

SCS SB 642 -- NATURAL RESOURCES

This bill changes the laws regarding natural resources.

NEW TIRE FEE (Sections 260.273 and 260.279, RSMo)

The bill extends from January 1, 2015, to January 1, 2020, the expiration of the 50-cent fee that must be collected by retailers for each new tire sold and forwarded to the Department of Revenue to be deposited in the Solid Waste Management Fund for specified purposes regarding used waste tires.

DEPARTMENT OF NATURAL RESOURCES FEE STRUCTURE (Sections 260.355, 260.380, 260.475, 640.100, 643.079, and 644.057)

The bill modifies the fee structure laws for the Hazardous Waste Commission, Missouri Safe Drinking Water Commission, Air Conservation Commission, and Clean Water Commission to require the commissions to authorize the department to file an order of rulemaking with the Secretary of State's Office. Currently, the fee structure expires on August 28, 2023. The bill extends the expiration date to August 28, 2024.

RADIOACTIVE WASTE (Section 260.392)

Currently, the provisions regarding the Environmental Radiation Monitoring Fund and the program monitoring the shipment of hazardous waste in Missouri will expire on August 28, 2015. The bill extends the expiration date to August 28, 2024.

MISSOURI MINING COMMISSION (Sections 444.510 - 444.770 and 444.805)

The bill changes the name of the Land Reclamation Commission to the Missouri Mining Commission and increases the membership of the commission from seven members to eight members, including one member who must have training and experience in subsurface mining. The references to surface mining have been removed from the policy statement of the Land Reclamation Act and the bill modifies the definition of "mineral" to include additional specified minerals regulated by the commission.

SURFACE MINING OPERATIONS (Sections 444.772 and 444.773)

Currently, a proposal to operate a surface mine requires the operator to send a notice of intent to operate a surface mine to the last known address of any landowner of record with real property that is contiguous or adjacent to the proposed mine plan area. The bill repeals this provision and requires that the notice be sent to the last known address of any real property landowner of

record whose property is within one-half mile from the border of the proposed mine plan area and adjacent to the proposed area, land upon which the mine plan area is to be located, or adjacent land having a legal relationship with either the applicant or the owner of the land upon which the mine plan area is located. If any individual who receives the notification requests a public meeting, the applicant must bear the expenses.

Currently, the Land Reclamation Commission evaluates permit applications for proposed surface mining operations. The bill transfers this authority to the staff director of the commission. Upon completion of the notice of intent to operate a surface mine and any public meetings, the staff director must make a decision within six weeks after completion of the process, rather than the current within four weeks after the public notice period, to issue or deny a permit application. In certain cases, the staff director may seek additional information from the applicant before making a decision to issue or deny the permit. In issuing a permit, the staff director may impose reasonable conditions consistent with specified provisions. The staff director's decision must be deemed to be the decision of the Director of the Department of Natural Resources and subject to appeal to the Administrative Hearing Commission.

The bill specifies the criteria that the Administrative Hearing Commission may consider when reviewing the staff director's permit application decision. If the Land Reclamation Commission changes a finding of fact or conclusion of law or modifies or vacates the decision recommended by the Administrative Hearing Commission, it must issue its own decision which must be subject to judicial review. For an appeal of the commission's decision, the court of appeals district with jurisdiction in the county where the mine is to be located must have original jurisdiction. A judicial review cannot be available until and unless all administrative remedies are exhausted.

WOOD BURNING APPLIANCES (Section 643.055)

The bill prohibits the Department of Natural Resources from regulating the manufacture, performance, or use of residential wood burning heaters or appliances through a state implementation plan or otherwise unless authorized to do so by the General Assembly. Any rule or regulation establishing or enforcing performance standards for residential wood burning heaters or appliances cannot become effective unless first approved by the Joint Committee on Administrative Rules.

A new rule or regulation cannot be applied to existing wood burning furnaces, stoves, fireplaces, or heaters that individuals are

currently using as their source of heat for their homes or businesses. All wood burning furnaces, stoves, fireplaces, and heaters existing on August 28, 2014, may not be subject to any rules or regulations enacted after that date. An employee of the state or state agency cannot enforce any new rules or regulations against existing wood burning furnaces, stoves, fireplaces, and heaters.

CLEAN WATER COMMISSION (Section 644.026)

The bill specifies that the Clean Water Commission is the sole agency designated with authority to administer the federal Clean Water Act in Missouri, including approving any stream or wetland mitigation used in connection with a section 401 water quality certification.

WATER POLLUTION CONTROL PERMITS (Section 644.051)

The bill changes the laws regarding when a construction permit may be required by the department. The department may require a permit to address noncompliance.

WASTEWATER DISCHARGE PERMITS (Section 644.058)

The bill modifies the authority of the Clean Water Commission so that it may only revise water quality standards upon completion of an assessment by the Department of Natural Resources finding that there is an environmental need for the revision. In implementing revised water quality standards modifications of 25% or more, the department must conduct an evaluation which includes environmental and economic impacts of the revised water quality criteria on a subbasin basis. The evaluation is to be conducted at the eight-digit hydrologic unit code level. The department must use these evaluations in making individual site-specific permit decisions.