

SECOND REGULAR SESSION

# SENATE BILL NO. 848

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BARNITZ.

Read 1st time January 28, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4632S.011

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## AN ACT

To repeal sections 393.1025 and 393.1030, RSMo, and to enact in lieu thereof two new sections relating to methane from agricultural operations.

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

Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and two  
2 new sections enacted in lieu thereof, to be known as sections 393.1025 and  
3 393.1030, 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
- 10 (5) "Renewable energy resources", electric energy produced from wind,  
11 solar thermal sources, photovoltaic cells and panels, dedicated crops grown for  
12 energy production, cellulosic agricultural residues, plant residues, methane from  
13 landfills, **from agricultural operations**, or from wastewater treatment, clean  
14 and untreated wood such as pallets, hydropower (not including pumped storage)  
15 that does not require a new diversion or impoundment of water and that has a  
16 nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by  
17 one of the above-named renewable energy sources, and other sources of energy not  
18 including nuclear that become available after November 4, 2008, and are certified  
19 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. Each kilowatt-hour of eligible energy  
15 generated in Missouri shall count as 1.25 kilowatt-hours for purposes of  
16 compliance.

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

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

32 (2) Penalties of at least twice the average market value of renewable  
33 energy credits for the compliance period for failure to meet the targets of  
34 subsection 1. An electric utility will be excused if it proves to the commission  
35 that failure was due to events beyond its reasonable control that could not have  
36 been reasonably mitigated, or that the maximum average retail rate increase has

37 been reached. Penalties shall not be recovered from customers. Amounts  
38 forfeited under this section shall be remitted to the department to purchase  
39 renewable energy credits needed for compliance. Any excess forfeited revenues  
40 shall be used by the department's energy center solely for renewable energy and  
41 energy efficiency projects;

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

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

48 3. Each electric utility shall make available to its retail customers a  
49 standard rebate offer of at least two dollars per installed watt for new or  
50 expanded solar electric systems sited on customers' premises, up to a maximum  
51 of twenty-five kilowatts per system, that become operational after 2009.

52 4. The department shall, in consultation with the commission, establish  
53 by rule a certification process for electricity generated from renewable resources  
54 and used to fulfill the requirements of subsection 1 of this section. Certification  
55 criteria for renewable energy generation shall be determined by factors that  
56 include fuel type, technology, and the environmental impacts of the generating  
57 facility. Renewable energy facilities shall not cause undue adverse air, water, or  
58 land use impacts, including impacts associated with the gathering of generation  
59 feedstocks. If any amount of fossil fuel is used with renewable energy resources,  
60 only the portion of electrical output attributable to renewable energy resources  
61 shall be used to fulfill the portfolio requirements.

62 **5. In carrying out the provisions of this section, the commission**  
63 **and the department shall include methane generated from the**  
64 **anaerobic digestion of farm animal waste as a renewable energy**  
65 **resource for purposes of this section.**

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