

SECOND REGULAR SESSION

# SENATE BILL NO. 598

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Pre-filed December 3, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4419S.011

## AN ACT

To repeal sections 393.1025, 393.1030, and 393.1050, RSMo, and to enact in lieu thereof two new sections relating to the renewable energy standard.

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

Section A. Sections 393.1025, 393.1030, and 393.1050, RSMo, are repealed  
2 and two new sections enacted in lieu thereof, to be known as sections 393.1025  
3 and 393.1030, to read as follows:

393.1025. As used in sections 393.1020 to 393.1030, the following terms  
2 mean:

3 (1) "Commission", the public service commission;

4 (2) "Department", the department of natural resources;

5 (3) "Electric utility", any electrical corporation as defined by section  
6 386.020;

7 (4) "Renewable energy credit" or "REC", a tradeable certificate of proof  
8 that one megawatt-hour of electricity has been generated from renewable energy  
9 sources **and that such electricity has been sold as power to a Missouri**  
10 **consumer, whether such power is self-generated or purchased from**  
11 **another source in or outside of this state;** and

12 (5) "Renewable energy resources", electric energy produced from wind,  
13 solar thermal sources, photovoltaic cells and panels, dedicated crops grown for  
14 energy production, cellulosic agricultural residues, plant residues, methane from  
15 landfills, from agricultural operations, or from wastewater treatment, thermal  
16 depolymerization or pyrolysis for converting waste material to energy, clean and  
17 untreated wood such as pallets, hydropower (not including pumped storage) that  
18 does not require a new diversion or impoundment of water and that has a **total**

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

19 **combined** nameplate rating of ten megawatts or less **per hydropower facility**,  
20 fuel cells using hydrogen produced by one of the above-named renewable energy  
21 sources, and other sources of energy not including nuclear that become available  
22 after November 4, 2008, and are certified as renewable by rule by the department.

393.1030. 1. The commission shall, in consultation with the department,  
2 prescribe by rule a portfolio requirement for all electric utilities to generate or  
3 purchase electricity generated from renewable energy resources. Such portfolio  
4 requirement shall provide that electricity from renewable energy resources shall  
5 constitute the following portions of each electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
- 7 (2) No less than five percent for calendar years 2014 through 2017;
- 8 (3) No less than ten percent for calendar years 2018 through 2020; and
- 9 (4) No less than fifteen percent in each calendar year beginning in 2021.

10 At least two percent of each portfolio requirement shall be derived from solar  
11 energy. The portfolio requirements shall apply to all power sold to Missouri  
12 consumers whether such power is self-generated or purchased from another  
13 source in or outside of this state. A utility may comply with the standard in  
14 whole or in part by purchasing RECs, **provided that the energy associated**  
15 **with such RECs has been sold to Missouri consumers.** Each kilowatt-hour  
16 of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for  
17 purposes of compliance.

18 2. The commission, in consultation with the department and within one  
19 year of November 4, 2008, shall select a program for tracking and verifying the  
20 trading of renewable energy credits. An unused credit may exist for up to three  
21 years from the date of its creation, **provided that the energy associated with**  
22 **each unused credit was generated after January 1, 2011.** A credit may be  
23 used only once to comply with sections 393.1020 to 393.1030 and may not also be  
24 used to satisfy any similar nonfederal requirement. An electric utility may not  
25 use a credit derived from a green pricing program. Certificates from net-metered  
26 sources shall initially be owned by the customer-generator. The commission,  
27 except where the department is specified, shall make whatever rules are  
28 necessary to enforce the renewable energy standard. Such rules shall include:

- 29 (1) A maximum average retail rate increase of one percent determined by  
30 estimating and comparing the electric utility's cost of compliance with least-cost  
31 renewable generation and the cost of continuing to generate or purchase  
32 electricity from entirely nonrenewable sources, taking into proper account future

33 environmental regulatory risk including the risk of greenhouse gas  
34 regulation. Notwithstanding the foregoing, until June 30, 2020, if the maximum  
35 average retail rate increase would be less than or equal to one percent if an  
36 electric utility's investment in solar-related projects initiated, owned or operated  
37 by the electric utility is ignored for purposes of calculating the increase, then  
38 additional solar rebates shall be paid and included in rates in an amount up to  
39 the amount that would produce a retail rate increase equal to the difference  
40 between a one percent retail rate increase and the retail rate increase calculated  
41 when ignoring an electric utility's investment in solar-related projects initiated,  
42 owned, or operated by the electric utility. Notwithstanding any provision to the  
43 contrary in this section, even if the payment of additional solar rebates will  
44 produce a maximum average retail rate increase of greater than one percent when  
45 an electric utility's investment in solar-related projects initiated, owned or  
46 operated by the electric utility are included in the calculation, the additional  
47 solar rebate costs shall be included in the prudently incurred costs to be  
48 recovered as contemplated by subdivision (4) of this subsection;

49 (2) Penalties of at least twice the average market value of renewable  
50 energy credits for the compliance period for failure to meet the targets of  
51 subsection 1 of this section. An electric utility will be excused if it proves to the  
52 commission that failure was due to events beyond its reasonable control that  
53 could not have been reasonably mitigated, or that the maximum average retail  
54 rate increase has been reached. Penalties shall not be recovered from  
55 customers. Amounts forfeited under this section shall be remitted to the  
56 department to purchase renewable energy credits needed for compliance. Any  
57 excess forfeited revenues shall be used by the department's energy center solely  
58 for renewable energy and energy efficiency projects;

59 (3) Provisions for an annual report to be filed by each electric utility in  
60 a format sufficient to document its progress in meeting the targets;

61 (4) Provision for recovery outside the context of a regular rate case of  
62 prudently incurred costs and the pass-through of benefits to customers of any  
63 savings achieved by an electrical corporation in meeting the requirements of this  
64 section.

65 3. As provided for in this section, except for those electrical corporations  
66 that qualify for an exemption under section 393.1050, each electric utility shall  
67 make available to its retail customers a solar rebate for new or expanded solar  
68 electric systems sited on customers' premises, up to a maximum of twenty-five

69 kilowatts per system, measured in direct current that were confirmed by the  
70 electric utility to have become operational in compliance with the provisions of  
71 section 386.890. The solar rebates shall be two dollars per watt for systems  
72 becoming operational on or before June 30, 2014; one dollar and fifty cents per  
73 watt for systems becoming operational between July 1, 2014, and June 30, 2015;  
74 one dollar per watt for systems becoming operational between July 1, 2015, and  
75 June 30, 2016; fifty cents per watt for systems becoming operational between July  
76 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming operational  
77 between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems  
78 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per  
79 watt for systems becoming operational after June 30, 2020. An electric utility  
80 may, through its tariffs, require applications for rebates to be submitted up to one  
81 hundred eighty-two days prior to the June thirtieth operational date. Nothing in  
82 this section shall prevent an electrical corporation from offering rebates after July  
83 1, 2020, through an approved tariff. If the electric utility determines the  
84 maximum average retail rate increase provided for in subdivision (1) of subsection  
85 2 of this section will be reached in any calendar year, the electric utility shall be  
86 entitled to cease paying rebates to the extent necessary to avoid exceeding the  
87 maximum average retail rate increase if the electrical corporation files with the  
88 commission to suspend its rebate tariff for the remainder of that calendar year  
89 at least sixty days prior to the change taking effect. The filing with the  
90 commission to suspend the electrical corporation's rebate tariff shall include the  
91 calculation reflecting that the maximum average retail rate increase will be  
92 reached and supporting documentation reflecting that the maximum average  
93 retail rate increase will be reached. The commission shall rule on the suspension  
94 filing within sixty days of the date it is filed. If the commission determines that  
95 the maximum average retail rate increase will be reached, the commission shall  
96 approve the tariff suspension. The electric utility shall continue to process and  
97 pay applicable solar rebates until a final commission ruling; however, if the  
98 continued payment causes the electric utility to pay rebates that cause it to  
99 exceed the maximum average retail rate increase, the expenditures shall be  
100 considered prudently incurred costs as contemplated by subdivision (4) of  
101 subsection 2 of this section and shall be recoverable as such by the electric utility.  
102 As a condition of receiving a rebate, customers shall transfer to the electric utility  
103 all right, title, and interest in and to the renewable energy credits associated with  
104 the new or expanded solar electric system that qualified the customer for the

105 solar rebate for a period of ten years from the date the electric utility confirmed  
106 that the solar electric system was installed and operational.

107 4. The department shall, in consultation with the commission, establish  
108 by rule a certification process for electricity generated from renewable resources  
109 and used to fulfill the requirements of subsection 1 of this section. Certification  
110 criteria for renewable energy generation shall be determined by factors that  
111 include fuel type, technology, and the environmental impacts of the generating  
112 facility. Renewable energy facilities shall not cause undue adverse air, water, or  
113 land use impacts, including impacts associated with the gathering of generation  
114 feedstocks. If any amount of fossil fuel is used with renewable energy resources,  
115 only the portion of electrical output attributable to renewable energy resources  
116 shall be used to fulfill the portfolio requirements.

117 5. In carrying out the provisions of this section, the commission and the  
118 department shall include methane generated from the anaerobic digestion of farm  
119 animal waste and thermal depolymerization or pyrolysis for converting waste  
120 material to energy as renewable energy resources for purposes of this section.

121 6. The commission shall have the authority to promulgate rules for the  
122 implementation of this section, but only to the extent such rules are consistent  
123 with, and do not delay the implementation of, the provisions of this section. Any  
124 rule or portion of a rule, as that term is defined in section 536.010, that is created  
125 under the authority delegated in this section shall become effective only if it  
126 complies with and is subject to all of the provisions of chapter 536 and, if  
127 applicable, section 536.028. This section and chapter 536 are nonseverable and  
128 if any of the powers vested with the general assembly pursuant to chapter 536 to  
129 review, to delay the effective date, or to disapprove and annul a rule are  
130 subsequently held unconstitutional, then the grant of rulemaking authority and  
131 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

2 [393.1050. Notwithstanding any other provision of law, any  
3 electrical corporation as defined by subdivision 15 of section  
4 386.020 which, by January 20, 2009, achieves an amount of eligible  
5 renewable energy technology nameplate capacity equal to or  
6 greater than fifteen percent of such corporation's total owned  
7 fossil-fired generating capacity, shall be exempt thereafter from a  
8 requirement to pay any installation subsidy, fee, or rebate to its  
9 customers that install their own solar electric energy system and  
shall be exempt from meeting any mandated solar renewable

10 energy standard requirements. Any disputes or denial of  
11 exemptions under this section may be reviewable by the  
12 circuit court of Cole County as prescribed by law.]

✓

Unofficial

Bill

Copy