

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 664,
2 Pages 3-6, Section 444.772, Lines 1-108, by deleting all of said section and lines from the bill; and
3
4 Further amend said bill, Page 8, Section 644.058, Line 9, by inserting after all of said section and
5 line the following:
6

7 "644.145. 1. When issuing permits under this chapter that incorporate a new requirement for
8 discharges from publicly owned combined or separate sanitary or storm sewer systems or treatment
9 works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33
10 U.S.C. 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or
11 storm sewer system or treatment works, the department of natural resources shall make a finding of
12 affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which
13 to base such permits and decisions, to the extent allowable under this chapter and the Federal Water
14 Pollution Control Act.

15 2. (1) The department of natural resources shall not be required under this section to make a
16 finding of affordability when:

17 (a) Issuing collection system extension permits;
18 (b) Issuing National Pollution Discharge Elimination System operating permit renewals
19 which include no new environmental requirements; or

20 (c) The permit applicant certifies that the applicable requirements are affordable to
21 implement or otherwise waives the requirement for an affordability finding; however, at no time
22 shall the department require that any applicant certify, as a condition to approving any permit,
23 administrative or civil action, that a requirement, condition, or penalty is affordable.

24 (2) The exceptions provided under paragraph (c) of subdivision (1) of this subsection do not
25 apply when the community being served has less than three thousand three hundred residents.

26 3. When used in this chapter and in standards, rules and regulations promulgated pursuant to
27 this chapter, the following words and phrases mean:

28 (1) "Affordability", with respect to payment of a utility bill, a measure of whether an
29 individual customer or household with an income equal to the lower of the median household
30 income for their community or the state of Missouri can pay the bill without undue hardship or
31 unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household,
32 taking into consideration the criteria described in subsection 4 of this section;

33 (2) "Financial capability", the financial capability of a community to make investments
34 necessary to make water quality-related improvements;

35 (3) "Finding of affordability", a department statement as to whether an individual or a
36 household receiving as income an amount equal to the lower of the median household income for the

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1 applicant community or the state of Missouri would be required to make unreasonable sacrifices in
 2 their essential lifestyle or spending patterns or undergo hardships in order to make the projected
 3 monthly payments for sewer services. The department shall make a statement that the proposed
 4 changes meet the definition of affordable, or fail to meet the definition of affordable, or are
 5 implemented as a federal mandate regardless of affordability.

6 4. The department of natural resources shall adopt procedures by which it will make
 7 affordability findings that evaluate the affordability of permit requirements and enforcement actions
 8 described in subsection 1 of this section, and may begin implementing such procedures prior to
 9 promulgating implementing regulations. The commission shall have the authority to promulgate
 10 rules to implement this section pursuant to chapters 536 and 644, and shall promulgate such rules as
 11 soon as practicable. Affordability findings shall be based upon reasonably verifiable data and shall
 12 include an assessment of affordability with respect to persons or entities affected. The department
 13 shall offer the permittee an opportunity to review a draft affordability finding, and the permittee may
 14 suggest changes and provide additional supporting information, subject to subsection 6 of this
 15 section. The finding shall be based upon the following criteria:

- 16 (1) A community's financial capability and ability to raise or secure necessary funding;
- 17 (2) Affordability of pollution control options for the individuals or households at or below
 18 the median household income level of the community;
- 19 (3) An evaluation of the overall costs and environmental benefits of the control technologies;
- 20 (4) Inclusion of ongoing costs of operating and maintaining the existing wastewater
 21 collection and treatment system, including payments on outstanding debts for wastewater collection
 22 and treatment systems when calculating projected rates;
- 23 (5) An inclusion of ways to reduce economic impacts on distressed populations in the
 24 community, including but not limited to low- and fixed-income populations. This requirement
 25 includes but is not limited to:
- 26 (a) Allowing adequate time in implementation schedules to mitigate potential adverse
 27 impacts on distressed populations resulting from the costs of the improvements and taking into
 28 consideration local community economic considerations; and
- 29 (b) Allowing for reasonable accommodations for regulated entities when inflexible standards
 30 and fines would impose a disproportionate financial hardship in light of the environmental benefits
 31 to be gained;

32 [(5)] (6) An assessment of other community investments and operating costs relating to
 33 environmental improvements and public health protection;

34 [(6)] (7) An assessment of factors set forth in the United States Environmental Protection
 35 Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for
 36 Financial Capability Assessment and Schedule Development" that may ease the cost burdens of
 37 implementing wet weather control plans, including but not limited to small system considerations,
 38 the attainability of water quality standards, and the development of wet weather standards; and

39 [(7)] (8) An assessment of any other relevant local community economic condition.

40 5. Prescriptive formulas and measures used in determining financial capability, affordability,
 41 and thresholds for expenditure, such as median household income, should not be considered to be the
 42 only indicator of a community's ability to implement control technology and shall be viewed in the
 43 context of other economic conditions rather than as a threshold to be achieved.

44 6. Reasonable time spent preparing draft affordability findings, allowing permittees to
 45 review draft affordability findings or draft permits, or revising draft affordability findings, shall be
 46 allowed in addition to the department's deadlines for making permitting decisions pursuant to section
 47 644.051.

48 7. If the department of natural resources fails to make a finding of affordability where

1 required by this section, then the resulting permit or decision shall be null, void and unenforceable.

2 8. The department of natural resources' findings under this section may be appealed to the
3 commission pursuant to subsection 6 of section 644.051.

4 9. The department shall file an annual report by the beginning of the fiscal year with the
5 governor, the speaker of the house of representatives, the president pro tempore of the senate, and the
6 chairs of the committees in both houses having primary jurisdiction over natural resource issues
7 showing at least the following information on the findings of affordability completed in the previous
8 calendar year:

9 (1) The total number of findings of affordability issued by the department, those categorized
10 as affordable, those categorized as not meeting the definition of affordable, and those implemented
11 as a federal mandate regardless of affordability;

12 (2) The average increase in sewer rates both in dollars and percentage for all findings found
13 to be affordable;

14 (3) The average increase in sewer rates as a percentage of median house income in the
15 communities for those findings determined to be affordable and a separate calculation of average
16 increases in sewer rates for those found not to meet the definition of affordable;

17 (4) A list of all the permit holders receiving findings, and for each permittee the following
18 data taken from the finding of affordability shall be listed:

19 (a) Current and projected monthly residential sewer rates in dollars;

20 (b) Projected monthly residential sewer rates as a percentage of median house income;

21 (c) Percentage of households at or below the state poverty rate."; and
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23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.
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