

SECOND REGULAR SESSION

[CORRECTED]

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1871

95TH GENERAL ASSEMBLY

4752L.06P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 260.005, 260.262, 260.965, and 414.072, RSMo, and to enact in lieu thereof twenty-eight new sections relating to environmental protection.

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

Section A. Sections 260.005, 260.262, 260.965, and 414.072, RSMo, are repealed and
2 twenty-eight new sections enacted in lieu thereof, to be known as sections 8.860, 67.2800,
3 67.2805, 67.2810, 67.2815, 67.2820, 67.2825, 67.2830, 67.2835, 260.005, 260.080, 260.244,
4 260.262, 260.965, 319.130, 414.072, 640.011, 640.116, 640.300, 640.305, 640.310, 640.315,
5 640.320, 640.325, 640.330, 640.335, 640.340, and 640.345, to read as follows:

8.860. 1. As used in this section, the following words mean:

- 2 (1) **"ASHRAE" or "American Society of Heating, Refrigerating, and Air**
3 **Conditioning Engineers"**, an international technical society for all individuals and
4 **organizations interested in heating, ventilation, air conditioning, and refrigeration;**
- 5 (2) **"Building project"**, the design, construction, renovation, operation, and
6 **maintenance of any inhabited physical structure and its associated project building site;**
- 7 (3) **"Commercial interior fit-out"**, interior design and installation by owners or
8 **tenants of new or existing office space, typically exclusive of structural components and**
9 **core and shell elements;**
- 10 (4) **"GBI"**, Green Building Initiative;
- 11 (5) **"Globes"**, the level of a building's sustainability and energy efficiency
12 **performance as determined by GBI's Green Globes Rating System;**

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.

- 13 (6) **"Green Globes Rating System"**, the most current environmental building rating
14 system established by the Green Building Initiative;
- 15 (7) **"High-performance building"**, a building designed to achieve integrated
16 systems design, construction, and operation so as to significantly reduce or eliminate the
17 negative impact of the built environment and optimize positive attributes;
- 18 (8) **"LEED"**, Leadership in Energy and Environmental Design as determined by
19 the current version of the USGBC's Green Building Rating System;
- 20 (9) **"LEED Silver"**, the current Silver standard as set forth by the USGBC's LEED
21 Green Building Rating System;
- 22 (10) **"Major facility project" or "major facility projects"**:
- 23 (a) **A state-funded:**
- 24 a. **New construction building project in which the building's gross square footage**
25 **is greater than five thousand;**
- 26 b. **Renovation project involving more than fifty percent of the square footage or**
27 **occupancy displacement; or**
- 28 c. **Commercial interior fit-out project that is larger than seven thousand square feet**
29 **of leasable area;**
- 30 (b) **Shall not include:**
- 31 a. **A building, regardless of size, that does not have conditioned space as defined by**
32 **ASHRAE standard 90.1;**
- 33 b. **A correctional facility constructed for the department of corrections or the**
34 **department of mental health;**
- 35 (11) **"Renovation project"**, a building project involving the modification or
36 adaptive reuse of an existing facility;
- 37 (12) **"Third-party commissioning agent"**, a person accredited by the USGBC or
38 GBI with expertise in building system performance who analyzes, evaluates, and confirms
39 proper function and performance of a high-performance building, its systems, equipment,
40 and indoor air quality and who did not participate in the original certification of the major
41 facility project or renovation project;
- 42 (13) **"USGBC"**, the United States Green Building Council.
- 43 2. **All major facility projects in Missouri under subparagraph a. of paragraph (a)**
44 **of subdivision (10) of subsection 1 of this section shall be designed, constructed, and at least**
45 **certified as receiving two Globes using the Green Globes Rating System or receiving the**
46 **LEED Silver standard. All major facility projects in Missouri as defined under**
47 **subparagraphs b. and c. of paragraph (a) of subdivision (10) of subsection 1 of this section**
48 **shall be analyzed using:**

49 (1) A life cycle cost analysis comparing the cost and benefits of designing,
50 constructing, maintaining, and operating the facility at the LEED Silver standard or two
51 Globes standard, or better, with certification;

52 (2) Normal industry and regulatory standards, as applicable; or

53 (3) Some standard between subdivisions (1) and (2) of this subsection that causes
54 the project to be designed, constructed, and operated in a manner that achieves the lowest
55 thirty-year life cycle cost.

56 3. In obtaining certification as receiving two Globes using the Green Globes Rating
57 System, a major facility project shall earn at least twenty percent of the available points
58 for energy performance under C.1.1 energy consumption. In obtaining certification as
59 meeting the LEED Silver standard, a major facility project shall reduce energy use twenty-
60 four percent for new buildings or twenty percent for existing buildings over ASHRAE
61 standard 90.1-2007. The office of administration may waive the requirements of this
62 subsection for a proposed major facility project if it determines that the cost of meeting the
63 requirements under this subsection are not economically feasible.

64 4. The office of administration may petition the general assembly to require all
65 major facility projects be certified to a high-performance building rating system standard
66 in addition to or in lieu of the systems provided in this section. However, any alternate
67 rating system adopted by the general assembly shall be no less stringent than the systems
68 provided in this section.

69 5. All major facility projects that were certified at the LEED Silver or two Globe
70 standard or higher shall be inspected by a third-party commissioning agent, at a minimum,
71 in the fifth, tenth, and fifteenth year following certification. The third-party
72 commissioning agent shall determine whether the building is operating at the standard to
73 which it was originally designed and certified. The third-party commissioning agent shall
74 report its findings to the office of administration and the respective state department or
75 departments occupying the facility. The report shall include but not be limited to the
76 facility's savings on energy and water, the level of its indoor air quality, the existing
77 system's function and performance, problems with the system, and whether the system's
78 performance meets the facility's requirements. If the office of administration determines
79 the building is not operating within the spirit of this section, the office of administration
80 may take appropriate measures to bring the building into compliance.

81 6. The office of administration shall develop and implement a process to monitor
82 and evaluate the energy and environmental benefits associated with each major facility
83 project designed, constructed, and renovated under this section. The monitoring and
84 evaluation of each major facility project shall commence one year after occupancy or use

85 and shall continue for fifteen years thereafter. All data concerning energy, operational,
86 and environmental benefits collected under this section shall be made available to the office
87 of administration to be compiled and submitted to the general assembly under subsection
88 7 of this section.

89 7. The office of administration shall submit a report regarding major facility
90 projects to the house committee on energy and environment and the senate committee on
91 energy and environment that includes:

92 (1) The number and types of buildings designed and constructed;

93 (2) The level of certification of each building designed, constructed, or renovated;

94 (3) Actual savings in energy costs;

95 (4) A description of all potential environmental benefits, including but not limited
96 to, water savings and the reduction of waste generation;

97 (5) The ability of building to continue to operate at the standard to which it was
98 originally certified;

99 (6) In the event of a waiver by the office of administration to not pursue
100 certification, reasons for the waiver;

101 (7) Any conflicts or barriers that hinder the effectiveness of this section.

102 8. The office of administration shall promulgate rules to implement the provisions
103 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
104 is created under the authority delegated in this section shall become effective only if it
105 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
106 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
107 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
108 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
109 grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,
110 shall be invalid and void.

67.2800. 1. Sections 67.2800 to 67.2835 shall be known and may be cited as the
2 "Property Assessment Clean Energy Act".

3 2. As used in sections 67.2800 to 67.2835, the following words and terms shall mean:

4 (1) "Assessment contract", a contract entered into between a clean energy
5 development board and a property owner under which the property owner agrees to pay
6 an annual assessment for a period of up to twenty years in exchange for financing of an
7 energy efficiency improvement or a renewable energy improvement;

8 (2) "Authority", the state environmental improvement and energy resources
9 authority established under section 260.010;

- 10 (3) **"Bond"**, any bond, note, or similar instrument issued by or on behalf of a clean
11 energy development board;
- 12 (4) **"Clean energy conduit financing"**, the financing of energy efficiency
13 improvements or renewable energy improvements for a single parcel of property or a
14 unified development consisting of multiple adjoining parcels of property under section
15 **67.2825**;
- 16 (5) **"Clean energy development board"**, a board formed by one or more
17 municipalities under section **67.2810**;
- 18 (6) **"Director"**, the director of the department of economic development;
- 19 (7) **"Energy efficiency improvement"**, any acquisition, installation, or modification
20 on or of publicly or privately owned property designed to reduce the energy consumption
21 of such property, including but not limited to:
- 22 (a) **Insulation in walls, roofs, attics, floors, foundations, and heating and cooling**
23 **distribution systems**;
- 24 (b) **Storm windows and doors, multiglazed windows and doors, heat-absorbing or**
25 **heat-reflective windows and doors, and other window and door improvements designed**
26 **to reduce energy consumption**;
- 27 (c) **Automatic energy control systems**;
- 28 (d) **Heating, ventilating, or air conditioning distribution system modifications and**
29 **replacements**;
- 30 (e) **Caulking and weatherstripping**;
- 31 (f) **Replacement or modification of lighting fixtures to increase energy efficiency**
32 **of the lighting system without increasing the overall illumination of the building unless the**
33 **increase in illumination is necessary to conform to applicable state or local building codes**;
- 34 (g) **Energy recovery systems**; and
- 35 (h) **Daylighting systems**;
- 36 (8) **"Municipality"**, any county, city, or incorporated town or village of this state;
- 37 (9) **"Project"**, any energy efficiency improvement or renewable energy
38 improvement;
- 39 (10) **"Property assessed clean energy local finance fund"**, a fund that may be
40 established by the authority for the purpose of making loans to clean energy development
41 boards to establish and maintain property assessed clean energy programs;
- 42 (11) **"Property assessed clean energy program"**, a program established by a clean
43 energy development board to finance energy efficiency improvements or renewable energy
44 improvements under section **67.2820**;

45 (12) "Renewable energy improvement", any acquisition and installation of a
46 fixture, product, system, device, or combination thereof on publicly or privately owned
47 property that produces energy from renewable resources, including, but not limited to
48 photovoltaic systems, solar thermal systems, wind systems, biomass systems, or geothermal
49 systems.

50 3. All projects undertaken under sections 67.2800 to 67.2835 are subject to the
51 applicable municipality's ordinances and regulations, including, but not limited to those
52 ordinances and regulations concerning zoning, subdivision, building, fire safety, and
53 historic or architectural review.

67.2805. 1. The authority may, as needed, promulgate administrative rules and
2 regulations relating to the following:

3 (1) Guidelines and specifications for administering the property assessed clean
4 energy local finance fund; and

5 (2) Any clarification to the definitions of energy efficiency improvement and
6 renewable energy improvement as the authority may determine is necessary or advisable.

7 2. Any rule or portion of a rule, as that term is defined in section 536.010, that is
8 created under the authority delegated in this section shall become effective only if it
9 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
10 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
11 vested with the general assembly under chapter 536 to review, to delay the effective date,
12 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
13 of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be
14 invalid and void.

67.2810. 1. One or more municipalities may form clean energy development boards
2 for the purpose of exercising the powers described in sections 67.2800 to 67.2835. Each
3 clean energy development board shall consist of not less than three members, as set forth
4 in the ordinance or order establishing the clean energy development board. Members shall
5 serve terms as set forth in the ordinance or order establishing the clean energy
6 development board and shall be appointed:

7 (1) If only one municipality is participating in the clean energy development board,
8 by the chief elected officer of the municipality with the consent of the governing body of
9 the municipality; or

10 (2) If more than one municipality is participating, in a manner agreed to by all
11 participating municipalities.

12 **2. A clean energy development board shall be a separate body politic and corporate**
13 **and shall have all powers necessary and convenient to carry out and effectuate the**
14 **provisions of sections 67.2800 to 68.2835, including, but not limited to the following:**

15 **(1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections**
16 **67.2800 to 68.2835;**

17 **(2) To adopt an official seal;**

18 **(3) To sue and be sued;**

19 **(4) To make and enter into contracts and other instruments with public and private**
20 **entities;**

21 **(5) To accept grants, guarantees, and donations of property, labor, services, and**
22 **other things of value from any public or private source;**

23 **(6) To employ or contract for such managerial, legal, technical, clerical, accounting,**
24 **or other assistance it deems advisable;**

25 **(7) To levy and collect special assessments under an assessment contract with a**
26 **property owner and to record such special assessments as a lien on the property;**

27 **(8) To borrow money from any public or private source and issue bonds and**
28 **provide security for the repayment of the same;**

29 **(9) To finance a project under an assessment contract;**

30 **(10) To collect reasonable fees and charges in connection with making and servicing**
31 **assessment contracts and in connection with any technical, consultative, or project**
32 **assistance services offered;**

33 **(11) To invest any funds not required for immediate disbursement in obligations**
34 **of the state of Missouri or of the United States or any agency or instrumentality thereof,**
35 **or in bank certificates of deposit; provided, however, the limitations on investments**
36 **provided in this subdivision shall not apply to proceeds acquired from the sale of bonds**
37 **which are held by a corporate trustee; and**

38 **(12) To take whatever actions necessary to participate in and administer a clean**
39 **energy conduit financing or a property assessed clean energy program.**

40 **3. No later than July first of each year, the clean energy development board shall**
41 **file with each municipality that participated in the formation of the clean energy**
42 **development board, an annual report for the preceding calendar year that includes:**

43 **(1) A brief description of each project financed by the clean energy development**
44 **board during the preceding calendar year;**

45 **(2) The amount of assessments due and the amount collected during the preceding**
46 **calendar year;**

47 **(3) The amount of clean energy development board administrative costs incurred**
48 **during the preceding calendar year;**

49 **(4) The estimated cumulative energy savings resulting from all energy efficiency**
50 **improvements financed during the preceding calendar year; and**

51 **(5) The estimated cumulative energy produced by all renewable energy**
52 **improvements financed during the preceding calendar year.**

53 **4. No lawsuit to set aside the formation of a clean energy development board or to**
54 **otherwise question the proceedings related thereto shall be brought after the expiration of**
55 **sixty days from the effective date of the ordinance or order creating the clean energy**
56 **development board. No lawsuit to set aside the approval of a project, an assessment**
57 **contract, or a special assessment levied by a clean energy development board, or to**
58 **otherwise question the proceedings related thereto shall be brought after the expiration of**
59 **sixty days from the date that the assessment contract is executed.**

67.2815. 1. A clean energy development board shall not enter into an assessment
2 **contract or levy or collect a special assessment for a project without making a finding that**
3 **there are sufficient resources to complete the project and that the estimated economic**
4 **benefit expected from the project during the financing period is equal to or greater than**
5 **the cost of the project.**

6 **2. An assessment contract shall be executed by the clean energy development board**
7 **and the benefitted property owner or property owners and shall provide:**

8 **(1) A description of the project, including the estimated cost of the project and**
9 **details on how the project will either reduce energy consumption or create energy from**
10 **renewable sources;**

11 **(2) A mechanism for:**

12 **(a) Verifying the final costs of the project upon its completion; and**

13 **(b) Ensuring that any amounts advanced or otherwise paid by the clean energy**
14 **development board toward costs of the project will not exceed the final cost of the project;**

15 **(3) An acknowledgment by the property owner that the property owner has**
16 **received or will receive a special benefit by financing a project through the clean energy**
17 **development board that equals or exceeds the total assessments due under the assessment**
18 **contract;**

19 **(4) An agreement by the property owner to pay annual special assessments for a**
20 **period not to exceed twenty years, as specified in the assessment contract;**

21 **(5) A statement that the obligations set forth in the assessment contract, including**
22 **the obligation to pay annual special assessments, are a covenant that shall run with the**
23 **land and be obligations upon future owners of such property; and**

24 **(6) An acknowledgment that no subdivision of property subject to the assessment**
25 **contract shall be valid unless the assessment contract or an amendment thereof divides the**
26 **total annual special assessment due between the newly subdivided parcels pro rata to the**
27 **special benefit realized by each subdivided parcel.**

28 **3. The total special assessments levied against a property under an assessment**
29 **contract shall not exceed the sum of the cost of the project, including any required energy**
30 **audits and inspections, or portion thereof financed through the participation in a property**
31 **assessed clean energy program or clean energy conduit financing, including the costs of any**
32 **audits or inspections required by the clean energy development board, plus such**
33 **administration fees, interest, and other financing costs reasonably required by the clean**
34 **energy development board.**

35 **4. The clean energy development board shall provide a copy of each signed**
36 **assessment contract to the local county assessor and county collector and shall cause a copy**
37 **of such assessment contract to be recorded in the real estate records of the county recorder**
38 **of deeds.**

39 **5. Special assessments agreed to under an assessment contract shall be a lien on the**
40 **property against which it is assessed on behalf of the applicable clean energy development**
41 **board from the date that each annual assessment under the assessment contract becomes**
42 **due. Such special assessments shall be collected by the county collector in the same manner**
43 **and with the same priority as ad valorem real property taxes. Once collected, the county**
44 **collector shall pay over such special assessment revenues to the clean energy development**
45 **board in the same manner in which revenues from ad valorem real property taxes are paid**
46 **to other taxing districts. Such special assessments shall be collected as provided in this**
47 **subsection from all subsequent property owners, including the state and all political**
48 **subdivisions thereof, for the term of the assessment contract.**

67.2820. 1. Any clean energy development board may establish a property assessed
2 **clean energy program to finance energy efficiency improvements or renewable energy**
3 **improvements. A property assessed clean energy program shall consist of a program**
4 **whereby a property owner may apply to a clean energy development board to finance the**
5 **costs of a project through annual special assessments levied under an assessment contract.**

6 **2. A clean energy development board may establish application requirements and**
7 **criteria for project financing approval as it deems necessary to effectively administer such**

8 program and ration available funding among projects, including but not limited to
9 requiring projects to meet certain energy efficiency standards.

10 3. A clean energy development board may require an initial energy audit as a
11 prerequisite to project financing through a property assessed clean energy program as well
12 as inspections to verify project completion.

67.2825. 1. In lieu of financing a project through a property assessed clean energy
2 program, a clean energy development board may seek to finance any number of projects
3 to be installed within a single parcel of property or within a unified development consisting
4 of multiple adjoining parcels of property by participating in a clean energy conduit
5 financing.

6 2. A clean energy conduit financing shall consist of the issuance of bonds under
7 section 67.2830 payable from the special assessment revenues collected under an
8 assessment contract with the property owner participating in the clean energy conduit
9 financing and any other revenues pledged thereto.

67.2830. 1. A clean energy development board may issue bonds payable from
2 special assessment revenues generated by assessment contracts and any other revenues
3 pledged thereto. The bonds shall be authorized by resolution of the clean energy
4 development board, shall bear such date or dates, and shall mature at such time or times
5 as the resolution shall specify, provided that the term of any bonds issued for a clean
6 energy conduit financing shall not exceed twenty years. The bonds shall be in such
7 denomination, bear interest at such rate, be in such form, be issued in such manner, be
8 payable in such place or places, and be subject to redemption as such resolution may
9 provide. Notwithstanding any provision to the contrary under this section, issuance of the
10 bonds shall conform to the requirements of subsection 1 of section 108.170.

11 2. Any bonds issued under this section shall not constitute an indebtedness of the
12 state or any municipality. Neither the state nor any municipality shall be liable on such
13 bonds, and the form of such bonds shall contain a statement to such effect.

67.2835. The director of the department of economic development is authorized to
2 allocate the state's residual share, or any portion thereof, of the national qualified energy
3 conservation bond limitation under Section 54D of the Internal Revenue Code of 1986, as
4 amended, for any purposes described therein to the authority, any clean energy
5 development board, the state, any political subdivision, instrumentality, or other body
6 corporate and politic.

260.005. As used in sections 260.005 to 260.125, the following words and terms mean:

2 (1) "Authority", the state environmental improvement and energy resources authority
3 created by sections 260.005 to 260.125;

- 4 (2) "Bonds", bonds issued by the authority pursuant to the provisions of sections 260.005
5 to 260.125;
- 6 (3) "Cost", the expense of the acquisition of land, rights-of-way, easements and other
7 interests in real property and the expense of acquiring or constructing buildings, improvements,
8 machinery and equipment relating to any project, including the cost of demolishing or removing
9 any existing structures, interest during the construction of any project and engineering, research,
10 legal, consulting and other expenses necessary or incident to determining the feasibility or
11 practicability of any project and carrying out the same, all of which are to be paid out of the
12 proceeds of the bonds or notes authorized by sections 260.005 to 260.125;
- 13 (4) "Disposal of solid waste or sewage", the entire process of storage, collection,
14 transportation, processing and disposal of solid wastes or sewage;
- 15 (5) "Energy conservation", the reduction of energy consumption;
- 16 (6) "Energy efficiency", the increased productivity or effectiveness of energy resources
17 use, the reduction of energy consumption, or the use of renewable energy sources;
- 18 (7) "Notes", notes issued by the authority pursuant to sections 260.005 to 260.125;
- 19 (8) "Pollution", the placing of any noxious substance in the air or waters or on the lands
20 of this state in sufficient quantity and of such amounts, characteristics and duration as to injure
21 or harm the public health or welfare or animal life or property;
- 22 (9) "Project", any facility, including land, disposal areas, incinerators, buildings, fixtures,
23 machinery, equipment, and devices or modifications to a building or facility, acquired or
24 constructed, or to be acquired or constructed for the purpose of developing energy resources or
25 preventing or reducing pollution or the disposal of solid waste or sewage or providing water
26 facilities or resource recovery facilities or carrying out energy efficiency modifications in, but
27 not limited to, buildings owned by the state or providing for energy conservation or increased
28 energy efficiency **or renewable energy**;
- 29 (10) **"Renewable energy", the production of energy from renewable resources,**
30 **including, but not limited to, photovoltaic systems, solar thermal systems, wind systems,**
31 **biomass systems, or geothermal systems**;
- 32 (11) "Resource recovery", the recovery of material or energy from solid waste;
- 33 [(11)] (12) "Resource recovery facility", any facility at which solid waste is processed
34 for the purpose of extracting, converting to energy, or otherwise separating and preparing solid
35 waste for reuse;
- 36 [(12)] (13) "Resource recovery system", a solid waste management system which
37 provides for collection, separation, recycling, and recovery of solid wastes, including disposal
38 of nonrecoverable waste residues;

39 [(13)] (14) "Revenues", all rents, installment payments on notes, interest on loans,
40 revenues, charges and other income received by the authority in connection with any project and
41 any gift, grant, or appropriation received by the authority with respect thereto;

42 [(14)] (15) "Sewage", any liquid or gaseous waste resulting from industrial, commercial,
43 agricultural or community activities in such amounts, characteristics and duration as to injure or
44 harm the public health or welfare or animal life or property;

45 [(15)] (16) "Solid waste", garbage, refuse, discarded materials and undesirable solid and
46 semisolid residual matter resulting from industrial, commercial, agricultural or community
47 activities in such amounts, characteristics and duration as to injure or harm the public health or
48 welfare or animal life or property;

49 [(16)] (17) "Synthetic fuels", any solid, liquid, or gas or combination thereof, which can
50 be used as a substitute for petroleum or natural gas (or any derivatives thereof, including
51 chemical feedstocks) and which is produced by chemical or physical transformation (other than
52 washing, coking, or desulfurizing) of domestic sources of coal, including lignite and peat; shale;
53 tar sands, including heavy oils; water as a source of hydrogen only through electrolysis, and
54 mixtures of coal and combustible liquids including petroleum; and

55 [(17)] (18) "Water facilities", any facilities for the furnishing of water for industrial,
56 commercial, agricultural or community purposes including, but not limited to, wells, reservoirs,
57 dams, pumping stations, water lines, sewer lines, treatment plants, stabilization ponds, storm
58 sewers, related equipment and machinery.

260.080. No part of the funds of the authority shall inure to the benefit of or be
2 distributable to its members or other private persons except that the authority is authorized and
3 empowered to pay reasonable compensation for services rendered as herein provided for **and to**
4 **otherwise carry out the provisions of sections 260.005 to 260.125.**

**260.244. 1. This section shall be known and may be cited as the "Missouri Soil
2 Enrichment Initiative".**

3 2. For purposes of this section, the following terms shall mean:

4 (1) "Commercial compost facility" or "commercial composting facility", any
5 compost or composting facility that receives financial compensation for accepting organic
6 material for composting or from the sale of compost produced, excluding local government
7 owned and operated compost facilities and compost facilities operated by elementary and
8 secondary schools or institutions of higher education;

9 (2) "Compost", the end product of a composting process. Compost is organic
10 material that can be used as a soil amendment or as a medium to grow plants. Mature
11 compost is a stable material with a content called humus that is dark brown or black and
12 has a soil-like, earthy smell. Compost is created by: combining organic wastes (e.g., yard

13 trimmings, food wastes, manures) in proper ratios into piles, rows, or vessels; adding
14 bulking agents (e.g., wood chips) as necessary to accelerate the breakdown of organic
15 materials; and allowing the finished material to fully stabilize and mature through a curing
16 process;

17 (3) "Composting", the controlled biological decomposition of organic materials to
18 produce a stable humus-like product;

19 (4) "Composting facility" or "compost facility", a solid waste processing facility
20 using a controlled process of microbial degradation of organic material which was not
21 source-separated into a stable, nuisance-free humus-like product;

22 (5) "Department", the Missouri department of natural resources;

23 (6) "Local government owned compost facility", any compost facility that is owned
24 and operated by a city or county government or unit of city or county government;

25 (7) "Organic material", matter that comes from a once-living organism and is
26 capable of decay.

27 3. The department shall maintain a registry of commercial compost facilities and
28 local government owned compost facilities in this state. Such registry shall be easily
29 accessible to the public through the department's website and identify registered compost
30 facilities by location.

31 4. Commercial compost facility owners or operators in operation prior to January
32 1, 2011, shall register and begin paying an annual registration fee to the department no
33 later than January 31, 2011, and thereafter each January thirty-first until the commercial
34 composting facility ceases operation and all compost is removed from the facility. The
35 department shall issue the commercial composting facility owner or operator a registration
36 certificate which shall be valid for the calendar year.

37 5. Commercial compost facility owners and operators commencing operation after
38 January 1, 2011, shall register with the department prior to accepting or composting
39 organic material. Each owner or operator of a commercial compost facility registering
40 after January 31, 2011, shall pay an initial prorated annual registration fee. The prorated
41 annual registration fee shall be determined by dividing the appropriate annual fee in
42 subsection 9 of this section by the number of months remaining in the calendar year from
43 the date of the application submittal. Such prorated annual registration amount shall be
44 due from the applicant prior to the issuance by the department of the registration
45 certificate. The commercial compost facility owner or operator shall thereafter follow the
46 requirements set forth in subsection 4 of this section for payment of the annual registration
47 fee.

48 **6. Local government owned compost facilities in operation prior to January 1, 2011,**
49 **shall register with the department no later than January 31, 2011, and thereafter each**
50 **January thirty-first until the local government owned compost facility ceases operation and**
51 **all compost is removed from the facility. The department shall issue the local government**
52 **owned compost facility owner or operator a registration certificate which shall be valid for**
53 **the calendar year.**

54 **7. Local government owned compost facility owners and operators commencing**
55 **operation after January 1, 2011, shall register with the department prior to accepting or**
56 **composting organic material. The local government owned compost facility owner and**
57 **operator shall thereafter follow the requirements set forth in subsection 6 of this section**
58 **for annual registration.**

59 **8. The registration and annual fee shall be accompanied by documentation**
60 **demonstrating the compost facility is in compliance with all applicable permits including**
61 **exemptions and local planning or zoning ordinances or a statement that local planning and**
62 **zoning does not exist in the area and no permits are required.**

63 **9. From each owner and operator of a registered commercial compost facility, the**
64 **department shall collect a fee based on the combined size of the facility and any affiliated**
65 **areas such as those used for access roads, buffer zones, and storm water diversion**
66 **structures as follows:**

- 67 **(1) Less than or equal to five acres, five hundred dollars;**
68 **(2) More than five acres but less than or equal to ten acres, one thousand dollars;**
69 **(3) Greater than ten acres, two thousand five hundred dollars.**

70 **10. Each registered composting facility owner or operator shall file an annual**
71 **report with the department. Each owner or operator shall report to the department: the**
72 **name of the owner and operator; the complete mailing address of the owner and operator,**
73 **the facility's physical address or addresses, telephone number, the amount of organic**
74 **material received during the prior calendar year, the estimated amount of compostable**
75 **material on-hand at the facility on the date the annual report is prepared, and a statement**
76 **certifying the facility and any affiliated transfer facility or facilities are being operated in**
77 **a manner that prevents nuisances and minimizes anaerobic conditions. Such registered**
78 **compost facility owners or operators required to pay an annual fee shall submit such fee**
79 **along with the compost facility's annual report.**

80 **11. Each commercial composting facility owner or operator shall submit the annual**
81 **registration fee collected under this section to the department of natural resources for**
82 **deposit in the solid waste management fund. All such fees shall be used to fund the**
83 **operating costs of the department's solid waste management program. The provisions of**

84 section 33.080 to the contrary notwithstanding, moneys in the account from collection of
85 the annual registration fee shall not lapse to general revenue at the end of each biennium.

86 **12. The department may examine records and measure acreage used by the**
87 **commercial compost facility to verify payment of the appropriate annual registration fee**
88 **established in this section.**

89 **13. This section shall not apply to agricultural composting facilities or residential**
90 **composting facilities where the end product is intended entirely for personal use and not**
91 **for resale.**

92 **14. The department may promulgate by rule and regulation procedures to**
93 **implement the provisions of this section. Any rule or portion of a rule, as that term is**
94 **defined in section 536.010, that is created under the authority delegated in this section shall**
95 **become effective only if it complies with and is subject to all of the provisions of chapter**
96 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and**
97 **if any of the powers vested with the general assembly under chapter 536 to review, to delay**
98 **the effective date, or to disapprove and annul a rule are subsequently held**
99 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
100 **after August 28, 2010, shall be invalid and void.**

260.262. A person selling lead-acid batteries at retail or offering lead-acid batteries for
2 retail sale in the state shall:

3 (1) Accept, at the point of transfer, in a quantity at least equal to the number of new
4 lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;

5 (2) Post written notice which must be at least four inches by six inches in size and must
6 contain the universal recycling symbol and the following language:

7 (a) It is illegal to discard a motor vehicle battery or other lead-acid battery;

8 (b) Recycle your used batteries; and

9 (c) State law requires us to accept used motor vehicle batteries, or other lead-acid
10 batteries for recycling, in exchange for new batteries purchased; and

11 (3) Manage used lead-acid batteries in a manner consistent with the requirements of the
12 state hazardous waste law;

13 (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such
14 fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the
15 battery have been computed. The fee imposed, less six percent of fees collected, which shall be
16 retained by the seller as collection costs, shall be paid to the department of revenue in the form
17 and manner required by the department and shall include the total number of batteries sold
18 during the preceding month. The department of revenue shall promulgate rules and regulations
19 necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail

20 sales" do not include the sale of batteries to a person solely for the purpose of resale, if the
21 subsequent retail sale in this state is to the ultimate consumer and is subject to the fee. However,
22 this fee shall not be paid on batteries sold for use in agricultural operations upon written
23 certification by the purchaser; and

24 (5) The department of revenue shall administer, collect, and enforce the fee authorized
25 pursuant to this section pursuant to the same procedures used in the administration, collection,
26 and enforcement of the general state sales and use tax imposed pursuant to chapter 144, RSMo,
27 except as provided in this section. The proceeds of the battery fee, less four percent of the
28 proceeds, which shall be retained by the department of revenue as collection costs, shall be
29 transferred by the department of revenue into the hazardous waste fund, created pursuant to
30 section 260.391. The fee created in subdivision (4) and this subdivision shall be effective
31 October 1, 2005. The provisions of subdivision (4) and this subdivision shall terminate [June
32 30, 2011] **December 31, 2011.**

260.965. The provisions of sections 260.900 to 260.965 shall expire August 28, [2012]
2 **2022.**

**319.130. 1. The board, in collaboration with the department, the department of
2 agriculture, and impacted portions of the private sector, shall by rule create, fund, and
3 maintain an underground storage tank operator training program that satisfies at a
4 minimum the federal requirements for such training program.**

5 **2. The board shall offer the underground storage tank operator training program
6 at no cost to required participants and may contract with one or more third parties to
7 carry out the requirements of this section.**

8 **3. The board shall meet the requirements of this section only after holding a public
9 hearing and determining by vote that state action is required.**

10 **4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
11 created under the authority delegated in this section shall become effective only if it
12 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
13 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
14 vested with the general assembly under chapter 536 to review, to delay the effective date,
15 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
16 of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be
17 invalid and void.**

414.072. 1. At least every six months, the director shall test and inspect the measuring
2 devices used by any person selling an average of two hundred or more gallons of gasoline,
3 gasoline-alcohol blends, diesel fuel, heating oil, kerosene, or aviation turbine fuel per month at
4 either retail or wholesale in this state, except marine installations, which shall be tested and

5 inspected at least once per year. **The department shall disregard the manufacturer's**
6 **expiration date, if any, and shall instead continue to require the replacement of motor fuel**
7 **measuring devices and dispensing equipment only when it fails inspection. The**
8 **manufacturer's expiration date on motor fuel measuring devices and dispensing equipment**
9 **shall not impose any new or additional liability on motor fuel retailers and wholesalers.**

10 2. When the director finds that any measuring device does not correctly and accurately
11 register and measure the monetary cost, if applicable, or the volume sold, he shall require the
12 correction, removal, or discontinuance of the same.

13 3. Notwithstanding any other law or rule to the contrary, it has been and continues to be
14 the public policy of this state to prohibit gasoline and diesel motor fuel in a retail sale transaction
15 from being dispensed by any measuring device or equipment that is not approved by the
16 department of agriculture or the National Type Evaluation Program (NTEP). **Any modification**
17 **to the way motor fuel is measured or dispensed in a retail sale transaction is prohibited by**
18 **state rule or the automatic adoption of national standards or rules unless the modification**
19 **is first specifically authorized and mandated by state law.**

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

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

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

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

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

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

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

640.116. 1. Any water system that serves a charitable or benevolent organization,
2 **if the system does not regularly serve an average of one hundred persons or more at least**

3 sixty days out of the year and the system does not serve a school or day-care facility, shall
4 be exempt from all rules relating to well construction except any rules established under
5 sections 256.600 to 256.640 applying to multifamily wells, unless such wells or pump
6 installations for such wells are determined to present a threat to groundwater or public
7 health.

8 2. If the system incurs three or more total coliform maximum contaminant level
9 violations in a twelve-month period or one acute maximum contaminant level violation, the
10 system owner shall either provide an alternate source of water, eliminate the source of
11 contamination, or provide treatment that reliably achieves at least 4-log (ninety-nine and
12 ninety-nine one-hundredths percent) treatment of viruses.

640.300. Any environmental audit report and supporting documentation as
2 described in sections 640.300 to 640.345 shall be available by court order or subpoena, and
3 nothing in sections 640.300 to 640.345 shall be interpreted to impede or excuse the
4 disclosure of normal regulatory reporting requirements for environmental compliance.

640.305. As used in sections 640.300 to 640.345, the following terms shall mean:

2 (1) "Compliance management system" or "environmental management system",
3 a regulated entity's documented systematic efforts, appropriate to the size and nature of
4 its business, to prevent, detect, and correct noncompliance through all of the following:

5 (a) Compliance policies, standards, and procedures that identify how employees
6 and agents are to meet the requirements of laws, regulations, permits, enforceable
7 agreements, and other sources of authority for environmental requirements;

8 (b) Assignment of overall responsibility for overseeing compliance with policies,
9 standards, and procedures, and assignment of specific responsibility for assuring
10 compliance at each facility or operation;

11 (c) Mechanisms for systematically assuring that compliance policies, standards, and
12 procedures are being carried out, including monitoring and auditing systems reasonably
13 designed to detect and correct noncompliance, periodic evaluation of the overall
14 performance of the compliance management system, or environmental management
15 system, and a means for employees or agents to report noncompliance of environmental
16 requirements without fear of retaliation;

17 (d) Efforts to communicate effectively the regulated entity's standards and
18 procedures to all employees and other agents;

19 (e) Appropriate incentives to managers and employees to perform in accordance
20 with the compliance policies, standards, and procedures, including consistent enforcement
21 through appropriate disciplinary mechanisms; and

22 (f) Procedures for the prompt and appropriate correction of any noncompliance,
23 and any necessary modifications to the regulated entity's compliance management system
24 or environmental management system to prevent future noncompliance;

25 (2) "Department", the department of natural resources;

26 (3) "Environmental audit", a systematic, documented, periodic, and objective
27 review by regulated entities of facility operations and practices related to meeting
28 environmental requirements;

29 (4) "Environmental audit report", the documented analysis, conclusions, and
30 recommendations resulting from an environmental audit, but not including data obtained
31 in or testimonial evidence concerning such audit;

32 (5) "Regulated entity", any entity, including a federal, state, or municipal
33 department or facility, which is regulated under federal or state environmental laws.

640.310. If a regulated entity satisfies all of the conditions of section 640.330,
2 neither the department nor the attorney general may seek penalties, other than the
3 recovery of the economic benefits gained through noncompliance with environmental
4 requirements, for noncompliance of state, federal, or local laws, regulations, permits, or
5 orders relating to environmental requirements discovered and disclosed by the entity. If
6 a regulated entity satisfies all of the conditions of section 640.330, except for the periodic
7 routine assessment through an environmental audit or compliance management system,
8 the department may recover as penalties the economic benefits gained through
9 noncompliance, and reduce any other penalties up to seventy-five percent for
10 noncompliance of state or federal laws, regulations, permits, or orders relating to
11 environmental requirements discovered and disclosed by the entity.

640.315. If a regulated entity establishes that it satisfies subdivisions (1) to (9) of
2 section 640.330, the department shall not recommend to the attorney general or other
3 prosecuting authority that criminal charges be brought against the disclosing entity, as
4 long as the department determines that the noncompliance is not part of a pattern or
5 practice that demonstrates or involves:

6 (1) A prevalent management philosophy or practice that conceals or condones
7 environmental noncompliance; or

8 (2) High-level corporate officials' or managers' conscious involvement in, or willful
9 blindness to, noncompliance of federal environmental law.

640.320. Regardless of whether the department recommends the regulated entity
2 for criminal prosecution, the department may recommend for prosecution the criminal acts

3 of individual managers or employees under existing policies guiding the exercise of
4 enforcement discretion.

640.325. The department, the attorney general, and any prosecuting attorney shall
2 not request or use an environmental audit report to initiate a civil or criminal investigation
3 of an entity, including but not limited to the use of such report in routine inspections. If
4 the department has an independent reason to believe that noncompliance has occurred, the
5 department may seek any information relevant to identifying noncompliance or
6 determining liability or extent of harm.

640.330. In order to receive the benefits of sections 640.310 to 640.325, owners and
2 operators of facilities regulated under state, federal, regional, or local laws, ordinances,
3 regulations, permits, or orders shall comply with the following:

4 (1) The noncompliance was discovered through:

5 (a) An environmental audit; or

6 (b) A compliance management system, reflecting the regulated entity's due
7 diligence in preventing, detecting, and correcting noncompliance. The regulated entity
8 shall provide accurate and complete documentation to the department as to how its
9 compliance management system meets the criteria or due diligence and how the regulated
10 entity discovered the noncompliance through its compliance management system. The
11 department may require the registered entity to make available to the public a description
12 of its compliance management system;

13 (2) The noncompliance was discovered voluntarily and not through a legally
14 mandated monitoring or sampling requirement prescribed by statute, regulation, permit,
15 judicial, or administrative order, or consent agreement. For example, sections 640.310 to
16 640.325, do not apply to:

17 (a) Emissions noncompliance detected through a continuous emissions monitor, or
18 alternative monitor established in a permit, regulation, order, or other instrument, in
19 which any such monitoring is required;

20 (b) Noncompliance of National Pollutant Discharge Elimination System discharge
21 limits detected through required sampling or monitoring; and

22 (c) Noncompliance discovered through a compliance audit required to be
23 performed by the terms of a consent order or settlement agreement, unless the audit is a
24 component of agreement terms to implement a comprehensive environmental management
25 system;

26 (3) The regulated entity fully discloses the specific noncompliance in writing to the
27 department within twenty-one days, or such shorter time period as may be required by

28 law, after the entity discovers that the noncompliance has, or may have, occurred. The
29 time at which the entity discovers that a noncompliance has, or may have, occurred begins
30 when any officer, director, employee, or agent of the facility has an objectively reasonable
31 basis for believing that a noncompliance has, or may have, occurred;

32 (4) The regulated entity discovers and discloses the potential noncompliance to the
33 department prior to:

34 (a) The commencement of a federal, state, or local department inspection or
35 investigation, or the issuance by such department of an information request to the
36 registered entity, in which the department determines that the facility did not know that
37 it was under civil investigation, and the department determines that the entity is otherwise
38 acting in good faith, in which case the department is authorized to reduce or waive civil
39 penalties in accordance with section 640.310;

40 (b) Notice of a citizen suit;

41 (c) The filing of a complaint by a third party;

42 (d) The reporting of the noncompliance to the department or other governmental
43 agency by a whistle-blower employee and not be authorized to speak on behalf of the
44 regulated entity; or

45 (e) Imminent discovery of the noncompliance by a regulatory department or
46 agency;

47 (5) The regulated entity shall correct the noncompliance within sixty calendar days
48 from the date of discovery, or such shorter time period as may be required by law,
49 certifying in writing that the noncompliance has occurred and taking appropriate
50 measures as determined by the department to remedy any environmental or human harm
51 due to the noncompliance. The department retains the authority to order an entity to
52 correct a noncompliance within a specific time period shorter than sixty days whenever
53 correction in such shorter time period is necessary to protect public health and the
54 environment. If more than sixty days is needed to correct the noncompliance, the regulated
55 entity shall so request additional time from the department in writing prior to the
56 expiration of the sixty-day period. The department will approve or deny the request before
57 the expiration of the sixty-day period. If the department approves additional time, the
58 department may require a regulated entity to enter into a publicly available written
59 agreement, administrative consent order, or judicial consent decree as a condition for
60 obtaining relief under sections 640.310 to 640.325, in particular where compliance or
61 remedial measures are complex or a lengthy schedule for attaining and maintaining
62 compliance or remediating harm is required;

63 **(6) The regulated entity shall agree in writing or other appropriate order to take**
64 **steps acceptable to the director to prevent a recurrence of the noncompliance, including**
65 **improvements to its environmental auditing or compliance management system;**

66 **(7) The specific noncompliance, or a closely related noncompliance, has not**
67 **occurred within the previous three years at the same facility and has not occurred within**
68 **the past five years as part of a pattern at multiple facilities owned or operated by the same**
69 **entity. For the purposes of this section, noncompliance includes:**

70 **(a) Failure to comply with any federal, state, or local environmental law identified**
71 **in a judicial or administrative order, consent agreement or order, complaint, or notice of**
72 **noncompliance, conviction, or plea agreement; or**

73 **(b) Any act or omission for which the regulated entity has previously received**
74 **penalty mitigation from the department or another state or local department;**

75 **(8) The noncompliance is not one which:**

76 **(a) Resulted in actual harm, or may have presented an imminent and substantial**
77 **endangerment, to human health or the environment; or**

78 **(b) Violates the specific terms of any judicial or administrative order or consent**
79 **agreement; and**

80 **(9) The regulated entity cooperates as requested by the department and provides**
81 **such information as is necessary and requested by the department to determine**
82 **applicability of sections 640.310 to 640.325.**

640.335. The department shall make available to the public the terms and
2 **conditions of and supporting documentation demonstrating any compliance agreement**
3 **reached under sections 640.310 to 640.325, including the nature of the noncompliance, the**
4 **remedy, and the schedule for returning to compliance.**

640.340. Nothing in sections 640.300 to 640.335 shall prevent a private party from
2 **bringing a cause of action, where otherwise permitted under the law, against an entity**
3 **whose noncompliance with any relevant environmental law has caused damage to such**
4 **private party.**

640.345. The department shall not disclose from any audit report information
2 **relating to scientific and technological innovations in which the owner has a proprietary**
3 **interest of any information which is otherwise protected from disclosure by law.**

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