

NATURAL RESOURCES, DEPARTMENT OF: The first reversion to the
STATE FUNDS: general revenue fund of the
state pursuant to Section
640.220.2, RSMo Supp. 1990, shall be at June 30, 1993, and the
amount of such reversion shall be the "unexpended balance in the
subaccounts of the natural resources protection fund that
exceeds" the collections for the biennium July 1, 1991 to
June 30, 1993.

January 17, 1992

OPINION NO. 68-92

G. Tracy Mehan, III, Director
Department of Natural Resources
Post Office Box 176
Jefferson City, Missouri 65102-0176

Dear Director Mehan:

This opinion is in response to your question asking:

With regard to Section 640.220.2, RSMo
1990, at the end of the present biennium,
which biennium is used to compare the
unexpended balance in the subaccounts of
the natural resources protection fund for
purposes of reversion to the general
revenue fund?

The question is, when does the above
section go into effect to have the funds
lapse into general revenue? The law states
that the effective date of the law is July
1, 1991. However, there is not a complete
biennium collection period before July 1,
1991. The present biennium ends on June
30, 1993. Hence, there is no basis for the
comparison which the statute contemplates.
Therefore, it is unclear as to when the
provisions should be effective.

Section 640.220, RSMo Supp. 1990, provides:

640.220. Natural resources
protection fund created--purpose--

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funding--administration--fund relapses into general fund, when.--1. For the purpose of protecting the air, water and land resources of the state, there is hereby created in the state treasury a fund to be known as the "Natural Resources Protection Fund". All funds received from air pollution permit fees, gifts, bequests, donations, or any other moneys so designated shall be paid to the director of revenue and deposited in the state treasury to the credit of an appropriate subaccount of the natural resources protection fund and shall be used for the purposes specified by law. The air pollution permit fee revenues shall be deposited in an appropriate subaccount of the natural resources protection fund and, subject to appropriation by the general assembly, shall be used by the department to carry out the general administration of section 643.075, RSMo. The water pollution permit fee revenues generated through sections 644.052 and 644.053, RSMo, shall be paid to the director of the department of revenue and deposited to the credit of the water pollution permit fee subaccount of the natural resources protection fund and, subject to appropriation by the general assembly, shall be used by the department to carry out the administration of sections 644.006 to 644.141, RSMo.

2. Effective July 1, 1991, the provisions of section 33.080, RSMo, to the contrary notwithstanding, any unexpended balance in the subaccounts of the natural resources protection fund that exceeds the preceding biennium's collections shall revert to the general revenue fund of the state at the end of each biennium. All interest earned on the natural resources protection funds shall accrue to appropriate subaccounts. [Emphasis added.]

"Biennium" is defined as a "period of two years." Webster's New World Dictionary, Second College Edition. The same source defines "preceding" as "that precedes; going or coming before." Legislative intent should be ascertained from

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the language used, considering words in their plain and ordinary meaning. Wolff Shoe Company v. Director of Revenue, 762 S.W.2d 29, 31 (Mo. banc 1988).

In considering the words of the statute, such section provides for reversion "to the general revenue fund of the state at the end of each biennium." [Emphasis added.] The statute further provides that the provision is "[e]ffective July 1, 1991." The end of the first biennium after the effective date of the provision is June 30, 1993. Therefore, the first reversion to the general revenue fund pursuant to this provision will be at June 30, 1993.

The amount to revert to the general revenue fund at June 30, 1993 is "any unexpended balance in the subaccounts of the natural resources protection fund that exceeds the preceding biennium's collections." [Emphasis added.] The biennium that precedes the reversion at June 30, 1993 is the biennium commencing July 1, 1991 and ending June 30, 1993. Therefore, the amount of the reversion to the general revenue fund at June 30, 1993 is "any unexpended balance in the subaccounts of the natural resources protection fund that exceeds" the collections for the biennium July 1, 1991 to June 30, 1993.

CONCLUSION

It is the opinion of this office that the first reversion to the general revenue fund of the state pursuant to Section 640.220.2, RSMo Supp. 1990, shall be at June 30, 1993, and the amount of such reversion shall be the "unexpended balance in the subaccounts of the natural resources protection fund that exceeds" the collections for the biennium July 1, 1991 to June 30, 1993.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General