

SENATE BILL NO. 82

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

0251S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 640, RSMo, by adding thereto one new section relating to water preservation in the state of Missouri.

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

Section A. Chapter 640, RSMo, is amended by adding thereto
2 one new section, to be known as section 640.406, to read as
3 follows:

**640.406. 1. For the purposes of this section, the
2 following terms shall mean:**

3 (1) "Beneficial uses", uses of the waters of the state
4 including, but not limited to, domestic, agricultural,
5 industrial, recreational, and other legitimate beneficial
6 uses;

7 (2) "Commission", the clean water commission
8 established under section 644.021;

9 (3) "Department", the Missouri department of natural
10 resources;

11 (4) "Director", the director of the department of
12 natural resources;

13 (5) "Person", any individual, partnership,
14 copartnership, firm, company, public or private corporation,
15 association, joint stock company, trust, estate, political
16 subdivision, water district, or any agency, board,
17 department, or bureau of the federal or any state

18 government, or any other legal entity that is recognized by
19 law as the subject of rights and duties;

20 (6) "Pipeline facility", all parts of a facility
21 through which water moves in transportation including, but
22 not limited to, pipe, valves and other appurtenances
23 connected to pipe, pumping units, fabricated assemblies
24 associated with pumping units, metering and delivery
25 stations and fabricated assemblies therein, and breakout
26 tanks;

27 (7) "Water resources", all waters of the state
28 occurring on the surface, in natural or artificial channels,
29 lakes, reservoirs, or impoundments, and in subsurface
30 aquifers that are available or that may be made available.

31 2. It shall be unlawful for any person to withdraw
32 water from any water source for export outside the state of
33 Missouri via a pipeline facility unless such person holds a
34 water exportation permit issued by the department. A water
35 exportation permit shall not be required to withdraw water
36 from any water source for export outside of the state where
37 the withdrawal and ultimate end use are within the same six-
38 digit hydrological unit code as defined by the United States
39 Geological Survey and within twenty miles of the border of
40 the state of Missouri.

41 3. Before issuing any permit required by this section,
42 the director shall determine from the application and any
43 supporting materials whether the following conditions have
44 been met:

45 (1) There is water available in the amount specified
46 in the application to export for water use outside the state
47 of Missouri;

48 (2) The applicant has a present or future need for the
49 water and intends to put the water into beneficial use. In

50 making the determinations of need and beneficial use, the
51 director shall consider the availability of all water
52 sources and other relevant matters as the director deems
53 appropriate and may consider the availability of groundwater
54 as an alternative source;

55 (3) The proposed use will not interfere with existing
56 in-state uses; and

57 (4) The proposed use will not interfere with proposed
58 beneficial uses within the state. In making this
59 determination, the director shall conduct a review under
60 subsection 5 of this section.

61 4. (1) Within one hundred eighty days of receipt of
62 an application for a water exportation permit under this
63 section, the director shall determine whether the conditions
64 of subsection 3 of this section are satisfied. If such
65 conditions are satisfied, the director shall make a
66 recommendation to the commission for approval of the permit.

67 (2) Upon receipt of the director's recommendation for
68 approval of a permit, the commission shall, at its next
69 meeting from the director's submission of such, indicate the
70 commission's approval or disapproval of the recommendation
71 by a majority vote of the members present.

72 (3) If the commission rejects the director's
73 recommendation, the permit shall be automatically denied.

74 (4) If the commission approves the director's
75 recommendation, the director shall issue the permit within
76 ninety days of the commission's approval.

77 (5) Any application for renewal of an active water
78 exportation permit under this section shall be filed at
79 least one hundred eighty days prior to the expiration of an
80 existing permit. In determining whether a recommendation
81 for renewal is appropriate, the director shall assess

82 whether the conditions of subsection 3 of this section are
83 still satisfied.

84 5. (1) Before granting access to a water resource for
85 uses outside this state, the director shall consider
86 existing and proposed in-state uses in order to guarantee
87 that in-state users will have access to and use of all water
88 required to maintain an adequate supply for beneficial uses.

89 (2) The director shall review the needs for water
90 supply export every five years to determine whether the
91 water supply continues to be adequate for municipal,
92 agricultural, industrial, domestic, and other beneficial
93 uses within the state.

94 6. Subsections 3 to 5 of this section are subject to
95 the most recent reports, data, and information in
96 consideration of each permit application, whether the
97 application is for an initial permit or renewal of an active
98 or expired permit.

99 7. The review conducted under subsection 5 of this
100 section shall not be used to reduce the quantity of water
101 authorized to be transferred pursuant to the active life of
102 permits issued prior to such review.

103 8. On the filing of an application to export water
104 outside the state, the applicant shall designate an agent in
105 the state of Missouri for service of process and to receive
106 other notices.

107 9. In the event of a conflict between the conditions
108 of use required in Missouri and the conditions required in
109 another state, the water permit holder shall consent to
110 conditions imposed by the director.

111 10. The time-limited, active life of the water
112 exportation permit, not to exceed five years, shall require
113 the director to determine whether there has been a

114 substantial or material change relating to renewals of such
115 permits. The director may include additional conditions to
116 address any such substantial or material change when issuing
117 a renewal of such permit. The director may deny permit
118 renewal applications as necessary to comply with this
119 section based on any such substantial or material change.

120 11. At the request of the department, the attorney
121 general may bring an injunctive action or other appropriate
122 action to enforce provisions of this section. A cause of
123 action may be brought in any county where the defendant's
124 principal place of business is located or where the
125 withdrawal of water occurred.

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