

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 848
95TH GENERAL ASSEMBLY

4632L.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 273.327, 273.329, 393.150, 393.1025, 393.1030, 644.036, and 644.054, RSMo, and to enact in lieu thereof eleven new sections relating to energy and animals, with a penalty provision and an emergency clause for certain sections.

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

Section A. Sections 273.327, 273.329, 393.150, 393.1025, 393.1030, 644.036, and 644.054, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 262.005, 267.810, 273.327, 273.329, 386.715, 393.150, 393.320, 393.1025, 393.1030, 644.036, and 644.054, to read as follows:

262.005. 1. Agriculture which provides food, energy, and security is the foundation and stabilizing force of Missouri's economy. To protect this vital sector of Missouri's economy, it shall be the right of citizens to raise domesticated animals in a humane manner without the state imposing an undue economic burden on animal owners.

2. As used in this section, the following terms shall mean:

(1) "Generally accepted scientific principles", agricultural standards and practices established by the University of Missouri, and the most current industry standards and practices;

(2) "Humane manner", care of animals regarding the animal's health and environment in compliance with generally accepted scientific principles;

(3) "Undue economic burden", expenses incurred resulting from changes in agricultural practices deemed legal under current state or local laws or ordinances.

267.810. 1. There is hereby established within the department of agriculture the "Missouri Animal Care Advisory Committee". The Missouri animal care advisory

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.

3 committee shall have the authority to review and make recommendations on the welfare
4 of poultry, livestock, and licensed dog breeding facilities in this state.

5 2. The committee shall be comprised of the following members:

6 (1) The director of the department of agriculture, who shall be a nonvoting member
7 and serve as chair of the board;

8 (2) The chair of the Missouri Senate Agriculture Committee, who shall be a
9 nonvoting member;

10 (3) The chair of the Missouri House Agriculture Committee, who shall be a
11 nonvoting member;

12 (4) The state veterinarian;

13 (5) The chair of the University of Missouri Animal Sciences Division;

14 (6) The chair of the Missouri State University Animal Sciences Division;

15 (7) The University of Missouri Food Animal Veterinary Extension Specialist;

16 (8) A producer member representative of the Missouri Cattlemen's Association;

17 (9) A producer member representative of the Missouri Pork Association;

18 (10) A producer member representative of the Missouri Egg Council;

19 (11) A producer member representative of the Missouri Dairy Association;

20 (12) A producer member representative of the Poultry Federation;

21 (13) A producer member representative of the Missouri Corn Growers Association;

22 (14) A producer member representative of the Missouri Soybean Association;

23 (15) A producer member representative of the Missouri Farm Bureau;

24 (16) A member representative of the Equine Council;

25 (17) A member representative of the Missouri Livestock Marketing Association;

26 (18) A member representative of the Missouri Federation of Animal Owners; and

27 (19) A producer member representative of the Missouri Rice Council.

28 3. The committee shall review the animal care practices related to poultry,
29 livestock, and licensed dog breeding facilities in this state and, when necessary, make
30 recommendations to the general assembly. When reviewing such practices, the committee
31 shall consider all of the following:

32 (1) The health and husbandry of poultry, livestock, and dogs at licensed dog
33 breeding facilities;

34 (2) Generally accepted farm management practices;

35 (3) Generally accepted veterinary standards and practices;

36 (4) The economic impact on poultry and livestock farmers, licensed dog breeders,
37 consumers, and the affected sector as a whole;

38 **(5) Species specific animal care guidelines established by the respective national**
39 **poultry, livestock, and licensed dog breeders organizations.**

40 **4. The committee shall review national species specific animal care guidelines once**
41 **every five years.**

42 **5. Members of the committee shall not be compensated for their service on the**
43 **committee nor shall the members be reimbursed for any expenses associated with their**
44 **service on the committee. Members of the committee shall serve as long as they hold their**
45 **respective positions or until they are replaced on the committee by their respective**
46 **organizations.**

47 **6. The department of agriculture shall provide technical support to the board and**
48 **provide a meeting place for the committee.**

49 **7. All meetings, business, and activities of the board shall be subject to the**
50 **provisions of chapter 610.**

 273.327. No person shall operate an animal shelter, pound or dog pound, boarding
2 kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited
3 show or exhibit, or act as a dealer or commercial breeder, unless [he] **such person** has obtained
4 a license for such operations from the director. An applicant shall obtain a separate license for
5 each separate physical facility subject to sections 273.325 to 273.357 which is operated by the
6 applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357
7 may voluntarily apply for a license. Application for such license shall be made in the manner
8 provided by the director. The license shall expire annually unless revoked. As provided by rules
9 to be promulgated by the director, the license fee shall range from one hundred to five hundred
10 dollars per year. Pounds[,] **or** dog pounds [and animal shelters] shall be exempt from payment
11 of such fee. License fees shall be levied for each license issued or renewed on or after January 1,
12 1993.

 273.329. 1. The director may refuse to issue or renew or may revoke a license on any
2 one or more of the following grounds:

3 (1) Material and deliberate misstatement in the application for any original license or for
4 any renewal license under sections 273.325 to 273.357;

5 (2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated
6 pursuant thereto;

7 (3) Conviction of any violation of any state or federal law relating to the disposition or
8 treatment of animals;

9 (4) Failure to provide adequate food, water, housing or sanitary facilities for animals
10 under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel,
11 contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.

12 **2. The department of agriculture shall not retain, contract with, or otherwise utilize**
13 **the services of the personnel of any nonprofit organization for the purpose of inspection**
14 **or licensing of any animal shelter, pound, or dog pound, boarding kennel, commercial**
15 **kennel, contract kennel, commercial breeder, hobby or show breeder, or pet shop under**
16 **sections 273.325 to 273.357.**

17 **3. Operation of an animal shelter, pound or dog pound, boarding kennel, commercial**
18 **kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or**
19 **dealer without a valid license shall constitute a class A misdemeanor.**

386.715. 1. The public counsel shall, prior to the beginning of each fiscal year,
2 **make available to the commission an estimate of the expenses to be incurred by the public**
3 **counsel during such fiscal year, reasonably attributable to his or her responsibilities with**
4 **respect to public utilities under sections 386.700 and 386.710 and shall also separately**
5 **estimate the amount of such expenses directly attributable to such responsibilities with**
6 **respect to each of the following groups of public utilities: electrical corporations, gas**
7 **corporations, water corporations, heating companies, telephone corporations, telegraph**
8 **corporations, sewer corporations, and any other public utility as defined in section 386.020,**
9 **as well as the amount of such expenses not directly attributable to any such group.**

10 **2. The public counsel shall allocate to each such group of public utilities the**
11 **estimated expenses directly attributable to his or her responsibilities under sections 386.700**
12 **to 386.710 with respect to such group and an amount equal to such proportion of the**
13 **estimated expenses not directly attributable to any group as the gross intrastate operating**
14 **revenues of such group during the three preceding calendar years bears to the total gross**
15 **intrastate operating revenues of all public utilities subject to the jurisdiction of the**
16 **commission during such calendar years. The amount so allocated to telephone**
17 **corporations shall not exceed ten percent of the total estimated expenses directly**
18 **attributable to the public counsel's responsibilities under sections 386.700 to 386.710. The**
19 **commission shall then assess, on behalf of the public counsel, the amount so allocated to**
20 **each group of public utilities, subject to reduction as provided in this section, to the public**
21 **utilities in such group in proportion to its respective gross intrastate operating revenues**
22 **during the preceding calendar year. The total amount so assessed to all such public**
23 **utilities shall not exceed two hundredths of one percent of the total gross intrastate**
24 **operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in**
25 **this section shall authorize the commission to determine how the public counsel allocates**
26 **the estimated expenses directly attributable to his or her responsibilities under sections**
27 **386.700 and 386.710 with respect to public utilities described in subsection 1 of this section**
28 **or how the assessment imposed under this section is spent by the public counsel.**

29 **3. On behalf of the public counsel, the commission shall render a statement of such**
30 **assessment to each such public utility on or before July first and the amount so assessed**
31 **to each such public utility shall be paid by it to the director of revenue in full on or before**
32 **July fifteenth next following the rendition of such statement, except that any such public**
33 **utility may at its election pay such assessment in four equal installments not later than the**
34 **following dates next following the rendition of such statement, to wit: July fifteenth,**
35 **October fifteenth, January fifteenth and April fifteenth. The director of revenue shall**
36 **remit such payments to the state treasurer.**

37 **4. The state treasurer shall credit such payments to a special fund, which is hereby**
38 **created, to be known as "The Public Counsel Fund", which fund, or its successor fund**
39 **created under section 33.571, shall be devoted solely to the payment of expenditures**
40 **actually incurred by the public counsel and attributable to his or her responsibilities under**
41 **sections 386.700 to 386.710 with respect to such public utilities subject to the jurisdiction**
42 **of the commission. Any amount remaining in such special fund or its successor fund at the**
43 **end of any fiscal year shall not revert to the general revenue fund, but shall be applicable**
44 **by appropriation of the general assembly to the payment of such expenditures of the public**
45 **counsel in the succeeding fiscal year and shall be applied by the public counsel to the**
46 **reduction of the amount to be assessed to such public utilities in such succeeding fiscal**
47 **year, such reduction to be allocated to each group of public utilities in proportion to the**
48 **respective gross intrastate operating revenues of the respective groups during the**
49 **preceding calendar year.**

50 **5. In order to enable the public counsel to make the allocations and assessments**
51 **provided for in this section, each public utility subject to the jurisdiction of the commission**
52 **shall file with the commission on or before March thirty-first of each year, a statement**
53 **under oath showing its gross intrastate operating revenues for the preceding calendar year,**
54 **and if any public utility shall fail to file such statement within the time established in this**
55 **subsection, the commission shall estimate such revenue. Such estimate shall be binding on**
56 **such public utility for the purpose of this section.**

393.150. 1. Whenever there shall be filed with the commission by any gas corporation,
2 electrical corporation, water corporation or sewer corporation any schedule stating a new rate or
3 charge, or any new form of contract or agreement, or any new rule, regulation or practice relating
4 to any rate, charge or service or to any general privilege or facility, the commission shall have,
5 and it is hereby given, authority, either upon complaint or upon its own initiative without
6 complaint, at once, and if it so orders without answer or other formal pleading by the interested
7 gas corporation, electrical corporation, water corporation or sewer corporation, but upon
8 reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of

9 contract or agreement, rule, regulation or practice, and pending such hearing and the decision
10 thereon, the commission upon filing with such schedule, and delivering to the gas corporation,
11 electrical corporation, water corporation or sewer corporation affected thereby, a statement in
12 writing of its reasons for such suspension, may suspend the operation of such schedule and defer
13 the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not
14 for a longer period than [one hundred and twenty] **ninety** days beyond the time when such rate,
15 charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect;
16 and after full hearing, whether completed before or after the rate, charge, form of contract or
17 agreement, rule, regulation or practice goes into effect, the commission may make such order in
18 reference to such rate, charge, form of contract or agreement, rule, regulation or practice as
19 would be proper in a proceeding initiated after the rate, charge, form of contract or agreement,
20 rule, regulation or practice had become effective.

21 2. If any such hearing cannot be concluded within the period of suspension, as above
22 stated, the commission may, in its discretion, extend the time of suspension for a further period
23 not exceeding [six] **two** months. At any hearing involving a rate sought to be increased, the
24 burden of proof to show that the increased rate or proposed increased rate is just and reasonable
25 shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation,
26 and the commission shall give to the hearing and decision of such questions preference over all
27 other questions pending before it and decide the same as speedily as possible. **As the party with**
28 **the burden of proof, the gas corporation, electrical corporation, water corporation, or**
29 **sewer corporation shall submit written direct testimony in support of its filing at the time**
30 **the filing is made. Those parties not bearing the burden of proof shall have the**
31 **opportunity to submit written rebuttal testimony relating to the filing no later than the**
32 **date that leaves at least sixty percent of the period of suspension remaining, and such**
33 **corporation shall have the opportunity to submit written surrebuttal testimony no later**
34 **than the date that leaves at least forty percent of the period of suspension remaining. The**
35 **commission shall issue its order deciding the matter no later than twenty days prior to the**
36 **end of the suspension period under subsection 1 of this section, or the further suspension**
37 **period under this subsection, whichever applies, and shall make its order reflecting its**
38 **decision effective ten days after its issuance. The new rates approved by the commission's**
39 **order shall be implemented by the corporation's filing of new schedules at least five**
40 **business days prior to the end of the suspension period under subsection 1 of this section,**
41 **or the further suspension period under this subsection, whichever applies. Unless such**
42 **schedules are rejected by the commission for failure to comply with the order, the**
43 **schedules shall take effect automatically without the need for further action by or order**
44 **of the commission, and notwithstanding the pendency of any application for rehearing, no**

45 later than the first day following the end of the applicable suspension period. Where any
46 filed schedules are rejected by the commission for failure to comply with the commission's
47 order, the gas corporation, electrical corporation, water corporation, or sewer corporation
48 shall be permitted to file replacement schedules that are in compliance with the
49 commission's order with a proposed effective date not less than five business days after the
50 date of filing. Unless such schedules are rejected by the commission for failure to comply
51 with the order, the schedules shall take effect automatically on the proposed effective date
52 without the need for further action by or order of the commission notwithstanding the
53 pendency of any application for rehearing and regardless of whether the proposed effective
54 date is later than the end of the suspension period.

55 3. Where under subsection 2 of this section the commission further suspends any
56 schedule that seeks to state a new rate, the commission shall determine the new rate
57 utilizing certain information updated as of sixty days prior to the end of the period of
58 suspension. Such updated information shall include all additions to plant-in-service, all
59 significant changes to expenses and revenues, and such other changes as are necessary to
60 maintain a proper matching of revenues, expenses, and rate base.

393.320. 1. As used in this section, the following terms mean:

2 (1) "Large water public utility", a public utility that regularly provides water
3 service or sewer service to more than eight thousand customer connections and that
4 provides safe and adequate service but shall not include a sewer district established under
5 Section 30(a), Article VI of the Missouri Constitution, sewer districts established under the
6 provisions of chapter 204, 249, or 250, public water supply districts established under the
7 provisions of chapter 247, or municipalities that own water or sewer systems;

8 (2) "Small water utility", a public utility that regularly provides water service or
9 sewer service to eight thousand or fewer customer connections; a water district established
10 under the provisions of chapter 247 that regularly provides water or sewer service to eight
11 thousand or fewer customer connections; a sewer district established under the provisions
12 of chapter 204, 249, or 250 that regularly provides sewer service to eight thousand or fewer
13 customer connections; or a water system or sewer system owned by a municipality that
14 regularly provides water service or sewer service to eight thousand or fewer customer
15 connections; and all other entities that regularly provide water service or sewer service to
16 eight thousand or fewer customer connections.

17 2. Whenever a small water utility determines to sell or otherwise dispose of its
18 water system or sewer system to a large water public utility, the small water utility may by
19 ordinance, resolution, or appropriate board action authorize the appraisal of the water
20 system or sewer system and designate the time that the appraisal is due. Any sale of a

21 water system to a large water public utility shall include resolution of any compliance
22 issues and obtaining a new permit. Any sale of a sewer system to a large water public
23 utility shall include transfer of any state permit authorizing the system held by the small
24 water utility to the large water public utility. After the sale, the acquiring large water
25 public utility shall continue providing service to all customers that were served by the small
26 water utility at the time of the sale.

27 3. (1) The appraisal shall be performed by three appraisers. One appraiser shall
28 be appointed by the small water utility, one appraiser shall be appointed by the large water
29 public utility, and the third appraiser shall be appointed by the two appraisers so
30 appointed. Each of the appraisers shall be a disinterested person who is certified general
31 appraisers under chapter 339.

32 (2) The appraisers shall:

33 (a) Jointly prepare an appraisal of the fair market value of the water system and/or
34 sewer system. The determination of fair market value shall be in accordance with Missouri
35 law and with the Uniform Standards of Professional Appraisal Practice; and

36 (b) Return their appraisal, in writing, to the small water utility and large water
37 public utility within the time fixed by the ordinance or resolution authorizing the
38 appraisal.

39 (3) If all three appraisers cannot agree as to the appraised value, the appraisal,
40 when signed by two of the appraisers, constitutes a good and valid appraisal.

41 4. After the return of the appraisal by the appraisers, either the small water utility
42 or the large water public utility may decline to proceed with the sale or disposition of the
43 water system or sewer system. If the small water utility is a municipality required to
44 submit the proposed sale or disposition to public vote, the vote shall be conducted as
45 required by law.

46 5. (1) The lesser of the purchase price or the appraised value, together with the
47 reasonable and prudent transaction, closing, and transition costs incurred by the large
48 water public utility, shall constitute the ratemaking rate base for the small water utility as
49 acquired by the acquiring large water public utility; provided, however, that if the small
50 water utility is a public utility subject to chapter 386 and the small water utility completed
51 a rate case prior to the acquisition, the public service commission may select as the
52 ratemaking rate base for the small water utility as acquired by the acquiring large water
53 public utility a ratemaking rate base in between:

54 (a) The lesser of the purchase price and the appraised value, together with the
55 reasonable and prudent transaction, closing, and transition costs incurred by the large

56 **water public utility unless such transaction, closing, and transition costs are elsewhere**
57 **recoverable in rates; and**

58 (b) **The ratemaking rate base of the small water utility as ordered by the public**
59 **service commission in the small water utility's last previous rate case as adjusted by**
60 **improvements and depreciation reserve since the previous rate case together with the**
61 **transaction, closing, and transition costs incurred by the large water public utility unless**
62 **such transaction, closing, and transition costs are elsewhere recoverable in rates. If the**
63 **small water utility and large water public utility proceed with the sale, any past due fees**
64 **due to the state from the small water utility or its customers under chapter 640 or 644 shall**
65 **be paid prior to the sale or the liability for such past due fees becomes the responsibility**
66 **of the large water public utility. Such fees shall not be included in the large water public**
67 **utility's rate base.**

68 (2) **The public service commission shall issue its decision establishing the**
69 **ratemaking rate base of the small water utility in its order approving the acquisition.**

70 **6. This section is intended for the specific and unique purpose of facilitating the**
71 **acquisition of small water utilities by large water public utilities and shall be exclusively**
72 **applied to large water public utilities seeking to acquire small water utilities. This section**
73 **is not intended to apply beyond its specific purpose and shall not be construed in any**
74 **manner to apply to electric corporations, natural gas corporations, or any other utility**
75 **regulated by the public service commission.**

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

- 2 (1) "Commission", the public service commission;
- 3 (2) "Department", the department of natural resources;
- 4 (3) "Electric utility", any electrical corporation as defined by section 386.020;
- 5 (4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one
6 megawatt-hour of electricity has been generated from renewable energy sources; [and]
- 7 (5) "Renewable energy resources", electric energy produced from wind, solar thermal
8 sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic
9 agricultural residues, plant residues, methane from landfills, **from agricultural operations**, or
10 from wastewater treatment, **thermal depolymerization or pyrolysis for converting waste**
11 **material to energy**, clean and untreated wood such as pallets, hydropower (not including
12 pumped storage) that does not require a new diversion or impoundment of water and that has a
13 nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by one of the
14 above-named renewable energy sources, and other sources of energy not including nuclear that
15 become available after November 4, 2008, and are certified as renewable by rule by the
16 department; **and**

- 17 **(6) "Small modular reactors", a nuclear reactor:**
18 **(a) With a rated capacity of less than three hundred fifty electrical megawatts; and**
19 **(b) That can be constructed and operated in combination with similar reactors at**
20 **a single site.**

393.1030. 1. The commission shall, in consultation with the department, prescribe by
2 rule a portfolio requirement for all electric utilities to generate or purchase electricity generated
3 from renewable energy resources **or small modular reactors**. Such portfolio requirement shall
4 provide that electricity from renewable energy resources **or small modular reactors** shall
5 constitute the following portions of each electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
7 (2) No less than five percent for calendar years 2014 through 2017;
8 (3) No less than ten percent for calendar years 2018 through 2020; and
9 (4) No less than fifteen percent in each calendar year beginning in 2021.

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11 At least two percent of each portfolio requirement shall be derived from solar energy. The
12 portfolio requirements shall apply to all power sold to Missouri consumers whether such power
13 is self-generated or purchased from another source in or outside of this state. A utility may
14 comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible
15 energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

16 2. The commission, in consultation with the department and within one year of
17 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
18 energy credits. An unused credit may exist for up to three years from the date of its creation.
19 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not also
20 be used to satisfy any similar nonfederal requirement. An electric utility may not use a credit
21 derived from a green pricing program. Certificates from net-metered sources shall initially be
22 owned by the customer-generator. The commission, except where the department is specified,
23 shall make whatever rules are necessary to enforce the renewable energy standard. Such rules
24 shall include:

25 (1) A maximum average retail rate increase of one percent determined by estimating and
26 comparing the electric utility's cost of compliance with least-cost renewable generation and the
27 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking
28 into proper account future environmental regulatory risk including the risk of greenhouse gas
29 regulation;

30 (2) Penalties of at least twice the average market value of renewable energy credits for
31 the compliance period for failure to meet the targets of subsection 1. An electric utility will be
32 excused if it proves to the commission that failure was due to events beyond its reasonable

33 control that could not have been reasonably mitigated, or that the maximum average retail rate
34 increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited
35 under this section shall be remitted to the department to purchase renewable energy credits
36 needed for compliance. Any excess forfeited revenues shall be used by the department's energy
37 center solely for renewable energy and energy efficiency projects;

38 (3) Provisions for an annual report to be filed by each electric utility in a format
39 sufficient to document its progress in meeting the targets;

40 (4) Provision for recovery outside the context of a regular rate case of prudently incurred
41 costs and the pass-through of benefits to customers of any savings achieved by an electrical
42 corporation in meeting the requirements of this section.

43 3. Each electric utility shall make available to its retail customers a standard rebate offer
44 of at least two dollars per installed watt for new or expanded solar electric systems sited on
45 customers' premises, up to a maximum of twenty-five kilowatts per system, that become
46 operational after 2009.

47 4. The department shall, in consultation with the commission, establish by rule a
48 certification process for electricity generated from renewable resources and used to fulfill the
49 requirements of subsection 1 of this section. Certification criteria for renewable energy
50 generation shall be determined by factors that include fuel type, technology, and the
51 environmental impacts of the generating facility. Renewable energy facilities shall not cause
52 undue adverse air, water, or land use impacts, including impacts associated with the gathering
53 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,
54 only the portion of electrical output attributable to renewable energy resources shall be used to
55 fulfill the portfolio requirements.

56 **5. In carrying out the provisions of this section, the commission and the department**
57 **shall include methane generated from the anaerobic digestion of farm animal waste and**
58 **thermal depolymerization or pyrolysis for converting waste material to energy as**
59 **renewable energy resources for purposes of this section.**

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' website 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 website 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.

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55 Notice of the meeting shall include the date, time, and place of the public meeting and shall
56 provide notice that the commission will give interested persons the opportunity to respond to the
57 department's revised list of impaired waters and written responses to comments. At its
58 discretion, the commission may extend public comment periods or hold additional public
59 hearings on the proposed and revised lists of impaired waters. The commission shall not vote
60 to add to the list of impaired waters any waters not recommended by the department in the
61 proposed or revised lists of impaired waters without granting the public at least thirty additional
62 days to comment on the proposed addition. The list of impaired waters adopted by the
63 commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing
64 of any water segment on the list of impaired waters adopted by the commission shall be subject
65 to judicial review by any adversely affected party under section 536.150, RSMo. The provisions
66 in this subsection shall expire on August 28, [2010] **2012**.

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, [2010] **2012**. 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, [2010] **2012**. 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.]

 Section B. Because immediate action is necessary to ensure the adequate funding for
2 public representation in matters related to public utilities and to provide timely decisions with
3 regard to utility rates, the enactment of sections 386.715 and 393.320 and the repeal and
4 reenactment of section 393.150 of section A 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 enactment of sections 386.715 and
7 393.320 and the repeal and reenactment of section 393.150 of section A of this act shall be in full
8 force and effect upon its passage and approval.

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