

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2109

95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RUZICKA.

4911L.01P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 644.036 and 644.054, RSMo, and to enact in lieu thereof two new sections relating to the Missouri clean water law.

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

Section A. Sections 644.036 and 644.054, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 644.036 and 644.054, to read as follows:

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be  
2 adopted except after a public hearing to be held after thirty days' prior notice by advertisement  
3 of the date, time and place of the hearing and opportunity given to the public to be heard. Notice  
4 of the hearings and copies of the proposed standard, rule or regulation or any amendment or  
5 repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date  
6 of the hearing, to any person who has registered with the director for the purpose of receiving  
7 notice of such public hearings in accordance with the procedures prescribed by the commission  
8 at least forty-five days prior to the scheduled date of the hearing. However, this provision shall  
9 not preclude necessary changes during this thirty-day period.

10 2. At the hearing, opportunity to be heard by the commission with respect to the subject  
11 thereof shall be afforded any interested person upon written request to the commission, addressed  
12 to the director, not later than seven days prior to the hearing, and may be afforded to other  
13 persons if convenient. In addition, any interested persons, whether or not heard, may submit,  
14 within seven days subsequent to the hearings, a written statement of their views. The  
15 commission may solicit the views, in writing, of persons who may be affected by, or interested

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.

16 in, proposed rules and regulations, or standards. Any person heard or represented at the hearing  
17 or making written request for notice shall be given written notice of the action of the commission  
18 with respect to the subject thereof.

19 3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed  
20 adopted or in force and effect until it has been approved in writing by at least four members of  
21 the commission. A standard, rule or regulation or an amendment or repeal thereof shall not  
22 become effective until a certified copy thereof has been filed with the secretary of state as  
23 provided in chapter 536, RSMo.

24 4. Unless prohibited by any federal water pollution control act, any standard, rule or  
25 regulation or any amendment or repeal thereof which is adopted by the commission may differ  
26 in its terms and provisions as between particular types and conditions of water quality standards  
27 or of water contaminants, as between particular classes of water contaminant sources, and as  
28 between particular waters of the state.

29 5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended,  
30 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval  
31 that will result in any waters of the state being classified as impaired shall be adopted by the  
32 commission after a public hearing, or series of hearings, held in accordance with the following  
33 procedures. The department of natural resources shall publish in at least six regional  
34 newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired  
35 waters of the state and such notice shall include at least ninety days' advance notice of the date,  
36 time, and place of the public hearing and opportunity given to the public to be heard. Notice of  
37 the hearings and copies of the proposed list of impaired waters also shall be posted on the  
38 department of natural resources' website and given by regular mail, at least ninety days prior to  
39 the scheduled date of the hearing, to any person who has registered with the director for the  
40 purpose of receiving notice of such public hearings. The proposed list of impaired waters shall  
41 identify the water segment, the uses to be made of such waters, the uses impaired, identify the  
42 pollutants causing or expected to cause violations of the applicable water quality standards, and  
43 provide a summary of the data relied upon to make the preliminary determination.  
44 Contemporaneous with the publication of the notice of public hearing, the department shall make  
45 available on its website all data and information it relied upon to prepare the proposed list of  
46 impaired waters, including a narrative explanation of how the department determined the water  
47 segment was impaired. At any time after the public notice and until seven days after the public  
48 hearing, the department shall accept written comments on the proposed list of impaired waters.  
49 After the public hearing and after all written comments have been submitted, the department  
50 shall prepare a written response to all comments and a revised list of impaired waters. The  
51 commission shall adopt a list of impaired waters in a public meeting during which the public

52 shall be afforded an opportunity to respond to the department's written response to comments and  
53 revised list of impaired waters.

54 Notice of the meeting shall include the date, time, and place of the public meeting and shall  
55 provide notice that the commission will give interested persons the opportunity to respond to the  
56 department's revised list of impaired waters and written responses to comments. At its  
57 discretion, the commission may extend public comment periods or hold additional public  
58 hearings on the proposed and revised lists of impaired waters. The commission shall not vote  
59 to add to the list of impaired waters any waters not recommended by the department in the  
60 proposed or revised lists of impaired waters without granting the public at least thirty additional  
61 days to comment on the proposed addition. The list of impaired waters adopted by the  
62 commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing  
63 of any water segment on the list of impaired waters adopted by the commission shall be subject  
64 to judicial review by any adversely affected party under section 536.150, RSMo. The provisions  
65 in this subsection shall expire on August 28, [2010] **2012**.

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees  
2 imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective  
3 October 1, 1990, and shall expire December 31, [2010] **2012**. Fees imposed pursuant to  
4 subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000,  
5 and shall expire on December 31, [2010] **2012**. The clean water commission shall promulgate  
6 rules and regulations on the procedures for billing and collection. All sums received through the  
7 payment of fees shall be placed in the state treasury and credited to an appropriate subaccount  
8 of the natural resources protection fund created in section 640.220, RSMo. Moneys in the  
9 subaccount shall be expended, upon appropriation, solely for the administration of sections  
10 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a  
11 public sewer district, a public water district or other publicly owned treatment works are state  
12 fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district,  
13 public water district or other publicly owned treatment works as reimbursement of billing and  
14 collection expenses.

15 2. The commission may grant a variance pursuant to section 644.061 to reduce fees  
16 collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce  
17 the discharge of water contaminants substantially below the levels required by commission rules.

18 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of  
19 application and on each anniversary date of permit issuance thereafter until the permit is  
20 terminated.

21 [4. There shall be convened a joint committee appointed by the president pro tem of the  
22 senate and the speaker of the house of representatives to consider proposals for restructuring the

23 fees imposed in sections 644.052 and 644.053. The committee shall review storm water  
24 programs, the state's implementation of the federal clean water program, storm water, and related  
25 state clean water responsibilities, and evaluate the costs to the state for maintaining the programs.  
26 The committee shall prepare and submit a report, including recommendations on funding the  
27 state clean water program, and storm water programs, to the governor, the house of  
28 representatives, and the senate no later than December 31, 2008.]

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