

HCS SS SB 476 -- DEPARTMENT OF NATURAL RESOURCES

SPONSOR: Kehoe (Miller)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Conservation and Natural Resources by a vote of 12 to 0. Voted "Do Pass with HCS" by the Select Committee on Agriculture by a vote of 11 to 0.

This bill changes the laws regarding the Department of Natural Resources.

SPECIALTY CONSTRUCTION DESIGN CONTRACTS (Section 67.5070, RSMo)

The bill authorizes any city to enter into a specialty construction design contract for a wastewater and water treatment project and prohibits the Department of Economic Development from rejecting the project solely for utilizing a specialty construction design when disbursing grants under the Community Development Block Grant Program. The bill prohibits the Department of Natural Resources from precluding specialty construction design contracts from consideration for funding provided by the Water and Wastewater Loan Fund and cities must retain a licensed engineer to assist with bid procedures and specialty construction design projects.

OIL AND GAS PRODUCTION (Sections 259.010 and 259.210)

Currently, the State Oil and Gas Council is composed of eight members with one being from the Division of Geology and Land Survey. The bill replaces this member with the State Geologist and removes the requirement that one of the public members on the council be a resident of a third or fourth class county. The bill removes the Division of Geology and Land Survey from the advisory committee to the council and replaces it with the Department of Natural Resources and transfers certain authority from the State Oil and Gas Council to the Department of Natural Resources.

The bill changes the laws regarding oil and gas production to reflect the change from the division to the department and to reflect the transfer of the Land Survey Program to the Department of Agriculture. The definition of "oil" is modified to include hydrocarbons that do not flow to a wellhead but are produced by other means.

The bill creates the Oil and Gas Resources Fund consisting of all gifts, donations, transfers, moneys appropriated by the General Assembly, permit application fees, operating fees, closure fees, late fees, severance fees, and bequests to be used to administer provisions of law relating to oil and gas.

The bill repeals the provision allowing moneys in the Oil and Gas Remedial Fund to be used to pay the expenses incurred by the council.

Currently, the council does not charge a fee for obtaining a permit for drilling operations. The bill allows the council to authorize the Department of Natural Resources to file an order of rulemaking amending the fee structure for permit application fees, operating fees, closure fees, late fees, and extraction or severance fees as specified in these provisions. The authority to revise the fee structure in this manner will expire on August 28, 2025. If any applicant fails to pay the appropriate fee, a penalty may be assessed and relief may be sought by the department in the appropriate circuit court.

A permit must be obtained from the State Geologist prior to commencing injection activities for enhanced recovery of oil or gas or for the disposal of fluid. Currently, applicants seeking a permit for noncommercial gas wells are required to file a bond or other instrument of credit. The bill repeals the allowance to file any other instrument of credit.

Currently, orders regarding spacing units are entered by the State Geologist. The bill requires the department to enter the order and repeals the provisions exempting noncommercial gas wells from the spacing units set by the council.

Currently, the council is required to bring suit against any person appearing to violate the provisions relating to oil and gas. The bill allows the department or the council to request the Attorney General to bring the suit.

SOLID WASTE (Sections 259.380, 260.200, 260.325, and 260.335)

The bill changes the laws regarding solid waste. The bill:

(1) Changes the provisions regarding the audit of solid waste management districts by the State Auditor. Currently, the State Auditor must conduct an audit of each solid waste management district and must thereafter conduct audits of each district as he or she deems necessary and may request reimbursement from the district for the costs of conducting the audit. The bill allows the State Auditor to conduct audits of solid waste management districts as he or she deems necessary and if the State Auditor does request the reimbursement, the district must reimburse the State Auditor for the costs with the moneys deposited into the Petition Audit Revolving Trust Fund. The reimbursement must be limited to 2% of the district's annual allocation;

(2) Revises the independent financial audit requirements. A district receiving more than \$800,000 of financial assistance annually must have an annual independent financial statement audit, while districts receiving between \$250,000 and \$800,000 are required to have an independent financial statement audit every two years. All other districts must be monitored every two years by the department and may be required to arrange for an independent financial statement audit for the monitoring period under review. Currently, a district receiving \$200,000 or more of financial assistance annually is required to have an annual independent financial audit while districts receiving less than \$200,000 are required to have the audit at least every two years;

(3) Requires the department to conduct a performance audit of grants to each district at least once every five years or as deemed necessary based upon district grantee performance. Currently, the department must conduct a performance audit of grants to each district at least once every three years;

(4) Adds textiles to the products solid waste management districts are required to address the recycling, reuse and handling of in its solid waste management plan;

(5) Prohibits the executive board of a solid waste management district from performing solid waste management projects that compete with a qualified private enterprise;

(6) Specifies that a person or entity cannot be disqualified from receiving a grant for providing solid waste management and recycling services on the basis that there exists a familial relationship between the applicant and any member of the solid waste management district executive board within the fourth degree by consanguinity or affinity. For applicants with a familial relationship, the board must only approve the grant application if approved by a vote of two-thirds of the board. The executive board member must abstain from a vote to award a grant application to any person or entity who is a relative within the specified degree or the member must forfeit membership on the solid waste management district executive board and the solid waste management district council;

(7) Requires the department to prepare model solid waste management plans;

(8) Requires the model waste management plans to provide for economical recycling and waste management through regional and district cooperation. Currently, it requires the plan to provide for economical waste management through regional cooperation;

(9) Repeals the provisions requiring any county within a region that is not a member of a district to submit a solid waste management plan to the department;

(10) Extends the moratorium on increasing the demolition landfill tipping fee and the transfer station tipping fee from October 1, 2017, to October 1, 2027;

(11) Establishes the criteria that a solid waste management district may consider in establishing the order of district grant priority. Any allocated district moneys remaining in any fiscal year due to inadequate grant applications must be reallocated for grant applications in subsequent years or for solid waste projects other than district operations. Any allocated district moneys remaining after five years must revert to the Solid Waste Management Fund;

(12) Establishes a time line for the department to approve or deny a grant application;

(13) Revises the membership and duties of the Solid Waste Advisory Board; and

(14) Requires the board hold regular meetings on a quarterly basis. A special meeting of the board may occur under certain conditions.

#### WATERS OF THE STATE (Sections 260.500 and 644.016)

The bill changes the definition of "waters of the state" by removing waters of the United States lying within the state from the definition.

#### NOTICE TO CEASE FLUORIDATION (Section 640.136)

The bill requires public water systems under Chapter 640 and water supply districts under Chapter 247 to notify the Department of Health and Senior Services, Department of Natural Resources, and its customers, at least 90 days prior to any meeting held at which a vote to modify the fluoridation of water in the system or district will occur. If the water system is an investor-owned water supply, the entity calling for the modifications is responsible for the meeting and the notice requirements.

#### SULFUR DIOXIDE AIR QUALITY (Section 643.650)

The bill requires any owner of a coal-fired electric generating source in a one-hour sulfur dioxide National Ambient Air Quality

Standards nonattainment area currently designated as of April 1, 2015, to develop an ambient air quality monitoring or modeling network to characterize the sulfur dioxide air quality surrounding the source. The network must adequately monitor the sulfur dioxide surrounding the source and must operate for at least 12 consecutive quarters. The owner of the source must notify the Department of Natural Resources of the manner that will be used to characterize the air quality around the source. The location of any monitoring network installed by the owner within a nonattainment area must be approved by the department.

Affected sources in an undesignated area that elects to use monitoring to evaluate air quality must be consulted by the department on the use of existing monitors as well as the location of new monitors in the network. The department must not submit a recommendation to the federal Environmental Protection Agency (EPA) on the manner in which data will be gathered for the designation process that is inconsistent with the elections made by the sources. If sources have elected to monitor, the department must submit recommendations for the designation process by the date set by a final, effective, and applicable EPA requirement but not prior.

The bill also requires the department to consider all ambient air quality monitoring network data collected by any owner of an electric generating source prior to proposing to the Air Conservation Commission any sulfur dioxide limitation, emission reduction requirement, or other requirement except in specified circumstances. Nothing in the provisions of the bill can prohibit the department from entering into an agreement with an owner of an electric generating source to limit or reduce sulfur dioxide emissions that is below the source's permitted rate.

#### MISSOURI CLEAN WATER LAW POLICY STATEMENT (Section 644.011)

The bill modifies the policy statement of the Missouri Clean Water Law by stating that it is the policy of this state to strive to meet the objectives of the Missouri Clean Water Law while maintaining maximum employment and full industrial development of this state. The Clean Water Commission must seek the accomplishment of the objectives of the law by all practical and economically feasible methods.

#### DEPARTMENT OF NATURAL RESOURCES PERMIT DECISION APPEAL PROCEDURES (Sections 260.235, 260.395, 444.600, 444.773, 444.980, 621.250, 640.115, 643.075, 643.078, 644.051, and 644.056)

Currently, when certain permits or licenses are issued, renewed, denied, suspended, or revoked by the Department of Natural

Resources, the decision is appealed to the commission with appropriate jurisdiction, including the Hazardous Waste Management Commission, the Safe Drinking Water Commission, the Air Conservation Commission, the Clean Water Commission, and the Missouri Mining Commission. The bill changes the appeals procedure to require the applicant, or for some permits any aggrieved party, to appeal the decision by filing a petition with the Administrative Hearing Commission within 30 days. The Administrative Hearing Commission may consider certain factors regarding permit decisions for mining as specified in the bill. The Administrative Hearing Commission would then issue a recommended decision to the commission with appropriate jurisdiction. The commission with appropriate jurisdiction must then issue the final decision, and the decision must be subject to judicial review except the Administrative Hearing Commission must issue the final decision for all permits relating to solid waste.

Currently, the department director is required to order an abatement, file an abatement complaint with the Clean Water Commission, or file a complaint to revoke a permit when a violation of the Missouri Clean Water Law has failed to be corrected. The bill changes the revocation process so that the director may not revoke a permit but may request legal action by the Attorney General.

#### MISSOURI CLEAN WATER LAW (Section 644.145)

Currently, the Department of Natural Resources is required to perform a finding of affordability when issuing permits under the Missouri Clean Water Law for discharges from specified publicly owned treatment works. The bill requires that the finding also be performed when issuing permits for discharges from water or sewer treatment works.

The bill modifies the definition of "finding of affordability" as it applies to the Missouri Clean Water Law to mean a statement by the department as to whether an individual or a household receiving an income in an amount equal to or lower than the median household income for the applicant community would be required to make unreasonable sacrifices in the individual's or the household's essential lifestyle or spending patterns or undergo hardships in order to make the projected monthly payments for sewer services.

**PROPONENTS:** Supporters say that the bill gives the department the ability to set and collect fees for oil and gas permits. Currently, the department performs this duty without a permit fee and the bill would help provide extra resources to expedite permits and other oil and gas related activities.

Testifying for the bill were Representative Miller on behalf of Senator Kehoe; Associated Industries of Missouri; and Joe Gillman, Department of Natural Resources.

OPPONENTS: There was no opposition voiced to the committee.