

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 659
99TH GENERAL ASSEMBLY

4761H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 640.620, RSMo, and to enact in lieu thereof three new sections relating to the department of natural resources.

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

Section A. Section 640.620, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 253.147, 260.1150, and 640.620, to read as follows:

253.147. The department of natural resources shall submit a report to the general assembly on or before January 1, 2019, and annually thereafter, regarding maintenance, repair, and construction at state parks and historic sites. The report shall include the following:

(1) The total cost of all maintenance, repair, and construction projects completed in the prior fiscal year;

(2) For each project for which the total cost exceeded the state competitive bid minimum referenced in section 34.040, a list of all such projects, the total cost of all such projects, and the amount and source of funding for each such project;

(3) For each project for which the total cost was less than the state competitive bid minimum referenced in section 34.040, the total cost of all such projects and aggregate total costs by category;

(4) A list of planned maintenance, repair, and construction projects the department expects will exceed the state competitive bid minimum referenced in section 34.040 for the upcoming fiscal year;

(5) The current status of each project that was planned but not completed in the previous fiscal year;

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.

18 **(6) The amount of revenue generated by, and the operating expenditures of, each**
19 **state park and historic site averaged over the two previous fiscal years; and**

20 **(7) The total amount of revenue generated by all state parks and historic sites**
21 **averaged over the two previous fiscal years.**

260.1150. 1. This section shall be known and may be cited as the “Environmental
2 **Restoration Corporation Act”.**

3 **2. (1) A public benefit nonprofit corporation may be formed under the provisions**
4 **of chapter 355 to hold, manage, or own environmentally impaired property that is**
5 **otherwise subject to an ongoing cleanup or remedial action under the Comprehensive**
6 **Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq.;**
7 **the Missouri hazardous waste management law, sections 260.350 to 260.433; the Federal**
8 **Water Pollution Control Act, 33 U.S.C Section 1251, et seq.; or the Missouri clean water**
9 **law, sections 644.006 to 644.150, for the purpose of promoting social welfare in Missouri**
10 **by facilitating efforts to restore and redevelop such environmentally impaired property.**

11 **(2) The provisions of this section shall only apply to property located in:**

12 **(a) A county with a charter form of government and with more than two hundred**
13 **thousand but fewer than three hundred fifty thousand inhabitants;**

14 **(b) A county of the third classification without a township form of government and**
15 **with more than twenty-three thousand but fewer than twenty-six thousand inhabitants and**
16 **with a city of the fourth classification with more than two thousand four hundred but**
17 **fewer than two thousand seven hundred inhabitants as the county seat;**

18 **(c) A county of the first classification with more than sixty-five thousand but fewer**
19 **than seventy-five thousand inhabitants and with a county seat with more than fifteen**
20 **thousand but fewer than seventeen thousand inhabitants;**

21 **(d) A county of the third classification without a township form of government and**
22 **with more than ten thousand but fewer than twelve thousand inhabitants and with a city**
23 **of the fourth classification with more than one thousand three hundred fifty but fewer than**
24 **one thousand five hundred inhabitants as the county seat;**

25 **(e) A county of the third classification without a township form of government and**
26 **with more than twelve thousand but fewer than fourteen thousand inhabitants and with**
27 **a city of the fourth classification with more than three thousand seven hundred but fewer**
28 **than four thousand inhabitants as the county seat;**

29 **(f) A county of the third classification without a township form of government and**
30 **with more than six thousand but fewer than seven thousand inhabitants and with a city of**
31 **the fourth classification with more than one hundred fifty but fewer than two hundred**
32 **inhabitants as the county seat; and**

33 **(g) A county of the third classification without a township form of government and**
34 **with more than twelve thousand but fewer than fourteen thousand inhabitants and with**
35 **a city of the fourth classification with more than five hundred but fewer than five hundred**
36 **fifty inhabitants as the county seat.**

37 **3. Any such nonprofit corporation organized under this section shall, in addition**
38 **to all powers conferred by chapter 355, have the following powers, which shall be exercised**
39 **at the sole and exclusive discretion of the directors:**

40 **(1) To adopt bylaws and rules for the regulation of its affairs and the conduct of**
41 **its business;**

42 **(2) To adopt an official seal;**

43 **(3) To sue and be sued;**

44 **(4) To accept gifts, contributions, disbursements, distributions, donations,**
45 **endowments, loans, grants, settlement proceeds, and payments from the federal and state**
46 **government, and from other sources, public or private, for carrying out any of its**
47 **functions, which funds shall not be expended other than for the purposes provided;**

48 **(5) To acquire, accept, convey, dispose, encumber, manage, and own any real**
49 **property that is subject to any cleanup or remedial action as described in subsection 2 of**
50 **this section;**

51 **(6) To make and execute leases, contracts, releases, compromises, and other**
52 **instruments necessary or convenient to carry out its purposes;**

53 **(7) To convey real property when the board of directors finds, at its sole discretion,**
54 **that it has acquired all rights, title, and interest in the property within the area designated**
55 **for cleanup or remediation and such conveyance is in the public interest. In any such**
56 **conveyance, the board of directors may impose such conditions and covenants, including**
57 **conservation easements, as it determines are reasonable and appropriate;**

58 **(8) To employ and pay compensation to such employees and agents, including**
59 **accountants, attorneys, and others as the board of directors shall deem necessary to further**
60 **the purposes of such nonprofit corporation; and**

61 **(9) To enter into contracts with private or public entities to conduct, implement,**
62 **manage, oversee, and regulate any and all activities that may be necessary or required in**
63 **connection with the management of the real property and the implementation of any**
64 **cleanup or remedial action as described in subsection 2 of this section. Any such contract**
65 **may include provisions for the delivery of administrative support services to the**
66 **corporation and for a reasonable fee to be paid for management services related to the**
67 **execution and implementation of any and all activities required by such contract.**

68 **4. Any such nonprofit corporation organized under this section shall be managed**
69 **and regulated by a board consisting of no less than five directors, who shall initially be**
70 **appointed by the incorporators. Any director shall not have any personal liability related**
71 **to any official acts or obligations of the corporation. However, any such immunity shall**
72 **not apply with regard to any intentional or negligent act or omission that results in a**
73 **violation of any law set forth in subsection 2 of this section. No more than two directors**
74 **shall be employed by a state, county, or local government, and no more than two directors**
75 **shall be public nongovernmental members. The board shall meet at least four times per**
76 **calendar year. A quorum of the board shall consist of three members. An action taken by**
77 **a majority vote of the board at a meeting where a quorum is present shall be an act of the**
78 **board. All powers and duties conferred upon the directors shall be exercised personally**
79 **by the directors and not by alternates or representatives. All actions of any such nonprofit**
80 **corporation shall be taken at meetings open to the public, except for confidential matters**
81 **relating to personnel, contracts, or litigation.**

82 **5. If any such nonprofit corporation receives public funds in connection with any**
83 **specific environmental restoration activity at a specific property:**

84 **(1) The corporation shall allow for reasonable periodic audits by the state auditor**
85 **with respect to the corporation's use of such public funds in relation to the property for**
86 **which such public funds were received; and**

87 **(2) The corporation shall, upon reasonable request, provide an annual report to the**
88 **general assembly concerning the receipt and use of such public funds.**

89 **6. Any such nonprofit corporation may include in any conveyance of any real**
90 **property to any third party an environmental covenant in the form as set forth in sections**
91 **260.1000 to 260.1039 or a conservation easement under section 442.014.**

92 **7. Prior to acquiring any interest in any real property that is the subject of any**
93 **environmental restoration activities, any such nonprofit corporation shall undertake all**
94 **reasonable and appropriate due diligence activities in accordance with all applicable**
95 **regulations adopted by the United States Environmental Protection Agency in order to**
96 **qualify the nonprofit corporation as a bona fide prospective purchaser as defined in 42**
97 **U.S.C. Section 9601(40), as amended. Provided such nonprofit corporation qualifies as a**
98 **bona fide prospective purchaser, such nonprofit corporation shall be immune from any**
99 **liability of any kind or nature under the Missouri hazardous waste management law under**
100 **sections 260.350 to 260.433; the Missouri solid waste management law under sections**
101 **260.200 to 260.345; or the Missouri clean water law under chapter 644 for any conditions**
102 **that may exist at, on, or under any such real property; however, such corporation shall**
103 **comply with all applicable regulatory requirements.**

104 **8. Any such nonprofit corporation owes no duty of care and shall have no liability**
105 **of any kind or nature whatsoever to any trespasser who enters on any real property held,**
106 **managed, or owned by the nonprofit corporation in relation to keeping the land safe for**
107 **recreational or any other use or to giving any general or specific notice or warning with**
108 **respect to any natural or artificial condition, structure, or personal property thereon.**

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

✓