

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 734
95TH GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Food Production and Outdoor Resources, April 30, 2009, with recommendation that the Senate Committee Substitute do pass.

1954L.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 644.036 and 644.054, RSMo, and to enact in lieu thereof two new sections relating to the Missouri clean water law.

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

Section A. Sections 644.036 and 644.054, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 644.036 and 644.054, to
3 read as follows:

644.036. 1. No standard, rule or regulation or any amendment or repeal
2 thereof shall be adopted except after a public hearing to be held after thirty days'
3 prior notice by advertisement of the date, time and place of the hearing and
4 opportunity given to the public to be heard. Notice of the hearings and copies of
5 the proposed standard, rule or regulation or any amendment or repeal thereof
6 shall also be given by regular mail, at least thirty days prior to the scheduled
7 date of the hearing, to any person who has registered with the director for the
8 purpose of receiving notice of such public hearings in accordance with the
9 procedures prescribed by the commission at least forty-five days prior to the
10 scheduled date of the hearing. However, this provision shall not preclude
11 necessary changes during this thirty-day period.

12 2. At the hearing, opportunity to be heard by the commission with respect
13 to the subject thereof shall be afforded any interested person upon written
14 request to the commission, addressed to the director, not later than seven days
15 prior to the hearing, and may be afforded to other persons if convenient. In
16 addition, any interested persons, whether or not heard, may submit, within seven
17 days subsequent to the hearings, a written statement of their views. The

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 commission may solicit the views, in writing, of persons who may be affected by,
19 or interested in, proposed rules and regulations, or standards. Any person heard
20 or represented at the hearing or making written request for notice shall be given
21 written notice of the action of the commission with respect to the subject thereof.

22 3. Any standard, rule or regulation or amendment or repeal thereof shall
23 not be deemed adopted or in force and effect until it has been approved in writing
24 by at least four members of the commission. A standard, rule or regulation or an
25 amendment or repeal thereof shall not become effective until a certified copy
26 thereof has been filed with the secretary of state as provided in chapter 536,
27 RSMo.

28 4. Unless prohibited by any federal water pollution control act, any
29 standard, rule or regulation or any amendment or repeal thereof which is adopted
30 by the commission may differ in its terms and provisions as between particular
31 types and conditions of water quality standards or of water contaminants, as
32 between particular classes of water contaminant sources, and as between
33 particular waters of the state.

34 5. Any listing required by Section 303(d) of the federal Clean Water Act,
35 as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental
36 Protection Agency for its approval that will result in any waters of the state being
37 classified as impaired shall be adopted by the commission after a public hearing,
38 or series of hearings, held in accordance with the following procedures. The
39 department of natural resources shall publish in at least six regional newspapers,
40 in advance, a notice by advertisement the availability of a proposed list of
41 impaired waters of the state and such notice shall include at least ninety days'
42 advance notice of the date, time, and place of the public hearing and opportunity
43 given to the public to be heard. Notice of the hearings and copies of the proposed
44 list of impaired waters also shall be posted on the department of natural
45 resources' web site and given by regular mail, at least ninety days prior to the
46 scheduled date of the hearing, to any person who has registered with the director
47 for the purpose of receiving notice of such public hearings. The proposed list of
48 impaired waters shall identify the water segment, the uses to be made of such
49 waters, the uses impaired, identify the pollutants causing or expected to cause
50 violations of the applicable water quality standards, and provide a summary of
51 the data relied upon to make the preliminary determination. Contemporaneous
52 with the publication of the notice of public hearing, the department shall make
53 available on its web site all data and information it relied upon to prepare the

54 proposed list of impaired waters, including a narrative explanation of how the
55 department determined the water segment was impaired. At any time after the
56 public notice and until seven days after the public hearing, the department shall
57 accept written comments on the proposed list of impaired waters. After the
58 public hearing and after all written comments have been submitted, the
59 department shall prepare a written response to all comments and a revised list
60 of impaired waters. The commission shall adopt a list of impaired waters in a
61 public meeting during which the public shall be afforded an opportunity to
62 respond to the department's written response to comments and revised list of
63 impaired waters. Notice of the meeting shall include the date, time, and place of
64 the public meeting and shall provide notice that the commission will give
65 interested persons the opportunity to respond to the department's revised list of
66 impaired waters and written responses to comments. At its discretion, the
67 commission may extend public comment periods or hold additional public
68 hearings on the proposed and revised lists of impaired waters. The commission
69 shall not vote to add to the list of impaired waters any waters not recommended
70 by the department in the proposed or revised lists of impaired waters without
71 granting the public at least thirty additional days to comment on the proposed
72 addition. The list of impaired waters adopted by the commission shall not be
73 deemed to be a rule as defined by section 536.010, RSMo. The listing of any
74 water segment on the list of impaired waters adopted by the commission shall be
75 subject to judicial review by any adversely affected party under section 536.150,
76 RSMo. The provisions in this subsection shall expire on August 28, [2009] **2010**.

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except
2 for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
3 644.052, become effective October 1, 1990, and shall expire December 31, [2009]
4 **2010**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
5 644.052 shall become effective August 28, 2000, and shall expire on December 31,
6 [2009] **2010**. The clean water commission shall promulgate rules and regulations
7 on the procedures for billing and collection. All sums received through the
8 payment of fees shall be placed in the state treasury and credited to an
9 appropriate subaccount of the natural resources protection fund created in section
10 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation,
11 solely for the administration of sections 644.006 to 644.141. Fees collected
12 pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a
13 public water district or other publicly owned treatment works are state fees. Five

14 percent of the fee revenue collected shall be retained by the city, public sewer
15 district, public water district or other publicly owned treatment works as
16 reimbursement of billing and collection expenses.

17 2. The commission may grant a variance pursuant to section 644.061 to
18 reduce fees collected pursuant to section 644.052 for facilities that adopt systems
19 or technologies that reduce the discharge of water contaminants substantially
20 below the levels required by commission rules.

21 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on
22 the date of application and on each anniversary date of permit issuance thereafter
23 until the permit is terminated.

24 4. There shall be convened a joint committee appointed by the president
25 pro tem of the senate and the speaker of the house of representatives to consider
26 proposals for restructuring the fees imposed in sections 644.052 and 644.053. The
27 committee shall review storm water programs, the state's implementation of the
28 federal clean water program, storm water, and related state clean water
29 responsibilities, and evaluate the costs to the state for maintaining the
30 programs. The committee shall prepare and submit a report, including
31 recommendations on funding the state clean water program, and storm water
32 programs, to the governor, the house of representatives, and the senate no later
33 than December 31, 2008.

✓

Copy