

FIRST REGULAR SESSION

SENATE BILL NO. 434

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time February 28, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1837S.011

AN ACT

To repeal section 621.015, RSMo, and to enact in lieu thereof three new sections relating to the administrative hearing commission.

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

Section A. Section 621.015, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 621.015, 621.250, and 640.013, to read as follows:

621.015. The "Administrative Hearing Commission" is assigned to the office of administration. It shall consist of no more than three commissioners. The commissioners shall be appointed by the governor with the advice and consent of the senate. The term of each commissioner shall be for six years and until his successor is appointed, qualified and sworn. The commissioners shall be attorneys at law admitted to practice before the supreme court of Missouri, but shall not practice law during their term of office. Each commissioner shall receive annual compensation of fifty-one thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Each commissioner shall also be entitled to actual and necessary expenses in the performance of his duties. The office of the administrative hearing commission shall be located in the City of Jefferson and it may employ necessary clerical assistance, compensation and expenses of the commissioners to be paid from appropriations [from general revenue] made for that purpose.

621.250. 1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, RSMo, the hazardous waste management

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

commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in chapter 640, RSMo, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission pursuant to chapter 621. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection.

2. Except as otherwise provided by law, any person or entity who is a party to, or who is affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days any such finding, order, decision, or assessment is delivered, whichever is earlier.

3. Any decision by the director of the department of natural resources that may be appealed to the commissions listed in subsection 1 of section 621.052 shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.". Within fifteen days after the administrative hearing commission renders its recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The decision of the commission shall be based only on the facts and evidence in the

hearing record. The commission may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute pursuant to this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue pursuant to section 32.065, RSMo.

5. Appropriations shall be made from the respective funds of the various commissions to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission pursuant to this section, the burden of proof shall comply with section 640.012, RSMo. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536, RSMo, and its regulations promulgated thereunder.

640.013. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall be transferred to the administrative hearing commission pursuant to chapter 621, RSMo. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection.