

SECOND REGULAR SESSION

SENATE BILL NO. 889

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time March 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5920S.011

AN ACT

To repeal sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 60.595, 60.610, 60.620, 260.255, 414.530, 414.560, 414.570, 640.100, 644.051, and 644.145, RSMo, and to enact in lieu thereof seventeen new sections relating to natural resources.

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

Section A. Sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 2 60.595, 60.610, 60.620, 260.255, 414.530, 414.560, 414.570, 640.100, 644.051, and 3 644.145, RSMo, are repealed and seventeen new sections enacted in lieu thereof, 4 to be known as sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 5 60.595, 60.610, 60.620, 260.373, 414.530, 414.560, 414.570, 640.100, 644.051, and 6 644.145, to read as follows:

59.319. 1. A user fee of four dollars shall be charged and collected by 2 every recorder in this state, over and above any other fees required by law, as a 3 condition precedent to the recording of any instrument. The state portion of the 4 fee shall be forwarded monthly by each recorder of deeds to the state director of 5 revenue, and the fees so forwarded shall be deposited by the director in the state 6 treasury. Two dollars of such fee shall be retained by the recorder and deposited 7 in a recorder's fund and not in county general revenue for record storage, 8 microfilming, and preservation, including anything necessarily pertaining 9 thereto. The recorder's funds shall be kept in a special fund by the treasurer and 10 shall be budgeted and expended at the direction of the recorder and shall not be 11 used to substitute for or subsidize any allocation of general revenue for the 12 operation of the recorder's office without the express consent of the recorder. The 13 recorder's fund may be audited by the appropriate auditing agency, and any

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

14 unexpended balance shall be left in the fund to accumulate from year to year with
15 interest.

16 2. An additional fee of three dollars shall be charged and collected by
17 every recorder in this state, over and above any other fees required by law, as a
18 condition precedent to the recording of any instruments specified in subdivisions
19 (1) and (2) of section 59.330. The fees collected from this additional three dollars
20 per recorded instrument shall be forwarded monthly by each recorder of deeds to
21 the state director of revenue, and the fees so forwarded shall be deposited by the
22 director in the state treasury.

23 3. The state treasurer and the commissioner of administration shall
24 establish an appropriate account within the state treasury and in accordance with
25 the state's accounting methods. Any receipt required by this section to be
26 deposited in the [general revenue fund] **state treasury** shall be credited as
27 follows:

28 **(1) The amount of one dollar for each fee collected under subsection 1 of**
29 **this section [to an account to be utilized for the purposes of sections 60.500 to**
30 **60.610] shall be credited to the "Missouri Land Survey Fund" which is**
31 **hereby created to be utilized for the purposes of sections 60.510 to**
32 **60.620 and section 60.670. The state treasurer shall be custodian of the**
33 **fund and may approve disbursements from the fund in accordance with**
34 **sections 30.170 and 30.180. Any funds previously collected by the state**
35 **treasurer to be utilized for the purposes of sections 60.510 to 60.610 and**
36 **section 60.670 shall transfer to the Missouri land survey fund. Any**
37 **portion of the fund not immediately needed for the purposes authorized**
38 **shall be invested by the state treasurer as provided by the constitution**
39 **and laws of this state. All income from such investments shall be**
40 **deposited in the Missouri land survey fund. Any unexpended balance**
41 **in the fund at the end of the fiscal year is exempt from the provisions**
42 **of section 33.080 relating to the transfer of unexpended balances to the**
43 **general revenue funds. Any interest and moneys earned on such**
44 **investments shall be credited to the fund;**

45 **(2) The amount of one dollar for each fee collected under subsection 1 of**
46 **this section to an account to be utilized by the secretary of state for additional**
47 **preservation of local records; and**

48 **(3) The amount of three dollars collected under subsection 2 of this**
49 **section into the Missouri housing trust fund as designated in section 215.034.**

60.510. The functions, duties and responsibilities of the department of
2 natural resources shall be as follows:

3 (1) To restore, maintain, and preserve the land survey monuments, section
4 corners, and quarter section corners established by the United States public land
5 survey within Missouri, together with all pertinent field notes, plats and
6 documents; and also to restore, establish, maintain, and preserve **Missouri state**
7 **and county boundary markers and** other boundary markers considered by
8 the department of natural resources to be of importance, or otherwise established
9 by law;

10 (2) To design and cause to be placed at established public land survey
11 corner sites, where practical, substantial monuments permanently indicating,
12 with words and figures, the exact location involved, but if such monuments
13 cannot be placed at the exact corner point, then witness corners of similar design
14 shall be placed as near by as possible, with words and figures indicating the
15 bearing and distance to the true corner;

16 (3) To establish, maintain, and provide safe storage facilities for a
17 comprehensive system of recordation of information respecting all monuments
18 established by the United States public land survey within this state, and such
19 records as may be pertinent to the department of natural resources'
20 establishment or maintenance of other land corners, Missouri state coordinate
21 system stations and accessories, and **survey** monuments in general;

22 (4) To [extend throughout this state a triangulation and leveling net of
23 precision, whereby] **provide the framework for all geodetic positioning**
24 **activities in the state. The foundational elements include latitude,**
25 **longitude, and elevation which contribute to informed decision making**
26 **and impact on a wide range of important activities including mapping**
27 **and geographic information systems, flood risk determination,**
28 **transportation, land use and ecosystem management, and use of the**
29 Missouri state coordinate system, as established by [section 60.400, may be made
30 to cover to the necessary extent those areas of the state which do not now have
31 enough geodetic control stations to permit the general use of the system by land
32 surveyors and others] **sections 60.401 to 60.491;**

33 (5) To collect and preserve information obtained from surveys made by
34 those authorized to establish land monuments or land boundaries, and to assist
35 in the proper recording of the same by the duly constituted county officials, or
36 otherwise;

37 (6) To furnish, upon reasonable request and tender of the required fees
38 therefor, certified copies of records created or maintained by the department of
39 natural resources which, when certified by the state land surveyor or a
40 designated assistant, shall be admissible in evidence in any court in this state,
41 as the original record;

42 (7) To prescribe, and disseminate to those engaged in the business of land
43 surveying, [advisory] regulations designed to assist in uniform and professional
44 surveying methods and standards in this state[; and

45 (8) To select and appoint a state land surveyor, who shall be the chief
46 administrative officer of the authority, and who shall hold office at the pleasure
47 of the authority].

60.530. The state land surveyor shall, under guidance of the department
2 of natural resources **and with the recommendation of the land survey**
3 **commission**, carry out the routine functions and duties of the department of
4 natural resources, as prescribed in sections [60.500 to 60.610] **60.510 to 60.620**
5 **and section 60.670**. He **or she** shall, whenever practical, cause all land
6 surveys, except geodetic surveys, to be executed, under his **or her** direction by
7 the registered county surveyor or a local registered land surveyor when no
8 registered county surveyor exists. He **or she** shall perform such other work and
9 acts as shall, in the judgment of the department of natural resources **and with**
10 **the recommendation of the land survey commission**, be necessary and
11 proper to carry out the objectives of sections [60.500 to 60.610] **60.510 to 60.620**
12 **and section 60.670** and, within the limits of appropriations made therefor and
13 subject to the approval of the department of natural resources **and the state**
14 **merit system**, employ and fix the compensation of such additional employees as
15 may be necessary to carry out the provisions of sections [60.500 to 60.610] **60.510**
16 **to 60.620 and section 60.670**.

60.540. The department of natural resources may acquire, in the name of
2 the state of Missouri, lands or interests therein, where necessary, to establish
3 permanent control stations; and may lease or purchase or acquire by negotiation
4 or condemnation, where necessary, land for the establishment of an office of **the**
5 **land survey program of** the department of natural resources. If condemnation
6 is necessary, the attorney general shall bring the suit in the name of the state in
7 the same manner as authorized by law for the acquisition of lands by the state
8 transportation department.

60.560. Upon request, the state attorney general shall advise the **land**

2 **survey commission**, department of natural resources, or the state land surveyor
3 with respect to any legal matter, and shall represent the **land survey**
4 **commission or** department of natural resources in any proceeding in any court
5 of the state in which the [authority] **land survey commission or land survey**
6 **program** shall be a party.

60.570. The permanent headquarters of the [state land survey authority]
2 **land survey program** shall be at or near to the principal office of the Missouri
3 state geological survey. Until such time as other headquarters can be obtained
4 by the [authority] **land survey program**, the state geologist shall assign such
5 space in the state geological survey building as may be available. The [authority]
6 **land survey program** may also establish and maintain regional offices in the
7 metropolitan areas of the state for the storage and distribution of local survey
8 record information.

60.580. The state land surveyor or any and all employees of the
2 department of natural resources have the right to enter upon private property for
3 the purpose of making surveys, or for searching for, locating, relocating, or
4 remonumenting land monuments, leveling stations, or section corners. Should
5 any of these persons necessarily damage property of the owner in making the
6 surveys or searches or remonumentations, the department of natural resources
7 may make reasonable payment for the damage from funds available for that
8 purpose. However, department of natural resources employees are personally
9 liable for any damage caused by their wantonness, willfulness or negligence. All
10 department of natural resources employees are immune from arrest for trespass
11 in performing their legal duties as stated in sections [60.500 to 60.610] **60.510**
12 **to 60.620 and section 60.670.**

60.595. 1. The "Department of Natural Resources Revolving Services
2 Fund" is hereby created. All funds received by the department of natural
3 resources from the delivery of services and the sale or resale of maps, plats,
4 reports, studies, records and other publications and documents **and surveying**
5 **information, on paper or in electronic format** by the department shall be
6 credited to the fund. The director of the department shall administer the
7 fund. The state treasurer is the custodian of the fund and shall approve
8 disbursements from the fund requested by the director of the department. When
9 appropriated, moneys in the fund shall be used to purchase goods [or],
10 **equipment, hardware and software, maintenance and licenses, software**
11 **and database development and maintenance, personal services, and**

12 **other** services that will ultimately be used to **provide copies of information**
13 **maintained or provided by the land survey program**, reprint maps,
14 publications or other documents requested by governmental agencies or members
15 of the general public; to publish the maps, publications or other documents or to
16 purchase maps, publications or other documents for resale; and to pay shipping
17 charges, laboratory services, core library fees, workshops, conferences,
18 interdivisional cooperative agreements, but for no other purpose.

19 2. An unencumbered balance in the fund at the end of the fiscal year not
20 exceeding one million dollars is exempt from the provisions of section 33.080
21 relating to the transfer of unexpended balances to the general revenue fund.

22 3. The department of natural resources shall report all income to and
23 expenditures from such fund on a quarterly basis to the house budget committee
24 and the senate appropriations committee.

60.610. Whenever the department of natural resources deems it expedient,
2 and when funds appropriated permit, the department of natural resources may
3 enter into any contract with agencies of the United States, with agencies of other
4 states, or with private persons, registered land surveyors or professional
5 engineers, in order to plan and execute desired land surveys or geodetic surveys,
6 or to plan and execute other projects which are within the scope and purpose of
7 sections [60.500 to 60.610] **60.510 to 60.620 and section 60.670**.

60.620. 1. There is hereby created the "Land Survey [Advisory
2 Committee] **Commission**", within the department of natural resources. The
3 [committee] **commission** shall consist of [five] **seven** members appointed by the
4 director of the department of natural resources. Members of the [committee]
5 **commission** shall hold office for terms of three years, but of the original
6 appointments, [two] **three** members shall serve for one year, two members shall
7 serve for two years, and [one member] **two members** shall serve for three
8 years. **Members may serve only three consecutive terms on the**
9 **commission**.

10 2. The [advisory committee] **land survey commission** shall consist of
11 persons who reside in this state and are not employed by the department of
12 natural resources. [Three] **Four** members shall be registered land surveyors, one
13 of which shall be a county surveyor. One member shall represent the real estate
14 or land title industry. **Two members shall be public members**.

15 3. The [advisory committee] **land survey commission** shall elect a
16 chairman annually. The [committee] **commission** shall meet semiannually and

17 at other such times as called by the chairman of the [committee] **commission**
18 and shall have a quorum when at least [three] **four** members are present.

19 4. The [advisory committee] **land survey commission** members shall
20 serve without compensation but shall be reimbursed for actual and necessary
21 expenses incurred in the performance of their official duties.

22 5. The [advisory committee] **land survey commission** shall provide the
23 director of the department of natural resources [with advice and counsel on] **and**
24 **the state land surveyor with recommendations on the operation and** the
25 planning and prioritization of the **land survey** program and the design of
26 regulations needed to carry out the functions, duties, and responsibilities of the
27 department of natural resources **under sections 60.510 to 60.620 and section**
28 **60.670.**

29 6. The **land survey commission** shall recommend to the
30 **department of natural resources a person to be selected and appointed**
31 **state land surveyor, who shall be the chief administrative officer of the**
32 **land survey program and deputy director of the division of geology and**
33 **land survey, and who shall hold office at the pleasure of the director of**
34 **the department of natural resources. The state land surveyor shall be**
35 **selected under the state merit system on the basis of professional**
36 **experience and registration.**

37 7. The [committee] **commission** shall, at least annually, prepare a
38 report, which shall be available to the general public, of the review by the
39 [committee] **commission** of the land survey program, stating its findings,
40 conclusions, and recommendations to the director.

260.373. 1. Other provisions of law notwithstanding, the Missouri
2 **hazardous waste management commission shall have the authority to**
3 **promulgate rules and regulations, pursuant to sections 260.350 to**
4 **260.430, to establish standards and guidelines to ensure that the state**
5 **of Missouri is in compliance with the provisions of the federal Resource**
6 **Conservation and Recovery Act (RCRA). The standards and guidelines**
7 **so established shall not be any stricter than those required under the**
8 **provisions of RCRA, nor shall those standards and guidelines be**
9 **enforced in any area of the state prior to the time required by**
10 **RCRA. Where RCRA is silent on any provision, promulgation of a rule**
11 **or regulation by the Missouri hazardous waste management commission**
12 **pertaining to that provision shall be considered stricter than federal**

13 law and is therefore prohibited.

14 2. The Missouri hazardous waste management commission shall
15 have the authority to grant exceptions and variances from the rules set
16 under subsection 1 of this section when the person applying for the
17 exception or variance can show that compliance with such rules:

18 (1) Would cause economic hardship; or

19 (2) Is physically impossible; or

20 (3) Is more detrimental to the environment than the variance
21 would be; or

22 (4) Is impractical or of insignificant value under the existing
23 conditions.

24 3. No later than July 31, 2013, the department of natural
25 resources shall identify all rules in Division 25 of Title 10 of the Code
26 of State Regulations that establish standards and guidelines that are
27 stricter than those required under RCRA and shall file with the
28 Missouri secretary of state the amendments to the regulations that are
29 necessary to eliminate provisions that are stricter than those required
30 under RCRA. On July 31, 2014, any rule in Division 25 of Title 10 of the
31 Code of State Regulations that establishes standards and guidelines
32 that are stricter than those required under RCRA shall be null and
33 void.

34 4. The department of natural resources is prohibited from
35 selectively excluding any regulation or part of any regulation
36 promulgated by the Missouri hazardous waste management commission
37 from any authorization application package submitted to the U.S.
38 Environmental Protection Agency under 40 CFR 271.5 unless authorized
39 by the Missouri hazardous waste management commission.

414.530. 1. The director shall conduct a referendum as soon as possible
2 among producers and Missouri retail marketers of propane to authorize the
3 creation of the "Missouri Propane Education and Research Council" and the
4 levying of an assessment on odorized propane. Upon approval of those persons
5 representing two-thirds of the total gallonage of odorized propane voted in the
6 retail marketer class and two-thirds of all propane voted in the producer class,
7 meaning propane sold or produced in the previous calendar year or other
8 representative period, the director shall issue an order establishing the council
9 and call for nominations to the council from qualified industry organizations. All
10 persons voting in the referendum shall certify to the director the number of

11 gallons represented by their vote.

12 2. [On the director's own initiative,] Upon petition of the council or of
13 producers and marketers representing thirty-five percent of the gallons in each
14 class, the director shall hold a referendum to determine whether the industry
15 favors termination or suspension of the order. The termination or suspension
16 shall not take effect unless it is approved by those persons representing more
17 than one-half of the total gallonage of odorized propane in the marketer class and
18 one-half of all propane in the producer class.

19 3. The director may require such reports or documentation as is necessary
20 to document the referendum process [and the nomination process for members of
21 the council] and shall protect the confidentiality of all such documentation
22 provided by industry members. Information regarding propane produced or
23 marketed by persons voting shall be a closed record.

 414.560. 1. Upon issuance of an order by the director establishing the
2 Missouri propane education and research council, the director shall select all
3 members of the council from a list of nominees submitted by qualified industry
4 organizations. **Subsequent appointments shall be selected by the council**
5 **following a public nomination process.** Vacancies in unfinished terms of
6 council members may be filled by the council[, subject to approval of the director].

7 2. In making nominations and appointments to the council, the qualified
8 industry organizations [and the director] shall give due regard to selecting a
9 council that is representative of the industry, and the geographic regions of the
10 state.

11 3. The council shall consist of fifteen members, with nine members
12 representing retail marketers of propane; three members representing
13 wholesalers or resellers of propane; two members representing manufacturers and
14 distributors of gas use equipment, wholesalers or resellers, or transporters; and
15 one public member. Other than the public member, council members shall be
16 full-time employees or owners of businesses in the industry.

17 4. Council members shall receive no compensation for their services, but
18 shall be reimbursed for reasonable expenses incurred in the performance of their
19 duties.

20 5. Council members shall serve terms of three years; except that of the
21 initial members appointed, five shall be appointed for terms of one year, five shall
22 be appointed for terms of two years and five shall be appointed for terms of three
23 years. Members may be appointed to a maximum of two consecutive full

24 terms. Members filling unexpired terms will not have any partial term of service
25 count against the two-term limitation. Former members of the council may be
26 reappointed to the council if they have not been members for a period of one year.

27 6. The council shall select from among its members a chairman and other
28 officers as necessary, establish committees and subcommittees of the council, and
29 adopt rules and bylaws for the conduct of business. The council may establish
30 advisory committees of persons other than council members.

31 7. The council may employ a president to serve as chief executive officer
32 and such other employees as it deems necessary. The council may enter into
33 contracts with, use facilities and equipment of, or employ personnel of a qualified
34 industry organization in carrying out its responsibilities under sections 414.500
35 to 414.590. It shall determine the compensation and duties of each, and protect
36 the handling of council funds through fidelity bonds.

37 8. **At least thirty days prior to** the beginning of each fiscal period, the
38 council shall prepare and submit [to the director] **for public comment** a budget
39 plan including the probable costs of all programs, projects and contracts and a
40 recommended rate of assessment sufficient to cover such costs. [The director
41 shall approve or recommend changes to the budget after an opportunity for public
42 comment.] **The council shall approve or modify the budget following the**
43 **public comment period.**

44 9. The council shall develop programs and projects and enter into
45 contracts or agreements for implementing the policy of sections 414.500 to
46 414.590, including programs of research, development, education, and marketing,
47 and for the payment of the costs thereof with funds collected pursuant to sections
48 414.500 to 414.590. The council shall coordinate its activities with industry trade
49 associations to provide efficient delivery of services and to avoid unnecessary
50 duplication of activities.

51 10. The council shall keep minutes, books, **and** records that clearly reflect
52 all of the acts and transactions of the council and regularly report such
53 information to the director[, along with such other information as the director
54 may require]. The books of the council shall be audited by a certified public
55 accountant at least once each fiscal year and at such other times as the council
56 may designate. Copies of such audit shall be provided to the director, all
57 members of the council, all qualified industry organizations, and to other
58 members of the industry upon request. [The director shall receive notice of
59 meetings and may require reports on the activities of the council, as well as

60 reports on compliance, violations and complaints regarding the implementation
61 of sections 414.500 to 414.590.]

62 11. From assessments collected, the council shall annually reimburse the
63 director for costs incurred in holding the referendum establishing the council[,
64 making appointments to the council,] and other expenses directly related to the
65 council.

414.570. 1. The council shall set the initial assessment at no greater than
2 one-tenth of one cent per gallon. Thereafter, annual assessments shall be
3 sufficient to cover the costs of the plans and programs developed by the council
4 and approved [by the director] **following public comment**. The assessment
5 shall not be greater than one-half cent per gallon of odorized propane. The
6 assessment may not be raised by more than one-tenth of one cent per gallon
7 annually.

8 2. The owner of propane immediately prior to odorization in this state or
9 the owner at the time of import into this state of odorized propane shall be
10 responsible for the payment of the assessment on the volume of propane at the
11 time of import or odorization, whichever is later. Assessments shall be remitted
12 to the council on a monthly basis by the twenty-fifth of the month following the
13 month of collection. Nonodorized propane shall not be subject to assessment until
14 odorized.

15 3. The [director] **council** may [by regulation, with the concurrence of the
16 council,] establish an alternative means [for the council] to collect the assessment
17 if another means is found to be more efficient and effective. The [director]
18 **council** may [by regulation] establish a late payment charge and rate of interest
19 **not to exceed the legal rate for judgments** to be imposed on any person who
20 fails to remit to the council any amount due under sections 414.500 to 414.590.

21 4. Pending disbursement pursuant to a program, plan or project, the
22 council may invest funds collected through assessments and any other funds
23 received by the council only in obligations of the United States or any agency
24 thereof, in general obligations of any state or any political subdivision thereof, in
25 any interest-bearing account or certificate of deposit of a bank that is a member
26 of the Federal Reserve System, or in obligations fully guaranteed as to principal
27 and interest by the United States.

28 [5. The National Propane Education and Research Council, in conjunction
29 with the United States Secretary of Energy may, by regulation, establish a
30 program coordinating the operation of its council with the council established in

31 section 414.530. This may include an assessment rebate, if adopted, of an amount
32 up to twenty-five percent of the National Propane Education and Research
33 Council assessment collected on Missouri distributed odorized propane as
34 presented and described in section nine of the federal Propane Education and
35 Research Act of 1992. Should the National Propane Education and Research
36 Council, as part of the federal Propane Education and Research Act of 1992,
37 establish such an assessment rebate on fees collected by such council, then all
38 funds from such federal assessment rebate shall be the property of the Missouri
39 council as established by section 414.530, and the use of such funds shall be
40 determined by the Missouri council for the purposes as intended and presented
41 in sections 414.500 to 414.590.]

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 and an opportunity given to the public to be heard; the
9 commission may solicit the views, in writing, of persons who may be affected by,
10 knowledgeable about, or interested in proposed rules and regulations, or
11 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, that is promulgated to administer and enforce sections
15 640.100 to 640.140 shall become effective only if the agency has fully complied
16 with all of the requirements of chapter 536, including but not limited to section
17 536.028, if applicable, after June 9, 1998. All rulemaking authority delegated
18 prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998,
19 however, nothing in this section shall be interpreted to repeal or affect the
20 validity of any rule adopted or promulgated prior to June 9, 1998. If the
21 provisions of section 536.028 apply, the provisions of this section are nonseverable
22 and if any of the powers vested with the general assembly pursuant to section
23 536.028 to review, to delay the effective date, or to disapprove and annul a rule
24 or portion of a rule are held unconstitutional or invalid, the purported grant of
25 rulemaking authority and any rule so proposed and contained in the order of

26 rulemaking shall be invalid and void, except that nothing in this chapter or
27 chapter 644 shall affect the validity of any rule adopted and promulgated prior
28 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 and sections 640.100 to
50 640.140. The department shall collect fees to cover the reasonable cost of
51 laboratory services, both within the department of natural resources and the
52 department of health and senior services, laboratory certification and program
53 administration as required by sections 640.100 to 640.140. The laboratory
54 services and program administration fees pursuant to this subsection shall not
55 exceed two hundred dollars for a supplier supplying less than four thousand one
56 hundred service connections, three hundred dollars for supplying less than seven
57 thousand six hundred service connections, five hundred dollars for supplying
58 seven thousand six hundred or more service connections, and five hundred dollars
59 for testing surface water. Such fees shall be deposited in the safe drinking water
60 fund as specified in section 640.110. The analysis of all drinking water required
61 by section 192.320 and sections 640.100 to 640.140 shall be made by the

62 department of natural resources laboratories, department of health and senior
63 services laboratories or laboratories certified by the department of natural
64 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] **2017**.

644.051. 1. It is unlawful for any person:

2 (1) To cause pollution of any waters of the state or to place or cause or
3 permit to be placed any water contaminant in a location where it is reasonably
4 certain to cause pollution of any waters of the state;

5 (2) To discharge any water contaminants into any waters of the state
6 which reduce the quality of such waters below the water quality standards

7 established by the commission;

8 (3) To violate any pretreatment and toxic material control regulations, or
9 to discharge any water contaminants into any waters of the state which exceed
10 effluent regulations or permit provisions as established by the commission or
11 required by any federal water pollution control act;

12 (4) To discharge any radiological, chemical, or biological warfare agent or
13 high-level radioactive waste into the waters of the state.

14 2. It shall be unlawful for any person to build, erect, alter, replace,
15 operate, use or maintain any water contaminant or point source in this state that
16 is subject to standards, rules or regulations promulgated pursuant to the
17 provisions of sections 644.006 to 644.141 unless such person holds a permit from
18 the commission, subject to such exceptions as the commission may prescribe by
19 rule or regulation. However, no permit shall be required of any person for any
20 emission into publicly owned treatment facilities or into publicly owned sewer
21 systems tributary to publicly owned treatment works.

22 3. Every proposed water contaminant or point source which, when
23 constructed or installed or established, will be subject to any federal water
24 pollution control act or sections 644.006 to 644.141 or regulations promulgated
25 pursuant to the provisions of such act shall make application to the director for
26 a permit at least thirty days prior to the initiation of construction or installation
27 or establishment. Every water contaminant or point source in existence when
28 regulations or sections 644.006 to 644.141 become effective shall make application
29 to the director for a permit within sixty days after the regulations or sections
30 644.006 to 644.141 become effective, whichever shall be earlier. The director
31 shall promptly investigate each application, which investigation shall include
32 such hearings and notice, and consideration of such comments and
33 recommendations as required by sections 644.006 to 644.141 and any federal
34 water pollution control act. If the director determines that the source meets or
35 will meet the requirements of sections 644.006 to 644.141 and the regulations
36 promulgated pursuant thereto, the director shall issue a permit with such
37 conditions as he or she deems necessary to ensure that the source will meet the
38 requirements of sections 644.006 to 644.141 and any federal water pollution
39 control act as it applies to sources in this state. If the director determines that
40 the source does not meet or will not meet the requirements of either act and the
41 regulations pursuant thereto, the director shall deny the permit pursuant to the
42 applicable act and issue any notices required by sections 644.006 to 644.141 and

43 any federal water pollution control act.

44 4. Before issuing a permit to build or enlarge a water contaminant or
45 point source or reissuing any permit, the director shall issue such notices, conduct
46 such hearings, and consider such factors, comments and recommendations as
47 required by sections 644.006 to 644.141 or any federal water pollution control
48 act. The director shall determine if any state or any provisions of any federal
49 water pollution control act the state is required to enforce, any state or federal
50 effluent limitations or regulations, water quality-related effluent limitations,
51 national standards of performance, toxic and pretreatment standards, or water
52 quality standards which apply to the source, or any such standards in the vicinity
53 of the source, are being exceeded, and shall determine the impact on such water
54 quality standards from the source. The director, in order to effectuate the
55 purposes of sections 644.006 to 644.141, shall deny a permit if the source will
56 violate any such acts, regulations, limitations or standards or will appreciably
57 affect the water quality standards or the water quality standards are being
58 substantially exceeded, unless the permit is issued with such conditions as to
59 make the source comply with such requirements within an acceptable time
60 schedule. Prior to the development or renewal of a general permit or permit by
61 rule, for aquaculture, the director shall convene a meeting or meetings of permit
62 holders and applicants to evaluate the impacts of permits and to discuss any
63 terms and conditions that may be necessary to protect waters of the
64 state. Following the discussions, the director shall finalize a draft permit that
65 considers the comments of the meeting participants and post the draft permit on
66 notice for public comment. The director shall concurrently post with the draft
67 permit an explanation of the draft permit and shall identify types of facilities
68 which are subject to the permit conditions. Affected public or applicants for new
69 general permits, renewed general permits or permits by rule may request a
70 hearing with respect to the new requirements in accordance with this section. If
71 a request for a hearing is received, the commission shall hold a hearing to receive
72 comments on issues of significant technical merit and concerns related to the
73 responsibilities of the Missouri clean water law. The commission shall conduct
74 such hearings in accordance with this section. After consideration of such
75 comments, a final action on the permit shall be rendered. The time between the
76 date of the hearing request and the hearing itself shall not be counted as time
77 elapsed pursuant to subdivision (1) of subsection 14 of this section.

78 5. The director shall grant or deny the permit within sixty days after all

79 requirements of the Federal Water Pollution Control Act concerning issuance of
80 permits have been satisfied unless the application does not require any permit
81 pursuant to any federal water pollution control act. The director or the
82 commission may require the applicant to provide and maintain such facilities or
83 to conduct such tests and monitor effluents as necessary to determine the nature,
84 extent, quantity or degree of water contaminant discharged or released from the
85 source, establish and maintain records and make reports regarding such
86 determination.

87 6. The director shall promptly notify the applicant in writing of his or her
88 action and if the permit is denied state the reasons therefor. The applicant may
89 appeal to the commission from the denial of a permit or from any condition in any
90 permit by filing notice of appeal with the commission within thirty days of the
91 notice of denial or issuance of the permit. After a final action is taken on a new
92 or reissued general permit template, a potential applicant for the general permit
93 who can demonstrate that he or she is or may be adversely affected by any permit
94 term or condition may appeal the terms and conditions of the general permit
95 template within thirty days of the department's issuance of the general permit
96 template. The commission shall set the matter for hearing not less than thirty
97 days after the notice of appeal is filed. In no event shall a permit constitute
98 permission to violate the law or any standard, rule or regulation promulgated
99 pursuant thereto.

100 7. In any hearing held pursuant to this section that involves a permit,
101 license, or registration, the burden of proof is on the party specified in section
102 640.012. Any decision of the commission made pursuant to a hearing held
103 pursuant to this section is subject to judicial review as provided in section
104 644.071.

105 8. In any event, no permit issued pursuant to this section shall be issued
106 if properly objected to by the federal government or any agency authorized to
107 object pursuant to any federal water pollution control act unless the application
108 does not require any permit pursuant to any federal water pollution control act.

109 9. Permits may be modified, reissued, or terminated at the request of the
110 permittee. All requests shall be in writing and shall contain facts or reasons
111 supporting the request.

112 10. Unless a site-specific permit is requested by the applicant,
113 aquaculture facilities shall be governed by a general permit issued pursuant to
114 this section with a fee not to exceed two hundred fifty dollars pursuant to

115 subdivision (5) of subsection 6 of section 644.052. However, any aquaculture
116 facility which materially violates the conditions and requirements of such permit
117 may be required to obtain a site-specific permit.

118 11. No manufacturing or processing plant or operating location shall be
119 required to pay more than one operating fee. Operating permits shall be issued
120 for a period not to exceed five years after date of issuance, except that general
121 permits shall be issued for a five-year period, and also except that neither a
122 construction nor an annual permit shall be required for a single residence's waste
123 treatment facilities. Applications for renewal of an operating permit shall be filed
124 at least one hundred eighty days prior to the expiration of the existing
125 permit. **Applications for renewal of a general permit shall be submitted**
126 **at least sixty days prior to the expiration of the master general permit,**
127 **unless the permittee has been notified by the department that an**
128 **earlier application must be made. General permits may be obtained**
129 **electronically once made available by the department.**

130 12. Every permit issued to municipal or any publicly owned treatment
131 works or facility shall require the permittee to provide the clean water
132 commission with adequate notice of any substantial new introductions of water
133 contaminants or pollutants into such works or facility from any source for which
134 such notice is required by sections 644.006 to 644.141 or any federal water
135 pollution control act. Such permit shall also require the permittee to notify the
136 clean water commission of any substantial change in volume or character of water
137 contaminants or pollutants being introduced into its treatment works or facility
138 by a source which was introducing water contaminants or pollutants into its
139 works at the time of issuance of the permit. Notice must describe the quality and
140 quantity of effluent being introduced or to be introduced into such works or
141 facility by a source which was introducing water contaminants or pollutants into
142 its works at the time of issuance of the permit. Notice must describe the quality
143 and quantity of effluent being introduced or to be introduced into such works or
144 facility and the anticipated impact of such introduction on the quality or quantity
145 of effluent to be released from such works or facility into waters of the state.

146 13. The director or the commission may require the filing or posting of a
147 bond as a condition for the issuance of permits for construction of temporary or
148 future water treatment facilities or facilities that utilize innovative technology for
149 wastewater treatment in an amount determined by the commission to be
150 sufficient to ensure compliance with all provisions of sections 644.006 to 644.141,

151 and any rules or regulations of the commission and any condition as to such
152 construction in the permit. For the purposes of this section, "innovative
153 technology for wastewater treatment" shall mean a completely new and generally
154 unproven technology in the type or method of its application that bench testing
155 or theory suggest has environmental, efficiency, and cost benefits beyond the
156 standard technologies. No bond shall be required for designs approved by any
157 federal agency or environmental regulatory agency of another state. The bond
158 shall be signed by the applicant as principal, and by a corporate surety licensed
159 to do business in the state of Missouri and approved by the commission. The
160 bond shall remain in effect until the terms and conditions of the permit are met
161 and the provisions of sections 644.006 to 644.141 and rules and regulations
162 promulgated pursuant thereto are complied with.

163 14. (1) The department shall issue or deny applications for construction
164 and site-specific operating permits received after January 1, 2001, within one
165 hundred eighty days of the department's receipt of an application. For general
166 construction and operating permit applications received after January 1, 2001,
167 that do not require a public participation process, the department shall issue or
168 deny the [requested] permits within sixty days of the department's receipt of an
169 application. **For general permit applications that do not require a public**
170 **participation process, the department shall issue or deny the permits**
171 **within sixty days of the department's receipt of an application, or upon**
172 **issuance of the master general permit, whichever is later.**

173 (2) If the department fails to issue or deny with good cause a construction
174 or operating permit application within the time frames established in subdivision
175 (1) of this subsection, the department shall refund the full amount of the initial
176 application fee within forty-five days of failure to meet the established time
177 frame. If the department fails to refund the application fee within forty-five days,
178 the refund amount shall accrue interest at a rate established pursuant to section
179 32.065.

180 (3) Permit fee disputes may be appealed to the commission within thirty
181 days of the date established in subdivision (2) of this subsection. If the applicant
182 prevails in a permit fee dispute appealed to the commission, the commission may
183 order the director to refund the applicant's permit fee plus interest and
184 reasonable attorney's fees as provided in sections 536.085 and 536.087. A refund
185 of the initial application or annual fee does not waive the applicant's
186 responsibility to pay any annual fees due each year following issuance of a

187 permit.

188 (4) No later than December 31, 2001, the commission shall promulgate
189 regulations defining shorter review time periods than the time frames established
190 in subdivision (1) of this subsection, when appropriate, for different classes of
191 construction and operating permits. In no case shall commission regulations
192 adopt permit review times that exceed the time frames established in subdivision
193 (1) of this subsection. The department's failure to comply with the commission's
194 permit review time periods shall result in a refund of said permit fees as set forth
195 in subdivision (2) of this subsection. On a semiannual basis, the department
196 shall submit to the commission a report which describes the different classes of
197 permits and reports on the number of days it took the department to issue each
198 permit from the date of receipt of the application and show averages for each
199 different class of permits.

200 (5) During the department's technical review of the application, the
201 department may request the applicant submit supplemental or additional
202 information necessary for adequate permit review. The department's technical
203 review letter shall contain a sufficient description of the type of additional
204 information needed to comply with the application requirements.

205 (6) Nothing in this subsection shall be interpreted to mean that inaction
206 on a permit application shall be grounds to violate any provisions of sections
207 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to
208 644.141.

209 15. The department shall respond to all requests for individual
210 certification under Section 401 of the Federal Clean Water Act within the lesser
211 of sixty days or the allowed response period established pursuant to applicable
212 federal regulations without request for an extension period unless such extension
213 is determined by the commission to be necessary to evaluate significant impacts
214 on water quality standards and the commission establishes a timetable for
215 completion of such evaluation in a period of no more than one hundred eighty
216 days.

217 16. All permit fees generated pursuant to this chapter shall not be used
218 for the development or expansion of total maximum daily loads studies on either
219 the Missouri or Mississippi rivers.

220 17. The department shall implement permit shield provisions equivalent
221 to the permit shield provisions implemented by the U.S. Environmental
222 Protection Agency pursuant to the Clean Water Act Section 402(k), 33 U.S.C.

223 1342(k), and its implementing regulations, for permits issued pursuant to chapter
224 644.

644.145. 1. When issuing permits under this chapter for discharges from
2 combined or separate sanitary **or storm** sewer systems or publicly owned
3 treatment works[,] or when enforcing provisions of this chapter or the Federal
4 Water Pollution Control Act, 33 U.S.C. 1251 et seq., pertaining to any portion of
5 a combined or separate sanitary **or storm** sewer system or publicly owned
6 treatment works, the department of natural resources shall make a finding of
7 affordability upon which to base such permits and decisions, to the extent
8 allowable under this chapter and the Federal Water Pollution Control Act.

9 2. When used in this chapter and in standards, rules and regulations
10 promulgated pursuant to this chapter, the following words and phrases mean:

11 (1) "Affordability", with respect to payment of a utility bill, a measure of
12 whether an individual customer or household can pay the bill without undue
13 hardship or unreasonable sacrifice in the essential lifestyle or spending patterns
14 of the individual or household, taking into consideration the criteria described in
15 subsection 3 of this section;

16 (2) "Financial capability", the financial capability of a community to make
17 investments necessary to make water quality-related improvements.

18 3. The department of natural resources shall adopt procedures by which
19 it will determine whether a permit or decision is affordable. Such determination
20 shall be based upon reasonably available empirical data and shall include an
21 assessment of the affordability of the permit or decision to any private or public
22 person or entity affected by such permit. The determination shall be based upon
23 the following criteria:

24 (1) A community's financial capability and ability to raise or secure
25 necessary funding;

26 (2) Affordability of pollution control options for the individuals or
27 households of the community;

28 (3) An evaluation of the overall costs and environmental benefits of the
29 control technologies;

30 (4) An inclusion of ways to reduce economic impacts on distressed
31 populations in the community, including but not limited to low- and fixed-income
32 populations. This requirement includes but is not limited to:

33 (a) Allowing adequate time in implementation schedules to mitigate
34 potential adverse impacts on distressed populations resulting from the costs of

35 the improvements and taking into consideration local community economic
36 considerations; and

37 (b) Allowing for reasonable accommodations for regulated entities when
38 inflexible standards and fines would impose a disproportionate financial hardship
39 in light of the environmental benefits to be gained;

40 (5) An assessment of other community investments relating to
41 environmental improvements **including, but not limited to, combined or**
42 **separate sanitary or storm sewer systems, publicly owned treatment**
43 **works and air quality;**

44 (6) An assessment of factors set forth in the United States Environmental
45 Protection Agency's guidance, including but not limited to the "Combined Sewer
46 Overflow Guidance for Financial Capability Assessment and Schedule
47 Development" that may ease the cost burdens of implementing wet weather
48 control plans, including but not limited to small system considerations, the
49 attainability of water quality standards, and the development of wet weather
50 standards; and

51 (7) An assessment of any other relevant local community economic
52 condition.

53 4. Prescriptive formulas and measures used in determining financial
54 capability, affordability, and thresholds for expenditure, such as median
55 household income, should not be considered to be the only indicator of a
56 community's ability to implement control technology and shall be viewed in the
57 context of other economic conditions rather than as a threshold to be achieved.

58 5. If the department of natural resources fails to make a finding of
59 affordability as indicated in this section, the proposed permit or decision shall be
60 null, void and unenforceable.

61 6. The department of natural resources' findings under this section may
62 be appealed to the commission pursuant to subsection 6 of section 644.051.

[260.255. 1. After January 1, 1994, each newspaper
2 publisher in this state with an average daily distribution on days
3 published of more than fifteen thousand copies shall file a
4 statement with the department of natural resources certifying the
5 total number of tons of newsprint used during the past calendar
6 year, and the average recycled content of such newsprint. The
7 statement shall declare whether the following target percentages
8 have been met for the past year, and if not met, shall contain a

9 statement explaining why the newspaper publisher failed to meet
10 the target percentages.

11 2. The target recycled content usage for each newspaper
12 publisher for each year shall be:

13 (1) 1993, ten percent;

14 (2) 1994, twenty percent;

15 (3) 1995, thirty percent;

16 (4) 1996, forty percent;

17 (5) 2000, and subsequent years, fifty percent.

18 3. Any newspaper publisher who fails to file a statement
19 with or seek a waiver from the department, or who files a
20 statement containing misleading or deceptive information, shall be
21 a violation of this section, punishable by a civil fine of not more
22 than one hundred dollars per day for each day the violation
23 continues. Penalties imposed under this section shall be deposited
24 into the solid waste management fund and shall be used to further
25 the purposes of sections 260.200 to 260.345.]

Bill ✓

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