

Refer to Fiscal Review
5-6-15

Miller



0070S02.01F

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives
that the Senate has taken up and passed

SS HB 92

entitled:

AN ACT

To repeal sections 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100,
259.190, 259.210, 260.235, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115,
643.075, 643.078, 644.011, 644.016, 644.051, and 644.056, RSMo, and to enact in lieu
thereof twenty-five new sections relating to the department of natural resources.

With SA 1, SA 2, SA 3

In which the concurrence of the House is respectfully requested.

Respectfully,

Adriane D. Crouse
Secretary of the Senate

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SENATE AMENDMENT NO. 1

Offered by WALINGFORD of DISTRICT 27

Amend SS/House Bill No. 92, Page 1, Section A, Line 10,

2 of said page, by inserting immediately after said line the
3 following:

4 "29.380. 1. The state auditor shall have the authority to
5 audit solid waste management districts created under section
6 260.305 in the same manner as the auditor may audit any agency of
7 the state.

8 2. Beginning August 28, [2012] 2015, the state auditor
9 [shall conduct an audit of each solid waste management district
10 created under section 260.305 and thereafter shall] may conduct
11 audits of [each] solid waste management [district] districts as
12 he or she deems necessary. The state auditor may request
13 reimbursement from the district for the costs of conducting the
14 audit. If the auditor requests such reimbursement, the solid
15 waste management district shall reimburse the auditor for the
16 costs of conducting the audit and the moneys shall be deposited
17 in the petition audit revolving trust fund created under section
18 29.230. Such reimbursement shall be limited to two percent of
19 the solid waste management district's annual monetary
20 allocation."; and

21 Further amend said bill, page 22, section 259.210, line 6 of
22 said page, by inserting immediately after said line the

Offered 5/5/15
Adopted "

1 following:

2 "260.200. 1. The following words and phrases when used in
3 sections 260.200 to 260.345 shall mean:

4 (1) "Alkaline-manganese battery" or "alkaline battery", a
5 battery having a manganese dioxide positive electrode, a zinc
6 negative electrode, an alkaline electrolyte, including
7 alkaline-manganese button cell batteries intended for use in
8 watches, calculators, and other electronic products, and
9 larger-sized alkaline-manganese batteries in general household
10 use;

11 (2) "Applicant", a person or persons seeking or holding a
12 facility permit;

13 (3) "Bioreactor", a municipal solid waste disposal area or
14 portion of a municipal solid waste disposal area where the
15 controlled addition of liquid waste or water accelerates both the
16 decomposition of waste and landfill gas generation;

17 (4) "Button cell battery" or "button cell", any small
18 alkaline-manganese or mercuric-oxide battery having the size and
19 shape of a button;

20 (5) "City", any incorporated city, town, or village;

21 (6) "Clean fill", uncontaminated soil, rock, sand, gravel,
22 concrete, asphaltic concrete, cinderblocks, brick, minimal
23 amounts of wood and metal, and inert solids as approved by rule
24 or policy of the department for fill, reclamation or other
25 beneficial use;

26 (7) "Closure", the permanent cessation of active disposal
27 operations, abandonment of the disposal area, revocation of the
28 permit or filling with waste of all areas and volumes specified
29 in the permit and preparing the area for long-term care;

1 (8) "Closure plan", plans, designs and relevant data which
2 specify the methods and schedule by which the operator will
3 complete or cease disposal operations, prepare the area for
4 long-term care, and make the area suitable for other uses, to
5 achieve the purposes of sections 260.200 to 260.345 and the
6 regulations promulgated thereunder;

7 (9) "Conference, conciliation and persuasion", a process of
8 verbal or written communications consisting of meetings, reports,
9 correspondence or telephone conferences between authorized
10 representatives of the department and the alleged violator. The
11 process shall, at a minimum, consist of one offer to meet with
12 the alleged violator tendered by the department. During any such
13 meeting, the department and the alleged violator shall negotiate
14 in good faith to eliminate the alleged violation and shall
15 attempt to agree upon a plan to achieve compliance;

16 (10) "Construction and demolition waste", waste materials
17 from the construction and demolition of residential, industrial,
18 or commercial structures, but shall not include materials defined
19 as clean fill under this section;

20 (11) "Demolition landfill", a solid waste disposal area
21 used for the controlled disposal of demolition wastes,
22 construction materials, brush, wood wastes, soil, rock, concrete
23 and inert solids insoluble in water;

24 (12) "Department", the department of natural resources;

25 (13) "Director", the director of the department of natural
26 resources;

27 (14) "Disclosure statement", a sworn statement or
28 affirmation, in such form as may be required by the director of
29 the department of natural resources, which includes:

- 1 (a) The full names and business address of key personnel;
- 2 (b) The full name and business address of any entity, other
3 than a natural person, that collects, transfers, processes,
4 treats, stores, or disposes of solid waste in which all key
5 personnel holds an equity interest of seven percent or more;
- 6 (c) A description of the business experience of all key
7 personnel listed in the disclosure statement;
- 8 (d) For the five-year period ending on the date the sworn
9 disclosure statement or affirmation is signed by key personnel:
- 10 a. A listing organized by issuing federal, state, or county
11 or county-equivalent regulatory body of all environmental permits
12 or licenses for the collection, transfer, treatment, processing,
13 storage, or disposal of solid waste issued to or held by any key
14 personnel;
- 15 b. A listing and explanation of notices of violation which
16 shall by rule be defined, prosecutions, or other administrative
17 enforcement actions resulting in an adjudication or conviction;
- 18 c. A listing of license or permit suspensions, revocations,
19 or denials issued by any state, the federal government or a
20 county or county equivalent, which are pending or have concluded
21 with a finding of violation or entry of a consent agreement
22 regarding an allegation of civil or criminal violation of law,
23 regulation or requirement relating to the collection, transfer,
24 treatment, processing, storage, or disposal of solid waste or
25 violation of the environmental statutes of other states or
26 federal statutes;
- 27 d. An itemized list of all felony convictions under the
28 laws of the state of Missouri or the equivalent thereof under the
29 laws of any other jurisdiction; and a listing of any findings of

1 guilt for any crimes or criminal acts an element of which
2 involves restraint of trade, price-fixing, intimidation of the
3 customers of another person or for engaging in any other acts
4 which may have the effect of restraining or limiting competition
5 concerning activities regulated pursuant to this chapter or
6 similar laws of other states or the federal government including,
7 but not limited to, racketeering or violation of antitrust laws
8 of any key personnel;

9 (15) "District", a solid waste management district
10 established under section 260.305;

11 (16) "Financial assurance instrument", an instrument or
12 instruments, including, but not limited to, cash or surety bond,
13 letters of credit, corporate guarantee or secured trust fund,
14 submitted by the applicant to ensure proper closure and
15 postclosure care and corrective action of a solid waste disposal
16 area in the event that the operator fails to correctly perform
17 closure and postclosure care and corrective action requirements,
18 except that the financial test for the corporate guarantee shall
19 not exceed one and one-half times the estimated cost of closure
20 and postclosure. The form and content of the financial assurance
21 instrument shall meet or exceed the requirements of the
22 department. The instrument shall be reviewed and approved or
23 disapproved by the attorney general;

24 (17) "Flood area", any area inundated by the one hundred
25 year flood event, or the flood event with a one percent chance of
26 occurring in any given year;

27 (18) "Household consumer", an individual who generates used
28 motor oil through the maintenance of the individual's personal
29 motor vehicle, vessel, airplane, or other machinery powered by an

1 internal combustion engine;

2 (19) "Household consumer used motor oil collection center",
3 any site or facility that accepts or aggregates and stores used
4 motor oil collected only from household consumers or farmers who
5 generate an average of twenty-five gallons per month or less of
6 used motor oil in a calendar year. This section shall not
7 preclude a commercial generator from operating a household
8 consumer used motor oil collection center;

9 (20) "Household consumer used motor oil collection system",
10 any used motor oil collection center at publicly owned facilities
11 or private locations, any curbside collection of household
12 consumer used motor oil, or any other household consumer used
13 motor oil collection program determined by the department to
14 further the purposes of sections 260.200 to 260.345;

15 (21) "Infectious waste", waste in quantities and
16 characteristics as determined by the department by rule,
17 including isolation wastes, cultures and stocks of etiologic
18 agents, blood and blood products, pathological wastes, other
19 wastes from surgery and autopsy, contaminated laboratory wastes,
20 sharps, dialysis unit wastes, discarded biologicals known or
21 suspected to be infectious; provided, however, that infectious
22 waste does not mean waste treated to department specifications;

23 (22) "Key personnel", the applicant itself and any person
24 employed by the applicant in a managerial capacity, or empowered
25 to make discretionary decisions with respect to the solid waste
26 operations of the applicant in Missouri, but shall not include
27 employees exclusively engaged in the physical or mechanical
28 collection, transfer, transportation, treatment, processing,
29 storage, or disposal of solid waste and such other employees as

1 the director of the department of natural resources may designate
2 by regulation. If the applicant has not previously conducted
3 solid waste operations in Missouri, the term also includes any
4 officer, director, partner of the applicant, or any holder of
5 seven percent or more of the equity or debt of the applicant. If
6 any holder of seven percent or more of the equity or debt of the
7 applicant or of any key personnel is not a natural person, the
8 term includes all key personnel of that entity, provided that
9 where such entity is a chartered lending institution or a
10 reporting company under the federal Securities Exchange Act of
11 1934, the term does not include key personnel of such entity.
12 Provided further that the term means the chief executive officer
13 of any agency of the United States or of any agency or political
14 subdivision of the state of Missouri, and all key personnel of
15 any person, other than a natural person, that operates a landfill
16 or other facility for the collection, transfer, treatment,
17 processing, storage, or disposal of nonhazardous solid waste
18 under contract with or for one of those governmental entities;

19 (23) "Lead-acid battery", a battery designed to contain
20 lead and sulfuric acid with a nominal voltage of at least six
21 volts and of the type intended for use in motor vehicles and
22 watercraft;

23 (24) "Major appliance", clothes washers and dryers, water
24 heaters, trash compactors, dishwashers, conventional ovens,
25 ranges, stoves, woodstoves, air conditioners, refrigerators and
26 freezers;

27 (25) "Mercuric-oxide battery" or "mercury battery", a
28 battery having a mercuric-oxide positive electrode, a zinc
29 negative electrode, and an alkaline electrolyte, including

1 mercuric-oxide button cell batteries generally intended for use
2 in hearing aids and larger size mercuric-oxide batteries used
3 primarily in medical equipment;

4 (26) "Minor violation", a violation which possesses a small
5 potential to harm the environment or human health or cause
6 pollution, was not knowingly committed, and is not defined by the
7 United States Environmental Protection Agency as other than
8 minor;

9 (27) "Motor oil", any oil intended for use in a motor
10 vehicle, as defined in section 301.010, train, vessel, airplane,
11 heavy equipment, or other machinery powered by an internal
12 combustion engine;

13 (28) "Motor vehicle", as defined in section 301.010;

14 (29) "Operator" and "permittee", anyone so designated, and
15 shall include cities, counties, other political subdivisions,
16 authority, state agency or institution, or federal agency or
17 institution;

18 (30) "Permit modification", any permit issued by the
19 department which alters or modifies the provisions of an existing
20 permit previously issued by the department;

21 (31) "Person", any individual, partnership, limited
22 liability company, corporation, association, trust, institution,
23 city, county, other political subdivision, authority, state
24 agency or institution, or federal agency or institution, or any
25 other legal entity;

26 (32) "Plasma arc technology", a process that converts
27 electrical energy into thermal energy. This electric arc is
28 created when an ionized gas transfers electric power between two
29 or more electrodes;

1 (33) "Postclosure plan", plans, designs and relevant data
2 which specify the methods and schedule by which the operator
3 shall perform necessary monitoring and care for the area after
4 closure to achieve the purposes of sections 260.200 to 260.345
5 and the regulations promulgated thereunder;

6 (34) "Recovered materials", those materials which have been
7 diverted or removed from the solid waste stream for sale, use,
8 reuse or recycling, whether or not they require subsequent
9 separation and processing;

10 (35) "Recycled content", the proportion of fiber in a
11 newspaper which is derived from postconsumer waste;

12 (36) "Recycling", the separation and reuse of materials
13 which might otherwise be disposed of as solid waste;

14 (37) "Resource recovery", a process by which recyclable and
15 recoverable material is removed from the waste stream to the
16 greatest extent possible, as determined by the department and
17 pursuant to department standards, for reuse or remanufacture;

18 (38) "Resource recovery facility", a facility in which
19 recyclable and recoverable material is removed from the waste
20 stream to the greatest extent possible, as determined by the
21 department and pursuant to department standards, for reuse or
22 remanufacture;

23 (39) "Sanitary landfill", a solid waste disposal area which
24 accepts commercial and residential solid waste;

25 (40) "Scrap tire", a tire that is no longer suitable for
26 its original intended purpose because of wear, damage, or defect;

27 (41) "Scrap tire collection center", a site where scrap
28 tires are collected prior to being offered for recycling or
29 processing and where fewer than five hundred tires are kept on

1 site on any given day;

2 (42) "Scrap tire end-user facility", a site where scrap
3 tires are used as a fuel or fuel supplement or converted into a
4 usable product. Baled or compressed tires used in structures, or
5 used at recreational facilities, or used for flood or erosion
6 control shall be considered an end use;

7 (43) "Scrap tire generator", a person who sells tires at
8 retail or any other person, firm, corporation, or government
9 entity that generates scrap tires;

10 (44) "Scrap tire processing facility", a site where tires
11 are reduced in volume by shredding, cutting, or chipping or
12 otherwise altered to facilitate recycling, resource recovery, or
13 disposal;

14 (45) "Scrap tire site", a site at which five hundred or
15 more scrap tires are accumulated, but not including a site owned
16 or operated by a scrap tire end-user that burns scrap tires for
17 the generation of energy or converts scrap tires to a useful
18 product;

19 (46) "Solid waste", garbage, refuse and other discarded
20 materials including, but not limited to, solid and semisolid
21 waste materials resulting from industrial, commercial,
22 agricultural, governmental and domestic activities, but does not
23 include hazardous waste as defined in sections 260.360 to
24 260.432, recovered materials, overburden, rock, tailings, matte,
25 slag or other waste material resulting from mining, milling or
26 smelting;

27 (47) "Solid waste disposal area", any area used for the
28 disposal of solid waste from more than one residential premises,
29 or one or more commercial, industrial, manufacturing,

1 recreational, or governmental operations;

2 (48) "Solid waste fee", a fee imposed pursuant to sections
3 260.200 to 260.345 and may be:

4 (a) A solid waste collection fee imposed at the point of
5 waste collection; or

6 (b) A solid waste disposal fee imposed at the disposal
7 site;

8 (49) "Solid waste management area", a solid waste disposal
9 area which also includes one or more of the functions contained
10 in the definitions of recycling, resource recovery facility,
11 waste tire collection center, waste tire processing facility,
12 waste tire site or solid waste processing facility, excluding
13 incineration;

14 (50) "Solid waste management project", a targeted project
15 that meets statewide waste reduction and recycling priorities,
16 and for which no solid waste management district grant applicant
17 has applied to perform, and for which no qualified applicants
18 have applied to perform such project by a competitive bid issued
19 by the solid waste management district for the completion of such
20 project;

21 (51) "Solid waste management system", the entire process of
22 managing solid waste in a manner which minimizes the generation
23 and subsequent disposal of solid waste, including waste
24 reduction, source separation, collection, storage,
25 transportation, recycling, resource recovery, volume
26 minimization, processing, market development, and disposal of
27 solid wastes;

28 [(51)] (52) "Solid waste processing facility", any
29 facility where solid wastes are salvaged and processed,

1 including:

2 (a) A transfer station; or

3 (b) An incinerator which operates with or without energy
4 recovery but excluding waste tire end-user facilities; or

5 (c) A material recovery facility which operates with or
6 without composting;

7 (d) A plasma arc technology facility;

8 [(52)] (53) "Solid waste technician", an individual who
9 has successfully completed training in the practical aspects of
10 the design, operation and maintenance of a permitted solid waste
11 processing facility or solid waste disposal area in accordance
12 with sections 260.200 to 260.345;

13 [(53)] (54) "Tire", a continuous solid or pneumatic rubber
14 covering encircling the wheel of any self-propelled vehicle not
15 operated exclusively upon tracks, or a trailer as defined in
16 chapter 301, except farm tractors and farm implements owned and
17 operated by a family farm or family farm corporation as defined
18 in section 350.010;

19 [(54)] (55) "Used motor oil", any motor oil which, as a
20 result of use, becomes unsuitable for its original purpose due to
21 loss of original properties or the presence of impurities, but
22 used motor oil shall not include ethylene glycol, oils used for
23 solvent purposes, oil filters that have been drained of free
24 flowing used oil, oily waste, oil recovered from oil tank
25 cleaning operations, oil spilled to land or water, or industrial
26 nonlube oils such as hydraulic oils, transmission oils, quenching
27 oils, and transformer oils;

28 [(55)] (56) "Utility waste landfill", a solid waste
29 disposal area used for fly ash waste, bottom ash waste, slag

1 waste and flue gas emission control waste generated primarily
2 from the combustion of coal or other fossil fuels;

3 [(56)] (57) "Yard waste", leaves, grass clippings, yard
4 and garden vegetation and Christmas trees. The term does not
5 include stumps, roots or shrubs with intact root balls.

6 2. For the purposes of this section and sections 260.270 to
7 260.279 and any rules in place as of August 28, 2005, or
8 promulgated under said sections, the term "scrap" shall be used
9 synonymously with and in place of waste, as it applies only to
10 scrap tires.

11 260.225. 1. The department shall administer sections
12 260.200 to 260.345 to maximize the amount of recovered materials
13 and to minimize disposal of solid waste in sanitary landfills.
14 The department shall, through its rules and regulations, policies
15 and programs, encourage to the maximum extent practical, the use
16 of alternatives to disposal. To accomplish these objectives, the
17 department shall:

18 (1) Administer the state solid waste management program
19 pursuant to the provisions of sections 260.200 to 260.345;

20 (2) Cooperate with appropriate federal, state, and local
21 units of government of this or any other state, and with
22 appropriate private organizations in carrying out its authority
23 under sections 260.200 to 260.345;

24 (3) Promulgate and adopt, after public hearing, such rules
25 and regulations relating to solid waste management systems as
26 shall be necessary to carry out the purposes and provisions of
27 sections 260.200 to 260.345;

28 (4) Develop a statewide solid waste management plan in
29 cooperation with local governments, regional planning

1 commissions, districts, and appropriate state agencies;

2 (5) Provide technical assistance to cities, counties,
3 districts, and authorities;

4 (6) Develop and conduct a mandatory solid waste technician
5 training course of study;

6 (7) Conduct and contract for research and investigations in
7 the overall area of solid waste storage, collection, recycling,
8 recovery, processing, transportation and disposal, including, but
9 not limited to, new and novel procedures;

10 (8) Subject to appropriation by the general assembly,
11 establish criteria for awarding state-funded solid waste
12 management [planning] grants to cities, counties, and districts,
13 allocate funds, and monitor the proper expenditure of funds;

14 (9) Issue such permits and orders and conduct such
15 inspections as may be necessary to implement the provisions of
16 sections 260.200 to 260.345 and the rules and regulations adopted
17 pursuant to sections 260.200 to 260.345;

18 (10) Initiate, conduct and support research, demonstration
19 projects, and investigations with applicable federal programs
20 pertaining to solid waste management systems;

21 (11) Contract with cities, counties, districts and other
22 persons to act as its agent in carrying out the provisions of
23 sections 260.200 to 260.345 under procedures and conditions as
24 the department shall prescribe.

25 2. The department shall prepare model solid waste
26 management plans suitable for rural and urban areas which may be
27 used by districts, counties and cities. In preparing the model
28 plans, the department shall consider the findings and
29 recommendations of the study of resource recovery conducted

1 pursuant to section 260.038, and other relevant information. The
2 plans shall conform with the requirements of section 260.220 and
3 section 260.325 and shall:

4 (1) Emphasize waste reduction and recycling;

5 (2) Provide for economical waste management through
6 regional and district cooperation;

7 (3) Be designed to achieve a reduction of forty percent in
8 solid waste disposed, by weight, by January 1, 1998;

9 (4) Establish a means to measure the amount of reduction in
10 solid waste disposal;

11 (5) Provide for the elimination of small quantities of
12 hazardous waste, including household hazardous waste, from the
13 solid waste stream; and

14 (6) Be designed to guide planning in districts, cities and
15 counties including cities and counties not within a district.

16 3. The model plan shall be distributed to the executive
17 board of each solid waste district and to counties and cities not
18 within a district by December 1, 1991.

19 4. No rule or portion of a rule promulgated under the
20 authority of sections 260.200 to 260.345 shall become effective
21 unless it has been promulgated pursuant to the provisions of
22 section 536.024.

23 5. In coordination with other appropriate state agencies,
24 including, but not limited to, the division of commerce and
25 industrial development, the office of administration, the
26 environmental improvement and energy resource authority, and the
27 public service commission, the department shall perform the
28 following duties in order to promote resource recovery in the
29 state in ways which are economically feasible:

1 (1) Identify markets for recovered materials and for energy
2 which could be produced from solid waste and household hazardous
3 waste;

4 (2) Provide technical assistance pertaining to all aspects
5 of resource recovery to cities, counties, districts, industries
6 and other persons;

7 (3) Identify opportunities for resource recovery programs
8 in state government and initiate actions to implement such
9 programs;

10 (4) Expand state contracts for procurement of items made
11 from recovered materials;

12 (5) Initiate recycling programs within state government;

13 (6) Provide a clearinghouse of consumer information
14 regarding the need to support resource recovery, utilize and
15 develop new resource recovery programs around existing
16 enterprises, request and purchase recycled products, participate
17 in resource conservation activities and other relevant issues;

18 (7) Identify barriers to resource recovery and resource
19 conservation, and propose remedies to these barriers; and

20 (8) Initiate activities with appropriate state and local
21 entities to develop markets for recovered materials."; and

22 Further amend said bill, page 23, section 260.235, line 19
23 of said page, by inserting immediately after said line the
24 following:

25 "260.250. 1. After January 1, 1991, major appliances,
26 waste oil and lead-acid batteries shall not be disposed of in a
27 solid waste disposal area. After January 1, 1992, yard waste
28 shall not be disposed of in a solid waste disposal area, except
29 as otherwise provided in this subsection. After August 28, 2007,

1 yard waste may be disposed of in a municipal solid waste disposal
2 area or portion of a municipal solid waste disposal area provided
3 that:

4 (1) The department has approved the municipal solid waste
5 disposal area or portion of a solid waste disposal area to
6 operate as a bioreactor under 40 CFR Part 258.4; and

7 (2) The landfill gas produced by the bioreactor shall be
8 used for the generation of electricity.

9 2. After January 1, 1991, waste oil shall not be
10 incinerated without energy recovery.

11 3. Each solid waste management district[, county and city]
12 shall address the recycling, reuse and handling of aluminum
13 containers, glass containers, newspapers, textiles, whole tires,
14 plastic beverage containers and steel containers in its solid
15 waste management plan consistent with sections 260.250 to
16 260.345.

17 260.320. 1. The executive board shall meet within thirty
18 days after the selection of the initial members. The time and
19 place of the first meeting of the board shall be designated by
20 the council. A majority of the members of the board shall
21 constitute a quorum. At its first meeting the board shall elect
22 a chairman from its members and select a secretary, treasurer and
23 such officers or employees as it deems expedient or necessary for
24 the accomplishment of its purposes. The secretary and treasurer
25 need not be members of the board.

26 2. The executive board may adopt, alter or repeal its own
27 bylaws, rules and regulations governing the manner in which its
28 business may be transacted, including procedures for the
29 replacement of persons who habitually fail to attend board

1 meetings, and may establish its fiscal year, adopt an official
2 seal, apply for and accept grants, gifts or appropriations from
3 any public or private sector, make all expenditures which are
4 incidental and necessary to carry out its purposes and powers,
5 and take such action, enter into such agreements and exercise all
6 other powers and functions necessary or appropriate to carry out
7 the duties and purposes of sections 260.200 to 260.345.

8 3. The executive board shall:

9 (1) Review and comment upon applications for permits
10 submitted pursuant to section 260.205, for solid waste processing
11 facilities and solid waste disposal areas which are to be located
12 within the region or, if located in an adjacent region, which
13 will impact solid waste management practices within the region;

14 (2) Prepare and recommend to the council a solid waste
15 management plan for the district;

16 (3) Identify illegal dump sites and provide all available
17 information about such sites to the appropriate county prosecutor
18 and to the department;

19 (4) Establish an education program to inform the public
20 about responsible solid waste management practices;

21 (5) Establish procedures to minimize the introduction of
22 small quantities of hazardous waste, including household
23 hazardous waste, into the solid waste stream;

24 (6) Assure adequate capacity to manage waste which is not
25 otherwise removed from the solid waste stream; and

26 (7) Appoint one or more geographically balanced advisory
27 committees composed of the representatives of commercial
28 generators, representatives of the solid waste management
29 industry, and two citizens unaffiliated with a solid waste

1 facility or operation to assess and make recommendations on solid
2 waste management.

3 4. The executive board may enter into contracts with any
4 person or entity for services related to any component of the
5 solid waste management system. Bid specifications for solid
6 waste management services shall be designed to meet the
7 objectives of sections 260.200 to 260.345, encourage small
8 businesses to engage and compete in the delivery of solid waste
9 management services and to minimize the long-run cost of managing
10 solid waste. Bid specifications shall enumerate the minimum
11 components and minimum quantities of waste products which shall
12 be recycled by the successful bidder. The board shall divide the
13 district into units to maximize access for small businesses when
14 it requests bids for solid waste management services, but in no
15 case shall a district executive board perform solid waste
16 management projects that compete with a qualified private
17 enterprise.

18 5. No person shall serve as a member of the council or of
19 the executive board who is a stockholder, officer, agent,
20 attorney or employee or who is in any way pecuniarily interested
21 in any business which engages in any aspect of solid waste
22 management regulated under sections 260.200 to 260.345; provided,
23 however, that such member may own stock in a publicly traded
24 corporation which may be involved in solid waste management as
25 long as such holdings are not substantial.

26 260.324. 1. Any person or entity that applies for a grant
27 under section 260.335 shall not be disqualified from receiving
28 such grant on the basis that there exists a familial relationship
29 between the applicant and any member of the solid waste

1 management district executive board within the fourth degree by
2 consanguinity or affinity. For applicants with a familial
3 relationship with any member of the solid waste management
4 district executive board within the fourth degree by
5 consanguinity or affinity, the solid waste management district
6 executive board shall only approve such grant application if
7 approved by a vote of two-thirds of the solid waste management
8 district executive board.

9 2. If a person, who by virtue of his or her membership on a
10 solid waste management district executive board, does not abstain
11 from a vote to award a solid waste management district grant to
12 any person or entity providing solid waste management services
13 who is a relative within the fourth degree by consanguinity or
14 affinity, the person shall forfeit membership on the solid waste
15 management district executive board and the solid waste
16 management district council.

17 260.325. 1. The executive board of each district shall
18 submit to the department a plan which has been approved by the
19 council for a solid waste management system serving areas within
20 its jurisdiction and shall, from time to time, submit officially
21 adopted revisions of its plan as it deems necessary or the
22 department may require. In developing the district's solid waste
23 management plan, the board shall consider the model plan
24 distributed to the board pursuant to section 260.225. Districts
25 may contract with a licensed professional engineer or as provided
26 in chapter 70 for the development and submission of a joint plan.

27 2. The board shall hold at least one public hearing in each
28 county in the district when it prepares a proposed plan or
29 substantial revisions to a plan in order to solicit public

1 comments on the plan.

2 3. The solid waste management plan shall be submitted to
3 the department within eighteen months of the formation of the
4 district. The plan shall be prepared and submitted according to
5 the procedures specified in section 260.220 and this section.

6 4. Each plan shall:

7 (1) Delineate areas within the district where solid waste
8 management systems are in existence;

9 (2) Reasonably conform to the rules and regulations adopted
10 by the department for implementation of sections 260.200 to
11 260.345;

12 (3) Delineate provisions for the collection of recyclable
13 materials or collection points for recyclable materials;

14 (4) Delineate provisions for the collection of compostable
15 materials or collection points for compostable materials;

16 (5) Delineate provisions for the separation of household
17 waste and other small quantities of hazardous waste at the source
18 or prior to disposal;

19 (6) Delineate provisions for the orderly extension of solid
20 waste management services in a manner consistent with the needs
21 of the district, including economic impact, and in a manner which
22 will minimize degradation of the waters or air of the state,
23 prevent public nuisances or health hazards, promote recycling and
24 waste minimization and otherwise provide for the safe and
25 sanitary management of solid waste;

26 (7) Take into consideration existing comprehensive plans,
27 population trend projections, engineering and economics so as to
28 delineate those portions of the district which may reasonably be
29 expected to be served by a solid waste management system;

1 (8) Specify how the district will achieve a reduction in
2 solid waste placed in sanitary landfills through waste
3 minimization, reduction and recycling;

4 (9) Establish a timetable, with milestones, for the
5 reduction of solid waste placed in a landfill through waste
6 minimization, reduction and recycling;

7 (10) Establish an education program to inform the public
8 about responsible waste management practices;

9 (11) Establish procedures to minimize the introduction of
10 small quantities of hazardous waste, including household
11 hazardous waste, into the solid waste stream;

12 (12) Establish a time schedule and proposed method of
13 financing for the development, construction and operation of the
14 planned solid waste management system together with the estimated
15 cost thereof;

16 (13) Identify methods by which rural households that are
17 not served by a regular solid waste collection service may
18 participate in waste reduction, recycling and resource recovery
19 efforts within the district; and

20 (14) Include such other reasonable information as the
21 department shall require.

22 5. The board shall review the district's solid waste
23 management plan at least every twenty-four months for the purpose
24 of evaluating the district's progress in meeting the requirements
25 and goals of the plan, and shall submit plan revisions to the
26 department and council.

27 6. In the event any plan or part thereof is disapproved,
28 the department shall furnish any and all reasons for such
29 disapproval and shall offer assistance for correcting

1 deficiencies. The executive board shall within sixty days revise
2 and resubmit the plan for approval or request a hearing in
3 accordance with section 260.235. Any plan submitted by a
4 district shall stand approved one hundred twenty days after
5 submission unless the department disapproves the plan or some
6 provision thereof.

7 7. The director may institute appropriate action under
8 section 260.240 to compel submission of plans in accordance with
9 sections 260.200 to 260.345 and the rules and regulations adopted
10 pursuant to sections 260.200 to 260.345.

11 8. [The provisions of section 260.215 to the contrary
12 notwithstanding, any county within a region which on or after
13 January 1, 1995, is not a member of a district shall by June 30,
14 1995, submit a solid waste management plan to the department of
15 natural resources. Any county which withdraws from a district
16 and all cities within the county with a population over five
17 hundred shall submit a solid waste plan or a revision to an
18 existing plan to the department of natural resources within one
19 hundred eighty days of its decision not to participate. The plan
20 shall meet the requirements of section 260.220 and this section.

21 9.] Funds may, upon appropriation, be made available to
22 [cities, counties and] districts[,] under section 260.335, for
23 the purpose of implementing the requirements of this section.

24 [10.] 9. Based upon the financial assistance amounts set
25 forth in this section, the district executive board shall arrange
26 for an independent financial [audits] statement audit of the
27 records and accounts of its operations by a certified public
28 accountant or a firm of certified public accountants. Districts
29 receiving [two] more than eight hundred thousand dollars [or

1 more] of financial assistance annually shall have annual
2 independent financial statement audits [and]; districts receiving
3 [less than] between two hundred fifty thousand dollars and eight
4 hundred thousand dollars of financial assistance annually shall
5 have a biennial independent financial [audits at least once every
6 two years. The state auditor may examine the findings of such
7 audits and may conduct audits of the districts] statement audit
8 for the two-year period. All other districts shall be monitored
9 biennially by the department and, based upon the findings within
10 the monitoring report, may be required to arrange for an
11 independent financial statement audit for the biennial monitoring
12 period under review. Subject to limitations caused by the
13 availability of resources, the department shall conduct a
14 performance audit of grants to each district at least once every
15 [three] five years, or as deemed necessary by the department
16 based upon district grantee performance.

17 260.330. 1. Except as otherwise provided in subsection 6
18 of this section, effective October 1, 1990, each operator of a
19 solid waste sanitary landfill shall collect a charge equal to one
20 dollar and fifty cents per ton or its volumetric equivalent of
21 solid waste accepted and each operator of the solid waste
22 demolition landfill shall collect a charge equal to one dollar
23 per ton or its volumetric equivalent of solid waste accepted.
24 Each operator shall submit the charge, less collection costs, to
25 the department of natural resources for deposit in the "Solid
26 Waste Management Fund" which is hereby created. On October 1,
27 1992, and thereafter, the charge imposed herein shall be adjusted
28 annually by the same percentage as the increase in the general
29 price level as measured by the Consumer Price Index for All Urban

1 Consumers for the United States, or its successor index, as
2 defined and officially recorded by the United States Department
3 of Labor or its successor agency. No annual adjustment shall be
4 made to the charge imposed under this subsection during October
5 1, 2005, to October 1, [2017] 2027, except an adjustment amount
6 consistent with the need to fund the operating costs of the
7 department and taking into account any annual percentage increase
8 in the total of the volumetric equivalent of solid waste accepted
9 in the prior year at solid waste sanitary landfills and
10 demolition landfills and solid waste to be transported out of
11 this state for disposal that is accepted at transfer stations.
12 No annual increase during October 1, 2005, to October 1, [2017]
13 2027, shall exceed the percentage increase measured by the
14 Consumer Price Index for All Urban Consumers for the United
15 States, or its successor index, as defined and officially
16 recorded by the United States Department of Labor or its
17 successor agency and calculated on the percentage of revenues
18 dedicated under subdivision (1) of subsection 2 of section
19 260.335. Any such annual adjustment shall only be made at the
20 discretion of the director, subject to appropriations.
21 Collection costs shall be established by the department and shall
22 not exceed two percent of the amount collected pursuant to this
23 section.

24 2. The department shall, by rule and regulation, provide
25 for the method and manner of collection.

26 3. The charges established in this section shall be
27 enumerated separately from the disposal fee charged by the
28 landfill and may be passed through to persons who generated the
29 solid waste. Moneys [shall be] transmitted to the department

1 shall be no less than the amount collected less collection costs
2 and in a form, manner and frequency as the department shall
3 prescribe. The provisions of section 33.080 to the contrary
4 notwithstanding, moneys in the account shall not lapse to general
5 revenue at the end of each biennium. Failure to collect the
6 charge does not relieve the operator from responsibility for
7 transmitting an amount equal to the charge to the department.

8 4. The department may examine or audit financial records
9 and landfill activity records and measure landfill usage to
10 verify the collection and transmittal of the charges established
11 in this section. The department may promulgate by rule and
12 regulation procedures to ensure and to verify that the charges
13 imposed herein are properly collected and transmitted to the
14 department.

15 5. Effective October 1, 1990, any person who operates a
16 transfer station in Missouri shall transmit a fee to the
17 department for deposit in the solid waste management fund which
18 is equal to one dollar and fifty cents per ton or its volumetric
19 equivalent of solid waste accepted. Such fee shall be applicable
20 to all solid waste to be transported out of the state for
21 disposal. On October 1, 1992, and thereafter, the charge imposed
22 herein shall be adjusted annually by the same percentage as the
23 increase in the general price level as measured by the Consumer
24 Price Index for All Urban Consumers for the United States, or its
25 successor index, as defined and officially recorded by the United
26 States Department of Labor or its successor agency. No annual
27 adjustment shall be made to the charge imposed under this
28 subsection during October 1, 2005, to October 1, [2017] 2027,
29 except an adjustment amount consistent with the need to fund the

1 operating costs of the department and taking into account any
2 annual percentage increase in the total of the volumetric
3 equivalent of solid waste accepted in the prior year at solid
4 waste sanitary landfills and demolition landfills and solid waste
5 to be transported out of this state for disposal that is accepted
6 at transfer stations. No annual increase during October 1, 2005,
7 to October 1, [2017] 2027, shall exceed the percentage increase
8 measured by the Consumer Price Index for All Urban Consumers for
9 the United States, or its successor index, as defined and
10 officially recorded by the United States Department of Labor or
11 its successor agency and calculated on the percentage of revenues
12 dedicated under subdivision (1) of subsection 2 of section
13 260.335. Any such annual adjustment shall only be made at the
14 discretion of the director, subject to appropriations. The
15 department shall prescribe rules and regulations governing the
16 transmittal of fees and verification of waste volumes transported
17 out of state from transfer stations. Collection costs shall also
18 be established by the department and shall not exceed two percent
19 of the amount collected pursuant to this subsection. A transfer
20 station with the sole function of separating materials for
21 recycling or resource recovery activities shall not be subject to
22 the fee imposed in this subsection.

23 6. Each political subdivision which owns an operational
24 solid waste disposal area may designate, pursuant to this
25 section, up to two free disposal days during each calendar year.
26 On any such free disposal day, the political subdivision shall
27 allow residents of the political subdivision to dispose of any
28 solid waste which may be lawfully disposed of at such solid waste
29 disposal area free of any charge, and such waste shall not be

1 subject to any state fee pursuant to this section. Notice of any
2 free disposal day shall be posted at the solid waste disposal
3 area site and in at least one newspaper of general circulation in
4 the political subdivision no later than fourteen days prior to
5 the free disposal day.

6 260.335. 1. Each fiscal year eight hundred thousand
7 dollars from the solid waste management fund shall be made
8 available, upon appropriation, to the department and the
9 environmental improvement and energy resources authority to fund
10 activities that promote the development and maintenance of
11 markets for recovered materials. Each fiscal year up to two
12 hundred thousand dollars from the solid waste management fund may
13 be used by the department upon appropriation for grants to solid
14 waste management districts for district grants and district
15 operations. Only those solid waste management districts that are
16 allocated fewer funds under subsection 2 of this section than if
17 revenues had been allocated based on the criteria in effect in
18 this section on August 27, 2004, are eligible for these grants.
19 An eligible district shall receive a proportionate share of these
20 grants based on that district's share of the total reduction in
21 funds for eligible districts calculated by comparing the amount
22 of funds allocated under subsection 2 of this section with the
23 amount of funds that would have been allocated using the criteria
24 in effect in this section on August 27, 2004. The department and
25 the authority shall establish a joint interagency agreement with
26 the department of economic development to identify state
27 priorities for market development and to develop the criteria to
28 be used to judge proposed projects. Additional moneys may be
29 appropriated in subsequent fiscal years if requested. The

1 authority shall establish a procedure to measure the
2 effectiveness of the grant program under this subsection and
3 shall provide a report to the governor and general assembly by
4 January fifteenth of each year regarding the effectiveness of the
5 program.

6 2. All remaining revenues deposited into the fund each
7 fiscal year after moneys have been made available under
8 subsection 1 of this section shall be allocated as follows:

9 (1) Thirty-nine percent of the revenues shall be dedicated,
10 upon appropriation, to the elimination of illegal solid waste
11 disposal, to identify and prosecute persons disposing of solid
12 waste illegally, to conduct solid waste permitting activities, to
13 administer grants and perform other duties imposed in sections
14 260.200 to 260.345 and section 260.432. In addition to the
15 thirty-nine percent of the revenues, the department may receive
16 any annual increase in the charge during October 1, 2005, to
17 October 1, [2014] 2027, under section 260.330 and such increases
18 shall be used solely to fund the operating costs of the
19 department;

20 (2) Sixty-one percent of the revenues, except any annual
21 increases in the charge under section 260.330 during October 1,
22 2005, to October 1, [2014] 2027, which shall be used solely to
23 fund the operating costs of the department, shall be allocated
24 [through grants, upon appropriation, to participating cities,
25 counties, and] to solid waste management districts. Revenues to
26 be allocated under this subdivision shall be divided as follows:
27 forty percent shall be allocated based on the population of each
28 district in the latest decennial census, and sixty percent shall
29 be allocated based on the amount of revenue generated within each

1 district. For the purposes of this subdivision, revenue
2 generated within each district shall be determined from the
3 previous year's data. No more than fifty percent of the revenue
4 allocable under this subdivision may be allocated to the
5 districts upon approval of the department for implementation of a
6 solid waste management plan and district operations, and at least
7 fifty percent of the revenue allocable to the districts under
8 this subdivision shall be allocated to the cities and counties of
9 the district or to persons or entities providing solid waste
10 management, waste reduction, recycling and related services in
11 these cities and counties. Each district shall receive a minimum
12 of seventy-five thousand dollars under this subdivision. After
13 August 28, [2005] 2015, each district shall receive a minimum of
14 ninety-five thousand dollars under this subdivision for district
15 grants and district operations. Each district receiving moneys
16 under this subdivision shall expend such moneys pursuant to a
17 solid waste management plan required under section 260.325, and
18 only in the case that the district is in compliance with planning
19 requirements established by the department. Moneys shall be
20 awarded based upon grant applications. The following criteria
21 may be considered to establish the order of district grant
22 priority:

23 (a) Grants to facilities of organizations employing
24 individuals with disabilities under sections 178.900 to 178.960
25 or sections 205.968 to 205.972;

26 (b) Grants for proposals that will promote and maximize the
27 sharing of district resources;

28 (c) Grants for proposals which provide methods of recycling
29 and solid waste reduction; and

1 (d) All other grants.

2
3 Any allocated district moneys remaining in any fiscal year due to
4 insufficient or inadequate grant applications [may] shall be
5 reallocated [pursuant to this subdivision] for grant applications
6 in subsequent years or for solid waste management projects other
7 than district operations, including a district's next request for
8 solid waste management project proposals. Any allocated district
9 moneys remaining after a period of five years shall revert to the
10 credit of the solid waste management fund created under section
11 260.330;

12 (3) Except for the amount up to one-fourth of the
13 department's previous fiscal year expense, any remaining
14 unencumbered funds generated under subdivision (1) of this
15 subsection in prior fiscal years shall be reallocated under this
16 section;

17 (4) Funds may be made available under this subsection for
18 the ~~administration and grants~~ of the used motor oil program
19 described in section 260.253;

20 (5) The department and the environmental improvement and
21 energy resources authority shall conduct sample audits of grants
22 provided under this subsection.

23 3. In addition to the criteria listed in this section, the
24 advisory board created in section 260.345 shall recommend
25 criteria to be used to allocate grant moneys to districts, cities
26 and counties. These criteria shall establish a priority for
27 proposals which provide methods of solid waste reduction and
28 recycling. The department shall promulgate criteria for
29 evaluating grants by rule and regulation. Projects of cities and

1 counties located within a district which are funded by grants
2 under this section shall conform to the district solid waste
3 management plan.

4 4. The funds awarded to the districts[, counties and
5 cities] pursuant to this section shall be used for the purposes
6 set forth in sections 260.300 to 260.345, and shall be used in
7 addition to existing funds appropriated by counties and cities
8 for solid waste management and shall not supplant county or city
9 appropriated funds.

10 5. Once grants are approved by the solid waste management
11 district, the district shall submit to the department the
12 appropriate forms associated with the grant application and any
13 supporting information to verify that appropriate public notice
14 procedures were followed, that grant proposals were reviewed and
15 ranked by the district, and that only eligible costs as set forth
16 in regulations are to be funded. Within thirty days, the
17 department shall review the grant application. If the department
18 finds any deficiencies, or needs more information in order to
19 evaluate the grant application, the department shall notify the
20 district in writing. The district shall have an additional
21 thirty days to respond to the department's request and to submit
22 any additional information to the department. Within thirty days
23 of receiving additional information, the department shall either
24 approve or deny the grant application. If the department takes
25 no action, the grant application shall be deemed approved. The
26 department, in conjunction with the solid waste advisory board,
27 shall review the performance of all grant recipients to ensure
28 that grant moneys were appropriately and effectively expended to
29 further the purposes of the grant, as expressed in the

1 recipient's grant application. The grant application shall
2 contain specific goals and implementation dates, and grant
3 recipients shall be contractually obligated to fulfill same. The
4 department may require the recipient to submit periodic reports
5 and such other data as are necessary, both during the grant
6 period and up to five years thereafter, to ensure compliance with
7 this section. The department may audit the records of any
8 recipient to ensure compliance with this section. Recipients of
9 grants under sections 260.300 to 260.345 shall maintain such
10 records as required by the department. If a grant recipient
11 fails to maintain records or submit reports as required herein,
12 refuses the department access to the records, or fails to meet
13 the department's performance standards, the department may
14 withhold subsequent grant payments, if any, and may compel the
15 repayment of funds provided to the recipient pursuant to a grant.

16 6. The department shall provide for a security interest in
17 any machinery or equipment purchased through grant moneys
18 distributed pursuant to this section.

19 7. If the moneys are not transmitted to the department
20 within the time frame established by the rule promulgated,
21 interest shall be imposed on the moneys due the department at the
22 rate of ten percent per annum from the prescribed due date until
23 payment is actually made. These interest amounts shall be
24 deposited to the credit of the solid waste management fund.

25 260.345. 1. A state "Solid Waste Advisory Board" is
26 created within the department of natural resources. The advisory
27 board shall be composed of the chairman of the executive board of
28 each of the solid waste management districts or his or her
29 designee, and other members as provided in this section. Up to

1 five additional members shall be appointed by the program
2 director of the solid waste management program of which two
3 members shall represent the solid waste management industry and
4 have an economic interest in or activity with any solid waste
5 facility or operation, one member may represent the solid waste
6 composting or recycling industry businesses, and the remaining
7 members shall be public members who have demonstrated interest in
8 solid waste management issues and shall have no economic interest
9 in or activity with any solid waste facility or operation but may
10 own stock in a publicly traded corporation which may be involved
11 in waste management as long as such holdings are not substantial.
12 Beginning January 1, 2016, the advisory board shall [advise]
13 prepare an annual report due on or before January first advising
14 the department regarding:

- 15 (1) The efficacy of its technical assistance program;
- 16 (2) Solid waste management problems experienced by solid
17 waste management districts;
- 18 (3) The effects of proposed rules and regulations upon
19 solid waste management within the districts;
- 20 (4) Criteria to be used in awarding grants pursuant to
21 section 260.335;
- 22 (5) Waste management issues pertinent to the districts;
- 23 (6) The development of improved methods of solid waste
24 minimization, recycling and resource recovery; [and]
- 25 (7) Unfunded solid waste management projects; and
- 26 (8) Such other matters as the advisory board may determine.

27 2. The advisory board shall also prepare a report on the
28 subjects listed in subdivisions (1) to (8) of subsection 1 of
29 this section for any standing, statutory, interim, or select

1 committee or task force of the general assembly having
2 jurisdiction over solid waste. If a report is so prepared, it
3 shall be delivered to the chair and vice-chair of each committee
4 or task force having such jurisdiction. Such a report shall not
5 be generated and distributed on more than an annual basis.

6 3. The advisory board shall hold regular meetings on a
7 quarterly basis. A special meeting of the advisory board may
8 occur upon a majority vote of all advisory board members at a
9 regular quarterly meeting. Reasonable written notice of all
10 meetings shall be given by the director of the solid waste
11 management program to all members of the advisory board. A
12 majority of advisory board members shall constitute a quorum for
13 the transaction of business. All actions of the advisory board
14 shall be taken at regular quarterly meetings open to the
15 public."; and

16 Further amend the title and enacting clause accordingly.
17

SENATE AMENDMENT NO. 2Offered by Romine of 03Amend SS/House Bill No. 92, Page 63, Section 643.078, Line 10,

2 of said page, by striking the opening bracket "[" and the closing
3 bracket "]" from said line; and further amend said line, by
4 striking all of the underlined language from said line and
5 inserting in lieu thereof the following: ", or renewed"; and
6 further amend line 11 of said page, by striking the word
7 "revoked"; and further amend said line, by striking the opening
8 bracket "["; and further amend line 12 of said page, by striking
9 the closing bracket "]".

10

Offered 5/5/15
Adopted "

SENATE AMENDMENT NO. 3

Offered by [Signature] of 16th

Amend SS/House Bill No. 92, Page 88, Section 644.056, Line 25,

of said page, by inserting after all of said line the following:

"644.145. 1. When issuing permits under this chapter that incorporate a new requirement for discharges from publicly owned combined or separate sanitary or storm sewer systems or water or sewer treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or storm sewer system or water or sewer treatment works, the department of natural resources shall make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. (1) The department of natural resources shall not be required under this section to make a finding of affordability when:

- (a) Issuing collection system extension permits;
- (b) Issuing National Pollution Discharge Elimination System operating permit renewals which include no new environmental requirements; or
- (c) The permit applicant certifies that the applicable

Offered 5/5/15
Adopted "

1 requirements are affordable to implement or otherwise waives the
2 requirement for an affordability finding; however, at no time
3 shall the department require that any applicant certify, as a
4 condition to approving any permit, administrative or civil
5 action, that a requirement, condition, or penalty is affordable.

6 (2) The exceptions provided under paragraph (c) of
7 subdivision (1) of this subsection do not apply when the
8 community being served has less than three thousand three hundred
9 residents.

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

13 (1) "Affordability", with respect to payment of a utility
14 bill, a measure of whether an individual customer or household
15 with an income equal to [the] or lower [of] than the median
16 household income for their community [or the state of Missouri]
17 can pay the bill without undue hardship or unreasonable sacrifice
18 in the essential lifestyle or spending patterns of the individual
19 or household, taking into consideration the criteria described in
20 subsection 4 of this section;

21 (2) "Financial capability", the financial capability of a
22 community to make investments necessary to make water
23 quality-related improvements;

24 (3) "Finding of affordability", a department statement as
25 to whether an individual or a household receiving as income an
26 amount equal to [the] or lower [of] than the median household
27 income for the applicant community [or the state of Missouri]
28 would be required to make unreasonable sacrifices in [their] the
29 individual's or the household's essential lifestyle or spending

1 patterns or undergo hardships in order to make the projected
2 monthly payments for sewer services. The department shall make a
3 statement that the proposed changes meet the definition of
4 affordable, or fail to meet the definition of affordable, or are
5 implemented as a federal mandate regardless of affordability.

6 4. The department of natural resources shall adopt
7 procedures by which it will make affordability findings that
8 evaluate the affordability of permit requirements and enforcement
9 actions described in subsection 1 of this section, and may begin
10 implementing such procedures prior to promulgating implementing
11 regulations. The commission shall have the authority to
12 promulgate rules to implement this section pursuant to chapters
13 536 and 644, and shall promulgate such rules as soon as
14 practicable. Affordability findings shall be based upon
15 reasonably verifiable data and shall include an assessment of
16 affordability with respect to persons or entities affected. The
17 department shall offer the permittee an opportunity to review a
18 draft affordability finding, and the permittee may suggest
19 changes and provide additional supporting information, subject to
20 subsection 6 of this section. The finding shall be based upon
21 the following criteria:

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

24 (2) Affordability of pollution control options for the
25 individuals or households at or below the median household income
26 level of the community;

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

29 (4) Inclusion of ongoing costs of operating and maintaining

1 the existing wastewater collection and treatment system,
2 including payments on outstanding debts for wastewater collection
3 and treatment systems when calculating projected rates;

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

8 (a) Allowing adequate time in implementation schedules to
9 mitigate potential adverse impacts on distressed populations
10 resulting from the costs of the improvements and taking into
11 consideration local community economic considerations; and

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

16 (6) An assessment of other community investments and
17 operating costs relating to environmental improvements and public
18 health protection;

19 (7) An assessment of factors set forth in the United States
20 Environmental Protection Agency's guidance, including but not
21 limited to the "Combined Sewer Overflow Guidance for Financial
22 Capability Assessment and Schedule Development" that may ease the
23 cost burdens of implementing wet weather control plans, including
24 but not limited to small system considerations, the attainability
25 of water quality standards, and the development of wet weather
26 standards; and

27 (8) An assessment of any other relevant local community
28 economic condition.

29 5. Prescriptive formulas and measures used in determining

1 financial capability, affordability, and thresholds for
2 expenditure, such as median household income, should not be
3 considered to be the only indicator of a community's ability to
4 implement control technology and shall be viewed in the context
5 of other economic conditions rather than as a threshold to be
6 achieved.

7 6. Reasonable time spent preparing draft affordability
8 findings, allowing permittees to review draft affordability
9 findings or draft permits, or revising draft affordability
10 findings, shall be allowed in addition to the department's
11 deadlines for making permitting decisions pursuant to section
12 644.051.

13 7. If the department of natural resources fails to make a
14 finding of affordability where required by this section, then the
15 resulting permit or decision shall be null, void and
16 unenforceable.

17 8. The department of natural resources' findings under this
18 section may be appealed to the commission pursuant to subsection
19 6 of section 644.051.

20 9. The department shall file an annual report by the
21 beginning of the fiscal year with the governor, the speaker of
22 the house of representatives, the president pro tempore of the
23 senate, and the chairs of the committees in both houses having
24 primary jurisdiction over natural resource issues showing at
25 least the following information on the findings of affordability
26 completed in the previous calendar year:

27 (1) The total number of findings of affordability issued by
28 the department, those categorized as affordable, those
29 categorized as not meeting the definition of affordable, and

1 those implemented as a federal mandate regardless of
2 affordability;

3 (2) The average increase in sewer rates both in dollars and
4 percentage for all findings found to be affordable;

5 (3) The average increase in sewer rates as a percentage of
6 median house income in the communities for those findings
7 determined to be affordable and a separate calculation of average
8 increases in sewer rates for those found not to meet the
9 definition of affordable;

10 (4) A list of all the permit holders receiving findings,
11 and for each permittee the following data taken from the finding
12 of affordability shall be listed:

13 (a) Current and projected monthly residential sewer rates
14 in dollars;

15 (b) Projected monthly residential sewer rates as a
16 percentage of median [house] household income;

17 (c) Percentage of households at or below the state poverty
18 rate."; and

19 Further amend the title and enacting clause accordingly.