

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1586

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

6560S.11P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 260.213, 260.330, and 260.335, RSMo, and to enact in lieu thereof three new sections relating to solid waste management.

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

Section A. Sections 260.213, 260.330, and 260.335, RSMo,
2 are repealed and three new sections enacted in lieu thereof, to
3 be known as sections 260.213, 260.330, and 260.335, to read as
4 follows:

260.213. No person may knowingly sell, convey or
2 transfer title to any property that contains a permitted or
3 unpermitted solid waste disposal site or demolition
4 landfill, without disclosing **[to] the sale, conveyance, or**
5 **transfer to the department of natural resources. The seller**
6 **shall inform** the buyer **with a written notice signed and**
7 **dated by the seller** early in the negotiation process **about**
8 the existence and location of the **disposal or landfill**
9 site. **If the seller fails to inform the buyer with the**
10 **written notice about the existence and location of the**
11 **disposal or landfill site under this section, the buyer may**
12 **cancel the sale agreement and the seller shall be required**
13 **to disburse to the buyer any earnest money paid by the buyer**

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

14 **to the seller.** The seller shall also notify the buyer that
15 he may be assuming liability to the state for any remedial
16 action at the site, except that the sale, conveyance or
17 transfer of property shall not absolve any person
18 responsible for the illegal disposition of solid waste,
19 including the seller, of liability for any remedial action
20 at the site.

260.330. 1. Except as otherwise provided in
2 subsection 6 of this section, effective October 1, 1990,
3 each operator of a solid waste sanitary landfill shall
4 collect a charge equal to one dollar and fifty cents per ton
5 or its volumetric equivalent of solid waste accepted and
6 each operator of the solid waste demolition landfill shall
7 collect a charge equal to one dollar per ton or its
8 volumetric equivalent of solid waste accepted. Each
9 operator shall submit the charge, less collection costs, to
10 the department of natural resources for deposit in the
11 "Solid Waste Management Fund" which is hereby created. On
12 October 1, 1992, and thereafter, the charge imposed herein
13 shall be adjusted annually by the same percentage as the
14 increase in the general price level as measured by the
15 Consumer Price Index for All Urban Consumers for the United
16 States, or its successor index, as defined and officially
17 recorded by the United States Department of Labor or its
18 successor agency. No annual adjustment shall be made to the
19 charge imposed under this subsection during October 1, 2005,
20 to October 1, 2027, except an adjustment amount consistent
21 with the need to fund the operating costs of the department
22 and taking into account any annual percentage increase in
23 the total of the volumetric equivalent of solid waste
24 accepted in the prior year at solid waste sanitary landfills
25 and demolition landfills and solid waste to be transported

26 out of this state for disposal that is accepted at transfer
27 stations. No annual increase during October 1, 2005, to
28 October 1, 2027, shall exceed the percentage increase
29 measured by the Consumer Price Index for All Urban Consumers
30 for the United States, or its successor index, as defined
31 and officially recorded by the United States Department of
32 Labor or its successor agency and calculated on the
33 percentage of revenues dedicated under subdivision (1) of
34 subsection 2 of section 260.335. Any such annual adjustment
35 shall only be made at the discretion of the director,
36 subject to appropriations. **After October 1, 2027, an annual**
37 **adjustment shall be based on the percentage increase**
38 **measured by the Consumer Price Index for All Urban Consumers**
39 **for the United States, or its successor index, as defined**
40 **and officially recorded by the United States Department of**
41 **Labor or its successor agency, for the preceding year.**
42 Collection costs shall be established by the department and
43 shall not exceed two percent of the amount collected
44 pursuant to this section.

45 2. The department shall, by rule and regulation,
46 provide for the method and manner of collection.

47 3. The charges established in this section shall be
48 enumerated separately from the disposal fee charged by the
49 landfill and may be passed through to persons who generated
50 the solid waste. Moneys transmitted to the department shall
51 be no less than the amount collected less collection costs
52 and in a form, manner and frequency as the department shall
53 prescribe. The provisions of section 33.080 to the contrary
54 notwithstanding, moneys in the account shall not lapse to
55 general revenue at the end of each biennium. Failure to
56 collect the charge does not relieve the operator from

57 responsibility for transmitting an amount equal to the
58 charge to the department.

59 4. The department may examine or audit financial
60 records and landfill activity records and measure landfill
61 usage to verify the collection and transmittal of the
62 charges established in this section. The department may
63 promulgate by rule and regulation procedures to ensure and
64 to verify that the charges imposed herein are properly
65 collected and transmitted to the department.

66 5. Effective October 1, 1990, any person who operates
67 a transfer station in Missouri shall transmit a fee to the
68 department for deposit in the solid waste management fund
69 which is equal to one dollar and fifty cents per ton or its
70 volumetric equivalent of solid waste accepted. Such fee
71 shall be applicable to all solid waste to be transported out
72 of the state for disposal. On October 1, 1992, and
73 thereafter, the charge imposed herein shall be adjusted
74 annually by the same percentage as the increase in the
75 general price level as measured by the Consumer Price Index
76 for All Urban Consumers for the United States, or its
77 successor index, as defined and officially recorded by the
78 United States Department of Labor or its successor agency.
79 No annual adjustment shall be made to the charge imposed
80 under this subsection during October 1, 2005, to October 1,
81 2027, except an adjustment amount consistent with the need
82 to fund the operating costs of the department and taking
83 into account any annual percentage increase in the total of
84 the volumetric equivalent of solid waste accepted in the
85 prior year at solid waste sanitary landfills and demolition
86 landfills and solid waste to be transported out of this
87 state for disposal that is accepted at transfer stations.
88 No annual increase during October 1, 2005, to October 1,

89 2027, shall exceed the percentage increase measured by the
90 Consumer Price Index for All Urban Consumers for the United
91 States, or its successor index, as defined and officially
92 recorded by the United States Department of Labor or its
93 successor agency and calculated on the percentage of
94 revenues dedicated under subdivision (1) of subsection 2 of
95 section 260.335. Any such annual adjustment shall only be
96 made at the discretion of the director, subject to
97 appropriations. **After October 1, 2027, an annual adjustment**
98 **shall be based on the percentage increase measured by the**
99 **Consumer Price Index for All Urban Consumers for the United**
100 **States, or its successor index, as defined and officially**
101 **recorded by the United States Department of Labor or its**
102 **successor agency, for the preceding year.** The department
103 shall prescribe rules and regulations governing the
104 transmittal of fees and verification of waste volumes
105 transported out of state from transfer stations. Collection
106 costs shall also be established by the department and shall
107 not exceed two percent of the amount collected pursuant to
108 this subsection. A transfer station with the sole function
109 of separating materials for recycling or resource recovery
110 activities shall not be subject to the fee imposed in this
111 subsection.

112 6. Each political subdivision which owns an
113 operational solid waste disposal area may designate,
114 pursuant to this section, up to two free disposal days
115 during each calendar year. On any such free disposal day,
116 the political subdivision shall allow residents of the
117 political subdivision to dispose of any solid waste which
118 may be lawfully disposed of at such solid waste disposal
119 area free of any charge, and such waste shall not be subject
120 to any state fee pursuant to this section. Notice of any

121 free disposal day shall be posted at the solid waste
122 disposal area site and in at least one newspaper of general
123 circulation in the political subdivision no later than
124 fourteen days prior to the free disposal day.

260.335. 1. **The department shall have the authority
2 to assess, investigate, test, remediate, and manage
3 abandoned solid waste disposal areas. For purposes of this
4 section, "abandoned" means that a legally responsible person
5 for the site cannot be identified, located, or was
6 determined to be financially insolvent by the department.**
7 Each fiscal year eight hundred thousand dollars from the
8 solid waste management fund shall be made available, upon
9 appropriation, to the department and the environmental
10 improvement and energy resources authority to fund
11 activities that promote the development and maintenance of
12 markets for recovered materials. Each fiscal year up to two
13 hundred thousand dollars from the solid waste management
14 fund may be used by the department upon appropriation for
15 grants to solid waste management districts for district
16 grants and district operations. Only those solid waste
17 management districts that are allocated fewer funds under
18 subsection 2 of this section than if revenues had been
19 allocated based on the criteria in effect in this section on
20 August 27, 2004, are eligible for these grants. An eligible
21 district shall receive a proportionate share of these grants
22 based on that district's share of the total reduction in
23 funds for eligible districts calculated by comparing the
24 amount of funds allocated under subsection 2 of this section
25 with the amount of funds that would have been allocated
26 using the criteria in effect in this section on August 27,
27 2004. The department and the authority shall establish a
28 joint interagency agreement with the department of economic

29 development to identify state priorities for market
30 development and to develop the criteria to be used to judge
31 proposed projects. Additional moneys may be appropriated in
32 subsequent fiscal years if requested. The authority shall
33 establish a procedure to measure the effectiveness of the
34 grant program under this subsection and shall provide a
35 report to the governor and general assembly by January
36 fifteenth of each year regarding the effectiveness of the
37 program.

38 2. All remaining revenues deposited into the fund each
39 fiscal year after moneys have been made available under
40 subsection 1 of this section shall be allocated as follows:

41 (1) Thirty-nine percent of the revenues shall be
42 dedicated, upon appropriation, to the elimination of illegal
43 solid waste disposal, to identify and prosecute persons
44 disposing of solid waste illegally, to conduct solid waste
45 permitting activities, to administer grants and perform
46 other duties imposed in sections 260.200 to 260.345 and
47 section 260.432. In addition to the thirty-nine percent of
48 the revenues, the department may receive any annual increase
49 in the charge during October 1, 2005, to October 1, 2027,
50 under section 260.330 and such increases shall be used
51 solely to fund the operating costs of the department;

52 (2) ~~[Sixty-one]~~ **Fifty-one** percent of the revenues,
53 except any annual increases in the charge under section
54 260.330 during October 1, 2005, to October 1, 2027, which
55 shall be used solely to fund the operating costs of the
56 department, shall be allocated to solid waste management
57 districts. Revenues to be allocated under this subdivision
58 shall be divided as follows: forty percent shall be
59 allocated based on the population of each district in the
60 latest decennial census, and sixty percent shall be

61 allocated based on the amount of revenue generated within
62 each district. For the purposes of this subdivision,
63 revenue generated within each district shall be determined
64 from the previous year's data. No more than fifty percent
65 of the revenue allocable under this subdivision may be
66 allocated to the districts upon approval of the department
67 for implementation of a solid waste management plan and
68 district operations, and at least fifty percent of the
69 revenue allocable to the districts under this subdivision
70 shall be allocated to the cities and counties of the
71 district or to persons or entities providing solid waste
72 management, waste reduction, recycling and related services
73 in these cities and counties. Each district shall receive a
74 minimum of seventy-five thousand dollars under this
75 subdivision. After August 28, 2015, each district shall
76 receive a minimum of ninety-five thousand dollars under this
77 subdivision for district grants and district operations.
78 Each district receiving moneys under this subdivision shall
79 expend such moneys pursuant to a solid waste management plan
80 required under section 260.325, and only in the case that
81 the district is in compliance with planning requirements
82 established by the department. Moneys shall be awarded
83 based upon grant applications. The following criteria may
84 be considered to establish the order of district grant
85 priority:

86 (a) Grants to facilities of organizations employing
87 individuals with disabilities under sections 178.900 to
88 178.960 or sections 205.968 to 205.972;

89 (b) Grants for proposals that will promote and
90 maximize the sharing of district resources;

91 (c) Grants for proposals which provide methods of
92 recycling and solid waste reduction; and

93 (d) All other grants. Any allocated district moneys
94 remaining in any fiscal year due to insufficient or
95 inadequate grant applications shall be reallocated for grant
96 applications in subsequent years or for solid waste
97 management projects other than district operations,
98 including a district's next request for solid waste
99 management project proposals.

100 Any allocated district moneys remaining after a period of
101 five years shall revert to the credit of the solid waste
102 management fund created under section 260.330;

103 (3) **[Except for the amount up to one-fourth of the**
104 **department's previous fiscal year expense, any remaining**
105 **unencumbered funds generated under subdivision (1) of this**
106 **subsection in prior fiscal years shall be reallocated under**
107 **this section] Ten percent of revenue shall be allocated to**
108 **the department for the purpose of administering the**
109 **provisions of subsection 1 of this section relating to the**
110 **assessment, investigation, testing, remediation, and**
111 **managing of abandoned solid waste disposal areas;**

112 (4) **If there are no more abandoned solid waste**
113 **disposal areas left in existence in the state in any given**
114 **year, the percentage of revenue shall increase from fifty-**
115 **one to sixty-one percent for the purpose of administering**
116 **the provisions of subdivision (2) of subsection 2 of this**
117 **section;**

118 **[(4)] (5) Funds may be made available under this**
119 **subsection for the administration and grants of the used**
120 **motor oil program described in section 260.253;**

121 **[(5)] (6) The department and the environmental**
122 **improvement and energy resources authority shall conduct**
123 **sample audits of grants provided under this subsection.**

124 3. In addition to the criteria listed in this section,
125 the advisory board created in section 260.345 shall
126 recommend criteria to be used to allocate grant moneys to
127 districts, cities and counties. These criteria shall
128 establish a priority for proposals which provide methods of
129 solid waste reduction and recycling. The department shall
130 promulgate criteria for evaluating grants by rule and
131 regulation. Projects of cities and counties located within
132 a district which are funded by grants under this section
133 shall conform to the district solid waste management plan.

134 4. The funds awarded to the districts pursuant to this
135 section shall be used for the purposes set forth in sections
136 260.300 to 260.345, and shall be used in addition to
137 existing funds appropriated by counties and cities for solid
138 waste management and shall not supplant county or city
139 appropriated funds.

140 5. Once grants are approved by the solid waste
141 management district, the district shall submit to the
142 department the appropriate forms associated with the grant
143 application and any supporting information to verify that
144 appropriate public notice procedures were followed, that
145 grant proposals were reviewed and ranked by the district,
146 and that only eligible costs as set forth in regulations are
147 to be funded. Within thirty days, the department shall
148 review the grant application. If the department finds any
149 deficiencies, or needs more information in order to evaluate
150 the grant application, the department shall notify the
151 district in writing. The district shall have an additional
152 thirty days to respond to the department's request and to
153 submit any additional information to the department. Within
154 thirty days of receiving additional information, the
155 department shall either approve or deny the grant

156 application. If the department takes no action, the grant
157 application shall be deemed approved. The department, in
158 conjunction with the solid waste advisory board, shall
159 review the performance of all grant recipients to ensure
160 that grant moneys were appropriately and effectively
161 expended to further the purposes of the grant, as expressed
162 in the recipient's grant application. The grant application
163 shall contain specific goals and implementation dates, and
164 grant recipients shall be contractually obligated to fulfill
165 same. The department may require the recipient to submit
166 periodic reports and such other data as are necessary, both
167 during the grant period and up to five years thereafter, to
168 ensure compliance with this section. The department may
169 audit the records of any recipient to ensure compliance with
170 this section. Recipients of grants under sections 260.300
171 to 260.345 shall maintain such records as required by the
172 department. If a grant recipient fails to maintain records
173 or submit reports as required herein, refuses the department
174 access to the records, or fails to meet the department's
175 performance standards, the department may withhold
176 subsequent grant payments, if any, and may compel the
177 repayment of funds provided to the recipient pursuant to a
178 grant.

179 6. The department shall provide for a security
180 interest in any machinery or equipment purchased through
181 grant moneys distributed pursuant to this section.

182 7. If the moneys are not transmitted to the department
183 within the time frame established by the rule promulgated,
184 interest shall be imposed on the moneys due the department
185 at the rate of ten percent per annum from the prescribed due
186 date until payment is actually made. These interest amounts

187 shall be deposited to the credit of the solid waste
188 management fund.

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