

EIERA Statutes

Definitions.

260.005. As used in sections 260.005 to 260.125, the following words and terms mean:

- (1) "Authority", the state environmental improvement and energy resources authority created by sections 260.005 to 260.125;
- (2) "Bonds", bonds issued by the authority pursuant to the provisions of sections 260.005 to 260.125;
- (3) "Cost", the expense of the acquisition of land, rights-of-way, easements and other interests in real property and the expense of acquiring or constructing buildings, improvements, machinery and equipment relating to any project, including the cost of demolishing or removing any existing structures, interest during the construction of any project and engineering, research, legal, consulting and other expenses necessary or incident to determining the feasibility or practicability of any project and carrying out the same, all of which are to be paid out of the proceeds of the bonds or notes authorized by sections 260.005 to 260.125;
- (4) "Disposal of solid waste or sewage", the entire process of storage, collection, transportation, processing and disposal of solid wastes or sewage;
- (5) "Energy conservation", the reduction of energy consumption;
- (6) "Energy efficiency", the increased productivity or effectiveness of energy resources use, the reduction of energy consumption, or the use of renewable energy sources;
- (7) "Notes", notes issued by the authority pursuant to sections 260.005 to 260.125;
- (8) "Pollution", the placing of any noxious substance in the air or waters or on the lands of this state in sufficient quantity and of such amounts, characteristics and duration as to injure or harm the public health or welfare or animal life or property;
- (9) "Project", any facility, including land, disposal areas, incinerators, buildings, fixtures, machinery, equipment, and devices or modifications to a building or facility, acquired or constructed, or to be acquired or constructed for the purpose of developing energy resources or preventing or reducing pollution or the disposal of solid waste or sewage or providing water facilities or resource recovery facilities or carrying out energy efficiency modifications in, but not limited to, buildings owned by the state or providing for energy conservation or increased energy efficiency;

- (10) "Resource recovery", the recovery of material or energy from solid waste;
- (11) "Resource recovery facility", any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse;
- (12) "Resource recovery system", a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues;
- (13) "Revenues", all rents, installment payments on notes, interest on loans, revenues, charges and other income received by the authority in connection with any project and any gift, grant, or appropriation received by the authority with respect thereto;
- (14) "Sewage", any liquid or gaseous waste resulting from industrial, commercial, agricultural or community activities in such amounts, characteristics and duration as to injure or harm the public health or welfare or animal life or property;
- (15) "Solid waste", garbage, refuse, discarded materials and undesirable solid and semisolid residual matter resulting from industrial, commercial, agricultural or community activities in such amounts, characteristics and duration as to injure or harm the public health or welfare or animal life or property;
- (16) "Synthetic fuels", any solid, liquid, or gas or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of coal, including lignite and peat; shale; tar sands, including heavy oils; water as a source of hydrogen only through electrolysis, and mixtures of coal and combustible liquids including petroleum; and
- (17) "Water facilities", any facilities for the furnishing of water for industrial, commercial, agricultural or community purposes including, but not limited to, wells, reservoirs, dams, pumping stations, water lines, sewer lines, treatment plants, stabilization ponds, storm sewers, related equipment and machinery.

(L. 1972 H.B. 1041 § 1, A.L. 1982 S.B. 506, A.L. 1985 H.B. 807, A.L. 1993 H.B. 195 and S.B. 80, et al.)

Authority created.

260.010. There is hereby created and established as a governmental instrumentality of the state of Missouri, the "State Environmental Improvement and Energy Resources Authority", which shall constitute a body corporate and politic.

(L. 1972 H. B. 1041 § 2, A.L. 1982 S.B. 506) (1975) Creation of authority and sections 260.005 to 260.090 held constitutional. State ex rel. Farmers' Electric Cooperative, Inc. v. State Environmental Improvement Authority (Mo.), 518 S.W.2d 68.

Purpose of authority.

260.015. The authority is authorized to provide for the conservation of the air, land and water resources of the state by the prevention or reduction of the pollution thereof and proper methods of disposal of solid waste or sewage and to provide for the furnishing of water facilities and resource recovery facilities and to provide for the development of the energy resources of the state, to provide for energy conservation and to provide for energy efficiency projects and increased energy efficiency in the state, and to further such programs the authority is authorized to acquire and construct, and finance projects and to issue bonds and notes and make loans as herein provided to pay the costs thereof. Any pollution control, sewage or solid waste disposal, resource recovery, energy conservation or energy efficiency projects shall be in furtherance of applicable federal and state standards and regulations.

(L. 1972 H.B. 1041 § 3, A.L. 1982 S.B. 506, A.L. 1985 H.B. 807, A.L. 1993 H.B. 195 and S.B. 80, et al.)

Membership of authority, appointed how, terms, quorum.

260.020. The authority shall consist of five members appointed by the governor, by and with the consent of the senate. A member's authority to act shall commence upon receiving the advice and consent of the senate, if the senate is in session, but if the senate is not in session, his authority shall commence immediately upon appointment by the governor, but shall terminate if advice and consent is not received thirty calendar days after the senate convenes. If advice and consent is not given, such person shall not be reappointed by the governor to the authority. Not more than three members of the authority shall be members of the same political party. All members shall be

residents of the state of Missouri. The members of the authority first appointed shall continue in office for terms expiring on January 22, 1974, January 22, 1975, and January 22, 1976, the term of each member to be designated by the governor. The successor of each member shall be appointed for a term of three years, but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term. Members of the authority shall be eligible for reappointment. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action by the authority. Advice and consent may be withdrawn with regard to any member of the board upon a vote of a majority of the elected members of the senate.

(L. 1972 H.B. 1041 § 4, A.L. 1973 S.B. 252)

Officers, how selected.

260.025. The authority shall elect one of its members as chairman and another as vice chairman and shall appoint a secretary and a treasurer, which offices may be combined, and who need not be members of the authority.

(L. 1972 H.B. 1041 § 5)

Compensation and expenses.

260.030. Each member of the authority shall be entitled to compensation of twenty-five dollars per diem, plus their reasonable and necessary expenses actually incurred in discharging their duties under the provisions of sections 260.005 to 260.090.

(L. 1972 H.B. 1041 § 6)

Powers of authority.

260.035. 1. The authority is hereby granted and may exercise all powers necessary or appropriate to carry out and effectuate its purposes pursuant to the provisions of sections 260.005 to 260.125, including, but not limited to, the following:

- (1) To adopt bylaws and rules after having held public hearings thereon for the regulation of its affairs and the conduct of its business;
- (2) To adopt an official seal;

- (3) To maintain a principal office and such other offices within the state as it may designate;
- (4) To sue and be sued;
- (5) To make and execute leases, contracts, releases, compromises and other instruments necessary or convenient for the exercise of its powers or to carry out its purposes;
- (6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease, finance and sell equipment, structures, systems and projects and to lease the same to any private person, firm, or corporation, or to any public body, political subdivision or municipal corporation. Any such lease may provide for the construction of the project by the lessee;
- (7) To issue bonds and notes as hereinafter provided and to make, purchase, or participate in the purchase of loans or municipal obligations and to guarantee loans to finance the acquisition, construction, reconstruction, enlargement, improvement, furnishing, equipping, maintaining, repairing, operating or leasing of a project;
- (8) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States or any agency or instrumentality thereof, or in bank certificates of deposit; provided, however, the foregoing limitations on investments shall not apply to proceeds acquired from the sale of bonds or notes which are held by a corporate trustee pursuant to section 260.060;
- (9) To acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder;
- (10) To employ managers and other employees and retain or contract with architects, engineers, accountants, financial consultants, attorneys and such other persons, firms or corporations who are necessary in its judgment to carry out its duties, and to fix the compensation thereof;
- (11) To receive and accept appropriations, bequests, gifts and grants and to utilize or dispose of the same to carry out its purposes pursuant to the provisions of sections 260.005 to 260.125;

(12) To engage in research and development with respect to pollution control facilities and solid waste or sewage disposal facilities, and water facilities, resource recovery facilities and the development of energy resources;

(13) To collect rentals, fees and other charges in connection with its services or for the use of any project hereunder;

(14) To sell at private sale any of its property or projects to any private person, firm or corporation, or to any public body, political subdivision or municipal corporation on such terms as it deems advisable, including the right to receive for such sale the note or notes of any such person to whom the sale is made. Any such sale shall provide for payments adequate to pay the principal of and interest and premiums, if any, on the bonds or notes issued to finance such project or portion thereof. Any such sale may provide for the construction of the project by the purchaser of the project;

(15) To make, purchase or participate in the purchase of loans to finance the development and marketing of:

(a) Means of energy production utilizing energy sources other than fossil or nuclear fuel, including, but not limited to, wind, water, solar, biomass, solid waste, and other renewable energy resource technologies;

(b) Fossil fuels and recycled fossil fuels which are indigenous energy resources produced in the state of Missouri, including coal, heavy oil, and tar sands; and

(c) Synthetic fuels produced in the state of Missouri;

(16) To insure any loan, the funds of which are to be used for the development and marketing of energy resources as authorized by sections 260.005 to 260.125;

(17) To make temporary loans, with or without interest, but with such security for repayment as the authority deems reasonably necessary and practicable, to defray development costs of energy resource development projects;

(18) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds and obligations, commitments, and other evidences of indebtedness made, issued or entered into to develop energy resources, and in connection with providing technical, consultative and project assistance services in the area of energy development. Such fees and charges shall be limited to the amounts

required to pay the costs of the authority, including operating and administrative expenses, and reasonable allowance for losses which may be incurred;

(19) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization to carry out the provisions of sections 260.005 to 260.125;

(20) To sell, at public or private sale, any mortgage and any real or personal property subject to that mortgage, negotiable instrument, or obligation securing any loan;

(21) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(22) To consent to the modification of the rate of interest, time of payment for any installment of principal or interest, or any other terms, of any loan, loan commitment, temporary loan, contract, or agreement made directly by the authority;

(23) To make and publish rules and regulations concerning its lending, insurance of loans, and temporary lending to defray development costs, along with such other rules and regulations as are necessary to effectuate its purposes. No rule or portion of a rule promulgated under the authority of sections 260.005 to 260.125 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo;

(24) To borrow money to carry out and effectuate its purpose in the area of energy resource development and to issue its negotiable bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be determined by the authority, and to secure such bonds or notes by the pledge of revenues, mortgages, or notes of others as authorized by sections 260.005 to 260.125.

2. The authority shall develop a hazardous waste facility if the study required in section 260.037 demonstrates that a facility is economically feasible. The facility, which shall not include a hazardous waste landfill, may be operated by any eligible party as specified in this section. The authority shall begin development of the facility by July 1, 1985.

(L. 1972 H.B. 1041 § 7, A.L. 1980 2d Ex. Sess. H.B. 5, et al., A.L. 1982 S.B. 506, A.L. 1983 H.B. 528, A.L. 1985 H.B. 807, A.L. 1995 S.B. 3)

Feasibility of state ownership of hazardous waste and recovery facilities, duties.

260.037. 1. The environmental improvement and energy resources authority shall study the feasibility of a state owned hazardous waste treatment and resource recovery facility. The authority shall:

- (1) Identify the treatment and resource recovery technologies suitable for such a facility;
- (2) Determine the optimum areas for the siting of the facility;
- (3) Assess the use of economic incentives to local communities; and
- (4) Determine whether a state owned facility would be economically feasible.

2. The environmental improvement and energy resources authority may contract with any person and cooperate with any department of state government to meet its obligations under this section. The authority shall report its findings before January 1, 1985, to the department of natural resources and the general assembly.

(L. 1983 H.B. 528 § 2)

Resource recovery potential, study of, report.

260.038. 1. The environmental improvement and energy resources authority shall conduct a study of resource recovery potential for the state of Missouri. Such study shall, at a minimum:

- (1) Determine the amount of solid waste produced and current disposal methods;
- (2) Determine the potential markets for resource recovery materials;
- (3) Evaluate existing state laws and policies which discourage or encourage resource recovery; and
- (4) Identify optimum market conditions necessary to make resource recovery economically feasible in this state.

2. The authority shall report its findings and recommendations to the general assembly, the governor, the department of natural resources and the department of economic development no later than January 1, 1988.

(L. 1986 S.B. 475)

Revenue bonds, issued when--sale, limitations--procedure--rate.

260.040. The authority may at any time issue revenue bonds for the purpose of paying any part of the cost of any project or part thereof. Every issue of its bonds shall be payable out of the revenues of the authority which may be pledged for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds or pledging any specified revenues. The bonds shall be authorized by resolution of the authority, shall bear such date or dates, and shall mature at such time or times, but not in excess of forty years, as the resolution shall specify. The bonds shall be in such denomination, bear interest at such rate, be in such form, either coupon or registered, be issued in such manner, be payable in such place or places and be subject to redemption as such resolution may provide. The bonds of the authority may be sold at public or private sale, as hereafter provided, at such price or prices as the authority shall determine, but at not less than ninety-five percent of the principal amount thereof and at such interest rate as the authority shall determine. Such bonds shall be sold at public sale or, if the authority determines it is in the best interest of the authority, at private sale. The reason or reasons why private sale is in the best interest of the authority shall be set forth in the order or resolution authorizing the private sale. The decision of the authority shall be conclusive.

(L. 1972 H.B. 1041 § 8, A.L. 1976 S.B. 469, A.L. 1980 2d Ex. Sess. H.B. 5, et al., A.L. 1982 S.B. 506)

Notes issued when, how sold.

260.045. The authority may issue notes payable from the proceeds of bonds to be issued in the future or from such other sources as the authority may specify as in the case of bonds. Such notes shall mature in not more than five years and shall be sold at public or private sale as the authority may specify at not less than ninety-five percent of the principal amount thereof and at such interest rate as the authority shall determine. The other details with respect to such notes shall be determined by the authority as in the case of bonds.

(L. 1972 H.B. 1041 § 9, A.L. 1982 S.B. 506, A.L. 1985 H.B. 807)

Renewal notes or refunding bonds issued when.

260.050. The authority may from time to time issue renewal notes or refund any bonds by the issuance of refunding bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partially to refund bonds then outstanding and partially for any other purpose. Renewal notes or refunding bonds may be sold at public or private sale and the proceeds applied to the purchase, redemption, or payment of the notes or bonds to be refunded.

(L. 1972 H.B. 1041 § 10)

Resolution authorizing notes or bonds, contents of.

260.055. Any resolution authorizing any notes or bonds may contain such provisions, covenants and agreements subject to any provisions, covenants and agreements with the holders of bonds or notes then outstanding as the authority determines necessary. Such provisions, covenants and agreements may include but shall not be limited to:

- (1) Pledging of all or any part of the revenues of the authority, or any part thereof, to secure the payment of the notes or bonds or of any issue thereof;
- (2) The use and disposition of the revenues of the authority or any part thereof;
- (3) The fixing of rents, fees and other charges and the pledging of the same and of the revenues of the authority so that the same will be sufficient to pay the cost of operation, maintenance and repair of any project and the principal of and interest on notes or bonds secured by the pledge of such revenues;
- (4) Establishing reasonable reserves to secure the payment of such notes or bonds;
- (5) Limitations on the issuance of additional notes or bonds and the terms upon which the same may be issued and secured.

(L. 1972 H.B. 1041 § 11)

Resolution may provide for trust agreements.

260.060. A resolution of the authority authorizing the issuance of any notes or bonds or any issue thereof may provide that such notes or bonds shall be secured by a trust agreement between the authority and a corporate trustee, vesting in such trustee such property, rights, powers and duties in trust as the authority may determine. Any such

trust agreement may pledge or assign the revenues of the authority or any part thereof, to secure the payment of any notes or bonds. Any such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper, including covenants relating to the acquisition and construction of projects and the maintenance, repair and operation thereof, the rentals and other charges to be imposed for the use of any project, the custody and application of all moneys relating thereto. Such trust agreement may contain such other provisions as the authority determines reasonable and necessary for the security of the noteholders and bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be considered as a part of the cost of the operation of the project.

(L. 1972 H.B. 1041 § 12)

Notes and bonds not an indebtedness of the state.

260.065. Notes and bonds issued hereunder shall not constitute an indebtedness of the state and the state shall not be liable on such bonds and notes and the form of such bonds and notes shall contain a statement to such effect.

(L. 1972 H.B. 1041 § 13, A.L. 1985 H.B. 807)

Notes and bonds approved as investments--who may invest.

260.070. The notes and bonds of the authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, trust companies, savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

(L. 1972 H.B. 1041 § 14)

Projects subject to taxation--notes, bonds and their income tax free, exceptions.

260.075. Projects acquired, constructed, reconstructed, enlarged, improved, furnished, equipped, maintained, repaired, operated, leased, financed or sold by the authority pursuant to sections 260.005 to 260.090 shall be subject to all real and tangible personal property taxes and assessments of the state of Missouri, or any county, municipality, or any governmental subdivision thereof. The notes and bonds of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes on transfers.

Funds of authority not to be distributed to members or private persons, except for compensation for services.

260.080. No part of the funds of the authority shall inure to the benefit of or be distributable to its members or other private persons except that the authority is authorized and empowered to pay reasonable compensation for services rendered as herein provided for.

(L. 1972 H.B. 1041 § 16)

Termination or dissolution, property to pass to state.

260.085. Upon termination or dissolution, all rights and properties of the authority shall pass to and be vested in the state of Missouri, subject to the rights of noteholders, bondholders, and other creditors.

(L. 1972 H.B. 1041 § 17)

Proposed expenditure of federal funds in coming fiscal year requires itemized report to appropriations and the oversight division, committee on legislative research.

260.090. On or before the first Wednesday after the first Monday in January of each year, if the state environmental improvement and energy resources authority desires to

receive and expend moneys from the federal government in the next fiscal year of the state, the authority shall submit to the senate appropriations committee, the house appropriations committee and the oversight division of the committee on legislative research an itemization of all federal funds to be received, including the federal source thereof and plans including the expenditure of such funds.

(L. 1972 H.B. 1041 § 19, A.L. 1982 S.B. 506)

Contracts between authority and political subdivisions, purpose.

260.095. Any municipality, public body, political subdivision or municipal corporation may enter into leases, contracts, releases, compromises and loan agreements with the authority for the purpose of developing energy resources or preventing or reducing pollution or the disposal of solid waste or sewage or providing water facilities or resource recovery facilities.

(L. 1985 H.B. 807)

Authority member not personally liable on notes or bonds issued.

260.100. No member of the state environmental improvement and energy resources authority or any authorized person executing any notes or bonds authorized under sections 260.005 to 260.125 shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance of such notes or bonds.

(L. 1976 S.B. 469, A.L. 1982 S.B. 506)

Statutory conflicts, which prevails.

260.110. The provisions of sections 260.005 to 260.125 shall prevail in the case of any conflict between sections 260.005 to 260.125 and any other provision of law, but any powers, duties and functions granted under the provisions of sections 260.005 to 260.125 shall be deemed to be in addition to and not in derogation of any power, duty or function granted under the provisions of any other law.

(L. 1976 S.B. 469, A.L. 1982 S.B. 506)

Loans for energy resource development, requirements--fee charged, when--deposit in and use of energy resources insured loan fund.

260.115. 1. All loans authorized under section 260.035 for the development of energy resources shall be made only upon determination by the authority that loans are not otherwise available, either wholly or in part, from private lenders upon reasonably equivalent terms and conditions. No commitment for a loan shall be made unless all plans for development have been completed and submitted to and found to be satisfactory by the authority.

2. The authority shall charge a reasonable fee on all loans not federally insured to insure such loans. The proceeds of such fees shall be deposited in a separate fund to be known as the "Energy Resources Insured Loan Fund". The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue. This fund shall be deposited when received in a bank approved for deposit of state funds. No moneys shall be withdrawn from the fund unless it is to be used for the purchase of loan insurance or to pay for any losses on such loans.

(L. 1982 S.B. 506)

Interest rate on loans.

260.120. 1. The authority may set, from time to time, the interest rates at which it shall make loans, keeping its interest rates at the lowest level consistent with its cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes, and other responsibilities.

2. The ratio of loan to project cost and the amortization period of loans made by the authority shall be determined in accordance with regulations promulgated by the authority.

(L. 1982 S.B. 506)

Severability.

260.125. 1. If any provision of sections 260.005 to 260.125 is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of sections 260.005 to 260.125 are valid unless the court finds the valid provisions of the statute are so essentially and inseparably connected with, and so dependent upon, the valid provision that the valid provisions, standing alone, are incomplete and are incapable of being executed. It is the intent of the Missouri general assembly that the valid provisions of sections 260.005 to 260.125 shall remain valid so long as they can so stand alone.

2. General revenue funds shall not be used to carry out the provisions of sections 260.005 to 260.125.

(L. 1982 S.B. 506)

Landfill fee, amount--solid waste management fund, created, purpose--department to enforce--transfer station, fee charged --free disposal day, notice.

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 2, 2005, to October 1, 2027, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for

disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, 2017, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys shall be transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080 to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United

States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, 2007, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 2, 2027, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112, A.L. 1999 H.B. 603, et al., A.L. 2005 S.B. 225, A.L. 2007 S.B. 54, A.L. 2012 H.B. 1251, A.L. 2015 S.B. 92 merged with S.B. 445)

**Distribution of fund moneys, uses--grants, distribution of moneys--
advisory board, solid waste, duties.**

260.335. 1. Each fiscal year eight hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars, from the solid waste management fund may be used by the department upon appropriation for grants to solid waste management districts for district grants and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a proportional share of these grants based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining moneys in the fund after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the thirty-nine percentage of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, 2027, under

section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, 2027, which shall be used solely to fund the operating costs of the department, shall be allocated to solid waste management districts. Revenues to be allocated under this subdivision shall be divided as follows: forty percent shall be allocated based on the population of each district in the latest decennial census, and sixty percent shall be allocated based on the amount of revenue generated within each district. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. No more than fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon approval of the department for implementation of a solid waste management plan and district operations, and at least fifty percent of the revenue allocable to the districts under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties. Each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, 2015, each district shall receive a minimum of ninety-five thousand dollars under this subdivision for district grants and district operations. Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department. Moneys shall be awarded based upon grant applications. The following criteria may be considered to establish the order of district grant priority:

(a) Grants to facilities of organizations employing individuals with disabilities under sections 178.900 to 178.960 or sections 205.968 to 205.972;

(b) Grants for proposals that will promote and maximize the sharing of district resources;

(c) Grants for proposals which provide methods of recycling and solid waste reduction;
and

(d) All other grants. Any allocated district moneys remaining in any fiscal year due to insufficient or inadequate grant applications shall be reallocated for grant applications in subsequent years or for solid waste management projects other than district operations, including a district's next request for solid waste management project proposals.

Any allocated district moneys remaining after a period of five years shall revert to the credit of the solid waste management fund created under section 260.330;

(3) Except for the amount up to one-fourth of the department's previous fiscal year expense, any remaining unencumbered funds generated under subdivision (1) of this subsection in prior fiscal years shall be reallocated under this section;

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

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

3. In addition to the criteria listed in this section, the advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

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

5. Once grants are approved by the solid waste management district, the district shall submit to the department the appropriate forms associated with the grant application and any supporting information to verify that appropriate public notice procedures were followed, that grant proposals were reviewed and ranked by the district, and that only eligible costs as set forth in regulations are to be funded. Within thirty days, the

department shall review the grant application. If the department finds any deficiencies, or needs more information in order to evaluate the grant application, the department shall notify the district in writing. The district shall have an additional thirty days to respond to the department's request and to submit any additional information to the department. Within thirty days of receiving additional information, the department shall either approve or deny the grant application. If the department takes no action, the grant application shall be deemed approved. The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant..

6. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

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

(L. 1990 S.B. 530, A.L. 1993 S.B. 80, et al., A.L. 1995 S.B. 60 & 112. A.L. 2004 S.B. 1040, A.L. 2005 S.B. 225, A.L. 2007 S.B. 54, A.L. 2015 H.B. 92 merged with S.B. 445))