

SECOND REGULAR SESSION

HOUSE BILL NO. 1319

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BURTON AND MAYS (50) (Co-sponsors).

Pre-filed December 20, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3418L.011

AN ACT

To repeal sections 138.420, 153.030, 260.225, 260.370 and 644.026, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, and to enact in lieu thereof ten new sections relating to the electric generating activities.

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

Section A. Sections 138.420, 153.030, 260.225, 260.370 and 644.026, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, are repealed and ten new sections enacted in lieu thereof, to be known as sections 135.315, 138.420, 153.030, 260.225, 260.370, 319.137, 620.1600, 620.1601, 640.080 and 644.026, to read as follows:

135.315. 1. For tax years beginning on or after January 1, 2003, any taxpayer which incurs costs for building a coal-fired electric generating plant after August 28, 2002, which is fitted with pollution control devices and located in this state or retrofitting old coal plants located in this state with pollution control devices shall be eligible for a one-time credit against the tax otherwise due pursuant to chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, in an amount not to exceed ten million dollars, as an incentive to implement safe and efficient environmental controls for coal-fired electricity generation. The tax credit shall be equal to fifty percent of the purchase price of high technology or equipment used to reduce sulfur dioxide emissions and other air pollutants associated with

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 coal-fired electricity generation in this state.

11 2. To obtain the credit allowed by this section, a taxpayer shall submit an
12 application to the department of economic development. The application shall identify the
13 high technology or equipment used to reduce sulfur dioxide emissions or other air
14 pollutants associated with coal-fired electricity generation and the purchase price of such
15 high technology or equipment. Upon final approval of an application and presentation of
16 all information deemed necessary by the director of the department of economic
17 development, the director shall issue the taxpayer a certificate of tax credit.

18 3. Any amount of credit which exceeds the tax liability of the taxpayer for the tax
19 year in which the credit is first claimed may be carried back to any of the taxpayer's three
20 prior tax years and carried forward to any of the taxpayer's five subsequent tax years,
21 until fully used. A certificate of tax credit issued to a taxpayer by the department of
22 revenue may be assigned, transferred, sold, or otherwise conveyed. Whenever a certificate
23 of tax credit is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement
24 shall be filed with the department specifying the name and address of the new owner of the
25 tax credit and the value of the credit.

26 4. The director of the department of economic development is authorized to
27 promulgate any rules necessary to implement this section. No rule or portion of a rule shall
28 become effective unless it is promulgated pursuant to chapter 536, RSMo.

138.420. 1. The state tax commission shall have the exclusive power of original
2 assessment of the distributable property of railroads, railroad cars, rolling stock, street railroads,
3 bridges, telegraph, telephone, electric power and light companies **and property thereof,**
4 **including components with a capacity to generate electricity of two or more megawatts,**
5 electric transmission lines, pipeline companies, express companies, and other similar public
6 utility corporations, companies and firms, and of the aircraft of airlines companies in a manner
7 not inconsistent with chapter 155, RSMo.

8 2. After original assessments of the state tax commission have been completed, each
9 corporation, person or public utility interested therein shall be promptly notified of the action of
10 the state tax commission and shall have the right to apply for a rehearing. The state tax
11 commission shall grant and hold such rehearing and fix the date thereof.

12 3. If, after such rehearing and a consideration of the facts, the state tax commission shall
13 be of the opinion that the original decision or any part thereof should be changed, the state tax
14 commission may change or modify the same and such assessed valuations as are finally
15 determined shall be certified to the clerks of the several county commissions and to the assessor
16 in St. Louis City at the same time that valuations of real and tangible personal property are
17 returned.

18 4. The state tax commission shall also have all power of original assessment of real and
19 tangible personal property in the possession of any assessing officer on January first.

153.030. 1. All bridges over streams dividing this state from any other state owned,
2 used, leased or otherwise controlled by any person, corporation, railroad company or joint stock
3 company, and all bridges across or over navigable streams within this state, where the charge is
4 made for crossing the same, which are now constructed, which are in the course of construction,
5 or which shall hereafter be constructed, and all property, real and tangible personal, owned, used,
6 leased or otherwise controlled by telegraph, telephone, electric power and light companies,
7 electric transmission lines, pipeline companies and express companies shall be subject to
8 taxation for state, county, municipal and other local purposes to the same extent as the property
9 of private persons.

10 2. [And] Taxes [levied thereon] **on property described in subsection 1 of this section**
11 shall be levied and collected in the manner as is now or may hereafter be provided by law for the
12 taxation of railroad property in this state, and county commissions, county boards of equalization
13 and the state tax commission are hereby required to perform the same duties and are given the
14 same powers, including punitive powers, in assessing, equalizing and adjusting the taxes on the
15 property set forth in this section as the county commissions and boards of equalization and state
16 tax commission have or may hereafter be empowered with, in assessing, equalizing, and
17 adjusting the taxes on railroad property; and an authorized officer of any such bridge, telegraph,
18 telephone, electric power and light companies, electric transmission lines, pipeline companies,
19 or express company or the owner of any such toll bridge, is hereby required to render reports of
20 the property of such bridge, telegraph, telephone, electric power and light companies, electric
21 transmission lines, pipeline companies, or express companies in like manner as the authorized
22 officer of the railroad company is now or may hereafter be required to render for the taxation of
23 railroad property.

24 3. On or before the fifteenth day of April in the year 1946 and each year thereafter an
25 authorized officer of each such company shall furnish the state tax commission and county clerks
26 a report, duly subscribed and sworn to by such authorized officer, which is like in nature and
27 purpose to the reports required of railroads under chapter 151, RSMo, showing the full amount
28 of all real and tangible personal property owned, used, leased or otherwise controlled by each
29 such company on January first of the year in which the report is due.

30 4. If any telephone company assessed pursuant to chapter 153 has a microwave relay
31 station or stations in a county in which it has no wire mileage but has wire mileage in another
32 county, then, for purposes of apportioning the assessed value of the distributable property of such
33 companies, the straight line distance between such microwave relay stations shall constitute
34 miles of wire. In the event that any public utility company assessed pursuant to this chapter has

35 no distributable property which physically traverses the counties in which it operates, then the
36 assessed value of the distributable property of such company shall be apportioned to the physical
37 location of the distributable property.

38 **5. For calendar year 2003, all distributable property of electric power and light**
39 **companies which are subject to assessment by the state tax commission shall continue to**
40 **be so assessed and the values shall be distributed by the same method used in the previous**
41 **calendar year.**

42 **6. All electric generating equipment placed into service on or after January 1, 2004,**
43 **owned by electric corporations as defined in section 386.020, RSMo, shall be assessed by**
44 **the state tax commission and the value distributed as follows: fifty percent to the county**
45 **where the electric generating equipment is sited and fifty percent to counties that are**
46 **contiguous to the county where the electric generating equipment is sited according to**
47 **population.**

260.225. 1. The department shall administer sections 260.200 to 260.345 to maximize
2 the amount of recovered materials and to minimize disposal of solid waste in sanitary
3 landfills. The department shall, through its rules and regulations, policies and programs,
4 encourage to the maximum extent practical, the use of alternatives to disposal. To accomplish
5 these objectives, the department shall:

6 (1) Administer the state solid waste management program pursuant to the provisions of
7 sections 260.200 to 260.345;

8 (2) Cooperate with appropriate federal, state, and local units of government of this or any
9 other state, and with appropriate private organizations in carrying out its authority under sections
10 260.200 to 260.345;

11 (3) Promulgate and adopt, after public hearing, such rules [and regulations] relating to
12 solid waste management systems as shall be necessary to carry out the purposes and provisions
13 of sections 260.200 to 260.345. **The rules shall not be any stricter than any required by**
14 **federal law relating to the disposal of solid waste created by coal-fired electric generating**
15 **plants built on or after August 28, 2002. The department may adopt federal rules by**
16 **reference following the procedures and requirements of this section. Where federal rules**
17 **are adopted by reference, failure to include certain rules shall not, in itself, mean that those**
18 **rules are not applicable in this state, and shall not be interpreted to mean that the state**
19 **intends to be more restrictive than federal requirements. In cases where there are no**
20 **federal standards or guidelines for such regulation, where no other provision of laws exists,**
21 **or where such federal laws, standards, or guidelines are not sufficient to protect public**
22 **health, welfare, or the environment, the department shall have the authority to regulate,**
23 **based upon substantial evidence on the record after public hearing and finding by the**

24 **department that the subject of the regulation constitutes a significant adverse impact to**
25 **public health, welfare, or the environment. The department shall establish procedures for**
26 **the exercise of its authority pursuant to this section for determining whether a significant**
27 **adverse impact to public health, welfare, or the environment exists through formal**
28 **rulemaking. Such criteria and rulemaking shall be based upon reasonably available**
29 **scientific data and shall, at a minimum, include consideration of health, welfare,**
30 **economics, pollution prevention, and the effectiveness and cost of available control**
31 **methods;**

32 (4) Develop a statewide solid waste management plan in cooperation with local
33 governments, regional planning commissions, districts, and appropriate state agencies;

34 (5) Provide technical assistance to cities, counties, districts, and authorities;

35 (6) Develop and conduct a mandatory solid waste technician training course of study;

36 (7) Conduct and contract for research and investigations in the overall area of solid waste
37 storage, collection, recycling, recovery, processing, transportation and disposal, including, but
38 not limited to, new and novel procedures;

39 (8) Subject to appropriation by the general assembly, establish criteria for awarding
40 state-funded solid waste management planning grants to cities, counties, and districts, allocate
41 funds, and monitor the proper expenditure of funds;

42 (9) Issue such permits and orders and conduct such inspections as may be necessary to
43 implement the provisions of sections 260.200 to 260.345 and the rules and regulations adopted
44 pursuant to sections 260.200 to 260.345;

45 (10) Initiate, conduct and support research, demonstration projects, and investigations
46 with applicable federal programs pertaining to solid waste management systems;

47 (11) Contract with cities, counties, districts and other persons to act as its agent in
48 carrying out the provisions of sections 260.200 to 260.345 under procedures and conditions as
49 the department shall prescribe.

50 2. The department shall prepare model solid waste management plans suitable for rural
51 and urban areas which may be used by districts, counties and cities. In preparing the model
52 plans, the department shall consider the findings and recommendations of the study of resource
53 recovery conducted pursuant to section 260.038, and other relevant information. The plans shall
54 conform with the requirements of section 260.220 and section 260.325 and shall:

55 (1) Emphasize waste reduction and recycling;

56 (2) Provide for economical waste management through regional cooperation;

57 (3) Be designed to achieve a reduction of forty percent in solid waste disposed, by
58 weight, by January 1, 1998;

59 (4) Establish a means to measure the amount of reduction in solid waste disposal;

60 (5) Provide for the elimination of small quantities of hazardous waste, including
61 household hazardous waste, from the solid waste stream; and

62 (6) Be designed to guide planning in districts, cities and counties including cities and
63 counties not within a district.

64 3. The model plan shall be distributed to the executive board of each solid waste district
65 and to counties and cities not within a district by December 1, 1991.

66 4. No rule or portion of a rule promulgated under the authority of sections 260.200 to
67 260.345 shall become effective unless it has been promulgated pursuant to the provisions of
68 [section 536.024] **chapter 536**, RSMo.

69 5. In coordination with other appropriate state agencies, including, but not limited to, the
70 division of commerce and industrial development, the office of administration, the
71 environmental improvement and energy resource authority, and the public service commission,
72 the department shall perform the following duties in order to promote resource recovery in the
73 state in ways which are economically feasible:

74 (1) Identify markets for recovered materials and for energy which could be produced
75 from solid waste and household hazardous waste;

76 (2) Provide technical assistance pertaining to all aspects of resource recovery to cities,
77 counties, districts, industries and other persons;

78 (3) Identify opportunities for resource recovery programs in state government and initiate
79 actions to implement such programs;

80 (4) Expand state contracts for procurement of items made from recovered materials;

81 (5) Initiate recycling programs within state government;

82 (6) Provide a clearinghouse of consumer information regarding the need to support
83 resource recovery, utilize and develop new resource recovery programs around existing
84 enterprises, request and purchase recycled products, participate in resource conservation
85 activities and other relevant issues;

86 (7) Identify barriers to resource recovery and resource conservation, and propose
87 remedies to these barriers; and

88 (8) Initiate activities with appropriate state and local entities to develop markets for
89 recovered materials.

260.370. 1. Where proven technology is available and the economic impact is
2 reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous
3 waste management commission shall encourage that every effort is made to effectively treat,
4 recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of
5 Missouri in order that such wastes are not disposed of in a manner which is hazardous to the
6 public health and the environment. Where proven technology is available with respect to a

7 specific hazardous waste and the economic impact is reasonable, pursuant to rules and
8 regulations promulgated by the commission, the hazardous waste management commission shall
9 direct that disposal of the specific hazardous wastes using land filling as the primary method is
10 prohibited.

11 2. The hazardous waste management commission shall, by rules and regulations,
12 categorize hazardous waste by taking into account toxicity, persistence and degradability in
13 nature, potential for accumulation in tissue, and other related factors such as flammability,
14 corrosiveness and other hazardous characteristics. The commission shall by rules and
15 regulations further establish within each category the wastes which may or may not be disposed
16 of through alternative hazardous waste management technologies including, but not limited to,
17 treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments,
18 recycling, reuse and reduction. The commission shall specify, by rule and regulation, the
19 frequency of inspection for each method of hazardous waste management and for the different
20 waste categories at hazardous waste management sites. The inspection may be daily when the
21 hazardous waste management commission deems it necessary. The hazardous waste
22 management commission shall specify, by rule, fees to be paid to the department by owners or
23 operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous
24 waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste
25 from off-site sources, but not including wastes generated by the same person at other sites
26 located in Missouri or within a metropolitan statistical area located partially in Missouri and
27 owned or operated by the same person and transferred to the hazardous waste facility, for
28 treatment, storage or disposal, for inspections conducted by the department to determine
29 compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds
30 derived from these inspection fees shall be used for the purpose of funding the inspection of
31 hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not
32 exceed twelve thousand dollars per year per facility and the commission shall establish a
33 graduated fee scale based on the volume of hazardous waste accepted with reduced fees for
34 facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon
35 request, to the person, firm or corporation operating the hazardous waste facility a complete, full
36 and detailed accounting of the cost of the department's inspections of the facility for the
37 twelve-month period immediately preceding the request within forty-five days after receipt of
38 the request. Failure to provide the accounting within forty-five days shall require the department
39 to refund the inspection fee paid during the twelve-month-time period.

40 3. In addition to any other powers vested in it by law, the commission shall have the
41 following powers:

42 (1) From time to time adopt, amend or repeal, after due notice and public hearing,

43 [standards,] rules [and regulations] to implement, enforce and carry out the provisions of sections
44 260.350 to 260.430 and any required of this state by any federal hazardous waste management
45 act and as the commission may deem necessary to provide for the safe management of hazardous
46 wastes to protect the health of humans and the environment. In implementing this subsection,
47 the commission shall consider the variations within this state in climate, geology, population
48 density, quantities and types of hazardous wastes generated, availability of hazardous waste
49 facilities and such other factors as may be relevant to the safe management of hazardous
50 wastes. **The rules shall not be any stricter than any required by federal law relating to the**
51 **management of hazardous waste created by coal-fired electric generating plants built on**
52 **or after August 28, 2002. The commission may adopt federal rules by reference following**
53 **the procedures and requirements of this section. Where federal rules are adopted by**
54 **reference, failure to include certain rules shall not, in itself, mean that those rules are not**
55 **applicable in this state, and shall not be interpreted to mean that the state intends to be**
56 **more restrictive than federal requirements. In cases where there are no federal standards**
57 **or guidelines for the regulation of the management of hazardous waste, where no other**
58 **provision of law exists, or where such federal laws, standards, or guidelines are not**
59 **sufficient to protect public health, welfare, or the environment, the commission shall have**
60 **the authority to regulate such hazardous waste based upon substantial evidence on the**
61 **record after public hearing and finding by the commission that the hazardous waste to be**
62 **regulated constitutes a significant adverse impact to public health, welfare, or the**
63 **environment. The commission shall establish procedures for the exercise of its authority**
64 **pursuant to this section for determining whether a significant adverse impact to public**
65 **health, welfare, or the environment exists through formal rulemaking. Such criteria and**
66 **rulemaking shall be based upon reasonably available scientific data and shall, at a**
67 **minimum, include consideration of health, welfare, economics, pollution prevention, and**
68 **the effectiveness and cost of available control methods.** Within two years after September 28,
69 1977, the commission shall adopt rules [and regulations] including the following:

70 (a) Rules [and regulations] establishing criteria and a listing for the determination of
71 whether any waste or combination of wastes is hazardous for the purposes of sections 260.350
72 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for
73 accumulation in tissue, and other related factors such as flammability, corrosiveness and other
74 hazardous characteristics;

75 (b) Rules [and regulations] for the storage, treatment and disposal of hazardous wastes;

76 (c) Rules [and regulations] for the transportation, containerization and labeling of
77 hazardous wastes, which shall be consistent with those issued by the Missouri public service
78 commission;

79 (d) Rules [and regulations] establishing standards for the issuance, modification,
80 suspension, revocation or denial of such licenses and permits as are consistent with the purposes
81 of sections 260.350 to 260.430;

82 (e) Rules [and regulations] establishing standards and procedures for the safe operation
83 and maintenance of hazardous waste facilities in order to protect the health of humans and other
84 living organisms;

85 (f) Rules [and regulations] listing those wastes or combinations of wastes, for which
86 criteria have been established under paragraph (a) of this subdivision and which are not
87 compatible and which may not be stored or disposed of together;

88 (g) Rules [and regulations] establishing procedures and requirements for the reporting
89 of the generation, storage, transportation, treatment or disposal of hazardous wastes;

90 (2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo,
91 pertaining to administrative rulemaking, and public hearing, a state hazardous waste management
92 plan to provide for the safe and effective management of hazardous wastes within this state. This
93 plan shall be adopted within two years after September 28, 1977, and revised at least once every
94 five years thereafter;

95 (3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of
96 witnesses and the production of evidence, administer oaths and take testimony as the commission
97 deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by
98 any federal hazardous waste management act. Unless otherwise specified in sections 260.350
99 to 260.430, any of these powers may be exercised on behalf of the commission by any members
100 thereof or a hearing officer designated by it;

101 (4) Grant individual variances in accordance with the provisions of sections 260.350 to
102 260.430;

103 (5) Make such orders as are necessary to implement, enforce and effectuate the powers,
104 duties and purposes of sections 260.350 to 260.430.

105 4. No rule or portion of a rule promulgated under the authority of sections 260.350 to
106 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated
107 pursuant to the provisions of [section 536.024] chapter 536, RSMo.

319.137. [Rules and regulations promulgated by the United States Environmental
2 Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976
3 (P.L. 94-580), as amended, may be adopted by the department by reference. The department may
4 adopt rules and regulations that are more stringent than those issued by the United States
5 Environmental Protection Agency if such rules or regulations are necessary to protect human
6 health or the environment. Any such rule shall be adopted only after due notice and public
7 hearing in accordance with the provisions of this section, chapter 536, RSMo, and chapter 644,

8 RSMo. No rule or portion of a rule promulgated under the authority of sections 319.100 to
9 319.139 shall become effective unless it has been promulgated pursuant to the provisions of
10 section 536.024, RSMo.] **1. Rules promulgated by the United States Environmental
11 Protection Agency pursuant to Section 42 U.S.C. 6991, et seq., as amended, may be adopted
12 by the department by reference. With respect to coal-fired electric generating plants built
13 on or after August 28, 2002, the department may not adopt rules that are more stringent
14 than those issued by the United States Environmental Protection Agency, unless such rules
15 are necessary to protect human health or the environment. Where federal rules are
16 adopted by reference, failure to include certain rules shall not, in itself, mean that those
17 rules are not applicable in this state, and shall not be interpreted to mean that the state
18 intends to be more restrictive than federal requirements. Any such rule shall be adopted
19 only after due notice and public hearing in accordance with the provisions of this section,
20 chapter 536, RSMo, and chapter 644, RSMo. In cases where there are no federal standards
21 or guidelines for such regulation, where no other provision of law exists, or where such
22 federal laws, standards, or guidelines are not sufficient to protect public health, welfare,
23 or the environment, the department shall have the authority to regulate such pollution
24 based upon substantial evidence on the record after public hearing and finding by the
25 department that the subject of such regulation constitutes a significant adverse impact to
26 public health, welfare, or the environment. The department shall establish procedures for
27 the exercise of its authority pursuant to this section for determining whether a significant
28 adverse impact to public health, welfare or the environment exists through formal
29 rulemaking. Such criteria and rulemaking shall be based upon reasonably available
30 scientific data and shall, at a minimum, include consideration of health, welfare,
31 economics, pollution prevention, and the effectiveness and cost of available control
32 methods.**

33 **2. No rule or portion of a rule promulgated pursuant to the authority delegated in
34 sections 319.100 to 319.139 shall become effective unless it has been promulgated pursuant
35 to the provisions of chapter 536, RSMo.**

2 [319.137. 1. Rules and regulations promulgated by the United States
3 Environmental Protection Agency under subtitle I of the federal Resource
4 Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by
5 the department by reference. The department may adopt rules and regulations that
6 are more stringent than those issued by the United States Environmental Protection
7 Agency if such rules or regulations are necessary to protect human health or the
8 environment. Rules and regulations promulgated under sections 319.100 to 319.139
9 shall be submitted to and reviewed by the advisory committee established by
10 subsection 2 of section 319.131 prior to publication. Any such rule shall be adopted
only after due notice and public hearing in accordance with the provisions of this

section, chapter 536, RSMo, and chapter 644, RSMo.

2. No rule or portion of a rule promulgated under the authority of sections 319.100 to 319.139 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based;
- (5) That the rule is arbitrary and capricious.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri

54 Register, as soon as practicable, notice of the suspension or revocation.]

620.1600. The director of the department of economic development shall establish
2 **a task force to conduct a study comparing the impacts of burning coal to generate**
3 **electricity with the impacts of burning natural gas to generate electricity. The task force**
4 **shall develop educational materials on environmental issues relating to the generation of**
5 **electricity, including the benefits and detriments of using natural gas, coal, nuclear energy,**
6 **and alternative fuels to generate electricity. The task force may include members**
7 **representing the public service commission, the department of elementary and secondary**
8 **education, and the department of natural resources.**

620.1601. The department of economic development shall deliver the educational
2 **materials developed pursuant to section 620.1600 to the department of elementary and**
3 **secondary education which shall disseminate the materials to students. The department**
4 **of elementary and secondary education is authorized to promulgate rules necessary to**
5 **implement this section. No rule or portion of a rule shall become effective unless it has**
6 **been promulgated pursuant to chapter 536, RSMo.**

640.080. There is hereby established within the division of energy of the department
2 **of natural resources a repository for technical information about clean coal technologies**
3 **called the "Clean Coal Technologies Information Repository". The division shall maintain**
4 **at its repository any technical information concerning clean coal technology, and its**
5 **repository shall serve as a clearinghouse for such information.**

644.026. 1. The commission shall:

- 2 (1) Exercise general supervision of the administration and enforcement of sections
3 644.006 to 644.141 and all rules and regulations and orders promulgated thereunder;
- 4 (2) Develop comprehensive plans and programs for the prevention, control and
5 abatement of new or existing pollution of the waters of the state;
- 6 (3) Advise, consult, and cooperate with other agencies of the state, the federal
7 government, other states and interstate agencies, and with affected groups, political subdivisions
8 and industries in furtherance of the purposes of sections 644.006 to 644.141;
- 9 (4) Accept gifts, contributions, donations, loans and grants from the federal government
10 and from other sources, public or private, for carrying out any of its functions, which funds shall
11 not be expended for other than the purposes for which provided;
- 12 (5) Encourage, participate in, or conduct studies, investigations, and research and
13 demonstrations relating to water pollution and causes, prevention, control and abatement thereof
14 as it may deem advisable and necessary for the discharge of its duties under sections 644.006 to
15 644.141;
- 16 (6) Collect and disseminate information relating to water pollution and the prevention,

17 control and abatement thereof;

18 (7) After holding public hearings, identify waters of the state and prescribe water quality
19 standards for them, giving due recognition to variations, if any, and the characteristics of
20 different waters of the state which may be deemed by the commission to be relevant insofar as
21 possible under any federal water pollution control act. These shall be reevaluated and modified
22 as required by any federal water pollution control act;

23 (8) Adopt, amend, promulgate, or repeal after due notice and hearing, rules [and
24 regulations] to enforce, implement, and effectuate the powers and duties of sections 644.006 to
25 644.141 and any required of this state by any federal water pollution control act, and as the
26 commission may deem necessary to prevent, control and abate existing or potential
27 pollution. **With respect to coal-fired electric generating plants built on or after August 28,**
28 **2002, the rules shall not be any stricter than any required by federal law regulating**
29 **pollution of waters. The director may adopt federal rules by reference following the**
30 **procedures and requirements of this section. Where federal rules are adopted by**
31 **reference, failure to include certain rules shall not, in itself, mean that those rules are not**
32 **applicable in this state, and shall not be interpreted to mean that the state intends to be**
33 **more restrictive than federal requirements. In cases where there are no federal standards**
34 **or guidelines for such regulation, where no other provision of law exists, or where such**
35 **federal laws, standards, or guidelines are not sufficient to protect public health, welfare,**
36 **or the environment, the director shall have the authority to regulate pollution of waters**
37 **based upon substantial evidence on the record after public hearing and finding by the**
38 **director that the subject of such regulation constitutes a significant adverse impact to**
39 **public health, welfare, or the environment. The director shall establish procedures for the**
40 **exercise of its authority pursuant to this section for determining whether a significant**
41 **adverse impact to public health, welfare, or the environment exists through formal**
42 **rulemaking. Such criteria and rulemaking shall be based upon reasonably available**
43 **scientific data and shall, at a minimum, include consideration of health, welfare,**
44 **economics, pollution prevention, and the effectiveness and cost of available control**
45 **methods;**

46 (9) Issue, modify or revoke orders prohibiting or abating discharges of water
47 contaminants into the waters of the state or adopting other remedial measures to prevent, control
48 or abate pollution;

49 (10) Administer state and federal grants and loans to municipalities and political
50 subdivisions for the planning and construction of sewage treatment works;

51 (11) Hold such hearings, issue such notices of hearings and subpoenas requiring the
52 attendance of such witnesses and the production of such evidence, administer such oaths, and

53 take such testimony as the commission deems necessary or as required by any federal water
54 pollution control act. Any of these powers may be exercised on behalf of the commission by any
55 members thereof or a hearing officer designated by it;

56 (12) Require the prior submission of plans and specifications, or other data including the
57 quantity and types of water contaminants, and inspect the construction of treatment facilities and
58 sewer systems or any part thereof in connection with the issuance of such permits or approval
59 as are required by sections 644.006 to 644.141;

60 (13) Issue, continue in effect, revoke, modify or deny, under such conditions as it may
61 prescribe, to prevent, control or abate pollution or any violations of sections 644.006 to 644.141
62 or any federal water pollution control act, permits for the discharge of water contaminants into
63 the waters of this state, and for the installation, modification or operation of treatment facilities,
64 sewer systems or any parts thereof. Such permit conditions, in addition to all other requirements
65 of this subdivision, shall ensure compliance with all effluent regulations or limitations, water
66 quality related effluent limitations, national standards of performance and toxic and pretreatment
67 effluent standards, and all requirements and time schedules thereunder as established by sections
68 644.006 to 644.141 and any federal water pollution control act; however, no permit shall be
69 required of any person for any emission into publicly owned treatment facilities or into publicly
70 owned sewer systems tributary to publicly owned treatment works;

71 (14) Require proper maintenance and operation of treatment facilities and sewer systems
72 and proper disposal of residual waste from all such facilities and systems;

73 (15) Exercise all incidental powers necessary to carry out the purposes of sections
74 644.006 to 644.141, assure that the state of Missouri complies with any federal water pollution
75 control act, retains maximum control thereunder and receives all desired federal grants, aid and
76 benefits;

77 (16) Establish effluent and pretreatment and toxic material control regulations to further
78 the purposes of sections 644.006 to 644.141 and as required to ensure compliance with all
79 effluent limitations, water quality related effluent limitations, national standards of performance
80 and toxic and pretreatment effluent standards, and all requirements and any time schedules
81 thereunder, as established by any federal water pollution control act for point sources in this
82 state, and where necessary to prevent violation of water quality standards of this state;

83 (17) Prohibit all discharges of radiological, chemical, or biological warfare agent or
84 high-level radioactive waste into waters of this state;

85 (18) Require that all publicly owned treatment works or facilities which receive or have
86 received grants or loans from the state or the federal government for construction or
87 improvement make all charges required by sections 644.006 to 644.141 or any federal water
88 pollution control act for use and recovery of capital costs, and the operating authority for such

89 works or facility is hereby authorized to make any such charges;

90 (19) Represent the state of Missouri in all matters pertaining to interstate water pollution
91 including the negotiation of interstate compacts or agreements;

92 (20) Develop such facts and make such investigations as are consistent with the purposes
93 of sections 644.006 to 644.141, and, in connection therewith, to enter or authorize any
94 representative of the commission to enter at all reasonable times and upon reasonable notice in
95 or upon any private or public property for any purpose required by any federal water pollution
96 control act or sections 644.006 to 644.141 for the purpose of developing rules, regulations,
97 limitations, standards, or permit conditions, or inspecting or investigating any records required
98 to be kept by sections 644.006 to 644.141 or any permit issued hereunder, any condition which
99 the commission or executive secretary has probable cause to believe to be a water contaminant
100 source or the site of any suspected violation of sections 644.006 to 644.141, regulations,
101 standards, or limitations, or permits issued hereunder. The results of any such investigation shall
102 be reduced to writing, and shall be furnished to the owner or operator of the property. No person
103 shall refuse entry or access, requested for the purposes of inspection under this provision, to an
104 authorized representative in carrying out the inspection. A suitably restricted search warrant,
105 upon a showing of probable cause in writing and upon oath, shall be issued by any judge or
106 associate circuit judge having jurisdiction to any representative for the purpose of enabling him
107 to make such inspection. Information obtained under this section shall be available to the public
108 unless it constitutes trade secrets or confidential information, other than effluent data, of the
109 person from whom it is obtained, except when disclosure is required under any federal water
110 pollution control act;

111 (21) Retain, employ, provide for, and compensate, within appropriations available
112 therefor, such consultants, assistants, deputies, clerks and other employees on a full- or part-time
113 basis as may be necessary to carry out the provisions of sections 644.006 to 644.141 and
114 prescribe the times at which they shall be appointed and their powers and duties;

115 (22) Secure necessary scientific, technical, administrative and operation services,
116 including laboratory facilities, by contract or otherwise, with any educational institution,
117 experiment station, or any board, department, or other agency of any political subdivision of the
118 state or the federal government;

119 (23) Require persons owning or engaged in operations which do or could discharge water
120 contaminants, or introduce water contaminants or pollutants of a quality and quantity to be
121 established by the commission, into any publicly owned treatment works or facility, to provide
122 and maintain any facilities and conduct any tests and monitoring necessary to establish and
123 maintain records and to file reports containing information relating to measures to prevent, lessen
124 or render any discharge less harmful or relating to rate, period, composition, temperature, and

125 quality and quantity of the effluent, and any other information required by any federal water
126 pollution control act or the executive secretary hereunder, and to make them public, except as
127 provided in subdivision (20) of this section. The commission shall develop and adopt such
128 procedures for inspection, investigation, testing, sampling, monitoring and entry respecting water
129 contaminant and point sources as may be required for approval of such a program under any
130 federal water pollution control act;

131 (24) Take any action necessary to implement continuing planning processes and
132 areawide waste treatment management as established under any federal water pollution control
133 act or sections 644.006 to 644.141.

134 2. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall
135 become effective unless it has been promulgated pursuant to the provisions of section [536.024]
136 **chapter 536**, RSMo.