

SS SCS HB 650 -- DEPARTMENT OF NATURAL RESOURCES

(Vetoed by the Governor--Overridden by the General Assembly)

This bill changes the laws regarding the Department of Natural Resources. In its main provisions, the bill:

(1) Authorizes the department to submit fingerprints to the State Highway Patrol for the purpose of checking the criminal history of a person seeking employment or the issuance or renewal of a license, permit, certificate, or registration of authority;

(2) Transfers all powers, duties, and functions of the Land Survey Program and the Land Survey Commission within the Department of Natural Resources to the Department of Agriculture by Type 1 transfer;

(3) Specifies that if the Land Survey Program headquarters are located in any building owned by a state agency or department, the department cannot charge any fee above the amount paid to the Office of Administration for utilization of the building and designates the building that holds the permanent headquarters of the program as the "Robert E. Myers Building";

(4) Renames the Department of Natural Resources Revolving Services Fund as the Department of Agriculture Land Survey Revolving Services Fund and transfers the balance of the funds from the reproduction and sale of land survey documents into the newly created fund;

(5) Requires one member of the Dam and Reservoir Safety Council within the Department of Natural Resources to be from each of the state's three United States Congressional districts with the highest number of dams and requires the council to prepare and present an annual report to the General Assembly by December 31;

(6) Authorizes the State Treasurer to invest all of the moneys in the State Park Earnings Fund in the same manner as other funds are invested. Any interest earned on these investments must be credited to the fund;

(7) Allows the department to designate an area within any state park to serve as a dog park or an off-leash area for domestic household animals;

(8) Creates the Multi-Purpose Water Resource Program Renewable Water Program Fund for the purpose of providing, upon appropriation, grants and financial assistance for water supply storage treatment and water-related facilities under the

Multipurpose Water Resource Act;

(9) Eliminates the State Inter-agency Council for Outdoor Recreation and transfers the duties of the council as well as any functions related to state parks or historic sites, recreational trails, outdoor recreation, specified federal grant programs, or any other law to the department;

(10) Defines "disclosure statement" as it relates to a commercial waste processing facility or a solid waste disposal area to mean a sworn statement or affirmation in the form as may be required by the department director and specifies the information that must be included in the statement. The definition of "person" is revised to include a limited liability company, trust, or any other legal entity;

(11) Defines "key personnel" as it relates to a commercial waste processing facility or a solid waste disposal area as the applicant and any person employed by the applicant who is empowered to make discretionary decisions regarding the solid waste operations of the applicant in Missouri or if the applicant has not previously conducted solid waste operations in the state, any officer, director, partner, or any holder of at least 7% of the equity or debt of the applicant. Key personnel also includes the chief executive officer of any federal or state agency or any political subdivision and all key personnel of an entity that operates a landfill or a facility for the collection, transfer, treatment, processing, storage, or disposal of nonhazardous solid waste under a contract with or for one of these governmental entities;

(12) Repeals the provisions regarding the filing of a disclosure statement by an applicant for a commercial waste processing facility or a solid waste disposal area permit or a renewal and requires an applicant to file a disclosure statement at the time the application for a permit is filed with the department;

(13) Requires, upon request from the department director, a permit applicant, any person that could reasonably be expected to be involved in the management activities of the solid waste disposal area or solid waste processing facility, or anyone with a controlling interest in a permittee to submit to a criminal background check;

(14) Requires anyone who must file a disclosure statement to provide any assistance or information requested by the department director or the State Highway Patrol and to cooperate in any investigation or hearing conducted by the director. If the person does not cooperate or provide information, the permit may be denied or revoked;

(15) Requires an applicant to submit any additional information or change in information to the director within 30 days after the change or addition. Failure to provide the information may result in the revocation, denial, or conditional granting of the permit if the director notifies the permittee or applicant of his intention to do so;

(16) Specifies the persons who are exempt from the requirement to file a disclosure statement;

(17) Requires, after permit issuance, each facility to annually update the disclosure form by March 31;

(18) Exempts political subdivisions from the requirement to file and update a disclosure form;

(19) Requires any person seeking a permit to operate a solid waste disposal area, processing facility, or resource recovery facility to disclose, concurrently with the filing of the permit application, any convictions in this state for a violation of county or county equivalent public health or land use ordinances related to the management of solid waste. If the department finds that there is a continuing pattern of violations, it may deny the application;

(20) Exempts a municipal utility located in Greene County from being required to get preliminary site investigation approval to proceed with a utility waste landfill detailed site investigation;

(21) Specifies that any person or entity operating a solid waste processing facility or disposal area that has had its permit suspended or that has received other penalties may appeal the decision to the department. A bond may be required in order to stay the effect until the appeal is resolved. No judicial review can be available until all administrative remedies are exhausted;

(22) Includes dam and reservoir safety-, well installation-, oil and gas-, and solid waste permit-related appeals in the provisions governing the administrative appeals process and requires the Administrative Hearing Commission to render a final decision rather than a recommended decision in these cases;

(23) Extends from December 31, 2013, to December 31, 2018, the 50-cent fee that is collected on the retail sale of a lead-acid battery as well as the fees for any hazardous waste generated;

(24) Adds a member with an interest in the retail petroleum industry to the Hazardous Waste Management Commission. Currently,

three of the seven members of the commission must be knowledgeable of and may be employed in agriculture, the waste generating industry, and the waste management industry;

(25) Authorizes the department director to conduct a comprehensive review, with stakeholder input, of the fee structures for the generation of hazardous waste, clean water permits, and air pollution control permits. Upon completion of the review of a fee structure, the department must submit proposed changes to the respective commission for its review. The commission must follow specified steps in adopting the recommended changes and establishing the changes into rule;

(26) Repeals the provision requiring a hazardous waste disposal or treatment facility owner to obtain a permit before conducting postclosure activities;

(27) Repeals the provisions requiring a hazardous waste facility to submit a profile of the environmental and economic characteristics of the area including the extent of any air pollution, groundwater contamination, and health characteristics when applying for or renewing a hazardous waste facility permit;

(28) Repeals the provision requiring the department to conduct a review every five years of certain permitted hazardous waste facilities;

(29) Repeals the provision that prohibits the department from issuing a license or permit to anyone who is determined to habitually engage in hazardous waste management practices that pose a threat to human health or the environment;

(30) Extends from December 31, 2013, to December 31, 2018, the industrial mineral permit fees utilized to regulate and ensure reclamation of surfaced mined lands;

(31) Allows an applicant for multiple environmental permits or certifications to directly petition the department director for a unified permit schedule and to obtain the permits or certifications in a coordinated and streamlined process;

(32) Requires the department director to develop and implement a process to coordinate the processing of multiple environmental permits, certifications, or permit modifications from a single applicant;

(33) Requires, by December 1, 2013, and annually thereafter, the department to develop a list of all documents it uses to implement enforcement actions or penalties that have not been established in

statute or by rule. The department must provide the list and all documents referenced to the Joint Committee on Administrative Rules within the General Assembly for a review, in consultation with the department, to determine if the documents should be subject to the rulemaking process;

(34) Creates the Department of Natural Resources Revolving Services Fund for all funds received by the department from specified services and specifies how the funds can be used;

(35) Requires Missouri state parks that are designated swim beaches to utilize a standard that measures E. coli using the federal Environmental Protection Agency's Method 1603 or an equivalent method that measures culturable E. coli with the geometric mean based on weekly sampling of a specified number of forming units and statistical threshold value;

(36) Requires the department to post signs stating "Swimming is Not Recommended" if a beach exceeds the established geometric mean standard;

(37) Specifies that the department reserves the right to close a beach in the event of a documented health risk including, but not limited to, wastewater by-pass, extremely high sampling values, spills of hazardous chemicals, or localized outbreaks of an infectious disease;

(38) Specifies that in all civil actions involving claims arising from the ownership, maintenance, management, or control of underground hard rock mining or hard rock milling sites that ceased operations prior to January 1, 1975, or arising from chat or tailings generated at those sites, brought against a person or entity alleged to have owned, maintained, managed, or controlled the sites, chat, or tailings at any time, the person or entity must be exempt from punitive or exemplary damages to all claims related in any way to the ownership, maintenance, management, or control of the sites, chat, or tailings, as long as the person or entity or its employee, agent, owner, parent, subsidiary, or any related company has made or is making good faith efforts to remediate the sites. Any evidence may be introduced to demonstrate good faith efforts, including substantial compliance with an order or permit issued by or negotiated with the state or the United States concerning remediation or closure. The total of any awards of punitive or exemplary damages against a hard rock mining or milling site must not exceed \$2.5 million in the aggregate to all defendants in the civil action. One-half of any award for punitive or exemplary damages must be paid into the Missouri Lead Abatement Loan Fund. Nothing in these provisions can be construed as precluding any party from pursuing compensatory damages, including

claims for natural resource damages;

(39) Changes the requirements for neighbor notification for a Class I concentrated animal feeding operation. Currently, neighbor notification is required before filing an application for a construction permit. The bill requires notification before filing an application to acquire an operating permit for a new or expanded facility;

(40) Specifies that the owner or operator of a flush system animal waste wet handling facility to visually inspect the gravity outfall lines, recycle pump stations, recycle force mains, and any other accessory for any release to any containment structure once per week and visually inspect any lagoon where the water is less than 12 inches from an emergency spillway once per day;

(41) Requires the department to allow an appropriate schedule of compliance for a permittee to make upgrades or changes to its facilities that are necessary to meet new water quality requirements. The department must incorporate new water quality requirements into an existing permit at the time of renewal unless there is a compelling reason to implement the requirements earlier through permit modifications. All new permit applicants may be required to meet new water quality standards or classifications;

(42) Repeals the requirement that a proposed water contaminant or point source that will be subject to any federal water pollution control act or specified state laws or regulations must apply to the director for a permit at least 30 days prior to construction, installation, or establishment. It will be unlawful for a person to construct, build, replace, or make a major modification to a point source or collection system that is principally designed to convey or discharge human sewage to waters of the state unless the person obtains a construction permit from the Clean Water Commission within the department;

(43) Requires any point source that proposes to construct an earthen storage structure for domestic, agricultural, or industrial process wastewater to obtain a construction permit. All other construction-related activities are exempt from the permit requirement but are subject to specified conditions;

(44) Allows an entity that doesn't charge a service connection fee and requests a nonsubstantive modification to a sewage treatment permit to pay a \$100 fee to the department. Currently, the fee for a modification is 25% of the annual operating fee assessed;

(45) Extends, from September 1, 2013, to December 31, 2018, the Clean Water Commission's authority to charge fees for construction

permits, operating permits, and operator's certifications related to water pollution control;

(46) Authorizes the department director to grant a provisional variance when it is determined that compliance on a short-term basis with the limitations in the clean water law or the related rules and regulations due to conditions beyond reasonable control will result in an arbitrary or unreasonable hardship that exists solely because of the regulatory requirement in question and the costs of compliance are substantial and certain;

(47) Specifies that the director must consider the hardship imposed by requiring compliance and the adverse impact from granting a variance when granting a variance due to conditions beyond reasonable control;

(48) Specifies that a variance can be granted for up to 45 days and may be extended by the department director for up to an additional 45 days, but a variance cannot last longer than 90 days in one calendar year;

(49) Specifies the application process for a variance and requires a \$250 fee with each petition. The department director must investigate each petition and take action within 14 days of its receipt;

(50) Specifies that if the department director grants a provisional variance, he or she must notify the petitioner and file a written copy of the decision with the Clean Water Commission. The commission must maintain copies of all provisional variances;

(51) Requires the Division of State Parks within the department to hold a stakeholder meeting in each park district once a year. A stakeholder may petition the Director of State Parks regarding any policy or park issue that has been presented to the relevant facility manager and district supervisor;

(52) Establishes the Joint Committee on Solid Waste Management District Operations within the General Assembly to examine solid waste management district operations, including the efficiency, efficacy, and reasonableness of costs and expenses of the districts to Missouri taxpayers. The committee must prepare a final report to the General Assembly by December 31, 2013; and

(53) Repeals the provisions requiring the department to assess the transportation system serving a proposed site for a new hazardous waste resource, recovery treatment, or disposal facility as part of its review for a permit.

The provisions of the bill regarding the review of specified fee structures will expire August 28, 2023.

The provisions of the bill regarding the exemption for a municipal utility in Greene County from being required to get preliminary site investigation approval for a utility landfill permit are severable and the effective date of that section for the purpose of conducting the public involvement activity will be the date of approval of the preliminary site investigation.

The provisions of the bill regarding state parks designated swim beaches and the department director's review of the clean water fee structure under Section 644.057, RSMo, contain an emergency clause.