

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 141

AN ACT

To repeal sections 393.170, 394.120, and 523.262, RSMo, and to enact in lieu thereof five new sections relating to utilities.

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

Section A. Sections 393.170, 394.120, and 523.262, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 67.309, 386.895, 393.170, 394.120, and 523.262, to read as follows:

67.309. 1. No political subdivision of this state, including any referenced in section 386.020, shall adopt an ordinance, resolution, regulation, code, or policy that prohibits, or has the effect of prohibiting, the connection or reconnection of a utility service based upon the type or source of energy to be delivered to an individual customer. Nothing in this section shall limit the ability of a political subdivision to choose utility services for properties owned by such political subdivision.

2. For purposes of this section, utility services shall include natural gas, propane gas, electricity, and any other form of energy provided to an end-user customer.

386.895. 1. As used in this section, the following terms shall mean:

3 (1) "Biogas", a mixture of carbon dioxide and
4 hydrocarbons, primarily methane gas, released from the
5 biological decomposition of organic materials;

6 (2) "Biomass", has the meaning given the term
7 "qualified biomass" in section 142.028;

8 (3) "Gas corporation", the same as defined in section
9 386.020;

10 (4) "Qualified investment", any capital investment in
11 renewable natural gas infrastructure incurred by a gas
12 corporation for the purpose of providing natural gas service
13 under a renewable natural gas program;

14 (5) "Renewable energy sources", hydroelectric,
15 geothermal, solar photovoltaic, wind, tidal, wave, biomass,
16 or biogas energy sources;

17 (6) "Renewable natural gas", any of the following
18 products processed to meet pipeline quality standards or
19 transportation fuel grade requirements:

20 (a) Biogas that is upgraded to meet natural gas
21 pipeline quality standards such that it may blend with, or
22 substitute for, geologic natural gas;

23 (b) Hydrogen gas; or

24 (c) Methane gas derived from any combination of:

25 a. Biogas;

26 b. Hydrogen gas or carbon oxides derived from
27 renewable energy sources; or

28 c. Waste carbon dioxide;

29 (7) "Renewable natural gas infrastructure", all
30 equipment and facilities for the production, processing,
31 pipeline interconnection, and distribution of renewable
32 natural gas to be furnished to Missouri customers.

33 2. The commission shall adopt rules for gas
34 corporations to offer a voluntary renewable natural gas

35 program. Rules adopted by the commission under this section
36 shall include:

37 (1) Rules for reporting requirements; and

38 (2) Rules for establishing a process for gas
39 corporations to fully recover incurred costs that are
40 prudent, just, and reasonable associated with a renewable
41 natural gas program. Such recovery shall not be permitted
42 until the project is operational and produces renewable
43 natural gas for customer use.

44 3. A filing by a gas corporation pursuant to the
45 renewable natural gas program created in subsection 2 of
46 this section shall include, but is not limited to:

47 (1) A proposal to procure a total volume of renewable
48 natural gas over a specific period; and

49 (2) Identification of the qualified investments that
50 the gas corporation may make in renewable natural gas
51 infrastructure.

52 4. A gas corporation may from time to time revise the
53 filing submitted to the commission under this section no
54 more than one time per year.

55 5. Any costs incurred by a gas corporation for a
56 qualified investment that are prudent, just, and reasonable
57 may be recovered by means of an automatic rate adjustment
58 clause.

59 6. When a gas corporation makes a qualified investment
60 in the production of renewable natural gas, the costs
61 associated with such qualified investment shall include the
62 cost of capital established by the commission in the gas
63 corporation's most recent general rate case.

64 7. On or before January 1, 2023, the division of
65 energy within the department of natural resources shall
66 provide to the chair of the public service commission, the
67 speaker of the house of representatives, the president pro

68 tempore of the senate, the chair of the senate committee on
69 commerce, consumer protection, energy, and the environment,
70 and the chair of the house of representatives utility
71 committee, a report on the renewable natural gas program
72 established under this section. Such report shall include,
73 but not be limited to, the following:

74 (1) The number of projects submitted for the renewable
75 natural gas program and the number of projects approved for
76 the renewable natural gas program;

77 (2) The number of projects that are operational and
78 the costs, projected and actual, of such projects and other
79 key metrics the division of energy deems important;

80 (3) The volume of renewable natural gas produced in
81 the state through projects that were approved by the
82 renewable natural gas program as well as the percentage of
83 renewable natural gas produced in relation to the total
84 volume of natural gas sold in the state;

85 (4) The environmental benefits of renewable natural
86 gas, including but not limited to greenhouse gas reduction
87 as a result of the production of renewable natural gas;

88 (5) The economic benefits of the renewable natural gas
89 program, including but not limited to local employment,
90 value-added production for the agricultural sector, and
91 other economic development; and

92 (6) Any economic benefits or other costs to ratepayers.

93 8. Rules adopted by the commission under this section
94 shall not prohibit an affiliate of a gas corporation from
95 making a capital investment in a biogas production project
96 if the affiliate is not a public utility as defined in
97 section 386.020.

98 9. The public service commission may promulgate rules
99 to implement the provisions of this section. Any rule or
100 portion of a rule, as that term is defined in section

101 536.010, that is created under the authority delegated in
102 this section shall become effective only if it complies with
103 and is subject to all of the provisions of chapter 536 and,
104 if applicable, section 536.028. This section and chapter
105 536 are nonseverable and if any of the powers vested with
106 the general assembly pursuant to chapter 536 to review, to
107 delay the effective date, or to disapprove and annul a rule
108 are subsequently held unconstitutional, then the grant of
109 rulemaking authority and any rule proposed or adopted after
110 August 28, 2021, shall be invalid and void.

111 10. Pursuant to section 23.253 of the Missouri sunset
112 act, this section and any rules enacted under this section
113 shall expire nine years from the date the renewable natural
114 gas program is established, unless reauthorized by the
115 general assembly; provided that any rate adjustment
116 authorized by this section shall continue so long as the
117 renewable natural gas program remains in operation and
118 produces renewable natural gas for customer use.

393.170. 1. No gas corporation, electrical
2 corporation, water corporation or sewer corporation shall
3 begin construction of a gas plant, electric plant, water
4 system or sewer system, other than an energy generation unit
5 that has a capacity of one megawatt or less, without first
6 having obtained the permission and approval of the
7 commission.

8 2. No such corporation shall exercise any right or
9 privilege under any franchise hereafter granted, or under
10 any franchise heretofore granted but not heretofore actually
11 exercised, or the exercise of which shall have been
12 suspended for more than one year, without first having
13 obtained the permission and approval of the commission.
14 Before such certificate shall be issued a certified copy of
15 the charter of such corporation shall be filed in the office

16 of the commission, together with a verified statement of the
17 president and secretary of the corporation, showing that it
18 has received the required consent of the proper municipal
19 authorities.

20 3. (1) Before the commission shall issue an approval
21 under subsection 1 of this section for a merchant line, an
22 entity shall provide the commission a resolution of support
23 passed by the county commission of each county through which
24 the merchant line will be built. Any entity that begins
25 construction on a merchant line after August 28, 2021, shall
26 provide the required resolutions to the commission prior to
27 construction, regardless of whether the commission has
28 previously issued its approval.

29 (2) For the purposes of this subsection, the following
30 terms mean:

31 (a) "Entity", an electrical corporation that does not
32 provide service to end-use customers or provide retail
33 service in Missouri or does not collect its costs to provide
34 service under a regional transmission organization tariff;

35 (b) "Merchant line", a high-voltage direct current
36 electric transmission line that does not provide for the
37 erection of electric substations at intervals of less than
38 fifty miles, which substations are necessary to accommodate
39 both the purchase and sale to persons located in this state
40 of electricity generated or transmitted by such entity.

41 4. The commission shall have the power to grant the
42 permission and approval herein specified whenever it shall
43 after due hearing determine that such construction or such
44 exercise of the right, privilege or franchise is necessary
45 or convenient for the public service. The commission may by
46 its order impose such condition or conditions as it may deem
47 reasonable and necessary. Unless exercised within a period
48 of two years from the grant thereof, authority conferred by

49 such certificate of convenience and necessity issued by the
50 commission shall be null and void.

394.120. 1. No person shall become a member of a
2 cooperative unless such person shall agree to use electric
3 energy furnished by the cooperative when such electric
4 energy shall be available through its facilities. The
5 bylaws of a cooperative may provide that any person,
6 including an incorporator, shall cease to be a member
7 thereof if he or she shall fail or refuse to use electric
8 energy made available by the cooperative or if electric
9 energy shall not be made available to such person by the
10 cooperative within a specified time after such person shall
11 have become a member thereof. Membership in the cooperative
12 shall not be transferable, except as provided in the
13 bylaws. The bylaws may prescribe additional qualifications
14 and limitations in respect of membership.

15 2. An annual meeting of the members shall be held at
16 such time as shall be provided in the bylaws.

17 3. Special meetings of the members may be called by
18 the board of directors, by any three directors, by not less
19 than ten percent of the members, or by the president.

20 4. Meetings of members shall be held at such place as
21 may be provided in the bylaws. In the absence of any such
22 provisions, all meetings shall be held in the city or town
23 in which the principal office of the cooperative is located.

24 5. Except as herein otherwise provided, written or
25 printed notice stating the time and place of each meeting of
26 members and, in the case of a special meeting, the purpose
27 or purposes for which the meeting is called, shall be given
28 to each member, either personally or by mail, not less than
29 ten nor more than twenty-five days before the date of the
30 meeting.

31 6. Two percent of the first two thousand members and
32 one percent of the remaining members, present in person, or
33 if the bylaws so provide, participating electronically or by
34 mail, shall constitute a quorum for the transaction of
35 business at all meetings of the members, unless the bylaws
36 prescribe the presence of a greater percentage of the
37 members for a quorum. If less than a quorum is present at
38 any meeting, a majority of those present in person may
39 adjourn the meeting from time to time without further notice.

40 7. Each member shall be entitled to one vote on each
41 matter submitted to a vote at a meeting. Voting shall be in
42 person, but, if the bylaws so provide, may also be by proxy,
43 by electronic means, by mail, or any combination thereof.
44 If the bylaws provide for voting by proxy, by electronic
45 means, or by mail, they shall also prescribe the conditions
46 under which proxy, electronic, or mail voting shall be
47 exercised. In any event, no person shall vote as proxy for
48 more than two members at any meeting of the members.

49 8. Notwithstanding the provisions of subsections 2 and
50 7 of this section, the board of directors shall have the
51 power to set the time and place of the annual meeting and
52 also to provide for voting by proxy, electronic means, mail,
53 or any combination thereof, and to prescribe the conditions
54 under which such voting shall be exercised. The meeting
55 requirement provided in this section may be satisfied
56 through virtual means. The provisions of this subsection
57 shall expire on August 28, 2022.

523.262. 1. Except as set forth in subsection 2 of
2 this section, the power of eminent domain shall only be
3 vested in governmental bodies or agencies whose governing
4 body is elected or whose governing body is appointed by
5 elected officials or in an urban redevelopment corporation
6 operating pursuant to a redevelopment agreement with the

7 municipality for a particular redevelopment area, which
8 agreement was executed prior to or on December 31, 2006.

9 2. A private utility company, public utility, rural
10 electric cooperative, municipally owned utility, pipeline,
11 railroad or common carrier shall have the power of eminent
12 domain as may be granted pursuant to the provisions of other
13 sections of the revised statutes of Missouri. For the
14 purposes of this section, the term "common carrier" shall
15 not include motor carriers, contract carriers, or express
16 companies. Where a condemnation by such an entity results
17 in a displaced person, as defined in section 523.200, the
18 provisions of subsections 3 and 6 to 10 of section 523.205
19 shall apply unless the condemning entity is subject to the
20 relocation assistance provisions of the federal Uniform
21 Relocation Assistance Act.

22 3. Any entity with the power of eminent domain and
23 pursuing the acquisition of property for the purpose of
24 constructing a power generation facility after December 31,
25 2006, after providing notice in a newspaper of general
26 circulation in the county where the facility is to be
27 constructed, shall conduct a public meeting disclosing the
28 purpose of the proposed facility prior to making any offer
29 to purchase property in pursuit thereof or, alternatively,
30 shall provide the property owner with notification of the
31 identity of the condemning authority and the proposed
32 purpose for which the condemned property shall be used at
33 the time of making the initial offer.

34 4. (1) Notwithstanding the provisions of subsection 2
35 of this section, no entity shall have the power of eminent
36 domain under the provisions of this section for the purpose
37 of constructing above-ground merchant lines.

38 (2) For the purpose of this subsection, the following
39 terms mean:

40 (a) "Entity", a utility company that does not provide
41 service to end-use customers or provide retail service in
42 Missouri, or does not collect its costs to provide service
43 under a regional transmission organization tariff,
44 regardless of whether it has received a certificate of
45 convenience and necessity from the public service commission
46 under section 393.170;

47 (b) "Merchant line", a high-voltage direct current
48 electric transmission line that does not provide for the
49 erection of electric substations at intervals of less than
50 fifty miles, which substations are necessary to accommodate
51 both the purchase and sale to persons located in this state
52 of electricity generated or transmitted by such entity.

53 (3) This subsection shall apply to any property or
54 easement acquisition started on or after August 28, 2021.

55 (4) This subsection shall not apply to any rural
56 electric cooperative organized or operating under the
57 provisions of chapter 394, or to any corporation organized
58 on a nonprofit or a cooperative basis as described in
59 subsection 1 of section 394.200, or to any electrical
60 corporation operating under a cooperative business plan as
61 described in subsection 2 of section 393.110.

✓

Jason Bean

John Black, 137