

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 539
95TH GENERAL ASSEMBLY

2062L.10C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 204.569, 278.070, 640.107, 640.150, 644.036, 644.054, and 644.101, RSMo, and to enact in lieu thereof nine new sections relating to environmental protection, with an emergency clause for certain sections.

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

Section A. Sections 204.569, 278.070, 640.107, 640.150, 644.036, 644.054, and
2 644.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
3 sections 204.569, 204.659, 278.070, 640.107, 640.150, 640.160, 644.036, 644.054, and 644.101,
4 to read as follows:

204.569. When an unincorporated sewer subdistrict of a common sewer district has been
2 formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer
3 district shall have the same powers with regard to the subdistrict as for the common sewer
4 district as a whole, plus the following additional powers:

5 (1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate
6 such sewers, sewer systems, treatment and disposal facilities, and other property, both real and
7 personal, of the political subdivisions included in the subdistrict as the board determines to be
8 in the interest of the common sewer district to acquire or operate, according to such terms and
9 conditions as the board finds reasonable, provided that such authority shall be in addition to the
10 powers of the board of trustees pursuant to section 204.340;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (2) To provide for the construction, extension, improvement, and operation of such
12 sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary
13 for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

14 (3) For the purpose of meeting the costs of activities undertaken pursuant to the authority
15 granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same
16 manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district.
17 Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the
18 voters of the subdistrict voting on the question, and the principal and interest of such bonds shall
19 be payable only from the revenues of the subdistrict and not from any revenues of the common
20 sewer district as a whole. **If the subdistrict is a part of a common sewer district partially**
21 **located in any county with a charter form of government and with more than six hundred**
22 **thousand but fewer than seven hundred thousand inhabitants and partially located in any**
23 **county of the first classification with more than eighty-two thousand but fewer than eighty-**
24 **two thousand one hundred inhabitants, the provisions of section 204.370 requiring action**
25 **to authorize the issuance of bonds to undertake the activities in the subdistrict shall apply,**
26 **except that the term "customer" shall mean any political subdivision within the subdistrict**
27 **that has a service or user agreement with the common sewer district;**

28 (4) To charge the costs of the common sewer district for operation and maintenance
29 attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of
30 administration to revenues of the subdistrict and to consider such costs in determining reasonable
31 charges to impose within the subdistrict under section 204.440;

32 (5) With prior concurrence of the subdistrict's advisory board, to provide for the
33 treatment and disposal of sewage from the subdistrict in or by means of facilities of the common
34 sewer district not located within the subdistrict, in which case the board of trustees shall also
35 have authority to charge a proportionate share of the costs of the common sewer district for
36 operation and maintenance to revenues of the subdistrict and to consider such costs in
37 determining reasonable charges to impose within the subdistrict under section 204.440.

204.659. No person who owns real property that is used for residential purposes
2 **within the boundaries of any district created under section 30 of article VI of the Missouri**
3 **Constitution shall be assessed any fee, charge, or tax for storm water management services**
4 **if the district does not directly provide sanitary sewer services to such property and if the**
5 **storm water runoff from such person's property does not flow, or is not otherwise**
6 **conveyed, to a sewer maintained by such district.**

278.070. As used in sections 278.060 to 278.300, the following words and terms mean:

2 (1) "Board of soil and water district supervisors" or "soil and water supervisors", the
3 local governing body of a soil and water district, elected or appointed in accordance with the
4 provisions of this law;

5 (2) "Land representative", the owner or representative authorized by power of attorney
6 of any farm lying within any area proposed to be established, and subsequently established, as
7 a soil and water district under the provisions of this law, and for the purposes of [this law]
8 **sections 278.060 to 278.155** each such farm shall be entitled to representation by a land
9 representative; provided, however, that any land representative must be a taxpayer of the county
10 within which the soil and water district is located;

11 (3) "Landowner", any person, firm or corporation who holds title to any lands lying
12 within a district organized or to be organized under the provisions of this chapter. Any
13 landowner may be represented by notarized proxy not more than one year old;

14 (4) "Soil and water conservation cost-share program", a state-funded incentive program
15 designed for the purpose of saving the soil **and protecting the water resources** of the state
16 [through erosion control and abatement] **to preserve the productive power of Missouri**
17 **agricultural land;**

18 (5) "Soil and water conservation district" or "soil and water district", a county or one or
19 more of its townships wherein a project for saving the soil and water has been established with
20 the authority and duty and subject to the restrictions herein set forth; and in establishing a soil
21 and water district, if the proposed area is less than the area of the county which contains it, but
22 greater than the area of one township, the additional township or townships to be included in
23 such soil and water district need not be contiguous with the first township or with one another,
24 but there shall be only one soil and water district within the boundaries of the same county; and
25 any farm intersected by a soil and water district boundary shall be considered as lying within that
26 district for purposes of soil and water conservation by that district, except that the soil and water
27 conservation of a farm which lies partly within one soil and water district and partly within
28 another shall be considered the duty of the soil and water district in which the home buildings
29 of such farm are located;

30 (6) "State soil and water districts commission" or "soil and water commission", the
31 agency created by section 278.080 for the administration of the soil and water conservation
32 districts provided for by [this law] **sections 278.060 to 278.155;**

33 (7) "Subdistrict", "watershed", or "watershed district", as used in sections 278.160 to
34 278.300, a watershed district, with the exception of section 278.160, whereby subdistrict is
35 specifically used to describe the relationship to an established soil and water conservation district
36 or districts that may be established as a watershed district;

37 (8) "Township", municipal township and not congressional or survey township.

640.107. 1. There is hereby established, as a subfund of the water and wastewater fund established in section 644.122, RSMo, the "Drinking Water Revolving Fund", which shall be maintained and accounted for separately, and which shall consist of moneys from all lawful public and private sources including legislative appropriations, federal capitalization grants, interest on investments and principal and interest payments with respect to loans made from the drinking water revolving fund. Money in the drinking water revolving fund may be used only for purposes as are authorized in the federal Safe Drinking Water Act, as amended **and the American Recovery and Reinvestment Act of 2009 as enacted by the 111th United States Congress.**

2. The commission shall, consistent with the requirements of the federal Safe Drinking Water Act **and the American Recovery and Reinvestment Act of 2009** for the drinking water revolving fund to become eligible for capitalization grants from the United States Environmental Protection Agency, establish criteria and procedures for the selection of projects and the making of loans or the grant of loan subsidies for disadvantaged communities.

3. After providing for review and public comment, and in accordance with the requirements for such plans set forth in the federal Safe Drinking Water Act, the commission shall annually prepare an intended use plan for the funds available in the drinking water revolving fund.

4. Consistent with the requirements of the federal Safe Drinking Water Act, and only to the extent funds are available to be obligated for eligible projects of public water systems, in developing its annual intended use plan, the commission shall make available no less than thirty-five percent, but may make available greater than thirty-five percent, of the moneys credited to the drinking water revolving fund solely for project loans and loan subsidies for projects of systems serving fewer than ten thousand people in accordance with the following:

| Systems Serving: | Percentage: |
|----------------------|-------------|
| 0 - 3,300 people | 20% |
| 3,301 - 9,999 people | 15% |

provided that, in any fiscal year, loan subsidies may not exceed the maximum percentage as specified in the federal Safe Drinking Water Act. In any fiscal year in which there are insufficient applicants and projects in the population categories listed in this subsection to allocate the percentages of funds specified pursuant to this subsection, any balance of funds otherwise reserved for systems serving fewer than ten thousand people shall be available for obligation to eligible projects from any eligible applicant. Such uncommitted balances shall be redistributed in accordance with the intended use plan.

36 5. The department shall make available two percent of the moneys from the federal
37 capitalization grants received pursuant to this section for training and technical assistance to
38 public water systems serving fewer than ten thousand people. Training and technical assistance
39 provided pursuant to this subsection shall be consistent with rules of the commission.

40 **6. The state may provide assistance, as funds are available, pursuant to this**
41 **chapter, to any eligible public water system pursuant to the federal Safe Drinking Water**
42 **Act, as amended, to assist in the construction of public drinking water facilities as**
43 **authorized by the commission. Further, the state may provide additional assistance or**
44 **subsidies to any eligible entity as described in this subsection in the form of principal**
45 **forgiveness, negative interest loans, grants, or any combination thereof, to the extent**
46 **allowed by the federal Safe Drinking Water Act or American Recovery and Reinvestment**
47 **Act of 2009, as enacted by the 111th United States Congress, and within the process**
48 **provided by the Missouri Constitution and revised statutes of the state of Missouri.**

 640.150. 1. The department of natural resources shall be vested with the powers and
2 duties prescribed by law and shall have the power to carry out the following activities:

3 (1) Assessing the impact of national energy policies on this state's supply and use of
4 energy and this state's public health, safety and welfare;

5 (2) Consulting and cooperating with all state and federal governmental agencies,
6 departments, boards and commissions and all other interested agencies and institutions,
7 governmental and nongovernmental, public and private, on matters of energy research and
8 development, management, conservation and distribution;

9 (3) The monitoring and analyzing of all federal, state, local and voluntarily disclosed
10 private sector energy research projects and voluntarily disclosed private sector energy related
11 data and information concerning supply and consumption, in order to plan for the future energy
12 needs of this state. All information gathered shall be maintained, revised and updated as an aid
13 to any interested person, foundation or other organization, public or private;

14 (4) Analyzing the potential for increased utilization of coal, nuclear, solar, resource
15 recovery and reuse, **landfill gas, projects to reduce and capture methane and other**
16 **greenhouse gas emissions from landfills, which shall include increases in methane and**
17 **other greenhouse gas emissions from bioreactor landfills when such increase is used solely**
18 **for the production of energy, energy efficient technologies and other energy alternatives, and**
19 making recommendations for the expanded use of alternate energy sources and technologies;

20 (5) **Entering into cooperative agreements with other states, political subdivisions,**
21 **private entities, or educational institutions for the purpose of seeking and securing federal**
22 **grants for the department and its partners in the grants;**

23 (6) The development and promotion of state energy conservation programs, including:

- 24 (a) Public education and information in energy related areas;
25 (b) Developing energy efficiency standards for agricultural and industrial energy use and
26 for new and existing buildings, to be promoted through technical assistance efforts by
27 cooperative arrangements with interested public, business and civic groups and by cooperating
28 with political subdivisions of this state;
29 (c) Preparing plans for reducing energy use in the event of an energy or other resource
30 supply emergency.

31 2. No funds shall be expended to implement the provisions of this section until funds are
32 specifically appropriated for that purpose.

33 **3. In order to carry out its responsibilities under this section, the department may**
34 **expend any such appropriated funds by entering into agreements, contracts, grants,**
35 **subgrants, or cooperative arrangements under various terms and conditions in the best**
36 **interest of the state with other state, federal, or interstate agencies, political subdivisions,**
37 **not-for-profit entities or organizations, educational institutions, or other entities, both**
38 **public and private, to carry out its responsibilities. The provisions of this subsection shall**
39 **expire on January 1, 2012.**

640.160. 1. There is hereby created in the state treasury the "Energy Futures
2 **Fund", which shall consist of money appropriated by the general assembly or received**
3 **from gifts, bequests, donations, or from the federal government. The state treasurer shall**
4 **be custodian of the fund and may approve disbursements from the fund in accordance with**
5 **sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080,**
6 **RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall**
7 **not revert to the credit of the general revenue fund. The state treasurer shall invest**
8 **moneys in the fund in the same manner as other funds are invested. Any interest and**
9 **moneys earned on such investments shall be credited to the fund.**

10 **2. Upon appropriation, the department of natural resources may use moneys in the**
11 **fund created under this section for the purposes of carrying out the provisions of sections**
12 **640.150 to 640.160 including, but not limited to, energy efficiency programs, energy studies,**
13 **energy resource analyses, or energy projects. After appropriation, the department may**
14 **also expend funds for the administration and management of energy responsibilities and**
15 **activities associated with projects and studies funded from the energy futures fund.**

644.036. 1. No standard, rule or regulation or any amendment or repeal thereof shall be
2 adopted except after a public hearing to be held after thirty days' prior notice by advertisement
3 of the date, time and place of the hearing and opportunity given to the public to be heard. Notice
4 of the hearings and copies of the proposed standard, rule or regulation or any amendment or
5 repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date

6 of the hearing, to any person who has registered with the director for the purpose of receiving
7 notice of such public hearings in accordance with the procedures prescribed by the commission
8 at least forty-five days prior to the scheduled date of the hearing. However, this provision shall
9 not preclude necessary changes during this thirty-day period.

10 2. At the hearing, opportunity to be heard by the commission with respect to the subject
11 thereof shall be afforded any interested person upon written request to the commission, addressed
12 to the director, not later than seven days prior to the hearing, and may be afforded to other
13 persons if convenient. In addition, any interested persons, whether or not heard, may submit,
14 within seven days subsequent to the hearings, a written statement of their views. The
15 commission may solicit the views, in writing, of persons who may be affected by, or interested
16 in, proposed rules and regulations, or standards. Any person heard or represented at the hearing
17 or making written request for notice shall be given written notice of the action of the commission
18 with respect to the subject thereof.

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

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

29 5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended,
30 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval
31 that will result in any waters of the state being classified as impaired shall be adopted by the
32 commission after a public hearing, or series of hearings, held in accordance with the following
33 procedures. The department of natural resources shall publish in at least six regional
34 newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired
35 waters of the state and such notice shall include at least ninety days' advance notice of the date,
36 time, and place of the public hearing and opportunity given to the public to be heard. Notice of
37 the hearings and copies of the proposed list of impaired waters also shall be posted on the
38 department of natural resources' web site and given by regular mail, at least ninety days prior to
39 the scheduled date of the hearing, to any person who has registered with the director for the
40 purpose of receiving notice of such public hearings. The proposed list of impaired waters shall
41 identify the water segment, the uses to be made of such waters, the uses impaired, identify the

42 pollutants causing or expected to cause violations of the applicable water quality standards, and
43 provide a summary of the data relied upon to make the preliminary determination.
44 Contemporaneous with the publication of the notice of public hearing, the department shall make
45 available on its web site all data and information it relied upon to prepare the proposed list of
46 impaired waters, including a narrative explanation of how the department determined the water
47 segment was impaired. At any time after the public notice and until seven days after the public
48 hearing, the department shall accept written comments on the proposed list of impaired waters.
49 After the public hearing and after all written comments have been submitted, the department
50 shall prepare a written response to all comments and a revised list of impaired waters. The
51 commission shall adopt a list of impaired waters in a public meeting during which the public
52 shall be afforded an opportunity to respond to the department's written response to comments and
53 revised list of impaired waters. Notice of the meeting shall include the date, time, and place of
54 the public meeting and shall provide notice that the commission will give interested persons the
55 opportunity to respond to the department's revised list of impaired waters and written responses
56 to comments. At its discretion, the commission may extend public comment periods or hold
57 additional public hearings on the proposed and revised lists of impaired waters. The commission
58 shall not vote to add to the list of impaired waters any waters not recommended by the
59 department in the proposed or revised lists of impaired waters without granting the public at least
60 thirty additional days to comment on the proposed addition. The list of impaired waters adopted
61 by the commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The
62 listing of any water segment on the list of impaired waters adopted by the commission shall be
63 subject to judicial review by any adversely affected party under section 536.150, RSMo. The
64 provisions in this subsection shall expire on August 28, [2009] **2010**.

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

13 public water district or other publicly owned treatment works as reimbursement of billing and
14 collection expenses.

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

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

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

644.101. The state may provide assistance, as funds are available, pursuant to this
2 chapter, to any county, municipality, public water district, public sewer district, or any
3 combination of the same, or any entity eligible pursuant to the Safe Drinking Water Act, as
4 amended, or the Clean Water Act, as amended, to assist them in the construction of public
5 drinking water and water pollution control projects as authorized by the clean water commission.
6 The state may provide assistance pursuant to this chapter, including but not limited to the
7 purchase of water and/or wastewater revenue or general obligation bonds, bonds of any county,
8 instrumentality of the state, state entity, municipality, public sewer district, public water district,
9 community water system, nonprofit noncommunity water system or any combination of the
10 same, or any entity eligible pursuant to the Safe Drinking Water Act, as amended, or the Clean
11 Water Act, as amended. **Further, the state may provide additional assistance or subsidies**
12 **to any eligible entity as described in this section in the form of principal forgiveness,**
13 **negative interest loans, grants, or any combination thereof, to the extent allowed by the**
14 **American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States**
15 **Congress, and within the process provided by the Missouri Constitution and revised**
16 **statutes of the state of Missouri.**

Section B. Because of the need to distribute funds from the American Recovery and
2 Reinvestment Act of 2009 in an efficient and timely manner, the repeal and reenactment of
3 sections 640.107, 640.150, 644.036, 644.054, and 644.101 and the enactment of sections
4 204.659 and 640.160 of section A of this act are deemed necessary for the immediate

5 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
6 emergency act within the meaning of the constitution, and the repeal and reenactment of sections
7 640.107, 640.150, 644.036, 644.054, and 644.101 and the enactment of sections 204.659 and
8 640.160 of section A of this act shall be in full force and effect upon their passage and approval.

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