

FIRST REGULAR SESSION

HOUSE BILL NO. 295

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SANDER, STEVENSON, TOWNLEY, HUNTER,
WILSON (130) (Co-sponsors), SUTHERLAND, HOBBS, MUNZLINGER, MYERS, COOPER (155),
MOORE AND RUESTMAN.

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STEPHEN S. DAVIS, Chief Clerk

1139L.011

AN ACT

To repeal section 640.010, RSMo, and to enact in lieu thereof four new sections relating to environmental regulation.

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

Section A. Section 640.010, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 640.010, 640.014, 640.016, and 640.018, to read as follows:

640.010. 1. There is hereby created a department of natural resources in charge of a director appointed by the governor, by and with the advice and consent of the senate. The director shall administer the programs assigned to the department relating to environmental control and the conservation and management of natural resources. The director shall coordinate and supervise all staff and other personnel assigned to the department. He shall faithfully cause to be executed all policies established by the boards and commissions assigned to the department, be subject to their decisions as to all substantive and procedural rules and his decisions shall be subject to appeal to the board or commission on request of the board or commission [or by affected parties]. The director shall recommend policies to the various boards and commissions assigned to the department to achieve effective and coordinated environmental control and natural resource conservation policies.

2. The director shall appoint directors of staff to service each of the policy making boards or commissions assigned to the department. Each director of staff shall be qualified by education, training and experience in the technical matters of the board to which he is assigned

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

15 and his appointment shall be approved by the board to which he is assigned and he shall be
16 removed or reassigned on their request in writing to the director of the department. All other
17 employees of the department and of each board and commission assigned to the department shall
18 be appointed by the director of the department in accord with chapter 36, RSMo, and shall be
19 assigned and may be reassigned as required by the director of the department in such a manner
20 as to provide optimum service, efficiency and economy.

21 3. The air conservation commission, chapter 203, RSMo, and others, the clean water
22 commission, chapter 204, RSMo, and others, are transferred by type II transfer to the department
23 of natural resources. The governor shall appoint the members of these bodies in accord with the
24 laws establishing them, with the advice and consent of the senate. The bodies hereby transferred
25 shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies
26 transferred to their jurisdiction. All the powers, duties and functions of the state environmental
27 improvement authority, chapter 260, RSMo, and others, are transferred by type III transfer to the
28 air conservation commission. All the powers, duties and functions of the water resources board,
29 chapter 256, RSMo, and others, are transferred by type I transfer to the clean water commission
30 and the board is abolished. No member of the clean water commission shall receive or shall
31 have received, during the previous two years from the date of his appointment, a significant
32 portion of his income directly or indirectly from permit holders or applicants for a permit under
33 the jurisdiction of the clean water commission. The state park board, chapter 253, RSMo, is
34 transferred to the department of natural resources by type I transfer.

35 4. All the powers, duties and functions of the state soil and water districts commission,
36 chapter 278, RSMo, and others, are transferred by a type II transfer to the department.

37 5. All the powers, duties and functions of the state geologist, chapter 256, RSMo, and
38 others, are transferred by type I transfer to the department of natural resources. All the powers,
39 duties and functions of the state land survey authority, chapter 60, RSMo, are transferred to the
40 department of natural resources by type I transfer and the authority is abolished. All the powers,
41 duties and functions of the state oil and gas council, chapter 259, RSMo, and others are
42 transferred to the department of natural resources by type II transfer. The director of the
43 department shall appoint a state geologist who shall have the duties to supervise and coordinate
44 the work formerly done by the departments or authorities abolished by this subsection, and shall
45 provide staff services for the state oil and gas council.

46 6. All the powers, duties and functions of the land reclamation commission, chapter 444,
47 RSMo, and others, are transferred to the department of natural resources by type II transfer. All
48 necessary personnel required by the commission shall be selected, employed and discharged by
49 the commission. The director of the department shall not have the authority to abolish positions.

50 7. The functions performed by the division of health in relation to the maintenance of

51 a safe quality of water dispensed to the public, sections 640.100 to 640.115, and others, and for
52 licensing and regulating solid waste management systems and plans are transferred by type I
53 transfer to the department of natural resources.

54 8. (1) The state interagency council for outdoor recreation, chapter 258, RSMo, is
55 transferred to the department of natural resources by type II transfer. The council shall consist
56 of representatives of the following state agencies: department of agriculture; department of
57 conservation; office of administration; department of natural resources; department of economic
58 development; department of social services; department of transportation; and the University of
59 Missouri.

60 (2) The council shall function as provided in chapter 258, RSMo, except that the
61 department of natural resources shall provide all staff services as required by the council
62 notwithstanding the provisions of sections 258.030 and 258.040, RSMo, and all personnel and
63 property of the council are hereby transferred by type I transfer to the department of natural
64 resources and the office of executive secretary to the council is abolished.

**640.014. 1. All provisions of the law to the contrary notwithstanding, all
2 regulations promulgated by the department of natural resources pursuant to authorities
3 granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous
4 waste management commission in chapter 260, RSMo, the state soil and water districts
5 commission in chapter 278, RSMo, the petroleum storage tank insurance fund board in
6 chapter 319, RSMo, the land reclamation commission in chapter 444, RSMo, the safe
7 drinking water commission in this chapter, the air conservation commission in chapter 643,
8 RSMo, and the clean water commission in chapter 644, RSMo, shall be based on sound
9 scientific evidence.**

10 **2. The department shall prepare a risk assessment and a cost-benefit analysis for
11 any rule promulgated by the department of natural resources pursuant to authorities
12 granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous
13 waste management commission in chapter 260, RSMo, the state soil and water districts
14 commission in chapter 278, RSMo, the petroleum storage tank insurance fund board in
15 chapter 319, RSMo, the land reclamation commission in chapter 444, RSMo, the safe
16 drinking water commission in this chapter, the air conservation commission in chapter 643,
17 RSMo, and the clean water commission in chapter 644, RSMo.**

18 **3. The risk assessment and the cost-benefit analysis required by this section shall
19 include the following components:**

20 **(1) An explanation of the risks to public health or the environment, or both,
21 addressed by the proposed environmental regulation or covered action, including an
22 estimate of the risk;**

23 **(2) The identification of the sources of scientific information used in evaluating the**
24 **risk and a summary of such information;**

25 **(3) A description of any uncertainties and the assumptions made in conducting the**
26 **analysis, including the impact of such uncertainties and assumptions on the resulting risk**
27 **estimate;**

28 **(4) A description of the expected benefits of the proposed covered action, including**
29 **the expected reduction in the risks to public health or the environment, or both, identified**
30 **in subdivision (1) of subsection 2 of this section;**

31 **(5) Details pertaining to the relevant costs of the proposed covered action and the**
32 **costs of not adopting such environmental regulation or taking such covered action,**
33 **including an analysis of the incidence of such costs;**

34 **(6) A description of any significant countervailing risks that may be caused by the**
35 **proposed environmental regulation or covered action; and**

36 **(7) The identification of alternative regulatory approaches that will produce**
37 **comparable environmental or health outcomes and an estimate of their relative benefits**
38 **and costs.**

39 **4. The department shall develop the risk assessments and cost-benefit analyses**
40 **required by this section using scientifically objective and unbiased standards relying on the**
41 **best reasonably available scientific information.**

42 **5. The department shall publish in at least one major newspaper of general**
43 **circulation in this state and on the Internet a notice of availability of any risk assessment**
44 **or cost-benefit analysis conducted pursuant to this section and shall make such assessments**
45 **and analyses available to the public by posting them on the Internet. The department shall**
46 **allow at least sixty days for the public to submit comments and shall respond on the**
47 **Internet to all significant comments prior to promulgating the rule or regulation.**

48 **6. The department shall file a copy of the risk assessment and cost benefit analysis**
49 **with the joint committee on administrative rules concurrently with the filing of the**
50 **proposed rule pursuant to section 536.024, RSMo.**

51 **7. Any person who conducts an independent risk assessment or cost-benefit analysis**
52 **of a proposed environmental regulation or a covered action may submit such assessment**
53 **or analysis to the appropriate commission or the department for inclusion in its record.**
54 **The commission or the department promulgating the rule shall consider such assessment**
55 **or analysis, together with all other comments, evidence, and testimony, written or oral,**
56 **submitted regarding the proposed environmental regulation or covered action in**
57 **promulgating the regulation.**

58 **8. If the department fails to conduct the risk assessment and cost-benefit analysis**

59 as required for each promulgated rule pursuant to this section, such rule shall be invalid
60 and void.

61 9. Any other provision of this section to the contrary notwithstanding, the
62 commissions referenced in subsection 1 of this section or the department may adopt an
63 environmental regulation, without conducting a risk assessment and a cost-benefit analysis
64 if the director of the department determines that immediate action is necessary to protect
65 the public health and welfare; provided, however, in doing so, the department shall be
66 required to provide written justification as to why it deviated from conducting a risk
67 assessment and cost-benefit analysis and shall complete the risk assessment and cost-
68 benefit analysis within forty-five days of the adoption of the environmental regulation.

640.016. In all matters where a rule has been promulgated by the department of
2 natural resources pursuant to authorities granted in this chapter and chapters 260, 278,
3 319, 444, and 644, RSMo, the hazardous waste management commission in chapter 260,
4 RSMo, the state soil and water districts commission in chapter 278, RSMo, the petroleum
5 storage tank insurance fund board in chapter 319, RSMo, the land reclamation commission
6 in chapter 444, RSMo, the safe drinking water commission in this chapter, and the clean
7 water commission in chapter 644, RSMo, is challenged pursuant to section 536.050, RSMo,
8 the burden or proof shall be on the department or commission promulgating the rule to
9 prove that the rule is necessary to prevent specific circumstances or conditions causing
10 harm to human health and the environment.

640.018. In any matter where a permit is denied by the department of natural
2 resources pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444,
3 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo,
4 the state soil and water districts commission in chapter 278, RSMo, the petroleum storage
5 tank insurance fund board in chapter 319, RSMo, the land reclamation commission in
6 chapter 444, RSMo, the safe drinking water commission in this chapter, the air
7 conservation commission in chapter 643, RSMo, and the clean water commission in chapter
8 644, RSMo, such denial shall clearly state the basis for such denial.