

FIRST REGULAR SESSION

SENATE BILL NO. 329

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time January 22, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1056S.011

AN ACT

To repeal section 444.772, RSMo, and to enact in lieu thereof one new section relating to land reclamation fees.

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

Section A. Section 444.772, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 444.772, to read as follows:

444.772. 1. Any operator desiring to engage in surface mining shall make
2 written application to the director for a permit.

3 2. Application for permit shall be made on a form prescribed by the
4 commission and shall include:

5 (1) The name of all persons with any interest in the land to be mined;

6 (2) The source of the applicant's legal right to mine the land affected by
7 the permit;

8 (3) The permanent and temporary post office address of the applicant;

9 (4) Whether the applicant or any person associated with the applicant
10 holds or has held any other permits pursuant to sections 444.500 to 444.790, and
11 an identification of such permits;

12 (5) The written consent of the applicant and any other persons necessary
13 to grant access to the commission or the director to the area of land affected
14 under application from the date of application until the expiration of any permit
15 granted under the application and thereafter for such time as is necessary to
16 assure compliance with all provisions of sections 444.500 to 444.790 or any rule
17 or regulation promulgated pursuant to them. Permit applications submitted by
18 operators who mine an annual tonnage of less than ten thousand tons shall be
19 required to include written consent from the operator to grant access to the

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

20 commission or the director to the area of land affected;

21 (6) A description of the tract or tracts of land and the estimated number
22 of acres thereof to be affected by the surface mining of the applicant for the next
23 succeeding twelve months; and

24 (7) Such other information that the commission may require as such
25 information applies to land reclamation.

26 3. The application for a permit shall be accompanied by a map in a scale
27 and form specified by the commission by regulation.

28 4. The application shall be accompanied by a bond, security or certificate
29 meeting the requirements of section 444.778 and a permit fee approved by the
30 commission not to exceed **[six hundred] one thousand** dollars. The commission
31 may also require a fee for each site listed on a permit not to exceed **[three] four**
32 **hundred** dollars for each site. If mining operations are not conducted at a site for
33 six months or more during any year, the fee for such site for that year shall be
34 reduced by fifty percent. The commission may also require a fee for each acre
35 bonded by the operator pursuant to section 444.778 not to exceed **[ten] twenty**
36 **dollars** per acre. If such fee is assessed, the per-acre fee on all acres bonded by
37 a single operator that exceed a total of **[one] two** hundred acres shall be reduced
38 by fifty percent. In no case shall the total fee for any permit be more than **[two]**
39 **three thousand [five hundred]** dollars. Permit and renewal fees shall be
40 established by rule, **except for the initial fees as set forth in this**
41 **subsection**, and shall be set at levels that recover the cost of administering and
42 enforcing sections 444.760 to 444.790, making allowances for grants and other
43 sources of funds. The director shall submit a report to the commission and the
44 public each year that describes the number of employees and the activities
45 performed the previous calendar year to administer sections 444.760 to
46 444.790. For any operator of a gravel mining operation where the annual tonnage
47 of gravel mined by such operator is less than five thousand tons, the total cost of
48 submitting an application shall be three hundred dollars. The issued permit
49 shall be valid from the date of its issuance until the date specified in the mine
50 plan unless sooner revoked or suspended as provided in sections 444.760 to
51 444.790. **On August 28, 2007, the fees shall be set at a permit fee of eight**
52 **hundred dollars, a site fee of four hundred dollars, and an acre fee of**
53 **ten dollars, with a maximum fee of three thousand dollars. Fees may**
54 **be raised as allowed in this subsection after a regulation change that**
55 **demonstrates the need for increased fees.**

56 5. An operator desiring to have his or her permit amended to cover
57 additional land may file an amended application with the commission. Upon
58 receipt of the amended application, and such additional fee and bond as may be
59 required pursuant to the provisions of sections 444.760 to 444.790, the director
60 shall, if the applicant complies with all applicable regulatory requirements, issue
61 an amendment to the original permit covering the additional land described in
62 the amended application.

63 6. An operation may withdraw any land covered by a permit, excepting
64 affected land, by notifying the commission thereof, in which case the penalty of
65 the bond or security filed by the operator pursuant to the provisions of sections
66 444.760 to 444.790 shall be reduced proportionately.

67 7. Where mining or reclamation operations on acreage for which a permit
68 has been issued have not been completed, the permit shall be renewed. The
69 operator shall submit a permit renewal form furnished by the director for an
70 additional permit year and pay a fee equal to an application fee calculated
71 pursuant to subsection 4 of this section, but in no case shall the renewal fee for
72 any operator be more than ~~two~~ **three** thousand ~~five hundred~~ dollars. For any
73 operator involved in any gravel mining operation where the annual tonnage of
74 gravel mined by such operator is less than five thousand tons, the permit as to
75 such acreage shall be renewed by applying on a permit renewal form furnished
76 by the director for an additional permit year and payment of a fee of three
77 hundred dollars. Upon receipt of the completed permit renewal form and fee from
78 the operator, the director shall approve the renewal. With approval of the
79 director and operator, the permit renewal may be extended for a portion of an
80 additional year with a corresponding prorating of the renewal fee.

81 8. Where one operator succeeds another at any uncompleted operation,
82 either by sale, assignment, lease or otherwise, the commission may release the
83 first operator from all liability pursuant to sections 444.760 to 444.790 as to that
84 particular operation if both operators have been issued a permit and have
85 otherwise complied with the requirements of sections 444.760 to 444.790 and the
86 successor operator assumes as part of his or her obligation pursuant to sections
87 444.760 to 444.790 all liability for the reclamation of the area of land affected by
88 the former operator.

89 9. The application for a permit shall be accompanied by a plan of
90 reclamation that meets the requirements of sections 444.760 to 444.790 and the
91 rules and regulations promulgated pursuant thereto, and shall contain a verified

92 statement by the operator setting forth the proposed method of operation,
93 reclamation, and a conservation plan for the affected area including approximate
94 dates and time of completion, and stating that the operation will meet the
95 requirements of sections 444.760 to 444.790, and any rule or regulation
96 promulgated pursuant to them.

97 10. At the time that a permit application is deemed complete by the
98 director, the operator shall publish a notice of intent to operate a surface mine
99 in any newspaper qualified pursuant to section 493.050, RSMo, to publish legal
100 notices in any county where the land is located. If the director does not respond
101 to a permit application within forty-five calendar days, the application shall be
102 deemed to be complete. Notice in the newspaper shall be posted once a week for
103 four consecutive weeks beginning no more than ten days after the application is
104 deemed complete. The operator shall also send notice of intent to operate a
105 surface mine by certified mail to the governing body of the counties or cities in
106 which the proposed area is located, and to the last known addresses of all record
107 landowners of contiguous real property or real property located adjacent to the
108 proposed mine plan area. The notices shall include the name and address of the
109 operator, a legal description consisting of county, section, township and range, the
110 number of acres involved, a statement that the operator plans to mine a specified
111 mineral during a specified time, and the address of the commission. The notices
112 shall also contain a statement that any person with a direct, personal interest in
113 one or more of the factors the commission may consider in issuing a permit may
114 request a public meeting, a public hearing or file written comments to the director
115 no later than fifteen days following the final public notice publication date.

116 11. The commission may approve a permit application or permit
117 amendment whose operation or reclamation plan deviates from the requirements
118 of sections 444.760 to 444.790 if it can be demonstrated by the operator that the
119 conditions present at the surface mining location warrant an exception. The
120 criteria accepted for consideration when evaluating the merits of an exception or
121 variance to the requirements of sections 444.760 to 444.790 shall be established
122 by regulations.

123 12. Fees imposed pursuant to this section shall become effective August
124 28, [2001] **2007**, and shall expire on December 31, [2007] **2013**. No other
125 provisions of this section shall expire.