

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2153

102ND GENERAL ASSEMBLY

4344H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 640, RSMo, by adding thereto one new section relating to water exportation across state boundaries.

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

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

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

- (1) "Beneficial uses", uses of the waters of the state including, but not limited to, domestic, agricultural, industrial, recreational, and other legitimate beneficial uses;**
- (2) "Commission", the clean water commission established under section 644.021;**
- (3) "Department", the Missouri department of natural resources;**
- (4) "Director", the director of the department of natural resources;**
- (5) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, water district, or any agency, board, department, or bureau of the federal or any state government, or any other legal entity that is recognized by law as the subject of rights and duties;**
- (6) "Pipeline facility", all parts of a facility through which water moves in transportation including, but not limited to, pipe, valves and other appurtenances connected to pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks;**

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.

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

20 **2. It shall be unlawful for any person to withdraw water from any water source**
21 **for export outside the state of Missouri via a pipeline facility unless such person holds a**
22 **water exportation permit issued by the department. A water exportation permit shall**
23 **not be required to withdraw water from any water source for export outside of the state**
24 **where the withdrawal and ultimate end use are within the same six-digit hydrological**
25 **unit code as defined by the United States Geological Survey and within twenty miles of**
26 **the border of the state of Missouri.**

27 **3. Before issuing any permit required by this section, the director shall**
28 **determine from the application and any supporting materials whether the following**
29 **conditions have been met:**

30 **(1) There is water available in the amount specified in the application to export**
31 **for water use outside the state of Missouri;**

32 **(2) The applicant has a present or future need for the water and intends to put**
33 **the water into beneficial use. In making the determinations of need and beneficial use,**
34 **the director shall consider the availability of all water sources and other relevant**
35 **matters as the director deems appropriate and may consider the availability of**
36 **groundwater as an alternative source;**

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

38 **(4) The proposed use will not interfere with proposed beneficial uses within the**
39 **state. In making this determination, the director shall conduct a review under**
40 **subsection 5 of this section.**

41 **4. (1) Within one hundred eighty days of receipt of an application for a water**
42 **exportation permit under this section, the director shall determine whether the**
43 **conditions of subsection 3 of this section are satisfied. If such conditions are satisfied,**
44 **the director shall make a recommendation to the commission for approval of the permit.**

45 **(2) Upon receipt of the director's recommendation for approval of a permit, the**
46 **commission shall, at its next meeting from the director's submission of such, indicate the**
47 **commission's approval or disapproval of the recommendation by a majority vote of the**
48 **members present.**

49 **(3) If the commission rejects the director's recommendation, the permit shall be**
50 **automatically denied.**

51 **(4) If the commission approves the director's recommendation, the director shall**
52 **issue the permit within ninety days of the commission's approval.**

53 **(5) Any application for renewal of an active water exportation permit under this**
54 **section shall be filed at least one hundred eighty days prior to the expiration of an**
55 **existing permit. In determining whether a recommendation for renewal is appropriate,**
56 **the director shall assess whether the conditions of subsection 3 of this section are still**
57 **satisfied.**

58 **5. (1) Before granting access to a water resource for uses outside this state, the**
59 **director shall consider existing and proposed in-state uses in order to guarantee that in-**
60 **state users will have access to and use of all water required to maintain an adequate**
61 **supply for beneficial uses.**

62 **(2) The director shall review the needs for water supply export every five years**
63 **to determine whether the water supply continues to be adequate for municipal,**
64 **agricultural, industrial, domestic, and other beneficial uses within the state.**

65 **6. Subsections 3 to 5 of this section are subject to the most recent reports, data,**
66 **and information in consideration of each permit application, whether the application is**
67 **for an initial permit or renewal of an active or expired permit.**

68 **7. The review conducted under subsection 5 of this section shall not be used to**
69 **reduce the quantity of water authorized to be transferred pursuant to the active life of**
70 **permits issued prior to such review.**

71 **8. On the filing of an application to export water outside the state, the applicant**
72 **shall designate an agent in the state of Missouri for service of process and to receive**
73 **other notices.**

74 **9. In the event of a conflict between the conditions of use required in Missouri**
75 **and the conditions required in another state, the water permit holder shall consent to**
76 **conditions imposed by the director.**

77 **10. The time-limited, active life of the water exportation permit, not to exceed**
78 **five years, shall require the director to determine whether there has been a substantial**
79 **or material change relating to renewals of such permits. The director may include**
80 **additional conditions to address any such substantial or material change when issuing a**
81 **renewal of such permit. The director may deny permit renewal applications as**
82 **necessary to comply with this section based on any such substantial or material change.**

83 **11. At the request of the department, the attorney general may bring an**
84 **injunctive action or other appropriate action to enforce provisions of this section. A**
85 **cause of action may be brought in any county where the defendant's principal place of**
86 **business is located or where the withdrawal of water occurred.**