

SENATE BILL NO. 1183

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

5591S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 260.225, 260.273, 260.325, and 260.335, RSMo, and to enact in lieu thereof four new sections relating to solid waste management.

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

Section A. Sections 260.225, 260.273, 260.325, and
2 260.335, RSMo, are repealed and four new sections enacted in
3 lieu thereof, to be known as sections 260.225, 260.273, 260.325,
4 and 260.335, to read as follows:

260.225. 1. The department shall administer sections
2 260.200 to 260.345 to maximize the amount of recovered
3 materials and to minimize disposal of solid waste in
4 sanitary landfills. The department shall, through its rules
5 and regulations, policies and programs, encourage to the
6 maximum extent practical, the use of alternatives to
7 disposal. To accomplish these objectives, the department
8 shall:

9 (1) Administer the state solid waste management
10 program pursuant to the provisions of sections 260.200 to
11 260.345;

12 (2) Cooperate with appropriate federal, state, and
13 local units of government of this or any other state, and
14 with appropriate private organizations in carrying out its
15 authority under sections 260.200 to 260.345;

16 (3) Promulgate and adopt, after public hearing, such
17 rules and regulations relating to solid waste management

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

18 systems as shall be necessary to carry out the purposes and
19 provisions of sections 260.200 to 260.345;

20 (4) Develop a statewide solid waste management plan in
21 cooperation with local governments, regional planning
22 commissions, districts, and appropriate state agencies;

23 (5) Provide technical assistance to cities, counties,
24 districts, and authorities;

25 (6) Develop and conduct a mandatory solid waste
26 technician training course of study;

27 (7) Conduct and contract for research and
28 investigations in the overall area of solid waste storage,
29 collection, recycling, recovery, processing, transportation
30 and disposal, including, but not limited to, new and novel
31 procedures;

32 (8) Subject to appropriation by the general assembly,
33 establish criteria for awarding state-funded solid waste
34 management grants **as provided in subdivision (1) of**
35 **subsection 2 of section 260.335** to cities, counties, and
36 districts, allocate funds, and monitor the proper
37 expenditure of funds;

38 (9) Issue such permits and orders and conduct such
39 inspections as may be necessary to implement the provisions
40 of sections 260.200 to 260.345 and the rules and regulations
41 adopted pursuant to sections 260.200 to 260.345;

42 (10) Initiate, conduct and support research,
43 demonstration projects, and investigations with applicable
44 federal programs pertaining to solid waste management
45 systems;

46 (11) Contract with cities, counties, districts and
47 other persons to act as its agent in carrying out the
48 provisions of sections 260.200 to 260.345 under procedures
49 and conditions as the department shall prescribe.

50 2. The department shall prepare model solid waste
51 management plans suitable for rural and urban areas which
52 may be used by districts, counties and cities. In preparing
53 the model plans, the department shall consider the findings
54 and recommendations of the study of resource recovery
55 conducted pursuant to section 260.038, and other relevant
56 information. The plans shall conform with the requirements
57 of section 260.220 and section 260.325 and shall:

58 (1) Emphasize waste reduction and recycling;

59 (2) Provide for economical waste management through
60 regional and district cooperation;

61 (3) Be designed to achieve a reduction of forty
62 percent in solid waste disposed, by weight, by January 1,
63 1998;

64 (4) Establish a means to measure the amount of
65 reduction in solid waste disposal;

66 (5) Provide for the elimination of small quantities of
67 hazardous waste, including household hazardous waste, from
68 the solid waste stream; and

69 (6) Be designed to guide planning in districts, cities
70 and counties including cities and counties not within a
71 district.

72 3. The model plan shall be distributed to the
73 executive board of each solid waste district and to counties
74 and cities not within a district by December 1, 1991.

75 4. No rule or portion of a rule promulgated under the
76 authority of sections 260.200 to 260.345 shall become
77 effective unless it has been promulgated pursuant to the
78 provisions of section 536.024.

79 5. In coordination with other appropriate state
80 agencies, including, but not limited to, the division of
81 commerce and industrial development, the office of

82 administration, the environmental improvement and energy
83 [resource] **resources** authority, and the public service
84 commission, the department shall **create and maintain a waste**
85 **reduction and recycling unit to perform at least** the
86 following duties in order to promote resource recovery in
87 the state in ways which are economically feasible:

88 (1) Identify markets for recovered materials and for
89 energy which could be produced from solid waste and
90 household hazardous waste;

91 (2) Provide technical assistance pertaining to all
92 aspects of resource recovery to cities, counties, districts,
93 industries and other persons;

94 (3) Identify opportunities for resource recovery
95 programs in state government and initiate actions to
96 implement such programs;

97 (4) Expand state contracts for procurement of items
98 made from recovered materials;

99 (5) Initiate recycling programs within state
100 government;

101 (6) Provide a clearinghouse of consumer information
102 regarding the need to support resource recovery, utilize and
103 develop new resource recovery programs around existing
104 enterprises, request and purchase recycled products,
105 participate in resource conservation activities and other
106 relevant issues;

107 (7) Identify barriers to resource recovery and
108 resource conservation, and propose remedies to these
109 barriers; and

110 (8) Initiate activities with appropriate state and
111 local entities to develop markets for recovered materials.

260.273. 1. Any person purchasing a new tire may
2 present to the seller the used tire or remains of such used
3 tire for which the new tire purchased is to replace.

4 2. A fee for each new tire sold at retail shall be
5 imposed on any person engaging in the business of making
6 retail sales of new tires within this state. The fee shall
7 be charged by the retailer to the person who purchases a
8 tire for use and not for resale. Such fee shall be imposed
9 at the rate of fifty cents for each new tire sold. Such fee
10 shall be added to the total cost to the purchaser at retail
11 after all applicable sales taxes on the tires have been
12 computed. The fee imposed, less six percent of fees
13 collected, which shall be retained by the tire retailer as
14 collection costs, shall be paid to the department of revenue
15 in the form and manner required by the department of revenue
16 and shall include the total number of new tires sold during
17 the preceding month. The department of revenue shall
18 promulgate rules and regulations necessary to administer the
19 fee collection and enforcement. The terms "sold at retail"
20 and "retail sales" do not include the sale of new tires to a
21 person solely for the purpose of resale, if the subsequent
22 retail sale in this state is to the ultimate consumer and is
23 subject to the fee.

24 3. The department of revenue shall administer, collect
25 and enforce the fee authorized pursuant to this section
26 pursuant to the same procedures used in the administration,
27 collection and enforcement of the general state sales and
28 use tax imposed pursuant to chapter 144 except as provided
29 in this section. The proceeds of the new tire fee, less
30 four percent of the proceeds, which shall be retained by the
31 department of revenue as collection costs, shall be
32 transferred by the department of revenue into an appropriate

33 subaccount of the solid waste management fund, created
34 pursuant to section 260.330.

35 4. Up to five percent of the revenue available may be
36 allocated, upon appropriation, to the department of natural
37 resources to be used [cooperatively with the department of
38 elementary and secondary education] for the purposes of
39 **supporting the waste reduction and recycling unit and by**
40 developing **information**, environmental educational materials,
41 programs, and curriculum that assist in the department's
42 implementation of sections 260.200 to 260.345.

43 5. Up to fifty percent of the moneys received pursuant
44 to this section may, upon appropriation, be used to
45 administer the programs imposed by this section. Up to forty-
46 five percent of the moneys received under this section may,
47 upon appropriation, be used for the grants authorized in
48 subdivision (2) of subsection 6 of this section. All
49 remaining moneys shall be allocated, upon appropriation, for
50 the projects authorized in section 260.276, except that any
51 unencumbered moneys may be used for public health,
52 environmental, and safety projects in response to
53 environmental or public health emergencies and threats as
54 determined by the director.

55 6. The department shall promulgate, by rule, a
56 statewide plan for the use of moneys received pursuant to
57 this section to accomplish the following:

- 58 (1) Removal of scrap tires from illegal tire dumps;
- 59 (2) Providing grants to persons that will use products
60 derived from scrap tires, or use scrap tires as a fuel or
61 fuel supplement; and
- 62 (3) Resource recovery activities conducted by the
63 department pursuant to section 260.276.

64 7. The fee imposed in subsection 2 of this section
65 shall begin the first day of the month which falls at least
66 thirty days but no more than sixty days immediately
67 following August 28, 2005, and shall terminate December 31,
68 2025.

 260.325. 1. The executive board of each district
2 [shall] may submit to the department a plan which has been
3 approved by the council for a solid waste management system
4 serving areas within its jurisdiction and [shall] may, from
5 time to time, submit officially adopted revisions of its
6 plan as it deems necessary [or the department may require].
7 In developing the district's solid waste management plan,
8 the board [shall] may consider the model plan distributed to
9 the board pursuant to section 260.225. Districts may
10 contract with a licensed professional engineer or as
11 provided in chapter 70 for the development and submission of
12 a joint plan.

 2. The board [shall] may hold at least one public
14 hearing [in each county] in the district when it prepares a
15 proposed plan or substantial revisions to a plan in order to
16 solicit public comments on the plan.

 3. The solid waste management plan [shall] may be
18 submitted to the department within eighteen months of the
19 formation of the district. The plan [shall] may be prepared
20 and submitted according to the procedures specified in
21 section 260.220 and this section.

 4. Each plan [shall] may:

23 (1) Delineate areas within the district where solid
24 waste management systems are in existence;

25 (2) Reasonably conform to the rules and regulations
26 adopted by the department for implementation of sections
27 260.200 to 260.345;

28 (3) Delineate provisions for the collection of
29 recyclable materials or collection points for recyclable
30 materials;

31 (4) Delineate provisions for the collection of
32 compostable materials or collection points for compostable
33 materials;

34 (5) Delineate provisions for the separation of
35 household waste and other small quantities of hazardous
36 waste at the source or prior to disposal;

37 (6) Delineate provisions for the orderly extension of
38 solid waste management services in a manner consistent with
39 the needs of the district, including economic impact, and in
40 a manner which will minimize degradation of the waters or
41 air of the state, prevent public nuisances or health
42 hazards, promote recycling and waste minimization and
43 otherwise provide for the safe and sanitary management of
44 solid waste;

45 (7) Take into consideration existing comprehensive
46 plans, population trend projections, engineering and
47 economics so as to delineate those portions of the district
48 which may reasonably be expected to be served by a solid
49 waste management system;

50 (8) Specify how the district will achieve a reduction
51 in solid waste placed in sanitary landfills through waste
52 minimization, reduction and recycling;

53 (9) Establish a timetable, with milestones, for the
54 reduction of solid waste placed in a landfill through waste
55 minimization, reduction and recycling;

56 (10) Establish an education program to inform the
57 public about responsible waste management practices;

58 (11) Establish procedures to minimize the introduction
59 of small quantities of hazardous waste, including household
60 hazardous waste, into the solid waste stream;

61 (12) Establish a time schedule and proposed method of
62 financing for the development, construction and operation of
63 the planned solid waste management system together with the
64 estimated cost thereof;

65 (13) Identify methods by which rural households that
66 are not served by a regular solid waste collection service
67 may participate in waste reduction, recycling and resource
68 recovery efforts within the district; and

69 (14) Include such other reasonable information as the
70 department shall require.

71 5. The board **[shall] may** review the district's solid
72 waste management plan at least every twenty-four months for
73 the purpose of evaluating the district's progress in meeting
74 the requirements and goals of the plan, and **[shall] may**
75 submit plan revisions to the department and council.

76 6. **[In the event any plan or part thereof is**
77 **disapproved, the department shall furnish any and all**
78 **reasons for such disapproval and shall offer assistance for**
79 **correcting deficiencies. The executive board shall within**
80 **sixty days revise and resubmit the plan for approval or**
81 **request a hearing in accordance with section 260.235. Any**
82 **plan submitted by a district shall stand approved one**
83 **hundred twenty days after submission unless the department**
84 **disapproves the plan or some provision thereof.**

85 7. The director may institute appropriate action under
86 section 260.240 to compel submission of plans in accordance
87 with sections 260.200 to 260.345 and the rules and
88 regulations adopted pursuant to sections 260.200 to 260.345.

89 **8.]** Funds may, upon appropriation, be made available
90 to districts under section 260.335 for the purpose of
91 implementing the requirements of this section.

92 **[9.] 7.** Based upon the financial assistance amounts
93 set forth in this section, the district executive board
94 shall arrange for an independent financial statement audit
95 of the records and accounts of its operations by a certified
96 public accountant **[or]**, a firm of certified public
97 accountants, **or by the department.** Districts receiving more
98 than eight hundred thousand dollars of financial assistance
99 annually shall have annual independent financial statement
100 audits; districts receiving between two hundred fifty
101 thousand dollars and eight hundred thousand dollars of
102 financial assistance annually shall have a biennial
103 independent financial statement audit for the two-year
104 period. All other districts shall be monitored biennially
105 by the department and, based upon the findings within the
106 monitoring report, may be required to arrange for an
107 independent financial statement audit for the biennial
108 monitoring period under review. **[Subject to limitations**
109 **caused by the availability of resources, the department**
110 **shall conduct a performance audit of grants to each district**
111 **at least once every five years, or as deemed necessary by**
112 **the department based upon district grantee performance.]**

 260.335. 1. Each fiscal year eight hundred thousand
2 dollars from the solid waste management fund shall be made
3 available, upon appropriation, to the department and the
4 environmental improvement and energy resources authority to
5 fund activities that promote the development and maintenance
6 of markets for recovered materials. Each fiscal year up to
7 two hundred thousand dollars from the solid waste management
8 fund **[may be used by the department upon appropriation for**

9 [grants] shall be allocated to solid waste management
10 districts for district grants or projects and district
11 operations. Only those solid waste management districts
12 that are allocated fewer funds under subsection 2 of this
13 section than if revenues had been allocated based on the
14 criteria in effect in this section on August 27, 2004, are
15 eligible for these [grants] funds. An eligible district
16 shall receive a proportionate share of these [grants] funds
17 based on that district's share of the total reduction in
18 funds for eligible districts calculated by comparing the
19 amount of funds allocated under subsection 2 of this section
20 with the amount of funds that would have been allocated
21 using the criteria in effect in this section on August 27,
22 2004. The department and the authority shall establish a
23 joint interagency agreement with the department of economic
24 development to identify state priorities for market
25 development and to develop the criteria to be used to judge
26 proposed projects. Additional moneys may be appropriated in
27 subsequent fiscal years if requested. The authority shall
28 establish a procedure to measure the effectiveness of the
29 grant program under this subsection and shall provide a
30 report to the governor and general assembly by January
31 fifteenth of each year regarding the effectiveness of the
32 program.

33 2. All remaining revenues deposited into the fund each
34 fiscal year after moneys have been made available under
35 subsection 1 of this section shall be allocated as follows:

36 (1) Thirty-nine percent of the revenues shall be
37 dedicated, upon appropriation, to the elimination of illegal
38 solid waste disposal, to identify and prosecute persons
39 disposing of solid waste illegally, to conduct solid waste
40 permitting activities, to administer grants and perform

41 other duties imposed in sections 260.200 to 260.345 and
42 section 260.432. In addition to the thirty-nine percent of
43 the revenues, the department may receive any annual increase
44 in the charge during October 1, 2005, to October 1, 2027,
45 under section 260.330 and such increases shall be used
46 solely to fund the operating costs of the department;

47 (2) (a) Sixty-one percent of the revenues, except any
48 annual increases in the charge under section 260.330 during
49 October 1, 2005, to October 1, 2027, which shall be used
50 solely to fund the operating costs of the department, shall
51 be allocated to solid waste management districts. **Such**
52 **revenues shall be immediately transferred to districts on a**
53 **quarterly basis.**

54 (b) Revenues to be allocated under this subdivision
55 shall be divided as follows: forty percent shall be
56 allocated based on the population of each district in the
57 latest decennial census, and sixty percent shall be
58 allocated based on the amount of revenue generated within
59 each district. For the purposes of this subdivision,
60 revenue generated within each district shall be determined
61 from the previous year's data. No more than fifty percent
62 of the revenue allocable under this subdivision may be
63 allocated [to] **by** the districts [upon approval of the
64 department for implementation of a solid waste management
65 plan and] **for** district operations, and at least fifty
66 percent of the revenue allocable to the districts under this
67 subdivision shall be allocated to **grants or projects serving**
68 the cities and counties of the district or to persons or
69 entities providing solid waste management, waste reduction,
70 recycling and related services in these cities and
71 counties. [Each district shall receive a minimum of seventy-
72 five thousand dollars under this subdivision.] After August

73 28, 2015, each district shall receive a minimum of ninety-
74 five thousand dollars under this subdivision for district
75 grants **and projects** and district operations. [Each district
76 receiving moneys under this subdivision shall expend such
77 moneys pursuant to a solid waste management plan required
78 under section 260.325, and only in the case that the
79 district is in compliance with planning requirements
80 established by the department.] Moneys shall be awarded **by**
81 **the districts** based upon grant applications **or project**
82 **proposals**.

83 (c) The following criteria may be considered **by**
84 **districts** to establish the order of district grant priority:

85 [(a)] a. Grants to facilities of organizations
86 employing individuals with disabilities under sections
87 178.900 to 178.960 or sections 205.968 to 205.972;

88 [(b)] b. Grants for proposals that will promote and
89 maximize the sharing of district resources;

90 [(c)] c. Grants for proposals which provide methods of
91 recycling and solid waste reduction; and

92 [(d)] d. All other grants.

93 (d) Any allocated district moneys remaining in any
94 fiscal year due to insufficient or inadequate grant
95 applications **or project proposals** shall be reallocated for
96 grant applications **or project proposals** in subsequent years
97 or for solid waste management projects other than district
98 operations, including a district's next request for solid
99 waste management **grant applications or** project proposals.
100 Any allocated district moneys remaining after a period of
101 five years shall revert to the credit of the solid waste
102 management fund created under section 260.330;

103 (3) Except for the amount up to one-fourth of the
104 department's previous fiscal year expense, any remaining

105 unencumbered funds generated under subdivision (1) of this
106 subsection in prior fiscal years shall be reallocated under
107 this section;

108 (4) Funds may be made available under this subsection
109 for the administration and grants of the used motor oil
110 program described in section 260.253[;

111 (5) The department and the environmental improvement
112 and energy resources authority shall conduct sample audits
113 of grants provided under this subsection].

114 3. In addition to the criteria listed in this section,
115 the advisory board created in section 260.345 shall
116 recommend criteria to be used to allocate grant moneys **made**
117 **available under subdivision (1) of subsection 2 of this**
118 **section** to districts, cities and counties. These criteria
119 shall establish a priority for proposals which provide
120 methods of solid waste reduction and recycling. The
121 department shall promulgate criteria for evaluating **state**
122 **grants made available under subdivision (1) of subsection 2**
123 **of this section** by rule and regulation. [Projects of cities
124 and counties located within a district which are funded by
125 grants under this section shall conform to the district
126 solid waste management plan.]

127 4. The funds awarded to the districts pursuant to this
128 section shall be used for the purposes set forth in sections
129 260.300 to 260.345, and shall be used in addition to
130 existing funds appropriated by counties and cities for solid
131 waste management and shall not supplant county or city
132 appropriated funds.

133 5. Once grants are approved by the solid waste
134 management district, the district shall submit to the
135 department **only** the [appropriate forms associated with the
136 grant application and any] supporting information to verify

137 that appropriate public notice procedures were followed,
138 that grant proposals were reviewed and ranked by the
139 district, and that only eligible costs as set forth in
140 regulations are to be funded. Within **[thirty] ten** days, the
141 department shall review the **[grant application]**
142 **information**. If the department finds any deficiencies, or
143 needs more information in order to evaluate the **[grant**
144 **application] information**, the department shall notify the
145 district in writing. The district shall have an additional
146 **[thirty] ten** days to respond to the department's request and
147 to submit any additional information to the department.
148 Within **[thirty] ten** days of receiving additional
149 information, the department shall either approve or deny the
150 **[grant application] information**. If the department takes no
151 action, the **[grant application] information** shall be deemed
152 approved. The **[department, in conjunction with the solid**
153 **waste advisory board,] district** shall review the performance
154 of all grant recipients to ensure that grant moneys were
155 appropriately and effectively expended to further the
156 purposes of the grant, as expressed in the recipient's grant
157 **[application] agreement**. The grant **[application] agreement**
158 shall contain specific goals and implementation dates, and
159 grant recipients shall be contractually obligated to fulfill
160 same. The **[department] district** may require the recipient
161 to submit periodic reports and such other data as are
162 necessary, both during the grant period and up to five years
163 thereafter, to ensure compliance with this section. The
164 **[department] district** may audit the records of any recipient
165 to ensure compliance with this section. Recipients of
166 grants under sections 260.300 to 260.345 shall maintain such
167 records as required by the **[department] district to**
168 **demonstrate compliance with this section**. If a grant

169 recipient fails to maintain records or submit reports as
170 required herein, refuses the [department] **district** access to
171 the records, or fails to meet the [department's] **district's**
172 performance standards, the [department] **district** may
173 withhold subsequent grant payments, if any, and may compel
174 the repayment of funds provided to the recipient pursuant to
175 a grant.

176 6. The [department] **district** shall provide for a
177 security interest in any machinery or equipment purchased
178 through grant moneys distributed pursuant to this section.

179 7. If the moneys are not transmitted to the department
180 within the time frame established by the rule promulgated
181 **under section 260.330**, interest shall be imposed on the
182 moneys due the department at the rate of ten percent per
183 annum from the prescribed due date until payment is actually
184 made. These interest amounts shall be deposited to the
185 credit of the solid waste management fund.

186 8. **If a solid waste management district receives an**
187 **unfavorable decision on a request submitted to the**
188 **department, the district may send an appeal request to the**
189 **administrative hearing commission within thirty days. The**
190 **administrative hearing commission shall promptly issue a**
191 **final decision on the request so appealed. The decision**
192 **being appealed shall be deemed stayed until a final decision**
193 **is issued by the administrative hearing commission.**

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