

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1395

96TH GENERAL ASSEMBLY

4644H.04P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 60.595, 60.610, 60.620, and 640.100, RSMo, and to enact in lieu thereof eleven new sections relating to the department of natural resources.

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

Section A. Sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 60.595, 2 60.610, 60.620, and 640.100, RSMo, are repealed and eleven new sections enacted in lieu 3 thereof, to be known as sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 60.595, 4 60.610, 60.620, and 640.100, to read as follows:

59.319. 1. A user fee of four dollars shall be charged and collected by every recorder 2 in this state, over and above any other fees required by law, as a condition precedent to the 3 recording of any instrument. The state portion of the fee shall be forwarded monthly by each 4 recorder of deeds to the state director of revenue, and the fees so forwarded shall be deposited 5 by the director in the state treasury. Two dollars of such fee shall be retained by the recorder and 6 deposited in a recorder's fund and not in county general revenue for record storage, microfilming, 7 and preservation, including anything necessarily pertaining thereto. The recorder's funds shall 8 be kept in a special fund by the treasurer and shall be budgeted and expended at the direction of 9 the recorder and shall not be used to substitute for or subsidize any allocation of general revenue 10 for the operation of the recorder's office without the express consent of the recorder. The 11 recorder's fund may be audited by the appropriate auditing agency, and any unexpended balance 12 shall be left in the fund to accumulate from year to year with interest.

13 2. An additional fee of three dollars shall be charged and collected by every recorder in 14 this state, over and above any other fees required by law, as a condition precedent to the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 recording of any instruments specified in subdivisions (1) and (2) of section 59.330. The fees
16 collected from this additional three dollars per recorded instrument shall be forwarded monthly
17 by each recorder of deeds to the state director of revenue, and the fees so forwarded shall be
18 deposited by the director in the state treasury.

19 3. The state treasurer and the commissioner of administration shall establish an
20 appropriate account within the state treasury and in accordance with the state's accounting
21 methods. Any receipt required by this section to be deposited in the general revenue fund shall
22 be credited as follows:

23 (1) The amount of one dollar for each fee collected under subsection 1 of this section [to
24 an account to be utilized for the purposes of sections 60.500 to 60.610] **shall be paid to the state**
25 **treasurer and credited to the "Missouri Land Survey Fund" which is hereby created to be**
26 **utilized for the purposes of sections 60.510 to 60.620 and section 60.670. The state**
27 **treasurer shall be custodian of the fund and shall approve disbursements from the fund**
28 **in accordance with sections 30.170 and 30.180, RSMo. The state and the department of**
29 **natural resources shall use no more than ten percent of all moneys collected under this**
30 **subsection to pay for state and department administrative cost allocation. Any funds**
31 **previously collected by the state treasurer to be utilized for the purposes of sections 60.510**
32 **to 60.610 and section 60.670 shall transfer to the Missouri land survey fund. Any portion**
33 **of the fund not immediately needed for the purposes authorized shall be invested by the**
34 **state treasurer as provided by the constitution and laws of this state. All income, interest,**
35 **and moneys earned from such investments shall be deposited in the Missouri land survey**
36 **fund. Any unexpended balance in the fund at the end of the fiscal year is exempt from the**
37 **provisions of section 33.080 relating to the transfer of unexpected balances to the general**
38 **revenue funds;**

39 (2) The amount of one dollar for each fee collected under subsection 1 of this section to
40 an account to be utilized by the secretary of state for additional preservation of local records; and

41 (3) The amount of three dollars collected under subsection 2 of this section into the
42 Missouri housing trust fund as designated in section 215.034.

60.510. The functions, duties and responsibilities of the department of natural resources
2 shall be as follows:

3 (1) To restore, maintain, and preserve the land survey monuments, section corners, and
4 quarter section corners established by the United States public land survey within Missouri,
5 together with all pertinent field notes, plats and documents; and also to restore, establish,
6 maintain, and preserve **Missouri state and county boundary markers** and other boundary
7 markers considered by the department of natural resources to be of importance, or otherwise
8 established by law;

9 (2) To design and cause to be placed at established public land survey corner sites, where
10 practical, substantial monuments permanently indicating, with words and figures, the exact
11 location involved, but if such monuments cannot be placed at the exact corner point, then witness
12 corners of similar design shall be placed as near by as possible, with words and figures indicating
13 the bearing and distance to the true corner;

14 (3) To establish, maintain, and provide safe storage facilities for a comprehensive system
15 of recordation of information respecting all monuments established by the United States public
16 land survey within this state, and such records as may be pertinent to the department of natural
17 resources' establishment or maintenance of other land corners, Missouri state coordinate system
18 stations and accessories, and **survey** monuments in general;

19 (4) To [extend throughout this state a triangulation and leveling net of precision,
20 whereby] **provide the framework for all geodetic positioning activities in the state. The**
21 **foundational elements include latitude, longitude, and elevation which contribute to**
22 **informed decision making and impact on a wide range of important activities including**
23 **mapping and geographic information systems, flood risk determination, transportation,**
24 **land use and ecosystem management and use of the Missouri state coordinate system, as**
25 established by section [60.400, may be made to cover to the necessary extent those areas of the
26 state which do not now have enough geodetic control stations to permit the general use of the
27 system by land surveyors and others] **60.401 to 60.491;**

28 (5) To collect and preserve information obtained from surveys made by those authorized
29 to establish land monuments or land boundaries, and to assist in the proper recording of the same
30 by the duly constituted county officials, or otherwise;

31 (6) To furnish, upon reasonable request and tender of the required fees therefor, certified
32 copies of records created or maintained by the department of natural resources which, when
33 certified by the state land surveyor or a designated assistant, shall be admissible in evidence in
34 any court in this state, as the original record;

35 (7) To prescribe, and disseminate to those engaged in the business of land surveying,
36 [advisory] regulations designed to assist in uniform and professional surveying methods and
37 standards in this state[; and

38 (8) To select and appoint a state land surveyor, who shall be the chief administrative
39 officer of the authority, and who shall hold office at the pleasure of the authority].

60.530. The state land surveyor shall, under guidance of the department of natural
2 resources **and with the recommendation of the land survey commission**, carry out the routine
3 functions and duties of the department of natural resources, as prescribed in sections [60.500 to
4 60.610] **60.510 to 60.620 and section 60.670**. He **or she** shall, whenever practical, cause all
5 land surveys, except geodetic surveys, to be executed, under his **or her** direction by the

6 registered county surveyor or a local registered land surveyor when no registered county surveyor
7 exists. He **or she** shall perform such other work and acts as shall, in the judgment of the
8 department of natural resources **and with the recommendation of the land survey**
9 **commission**, be necessary and proper to carry out the objectives of sections [60.500 to 60.610]
10 **60.510 to 60.620 and section 60.670** and, within the limits of appropriations made therefor and
11 subject to the approval of the department of natural resources **and the state merit system**,
12 employ and fix the compensation of such additional employees as may be necessary to carry out
13 the provisions of sections [60.500 to 60.610] **60.510 to 60.620 and section 60.670**.

60.540. The department of natural resources may acquire, in the name of the state of
2 Missouri, lands or interests therein, where necessary, to establish permanent control stations; and
3 may lease or purchase or acquire by negotiation or condemnation, where necessary, land for the
4 establishment of an office of **the land surveyor program** of the department of natural resources.
5 If condemnation is necessary, the attorney general shall bring the suit in the name of the state in
6 the same manner as authorized by law for the acquisition of lands by the state transportation
7 department.

60.560. Upon **their** request, the state attorney general shall advise the **land survey**
2 **commission or the** department of natural resources or the state land surveyor with respect to any
3 legal matter, and shall represent the **land survey commission or** department of natural resources
4 in any proceeding in any court of the state in which the [authority] **land survey commission or**
5 **land survey program** shall be a party.

60.570. The permanent headquarters of the [state land survey authority] **land survey**
2 **program** shall be at or near to the principal office of the Missouri state geological survey. Until
3 such time as other headquarters can be obtained by the [authority] **land survey program**, the
4 state geologist shall assign such space in the state geological survey building as may be available.
5 The [authority] **land survey program** may also establish and maintain regional offices in the
6 metropolitan areas of the state for the storage and distribution of local survey record information.

60.580. The state land surveyor or any and all employees of the department of natural
2 resources have the right to enter upon private property for the purpose of making surveys, or for
3 searching for, locating, relocating, or remonumenting land monuments, leveling stations, or
4 section corners. Should any of these persons necessarily damage property of the owner in
5 making the surveys or searches or remonumentations, the department of natural resources may
6 make reasonable payment for the damage from funds available for that purpose. However,
7 department of natural resources employees are personally liable for any damage caused by their
8 wantonness, willfulness or negligence. All department of natural resources employees are
9 immune from arrest for trespass in performing their legal duties as stated in sections [60.500 to
10 60.610] **60.510 to 60.620 and section 60.670**.

60.595. 1. The "Department of Natural Resources Revolving Services Fund" is hereby
2 created. All funds received by the department of natural resources from the delivery of services
3 and the sale or resale of maps, plats, reports, studies, records and other publications and
4 documents **and surveying information, on paper or in electronic format** by the department
5 shall be credited to the fund. The director of the department shall administer the fund. The state
6 treasurer is the custodian of the fund and shall approve disbursements from the fund requested
7 by the director of the department. When appropriated, moneys in the fund shall be used to
8 purchase goods [or] , **equipment, hardware and software, maintenance and licenses,**
9 **software and database development and maintenance, personal services, and other services**
10 that will ultimately be used to **provide copies of information maintained or provided by the**
11 **land survey program**, reprint maps, publications or other documents requested by governmental
12 agencies or members of the general public; to publish the maps, publications or other documents
13 or to purchase maps, publications or other documents for resale; and to pay shipping charges,
14 laboratory services, core library fees, [workshops] **workshop fees**, [conferences] **conference**
15 **fees**, interdivisional cooperative agreements, but for no other purpose.

16 2. An unencumbered balance in the fund at the end of the fiscal year not exceeding one
17 million dollars is exempt from the provisions of section 33.080 relating to the transfer of
18 unexpended balances to the general revenue fund.

19 3. The department of natural resources shall report all income to and expenditures from
20 such fund on a quarterly basis to the house budget committee and the senate appropriations
21 committee.

60.610. Whenever the department of natural resources deems it expedient, and when
2 funds appropriated permit, the department of natural resources may enter into any contract with
3 agencies of the United States, with agencies of other states, or with private persons, registered
4 land surveyors or professional engineers, in order to plan and execute desired land surveys or
5 geodetic surveys, or to plan and execute other projects which are within the scope and purpose
6 of sections [60.500 to 60.610] **60.510 to 60.620 and section 60.670**.

60.620. 1. There is hereby created the "Land Survey [Advisory Committee]
2 **Commission**", within the department of natural resources. The [committee] **commission** shall
3 consist of [five] **seven** members appointed by the director of the department of natural resources.
4 Members of the [committee] **commission** shall hold office for terms of three years, but of the
5 original appointments, [two] **three** members shall serve for one year, two members shall serve
6 for two years, and [one member] **two members** shall serve for three years. **Members may serve**
7 **only three consecutive terms on the commission**.

8 2. The [advisory committee] **land survey commission** shall consist of persons who
9 reside in this state and are not employed by the department of natural resources. [Three] **Four**

10 members shall be registered land surveyors, one of which shall be a county surveyor. One
11 member shall represent the real estate or land title industry. **Two members shall be public**
12 **members.**

13 3. The [advisory committee] **land survey commission** shall elect a chairman annually.
14 The [committee] **commission** shall meet semiannually and at other such times as called by the
15 chairman of the [committee] **commission** and shall have a quorum when at least [three] **four**
16 members are present.

17 4. The [advisory committee] **land survey commission** members shall serve without
18 compensation but shall be reimbursed for actual and necessary expenses incurred in the
19 performance of their official duties.

20 5. The [advisory committee] **land survey commission** shall provide the director of the
21 department of natural resources [with advice and counsel on] **and the state land surveyor with**
22 **recommendations on the operation and** the planning and prioritization of the **land survey**
23 program and the design of regulations needed to carry out the functions, duties, and
24 responsibilities of the department of natural resources **in sections 60.510 to 60.620 and section**
25 **60.670.**

26 6. **The land survey commission shall recommend to the department of natural**
27 **resources a person to be selected and appointed state land surveyor, who shall be the chief**
28 **administrative officer of the land survey program, and who shall hold office at the pleasure**
29 **of the director of the department of natural resources. The state land surveyor shall be**
30 **selected under the state merit system on the basis of professional experience and**
31 **registration.**

32 [6.] 7. The [committee] **commission** shall, at least annually, prepare a report, which shall
33 be available to the general public, of the review by the [committee] **commission** of the land
34 survey program, stating its findings, conclusions, and recommendations to the director.

640.100. 1. The safe drinking water commission created in section 640.105 shall
2 promulgate rules necessary for the implementation, administration and enforcement of sections
3 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

4 2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted
5 except after a public hearing to be held by the commission after at least thirty days' prior notice
6 in the manner prescribed by the rulemaking provisions of chapter 536 and an opportunity given
7 to the public to be heard; the commission may solicit the views, in writing, of persons who may
8 be affected by, knowledgeable about, or interested in proposed rules and regulations, or
9 standards. Any person heard or registered at the hearing, or making written request for notice,
10 shall be given written notice of the action of the commission with respect to the subject thereof.
11 Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated to

12 administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has
13 fully complied with all of the requirements of chapter 536, including but not limited to section
14 536.028, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9,
15 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section
16 shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to
17 June 9, 1998. If the provisions of section 536.028 apply, the provisions of this section are
18 nonseverable and if any of the powers vested with the general assembly pursuant to section
19 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a
20 rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule
21 so proposed and contained in the order of rulemaking shall be invalid and void, except that
22 nothing in this chapter or chapter 644 shall affect the validity of any rule adopted and
23 promulgated prior to June 9, 1998.

24 3. The commission shall promulgate rules and regulations for the certification of public
25 water system operators, backflow prevention assembly testers and laboratories conducting tests
26 pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow
27 prevention assembly tester shall satisfactorily complete standard, nationally recognized written
28 and performance examinations designed to ensure that the person is competent to determine if
29 the assembly is functioning within its design specifications. Any such state certification shall
30 satisfy any need for local certification as a backflow prevention assembly tester. However,
31 political subdivisions may set additional testing standards for individuals who are seeking to be
32 certified as backflow prevention assembly testers. Notwithstanding any other provision of law
33 to the contrary, agencies of the state or its political subdivisions shall only require carbonated
34 beverage dispensers to conform to the backflow protection requirements established in the
35 National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an
36 independent testing laboratory. The commission shall promulgate rules and regulations for
37 collection of samples and analysis of water furnished by municipalities, corporations, companies,
38 state establishments, federal establishments or individuals to the public. The department of
39 natural resources or the department of health and senior services shall, at the request of any
40 supplier, make any analyses or tests required pursuant to the terms of section 192.320 and
41 sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of
42 laboratory services, both within the department of natural resources and the department of health
43 and senior services, laboratory certification and program administration as required by sections
44 640.100 to 640.140. The laboratory services and program administration fees pursuant to this
45 subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand
46 one hundred service connections, three hundred dollars for supplying less than seven thousand
47 six hundred service connections, five hundred dollars for supplying seven thousand six hundred

48 or more service connections, and five hundred dollars for testing surface water. Such fees shall
 49 be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all
 50 drinking water required by section 192.320 and sections 640.100 to 640.140 shall be made by
 51 the department of natural resources laboratories, department of health and senior services
 52 laboratories or laboratories certified by the department of natural resources.

53 4. The department of natural resources shall establish and maintain an inventory of
 54 public water supplies and conduct sanitary surveys of public water systems. Such records shall
 55 be available for public inspection during regular business hours.

56 5. (1) For the purpose of complying with federal requirements for maintaining the
 57 primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby
 58 directed to request appropriations from the general revenue fund and all other appropriate
 59 sources to fund the activities of the public drinking water program and in addition to the fees
 60 authorized pursuant to subsection 3 of this section, an annual fee for each customer service
 61 connection with a public water system is hereby authorized to be imposed upon all customers
 62 of public water systems in this state. The fees collected shall not exceed the amounts specified
 63 in this subsection and the commission may set the fees, by rule, in a lower amount by
 64 proportionally reducing all fees charged pursuant to this subsection from the specified maximum
 65 amounts. Reductions shall be roughly proportional but in each case shall be divisible by twelve.
 66 Each customer of a public water system shall pay an annual fee for each customer service
 67 connection.

68 (2) The annual fee per customer service connection for unmetered customers and
 69 customers with meters not greater than one inch in size shall be based upon the number of
 70 service connections in the water system serving that customer, and shall not exceed:

71 1 to 1,000 connections	\$ 3.24
72 1,001 to 4,000 connections	3.00
73 4,001 to 7,000 connections	2.76
74 7,001 to 10,000 connections	2.40
75 10,001 to 20,000 connections	2.16
76 20,001 to 35,000 connections	1.92
77 35,001 to 50,000 connections	1.56
78 50,001 to 100,000 connections	1.32
79 More than 100,000 connections	1.08.

80 (3) The annual user fee for customers having meters greater than one inch but less than
 81 or equal to two inches in size shall not exceed seven dollars and forty-four cents; for customers
 82 with meters greater than two inches but less than or equal to four inches in size shall not exceed

83 forty-one dollars and sixteen cents; and for customers with meters greater than four inches in size
84 shall not exceed eighty-two dollars and forty-four cents.

85 (4) Customers served by multiple connections shall pay an annual user fee based on the
86 above rates for each connection, except that no single facility served by multiple connections
87 shall pay a total of more than five hundred dollars per year.

88 6. Fees imposed pursuant to subsection 5 of this section shall become effective on
89 August 28, 2006, and shall be collected by the public water system serving the customer
90 beginning September 1, 2006, and continuing until such time that the safe drinking water
91 commission, at its discretion, specifies a lower amount under subdivision (1) of subsection 5 of
92 this section. The commission shall promulgate rules and regulations on the procedures for
93 billing, collection and delinquent payment. Fees collected by a public water system pursuant to
94 subsection 5 of this section are state fees. The annual fee shall be enumerated separately from
95 all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees
96 shall be transferred to the director of the department of revenue at frequencies not less than
97 quarterly. Two percent of the revenue arising from the fees shall be retained by the public water
98 system for the purpose of reimbursing its expenses for billing and collection of such fees.

99 7. Imposition and collection of the fees authorized in subsection 5 of this section shall
100 be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the
101 federally delegated authority granted to the safe drinking water program within the department
102 of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn.
103 The fee shall not be reinstated until the first day of the calendar quarter following the quarter
104 during which such delegated authority is reinstated.

105 8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1,
106 [2012] **2017**.

✓