

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1713
98TH GENERAL ASSEMBLY

5243S.04T

2016

AN ACT

To repeal sections 256.437, 256.438, 256.439, 256.440, 256.443, and 644.021, RSMo, and to enact in lieu thereof nine new sections relating to the regulation of water systems, with an emergency clause for a certain section.

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

Section A. Sections 256.437, 256.438, 256.439, 256.440, 256.443, and 644.021, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.5070, 256.437, 256.438, 256.440, 256.443, 256.447, 640.136, 644.021, and 644.200, to read as follows:

- 67.5070. 1. As used in this section, "design-build contract" shall mean any contract that furnishes architecture or engineering services and construction services either directly or through subcontracts.**
- 2. Any political subdivision may enter into a design-build contract for engineering, design, and construction of a wastewater or water treatment project.**
- 3. In disbursing community development block grants under 42 U.S.C. Sections 5301 to 5321, the department of economic development shall not reject wastewater or water treatment projects solely for utilizing design-build.**
- 4. The department of natural resources shall not preclude design-build contracts from consideration of funding provided by the water and wastewater loan fund established in section 644.122.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

256.437. As used in sections 256.435 to 256.445, the following terms mean:

- 2 (1) "Director", the director of the department of natural resources;
- 3 (2) "Flood control storage", storage space in reservoirs to hold flood waters;
- 4 (3) "Plan", a preliminary engineering report describing the water resource project;
- 5 (4) "Public water supply", a water supply for agricultural, municipal, industrial or
- 6 domestic use;
- 7 (5) "Sponsor", any political subdivision of the state or any public wholesale water supply
- 8 district;
- 9 (6) "Water resource project", a project containing **planning, design, construction, or**
- 10 **renovation of:**
 - 11 (a) Public water supply [storage and treatment and water source erosion]; [and]
 - 12 (b) Flood control storage; **or**
 - 13 (c) **Treatment or transmission facilities for public water supply.**

256.438. 1. There is hereby established in the state treasury a fund to be known as the

2 "Multipurpose Water Resource Program [Renewable Water Program] Fund", which shall consist

3 of all money deposited in such fund from whatever source, whether public or private.

4 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the

5 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The

6 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.

7 Any interest and other moneys earned on such investments shall be credited to the fund. Any

8 unexpended balance in such fund at the end of any appropriation period shall not be transferred

9 to the general revenue fund and, accordingly, shall be exempt from the provisions of section

10 33.080 relating to the transfer of funds to the general revenue funds of the state by the state

11 treasurer.

12 2. **The department of natural resources is hereby granted authority to establish**

13 **rules by which project sponsors can remit contributions to the fund created under this**

14 **section. Such contributions shall only be collected from water resource project sponsors**

15 **who are awarded financial assistance from the fund for water resource projects, as**

16 **described in sections 256.435 to 256.445. The contributions shall be used for the cost of**

17 **administering the fund and the provision of financial assistance from the fund as described**

18 **in sections 256.435 to 256.445.**

19 3. Upon appropriation, the department of natural resources shall use money in the fund

20 created by this section for the purposes of carrying out the provisions of sections 256.435 to

21 256.445, including, but not limited to, the provision of grants or other financial assistance, and,

22 if such limitations or conditions are imposed, only upon such other limitations or conditions

23 specified in the instrument that appropriates, grants, bequeaths, or otherwise authorizes the
24 transmission of money to the fund.

25 **4. The department of natural resources shall have the authority to promulgate rules**
26 **to implement this section. Any rule or portion of a rule, as that term is defined in section**
27 **536.010 that is created under the authority delegated in this section shall become effective**
28 **only if it complies with all of the provisions of chapter 536, and, if applicable, section**
29 **536.028. This section and chapter 536 are nonseverable and if any of the powers vested**
30 **with the general assembly pursuant to chapter 536, to review, to delay the effective date,**
31 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
32 **of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be**
33 **invalid and void.**

256.440. In order to ensure adequate, long-term, reliable public water supply [storage],
2 **treatment, and transmission facilities**, there is hereby established a "**Multipurpose Water**
3 **Resource Program**". The program shall be administered by the department of natural resources.
4 The state may participate with a sponsor in the development, construction or renovation of a
5 water resource project if the sponsor has a plan which has been submitted to and approved by
6 the director. **Prior to approval, such plan shall include a schedule, proposed by the sponsor,**
7 **to remit contributions back to the fund created under section 256.438. Any money received**
8 **by the department of natural resources as a result of its participation with any such**
9 **sponsor shall be deposited in the multipurpose water resource program fund created under**
10 **section 256.438.**

256.443. 1. The plan shall include a description of the project, the need for the project,
2 land use and treatment measures to be implemented to protect the project from erosion, siltation
3 and pollution, procedures for water allocation, criteria to be implemented in the event of drought
4 or emergency, and such other information as the director may require to adequately protect the
5 water resource.

6 2. The director shall only approve a plan upon a determination that long-term reliable
7 public water supply [storage], **treatment, or transmission facility** is needed in that area of the
8 state, **and that such plan will provide a long-term solution to water supply needs.**
9 Implementation of approved plans will be eligible for cost-sharing expenses as approved by the
10 state soil and water districts commission incurred for required land treatment practices to
11 implement soil conservation plans.

12 3. [Water] **Approved water resource plans and** projects shall be eligible to receive any
13 gifts, contributions, grants or bequests from federal, state, private or other sources for
14 engineering, construction or renovation costs associated with such projects, except that no

15 proceeds from the sales and use tax levied pursuant to Sections 47(a) to 47(c) of Article IV of
16 the State Constitution shall be used for such purposes.

17 **4. Approved water resource projects may be granted funds from, and remit**
18 **contributions to, the multipurpose water resource program fund pursuant to section**
19 **256.438.**

256.447. The department of natural resources may adopt rules and regulations
2 necessary to implement the provisions of sections 256.437 to 256.445. Any rule or portion
3 of a rule, as that term is defined in section 536.010 that is created under the authority
4 delegated in this section shall become effective only if it complies with and is subject to all
5 of the provisions of chapter 536, and, if applicable, section 536.028. This section and
6 chapter 536 are nonseverable and if any of the powers vested with the general assembly
7 pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
9 any rule proposed or adopted after August 28, 2016, shall be invalid and void.

640.136. 1. Any public water system, as defined in section 640.102, or public water
2 supply district, as defined in chapter 247, which intends to make modifications to
3 fluoridation of its water supply shall notify the department of natural resources, the
4 department of health and senior services, and its customers of its intentions at least ninety
5 days prior to any vote on the matter. The public water system or public water supply
6 district shall notify its customers via radio, television, newspaper, regular mail, electronic
7 means, or any combination of notification methods to most effectively notify customers at
8 least ninety days prior to any meeting at which the vote will occur. Any public water
9 system or public water supply district that violates the notification requirements of this
10 section shall return the fluoridation of its water supply to its previous level until proper
11 notification is provided under the provisions of this section.

12 **2.** In the case of an investor-owned water system, the entity calling for the
13 discussion of modifications to fluoridation shall be responsible for the provisions of this
14 section.

644.021. 1. There is hereby created a water contaminant control agency to be known as
2 the "Clean Water Commission of the State of Missouri", whose domicile for the purposes of
3 sections 644.006 to 644.141 shall be deemed to be that of the department of natural resources.
4 The commission shall consist of seven members appointed by the governor with the advice and
5 consent of the senate. No more than four of the members shall belong to the same political party.
6 All members shall be representative of the general interest of the public and shall have an interest
7 in and knowledge of conservation and the effects and control of water contaminants. **At least**
8 two [such] members[, but no more than two,] shall be knowledgeable concerning the needs of

9 agriculture, industry or mining and interested in protecting these needs in a manner consistent
10 with the purposes of sections 644.006 to 644.141. One [such] member shall be knowledgeable
11 concerning the needs of publicly owned wastewater treatment works. **No more than** four
12 members shall represent the public. No member shall receive, or have received during the
13 previous two years, a significant portion of his or her income directly or indirectly from permit
14 holders or applicants for a permit pursuant to any federal water pollution control act as amended
15 and as applicable to this state. All members appointed on or after August 28, 2002, shall have
16 demonstrated an interest and knowledge about water quality. All members appointed on or after
17 August 28, 2002, shall be qualified by interest, education, training or experience to provide,
18 assess and evaluate scientific and technical information concerning water quality, financial
19 requirements and the effects of the promulgation of standards, rules and regulations. At the first
20 meeting of the commission and at yearly intervals thereafter, the members shall select from
21 among themselves a chairman and a vice chairman.

22 2. The members' terms of office shall be four years and until their successors are selected
23 and qualified. Provided, however, that the first three members appointed shall serve a term of
24 two years, the next three members appointed shall serve a term of four years, thereafter all
25 members appointed shall serve a term of four years. There is no limitation on the number of
26 terms any appointed member may serve. If a vacancy occurs the governor may appoint a
27 member for the remaining portion of the unexpired term created by the vacancy. The governor
28 may remove any appointed member for cause. The members of the commission shall be
29 reimbursed for travel and other expenses actually and necessarily incurred in the performance
30 of their duties.

31 3. The commission shall hold at least four regular meetings each year and such additional
32 meetings as the chairman deems desirable at a place and time to be fixed by the chairman.
33 Special meetings may be called by three members of the commission upon delivery of written
34 notice to each member of the commission. Reasonable written notice of all meetings shall be
35 given by the director to all members of the commission. Four members of the commission shall
36 constitute a quorum. All powers and duties conferred specifically upon members of the
37 commission shall be exercised personally by the members and not by alternates or
38 representatives. All actions of the commission shall be taken at meetings open to the public.
39 Any member absent from six consecutive regular commission meetings for any cause whatsoever
40 shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with
41 subsection 1 of this section.

**644.200. 1. Notwithstanding any other provision of law, the department of natural
2 resources shall provide any municipality or community currently served by a wastewater
3 treatment system with information regarding options to upgrade the existing system to**

4 **meet any new or existing discharge requirements. The information provided shall include**
5 **available advanced technologies including biological treatment options.**

6 **2. The municipality or community, or a third party hired by the community or**
7 **municipality, may conduct an analysis of available options to meet any new or existing**
8 **discharge requirements including, but not limited to, the construction or installation of a**
9 **new wastewater collection or treatment facility, connection to an existing collection or**
10 **treatment facility outside the municipality or community, and upgrading or expanding the**
11 **existing wastewater treatment system. The analysis shall include an examination of the**
12 **feasibility and the cost of each option.**

13 **3. If upgrading or expanding the existing wastewater treatment system is feasible**
14 **and cost effective and will enable the system to meet the discharge requirements, the**
15 **department shall allow the entity to implement such option.**

2 [256.439. In order to provide public water supply storage treatment and
3 water-related facilities in both urban and rural areas of the state, there is hereby
4 established a "Multipurpose Water Resources Program". The program shall be
5 administered by the state department of natural resources. The state department
6 of natural resources may adopt rules and regulations necessary to implement the
provisions of sections 256.437 to 256.445.]

2 Section B. Because immediate action is necessary to ensure that a municipality or
3 community has the ability to select the most fiscally responsible option for safely treating
4 wastewater in its community, the enactment of section 644.200 of this act is deemed necessary
5 for the immediate preservation of the public health, welfare, peace, and safety, and is hereby
6 declared to be an emergency act within the meaning of the constitution, and the enactment of
section 644.200 of this act shall be in full force and effect upon its passage and approval.

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