent of the  
117 revenue arising from the fees shall be retained by the public water system for the  
118 purpose of reimbursing its expenses for billing and collection of such fees.

119           7. Imposition and collection of the fees authorized in subsection 5 of this  
120 section shall be suspended on the first day of a calendar quarter if, during the  
121 preceding calendar quarter, the federally delegated authority granted to the safe  
122 drinking water program within the department of natural resources to administer  
123 the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not  
124 be reinstated until the first day of the calendar quarter following the quarter  
125 during which such delegated authority is reinstated.

126           8. Fees imposed pursuant to subsection 5 of this section shall expire on

127 September 1, 2012.

2           **640.128. If an entity that holds a permit issued under chapter 644**  
3 **or under sections 640.100 to 640.140 voluntarily reports to the**  
4 **department of natural resources the results of any water quality testing**  
5 **conducted by the entity, and such results indicate a potential risk to**  
6 **public health, the department shall immediately notify the local public**  
7 **health authority and the department of health and senior services.**

701.033. 1. The department shall have the power and duty to:

2           (1) Promulgate such rules and regulations as are necessary to carry out  
3 the provisions of sections 701.025 to 701.059;

4           (2) Cause investigations to be made when a violation of any provision of  
5 sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated  
6 under sections 701.025 to 701.059 is reported to the department;

7           (3) Enter at reasonable times and determining probable cause that a  
8 violation exists, upon private or public property for the purpose of inspecting and  
9 investigating conditions relating to the administration and enforcement of  
10 sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated  
11 under sections 701.025 to 701.059;

12           (4) Authorize the trial or experimental use of innovative systems for  
13 on-site sewage disposal, after consultation with the staff of the Missouri clean  
14 water commission, upon such conditions as the department may set;

15           **(5) Provide technical assistance, guidance, and oversight to any**  
16 **other administrative authority in the state on the regulation and**  
17 **enforcement of standards for individual on-site sewage disposal**  
18 **systems, at the request of such other administrative authority, or when**  
19 **the department determines that such assistance, guidance, or oversight**  
20 **is necessary to prevent a violation of sections 701.025 to 701.059.**

21           2. No rule or portion of a rule promulgated under the authority of sections  
22 701.025 to 701.059 shall become effective unless it has been promulgated  
23 pursuant to the provisions of section 536.024, RSMo.

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