

SECOND REGULAR SESSION

SENATE BILL NO. 1242

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time March 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5513S.02I

AN ACT

To repeal section 644.036, RSMo, and to enact in lieu thereof one new section relating to water pollution, with an expiration date.

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

Section A. Section 644.036, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 644.036, to read as follows:

644.036. 1. No standard, rule or regulation or any amendment or repeal
2 thereof shall be adopted except after a public hearing to be held after thirty days'
3 prior notice by advertisement of the date, time and place of the hearing and
4 opportunity given to the public to be heard. Notice of the hearings and copies of
5 the proposed standard, rule or regulation or any amendment or repeal thereof
6 shall also be given by regular mail, at least thirty days prior to the scheduled
7 date of the hearing, to any person who has registered with the director for the
8 purpose of receiving notice of such public hearings in accordance with the
9 procedures prescribed by the commission at least forty-five days prior to the
10 scheduled date of the hearing. However, this provision shall not preclude
11 necessary changes during this thirty-day period.

12 2. At the hearing, opportunity to be heard by the commission with respect
13 to the subject thereof shall be afforded any interested person upon written
14 request to the commission, addressed to the director, not later than seven days
15 prior to the hearing, and may be afforded to other persons if convenient. In
16 addition, any interested persons, whether or not heard, may submit, within seven
17 days subsequent to the hearings, a written statement of their views. The
18 commission may solicit the views, in writing, of persons who may be affected by,
19 or interested in, proposed rules and regulations, or standards. Any person heard

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 or represented at the hearing or making written request for notice shall be given
21 written notice of the action of the commission with respect to the subject thereof.

22 3. Any standard, rule or regulation or amendment or repeal thereof shall
23 not be deemed adopted or in force and effect until it has been approved in writing
24 by at least four members of the commission. A standard, rule or regulation or an
25 amendment or repeal thereof shall not become effective until a certified copy
26 thereof has been filed with the secretary of state as provided in chapter 536,
27 RSMo.

28 4. Unless prohibited by any federal water pollution control act, any
29 standard, rule or regulation or any amendment or repeal thereof which is adopted
30 by the commission may differ in its terms and provisions as between particular
31 types and conditions of water quality standards or of water contaminants, as
32 between particular classes of water contaminant sources, and as between
33 particular waters of the state.

34 5. Any listing required by Section 303(d) of the federal Clean Water Act,
35 as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental
36 Protection Agency for [their] its approval that will result in any waters of [this]
37 **the state being classified as impaired] [shall] may be adopted by [rule pursuant**
38 **to chapter 536, RSMo. Total maximum daily loads shall not be required for any**
39 **listed waters that subsequently are determined to meet water quality**
40 **standards] the commission after a public hearing, or series of hearings,**
41 **held in accordance with the following procedures. The department of**
42 **natural resources shall publish in at least six regional newspapers, in**
43 **advance, a notice by advertisement the availability of a proposed list**
44 **of impaired waters of the state and such notice shall include at least**
45 **ninety days' advance notice of the date, time, and place of the public**
46 **hearing and opportunity given to the public to be heard. Notice of the**
47 **hearings and copies of the proposed list of impaired waters also shall**
48 **be posted on the department of natural resources' website and given by**
49 **regular mail, at least ninety days prior to the scheduled date of the**
50 **hearing, to any person who has registered with the director for the**
51 **purpose of receiving notice of such public hearings. The proposed list**
52 **of impaired waters shall identify the water segment, the uses impaired,**
53 **the type and source of the pollutant or condition causing the**
54 **impairment, if known, and a summary of the data relied upon to make**
55 **the preliminary determination. Contemporaneous with the publication**

56 of the notice of public hearing, the department shall make available on
57 its website all data and information it relied upon to prepare in
58 preparing the proposed list of impaired waters, including a narrative
59 explanation of how the department determined the water segment was
60 impaired. At any time after the public notice and until seven days after
61 the public hearing, the department may accept written comments on
62 the proposed list of impaired waters. After the public hearing and after
63 all written comments have been submitted, the department shall
64 prepare a written response to all comments and a revised list of
65 impaired waters. The commission may adopt a list of impaired waters
66 in a public notice and provide opportunity for public response and
67 comment on the department's written response to comments and
68 revised list of impaired waters. Notice of the meeting shall include the
69 date, time, and place of the public meeting and shall provide notice
70 that the commission will give interested persons the opportunity to
71 respond to the department's revised list of impaired waters and written
72 responses to comments. At its discretion, the commission may extend
73 public comment periods or hold additional public hearings on the
74 proposed and revised lists of impaired waters. The commission shall
75 not vote to add to the list of impaired waters any waters not
76 recommended by the department in the proposed or revised lists of
77 impaired waters without granting the public at least thirty additional
78 days to comment on the proposed addition. The list of impaired waters
79 adopted by the commission shall not be deemed to be a rule as defined
80 by section 536.010, RSMo. Any water segment on the list of impaired
81 waters adopted by the commission shall be subject to judicial review by
82 any adversely affected party under section 536.150, RSMo. The
83 provisions in this subsection shall expire on August 28, 2009.

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