FIRST REGULAR SESSION

[P E R F E C T E D**]**

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 361, 103, 156 & 329

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Offered April 9, 2003.

Senate Substitute adopted, April 9, 2003.

Taken up for Perfection April 9, 2003. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1280S.03P

AN ACT

To repeal sections 250.140, 260.273, 260.475, 260.479, 260.830, 260.831, 319.125, 319.127, 319.139, 393.015, 640.100, 640.115, 640.605, 640.615, 640.620, 643.078, 644.016, 644.052, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, and to enact in lieu thereof sixty new sections relating to waste, with penalty provisions and an expiration date for a certain section.

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

Section A. Sections 250.140, 260.273, 260.475, 260.479, 260.830, 260.831, 319.125, 319.127, 319.139, 393.015, 640.100, 640.115, 640.605, 640.615, 640.620, 643.078, 644.016, 644.052, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, are repealed and sixty new sections enacted in lieu thereof, to be known as sections 204.600, 204.605, 204.610, 204.615, 204.620, 204.625, 204.630, 204.635, 204.640, 204.645, 204.650, 204.655, 204.660, 204.665, 204.670, 204.675, 204.680, 204.685, 204.690, 204.695, 204.700, 204.705, 204.710, 204.715, 204.720, 204.725, 204.730, 204.735, 204.740, 204.745, 204.750,

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

204.755, 204.760, 250.140, 260.219, 260.273, 260.475, 260.479, 260.830, 260.831, 319.125, 319.127, 319.137, 319.139, 393.015, 393.017, 393.018, 640.100, 640.115, 640.605, 640.615, 640.620, 643.078, 644.016, 644.052, 644.145, 644.581, 644.582, 644.583, and 1, to read as follows:

204.600. Any common sewer district organized and existing pursuant to sections 204.250 to 204.270, and any sewer district organized and existing pursuant to chapter 249, RSMo, may be converted to a reorganized common sewer district pursuant to sections 204.600 to 204.700. In addition, a reorganized common sewer district may be established as provided for in sections 204.600 to 204.700. Once established, a reorganized common sewer district shall have all powers and authority of and applicable to a common sewer district organized and existing pursuant to sections 204.250 to 204.270 and applicable to a sewer district established pursuant to chapter 249, RSMo, which are not inconsistent or in conflict with sections 204.600 to 204.700.

204.605. 1. Proceedings for the new formation of a reorganized common sewer district pursuant to sections 204.600 to 204.700 shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the reorganized district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situated or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of acquiring or constructing sanitary sewer improvements with the district, if appropriate, an approximation of the assessed valuation of taxable property within the district, whether the board of trustees shall be elected or appointed by the county commission, and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters or property owners within the proposed district and shall pray for the incorporation of the territory therein described into a reorganized common sewer district. The petition shall be verified by at least one of the signers thereof.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in a newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of

the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter or property owner within the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as the court may deem proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court under the hearing. The decree shall further contain an appointment of five voters from the district, to constitute the first board of trustees of the district. The court shall designate such trustees to staggered terms from one to five years such that one director is appointed or elected each year. The trustees thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as provided in section 204.625. The decree shall further designate the name of the district by which it shall be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such

election.

7. If a majority of the voters of the district voting on such proposition approve of the proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority required above, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state, and with the recorder of deeds of the county or counties in which the district is situated and with the clerk of the county commission of the county or counties in which the district is situated.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a reorganized common sewer district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decree relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

10. Once a reorganized sewer district is established, the boundaries of any reorganized sewer district may be extended or enlarged from time to time upon the filing, with the clerk of the circuit court having jurisdiction, a petition by either:

(1) The board of trustees of the reorganized sewer district and five or more voters within the territory proposed to be added to the district; or

(2) A majority of the landowners within the territory which is proposed to be added to the reorganized sewer district.

If the petition is filed by a majority of the landowners within the territory proposed to be added to the reorganized sewer district, the publication of notice shall not be required, provided notice is posted in three public places within the territory proposed to be added to the reorganized sewer district at least seven days before the date of the hearing and provided that there is sworn testimony by at least five landowners in the territory proposed to be added to the reorganized sewer district, or a majority of the landowners, if the total landowners in the area are fewer than ten. Otherwise the procedures for notice shall substantially follow those set out in this section, for formation. Territory proposed to be added to the reorganized sewer district may either be contiguous or reasonably close to the boundaries of the existing district. Upon the

entry of a final judgment declaring the court's decree of territory proposed to be added to the reorganized sewer district to be final and conclusive, the court shall modify or rearrange the boundary lines of the reorganized sewer district as may be necessary or advisable. The costs incurred in the enlargement or extension of the district shall be taxed to the district, if the district be enlarged or extended, otherwise against the petitioners; provided, however, that no costs shall be taxed to the trustees of the district.

11. Should any property owner or property owners who own real estate that is not within another sewer district organized pursuant to this chapter, chapters 247 and 249, RSMo, or pursuant to the state constitution, but that is contiguous or reasonably close to the existing boundaries of the reorganized sewer district, desire to have such real estate incorporated in the district, the property owner shall first petition the board of trustees thereof for its approval. If such approval be granted, the secretary of the board shall endorse a certificate of the fact of approval by the board upon the petition. The petition so endorsed shall be filed with the clerk of the circuit court in which the reorganized sewer district is incorporated. It shall then be the duty of the court to amend the boundaries of such district by a decree incorporating the real estate in the same. A certified copy of this amended decree including the real estate in the district shall then be filed in the office of the recorder and in the office of the county clerk of the county in which the real estate is located, and in the office of the secretary of state. The costs of this proceeding shall be borne by the petitioning property owner.

12. The board of trustees of any reorganized common sewer district may petition the circuit court of the county containing the majority of the acreage in the district for an amended decree of incorporation to allow that district to engage in the construction, maintenance and operation of water supply and distribution facilities which serve ten or more separate properties which are located wholly within the district and are not served by another political subdivision or are not located within the certificated area of a water corporation as defined in chapter 386, RSMo, or within a public water supply district as defined in chapter 247, RSMo, and the operation and maintenance of all such existing water supply facilities. The petition shall be filed by the board of trustees and all proceedings shall be in substantially the same manner as in action for initial formation of a reorganized common sewer district except that no vote of the residents of the district shall be required. All applicable provisions of this chapter shall apply to the construction, operation and maintenance of water supply facilities in the same manner as they apply to like functions relating to sewer treatment facilities.

204.610. 1. Any existing common sewer district organized and existing pursuant to sections 204.250 to 204.270 and any sewer district organized and existing pursuant to chapter 249, RSMo, may establish itself as a reorganized common sewer

district pursuant to sections 204.600 to 204.700 by petitioning the circuit court of the county in which it was established to approve its reorganization pursuant to sections 204.600 to 204.700 if the governing body of the district has by resolution determined that it is in the best interest of the district to reorganize pursuant to sections 204.600 to 204.700. Such petition shall also specify whether the board of trustees shall be appointed by the governing body of the county, or elected by the voters of the district. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by the trustees of the district and shall pray for the conversion of the district into a reorganized common sewer district.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in a newspaper of general circulation within the existing district or closest to the existing district if there is no newspaper of general circulation within the existing district and if the existing district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the boundary lines of the existing district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily paper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the conversion of an existing district to a reorganized common sewer district, may be made by any voter or property owner within the proposed district; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that it would not be in the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If the court finds that the conversion of the district to a reorganized common sewer district pursuant to sections 204.600 to 204.700 is in the best interests of the persons served by the existing district, then the court shall order the district's decree of incorporation amended to permit reorganization pursuant to sections 204.600 to 204.700 and the existing board of

trustees for such district shall continue to serve the reorganized common sewer district until such time as new trustees shall be appointed or elected as provided for in the court's decree. If their original terms of office are not so designated, the court shall designate such trustees to staggered terms from one to five years such that one trustee is appointed or elected each year. The trustees thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as provided in section 204.625. The decree shall further designate the name of the district by which it shall be officially known.

204.615. The bonded indebtedness or security interest of any creditor of any common sewer district originally organized and existing pursuant to sections 204.250 to 204.270 and any sewer district originally organized and existing pursuant to chapter 249, RSMo, which convert to a reorganized common sewer district shall not be impaired or affected by such conversion and all covenants and obligations of such indebtedness shall remain in full force and effect payable pursuant to the terms and conditions which existed without conversion.

204.620. 1. When a decree or amended decree of incorporation is issued as provided for in sections 204.600 to 204.700, a reorganized common sewer district shall be considered in law and equity a body corporate and politic and political subdivision of this state, known by the name specified in the court's decree, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real estate and personal property necessary for corporate purposes, and adopt a common seal. A reorganized common sewer district also shall have exclusive jurisdiction and authority to provide wastewater collection and treatment services within the boundaries of the district with respect to any wastewater service provider authorized to provide sewer services pursuant to the laws of this state.

2. All courts in this state shall take judicial notice of the existence of any district organized pursuant to sections 204.600 to 204.700.

204.625. 1. There shall be five trustees, appointed or elected as provided for in the circuit court decree or amended decree of incorporation for a reorganized common sewer district, who shall reside within the boundaries of the district. Each trustee shall be a voter of the district and shall have resided in said district one whole year immediately prior to his/her election or appointment. A trustee shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his or her election or appointment. Regardless of whether or not the trustees are elected or appointed, in the event the district extends into any county bordering the county in which the greater portion of the district lies, the presiding commissioner or other chief executive officer of the adjoining county shall be an additional member of the board of trustees, or the governing body of such bordering county may appoint a citizen from such county to serve as an additional member of the board of trustees. Said additional trustee shall meet the qualifications set forth above for a

trustee.

2. The trustees shall receive no compensation for their services, but may be compensated for their reasonable expenses normally incurred in the performance of their duties. The board of trustees may employ and fix the compensation of such staff as may be necessary to discharge the business and purposes of the district, including clerks, attorneys, administrative assistants, and any other necessary personnel. The board of trustees may employ and fix the duties and compensation of an administrator for the district. The administrator shall be the chief executive officer of the district subject to the supervision and direction of the board of trustees. The administrator of the district may, with the approval of the board of trustees, retain consulting engineers for the district under such terms and conditions as may be necessary to discharge the business and purposes of the district.

3. Except as provided in subsection 1 of this section, the term of office of a trustee shall be five years. The remaining trustees shall appoint a person qualified pursuant to this section to fill any vacancy on the board. The initial trustees appointed by the circuit court shall serve until the immediately following first Tuesday after the first Monday in June or until the immediately following first Tuesday after the first Monday in April, depending upon the resolution of the trustees. In the event that the trustees are elected, said elections shall be conducted by the appropriate election authority pursuant to chapter 115, RSMo. Otherwise, trustees shall be appointed by the county commission in accordance with the qualifications set forth in subsection 1 of this section.

4. Notwithstanding any other provision of law, if there is only one candidate for the post of trustee, then no election shall be held, and the candidate shall assume the responsibilities of office at the same time and in the same manner as if elected. If there is no candidate for the post of trustee, then no election shall be held for that post and it shall be considered vacant, to be filled pursuant to the provisions of subsection 3 of this section.

204.630. The board of trustees of a reorganized common sewer district shall have no power to levy or collect any taxes for the payment of any general obligation bond indebtedness incurred by the reorganized common sewer district unless and until the voters of the reorganized common sewer district shall have authorized the incurring of indebtedness at an election. All expenses and indebtedness incurred by the reorganized common sewer district may be paid out of funds which may be received by the reorganized common sewer district from the sale of bonds authorized by the voters of the reorganized common sewer district.

204.635. 1. The total amount of any general obligation bonds issued by the reorganized common sewer district shall not exceed ten percent of the assessed valuation of all taxable tangible property, as shown by the last completed property assessment for state or local purposes, within the reorganized common sewer district.

2. Such bonds shall be signed by the president of the board of trustees and attested by the signature of the secretary of the board of trustees with the seal of the district affixed thereto, if there be a seal. The interest coupons may be executed by affixing thereon the facsimile signature of the secretary of the district. The bonds may be sold under the same conditions as are provided for the sale of county road bonds.

3. All general obligation bonds issued pursuant to sections 204.600 to 204.700 shall be registered in the office of the state auditor as provided by law for the registration of bonds of cities and in the office of the secretary of the board of trustees of the district in a book kept for that purpose for registry, shall show the number, date, amount, date of sale, name of the purchaser, and the amount for which the bond was sold. The moneys of the reorganized common sewer district shall be deposited by the treasurer of the reorganized common sewer district in such bank or banks as shall be designated by order of the board of trustees and the secretary of the reorganized common sewer district shall charge the treasurer therewith and the moneys shall be drawn from the treasury upon checks or warrants issued by the reorganized common sewer district for the purposes for which the bonds were issued.

204.640. 1. The board of trustees of any reorganized common sewer district shall have power to pass all necessary rules and regulations for the proper management and conduct of the business of the board of trustees, and of the district, and for carrying into effect the objects for which the reorganized common sewer district is formed.

2. The board of trustees of a reorganized common sewer district, subject to compliance with the exercise of lawful authority granted to or rules adopted by the clean water commission pursuant to section 644.026, RSMo, may exercise primary authority to adopt, modify, and repeal, and to administer and enforce rules and regulations with respect to:

(1) The establishment, construction, reconstruction, improvement, repair, operation, and maintenance of its sewer systems and treatment facilities;

(2) Industrial users discharging into its sewer systems or treatment facilities;

(3) The establishment, operation, administration, and enforcement of a publicly owned treatment works pretreatment program consistent with state and federal pretreatment standards, including inspection, monitoring, sampling, permitting, and reporting programs and activities.

The board of trustees may, in addition to any pretreatment standards imposed pursuant to this section, require of any user of its treatment facilities such other pretreatment of industrial wastes as it deems necessary to adequately treat such wastes.

3. The rules and regulations adopted by the board of trustees pursuant to subsection 2 of this section shall be applicable, and enforceable by civil,

administrative or other actions within any territory served by its sewer systems or treatment facilities and against any municipality, subdistrict, district, or industrial user who shall directly or indirectly discharge sewage or permit discharge of sewage into the district's sewer system or treatment facilities.

4. The authority granted to the board by this section is in addition to and not in derogation of any other authority granted pursuant to the constitution and laws of Missouri, any federal water pollution control act, or the rules of any agency of federal or state government.

5. The term "industrial user", as used in this section shall mean any nondomestic source of discharge or indirect discharge into the district's wastewater system which is regulated pursuant to section 307(b), (c), or (d) of the Clean Water Act, or any source listed in division A, B, D, E, or I of the Standard Industrial Classification Manual, or any solid waste disposal operation such as, but not limited to, landfills, recycling facilities, solid or hazardous waste handling or disposal facilities, and facilities which store or treat aqueous wastes as generated by facilities not located on site and which dispose of these wastes by discharging them into the district's wastewater system.

204.645. 1. It shall be the duty of the board of trustees of a reorganized common sewer district to make the necessary surveys, and to lay out and define the general plan for the construction and acquisition of land, rights-of-way and necessary sewers and treatment facilities and of any extensions, expansions, or improvements thereof within the district.

2. The board of trustees of a reorganized common sewer district may enter into agreements with each municipality, subdistrict, private district, or any industrial user which discharges sewage into trunk sewers, streams, or the treatment facilities of the reorganized common sewer district concerning the locations and the manner in which sewage may be discharged into the district system or streams within the district and concerning the permissible content of acid wastes, alkaline wastes, poisonous wastes, oils, grit, or other wastes which might be hazardous or detrimental to the system. If no agreement is obtained with regard to any such matter the trustees shall refer the dispute to the clean water commission and the determination of the commission shall be binding upon the district, municipality, subdistrict, or private district. Each municipality, subdistrict, or private district shall control the discharge of wastes into its collection sewers to the extent necessary to comply with the agreement or the determination of the clean water commission. The board of trustees of a reorganized common sewer district or the governing body of any municipality, subdistrict, private district, or industrial user discharging sewage into the stream or the system may petition the circuit court which decreed the incorporation of the district for an order enforcing compliance with any provision of such an agreement or determination, and that circuit court shall have jurisdiction in all cases or questions arising out of the

organization or operations of the district, or from the acts of the board of trustees.

3. The board of trustees may contract with each participating community for the payment of its proportionate share of treatment costs.

4. The board of trustees may contract with public agencies, individuals, private corporations, and political subdivisions, inside and outside the reorganized common sewer district to permit them to connect with and use the district's facilities according to such terms, conditions, and rates as the board determines are in the interest of the district and regardless of whether such agencies, individuals, corporations, and subdivisions are in the same natural drainage area or basins as the district. However, if such an area is located within the boundaries of an existing common sewer district or reorganized common sewer district organized and existing pursuant to this chapter, a sewer district organized and existing pursuant to chapter 249, RSMo, or a public water supply district organized pursuant to chapter 247, RSMo, the board of trustees must give written notice to said district before such a contract is entered into, and the district must consent to said contract.

5. The board of trustees may refuse to receive any wastes into the sewage system which do not meet relevant state or federal water pollution, solid waste, or pretreatment standards.

6. The board of trustees shall have all of the powers necessary and convenient to provide for the operation, maintenance, administration, and regulation, including the adoption of rules and regulations, of any individual home sewage or business treatment systems within the jurisdiction of the common sewer district. The board of trustees shall have the authority to declare the violation of any of its rules and regulations to be a misdemeanor punishable as provided by law, or to declare violation of any of its rules and regulations punishable by imposition of a civil fine not to exceed one thousand dollars per day payable to the common sewer district, in addition to any other civil remedy which may be available at law or in equity.

7. The board of trustees shall have all of the powers necessary and convenient to provide for the operation and maintenance of its treatment facilities and the administration, regulation, and enforcement of its pretreatment program, including the adoption of rules and regulations, to carry out its powers with respect to all municipalities, subdistricts, districts, and industrial users which discharge into the collection system of the district's sewer system or treatment facilities. These powers include, but are not limited to:

(1) The promulgation of any rule, regulation, or ordinance;

(2) The issuance, modification, or revocation of any order;

(3) The issuance, modification, or revocation of any permit;

(4) The levying of a civil administrative fine upon any industrial user in violation of the district's rules, regulations, and ordinances, or any permit or order issued thereunder, in an amount not to exceed one thousand dollars per violation per

day;

(5) Commencing an action through counsel for appropriate legal or equitable relief in the circuit court which decreed the district's incorporation against any industrial user in violation of the district's rules, regulations, and ordinances or any permit or order issued thereunder; and

(6) Petitioning the prosecutor for the county in which any criminal violation of the district's rules, regulations, ordinances, or any permit or order issued thereunder has occurred to institute criminal proceedings.

8. The board of trustees may adopt rules and regulations creating procedural remedies for all persons affected by any order or permit issued, modified, or revoked or any fine or penalty levied by the board including but not limited to the grant of reasonable time periods for such persons to respond, to show cause, and to request reconsideration of fines or penalties levied.

9. Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to the district's rules, regulations, ordinances, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the district's rules, regulations, or ordinances shall be fined not more than one thousand dollars per violation per day.In the event of a second violation, the person shall be fined not to exceed three thousand dollars per violation per day. Third or subsequent violations of this subsection are punishable as a class D felony.

10. Whenever any reference is made in this section to any action that may be taken by the board of trustees, such reference includes such action by its executive officer pursuant to powers and duties delegated to such executive officer by the board of trustees.

204.650. 1. The board of trustees may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property and when condemnation is used shall follow the procedure that is provided by chapter 523, RSMo. All the powers may be exercised both within or without the district as may be necessary for the exercise of its powers or the accomplishment of its purposes. The board of trustees shall also have the same authority to enter upon private lands to survey land or other property before exercise of the above condemnation powers as is granted pursuant to section 388.210, RSMo, to railroad corporations.

2. The board of trustees of the reorganized common sewer district, if it is necessary to cross, follow, or traverse public streets, roads, or alleys, or grounds held or used as public parks or places, shall have the right to do so upon the following conditions: The board of trustees shall file with the county commission or mayor of the municipality having immediate jurisdiction over the street, road, alley, or public park or place, a map showing the location and extent of the proposed occupancy for

sewerage purposes and a plan of the proposed facilities, which plan shall be so made and arranged as not to interfere with the ordinary and lawful use of the street, road, alley, public park, or place, except during a reasonable time for the construction of the necessary works.

3. The entire expense of the works and restoration of the ground occupied to its former condition, as near as may be, shall be borne by the reorganized common sewer district.

204.655. 1. The board of trustees for the reorganized common sewer district shall let contracts for all work to be done, excepting in case of repairs or emergencies requiring prompt attention, in the construction of sewers and sewage treatment plants, the expense of which will exceed twenty-five thousand dollars, to the lowest responsible bidder therefor, upon not less than twenty days' notice of the letting, given by publication in a newspaper of general circulation in the district. The board shall have the power and authority to reject any and all bids and readvertise the work.

2. The board of trustees shall also have the power to enter into agreements with persons, firms for providing professional services required of the board and the board shall adopt policies for procuring the services of such professionals. The provisions of sections 8.285 to 8.291, RSMo, shall be applicable to the services of architects, engineers and land surveyors unless the board of trustees adopts a formal procedure for the procurement of such services.

204.660. The cost of any reorganized common sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

(1) Through the expenditures by the common sewer district of any funds available for that purpose, including temporary or interim financing funds obtained through any federal or state loan program or from a local lending institution;

(2) From any other funds which may be obtained pursuant to any law of the state or of the United States or from any county or municipality for that purpose; or

(3) From the proceeds of revenue bonds of the common sewer district, payable solely from the revenues to be derived from the operation of such sewerage system or from any combination of all the methods of providing funds.

(4) From the proceeds of general obligation bonds of the reorganized common sewer district, payable solely from voter approved property taxes as provided for by law.

(5) From the proceeds of special obligation bonds of the reorganized common sewer district, payable solely from special fees or other revenues received by the district pledged for the purposes of payment of such bonds.

(6) From the proceeds of user fees, charges, or other imposition for facilities and services provided by the district to its customers and users or the availability of services provided to persons, users, and customers within the district or who otherwise

benefit from services provided by the district.

204.665. 1. A reorganized common sewer district may issue general or special revenue bonds authorized by authority of a resolution adopted by the board of trustees of the reorganized common sewer district unless in addition thereto the decree or amended decree of incorporation shall require any such bonds to be approved by the voters of the district after election called for that purpose. The resolution shall recite that an estimate of the cost of the proposed acquisition, construction, improvement, extension or other project has been made and shall set out the estimated cost; it shall set out the amount of the bonds proposed to be issued, their purposes, their dates, denominations, rates of interest, times of payment, both of principal and of interest, places of payment, and all other details in connection with the bonds.

2. The bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the board of trustees of the common sewer district.

3. The bonds shall bear interest at a rate in accordance with section 108.170, RSMo, and shall mature over a period not exceeding thirty-five years from the date thereof.

4. The bonds may be payable to bearer, may be registered or coupon bonds, and if payable to bearer may contain such registration privileges as to either principal and interest, or principal only, as may be provided in the resolution authorizing the bonds.

5. The bonds and the coupons to be attached thereto, if any, shall be signed in such manner and by such officers as may be directed by resolution. Bonds signed by an officer who shall hold the office at the time the bonds are signed shall be deemed validly and effectually signed for all purposes, regardless of whether or not any officer shall cease to hold his office prior to the delivery of the bonds and regardless of whether or not any officer shall have held or shall not have held such office on the date ascribed to the bonds.

6. The bonds shall be sold in such manner and upon such terms as the board of trustees of the reorganized common sewer district shall determine, but the bonds shall not be sold for less than ninety cents on the dollar nor shall they be sold at such a price that the interest cost upon the actual proceeds of the bonds from the date thereof to their maturity shall exceed a rate in accordance with section 108.170, RSMo. The resolution may provide that certain bonds authorized thereby shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently therewith or prior to or after such bonds.

204.670. Any user fees or charges, connection fees, or other charges levied by the reorganized common sewer district for purposes of funding its general or special operations, maintenance, or payment of bonded indebtedness or other indebtedness

shall be due at such time or times as specified by the reorganized common sewer district, and shall, if not paid by the due date, become delinquent and shall bear interest from the date of delinquency until paid. In addition to and consistent with any other provision of applicable law, if such fees or charges or other amounts due become delinquent, they shall be a lien upon the land charged, upon the reorganized common sewer district filing with the recorder of deeds in the county where the land is situated a notice of delinquency. The reorganized common sewer district shall file with the recorder of deeds a similar notice of satisfaction of debt when the delinquent amounts, plus interest and any recording fees or attorneys' fees, have been paid in full. The lien hereby created may be enforced by foreclosure by power of sale hereby vested in the reorganized common district if the reorganized common sewer district adopts written rules for the exercise of power of sale consistent with the provisions of sections 443.290 to 443.325, RSMo, which are recorded in the land records of the office of the recorder of deeds in each county in which the district is located; otherwise such lien shall be enforced by suit in the circuit court having jurisdiction against the property subject to the lien for judicial foreclosure and sale by special execution; such suit may include a request for judgment against the persons responsible for payment of such delinquency as well as the person or persons owning the property to which services were provided, if different, including post-sale deficiency, and as a part of the relief, may include award of the district's reasonable attorney's fees, court costs and other expenses reasonably incurred by the district for collection.

204.675. It shall be the mandatory duty of any reorganized common sewer district which shall issue any general or special revenue bonds pursuant to sections 204.600 to 204.700:

(1) To fix and maintain rates and make and collect charges for the use and services of the system, for the benefit of which revenue bonds were issued, sufficient to pay the cost of maintenance and operation thereof;

(2) To pay the principal of and the interest on all revenue bonds issued by the reorganized common sewer district chargeable to the revenues of the system; and

(3) To provide funds ample to meet all valid and reasonable requirements of the resolution by which the revenue bonds have been issued.

The rates shall be from time to time revised so as fully to meet the requirements of sections 204.600 to 204.700. As long as any bond so issued or the interest thereon shall remain outstanding and unpaid, rates and charges sufficient to meet the requirements of this section shall be maintained and collected by the reorganized common sewer district which issued the bonds.

204.680. 1. Whenever any reorganized common sewer district authorizes and issues revenue bonds pursuant to sections 204.600 to 204.700, an amount sufficient for the purpose of the net revenues of the sewerage system for the benefit of which the

bonds are issued shall, by operation of sections 204.600 to 204.700, be pledged to the payment of the principal of and the interest on the bonds as the same shall mature and accrue.

2. The term "net revenues" shall be construed to mean all income and revenues derived from the ownership and operation of the system less the actual and necessary expenses of operation and maintenance of the system.

3. It shall be the mandatory duty of the treasurer of the reorganized common sewer district to provide for the prompt payment of the principal and interest on any revenue bonds as they mature and accrue.

204.685. 1. The resolution of the board of trustees of the reorganized common sewer district authorizing the issuance of revenue bonds pursuant to the authority of sections 204.600 to 204.700 may provide that periodic allocations of the revenues to be derived from the operation of the system for the benefit of which the bonds are issued shall be made into such accounts, separate and apart from any other accounts of the district, as shall be deemed to be advisable to assure the proper operation and maintenance of the system and the prompt payment of the indebtedness chargeable to the revenues of the system. The accounts may include, but shall not be limited to:

(1) An account for the purpose of providing funds for the operation and maintenance of the system;

(2) An account to provide funds for the payment of the bonds as to principal and interest as they come due;

(3) An account to provide an adequate reserve for depreciation, to be expended for replacements of the system;

(4) An account for the accumulation of a reserve to assure the prompt payment of the bonds and the interest thereon whenever and to the extent that other funds are not available for the purpose;

(5) An account to provide funds for contingent expenses in the operation of the system;

(6) An account to provide for the accumulation of funds for the construction of extensions and improvements to the system; and

(7) Such other accounts as may be desirable in the judgment of the board of trustees.

2. The resolution may also establish such limitations as may be expedient upon the issuance of additional bonds, payable from the revenues of the system, or upon the rights of the holders of such additional bonds. Such resolution may include other agreements with the holders of the bonds or covenants or restrictions necessary or desirable to safeguard the interests of the bondholder and to secure the payment of the bonds and the interest thereon.

204.690. For the purpose of refunding, extending and unifying the whole or any part of any valid outstanding bonded indebtedness payable from the revenues of a

sewerage system, any reorganized common sewer district may issue refunding bonds not exceeding in amount the principal of the outstanding indebtedness to be refunded and the accrued interest to the date of the refunding bonds. The board of trustees of the reorganized common sewer district shall provide for the payment of interest at not to exceed the same rate and the principal of the refunding bonds in the same manner and from the same source as was provided for the payment of interest on and principal of the bonds to be refunded.

204.695. The board of trustees of the reorganized common sewer district may apply for and accept grants or funds, material or labor, from the state and federal government, or any departments thereof, in the construction of a sewerage system as provided by sections 204.600 to 204.700, and may enter into such agreements as may be required of the state or federal laws, or the rules and regulations of any federal or state department, to which the application is made, and where the assistance is granted.

204.700. It is hereby made the duty of the mayors of cities, the circuit court, the governing bodies of counties, all political subdivisions and all assessors, sheriffs, collectors, treasurers and other officials in the state of Missouri to do and perform all the acts and to render all the services necessary to carry out the purposes of sections 204.600 to 204.700.

204.705. Sections 204.705 to 204.755 shall be known and may be cited as the "Sanitary Sewer Improvement Area Act", and the following words and terms, as used in these sections, mean:

(1) "Acquire", the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means and may include the acquisition of existing property and improvements already owned by the district;

(2) "Assess" or "assessment", a unit of measure to allocate the cost of an improvement among property or properties within a sanitary sewer improvement area based upon an equitable method of determining benefits to any such property resulting from an improvement;

(3) "Consultant", engineers, architects, planners, attorneys, financial advisors, accountants, investment bankers and other persons deemed competent to advise and assist the governing body of the district in planning and making improvements;

(4) "Cost", all costs incurred in connection with an improvement, including, but not limited to, costs incurred for the preparation of preliminary reports, preparation of plans and specifications, preparation and publication of notices of hearings, resolutions, ordinances and other proceedings, fees and expenses of consultants, interest accrued on borrowed money during the period of construction, underwriting costs and other costs incurred in connection with the issuance of bonds or notes, establishment of reasonably required reserve funds for bonds or notes, the cost of land, materials, labor and other lawful expenses incurred in planning, acquiring and

doing any improvement, reasonable construction contingencies, and work done or services performed by the district in the administration and supervision of the improvement;

(5) "District" or "common sewer district", any public sanitary sewer district or reorganized common sewer district established and existing pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to the constitution of this state;

(6) "Improve", to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend or to otherwise perform any work which will provide a new sanitary sewer facility or enhance, extend or restore the value or utility of an existing sanitary sewer facility;

(7) "Improvement", any one or more sanitary sewer facilities or improvements which confer a benefit on property within a definable area and may include or consist of a reimprovement of a prior improvement; improvements include, but are not limited to, the following activities:

(a) To acquire property or interests in property when necessary or desirable for any purpose authorized by sections 204.705 to 204.755;

(b) To improve sanitary sewers, wastewater treatment plants, lagoons, septic tanks and systems and any and all other sanitary sewer and waste water collection and treatments systems of any type, whether located on improved or unimproved public or private property, the general object and nature of which will either preserve, maintain, improve or promote the general public health, safety and welfare, or the environment, regardless of technology used;

(8) "Sanitary sewer improvement area", an area of a district with defined limits and boundaries which is created by petition pursuant to sections 204.705 to 204.755 and which is benefited by an improvement and subject to assessments against the real property therein for the cost of the improvement;

(9) "User fee", a fee established and imposed by a district for payment of an assessment in periodic installments to pay for improvements made in a sanitary sewer improvement area which benefit the property within such area that is subject to the assessment.

204.710. As an alternative to all other methods provided by law or charter, the board of trustees of any sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, or any metropolitan sewer district organized pursuant to the constitution of this state, may make, or cause to be made, improvements which confer a benefit upon property within a sanitary sewer improvement area pursuant to sections 204.705 to 204.755. The board of trustees of such district may incur indebtedness and issue temporary notes and general or special revenue bonds pursuant to sections 204.705 to 204.755 to pay for all or part of the cost of such improvements. An improvement may be combined with one or more other

improvements for the purpose of issuing a single series of general or special revenue bonds to pay all or part of the cost of said area's improvements, but separate funds or accounts shall be established within the records of the district for each improvement project as provided in sections 204.705 to 204.755. Such district shall make assessments and may impose user fees on the property deemed by the board of trustees to be benefited by each such improvement project pursuant to in addition to any other fees or charges imposed by the district for provision of services or payment of debt. The district shall use the moneys collected from such assessments and user fees to reimburse the district for all amounts paid or to be paid by it as principal of and interest on its temporary notes and general or special revenue bonds issued for such improvements.

204.715. 1. To establish a sanitary sewer improvement area, the governing body of the sewer district shall comply with the following procedure: the governing body of the district may create a sanitary sewer improvement area when a proper petition has been signed by four-sevenths of the owners of record within such proposed area. The petition, in order to become effective, shall be filed with the district. A proper petition for the creation of a sanitary sewer improvement area shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed sanitary sewer subdistrict, the proposed method or methods of financing the project including the estimated amount of and method for imposing user fees against the real property within the district to pay for the cost of the improvements and any bonds issued therefor, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the district, and a notice that the final cost of such improvement and the amount of revenue bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent.

2. Upon the filing of a proper petition with the district, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the area be established and that preliminary plans and specifications for the improvement be made. Such resolution or ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the sanitary sewer improvement area, the proposed method or methods of imposing assessments and, if known, proposed estimated user fees within the district, and shall also state that the final cost of such improvement within the sanitary sewer improvement area and the amount of general or special revenue bonds issued therefor shall not, without a new petition, exceed the estimated cost of such improvement by more than twenty-five percent.

3. The boundaries of the proposed area shall be described by metes and bounds,

streets or other sufficiently specific description.

204.720. The portion of the cost of any improvement to be assessed or imposed against the real property in a sanitary sewer improvement area shall be apportioned against such property in accordance with the benefits accruing thereto by reason of such improvement. Subject to the provisions of the Farmland Protection Act, sections 262.800 to 262.810, RSMo, the cost may be assessed equally by lot or tract, against property within the area, or by any other reasonable assessment plan determined by the board of trustees of the district which results in imposing substantially equal burdens or share of the cost upon property similarly benefited. The board of trustees of the district may from time to time determine and establish by ordinance or resolution reasonable general classifications and formula for the methods of assessing or determining the benefits.

204.725. 1. After the board of trustees has made the findings specified in sections 204.705 to 204.755 and plans and specifications for the proposed improvements have been prepared, the board of trustees shall by ordinance or resolution order assessments to be made against each parcel of real property deemed to be benefited by an improvement based on the revised estimated cost of the improvement or, if available, the final cost thereof, and shall order a proposed assessment roll to be prepared.

2. The plans and specifications for the improvement and the proposed assessment roll shall be filed with the district and shall be open for public inspection. Such district shall thereupon, at the direction of the board of trustees, publish notice that the board of trustees will conduct a hearing to consider the proposed improvement and proposed assessments. Such notice shall be published in a newspaper of general circulation at least once not more than twenty days before the hearing and shall state the project name for the improvement, the date, time and place of such hearing, the general nature of the improvement, the revised estimated cost or, if available, the final cost of the improvement, the boundaries of the sanitary sewer improvement area to be assessed, and that written or oral objections will be considered at the hearing. At the same time, the district shall mail to the owners of record of the real property made liable to pay the assessments, at their last known post office address, a notice of the hearing and a statement of the cost proposed to be assessed against the real property so owned and assessed. The failure of any owner to receive such notice shall not invalidate the proceedings.

204.730. 1. At the hearing to consider the proposed improvements and assessments, the board of trustees or their designated representative shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications therefor, or assessments as to any property, and thereupon by ordinance or resolution the board of trustees shall order that the improvement be made and direct that

financing for the cost thereof be obtained as provided in sections 204.705 to 204.755.

2. After the improvement has been completed in accordance with the plans and specifications therefor, the board of trustees shall compute the final costs of the improvement and apportion the costs among the property benefited by such improvement in such equitable manner as the board of trustees shall determine, charging each tract, lot or parcel of property with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the improvement, or the amount of general or special revenue bonds issued or to be issued to pay for the improvement, as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the ordinance or resolution assessing the special assessments, the district shall mail a notice to each property owner within the district which sets forth a description of each tract, lot or parcel of real property to be assessed which is owned by such owner, the assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued thereon from the effective date of such ordinance or resolution, on or before a specified date determined by the effective date of the ordinance or resolution, or may pay such assessment in the form of user fees in periodic installments as provided in subsection 4 of this section. Notice of each assessment and imposition of the assessment lien together with a legal description for each property assessed within the area shall be filed with the recorder of deeds upon the effective date of the ordinance or resolution, but failure to timely record any such notice shall not affect the validity of the assessments or liens thereunder. The district shall record written notice of release of lien whenever an assessment is paid in full; the cost of recording assessment notices and release of liens shall be included in the assessment.

4. The special assessments shall be assessed upon the property within the area and those not paid in full as provided in subsection 3 of this section shall be payable in the form of user fees payable in periodic and substantially equal installments as determined by the district for a duration prescribed by the resolution or ordinance establishing the special assessments. All assessments shall bear interest at such rate as the board of trustees determines, not to exceed the rate permitted for bonds by section 108.170, RSMo. Interest on the assessment between the effective date of the ordinance or resolution assessing the special assessments and the date the first installment of a user fee is payable shall be added to the first installment or prorated among all scheduled installments.

5. Assessments not paid in full shall be collected and paid over to the district in the form of user fees in the same manner as other district fees and charges are collected and paid, or by any other reasonable method determined by the district.

204.735. No suit to set aside the assessments made pursuant to sections 204.705

to 204.755 or to otherwise question the validity of the proceedings relating thereto shall be brought after the expiration of ninety days from the date of mailing of notice to the last known owners of record of the assessments required by sections 204.705 to 204.755.

204.740. 1. To correct omissions, errors or mistakes in the original assessment which relate to the total cost of an improvement, the board of trustees of the district may, without a notice or hearing, make supplemental or additional assessments on property within a sanitary sewer improvement area, except that such supplemental or additional assessments shall not, without a new petition as provided in sections 204.705 to 204.755, exceed twenty-five percent of the estimated cost of the improvement as set forth in the petition pursuant to the provisions of sections 204.705 to 204.755.

2. When an assessment is, for any reason whatever, set aside by a court of competent jurisdiction as to any property, or in the event the board of trustees finds that the assessment or any part thereof is excessive or determines on advice of counsel in writing that it is or may be invalid for any reason, the board of trustees may, upon notice and hearing as provided for the original assessment, make a reassessment or a new assessment as to such property.

204.745. An assessment authorized pursuant to sections 204.705 to 204.755, once determined and imposed, shall constitute a lien against such property until paid in full and shall not be affected by the existence or enforcement of any other liens or encumbrances, nor shall enforcement of an assessment lien have any effect on the validity or enforcement of any tax lien or lien established by mortgage or deed of trust. An assessment lien becomes delinquent when an assessment is not paid in full as prescribed by sections 204.705 to 204.755 or when one or more periodic installments imposed by the district for an assessment remain unpaid for a period of thirty days or more after notice of delinquency in payment is mailed to the last known owners of the property subject to assessment by regular United States mail and by certified mail, return receipt requested, at their last known address provided by such owners to the district and to the occupant of property which is subject to assessment, if different from that of the owners. In the event any such user fee remains unpaid after thirty days of the mailing of any such notice, and in addition to any other remedy the district may have by statute or duly enacted regulation for the collection of delinquent amounts owed to the district, the district shall be entitled to petition the circuit court having jurisdiction to foreclose upon the assessment lien by special execution sale of the property subject to the assessment for the unpaid assessment plus reasonable attorney's fees, court costs and other reasonable costs incurred by the district in collection. In any such suit, the district shall name all parties appearing of record to have or claim an interest in the property subject to the unpaid assessment and shall file a notice of lis pendens in connection with said action; in addition, the district may obtain a judgment against last known owners of the

property for any deficiency in payment of the assessment and costs and fees made a part of the court's judgment.

204.750. After an improvement has been authorized pursuant to sections 204.705 to 204.755, the board of trustees of the district may issue temporary notes of the district to pay the costs of such improvement in an amount not to exceed the estimated cost of such improvement, and such temporary notes may be issued in anticipation of issuance of general or special revenue bonds of the district. The district may participate in any governmentally sponsored bond pooling program or other bond program. Bonds may be issued and made payable from general revenues of the area or district, or from special revenues from designated properties within an area.

204.755. A separate fund or account shall be created by the district for each improvement project and each such fund or account shall be identified by a suitable title. The proceeds from the sale of bonds and temporary notes and any other moneys appropriated thereto by the board of trustees of the district shall be credited to such funds or accounts. Such funds or accounts shall be used solely to pay the costs incurred in making each respective improvement. Upon completion of an improvement, the balance remaining in the fund or account established for such improvement, if any, may be held as contingent funds for future improvements or may be credited against the amount of the original assessment of each parcel of property, on a pro rata basis based on the amount of the original assessment, and with respect to property owners that have prepaid their assessments in accordance with sections 204.705 to 204.755, the amount of each such credit shall be refunded to the appropriate property owner, and with respect to all other property owners, the amount of each such credit shall be transferred and credited to the district bond and interest fund to be used solely to pay the principal of and interest on the bonds or temporary notes and the assessments shall be reduced accordingly by the amount of such credit.

204.760. Any public sanitary sewer district or reorganized sewer district organized and operated pursuant to this chapter or chapter 249, RSMo, and any metropolitan sewer district organized pursuant to the constitution of this state, may enter into a cooperative agreement with a city or county for the purpose of constructing sanitary sewer system improvements pursuant to the provisions of the neighborhood improvement district act, sections 67.453 to 67.475, RSMo. Any such cooperative agreement, if approved by the governing bodies of the district and city or county, may include provisions for joint administration of projects, for the issuance of temporary notes and general obligation bonds by district, city or county, separately or jointly, and for the payment of such bonds by any source of funds or user fees in addition to funds from special assessments as provided for in sections 67.453 to 67.475, RSMo, and general ad valorem taxes, so long as all terms, conditions and covenants of any applicable bond indenture are complied with and so long as said notes and

bonds are issued in compliance with general applicable law.

250.140. **[**1.**]** **In the case of privately owned property,** sewerage services or water and sewerage services combined shall be deemed to be furnished to **[**both**]** the occupant **[**and owner**]** of the premises receiving such service and the city, town or village or sewer district rendering such services shall have power to sue the occupant **[**or owner, or both,**]** of such real estate in a civil action to recover any sums due for such services, plus a reasonable attorney's fee to be fixed by the court.

[2. If the occupant of the premises receives the billing, any notice of termination of service shall be sent to both the occupant and owner of the premises receiving such service, if such owner has requested in writing to receive any notice of termination and has provided the entity rendering such service with the owner's business addresses.**]**

260.219. No local government or political subdivision shall provide waste or garbage collection services outside of its boundaries.

260.273. 1. Any person purchasing a new tire may present to the seller the used tire or remains of such used tire for which the new tire purchased is to replace.

2. A fee for each new tire sold at retail shall be imposed on any person engaging in the business of making retail sales of new tires within this state. The fee shall be charged by the retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the tire retailer as collection costs, shall be paid to the department of revenue in the form and manner required by the department of revenue and shall include the total number of new tires sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of new tires to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee.

3. The department of revenue shall administer, collect and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection and enforcement of the general state sales and use tax imposed pursuant to chapter 144, RSMo, except as provided in this section. The proceeds of the new tire fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into an appropriate subaccount of the solid waste management fund, created pursuant to section 260.330.

4. Up to five percent of the revenue available may be allocated, upon appropriation, to the department of natural resources to be used cooperatively with the department of elementary and secondary education for the purposes of developing educational programs and curriculum pursuant to section 260.342.

5. Up to twenty-five percent of the moneys received pursuant to this section may, upon appropriation, be used to administer the programs imposed by this section. Up to five percent

of the moneys received under this section may, upon appropriation, be used for the grants authorized in subdivision (2) of subsection 6 of this section and authorized in section 260.274. All remaining moneys shall be allocated, upon appropriation, for the projects authorized in section 260.276.

6. The department shall promulgate, by rule, a statewide plan for the use of moneys received pursuant to this section to accomplish the following:

(1) Removal of waste tires from illegal tire dumps;

(2) Providing grants to persons that will use products derived from waste tires, or used waste tires as a fuel or fuel supplement; and

(3) Resource recovery activities conducted by the department pursuant to section 260.276.

7. The fee imposed in subsection 2 of this section shall terminate January 1, **[**2004**]** **2009**.

260.475. 1. Every hazardous waste generator shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. Sixty percent of 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 hazardous waste remedial fund created in section 260.480. Forty percent of 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 hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state

treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee, sixty percent of which shall be deposited in the hazardous waste remedial fund, and forty percent of which shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, sixty percent of which shall be deposited in the hazardous waste remedial fund, forty percent of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste remedial 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 for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste remedial fund.

7. No fee shall be collected pursuant to this section after January 1, **[**2005**]** **2010**.

260.479. 1. The hazardous waste management commission shall establish, by rule, two subdivisions of hazardous waste based upon the management method. Subdivision A shall include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which shall be taxed pursuant to subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. The director shall annually request that a minimum of one million dollars be appropriated from general revenue funds for deposit in the hazardous waste remedial fund created pursuant to section 260.480.

2. Except as provided in this subsection and subsection 5 of this section, each hazardous waste generator registered with the department of natural resources, except the state and any political subdivision thereof, shall pay a fee based on the volume of waste produced in each of the subdivisions A and B as follows:

(1) For subdivision A waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: twenty-one dollars and eighty cents plus the product of 7.9890 cents times the amount of waste in short tons, except that the fee for subdivision A waste shall not exceed eighty thousand dollars; and

(2) For subdivision B waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: ten dollars and ninety cents plus the product of 3.9945 cents times the amount of waste in short tons, except that the fee for subdivision B waste shall not exceed forty thousand dollars.

No company shall pay more than eighty thousand dollars annually pursuant to this subsection;

provided that all fee amounts established pursuant to this subsection may be adjusted annually by the commission by an amount not to exceed two and fifty-five hundredths percent. No individual generator subject to a fee pursuant to this section shall pay less than fifty dollars annually.

3. No tax shall be imposed pursuant to this section upon hazardous waste generators whose waste consists solely of waste oil or facilities licensed pursuant to chapter 197, RSMo. The commission may exempt intermittent generators or generators of very small volumes of hazardous waste from payment of fees required pursuant to this section, provided those generators comply with all other applicable provisions of sections 260.360 to 260.430.

4. Any hazardous waste generator registered with the department which discharges waste to a publicly owned treatment works having an approved pretreatment program as required by chapter 204, RSMo, shall not pay any fee required in sections 260.350 to 260.550 on such waste discharged which is in compliance with pretreatment requirements. The hazardous waste management commission may exempt such generators from the provisions of sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

5. No fee shall be imposed pursuant to this section upon any hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from the processing of materials into reclaimed metals. Fees on hazardous waste fuel produced from hazardous waste by processing, blending or other off-site treatment shall be assessed and collected only at the facility where such hazardous waste fuel is utilized as a substitute for other fuel. No facility using hazardous waste fuel shall pay more than eighty thousand dollars annually pursuant to this subsection for the first fiscal year fees are assessed pursuant to this section, and such maximum amount may be adjusted annually thereafter by the commission by an amount not to exceed two and fifty-five hundredths percent. This subsection shall not be construed to apply to hazardous waste used directly as a fuel that has not been processed, blended, or otherwise treated off site. Such waste shall be subject to the fees established in subsection 2 of this section.

6. The department may establish by rule and regulation categories of waste based upon waste characteristics pursuant to subsection 2 of section 260.370. When the commission adopts hazardous waste categories, it shall establish and annually revise a fee schedule based upon waste characteristics. Each generator shall annually pay a fee, in lieu of the fee required in subsection 2 of this section, based upon the volume of waste produced annually within each hazard category.

7. All fees within this section shall be based on hazardous waste produced within the preceding state fiscal year beginning with July first of the year this section goes into effect and payable at the end of the calendar year on December thirty-first and annually thereafter in the same manner; provided that no liability for fees shall be accrued pursuant to subsection 5 of this section for any waste used as a fuel prior to August 28, 2000.

8. The department shall promptly transmit sixty percent of all funds collected pursuant

to this section to the director of revenue for deposit in the hazardous waste remedial fund created pursuant to section 260.480. The department shall promptly transmit forty percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste fund created pursuant to section 260.391.

9. Notwithstanding any other provision of law to the contrary, no tax based on the number of employees employed by a hazardous waste generator shall be collected. No tax or fee shall be levied pursuant to this section after January 1, **[**2005**]** **2010**.

260.830. 1. Any county of the third classification **or any county of the second classification with more than forty-eight thousand two hundred but less than forty-eight thousand three hundred inhabitants** may, by a majority vote of its governing body, impose a landfill fee pursuant to sections 260.830 and 260.831, for the benefit of the county. No order or ordinance enacted pursuant to the authority granted by this section shall be effective unless the governing body of the county submits to the qualified voters of the county, at a public election, a proposal to authorize the governing body of the county to impose a fee under the provisions of this section. The ballot of submission shall be in substantially the following form:

Shall the county of ..... (insert name of county) impose a landfill fee of ..... (insert amount of fee per ton or volumetric equivalent of solid waste)?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order or ordinance and any amendments thereto shall become effective on the first day of the calendar quarter immediately after such election results are certified. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the fee authorized by this section unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose such fee, and the proposal is approved by a majority of the qualified voters voting thereon. If an economic development authority does not exist in a county at the time that a landfill fee is adopted by such county under this section, then the governing body of such county shall establish an economic development authority in the county.

2. The landfill fee authorized by such an election may not exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted, which charge may be in addition to any such fee currently imposed pursuant to the provisions of section 260.330.

260.831. 1. Each operator of a solid waste sanitary or demolition landfill in any county wherein a landfill fee has been approved by the voters pursuant to section 260.830 shall collect a charge equal to the charge authorized by the voters in such election, not to exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be collected in addition to any fee authorized or imposed pursuant to the provisions of section 260.330, and shall be paid to such operator by all political subdivisions, municipalities, corporations, entities or persons disposing of solid waste or demolition waste, whether pursuant

to contract or otherwise, and notwithstanding that any such contract may provide for collection, transportation and disposal of such waste at a fixed fee. Any such contract providing for collections, transportation and disposal of such waste at a fixed fee which is in force on August 28, **[**1993**]** **2003**, shall be renegotiated by the parties to the contract to include the additional fee imposed by this section. Each such operator shall submit the charge, less collection costs, to the governing body of the county, which shall dedicate such funds for use by the industrial development authority within the county and such funds shall be used by the authority for economic development within the county. Collection costs shall be the same as established by the department of natural resources pursuant to section 260.330, and shall not exceed two percent of the amount collected pursuant to this section.

2. The charges established in this section shall be enumerated separately from any disposal fee charged by the landfill. After January 1, 1994, the fee authorized under section 260.830 and this section shall be stated as a separate surcharge on each individual solid waste collection customer's invoice and shall also name the economic development authority which receives the funds. Moneys transmitted to the governing body of the county shall be no less than the amount collected less collection costs and in a form, manner and frequency as the governing body may prescribe. Failure to collect such charge shall not relieve the operator from responsibility for transmitting an amount equal to the charge to the governing body.

319.125. 1. The department may deny or invalidate a certificate of registration issued under sections 319.120 and 319.123 if the department finds, after notice and a hearing pursuant to chapter **[**644**]** **260**, RSMo, that the owner has:

(1) Fraudulently or deceptively registered or attempted to register a tank; or

(2) Failed at any time to comply with any provision or requirement of sections 319.100 to 319.137 or any rules and regulations adopted by the department in accordance with the provisions of sections 319.100 to 319.137.

2. Upon the action of the department to invalidate or refuse to issue a certificate, the department shall advise the applicant of his right to have a hearing before the **[**clean water**]** **Missouri hazardous waste management** commission. The hearing shall be conducted in accordance with the procedures established in chapter **[**644**]** **260**, RSMo.

3. When the department finds that a release from an underground storage tank presents, or is likely to present, an immediate threat to public health or safety or to the environment, it shall order correction of the problem, order cleanup or institute clean-up operations pursuant to the provisions of sections 260.500 to 260.550, RSMo.

4. If the owner or operator fails to perform or improperly performs any action required by the department to abate or eliminate an immediate threat to public health or safety or to the environment, the department or an authorized agent of the department may take any and all necessary action to abate or eliminate such threat. In addition to any other remedy or penalty provided by sections 319.100 to 319.137 or any other law, the owner or operator shall be held strictly liable for the reasonable costs incurred by the department in taking any such action.

5. The denial of reregistration or the revocation of registration of any person participating

in the underground storage tank insurance fund shall, upon completion of any appeal, terminate participation in the fund.

319.127. 1. It is unlawful for any owner or operator to cause or permit any violations of sections 319.100 to 319.137, or any standard, rule or regulation, order or permit term or condition adopted or issued hereunder. Except as provided in this section, whenever on the basis of any information, the department determines that any person is in such violation, the department may issue an order requiring compliance within a reasonable specified time period, pursuant to chapter **[**644**]** **260**, RSMo, or the department may commence a civil action in a court of competent jurisdiction in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

2. If an owner or operator fails to comply with an order under this section within the time specified, the department may commence a civil action in a court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or for the assessment of a civil penalty not to exceed ten thousand dollars for each day, or part thereof, the violation occurred or continues to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 319.139. The department may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

3. Any penalty recovered pursuant to the provisions of this section shall be handled in accordance with section 7 of article IX of the state constitution.

4. If the department alleges a violation of law or regulation of sections 319.100 to 319.139, and mandates compliance with such law or regulation by a person or entity, the department shall provide the person or entity responsible for compliance with such law or regulation with written criteria detailing exactly what action is necessary for such person or entity to comply with the law or regulation. The criteria shall include any time restrictions imposed by the department and shall be prima facie evidence of the action necessary for compliance with the law or regulation. Any person or entity meeting the criteria shall be deemed to be in full compliance with the requests of the department and evidence of compliance shall constitute an affirmative defense in any action brought by or on behalf of the department under the law or regulation. The criteria may not be amended by the department once issued to the person or entity responsible for compliance with such law or department regulation for three years from the date of issuance unless mandated by a change in state or federal law.

319.137. 1. Rules and regulations promulgated by the United States Environmental Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by the department by reference. The department

may adopt rules and regulations that are more stringent than those issued by the United States Environmental Protection Agency if such rules or regulations are necessary to protect human health or the environment. Rules and regulations promulgated under sections 319.100 to 319.139 shall be submitted to and reviewed by the advisory committee established by subsection 2 of section 319.131 prior to publication. Any such rule shall be adopted only after due notice and public hearing in accordance with the provisions of this section, **chapter 260, RSMo, and** chapter 536, RSMo**[**, and chapter 644, RSMo**]**.

2. No rule or portion of a rule promulgated under the authority of sections 319.100 to 319.139 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based;

(5) That the rule is arbitrary and capricious.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint

committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

319.139. 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 319.100 to 319.137 or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violation through conference, conciliation or persuasion and shall not be imposed for minor violations of sections 319.100 to 319.137 or minor violations of any standard, limitation, order, rule or regulation promulgated pursuant to sections 319.100 to 319.137 or minor violations of any term or condition of a permit issued pursuant to sections 319.100 to 319.137. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by this section. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The **[**clean water**]** **Missouri hazardous waste management** commission shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section 319.127. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the **[**clean water**]** **Missouri hazardous waste management** commission may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal to the commission as provided in section **[**644.056**]** **260.400**, RSMo. An appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum

on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the state constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date the department in the exercise of ordinary diligence should have discovered such alleged violation.

4. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the administrative penalty.

5. The state may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

393.015. 1. Notwithstanding any other provision of law to the contrary, any sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation**[**, municipality, or public water supply district established under chapter 247, RSMo,**]** to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer by certified mail, except that if the water corporation**[**, municipality or public water supply district**]** is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water corporation**[**, municipality or public water supply district**]** to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water corporation**[**, municipality or public water supply district**]** shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

2. A water corporation**[**, municipality, or public water supply district**]** acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water corporation, **[**municipality, or public water supply district,**]** in which case the water corporation**[**, municipality, or public water supply district**]** shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water corporation**[**, municipality or public water supply district**]** shall be reimbursed by the

sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

393.017. 1. Water service to a resident shall not be disconnected, terminated, or discontinued for nonpayment of the water bill without the service provider first providing the residential customer with fifteen days advance written notice of the proposed action. The notice shall be sent to the residential customer by certified mail and it shall be clearly written and shall include at least the following information: the proposed action, the proposed date of the proposed action, the cost of reconnection in the event of disconnection or termination of service, the reason for the proposed action, the exact amount of the arrearage, the address to which the customer should send payment, all actions which the residential customer must take to prevent the proposed action from occurring, and the telephone number or numbers the residential customer may call regarding the proposed action.

2. Service providers shall be allowed to recoup the cost incurred pursuant to this section for sending notice by certified mail of a proposed disconnection, termination, or discontinuation of residential water service for nonpayment of the water bill from the residential customer.

3. Any charge for reconnection of water service after disconnection, termination, or discontinuation for nonpayment pursuant to subsection 1 of this section shall only include costs which are reasonable, actual, and necessary for such reconnection.

393.018. 1. Notwithstanding any other provision of law to the contrary, any municipality providing water, or any water district established under the provisions of chapter 247, RSMo, shall upon request of any municipality providing sewer service or public sewer district established under the provisions of chapter 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district created and organized pursuant to constitutional authority, contract with such municipality or public sewer district to terminate water services to any customer premises for nonpayment of a sewer bill.

2. In the event that the aforesaid municipality, or water district and the aforesaid municipality or sewer district are unable to reach an agreement as herein provided within four months of the receipt of such request by the municipality or water district, then the municipality or sewer district making the written request, may file with the circuit court in which the municipality, or water district was incorporated or formed, a petition requesting that three commissioners draft such an agreement.

3. Upon the filing of such petition, the party filing the petition shall include therein the name of one of the commissioners to be appointed by the court; the other party shall appoint one commissioner within thirty days of the service of the petition upon the second party. If the second party fails to appoint a commissioner within

such a time period, the court shall appoint a commissioner on behalf of the second party within forty-five days of service of the petition upon the second party. Such two named commissioners shall agree to appoint a third commissioner within thirty days of the appointment of the second commissioner, but in the event that they fail to agree, the court shall appoint a third disinterested commissioner within forty-five days after appointment of the second commissioner.

4. The commissioners shall draft an agreement between the municipality or water district and the municipality or sewer district meeting the requirements set forth herein. Before drafting such agreement, the parties shall be given an opportunity to present evidence and information pertaining to such agreement at a hearing to be held by the commissioners. Each party shall receive fifteen days written notice of said hearing, however, at any time prior to the date of the hearing, either party may request an automatic thirty day extension by delivering notification in writing to the opposing party and the commissioners. The commissioners shall consider such evidence and information submitted to them and prepare such agreement as provided herein. The hearing may be continued from time to time at the discretion of the commissioners, until such time as both parties have had an opportunity to present evidence therein. Said agreement shall be submitted to the court within forty-five days of the completion of the hearing. The costs of said action shall be paid by the petitioning party, who shall also pay the reasonable costs of the commissioners, if any, as determined by the court.

5. If the court finds that such agreement meets the requirements of this section, then the court shall enter its judgment approving such agreement and order it to become effective not later than sixty days after the date of such judgment. Thereafter the parties shall abide by such agreement. If either party fails to do so, the other party may file an action to compel compliance. Venue shall be in the court issuing the judgment.

6. The judgment and order of the court shall be subject to an appeal as provided by law.

7. No such termination of water service may occur until thirty days after the municipality or sewer district sends a written notice to the customer by certified mail, except that if the municipality or water district is performing a combined water and sewer billing service for the municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and the waiting period already used by the municipality or water district to disconnect water service for the nonpayment of the water bill. Acting pursuant to a contract, the municipality or public water supply district shall discontinue water service until such time as the customer pays the sewer charges and all related costs of termination and reestablishment of sewer and water services in full or payment arrangements have been accepted and approved by the municipality or sewer district.

8. Any municipality or water district disconnecting water services to collect a delinquent sewer charge at the written request of a municipality or sewer district pursuant to an agreement made under this section shall be absolutely immune from civil liability for damages or costs resulting from disconnection in accordance with the terms and conditions of such agreement.

9. Unless otherwise specified in the contract, all costs related to the termination and re-establishment of water service shall be reimbursed by the municipality or sewer district. Such reimbursement may include, but not be limited to, lost revenue and other reasonable expenses incurred as a result of such termination of water service. All costs paid the municipality or sewer district pursuant to the provisions of this section shall be charged to and paid by the customer whose service was terminated.

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

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this chapter or chapter 644, RSMo, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written

and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health and senior services shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health and senior services, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health and senior services laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. **The department shall maintain such inventory which shall be classified as follows:**

(1) Class I - Population under one thousand;

(2) Class II - Population under five thousand;

(3) Class III - Population under ten thousand;

(4) Class IV - Population under twenty thousand; and

(5) Class V - Population over twenty thousand.

Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of

public water systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. Each customer of a public water system shall pay an annual fee for each customer service connection.

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

1 to 1,000 connections	$2.00
1,001 to 4,000 connections	1.84
4,001 to 7,000 connections	1.67
7,001 to 10,000 connections	1.50
10,001 to 20,000 connections	1.34
20,001 to 35,000 connections	1.17
35,001 to 50,000 connections	1.00
50,001 to 100,000 connections	.84
More than 100,000 connections	.66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

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

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

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

8. Any project which receives state or federal funds pursuant to section 640.107

or 640.600 shall use the formula set forth pursuant to section 640.620 for payment of costs incurred in the planning and design of such projects.

[8.**]** **9.** Fees imposed pursuant to subsection 5 of this section shall expire on September 1, 2007.

640.115. 1. Every municipal corporation, private corporation, company, partnership, federal establishment, state establishment or individual supplying or authorized to supply drinking water to the public within the state shall file with the department of natural resources a certified copy of the plans and surveys of the waterworks with a description of the methods of purification, treatment technology and source from which the supply of water is derived, and no source of supply shall be used without a written permit of approval issued to the continuing operating authority by the department of natural resources, or water dispensed to the public without first obtaining such written permit of approval. Prior to a change of permittee, the current permittee shall notify the department of the proposed change and the department shall perform a permit review.

2. Construction, extension or alteration of a public water system shall be**, pursuant to section 640.620,** in accordance with the rules and regulations of the safe drinking water commission.

3. Permit applicants shall show, as part of their application, that a permanent organization exists which will serve as the continuing operating authority for the management, operation, replacement, maintenance and modernization of the facility. Such continuing operating authority for all community water systems and nontransient, noncommunity water systems commencing operation after October 1, 1999, shall be required to have and maintain the managerial, technical and financial capacity, as determined by the department, to comply with sections 640.100 to 640.140.

4. Any community water system or nontransient, noncommunity water system against which an administrative order has been issued for significant noncompliance with the federal Safe Drinking Water Act, as amended, sections 640.100 to 640.140 or any rule or regulation promulgated thereunder shall be required to show that a permanent organization exists that serves as the continuing operating authority for the facility and that such continuing operating authority has the managerial, technical and financial capacity to comply with sections 640.100 to 640.140 and regulations promulgated thereunder. If the water system cannot show to the department's satisfaction that such continuing operating authority exists, or if the water system is not making substantial progress toward compliance, the water system's permit may be revoked. The continuing operating authority may reapply for a permit in accordance with rules promulgated by the commission.

640.605. The grants may be made to districts or communities to assist in financing, including engineering and legal service costs, specific projects for construction, original or enlargement of supply, source water protection treatment, purification, storage and distribution facilities for water systems and collection, treatment, forced mains, lift stations and disposal facilities for sewage systems, or any other item necessary for the physical operation of the water

or sewage systems where grant funds are necessary to reduce the project cost per user to a reasonable level. **Any engineering or design costs shall follow the formula set forth pursuant to section 640.620.** The grants may be made to supplement funds from loan proceeds or other private or public sources when such grants are not available through any other state or federal agency.

640.615. 1. The applicant must first apply with the agency or other financial source which is to furnish the primary financial assistance, and after the amount of that assistance has been determined, an application for a grant hereunder may be made to and processed by the department of natural resources. The department of natural resources shall make the necessary rules and regulations for the consideration and processing of all grant requests, which shall generally conform to those used by federal grant and loan agencies, which rules shall be filed in the office of the secretary of state. The rules shall contain, but shall not be limited to, the following criteria:

(1) Preliminary engineer cost study**, pursuant to the formula as set forth in section 640.620**;

(2) Bonded indebtedness of the district or community;

(3) The financial condition of the district or community;

(4) The cost per connection;

(5) The economic level in the district or community;

(6) The ratio of contracted users to potential users, which shall not be less than seventy-five percent;

(7) The number of acres being protected for any source water protection project.

2. No grant shall be finally approved until the applicant furnishes evidence of a commitment from the primary financial source.

640.620. In any case, the grant shall not be in excess of one thousand four hundred dollars per connection, or, in the case of a source water protection project, for more than twenty percent of the cost per acre for conservation reserve**, except when any entity provides a certified design and operation plan which is less than the average per capita cost for installations within the same population classification established pursuant to subsection 4 of section 640.100, then the certified licensed engineer or company providing such engineering or design service shall receive payment in an amount equal to the usual and customary fee for such project plus additional compensation equal to two times the percentage by which the cost of construction of such facility is less than the average per capita cost of facilities within the same population classification as set forth in subsection 4 of section 640.100,** and, except as otherwise provided in this section, no district or system may receive more than one grant for any purpose in any two-year period. **Such entity shall also pay to such engineer or company providing such engineering service compensation equal to twenty-five percent of the amount of any annual operational costs which are lower than the average per capita operational costs for facilities within the population classifications set forth pursuant**

to subsection 4 of section 640.100 for a period of time equal to one-fourth the design lifetime of such facility or five years whichever is less. Grantees who received or who are receiving funds under the 1993-1994 special allocation for flood-impacted communities are not subject to the prohibition against receiving more than one grant during any two-year period for a period ending two years after the final grant allocation for flood-impacted communities is received by that grantee.

643.078. 1. It shall be unlawful for any person to operate any regulated air contaminant **class A** source after August 28, 1992, without an operating permit except as otherwise provided in sections 643.010 to 643.190.

2. At the option of the permit applicant, a single operating permit shall be issued for a facility having multiple air contaminant sources located on one or more contiguous tracts of land, excluding public roads, highways and railroads, under the control of or owned by the permit holder and operated as a single enterprise.

3. Any person who wishes to construct or modify and operate any regulated air contaminant source shall submit an application to the department for the unified review of a construction permit application **[**under**]** **pursuant to** section 643.075 and an operating permit application **[**under**]** **pursuant to** this section, unless the applicant requests in writing that the construction and operating permit applications be reviewed separately. **[**The director shall complete any unified review within one hundred and eighty days of receipt of the request for a class B source.**]** For a class A source, the unified review shall be completed within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661.

4. As soon as the review process is completed for the construction and operating permits and, if the applicant complies with all applicable requirements of sections 643.010 to 643.190 and all rules adopted thereunder, the construction permit shall be issued to the applicant. The operating permit shall be retained by the department until validated.

5. Within one hundred and eighty days of commencing operations, the holder of a construction permit shall submit to the director such information as is necessary to demonstrate compliance with the provisions of sections 643.010 to 643.190 and the terms and conditions of the construction permit. The operating permit retained by the department shall be validated and forwarded to the applicant if the applicant is in compliance with the terms and conditions of the construction permit and the terms and conditions of the operating permit. The holder of a construction permit may request a waiver of the one hundred and eighty day time period and the director may grant such request by mutual agreement.

6. If the director determines that an air contaminant source does not meet the terms and conditions of the construction permit and that the operation of the source will result in emissions which exceed the limits established in the construction permit, he shall not validate the operating permit. If the source corrects the deficiency, the director shall then validate the operating permit. If the source is unable to correct the deficiency, then the director and the applicant may, by mutual agreement, add such terms and conditions to the operating permit which are deemed appropriate, so long as the emissions from the air contaminant source do not exceed the limits established in

the construction permit, and the director shall validate the operating permit. The director may add terms and conditions to the operating permit which allow the source to exceed the emission limits established in the construction permit. In such a case, the director shall notify the affected public and the commission shall, upon request by any affected person, hold a public hearing upon the revised operating permit application.

7. Except as provided in subsection 8 of this section, an operating permit shall be valid for five years from the date of issuance or validation, whichever is later, unless otherwise revoked or terminated pursuant to sections 643.010 to 643.190.

8. An applicant for a construction permit for an air contaminant source with valid operating permit may request that the air contaminant source be issued a new five-year operating permit. The operating permit would be issued in the manner and **[**under**] pursuant to** the conditions provided in sections 643.010 to 643.190 and would supersede any existing operating permit for the source.

9. **[**The director shall take action within thirty days after a request for validation of the operating permit and shall render a decision within one hundred twenty days of receipt of a request for issuance of an operating permit for a class B source.**]** The director shall render a decision within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661, for a class A source. Any affected person may appeal any permit decision, including failure to render a decision within the time period established in this section, to the commission.

10. The director may suspend, revoke or modify an operating permit for cause.

11. The director shall not approve an operating permit if he receives an objection to approval of the permit from the United States Environmental Protection Agency within the time period specified **[**under**] pursuant to** Title V of the Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

12. The director shall enforce all applicable federal rules, standards and requirements issued **[**under**] pursuant to** the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and shall incorporate such applicable standards and any limitations established pursuant to Title III into operating permits as required **[**under**] pursuant to** Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

13. Applicable standards promulgated by the commission by rule shall be incorporated by the director into the operating permit of any air contaminant source which has, on the effective date of the rule, at least three years remaining before renewal of its operating permitIf less than three years remain before renewal of the source's operating permit, such applicable standards shall be incorporated into the permit unless the permit contains a shield from such new requirements consistent with Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

14. The holder of a valid operating permit shall have operational flexibility to make changes to any air contaminant source, if the changes will not result in air contaminant emissions in excess of those established in the operating permit or result in the emissions of any

air contaminant not previously emitted without obtaining a modification of the operating permit provided such changes are consistent with Section 502(b)(10) of the federal Clean Air Act, as amended, 42 U.S.C. 7661.

15. An air contaminant source with a valid operating permit which submits a complete application for a permit renewal at least six months prior to the expiration of the permit shall be deemed to have a valid operating permit until the director acts upon its permit application. The director shall promptly notify the applicant in writing of his action on the application and if the operating permit is not issued state the reasons therefor.

16. The applicant may appeal to the commission if an operating permit is not issued or may appeal any condition, suspension, modification or revocation of any permit by filing notice of appeal with the commission within thirty days of the notice of the director's response to the request for issuance of the operating permit.

17. Any person who obtains a valid operating permit from a city or county pursuant to the authority granted in section 643.140 shall be deemed to have met the requirements of this section.

644.016. When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

(1) "Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) "Commission", the clean water commission of the state of Missouri created in section 644.021;

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

(4) "Department", the department of natural resources;

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

(6) "Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;

(7) "Effluent control regulations", limitations on the discharge of water contaminants;

(8) "General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;

(9) "Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;

(10) "Income" includes retirement benefits, consultant fees, and stock dividends;

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

(12) "Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;

(13) "Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;

(14) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(15) "Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged**. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture**;

(16) "Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;

(17) "Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

(18) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

(19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

(20) "Significant portion of his or her income" shall mean ten percent of gross personal

income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

(21) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

(22) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

(23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

(24) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 **[**and nonpoint source pursuant to any federal water pollution control act**]**, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly**. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture**;

(25) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

(26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common **[**and includes waters of the United States lying within the state**]**. **This term shall not include an accidental or unintentional discharge into a dry waterway, dry ditch, dry water course, or any non-flowing ditch, waterway or watercourse where said discharge is entirely confined upon lands owned, leased, or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and where the discharged water contaminants are removed, cleaned up, or remediated to the extent that any future flow of water or future flushes of stormwater that go off the property do not exceed any of the standards, regulations, or limitations set forth in sections 644.006 to 644.141. Nor shall this term include an accidental or unintentional discharge into a pond, lake, or reservoir that is not actively discharging water through the spillway and is located completely upon lands owned, leased, or otherwise controlled by single person or by two or more persons jointly or as tenants in common as long as any**

future flow of water or flushes of stormwater that go through the spillway and off the property do not exceed any of the standards, regulations, or limitations set forth in sections 644.006 to 644.141.

644.052. 1. Persons with operating permits or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district or other publicly owned treatment works shall pay a permit fee pursuant to subsections 10 and 11 of this section.

2. A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

(1) One hundred dollars if the design flow is less than five thousand gallons per day;

(2) One hundred fifty dollars if the design flow is equal to or greater than five thousand gallons per day but less than six thousand gallons per day;

(3) One hundred seventy-five dollars if the design flow is equal to or greater than six thousand gallons per day but less than seven thousand gallons per day;

(4) Two hundred dollars if the design flow is equal to or greater than seven thousand gallons per day but less than eight thousand gallons per day;

(5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight thousand gallons per day but less than nine thousand gallons per day;

(6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand gallons per day but less than ten thousand gallons per day;

(7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten thousand gallons per day but less than eleven thousand gallons per day;

(8) Four hundred dollars if the design flow is equal to or greater than eleven thousand gallons per day but less than twelve thousand gallons per day;

(9) Four hundred fifty dollars if the design flow is equal to or greater than twelve thousand gallons per day but less than thirteen thousand gallons per day;

(10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand gallons per day but less than fourteen thousand gallons per day;

(11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen thousand gallons per day but less than fifteen thousand gallons per day;

(12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand gallons per day but less than sixteen thousand gallons per day;

(13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen thousand gallons per day but less than seventeen thousand gallons per day;

(14) Eight hundred dollars if the design flow is equal to or greater than seventeen thousand gallons per day but less than twenty thousand gallons per day;

(15) One thousand dollars if the design flow is equal to or greater than twenty thousand gallons per day but less than twenty-three thousand gallons per day;

(16) Two thousand dollars if the design flow is equal to or greater than twenty-three

thousand gallons per day but less than twenty-five thousand gallons per day;

(17) Two thousand five hundred dollars if the design flow is equal to or greater than twenty-five thousand gallons per day but less than thirty thousand gallons per day;

(18) Three thousand dollars if the design flow is equal to or greater than thirty thousand gallons per day but less than one million gallons per day; or

(19) Three thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

3. Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay:

(1) Five thousand dollars if the industry is a class IA animal feeding operation as defined by the commission; or

(2) For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:

(a) Three thousand five hundred dollars if the design flow is less than one million gallons per day; or

(b) Five thousand dollars if the design flow is equal to or greater than one million gallons per day.

4. Persons who apply for or possess a site-specific permit solely for industrial storm water shall pay an annual fee of:

(1) One thousand three hundred fifty dollars if the design flow is less than one million gallons per day; or

(2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than one million gallons per day.

5. Persons who produce industrial process wastewater who are not included in subsection 2 or 3 of this section shall annually pay:

(1) One thousand five hundred dollars if the design flow is less than one million gallons per day; or

(2) Two thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

6. Persons who apply for or possess a general permit shall pay:

(1) Three hundred dollars for the discharge of storm water from a land disturbance site;

(2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

(3) One hundred fifty dollars for the operation of an animal feeding operation or a concentrated animal feeding operation;

(4) One hundred fifty dollars annually for new permits for the discharge of process water or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of this subsection. Persons paying fees pursuant to this subdivision with existing general permits on August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

(5) Up to two hundred fifty dollars annually for the operation of an aquaculture facility.

7. Requests for modifications to state operating permits on entities that charge a service connection fee pursuant to subsection 10 of this section shall be accompanied by a two hundred dollar fee. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

8. Requests for state operating permit modifications other than **such requests associated with a construction permit application and** those described in subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the annual operating fee assessed for the facility pursuant to this section. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

9. Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued and accepted for activities authorized pursuant to a general permit or nationwide permit by the U.S. Army Corps of Engineers.

10. Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640, RSMo;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire suppression and irrigation systems;

(9) Twenty-five dollars per water service connection for all other customers with water service connections of more than four inches, excluding taps for fire suppression and irrigation systems.

11. Customers served by any district formed pursuant to the provisions of section 30(a) of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this section according to the following schedule:

(1) From August 28, 2000, through September 30, 2001, customers of any such district shall pay fifty percent of such fees; and

(2) Beginning October 1, 2001, customers of any such districts shall pay one hundred percent of such fees.

12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay a filing fee of twenty-five dollars.

13. For any general permit issued to a state agency for highway construction pursuant to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the permit.

644.145. 1. The commission shall develop criteria to determine "per capita average cost" for construction and operation of a wastewater or drinking water facility by an assessment of the records and financial cost for similar projects or facilities in this state within the previous seven years.

2. After the commission has developed a criteria for a "per capita average cost", the commission shall develop criteria to compensate the engineer or engineer firm for design and construction of wastewater or drinking water facilities which are lower than such per capita cost average as set forth pursuant to section 640.620, RSMo.

3. 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, 2003, shall be invalid and void.

644.581. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.582. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.583. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

Section 1. 1. In letting contracts for the performance of any job or service for removal or cleanup of waste, the department of natural resources, in addition to the requirements of 34.073 and 34.076, shall give preference to any bid which comes from:

(1) A individual resident vendor who has resided in Missouri continuously for the four years immediately preceding the date on which the bid is submitted or from a partnership, association, corporation resident vendor, or from a corporation nonresident vendor which has an affiliate or subsidiary which employs a minimum of twenty state residents and which has maintained its headquarters or principal place of business within Missouri continuously for four years immediately preceding the date on which the bid is submitted, if the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if the vendor has made written claim for the preference at the time the bid was submitted.

(2) From a resident vendor, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of Missouri who have resided in the state continuously for the two immediately preceding years and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if the vendor has certified the residency requirements of this subdivision and made written claim for the preference, at the time the bid was submitted; or

(3) From a nonresident vendor, which employs a minimum of twenty state residents or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principle place of business within Missouri and which employs a minimum of twenty state residents, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees or the vendor's affiliate's or subsidiary's employees are residents of Missouri who have resided in the state continuously for the two immediately preceding years and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if the vendor has certified the residency requirements of this subdivision and made written claim for the preference, at the time the bid was submitted.

2. For any vendor which meets more than one qualifying factor contained in subsection 1 of this section the effects of such preference allowed pursuant to the provisions of subsection 1 of this section shall be cumulative.

[319.137. Rules and regulations promulgated by the United States Environmental Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by the department by reference. The department may adopt rules and regulations that are more stringent than those issued by the United States Environmental Protection Agency if such rules or regulations are necessary to protect human health or the environment. Any such rule shall be adopted only after due notice and public hearing in accordance with the provisions of this section, chapter 536, RSMo, and chapter 644, RSMo. No rule or portion of a rule promulgated under the authority of sections 319.100 to 319.139 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]**

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