

HCS HB 881 -- DEPARTMENT OF NATURAL RESOURCES

SPONSOR: Guernsey

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Agri-Business by a vote of 9 to 1.

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

- (1) Authorizes the Department of Natural Resources to submit fingerprints to the State Highway Patrol for the purpose of checking the criminal history of a person seeking the issuance or renewal of a license, permit, certificate, or registration of authority;
- (2) Prohibits the Department of Agriculture from using more than 10% of the moneys in the Land Survey Fund for administrative expenses;
- (3) Transfers all powers, duties, and functions of the Land Survey Program within the Department of Natural Resources to the Department of Agriculture by type 1 transfer;
- (4) Renames the Department of Natural Resources Revolving Services Fund as the Department of Agriculture 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 five 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) Establishes the Missouri State Parks Commission within the Department of Natural Resources and transfers all powers, functions, and duties of the Missouri State Park Board within the department to the commission. The commission:
  - (a) Must formulate policies and general programs for all matters relating to the acquisition, development, and operation of the state park system;
  - (b) Must consist of one member from each of the state's United States Congressional districts and the Director of the Department of Natural Resources. The substitute specifies the requirements and terms of service for the commission and meeting frequency;

(c) May conduct public hearings on matters under consideration by the commission;

(d) Must prepare an annual report for the Governor and members of the General Assembly and make it available to the general public;

(7) Specifies that the Missouri Trails Advisory Board, Missouri Advisory Council on Historic Preservation, and the State Interagency Council for Outdoor Recreation within the Department of Natural Resources must report to the State Parks Commission within the department;

(8) Requires the Industrial Minerals Advisory Council within the Department of Natural Resources to prepare and present an annual report to the General Assembly by December 31;

(9) Repeals the requirement to file a disclosure form when seeking a renewal permit for a commercial solid waste processing facility or a solid waste disposal area;

(10) Modifies the information required in the disclosure statement for an entity seeking a permit for a commercial waste processing facility or a solid waste disposal area;

(11) 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;

(12) 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;

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

(14) Specifies the people who are exempt from the requirement to file a disclosure statement;

(15) Requires permittees to annually update the disclosure form;

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

(17) Requires any permit applicant to disclose any final administrative, civil or criminal adjudication in the state related to solid waste. If the department finds there is a continuing pattern of violations, it may deny the application;

(18) Authorizes the Director of the Department of Natural Resources 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 will submit proposed changes to the respective commission for its review. The commission must follow specified steps in adopting the recommendations changes and promulgating the changes into rule;

(19) Specifies that if the General Assembly does not disapprove the rules setting out any new fee structure in the manner specified, it will take effect on January 1 of the next odd-numbered year;

(20) Repeals the provision requiring hazardous waste facility owners to obtain a permit for post closure activities;

(21) Repeals the provision requiring hazardous waste facilities 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;

(22) Repeals the provision requiring the Department of Natural Resources to conduct a five-year review of certain permitted hazardous waste facilities;

(23) Repeals the provision that prohibits the Department of Natural Resources 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;

(24) Transfers the Petroleum Storage Tank Insurance Fund and the board of trustees from the Department of Natural Resources to the Department of Insurance, Financial Institutions, and Professional Registration by a Type III transfer;

(25) Allows an applicant for multiple permits or certifications to directly petition the Director of the Department of Natural Resources for a unified permit schedule and to obtain the permits or certifications in a coordinated and streamlined process;

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

(27) Authorizes the Department of Natural Resources to use the fast-track rulemaking procedure for expediting the adoption of federal rules without changes. The department may promulgate rules that adopt federal rules without changes provided the commission with rulemaking authority provides timely notice and opportunity to comment on the rules. The order of rulemaking would become effective 10 days after publication in the Missouri Register.

(28) Specifies the steps the department must follow when using fast-track rulemaking procedures;

(29) Specifies that if any adverse comment is received by the department during the comment period, a public hearing must be scheduled and the normal rulemaking process will be followed from that point forward;

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

(31) Changes the requirements for neighbor notification for Class I concentrated animal feeding operations. Currently neighbor notification is required before filing an application for a construction permit. The notification would be required before filing for an operating permit;

(32) Requires the Missouri Weatherization Policy Advisory Council within the Department of Natural Resources to prepare and present an annual report to the General Assembly by December 31;

(33) Requires any recipient of a grant or other funds from the Weatherization Assistance Program for Low-Income Persons within the Department of Natural Resources to attend a financial planning or budgeting course from a local community action group, community college, or school before receiving the grant or funds;

(34) Repeals the requirement for certain wastewater discharges to obtain a construction permit. It is unlawful for a person to construct, build, replace or make a major modification to a point source that is principally designed to discharge human sewage unless the person obtains a construction permit from the Clean Water Commission within the Department of Natural Resources;

(35) 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;

(36) Authorizes the Director of the Department of Natural Resources to grant provisional variances when it is determined that compliance with the limitations in the clean water law or the related rules and regulations are due to conditions beyond reasonable control and will result in an unreasonable hardship that exists solely because of the regulatory requirement and costs of compliance are substantial and certain;

(37) Specifies the effects the director must consider when granting the variance to temperature requirements;

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

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

(40) Specifies that if the 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; and

(41) Repeals the provisions requiring the Department of Natural Resources to assess the transportation system serving a proposed hazardous waste facility.

The provisions of the substitute regarding the clean water permitting fee structure contain an emergency clause.

**PROPOSERS:** Supporters say that the bill will streamline the Department of Natural Resources and make it more user friendly. The department is a very large, highly regulatory department that affects many people and businesses in Missouri. The department needs to work better with the people and businesses it regulates.

Testifying for the bill were Representative Guernsey; and Department of Natural Resources.

**OPPOSERS:** Those who oppose the bill say that the bill removes many boards and commissions that allow stakeholders and the general public to provide input into the rulemaking, appeals and other important processes within the department.

Testifying against the bill were Missouri Society of Professional Surveyors; James Williams; Missouri Limestone Producers Association; Mining Industry Council of Missouri; and Danny Flynn, Well Installation Board.

OTHERS: Others testifying on the bill say that there are many good provisions in the bill that would promote government efficiency; however, moving or eliminating the Well Installation Board would remove protections and industry input into groundwater protection.

Testifying on the bill were Missouri Farm Bureau and Missouri Corn Growers Association.