

HOUSE AMENDMENT NO.____
TO
HOUSE AMENDMENT NO.____

Offered By

AMEND House Amendment No.____ to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 703, Page 1, Line 2, by deleting all of said line and inserting in lieu thereof the following:

"Page 1, Section A, Line 7, by inserting after all of said section and line the following:

"60.700. For purposes of sections 60.700 to 60.708, the following terms shall mean:

(1) "Accretion", the slow and imperceptible building up of riparian land by contiguous waters;

(2) "Avulsion", the sudden, perceptible change of a riverbed location, dividing a tract into two parts;

(3) "Low water mark", the water's edge, that being the only line continuously touched by the water and being the only way the riparian owner will have continuous access to the water;

(4) "Natural watercourse", a stream or body of water flowing in a definite channel with beds, sides, and banks that normally discharges into a larger stream or body of water. A natural watercourse provides more than mere surface drainage. The term does not include hollows, ravines, or sloughs. The existence of a channel is not, of itself, sufficient to establish the existence of a natural watercourse. The term shall not include surface water;

(5) "Navigable watercourse of the state", a natural watercourse that has been deemed navigable by a Missouri court;

(6) "Nonnavigable watercourse of the state", a natural watercourse that has not been deemed navigable by a Missouri court;

(7) "Public navigable watercourse", a natural watercourse that is or may be used for interstate commerce;

(8) "Reliction", the slow and imperceptible withdrawal or recession of waters, exposing as dry land that which was previously covered by water;

(9) "Riparian owner", the owner of land which is bounded or traversed by a natural watercourse, inclusive of the owner of the land on the shores of a lake;

(10) "Thalweg", the line of a watercourse that constitutes the lowest or deepest part of the channel;

(11) "Thread", the midpoint of a watercourse between the low water marks.

60.701. Nothing in sections 60.700 to 60.708 shall be construed to limit or expand any public easement for navigational or recreational purposes if such a right exists on a watercourse.

60.702. 1. A riparian owner has the right to the natural flow of the natural watercourse including its volume and purity, except as affected by the reasonable use by other riparian owners. The factors for determining the reasonableness of a particular use are:

(1) The purpose of the use;

(2) The suitability of the use to the natural watercourse;

(3) The economic value of the use;

(4) The social value of the use;

Standing Action Taken_____ Date _____

Select Action Taken_____ Date _____

1 (5) The extent and amount of harm the use causes;
 2 (6) The practicality of avoiding the harm by adjusting the use or method of use of one riparian
 3 owner or the other;
 4 (7) The practicality of adjusting the quantity of water used by each riparian owner;
 5 (8) The protection of existing values or water uses, lands, investments, and enterprises; and
 6 (9) The justice of requiring the user causing the harm to bear the loss.
 7 2. A riparian owner has title in fee to the low water mark of a navigable watercourse of the state or a
 8 public navigable watercourse and to the thread of a nonnavigable watercourse.
 9 3. A riparian owner has the right of access to the water from the riparian owner's frontage including
 10 the right to wharf out, provided the riparian owner does not interfere with the public's right of navigation and
 11 floatage.
 12 4. Riparian rights or regulations shall not attach to artificial watercourses such as farm ponds or dug
 13 drains. Riparian rights shall attach to artificially enlarged watercourses such as reservoirs in streams or rivers.
 14 60.704. 1. If a watercourse is navigable, the bed of the watercourse below the low water mark
 15 belongs to the state. A riparian owner along a navigable watercourse of the state or a public navigable
 16 watercourse shall not own to the middle thereof, but only to the water's edge at its low water mark.
 17 2. If a watercourse is nonnavigable, the bed of the watercourse belongs to the riparian owner of the
 18 land if the watercourse is bounded on both sides by the same riparian owner's land. Absent a showing of
 19 contrary intent, if a watercourse is nonnavigable and is the dividing line between landowners, the owner of
 20 each side owns to the thread of the watercourse. A contrary intent may be found if the deed makes a specific
 21 reference other than to the nonnavigable watercourse.
 22 3. No adjoining parts of a watercourse shall be considered navigable unless they are deemed
 23 navigable by a Missouri court.
 24 60.706. 1. Accretions along a watercourse or island belong to the riparian owner against whose
 25 property the accretions were deposited. The riparian owner becomes the owner of the property formed at the
 26 time of the accretion.
 27 2. Accretion caused by dikes, by filling or dumping along the shore, or by other artificial means
 28 shall be subject to the same ownership rights as if caused naturally. However, no riparian owner shall claim
 29 title to any land added by accretion caused by an artificial condition he or she created.
 30 3. If all or a part of the bank or island is washed away by a navigable watercourse of the state or a
 31 public navigable watercourse, the riparian owner's title to the part washing away ceases and vests in the state
 32 as successor. If the space washed away afterward becomes dry land and only part was washed away, the
 33 riparian owner may reacquire title by accretion. If all was washed away, the riparian owner cannot acquire
 34 title by accretion. Washing away obliterates lines in a watercourse, and new accretion shall be measured as
 35 though the old lines never existed.
 36 60.708. 1. The line between counties divided by a navigable watercourse of the state or a public
 37 navigable watercourse shall be the thread of the watercourse. A slow, imperceptible, and gradual change of
 38 the watercourse due to accretion or reliction shall change the county line, but a sudden change by avulsion
 39 shall not.
 40 2. If a watercourse forms the boundary between adjoining property owners, a slow, imperceptible,
 41 and gradual change of the watercourse due to accretion or reliction shall change the boundary, but a sudden
 42 change by avulsion shall not."; and
 43
 44 Further amend said bill, Page 34, Section 277.020, Line 17, by inserting after all of said section and line the
 45 following:"; and
 46
 47 Further amend said amendment, Page 7, Line 14, by inserting after all of said line the following:
 48
 49 "Further amend said bill, Page 36, Section 414.082, Line 27, by inserting after all of said section and line the
 50 following:
 51
 52 "444.1000. 1. There is hereby created the "Land Reclamation Legal Settlement Commission",

1 which shall be composed of four members, with one being the chair of the Southeast Missouri Regional
 2 Planning Commission, one being the vice chair of the Southeast Missouri Regional Planning Commission,
 3 one being the chair of the Ozark Foothills Regional Planning Commission, and one being the chair of the
 4 Meramec Regional Planning Commission. The purpose of the commission shall be to develop and
 5 implement a plan for primary restoration projects for areas affected by lead mining in southeast Missouri
 6 which lead to the legal settlement between ASARCO, L.L.C., the United States, the state of Missouri, and
 7 the Doe Run Company in 2008. Such plan shall be submitted to the chair of the Missouri house of
 8 representatives select committee on budget and the chair of the Missouri senate appropriations committee by
 9 February 2, 2017. Moneys from the land reclamation legal settlement fund created in subsection 2 of this
 10 section shall be used to implement the commission's plan for primary restoration projects for areas affected
 11 by lead mining in southeast Missouri.

12 2. There is hereby created in the state treasury the "Land Reclamation Legal Settlement Fund",
 13 which shall consist of moneys derived from the department of natural resources' sale of land located in any
 14 county of the third classification without a township form of government and with more than ten thousand
 15 but fewer than twelve thousand inhabitants and with a city of the fourth classification with more than eight
 16 hundred but fewer than nine hundred inhabitants as the county seat. The state treasurer shall be custodian of
 17 the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.
 18 The fund shall be a dedicated fund and money in the fund shall be used solely for the purpose of
 19 implementing the commission's plan for primary restoration projects for areas affected by lead mining in
 20 southeast Missouri. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining
 21 in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state
 22 treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and
 23 moneys earned on such investments shall be credited to the fund."; and

24
 25 Further amend said bill, Page 45, Section 620.1958, Line 17, by inserting after all of said section and line the
 26 following:

27
 28 "640.780. 1. The department of natural resources and all other state departments, agencies, or
 29 entities shall sell at public auction, provided that such requirement to sell at public auction does not conflict
 30 with any other provision of law, any and all property interest to land situated in a county of the third
 31 classification without a township form of government and with more than ten thousand but fewer than twelve
 32 thousand inhabitants and with a city of the fourth classification with more than eight hundred but fewer than
 33 nine hundred inhabitants as the county seat purchased on or before August 28, 2016, through legal settlement
 34 funds administered in whole or in part by the department of natural resources. If there is no purchaser, the
 35 property shall revert to the ownership of the county government.

36 2. Any agreement, condition, restriction, dedication, covenant, or other encumbrance included in the
 37 conveyance of land required in subsection 1 of this section shall be considered null, void, and unenforceable
 38 upon the effective date of this section.

39 3. As a condition of the sale of this property, the purchaser shall agree to the following covenant
 40 appurtenant, which shall be included in the conveyance following the property description and shall remain
 41 in effect on this property for a specifically limited amount of time as any agency of the state of Missouri
 42 exists to permit, restrict, regulate, and otherwise harass Missouri citizens and businesses, for the purported
 43 purpose of environmental restoration, preservation, and protection:
 44 "Provided that this property shall never be sold to, leased, or otherwise controlled by a state or federal
 45 agency."

46 4. After August 28, 2016, the department of natural resources and all other state departments,
 47 agencies, or entities shall not purchase any property interest in a county of the third classification without a
 48 township form of government and with more than ten thousand but fewer than twelve thousand inhabitants
 49 and with a city of the fourth classification with more than eight hundred but fewer than nine hundred
 50 inhabitants as the county seat through legal settlement funds administered in whole or in part by the
 51 department of natural resources.

52 5. Any taxpayer of the state shall have standing to enforce the provisions of this section and, in

1 addition to specific performance, shall be entitled to reasonable attorney's fees.

2 6. The provisions of this section shall be construed to include any leasehold, option contracts, or
 3 easement rights acquired by any state department, agency, or entity.

4 7. The provisions of this section are severable. If any part of this section is declared invalid or
 5 unconstitutional, it is the intent of the legislature that the remaining portions of this section shall remain and
 6 be in full force and effect.

7 8. The provisions of this section shall expire on August 28, 2017."; and

8 640.800. 1. The department of natural resources shall not implement or enforce any portion of a
 9 federal proposed rule finalized after January 1, 2015, to revise or provide guidance on the regulatory
 10 definition of "waters of the United States" or "navigable waters" under the federal Clean Water Act, as
 11 amended, 33 U.S.C. Section 1251 et seq., without the approval of the general assembly.

12 2. For the purposes of establishing regulations, conditions, or permit requirements, no federal
 13 agency shall make a determination or designate any watercourse within the state of Missouri as navigable.";
 14 and

15
 16 Further amend said bill, Page 46, Section 266.341, Line 52, by inserting after all of said section and line the
 17 following:

18
 19 "Section B. Because of the timely nature of the state seeking to recover assets to reallocate for
 20 environmental remediation, sections 444.1000 and 640.780 of section A of this act is deemed necessary for
 21 the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an
 22 emergency act within the meaning of the constitution, and sections 444.1000 and 640.780 of section A of
 23 this act shall be in full force and effect upon its passage and approval."; and"; and
 24

25 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

26
 27 THIS AMENDMENT AMENDS 4096H05.22H