

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to Senate Substitute for Senate Bill No. 1298, Page 2, Line
2 7, by deleting all of said line and inserting in lieu thereof the following:

3
4 "insurance. This contract is not covered by the Missouri Insurance Guaranty Association.

5 640.406. 1. For the purposes of this section, the following terms mean:

6 (1) "Beneficial uses", water uses, which include but are not limited to domestic, agricultural,
7 industrial, and other legitimate beneficial uses;

8 (2) "Department", the Missouri department of natural resources;

9 (3) "Director", the director of the department of natural resources;

10 (4) "End use", the final location for which the exported water will be used, consumed, or
11 applied for a stated beneficial use;

12 (5) "Person", any individual, partnership, copartnership, firm, company, public or private
13 corporation, association, joint stock company, trust, estate, political subdivision, water district, or
14 any agency, board, department, or bureau of the federal or any state government, or any other legal
15 entity which is recognized by law as the subject of rights and duties;

16 (6) "Water resources", any Missouri water source occurring on the surface, in natural or
17 artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers which are
18 available or which may be made available.

19 2. In order to protect the access, use, and enjoyment of Missouri's water resources, it shall
20 be unlawful for any person to withdraw water from any water source for export outside the state of
21 Missouri unless such person holds a water exportation permit issued by the department. A water
22 exportation permit shall not be required to withdraw water from any water source for export outside
23 of the state by a public water system, as defined in section 640.102, where the withdrawal and
24 ultimate end use are within the same six-digit hydrological unit code as defined by the United States
25 Geological Survey and within thirty miles of the state border.

26 3. It shall be unlawful for any permit exempted from the requirements of subsection 2 of this
27 section to be used for any purpose other than a beneficial use, specifically where the withdrawal and
28 ultimate end use of water are within thirty miles of the state border.

Action Taken _____ Date _____

1 4. During the review process of any permit required by this section, the director shall
2 determine from the application for a water exportation permit and any supporting materials whether
3 the following conditions have been met:

4 (1) There is water available in the amount specified in the application to export for water
5 use outside the state of Missouri;

6 (2) The applicant has a present need for the water and intends to put the water into
7 beneficial use. In making the determinations of need and beneficial use, the director shall consider
8 the availability of all water sources and other relevant matters as the director deems appropriate, and
9 may consider the availability of groundwater as an alternative source;

10 (3) The proposed use will not interfere with existing in-state uses;

11 (4) The proposed use will not interfere with proposed beneficial uses within the state,
12 including recreational use. In making this determination, the director shall conduct a review
13 pursuant to subsection 6 of this section;

14 (5) The water subject to the permit applications could feasibly be transported to alleviate
15 water shortages in the state.

16 5. Within one hundred eighty days after the department's receipt of a complete application,
17 the director shall issue a proposed decision to either approve the application if the conditions in
18 subsection 4 of this section have been met or deny the application if the conditions in subsection 4
19 of this section have not been met and shall hold a thirty-day public comment period on the proposed
20 approval or denial. After the comment period, the department shall respond to comments received
21 and shall either approve the application or deny the application if the conditions in subsection 4 of
22 this section have not been met. If the department approves the application, it shall send its findings
23 to the clean water commission and Missouri soil and water districts commission for review using the
24 criteria described in subsection 4 of this section. At the next scheduled meeting, the clean water
25 commission and Missouri soil and water districts commission shall review the department's
26 findings. If the clean water commission and Missouri soil and water districts commission agrees
27 with the department's decision that a permit should be issued, the clean water commission and
28 Missouri soil and water districts commission shall send its decision back to the department for the
29 issuance of the permit. If the clean water commission or Missouri soil and water districts
30 commission disagrees with the department's decision for the issuance of the permit, the clean water
31 commission and Missouri soil and water districts commission shall send its decision back to the
32 department and the department shall deny the application. Any permit issued pursuant to this
33 section shall state the time within which the water shall be applied to beneficial use. Permits issued
34 pursuant to this section shall be issued for a period not to exceed three years after the date of
35 issuance.

36 (1) In the absence of appeal as provided under chapter 536, the decision of the director
37 subject to approval or disapproval of the clean water commission and Missouri soil and water
38 districts commission shall be final.

1 (2) Applications for renewal of a water export permit shall be filed at least one hundred
2 eighty days prior to the expiration date of the existing permit, and the director shall determine
3 whether the conditions in subsection 4 of this section are still satisfied. The director's decision to
4 renew the permit shall be subject to the clean water commission's and Missouri soil and water
5 districts commission's review and approval or denial pursuant to this subsection.

6 6. The department shall promulgate rules regarding the process of sending the department's
7 findings to the Missouri soil and water districts commission and the clean water commission for
8 review under this section. Any rule or portion of a rule, as that term is defined in section 536.010,
9 that is created under the authority delegated in this section shall become effective only if it complies
10 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
11 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
12 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
14 adopted after August 28, 2024, shall be invalid and void.

15 7. (1) Before granting water supply for access and use outside the state of Missouri, the
16 director shall consider existing and proposed in-state uses in order to guarantee that in-state users
17 will have access to and use of all of the water required to adequately supply for beneficial uses.

18 (2) The director shall review the needs for water supply export every three years to
19 determine whether the water supply continues to be adequate for municipal, agricultural, industrial,
20 domestic, and other beneficial uses within the state.

21 8. Subsections 4 to 7 of this section are subject to the most recent reports, data, and
22 information in consideration of each permit application, whether the application is for an initial
23 permit or renewal of an active or expired permit.

24 9. The review conducted pursuant to subsection 4 of this section shall not be used to reduce
25 the quantity of water authorized to be transferred pursuant to the active life of permits issued prior to
26 such review.

27 10. On the filing of an application to export water outside the state, the applicant shall
28 designate an agent in the state of Missouri for service of process and to receive other notices.

29 11. In the event of a conflict between the conditions of use required in Missouri and
30 conditions required in another state, the water permit holder shall consent to conditions imposed by
31 the director.

32 12. A major water user, as defined in section 256.400, may, at any time, request the director
33 to reevaluate any existing water exportation permit using the criteria under subsections 4 and 7 of
34 this section. The director shall create a mechanism for a major water user to submit to him or her
35 such a request for reevaluation and shall provide to the major water user his or her findings within
36 sixty days of the request for reevaluation. After reevaluating the permit, the director shall impose
37 additional conditions necessary for the continued exportation of water outside the state if the
38 director determines that the existing permit is negatively impacting the requesting major water user's
39 beneficial use of his or her water resources. The director's decision to modify or to decline to

1 modify the conditions in an existing permit pursuant to this subsection shall be subject to the clean
2 water commission's and Missouri soil and water districts commission's review and approval or
3 denial pursuant to subsection 5 of this section.

4 13. Nothing in this section shall preclude a person from bringing any constitutional,
5 statutory, or common law claim to vindicate or otherwise defend the user's water rights. A permit
6 issued under this section shall not serve as a defense to any claim brought against a water permit
7 holder for the infringement of water rights.

8 14. The time-limited, active life of the permit, not to exceed three years, requires the
9 director to determine whether there has been a substantial or material change relating to any matters
10 set forth in subsections 3 to 5 of this section in response to renewal applications requesting a permit
11 for authorization of the continued export of water outside the state. The director may impose
12 additional conditions to address any such substantial or material change or may deny the permit
13 renewal application as necessary to comply with this section based on any such substantial or
14 material changes. The director's decision to renew the permit shall be subject to the requirements of
15 subsection 5 of this section.

16 15. If the attorney general receives a complaint that provisions of this section have been
17 violated, or, at the request of the department, the attorney general may bring an injunctive action or
18 other appropriate action in the name of the people of the state to enforce provisions of this section.
19 Suit may be brought in any county where the defendant's principal place of business is located or
20 where the withdrawal of water occurred in violation of this section.

21 16. Whenever a person applies for a water exportation permit, the department of natural
22 resources shall send a written notice to the county commission of the county where the water for
23 exportation is located.

24 17. Whenever the United States Drought Monitor (USDM) indicates a D2 level drought for
25 any county for which an export permit has been issued, the department of natural resources shall
26 reevaluate such export permit. If the USDM indicates a D3 or worse drought condition in any
27 county, the department shall reevaluate all existing permits within the state. Whenever a state of
28 emergency is declared by the governor under section 44.100 for all, or any part of the state, based on
29 drought conditions, the department may reevaluate any existing water exportation permit. Any
30 reevaluation completed under this section shall use the criteria under subsections 3 to 5 of this
31 section. After reevaluation of the permit is complete, the department shall have the authority to
32 impose additional conditions or revoke the permit if necessary for the continued exportation of
33 water outside the state if the director determines that the existing permit negatively impacts
34 beneficial use of water resources. The director's decision to modify, revoke, or make no changes to
35 the permit shall be subject to the clean water commission's and Missouri soil and water districts
36 commission's review and approval or denial pursuant to subsection 5 of this section."; and

37
38 Further amend said bill by amending the title, enacting clause, and intersectional references
39 accordingly.
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1 THIS AMENDMENT AMENDS 4984S02.16H