

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 976

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time January 17, 2008, and ordered printed.

Read 2nd time January 22, 2008, and referred to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

Reported from the Committee March 13, 2008, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up April 2, 2008. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

4255S.01P

AN ACT

To repeal sections 621.250 and 640.013, RSMo, and to enact in lieu thereof two new sections relating to certain appeals to be heard by the administrative hearing commission.

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

Section A. Sections 621.250 and 640.013, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 621.250 and 640.013, to
3 read as follows:

621.250. 1. All authority to hear appeals granted in chapters 260, 444,
2 640, 643, and 644, RSMo, and to the hazardous waste management commission
3 in chapter 260, RSMo, the land reclamation commission in chapter 444, RSMo,
4 the safe drinking water commission in chapter 640, RSMo, the air conservation
5 commission in chapter 643, RSMo, and the clean water commission in chapter
6 644, RSMo, shall be transferred to the administrative hearing commission under
7 this chapter. The authority to render final decisions after hearing on appeals
8 heard by the administrative hearing commission shall remain with the
9 commissions listed in this subsection. **The commissions listed in this**
10 **subsection may render final decisions after hearing or through**
11 **stipulation, consent order, agreed settlement, or by disposition in the**
12 **nature of a default judgment, judgment on the pleadings, or summary**

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

13 **determination, consistent with the rules and procedures of the**
14 **administrative hearing commission.**

15 2. Except as otherwise provided by law, any person or entity who is a
16 party to, or who is affected by, any finding, order, decision, or assessment for
17 which the authority to hear appeals was transferred to the administrative
18 hearing commission in subsection 1 of this section [shall be entitled to a hearing
19 before the administrative hearing commission by the filing of a petition] **may file**
20 **a notice of appeal** with the administrative hearing commission within thirty
21 days after any such finding, order, decision, or assessment is placed in the United
22 States mail or within thirty days of any such finding, order, decision, or
23 assessment being delivered, whichever is earlier. **The administrative hearing**
24 **commission may hold hearings or may make recommended decisions**
25 **based on stipulation of the parties, consent order, agreed settlement,**
26 **or by disposition in the nature of default judgment, judgment on the**
27 **pleadings, or summary determination, in accordance with the rules and**
28 **procedures of the administrative hearing commission.**

29 3. Any decision by the director of the department of natural resources that
30 may be appealed to the commissions listed in subsection 1 of section 621.052 and
31 shall contain a notice of the right of appeal in substantially the following
32 language: "If you were adversely affected by this decision, you may appeal to
33 have the matter heard by the administrative hearing commission. To appeal, you
34 must file a petition with the administrative hearing commission within thirty
35 days after the date this decision was mailed or the date it was delivered,
36 whichever date was earlier. If any such petition is sent by registered mail or
37 certified mail, it will be deemed filed on the date it is mailed; if it is sent by any
38 method other than registered mail or certified mail, it will be deemed filed on the
39 date it is received by the administrative hearing commission.". Within fifteen
40 days after the administrative hearing commission renders its recommended
41 decision, it shall transmit the record and a transcript of the proceedings, together
42 with the administrative hearing commission's recommended decision to the
43 commission having authority to issue a final decision. The decision of the
44 commission shall be based only on the facts and evidence in the hearing
45 record. The commission may adopt the recommended decision as its final
46 decision. The commission may change a finding of fact or conclusion of law made
47 by the administrative hearing commission, or may vacate or modify the
48 recommended decision issued by the administrative hearing commission, only if

49 the commission states in writing the specific reason for a change made under this
50 subsection.

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

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

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

640.013. [All authority to hear appeals granted in this chapter and
2 chapters 260, 444, 643, and 644, RSMo, and to the hazardous waste management
3 commission in chapter 260, RSMo, the land reclamation commission in chapter
4 444, RSMo, the safe drinking water commission in this chapter, the air
5 conservation commission in chapter 643, RSMo, and the clean water commission
6 in chapter 644, RSMo, shall be transferred to the administrative hearing
7 commission under chapter 621, RSMo. The authority to render final decisions
8 after hearing on appeals heard by the administrative hearing commission shall
9 remain with the commissions listed in this subsection.] **The administrative
10 hearing commission shall have the authority to hear certain
11 environmental appeals in accordance with section 621.250, RSMo.**

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