

SECOND REGULAR SESSION

SENATE BILL NO. 577

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAXWELL.

Pre-filed December 1, 1999, and 1,000 copies ordered printed.

2745S.011

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 260, RSMo, by adding thereto thirteen new sections relating to the creation of a drycleaning solvent cleanup fund.

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

Section A. Chapter 260, RSMo, is amended by adding thereto thirteen new sections, to be known as sections 260.900, 260.905, 260.910, 260.915, 260.920, 260.925, 260.930, 260.935, 260.940, 260.945, 260.950, 260.955 and 260.960, to read as follows:

260.900. As used in sections 260.900 to 260.960, unless the context clearly indicates otherwise, the following terms mean:

(1) "Abandoned drycleaning facility", any real property premises or individual leasehold space in which a drycleaning facility formerly operated;

(2) "Active drycleaning facility", any real property premises or individual leasehold space in which a drycleaning facility currently operates;

(3) "Chlorinated drycleaning solvent", any drycleaning solvent which contains a compound which has a molecular structure containing the element chlorine;

(4) "Commission", the hazardous waste management commission created in section 260.365, RSMo;

(5) "Corrective action", those activities described in subsection 1 of section 260.925;

(6) "Corrective action plan", a plan approved by the director to perform corrective action at a drycleaning facility;

(7) "Department", the Missouri department of natural resources;

(8) "Director", the director of the Missouri department of natural resources;

(9) "Drycleaning facility", a commercial establishment that operates, or has operated in the past in whole or in part for the purpose of cleaning garments or other

fabrics on site utilizing a process that involves any use of drycleaning solvents. Drycleaning facility includes all contiguous land, structures and other appurtenances and improvements on the land used in connection with a drycleaning facility but does not include prisons, governmental entities, hotels, motels or industrial laundries. Drycleaning facility does include coin-operated drycleaning facilities;

(10) "Drycleaning solvent", any and all nonaqueous solvents used or to be used in the cleaning of garments and other fabrics at a drycleaning facility and includes but is not limited to perchloroethylene, also known as tetrachloroethylene, and petroleum-based solvents, and the products into which such solvents degrade;

(11) "Drycleaning unit", a machine or device which utilizes drycleaning solvents to clean garments and other fabrics and includes any associated piping and ancillary equipment and any containment system;

(12) "Environmental response surcharge", either the active drycleaning facility registration surcharge or the drycleaning solvent surcharge;

(13) "Fund", the drycleaning environmental response trust fund created in section 260.920;

(14) "Immediate response to a release", containment and control of a known release in excess of a reportable quantity and notification to the department within forty-eight hours of any known release in excess of a reportable quantity;

(15) "Operator", any person who is or has been responsible for the operation of drycleaning operations at a drycleaning facility;

(16) "Owner", any person who owns the real property where a drycleaning facility is or has operated;

(17) "Person", an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association or limited liability company. Person does not include any governmental organization;

(18) "Release", any spill, leak, emission, discharge, escape, leak or disposal of drycleaning solvent from a drycleaning facility into the soils or waters of the state;

(19) "Reportable quantity", a known release of a drycleaning solvent deemed reportable by applicable federal or state law or regulation.

260.905. 1. The commission shall promulgate and adopt such initial rules and regulations as shall be necessary to carry out the purposes and provisions of sections 260.900 to 260.960. Prior to the promulgation of such rules, the commission shall meet with representatives of the dry cleaning industry and other interested parties. The commission, thereafter, shall promulgate and adopt additional rules and regulations or change existing rules and regulations when necessary to carry out the purposes and provisions of sections 260.900 to 260.960.

2. Any rule or regulation adopted pursuant to sections 260.900 to 260.960 shall

be reasonably necessary to protect human health, to preserve, protect and maintain the water and other natural resources of this state and to provide for prompt corrective action of releases from drycleaning facilities. Consistent with these purposes, the commission shall adopt rules and regulations:

(1) Establishing performance standards for drycleaning facilities first brought into use on or after the effective date of rules and regulations authorized by this subsection. Such performance standards shall be effective when the rules and regulations adopted by the commission become final. The commission shall make its best efforts to adopt such initial rules and regulations so that they become final within one year after the effective date of sections 260.900 to 260.960. The performance standards for new drycleaning facilities shall allow the use of new technology as it becomes available and shall at a minimum include provisions which are at least as protective of human health and the environment as the following:

(a) A requirement for the proper storage and disposal of those wastes which are generated at an active drycleaning facility and which contain any quantity of drycleaning solvent;

(b) A prohibition of the discharge of wastewater from drycleaning units or of drycleaning solvent from drycleaning operations to any sanitary sewer or septic tank or to the waters of this state;

(c) A requirement that dikes or other containment structures be installed around each drycleaning unit and each drycleaning solvent or waste storage area, which structures shall be capable of containing a leak, spill or release of drycleaning solvent;

(d) A requirement that those portions of all diked floor surfaces upon which any drycleaning solvent may leak, spill or otherwise be released be of epoxy, steel or other material impervious to drycleaning solvents;

(e) A requirement that all drycleaning solvents be delivered to drycleaning facilities by means of closed, direct-coupled delivery systems, but only after such systems become generally available;

(2) Adopting a schedule requiring the retrofitting of active drycleaning facilities in existence on the effective date of rules and regulations authorized by subdivision (1) of this subsection to implement the performance standards established pursuant to subdivision (1) of this subsection. The schedule may phase in the standards authorized by this subdivision at different times but shall make all such standards effective no later than three years after the effective date of sections 260.900 to 260.960. The requirement of retrofitting as provided in this subdivision shall not require an operator to replace an existing drycleaning unit;

(3) Establishing requirements that owners who close drycleaning facilities

remove drycleaning solvents and wastes from such facilities in order to prevent any future releases;

(4) Establishing criteria to prioritize the expenditure of funds from the drycleaning environmental response trust fund. The criteria shall include consideration of:

(a) The benefit to be derived from corrective action compared to the cost of conducting such corrective action;

(b) The degree to which human health and the environment are actually affected by exposure to contamination;

(c) The present and future use of an affected aquifer or surface water;

(d) The effect that interim or immediate remedial measures will have on future costs; and

(e) Such additional factors as the commission considers relevant;

(5) Establishing criteria under which a determination may be made by the department of the level at which corrective action shall be deemed completed. Criteria for determining completion of corrective action shall be based on the factors set forth in subdivision (4) of this subsection; and:

(a) Individual site characteristics including natural remediation processes;

(b) Applicable state water quality standards;

(c) Whether deviation from state water quality standards or from established criteria is appropriate, based on the degree to which the desired remediation level is achievable and may be reasonably and cost effectively implemented, subject to the limitation that where a state water quality standard is applicable, a deviation may not result in the application of standards more stringent than that standard; and

(d) Such additional factors as the commission considers relevant.

260.910. 1. No person shall:

(1) Operate an active drycleaning facility in violation of sections 260.900 to 260.960, rules and regulations adopted pursuant to sections 260.900 to 260.960 or orders of the director pursuant to sections 260.900 to 260.960;

(2) Prevent or hinder a properly identified officer or employee of the department or other authorized agent of the director from entering, inspecting, sampling or responding to a release at reasonable times and with reasonable advance notice to the operator as authorized by sections 260.900 to 260.960;

(3) Knowingly make any false material statement or representation in any record, report or other document filed, maintained or used for the purpose of compliance with sections 260.900 to 260.960;

(4) Knowingly destroy, alter or conceal any record required to be maintained by sections 260.900 to 260.960 or rules and regulations adopted pursuant to sections 260.900

to 260.960;

(5) Willfully allow a release in excess of a reportable quantity or knowingly fail to make an immediate response to a release in accordance with sections 260.900 to 260.960 and rules and regulations pursuant to sections 260.900 to 260.960.

2. The director may bring a civil damages action against any person who violates any provisions of subsection 1 of this section. Such civil damages may be assessed in an amount not to exceed five hundred dollars for each violation.

3. In assessing any civil damages pursuant to this section, a court of competent jurisdiction shall consider, when applicable, the following factors:

(1) The extent to which the violation presents a hazard to human health;

(2) The extent to which the violation has or may have an adverse effect on the environment;

(3) The amount of the reasonable costs incurred by the state in detection and investigation of the violation; and

(4) The economic savings realized by the person in not complying with the provision for which a violation is charged.

260.915. Each operator of an active drycleaning facility shall register with the department on a form provided by the department.

260.920. 1. There is hereby created within the state treasury a fund to be known as the "Drycleaning Environmental Response Trust Fund". All moneys received from the environmental response surcharges, fees, gifts, bequests, donations and moneys recovered by the state pursuant to sections 260.900 to 260.960, including any moneys paid under an agreement with the director or as civil damages, or any other money so designated shall be deposited in the state treasury to the credit of the drycleaning environmental response trust fund, and shall be invested to generate income to the fund. Notwithstanding the provisions of section 33.080, RSMo, the unexpended balance in the drycleaning environmental response trust fund at the end of each fiscal year shall not be transferred to the general revenue fund.

2. Moneys in the fund may be expended for only the following purposes and for no other government purpose:

(1) The direct costs of administration and enforcement of sections 260.900 to 260.960; and

(2) The costs of corrective action as provided in section 260.925.

3. The state treasurer is authorized to deposit all of the moneys in the drycleaning environmental response trust fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be provided by law relative to state deposits. Interest received on such deposits shall be credited to the drycleaning

environmental response trust fund.

4. Any funds received pursuant to sections 260.900 to 260.960 and deposited in the drycleaning environmental response trust fund shall not be considered a part of "total state revenue" as provided in sections 17 and 18 of article X of the Missouri Constitution.

260.925. 1. Moneys in the fund shall be utilized to address contamination resulting from releases of drycleaning solvents. Whenever a release poses a threat to human health or the environment, the department, consistent with rules and regulations adopted by the commission pursuant to subdivisions (4) and (5) of subsection 5 of section 260.905, shall expend moneys available in the fund to provide for:

(1) Investigation and assessment of a release from a drycleaning facility, including costs of investigations and assessments of contamination which may have moved off the drycleaning facility;

(2) Necessary or appropriate emergency action, including but not limited to treatment, restoration or replacement of drinking water supplies, to assure that the human health or safety is not threatened by a release or potential release;

(3) Remediation of releases from drycleaning facilities, including contamination which may have moved off of the drycleaning facility, which remediation shall consist of the preparation of a corrective action plan and the cleanup of affected soil, groundwater and surface waters, using the most cost effective alternative that is technologically feasible and reliable, provides adequate protection of human health and environment and to the extent practical minimizes environmental damage;

(4) Operation and maintenance of corrective action;

(5) Monitoring of releases from drycleaning facilities including contamination which may have moved off of the drycleaning facility;

(6) Payment of reasonable costs incurred by the director in providing field and laboratory services;

(7) Reasonable costs of restoring property as nearly as practicable to the condition that existed prior to activities associated with the investigation of a release or cleanup or remediation activities;

(8) Removal and proper disposal of wastes generated by a release of a drycleaning solvent; and

(9) Payment of costs of corrective action conducted by the department or by entities other than the department but approved by the department, whether or not such corrective action is set out in a corrective action plan; except that, there shall be no reimbursement for corrective action costs incurred before the effective date of sections 260.900 to 260.960.

2. Nothing in subsection 1 of this section shall be construed to authorize the department to obligate moneys in the fund for payment of costs that are not integral to corrective action for a release of drycleaning solvents from a drycleaning facility. Moneys from the fund shall not be used:

(1) For corrective action at sites that are contaminated by solvents normally used in drycleaning operations where the contamination did not result from the operation of a drycleaning facility;

(2) For corrective action at sites, other than drycleaning facilities, that are contaminated by drycleaning solvents which were released while being transported to or from a drycleaning facility;

(3) To pay any fine or penalty brought against a drycleaning facility operator under state or federal law; or

(4) To pay any costs related to corrective action at a drycleaning facility that has been included by the United States Environmental Protection Agency on the national priorities list.

3. Nothing in sections 260.900 to 260.960 shall be construed to restrict the department from temporarily postponing completion of corrective action for which moneys from the fund are being expended whenever such postponement is deemed necessary in order to protect public health and the environment.

4. At any multisource site, the department shall utilize the moneys in the fund to pay for the proportionate share of the liability for corrective action costs which is attributable to a release from one or more drycleaning facilities and for that proportionate share of the liability only.

5. At any multisource site, the director is authorized to make a determination of the relative liability of the fund for costs of corrective action, expressed as a percentage of the total cost of corrective action at a site, whether known or unknown. The director shall issue an order establishing such percentage of liability. Such order shall be binding and shall control the obligation of the fund until or unless amended by the director. In the event of an appeal from such order, such percentage of liability shall be controlling for costs incurred during the pendency of the appeal.

6. Any authorized officer, employee or agent of the department, or any person under order or contract with the department, may enter onto any property or premises, at reasonable times and with reasonable advance notice to the operator, to take corrective action where the director determines that such action is necessary to protect the public health or environment. If consent is not granted by the operator regarding any request made by any officer, employee or agent of the department, or any person under order or contract with the department, under the provisions of this section, the

director may issue an order directing compliance with the request. The order may be issued after such notice and opportunity for consultation as is reasonably appropriate under the circumstances.

7. Notwithstanding any other provision of sections 260.900 to 260.960, in the discretion of the director, an operator may be responsible for up to one hundred percent of the costs of corrective action attributable to such operator if the director finds, after notice and an opportunity for a hearing in accordance with chapter 536, RSMo, that:

(1) Requiring the operator to bear such responsibility will not prejudice another owner, operator or person who is eligible, pursuant to the provisions of sections 260.900 to 260.960, to have corrective action costs paid by the fund; and

(2) The operator:

(a) Caused a release in excess of a reportable quantity by willful or wanton actions and such release was caused by operating practices in violation of existing laws and regulations at the time of the release; or

(b) Is in arrears for moneys owed pursuant to sections 260.900 to 260.960, after notice and an opportunity to correct the arrearage; or

(c) Substantially obstructs the efforts of the department to carry out its obligations pursuant to sections 260.900 to 260.960; except that, the exercise of legal rights shall not constitute a substantial obstruction; or

(d) Caused or allowed a release in excess of a reportable quantity because of a willful material violation of sections 260.900 to 260.960 or the rules and regulations adopted by the commission pursuant to sections 260.900 to 260.960.

8. For purposes of subsection 7 of this section, unless a transfer is made solely to take advantage of the provisions of subsection 7 of this section, purchasers of stock or other indicia of ownership and other successors in interest shall not be considered to be the same owner or operator as the seller or transferor of such stock or indicia of ownership even though there may be no change in the legal identity of the owner or operator. To the extent that an owner or operator is responsible for corrective action costs pursuant to subsection 7 of this section, such owner or operator shall not be entitled to the exemption provided in subsection 3 of section 260.930.

9. The fund shall not be liable for the payment of costs in excess of two million dollars at any one contaminated drycleaning site. Additionally, the fund shall not be liable for the payment of costs for any one site in excess of twenty-five percent of the total moneys in the fund during any fiscal year. For purposes of this subsection, "contaminated drycleaning site" means the areal extent of soil or ground water contamination with drycleaning solvents.

10. The owner or operator of an active drycleaning facility shall be liable for the

first ten thousand dollars of corrective action costs incurred because of a release from an active drycleaning facility. The owner of an abandoned drycleaning facility shall be liable for the first twenty-five thousand dollars of corrective action costs incurred because of a release from an abandoned drycleaning facility. Nothing in this subsection shall be construed to prohibit the department from taking corrective action because the department cannot obtain the deductible.

11. An owner or operator shall not be allowed to participate in the fund unless such owner or operator complies with the performance standards established pursuant to subsection 2 of section 260.905.

260.930. 1. Neither the state of Missouri, the fund, the commission, the director nor the department or agent or employees thereof, shall be liable for loss of business, damages or taking of property associated with any corrective action taken pursuant to sections 260.900 to 260.960.

2. Nothing in sections 260.900 to 260.960 shall establish or create any liability or responsibility on the part of the commission, the director, the department or the state of Missouri, or agents or employees thereof, to pay any corrective action costs from any source other than the fund or to take corrective action if the moneys in the fund are insufficient to do so.

3. Except as otherwise provided in subsection 5 of this section, nothing in sections 260.900 to 260.960 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from a drycleaning facility, nor shall anything in sections 260.900 to 260.960 be construed to abrogate or limit any liability of any person in any way responsible for any release from a drycleaning facility or any damages for personal injury or property damages caused by such a release.

4. Moneys in the fund shall not be used for compensating third parties for bodily injury or property damage caused by a release from a drycleaning facility, other than property damage included in the corrective action plan approved by the director.

5. To the extent that an operator, owner or other person is eligible pursuant to the provisions of sections 260.900 to 260.960, to have corrective action costs paid by the fund, no administrative or judicial claim may be made under state law against any such operator, owner or other person by or on behalf of a state or local government or by any person to either compel corrective action at the drycleaning facility site or seek recovery of the costs of corrective action at the drycleaning facility which result from the release of drycleaning solvents from that drycleaning facility or to compel corrective action or seek recovery of the costs of corrective action which result from the release of drycleaning solvents from a drycleaning facility which has been included in a corrective action plan approved by the director.

260.935. 1. Every active drycleaning facility, shall pay, in addition to any other environmental response surcharges, an annual drycleaning facility registration surcharge as follows:

(1) Five hundred dollars for facilities which use no more than one hundred forty gallons of chlorinated solvents and no more than one thousand four hundred gallons of petroleum, non-chlorinated solvents per year;

(2) One thousand dollars for facilities which use more than one hundred forty gallons of chlorinated solvents or more than one thousand four hundred gallons of petroleum, non-chlorinated solvents per year and less than three hundred sixty gallons of chlorinated solvents and less than three thousand six hundred gallons of petroleum, non-chlorinated solvents per year; and

(3) Fifteen hundred dollars for facilities which use at least three hundred sixty gallons of chlorinated solvents or at least three thousand six hundred gallons of petroleum, non-chlorinated solvents per year.

2. The active drycleaning facility registration surcharge imposed by this section shall be reported and paid to the department on an annual basis. The commission shall prescribe by administrative rule the procedure for the report and payment required by this section.

3. The department shall provide each person who pays a drycleaning facility registration surcharge pursuant to this section with a receipt. The receipt or the copy of the receipt shall be produced for inspection at the request of any authorized representative of the department.

4. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the drycleaning environmental response trust fund created in section 5 of this act. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the department.

5. If any person does not pay the active drycleaning facility registration surcharge or any portion of the active drycleaning facility registration surcharge imposed by this section by the date prescribed for such payment, the department shall impose and such person shall pay, in addition to the active drycleaning facility registration surcharge owed by such person, a penalty of fifteen percent of the active drycleaning facility registration surcharge. Such penalty shall be deposited in the drycleaning environmental response trust fund.

6. If any person does not pay the active drycleaning facility registration surcharge or any portion of the active drycleaning facility registration surcharge imposed by this section by the date prescribed for such payment, the department shall, also, impose interest upon the unpaid amount at the rate of ten percent per annum

from the date prescribed for the payment of such surcharge and penalties until payment is actually made. Such interest shall be deposited in the drycleaning environmental response trust fund.

260.940. 1. Every seller or provider of drycleaning solvent for use in this state shall pay, in addition to any other environmental response surcharges, a drycleaning solvent surcharge on the sale or provision of drycleaning solvent.

2. The amount of the drycleaning solvent surcharge imposed by this section on each gallon of drycleaning solvent shall be an amount equal to the product of the solvent factor for the drycleaning solvent and the rate of ten dollars per gallon.

3. The solvent factor for each drycleaning solvent is as follows:

(1) For Perchloroethylene, the solvent factor is 1.00;

(2) For 1,1,1-trichloroethane, the solvent factor is 1.00;

(3) For other chlorinated drycleaning solvents, the solvent factor is 1.00; and

(4) For any nonchlorinated drycleaning solvent, the solvent factor is 0.05.

4. In the case of a fraction of a gallon, the drycleaning solvent surcharge imposed by this section shall be the same fraction of the fee imposed on a whole gallon.

5. The drycleaning solvent surcharge required in this section shall be paid to the department by the seller or provider of the drycleaning solvent, regardless of the location of such seller or provider.

6. The drycleaning solvent surcharge required in this section shall be paid by the seller or provider on a quarterly basis and shall be paid to the department for the previous quarter. The commission shall prescribe by administrative rule the procedure for the payment required by this section.

7. The department shall provide each person who pays a drycleaning solvent surcharge pursuant to this section with a receipt. The receipt or the copy of the receipt shall be produced for inspection at the request of any authorized representative of the department.

8. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the drycleaning environmental response trust fund created in section 260.920. Following each annual or quarterly reporting date, the state treasurer shall certify the amount deposited to the department.

9. If any seller or provider of drycleaning solvent fails or refuses to pay the drycleaning solvent surcharge imposed by this section, the department shall impose and such seller or provider shall pay, in addition to the drycleaning solvent surcharge owed by the seller or provider, a penalty of fifteen percent of the drycleaning solvent surcharge. Such penalty shall be deposited in the drycleaning environmental response trust fund.

10. If any person does not pay the drycleaning solvent surcharge or any portion of the drycleaning solvent surcharge imposed by this section by the date prescribed for such payment, the department shall impose and such person shall pay interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for the payment of such surcharge and penalties until payment is actually made. Such interest shall be deposited in the drycleaning environmental response trust fund.

11. An operator of a drycleaning facility shall not purchase or obtain solvent from a seller or provider who does not pay the drycleaning solvent charge, as provided in section 260.940. Any operator of a drycleaning facility who fails to obey the provisions of this section shall be required to pay the drycleaning solvent surcharge as provided in subsections 2, 3 and 4 of this section for any drycleaning solvent purchased or obtained from a seller or provider who fails to pay the proper drycleaning solvent surcharge as determined by the department. Any operator of a drycleaning facility who fails to follow the provisions of this subsection shall, also, be charged a penalty of fifteen percent of the drycleaning solvent surcharge owed. Any operator of a drycleaning facility who fails to obey the provisions of this subsection shall also be subject to the interest provisions of subsection 10 of this section. If a seller or provider of drycleaning solvent charges the operator of a drycleaning facility the drycleaning solvent surcharge provided for in this section when the solvent is purchased or obtained by the operator and the operator can prove that the operator made full payment of the surcharge to the seller or provider but the seller or provider fails to pay the surcharge to the department as required by this section, then the operator shall not be liable pursuant to this subsection for interest, penalties or the seller's or provider's unpaid surcharge. Such surcharges, penalties and interest shall be collected by the department, and all moneys collected pursuant to this subsection shall be deposited in the drycleaning environmental response trust fund.

260.945. 1. If the unobligated principal of the fund equals or exceeds five million dollars on April first of any year, the active drycleaning facility registration surcharge imposed by section 260.935 and the drycleaning solvent surcharge imposed by section 260.940 shall not be collected on or after the next July first until such time as on April first of any year, thereafter, the unobligated principal balance of the fund equals two million dollars or less, then the active drycleaning facility registration surcharge imposed by section 260.935 and the drycleaning solvent surcharge imposed by section 260.940 shall again be collected on and after the next July first.

2. Not later than April fifth of each year, the state treasurer shall notify the department of the amount of the unobligated balance of the fund on April first of such year. Upon receipt of the notice, the department shall notify the public if the active drycleaning facility registration surcharge imposed by section 260.935 and the

drycleaning solvent surcharge imposed by section 260.940 will terminate or be payable on the following July first.

3. Moneys in the fund shall not be expended pursuant to sections 260.900 to 260.960 until such time as the balance in the fund first reaches two million dollars.

260.950. 1. All final orders and determinations of the commission or the department made pursuant to the provisions of sections 260.900 to 260.960 are subject to judicial review pursuant to the provisions of chapter 536, RSMo. All final orders and determinations shall be deemed administrative decisions as that term is defined in chapter 536, RSMo; provided that, no judicial review shall be available, unless all administrative remedies are exhausted.

2. In any suit filed pursuant to section 536.050, RSMo, concerning the validity of the commission's or department's standards, rules or regulations, the court shall review the record made before the commission or department to determine the validity and such reasonableness of such standards, rules or regulations and may hear such additional evidence as it deems necessary.

260.955. The department shall annually transmit a report to the general assembly and the governor regarding:

(1) Receipts of the fund during the preceding calendar year and the sources of the receipts;

(2) Disbursements from the fund during the preceding calendar year and the purposes of the disbursements;

(3) The extent of corrective action taken pursuant to sections 260.900 to 260.960 during the preceding calendar year; and

(4) The prioritization of sites for expenditures from the fund.

260.960. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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