

SECOND REGULAR SESSION  
[CORRECTED]  
[PERFECTED]  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1650**  
**91ST GENERAL ASSEMBLY**

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Taken up for Perfection April 24, 2002.

House Substitute for House Committee Substitute for House Bill No. 1650 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

4063L.04P

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**AN ACT**

To repeal sections 247.040, 393.705, 610.021, 640.620, 644.016, 644.051 and 644.052, RSMo, and to enact in lieu thereof eleven new sections relating to water resources, with an emergency clause.

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

Section A. Sections 247.040, 393.705, 610.021, 640.620, 644.016, 644.051 and 644.052, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 247.040, 278.258, 393.705, 610.021, 640.620, 644.016, 644.051, 644.052, 644.578, 644.579, and 644.580, to read as follows:

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable

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

9 cost of the improvement, an approximation of the assessed valuation of taxable property within  
10 the district and such other information as may be useful to the court in determining whether [or  
11 not] the petition should be granted and a decree of incorporation entered. Such petition shall be  
12 accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding,  
13 and the petition shall be signed by **either two-thirds of the registered voters located within**  
14 **the boundaries of the proposed district, or by** not less than fifty voters within the proposed  
15 district and shall pray for the incorporation of the territory therein described into a public water  
16 supply district. The petition shall be verified by at least one of the signers thereof.

17 2. Upon the filing of the petition, the same shall be presented to the circuit court, and  
18 such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the  
19 clerk of the court shall give notice of the filing of the petition in some newspaper of general  
20 circulation in the county in which the proceedings are pending, and if the district extends into  
21 any other county or counties, such notice shall also be published in some newspaper of general  
22 circulation in such other county or counties. The notice shall contain a description of the  
23 proposed boundary lines of the district and the general purposes of the petition, and shall set  
24 forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more  
25 than twenty-one days after the date of the last publication of the notice and shall be on some  
26 regular judicial day of the court wherein the petition is pending. Such notice shall be signed by  
27 the clerk of the circuit court and shall be published in three successive issues of a weekly  
28 newspaper or [in twenty successive issues of] **once a week for three successive weeks in a daily**  
29 **newspaper. As an alternative to newspaper publication of the notice, the petitioners may**  
30 **direct the clerk of the court to give notice of the filing of the petition by certified mail to the**  
31 **owners of record of all real property located within the proposed boundaries of the district.**  
32 **The cost of the certified notification shall be borne by the petitioners.**

33 3. The court, for good cause shown, may continue the case or the hearing thereon from  
34 time to time until final disposition thereof.

35 4. Exceptions to the formation of a district, or to the boundaries outlined in the petition  
36 for the incorporation thereof, may be made by any voter of the proposed district; provided, such  
37 exceptions are filed not less than five days prior to the date set for the hearing on the petition.  
38 Such exceptions shall specify the grounds upon which the exceptions are being made. If any  
39 such exceptions be filed, the court shall take them into consideration in passing upon the petition  
40 and shall also consider the evidence in support of the petition and in support of the exceptions  
41 made. Should the court find that the petition should be granted but that changes should be made  
42 in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition  
43 as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with  
44 such boundaries as changed.

45           5. Should the court find that it would not be to the public interest to form such a district,  
46 the petition shall be dismissed at the costs of the petitioners. If, however, the court should find  
47 in favor of the formation of such district, the court shall enter its decree of incorporation, setting  
48 forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid  
49 hearing. The decree of incorporation shall also divide the district into five subdistricts and shall  
50 fix their boundary lines, all of which subdistricts shall have approximately the same area and  
51 shall be numbered. The decree shall further contain an appointment of one voter from each of  
52 such subdistricts, to constitute the first board of directors of the district. No two members of  
53 such board so appointed or hereafter elected or appointed shall reside in the same subdistrict,  
54 except as provided in section 247.060. If no qualified person who lives in the subdistrict is  
55 willing to serve on the board, the court may appoint, or the voters may elect, an otherwise  
56 qualified person who lives in the district but not in the subdistrict. The court shall designate two  
57 of such directors so appointed to serve for a term of two years and one to serve for a term of one  
58 year. [And] The directors thus appointed by the court shall serve for the terms thus designated  
59 and until their successors shall have been appointed or elected as herein provided. The decree  
60 shall further designate the name and number of the district by which it shall hereafter be  
61 officially known.

62           6. **If the court shall find that the petition has been signed by two-thirds of the**  
63 **registered voters located within the boundaries of the proposed district, or by not less than**  
64 **fifty voters within the proposed district, the decree of incorporation shall become final and**  
65 **conclusive. If the court shall find that the petition has been signed by less than two-thirds**  
66 **of the registered voters located within the boundaries of the proposed district, or by less**  
67 **than fifty voters within the proposed district, then** the decree of incorporation shall not  
68 become final and conclusive until it shall have been submitted to the voters residing within the  
69 boundaries described in such decree and until it shall have been assented to by a majority of the  
70 voters as provided in subsection 9 of this section or by two-thirds of the voters of the district  
71 voting on the proposition. The decree shall provide for the submission of the question and shall  
72 fix the date thereof. The returns shall be certified by the judges and clerks of election to the  
73 circuit court having jurisdiction in the case and the court shall thereupon enter its order  
74 canvassing the returns and declaring the result of such election.

75           7. If, upon canvass and declaration, it is found and determined that the question shall  
76 have been assented to by a majority of two-thirds of the voters of the district voting on such  
77 proposition, then the court shall, in such order declaring the result of the election, enter a further  
78 order declaring the decree of incorporation to be final and conclusive. In the event, however, that  
79 the court should find that the question had not been assented to by the majority above required,  
80 the court shall enter a further order declaring such decree of incorporation to be void and of no

81 effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid  
82 orders. In the event that the court declares the decree of incorporation to be final, as herein  
83 provided for, the clerk of the circuit court shall file certified copies of such decree of  
84 incorporation and of such final order with the secretary of state of the state of Missouri, and with  
85 the recorder of deeds of the county or counties in which the district is situate and with the clerk  
86 of the county commission of the county or counties in which the district is situate.

87 8. The costs incurred in the formation of the district shall be taxed to the district, if the  
88 district [be] is incorporated otherwise against the petitioners.

89 9. If petitioners seeking formation of a public water supply district specify in their  
90 petition that the district to be organized shall be organized without authority to issue general  
91 obligation bonds, then the decrees relating to the formation of the district shall recite that the  
92 district shall not have authority to issue general obligation bonds and the vote required for such  
93 a decree of incorporation to become final and conclusive shall be a simple majority of the voters  
94 of the district voting on such proposition.

**278.258. 1. After a watershed subdistrict has been organized and the organization  
2 tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not  
3 adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon  
4 approval of such detachment of a majority of the qualified voters residing within such  
5 subdistrict in such county; however, before such detachment the watershed district trustees  
6 shall make arrangements for the county to pay any outstanding indebtedness for services  
7 or works of improvement rendered by the subdistrict in such county.**

**8 2. Following the entry in the official minutes of the trustees of the watershed district  
9 of the detachment of the county, the watershed district trustees shall certify this fact on a  
10 separate form, authentic copies of which shall be recorded with the recorder of deeds in  
11 each county in which any portion of the watershed subdistrict lies and with the state soil  
12 and water districts commission.**

393.705. As used in sections 393.700 to 393.770 and sections 386.025, RSMo, and  
2 393.295, the following terms shall, unless the context clearly indicates otherwise, have the  
3 following meanings:

4 (1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other  
5 obligations of a commission issued pursuant to sections 393.700 to 393.770 and sections  
6 386.025, RSMo, and 393.295;

7 (2) "Commission", any joint municipal utility commission established by a joint contract  
8 [under] **pursuant to** sections 393.700 to 393.770 and sections 386.025, RSMo, and 393.295;

9 (3) "Contracting municipality", each municipality which is a party to a joint contract  
10 establishing a commission [under] **pursuant to** sections 393.700 to 393.770 and sections

11 386.025, RSMo, and 393.295, a water supply district formed [under the provisions of] **pursuant**  
12 **to** chapter 247, RSMo, or a sewer district formed pursuant to [the provisions of] chapter 204,  
13 RSMo, or chapter 249, RSMo;

14 (4) "Joint contract", the contract entered into among or by and between two or more of  
15 the following contracting entities for the purpose of establishing a commission:

16 (a) Municipalities;

17 (b) Public water supply districts;

18 (c) **Public** sewer districts;

19 [(d) Nonprofit water companies; or

20 (e) Nonprofit sewer companies;]

21 (5) "Person", a natural person, cooperative or private corporation, association, firm,  
22 partnership, or business trust of any nature whatsoever, organized and existing under the laws  
23 of any state or of the United States and any municipality or other municipal corporation,  
24 governmental unit, or public corporation created under the laws of this state or the United States,  
25 and any person, board, or other body declared by the laws of any state or the United States to be  
26 a department, agency or instrumentality thereof;

27 (6) "Project", the purchasing, construction, extending or improving of any  
28 revenue-producing water, sewage, gas or electric light works, heating or power plants, including  
29 all real and personal property of any nature whatsoever to be used in connection therewith,  
30 together with all parts thereof and appurtenances thereto, used or useful in the generation,  
31 production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport  
32 and treatment of sewage or interchange of water, sewage, electric power and energy, or any  
33 interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such  
34 purposes.

610.021. Except to the extent disclosure is otherwise required by law, a public  
2 governmental body is authorized to close meetings, records and votes, to the extent they relate  
3 to the following:

4 (1) Legal actions, causes of action or litigation involving a public governmental body  
5 and any confidential or privileged communications between a public governmental body or its  
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating  
7 to legal actions, causes of action or litigation involving a public governmental body or any agent  
8 or entity representing its interests or acting on its behalf or with its authority, including any  
9 insurance company acting on behalf of a public government body as its insured, shall be made  
10 public upon final disposition of the matter voted upon or upon the signing by the parties of the  
11 settlement agreement, unless, prior to final disposition, the settlement agreement is ordered  
12 closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the

13 action clearly outweighs the public policy considerations of section 610.011, however, the  
14 amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed;  
15 provided, however, in matters involving the exercise of the power of eminent domain, the vote  
16 shall be announced or become public immediately following the action on the motion to  
17 authorize institution of such a legal action. Legal work product shall be considered a closed  
18 record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public  
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,  
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale  
22 of real estate by a public governmental body shall be made public within seventy-two hours after  
23 execution of the lease, purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public  
25 governmental body when personal information about the employee is discussed or recorded.  
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,  
27 promote or discipline an employee of a public governmental body must be made available with  
28 a record of how each member voted to the public within seventy-two hours of the close of the  
29 meeting where such action occurs; provided, however, that any employee so affected shall be  
30 entitled to prompt notice of such decision during the seventy-two-hour period before such  
31 decision is made available to the public. As used in this subdivision, the term "personal  
32 information" means information relating to the performance or merit of individual employees;

33 (4) The state militia or national guard or any part thereof;

34 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,  
35 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or  
36 treatment;

37 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including  
38 records of individual test or examination scores; however, personally identifiable student records  
39 maintained by public educational institutions shall be open for inspection by the parents,  
40 guardian or other custodian of students under the age of eighteen years and by the parents,  
41 guardian or other custodian and the student if the student is over the age of eighteen years;

42 (7) Testing and examination materials, before the test or examination is given or, if it  
43 is to be given again, before so given again;

44 (8) Welfare cases of identifiable individuals;

45 (9) Preparation, including any discussions or work product, on behalf of a public  
46 governmental body or its representatives for negotiations with employee groups;

47 (10) Software codes for electronic data processing and documentation thereof;

48 (11) Specifications for competitive bidding, until either the specifications are officially

49 approved by the public governmental body or the specifications are published for bid;

50 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals  
51 and related documents or any documents related to a negotiated contract until a contract is  
52 executed, or all proposals are rejected;

53 (13) Individually identifiable personnel records, performance ratings or records  
54 pertaining to employees or applicants for employment, except that this exemption shall not apply  
55 to the names, positions, salaries and lengths of service of officers and employees of public  
56 agencies once they are employed as such;

57 (14) Records which are protected from disclosure by law;

58 (15) Meetings and public records relating to scientific and technological innovations in  
59 which the owner has a proprietary interest;

60 (16) Records relating to municipal hot lines established for the reporting of abuse and  
61 wrongdoing;

62 (17) Confidential or privileged communications between a public governmental body  
63 and its auditor, including all auditor work product; [and]

64 (18) In preparation for and implementation of electric restructuring, a municipal electric  
65 utility may close that portion of its financial records and business plans which contains  
66 information regarding the name of the suppliers of services to said utility and the cost of such  
67 services, and the records and business plans concerning the municipal electric utility's future  
68 marketing and service expansion areas. However, this exception shall not be construed to limit  
69 access to other records of a municipal electric utility, including but not limited to the names and  
70 addresses of its business and residential customers, its financial reports, including but not limited  
71 to its budget, annual reports and other financial statements prepared in the course of business,  
72 and other records maintained in the course of doing business as a municipal electric utility. This  
73 exception shall become null and void if the state of Missouri fails to implement by December  
74 31, 2001, electric restructuring through the adoption of statutes permitting the same in this state;  
75 **and**

76 **(19) Portions of documents detailing plans or proposals for protection from and**  
77 **response to domestic terrorism, as defined in 18 U.S.C. section 2331, including the**  
78 **protection of critical physical structures and evacuation plans from those structures,**  
79 **protection and response plans relating to the potential contamination of reservoirs, water**  
80 **supplies, or sewers, and protection and response plans relating to the damaging of electric**  
81 **and gas utilities, except that information related to the costs budgeted and expended to**  
82 **protect such structures, water supplies, sewers, or utilities shall not be a closed record**  
83 **under this exception.**

640.620. In any case, the grant shall not be in excess of one thousand four hundred

2 dollars per connection, or, in the case of a source water protection project, for more than twenty  
3 percent of the cost per acre for conservation reserve, and[, except as otherwise provided in this  
4 section,] no district or system may receive more than one grant for [any purpose] **a construction**  
5 **project and one grant for a source water protection project** in any two-year period.  
6 [Grantees who received or who are receiving funds under the 1993-1994 special allocation for  
7 flood-impacted communities are not subject to the prohibition against receiving more than one  
8 grant during any two-year period for a period ending two years after the final grant allocation for  
9 flood-impacted communities is received by that grantee.]

644.016. When used in sections 644.006 to 644.141 and in standards, rules and  
2 regulations promulgated pursuant to sections 644.006 to 644.141, the following words and  
3 phrases mean:

4 **(1) "Aquaculture", a facility which uses water for the controlled propagation,**  
5 **growth and harvest of aquatic organisms;**

6 [(1)] (2) "Commission", the clean water commission of the state of Missouri created in  
7 section 644.021;

8 [(2)] (3) "Conference, conciliation and persuasion", a process of verbal or written  
9 communications consisting of meetings, reports, correspondence or telephone conferences  
10 between authorized representatives of the department and the alleged violator. The process shall,  
11 at a minimum, consist of one offer to meet with the alleged violator tendered by the department.  
12 During any such meeting, the department and the alleged violator shall negotiate in good faith  
13 to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

14 [(3)] (4) "Department", the department of natural resources;

15 [(4)] (5) "Director", the director of the department of natural resources;

16 [(5)] (6) "Discharge", the causing or permitting of one or more water contaminants to  
17 enter the waters of the state;

18 [(6)] (7) "Effluent control regulations", limitations on the discharge of water  
19 contaminants;

20 [(7)] (8) "General permit", a permit written with a standard group of conditions and with  
21 applicability intended for a designated category of water contaminant sources that have the same  
22 or similar operations, discharges and geographical locations, and that require the same or similar  
23 monitoring, and that would be more appropriately controlled pursuant to a general permit rather  
24 than pursuant to a site-specific permit;

25 [(8)] (9) "Human sewage", human excreta and wastewater, including bath and toilet  
26 waste, residential laundry waste, residential kitchen waste, and other similar waste from  
27 household or establishment appurtenances;

28 [(9)] (10) "Income" includes retirement benefits, consultant fees, and stock dividends;

29 [(10)] (11) "Minor violation", a violation which possesses a small potential to harm the  
30 environment or human health or cause pollution, was not knowingly committed, and is not  
31 defined by the United States Environmental Protection Agency as other than minor;

32 [(11)] (12) "Permit by rule", a permit granted by rule, not by a paper certificate, and  
33 conditioned by the permit holder's compliance with commission rules;

34 [(12)] (13) "Permit holders or applicants for a permit" shall not include officials or  
35 employees who work full time for any department or agency of the state of Missouri;

36 [(13)] (14) "Person", any individual, partnership, copartnership, firm, company, public  
37 or private corporation, association, joint stock company, trust, estate, political subdivision, or any  
38 agency, board, department, or bureau of the state or federal government, or any other legal entity  
39 whatever which is recognized by law as the subject of rights and duties;

40 [(14)] (15) "Point source", any discernible, confined and discrete conveyance, including  
41 but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,  
42 rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which  
43 pollutants are or may be discharged;

44 [(15)] (16) "Pollution", such contamination or other alteration of the physical, chemical  
45 or biological properties of any waters of the state, including change in temperature, taste, color,  
46 turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or  
47 other substance into any waters of the state as will or is reasonably certain to create a nuisance  
48 or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to  
49 domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild  
50 animals, birds, fish or other aquatic life;

51 [(16)] (17) "Pretreatment regulations", limitations on the introduction of pollutants or  
52 water contaminants into publicly owned treatment works or facilities which the commission  
53 determines are not susceptible to treatment by such works or facilities or which would interfere  
54 with their operation, except that wastes as determined compatible for treatment pursuant to any  
55 federal water pollution control act or guidelines shall be limited or treated pursuant to this  
56 chapter only as required by such act or guidelines;

57 [(17)] (18) "Residential housing development", any land which is divided or proposed  
58 to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease  
59 as part of a common promotional plan for residential housing;

60 [(18)] (19) "Sewer system", pipelines or conduits, pumping stations, and force mains,  
61 and all other structures, devices, appurtenances and facilities used for collecting or conducting  
62 wastes to an ultimate point for treatment or handling;

63 [(19)] (20) "Significant portion of his or her income" shall mean ten percent of gross  
64 personal income for a calendar year, except that it shall mean fifty percent of gross personal

65 income for a calendar year if the recipient is over sixty years of age, and is receiving such portion  
66 pursuant to retirement, pension, or similar arrangement;

67 [(20)] **(21)** "Site-specific permit", a permit written for discharges emitted from a single  
68 water contaminant source and containing specific conditions, monitoring requirements and  
69 effluent limits to control such discharges;

70 [(21)] **(22)** "Treatment facilities", any method, process, or equipment which removes,  
71 reduces, or renders less obnoxious water contaminants released from any source;

72 [(22)] **(23)** "Water contaminant", any particulate matter or solid matter or liquid or any  
73 gas or vapor or any combination thereof, or any temperature change which is in or enters any  
74 waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage  
75 or otherwise, which causes or would cause pollution upon entering waters of the state, or which  
76 violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006  
77 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant  
78 in such federal act;

79 [(23)] **(24)** "Water contaminant source", the point or points of discharge from a single  
80 tract of property on which is located any installation, operation or condition which includes any  
81 point source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal  
82 water pollution control act, which causes or permits a water contaminant therefrom to enter  
83 waters of the state either directly or indirectly;

84 [(24)] **(25)** "Water quality standards", specified concentrations and durations of water  
85 contaminants which reflect the relationship of the intensity and composition of water  
86 contaminants to potential undesirable effects;

87 [(25)] **(26)** "Waters of the state", all rivers, streams, lakes and other bodies of surface  
88 and subsurface water lying within or forming a part of the boundaries of the state which are not  
89 entirely confined and located completely upon lands owned, leased or otherwise controlled by  
90 a single person or by two or more persons jointly or as tenants in common and includes waters  
91 of the United States lying within the state.

644.051. 1. It is unlawful for any person:

2 (1) To cause pollution of any waters of the state or to place or cause or permit to be  
3 placed any water contaminant in a location where it is reasonably certain to cause pollution of  
4 any waters of the state;

5 (2) To discharge any water contaminants into any waters of the state which reduce the  
6 quality of such waters below the water quality standards established by the commission;

7 (3) To violate any pretreatment and toxic material control regulations, or to discharge  
8 any water contaminants into any waters of the state which exceed effluent regulations or permit  
9 provisions as established by the commission or required by any federal water pollution control

10 act;

11 (4) To discharge any radiological, chemical, or biological warfare agent or high-level  
12 radioactive waste into the waters of the state.

13 2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or  
14 maintain any water contaminant or point source in this state that is subject to standards, rules or  
15 regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such  
16 person holds a permit from the commission, subject to such exceptions as the commission may  
17 prescribe by rule or regulation. However, no permit shall be required of any person for any  
18 emission into publicly owned treatment facilities or into publicly owned sewer systems tributary  
19 to publicly owned treatment works.

20 3. Every proposed water contaminant or point source which, when constructed or  
21 installed or established, will be subject to any federal water pollution control act or sections  
22 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make  
23 application to the director for a permit at least thirty days prior to the initiation of construction  
24 or installation or establishment. Every water contaminant or point source in existence when  
25 regulations or sections 644.006 to 644.141 become effective shall make application to the  
26 director for a permit within sixty days after the regulations or sections 644.006 to 644.141  
27 become effective, whichever shall be earlier. The director shall promptly investigate each  
28 application, which investigation shall include such hearings and notice, and consideration of such  
29 comments and recommendations as required by sections 644.006 to 644.141 and any federal  
30 water pollution control act. If the director determines that the source meets or will meet the  
31 requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto,  
32 the director shall issue a permit with such conditions as he or she deems necessary to ensure that  
33 the source will meet the requirements of sections 644.006 to 644.141 and any federal water  
34 pollution control act as it applies to sources in this state. If the director determines that the  
35 source does not meet or will not meet the requirements of either act and the regulations pursuant  
36 thereto, the director shall deny the permit pursuant to the applicable act and issue any notices  
37 required by sections 644.006 to 644.141 and any federal water pollution control act.

38 4. Before issuing a permit to build or enlarge a water contaminant or point source or  
39 reissuing any permit, the director shall issue such notices, conduct such hearings, and consider  
40 such factors, comments and recommendations as required by sections 644.006 to 644.141 or any  
41 federal water pollution control act. The director shall determine if any state or any provisions  
42 of any federal water pollution control act the state is required to enforce, any state or federal  
43 effluent limitations or regulations, water quality-related effluent limitations, national standards  
44 of performance, toxic and pretreatment standards, or water quality standards which apply to the  
45 source, or any such standards in the vicinity of the source, are being exceeded, and shall

46 determine the impact on such water quality standards from the source. The director, in order to  
47 effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will  
48 violate any such acts, regulations, limitations or standards or will appreciably affect the water  
49 quality standards or the water quality standards are being substantially exceeded, unless the  
50 permit is issued with such conditions as to make the source comply with such requirements  
51 within an acceptable time schedule. **Prior to the development or renewal of a general permit  
52 or permit by rule, for aquaculture, the director shall convene a meeting or meetings of  
53 permit holders, applicants and public to evaluate the pollution impacts of permits and to  
54 discuss any terms and conditions that may be necessary to protect waters of the state.  
55 Following the discussions, the director shall finalize a draft permit that considers the  
56 comments of the meeting participants and post the draft permit on notice for public  
57 comment. The director shall concurrently post with the draft permit an explanation of the  
58 draft permit and shall identify types of facilities which are subject to the permit conditions.  
59 Concerned, affected public or applicants for new general permits, renewed general permits  
60 or permits by rule may request a hearing with respect to the new requirements in  
61 accordance with this section. If a request for a hearing is received, the commission shall  
62 hold a hearing to receive comments on issues of significant technical merit and concerns  
63 related to the responsibilities of the Missouri clean water law. The commission shall  
64 conduct such hearings in accordance with this section. After consideration of such  
65 comments, a final action on the permit shall be rendered. The time between the date of the  
66 hearing request and the hearing itself shall not be counted as time elapsed pursuant to  
67 subdivision (1) of subsection 13 of this section.**

68         5. The director shall grant or deny the permit within sixty days after all requirements of  
69 the Federal Water Pollution Control Act concerning issuance of permits have been satisfied  
70 unless the application does not require any permit pursuant to any federal water pollution control  
71 act. The director or the commission may require the applicant to provide and maintain such  
72 facilities or to conduct such tests and monitor effluents as necessary to determine the nature,  
73 extent, quantity or degree of water contaminant discharged or released from the source, establish  
74 and maintain records and make reports regarding such determination.

75         6. The director shall promptly notify the applicant in writing of his or her action and if  
76 the permit is denied state the reasons therefor. The applicant may appeal to the commission from  
77 the denial of a permit or from any condition in any permit by filing notice of appeal with the  
78 commission within thirty days of the notice of denial or issuance of the permit. The commission  
79 shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no  
80 event shall a permit constitute permission to violate the law or any standard, rule or regulation  
81 promulgated pursuant thereto.

82           7. In any hearing held pursuant to this section the burden of proof is on the applicant for  
83 a permit. Any decision of the commission made pursuant to a hearing held pursuant to this  
84 section is subject to judicial review as provided in section 644.071.

85           8. In any event, no permit issued pursuant to this section shall be issued if properly  
86 objected to by the federal government or any agency authorized to object pursuant to any federal  
87 water pollution control act unless the application does not require any permit pursuant to any  
88 federal water pollution control act.

89           **9. Unless a site-specific permit is requested by the applicant, aquaculture facilities**  
90 **shall be governed by a general permit issued pursuant to this section with a fee not to**  
91 **exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section**  
92 **644.052. However, any aquaculture facility which materially violates the conditions and**  
93 **requirements of such permit may be required to obtain a site-specific permit.**

94           [9.] **10.** No manufacturing or processing plant or operating location shall be required to  
95 pay more than one operating fee. Operating permits shall be issued for a period not to exceed  
96 five years after date of issuance, except that general permits shall be issued for a five-year period,  
97 and also except that neither a construction nor an annual permit shall be required for a single  
98 residence's waste treatment facilities. Applications for renewal of an operating permit shall be  
99 filed at least one hundred eighty days prior to the expiration of the existing permit.

100           [10.] **11.** Every permit issued to municipal or any publicly owned treatment works or  
101 facility shall require the permittee to provide the clean water commission with adequate notice  
102 of any substantial new introductions of water contaminants or pollutants into such works or  
103 facility from any source for which such notice is required by sections 644.006 to 644.141 or any  
104 federal water pollution control act. Such permit shall also require the permittee to notify the  
105 clean water commission of any substantial change in volume or character of water contaminants  
106 or pollutants being introduced into its treatment works or facility by a source which was  
107 introducing water contaminants or pollutants into its works at the time of issuance of the permit.  
108 Notice must describe the quality and quantity of effluent being introduced or to be introduced  
109 into such works or facility by a source which was introducing water contaminants or pollutants  
110 into its works at the time of issuance of the permit. Notice must describe the quality and quantity  
111 of effluent being introduced or to be introduced into such works or facility and the anticipated  
112 impact of such introduction on the quality or quantity of effluent to be released from such works  
113 or facility into waters of the state.

114           [11.] **12.** The director or the commission may require the filing or posting of a bond as  
115 a condition for the issuance of permits for construction of temporary or future water treatment  
116 facilities in an amount determined by the commission to be sufficient to ensure compliance with  
117 all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and

118 any condition as to such construction in the permit. The bond shall be signed by the applicant  
119 as principal, and by a corporate surety licensed to do business in the state of Missouri and  
120 approved by the commission. The bond shall remain in effect until the terms and conditions of  
121 the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations  
122 promulgated pursuant thereto are complied with.

123 [12.] **13.** (1) The department shall issue or deny applications for construction and  
124 site-specific operating permits received after January 1, 2001, within one hundred eighty days  
125 of the department's receipt of an application. For general construction and operating permit  
126 applications received after January 1, 2001, that do not require a public participation process, the  
127 department shall issue or deny the requested permits within sixty days of the department's receipt  
128 of an application.

129 (2) If the department fails to issue or deny with good cause a construction or operating  
130 permit application within the time frames established in subdivision (1) of this subsection, the  
131 department shall refund the full amount of the initial application fee within forty-five days of  
132 failure to meet the established time frame. If the department fails to refund the application fee  
133 within forty-five days, the refund amount shall accrue interest at a rate established pursuant to  
134 section 32.065, RSMo.

135 (3) Permit fee disputes may be appealed to the commission within thirty days of the date  
136 established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute  
137 appealed to the commission, the commission may order the director to refund the applicant's  
138 permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and  
139 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's  
140 responsibility to pay any annual fees due each year following issuance of a permit.

141 (4) No later than December 31, 2001, the commission shall promulgate regulations  
142 defining shorter review time periods than the time frames established in subdivision (1) of this  
143 subsection, when appropriate, for different classes of construction and operating permits. In no  
144 case shall commission regulations adopt permit review times that exceed the time frames  
145 established in subdivision (1) of this subsection. The department's failure to comply with the  
146 commission's permit review time periods shall result in a refund of said permit fees as set forth  
147 in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the  
148 commission a report which describes the different classes of permits and reports on the number  
149 of days it took the department to issue each permit from the date of receipt of the application and  
150 show averages for each different class of permits.

151 (5) During the department's technical review of the application, the department may  
152 request the applicant submit supplemental or additional information necessary for adequate  
153 permit review. The department's technical review letter shall contain a sufficient description of

154 the type of additional information needed to comply with the application requirements. (6)  
155 Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall  
156 be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated  
157 pursuant to sections 644.006 to 644.141.

158 [13.] 14. The department shall respond to all requests for individual certification under  
159 Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed  
160 response period established pursuant to applicable federal regulations without request for an  
161 extension period unless such extension is determined by the commission to be necessary to  
162 evaluate significant impacts on water quality standards and the commission establishes a  
163 timetable for completion of such evaluation in a period of no more than one hundred eighty days.

164 [14.] 15. All permit fees generated pursuant to this chapter shall not be used for the  
165 development or expansion of total maximum daily loads studies on either the Missouri or  
166 Mississippi rivers.

644.052. 1. Persons with operating permits or permits by rule issued pursuant to this  
2 chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with  
3 a sewer service connection to public sewer systems owned or operated by a city, public sewer  
4 district, public water district or other publicly owned treatment works shall pay a permit fee  
5 pursuant to subsections 10 and 11 of this section.

6 2. A privately owned treatment works or an industry which treats only human sewage  
7 shall annually pay a fee based upon the design flow of the facility as follows:

8 (1) One hundred dollars if the design flow is less than five thousand gallons per day;

9 (2) One hundred fifty dollars if the design flow is equal to or greater than five thousand  
10 gallons per day but less than six thousand gallons per day;

11 (3) One hundred seventy-five dollars if the design flow is equal to or greater than six  
12 thousand gallons per day but less than seven thousand gallons per day;

13 (4) Two hundred dollars if the design flow is equal to or greater than seven thousand  
14 gallons per day but less than eight thousand gallons per day;

15 (5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight  
16 thousand gallons per day but less than nine thousand gallons per day;

17 (6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand  
18 gallons per day but less than ten thousand gallons per day;

19 (7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten  
20 thousand gallons per day but less than eleven thousand gallons per day;

21 (8) Four hundred dollars if the design flow is equal to or greater than eleven thousand  
22 gallons per day but less than twelve thousand gallons per day;

23 (9) Four hundred fifty dollars if the design flow is equal to or greater than twelve

- 24 thousand gallons per day but less than thirteen thousand gallons per day;
- 25 (10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand
- 26 gallons per day but less than fourteen thousand gallons per day;
- 27 (11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen
- 28 thousand gallons per day but less than fifteen thousand gallons per day;
- 29 (12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand
- 30 gallons per day but less than sixteen thousand gallons per day;
- 31 (13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen
- 32 thousand gallons per day but less than seventeen thousand gallons per day;
- 33 (14) Eight hundred dollars if the design flow is equal to or greater than seventeen
- 34 thousand gallons per day but less than twenty thousand gallons per day;
- 35 (15) One thousand dollars if the design flow is equal to or greater than twenty thousand
- 36 gallons per day but less than twenty-three thousand gallons per day;
- 37 (16) Two thousand dollars if the design flow is equal to or greater than twenty-three
- 38 thousand gallons per day but less than twenty-five thousand gallons per day;
- 39 (17) Two thousand five hundred dollars if the design flow is equal to or greater than
- 40 twenty-five thousand gallons per day but less than thirty thousand gallons per day;
- 41 (18) Three thousand dollars if the design flow is equal to or greater than thirty thousand
- 42 gallons per day but less than one million gallons per day; or
- 43 (19) Three thousand five hundred dollars if the design flow is equal to or greater than
- 44 one million gallons per day.
- 45 3. Persons who produce industrial process wastewater which requires treatment and who
- 46 apply for or possess a site-specific permit shall annually pay:
- 47 (1) Five thousand dollars if the industry is a class IA animal feeding operation as defined
- 48 by the commission; or
- 49 (2) For facilities issued operating permits based upon categorical standards pursuant to
- 50 the Federal Clean Water Act and regulations implementing such act:
- 51 (a) Three thousand five hundred dollars if the design flow is less than one million gallons
- 52 per day; or
- 53 (b) Five thousand dollars if the design flow is equal to or greater than one million gallons
- 54 per day.
- 55 4. Persons who apply for or possess a site-specific permit solely for industrial storm
- 56 water shall pay an annual fee of:
- 57 (1) One thousand three hundred fifty dollars if the design flow is less than one million
- 58 gallons per day; or
- 59 (2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than

60 one million gallons per day.

61 5. Persons who produce industrial process wastewater who are not included in subsection  
62 2 or 3 of this section shall annually pay:

63 (1) One thousand five hundred dollars if the design flow is less than one million gallons  
64 per day; or

65 (2) Two thousand five hundred dollars if the design flow is equal to or greater than one  
66 million gallons per day.

67 6. Persons who apply for or possess a general permit shall pay:

68 (1) Three hundred dollars for the discharge of storm water from a land disturbance site;

69 (2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

70 (3) One hundred fifty dollars for the operation of an animal feeding operation or a  
71 concentrated animal feeding operation;

72 (4) One hundred fifty dollars annually for new permits for the discharge of process water  
73 or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of  
74 this subsection. Persons paying fees pursuant to this subdivision with existing general permits  
75 on August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed  
76 general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

77 **(5) Up to two hundred fifty dollars annually for the operation of an aquaculture**  
78 **facility.**

79 7. Requests for modifications to state operating permits on entities that charge a service  
80 connection fee pursuant to subsection 10 of this section shall be accompanied by a two  
81 hundred-dollar fee. The department may waive the fee if it is determined that the necessary  
82 modification was either initiated by the department or caused by an error made by the  
83 department.

84 8. Requests for state operating permit modifications other than those described in  
85 subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the  
86 annual operating fee assessed for the facility pursuant to this section. The department may waive  
87 the fee if it is determined that the necessary modification was either initiated by the department  
88 or caused by an error made by the department.

89 9. Persons requesting water quality certifications in accordance with Section 401 of the  
90 Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard  
91 application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers  
92 or similar information required for other federal licenses and permits, except that the fee is  
93 waived for water quality certifications issued and accepted for activities authorized pursuant to  
94 a general permit or nationwide permit by the U.S. Army Corps of Engineers.

95 10. Persons with a direct or indirect sewer service connection to a public sewer system

owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640, RSMo;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire

132 suppression and irrigation systems;

133 (9) Twenty-five dollars per water service connection for all other customers with water  
134 service connections of more than four inches, excluding taps for fire suppression and irrigation  
135 systems.

136 11. Customers served by any district formed pursuant to the provisions of section 30(a)  
137 of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this  
138 section according to the following schedule:

139 (1) From August 28, 2000, through September 30, 2001, customers of any such district  
140 shall pay fifty percent of such fees; and

141 (2) Beginning October 1, 2001, customers of any such districts shall pay one hundred  
142 percent of such fees.

143 12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay  
144 a filing fee of twenty-five dollars.

145 13. For any general permit issued to a state agency for highway construction pursuant  
146 to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the  
147 permit.

**644.578. In addition to those sums authorized prior to August 28, 2002, the board  
2 of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III  
3 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum  
4 of ten million dollars in the manner described, and for the purposes set out, in chapter 640,  
5 RSMo, and this chapter.**

**644.579. In addition to those sums authorized prior to August 28, 2002, the board  
2 of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III  
3 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum  
4 of ten million dollars in the manner described, and for the purposes set out, in chapter 640,  
5 RSMo, and in this chapter.**

**644.580. In addition to those sums authorized prior to August 28, 2002, the board  
2 of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III  
3 of the Constitution of the state of Missouri, may borrow on the credit of this state the sum  
4 of twenty million dollars in the manner described, and for the purposes set out, in chapter  
5 640, RSMo, and in this chapter.**

Section B. Because of the need to provide adequate sewer systems within local political  
2 subdivisions, section A of this act is deemed necessary for the immediate preservation of the  
3 public health, welfare, peace and safety, and is hereby declared to be an emergency act within  
4 the meaning of the constitution, and section A of this act shall be in full force and effect upon  
5 its passage and approval.