

FIRST REGULAR SESSION

# HOUSE BILL NO. 982

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANCIS.

1551H.02I

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 444, RSMo, by adding thereto two new sections relating to environmental control.

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

Section A. Chapter 444, RSMo, is amended by adding thereto two new sections, to be known as sections 444.779 and 444.781, to read as follows:

**444.779. 1. As used in this section, the following words mean:**

(1) "County", a county in this state in which any portion of the Lamotte Sandstone geologic formation is located;

(2) "Health board", a county's board of health or the equivalent county entity.

2. A county commission or health board, or both, may enact reasonable ordinances, orders, or regulations applicable to any mining or surface mining conducted in any portion of the Lamotte Sandstone geologic formation located in such county.

3. Any ordinance, order, or regulation enacted under this section may impose requirements and standards deemed necessary by local elected officials to protect the public health, public safety, property values, or the environment. Notwithstanding any other provision of law to the contrary, no provision of sections 444.760 to 444.790 shall be construed to prohibit a county commission or health board from adopting and enforcing local ordinances, orders, or regulations that are equal to or more stringent than the rules or regulations adopted by the department under sections 444.760 to 444.790.

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.

16           **4. Any ordinance, order, or regulation enacted under this section will be**  
17 **construed to supplement existing state law and shall not be construed to constitute**  
18 **zoning under chapter 64.**

19           **5. Any ordinance, order, or regulation enacted under this section shall not be**  
20 **construed to apply to any existing mining or surface mining activity in active operation**  
21 **as of January 1, 2022, that is conducted in any portion of the Lamotte Sandstone**  
22 **geologic formation or to any mining or surface mining activity not conducted in the**  
23 **Lamotte geologic Sandstone formation.**

24           **6. To protect the public health, public safety, property values, and the**  
25 **environment, the provisions of this section shall be construed to apply to any such**  
26 **ordinance, order, or regulation enacted by a county commission or health board on or**  
27 **after January 1, 2022.**

**444.781. 1. This section shall not apply to any mining facility actively engaged in**  
2 **the mining of the Lamotte Sandstone geologic formation prior to August 28, 2023.**

3           **2. Except as provided in subsection 1 of this section, any operator desiring to**  
4 **engage in the mining of the Lamotte Sandstone geologic formation for Sandstone or**  
5 **silica sand shall comply with the requirements in section 444.772 and this section.**

6           **3. An applicant shall submit a permit application to the department. In addition**  
7 **to the application information required in subsection 2 of section 444.772, an application**  
8 **subject to this section shall include:**

9           **(1) Evidence of the applicant's legal right to mine the land affected by the**  
10 **permit, which shall be established by a current lease agreement vesting the affected**  
11 **mineral rights in the applicant, a deed vesting the affected mineral rights in the**  
12 **applicant, or evidence of the applicant's fee ownership of the property and affected**  
13 **mineral rights; and**

14           **(2) Such other information that the commission may require.**

15           **4. An applicant shall demonstrate that the property lines of the mine plan area**  
16 **shall be located at least two thousand six hundred forty feet or one-half of a mile from:**

17           **(1) The defined incorporated limits of any city, town, or village;**

18           **(2) Any school or property owned and operated by any school district or**  
19 **accredited educational institution that has been in existence for at least five years;**

20           **(3) Any church or place of worship;**

21           **(4) Any platted subdivision;**

22           **(5) Any park, ball field, or other public recreational area; or**

23           **(6) Any public or private well used for purposes of supplying water for domestic**  
24 **or industrial use. This subdivision shall not be construed to apply to any well used solely**  
25 **and exclusively for livestock watering.**

26           **5. An applicant shall demonstrate that the property lines of the mine plan area**  
27 **will be located at least one thousand three hundred twenty feet or one-fourth of a mile**  
28 **from:**

29           **(1) Any occupied residential dwelling;**

30           **(2) Any cave or sinkhole;**

31           **(3) Any losing stream or tributary of any losing stream;**

32           **(4) Any stream segment or tributary thereof of any department-designated**  
33 **outstanding state resource waters; or**

34           **(5) Any stream segment or tributary thereof that has a beneficial use designation**  
35 **by the department.**

36           **6. All setback distances described in subsections 4 and 5 of this section shall be**  
37 **measured from the nearest corner or foundation of such properties or listed features in**  
38 **a straight line to the closest property line of the mine plan area.**

39           **7. The setback distances described in subsections 4 and 5 of this section may be**  
40 **modified through existing or future written leases, easements, or other agreements**  
41 **between the applicant or operator of the mine and the affected residence or adjoining**  
42 **landowner, as the case requires.**

43           **8. In addition to the application information required in subsection 4 of section**  
44 **444.772, an application subject to this section shall include:**

45           **(1) An application fee in the amount of five thousand dollars; and**

46           **(2) A fee for each acre bonded by the operator under section 444.778 in the**  
47 **amount of one thousand dollars per acre.**

48           **9. In addition to the requirements in subsection 10 of section 444.772, the**  
49 **operator shall send notice of intent to operate a surface mine by certified mail to the**  
50 **governing body of the counties or cities in which the proposed area is located, and to the**  
51 **last known addresses of all record landowners whose property is within five thousand**  
52 **two hundred eighty feet or one mile from the border of the proposed mine plan area.**

53           **10. Any person with a direct, personal interest in one or more of the factors the**  
54 **director may consider in issuing a permit may request a public meeting or file written**  
55 **comments to the director not later than fifteen days following the final public notice**  
56 **publication date. Upon such request, the applicant shall conduct a public meeting and**  
57 **shall coordinate with the director in making all necessary arrangements for the public**  
58 **meeting, which shall be held in a reasonably convenient location and at a reasonable**  
59 **time for interested participants to attend, and the applicant shall bear all expenses.**

60           **11. All applications for a permit shall be filed with the director, who shall**  
61 **promptly investigate the application to ensure the application complies with the**  
62 **requirements in section 444.772 and this section. Following such investigation, the**

63 **director shall make a decision within six weeks after the public meeting. If the director**  
64 **determines that the application has fully complied with the general requirements in**  
65 **section 444.772, the specific requirements in this section, and any rules or regulations**  
66 **promulgated under section 444.772 or this section, the director shall issue a permit. If**  
67 **the director determines that the application does not fully comply with the provisions of**  
68 **section 444.772, this section, or any rules or regulations promulgated under section**  
69 **444.772 or this section, the director shall deny the permit application. The director shall**  
70 **consider any public comments when making the decision to issue or deny the permit. In**  
71 **issuing a permit, the director may impose reasonable conditions consistent with the**  
72 **provisions of sections 444.760 to 444.790. The director's decision shall be deemed to be**  
73 **the decision of the director of the department of natural resources and shall be subject**  
74 **to appeal by any affected party to the administrative hearing commission as provided in**  
75 **sections 640.013 and 621.250.**

76 **12. Fees imposed under this section shall become effective August 28, 2023, and**  
77 **shall expire on December 31, 2028. No other provisions of this section shall expire.**

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