

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 838

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

4751S.05P

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 260.035, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof six new sections relating to electric utilities.

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

Section A. Sections 260.035, 393.1025, and 393.1030,  
2 RSMo, are repealed and six new sections enacted in lieu thereof,  
3 to be known as sections 227.241, 260.035, 393.1025, 393.1030,  
4 393.1905, and 393.1910, to read as follows:

227.241. 1. For the purposes of this section,  
2 "electric transmissions facilities" shall include public  
3 utilities, investor owned utilities, utility cooperatives,  
4 municipal utilities, transmission only entities, and  
5 merchant transmission line developers.

6 2. For the purposes of this section, the term  
7 "highway" shall mean the public thoroughfare for vehicles,  
8 including public interstate highways, freeways, controlled  
9 access highways, and state and county highways.

10 3. Within highway rights-of-way, subject to reasonable  
11 engineering, safety, and access requirements, the commission  
12 and the department of transportation shall allow the  
13 installation, operation, and maintenance of electric

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

14 transmission facilities, including high voltage and  
15 interstate transmission facilities.

16 4. The commission and the Missouri department of  
17 transportation shall develop uniform criteria for  
18 longitudinal and parallel colocation of transmission  
19 facilities within highway rights-of-way.

20 5. The duties of the commission and the department  
21 shall include:

22 (1) Providing reasonable timelines and procedures for  
23 review and approval of colocation requests;

24 (2) Ensuring the safety of the public and  
25 infrastructure;

26 (3) Avoiding duplication of corridors where colocation  
27 is feasible; and

28 (4) Imposing reasonable conditions for construction,  
29 right-of-way access, maintenance coordination, and  
30 restoration but shall not interfere with colocation.

31 6. The commission and department shall promulgate and  
32 enforce reasonable rules and regulations to implement the  
33 provisions of this section. Any rule or portion of a rule,  
34 as that term is defined in section 536.010, that is created  
35 under the authority delegated in this section shall become  
36 effective only if it complies with and is subject to all of  
37 the provisions of chapter 536 and, if applicable, section  
38 536.028. This section and chapter 536 are nonseverable and  
39 if any of the powers vested with the general assembly  
40 pursuant to chapter 536 to review, to delay the effective  
41 date, or to disapprove and annul a rule are subsequently  
42 held unconstitutional, then the grant of rulemaking  
43 authority and any rule proposed or adopted after August 28,  
44 2026, shall be invalid and void.

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

6 (1) To adopt bylaws and rules after having held public  
7 hearings thereon for the regulation of its affairs and the  
8 conduct of its business;

9 (2) To adopt an official seal;

10 (3) To maintain a principal office and such other  
11 offices within the state as it may designate;

12 (4) To sue and be sued;

13 (5) To make and execute leases, contracts, releases,  
14 compromises, and other instruments necessary or convenient  
15 for the exercise of its powers or to carry out its purposes;

16 (6) To acquire, construct, reconstruct, enlarge,  
17 improve, furnish, equip, maintain, repair, operate, lease,  
18 finance, and sell equipment, structures, systems, and  
19 projects and to lease the same to any private person, firm,  
20 or corporation, or to any public body, political  
21 subdivision, or municipal corporation. Any such lease may  
22 provide for the construction of the project by the lessee;

23 (7) To issue bonds and notes as hereinafter provided  
24 and to make, purchase, or participate in the purchase of  
25 loans or municipal obligations and to guarantee loans to  
26 finance the acquisition, construction, reconstruction,  
27 enlargement, improvement, furnishing, equipping,  
28 maintaining, repairing, operating, or leasing of a project;

29 (8) To invest any funds not required for immediate  
30 disbursement in obligations of the state of Missouri or of  
31 the United States or any agency or instrumentality thereof,  
32 or in bank certificates of deposit; provided, however, the

33 foregoing limitations on investments shall not apply to  
34 proceeds acquired from the sale of bonds or notes which are  
35 held by a corporate trustee pursuant to section 260.060;

36 (9) To acquire by gift or purchase, hold and dispose  
37 of real and personal property in the exercise of its powers  
38 and the performance of its duties hereunder;

39 (10) To employ managers and other employees and retain  
40 or contract with architects, engineers, accountants,  
41 financial consultants, attorneys, and such other persons,  
42 firms, or corporations who are necessary in its judgment to  
43 carry out its duties, and to fix the compensation thereof;

44 (11) To receive and accept appropriations, bequests,  
45 gifts, and grants and to utilize or dispose of the same to  
46 carry out its purposes pursuant to the provisions of  
47 sections 260.005 to 260.125;

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

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

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

64 may provide for the construction of the project by the  
65 purchaser of the project;

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

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

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

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

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

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

84 (18) To collect reasonable fees and charges in  
85 connection with making and servicing its loans, notes, bonds  
86 and obligations, commitments, and other evidences of  
87 indebtedness made, issued or entered into to develop energy  
88 resources, and in connection with providing technical,  
89 consultative, and project assistance services in the area of  
90 energy development. Such fees and charges shall be limited  
91 to the amounts required to pay the costs of the authority,  
92 including operating and administrative expenses, and  
93 reasonable allowance for losses which may be incurred;

94 (19) To enter into agreements or other transactions  
95 with any federal or state agency, any person and any

96 domestic or foreign partnership, corporation, association,  
97 or organization to carry out the provisions of sections  
98 260.005 to 260.125;

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

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

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

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

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

125 2. The authority shall develop a hazardous waste  
126 facility if the study required in section 260.037  
127 demonstrates that a facility is economically feasible. The

128 facility, which shall not include a hazardous waste  
129 landfill, may be operated by any eligible party as specified  
130 in this section. The authority shall begin development of  
131 the facility by July 1, 1985.

132 3. All employees of the authority shall be eligible  
133 for membership in the Missouri state employees' retirement  
134 system, subject to all provisions in chapters 104 and 105  
135 applicable to the system.

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

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

4 (2) "Department", the department of [economic  
5 development] **natural resources**;

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

8 (4) **"Eligible battery energy storage system", a**  
9 **battery system that captures renewable energy, stores it,**  
10 **and dispatches the energy back into the bulk power system or**  
11 **the electric utility's distribution system and accredited by**  
12 **the electric utility's relevant regional transmission**  
13 **organization or independent system operator in resource**  
14 **adequacy determinations;**

15 (5) "Renewable energy credit" or "REC", a tradeable  
16 certificate of proof that one megawatt-hour of electricity  
17 has been generated from renewable energy [sources]  
18 **resources; [and**

19 **(5)] (6) "Renewable energy resources", electric energy**  
20 **produced from wind, solar thermal sources, photovoltaic**  
21 **cells and panels, dedicated crops grown for energy**  
22 **production, cellulosic agricultural residues, plant**  
23 **residues, methane from landfills, from agricultural**  
24 **operations, or from wastewater treatment, thermal**

25 depolymerization or pyrolysis for converting waste material  
26 to energy, clean and untreated wood such as pallets,  
27 hydropower (not including pumped storage) that does not  
28 require a new diversion or impoundment of water and that has  
29 a nameplate rating of ten megawatts or less, fuel cells  
30 using hydrogen produced by one of the above-named renewable  
31 energy sources, and other sources of energy not including  
32 nuclear that become available after November 4, 2008, and  
33 are certified as renewable by rule by the department.

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

8 (1) No less than two percent for calendar years 2011  
9 through 2013;

10 (2) No less than five percent for calendar years 2014  
11 through 2017;

12 (3) No less than ten percent for calendar years 2018  
13 through 2020; and

14 (4) No less than fifteen percent in each calendar year  
15 beginning in 2021.

16 At least two percent of each portfolio requirement shall be  
17 derived from solar energy. The portfolio requirements shall  
18 apply to all power sold to Missouri consumers whether such  
19 power is self-generated or purchased from another source in  
20 or outside of this state. A utility may comply with the  
21 standard in whole or in part by purchasing RECs. Each  
22 kilowatt-hour of eligible energy generated in Missouri shall

23 count as 1.25 kilowatt-hours for purposes of compliance.  
24 **Each kilowatt-hour of renewable energy generated and stored**  
25 **using an eligible battery energy storage system located in**  
26 **the state that becomes operational after December 31, 2026,**  
27 **shall count as an additional twenty-five hundredth kilowatt-**  
28 **hours, for a total of one and fifty hundredths kilowatt-**  
29 **hours for purposes of compliance.**

30 2. (1) [This subsection applies to electric utilities  
31 with more than two hundred fifty thousand but less than one  
32 million retail customers in Missouri as of the end of the  
33 calendar year 2024.]

34 [(2)] Energy meeting the criteria of the renewable  
35 energy portfolio requirements set forth in subsection 1 of  
36 this section that is generated from renewable energy  
37 resources and contracted for by an accelerated renewable  
38 buyer shall:

39 (a) Have all associated renewable energy certificates  
40 retired by the accelerated renewable buyer, or on their  
41 behalf, and the certificates shall not be used to meet the  
42 electric utility's portfolio requirements pursuant to  
43 subsection 1 of this section;

44 (b) Be excluded from the total electric utility's  
45 sales used to determine the portfolio requirements pursuant  
46 to subsection 1 of this section; and

47 (c) Be used to offset all or a portion of its electric  
48 load for purposes of determining compliance with the  
49 portfolio requirements pursuant to subsection 1 of this  
50 section.

51 [(3)] (2) The accelerated renewable buyer shall be  
52 exempt from any renewable energy standard compliance costs  
53 as may be established by the utility and approved by the  
54 commission, based on the amount of renewable energy

55 certificates retired pursuant to this subsection in  
56 proportion to the accelerated renewable buyer's total  
57 electric energy consumption, on an annual basis.

58 [(4)] (3) An "accelerated renewable buyer" means a  
59 customer of an electric utility, with an aggregate load over  
60 [eighty] **seventy-five** average megawatts[, ] **or that is served**  
61 **under a tariff approved by the commission under subsection 7**  
62 **of section 393.130** that enters into a contract or contracts  
63 to obtain:

64 (a) Renewable energy certificates from renewable  
65 energy resources as defined in section 393.1025; or

66 (b) Energy and renewable energy certificates from  
67 solar or wind generation resources located within the  
68 [Southwest Power Pool] **electric utility's relevant regional**  
69 **transmission organization or independent system operator**  
70 region and initially placed in commercial operation after  
71 January 1, 2020, including any contract with the electric  
72 utility for such generation resources that does not allocate  
73 to or recover from any other customer of the utility the  
74 cost of such resources.

75 [(5)] (4) Each electric utility shall certify, and  
76 verify as necessary, to the commission that the accelerated  
77 renewable buyer has satisfied the exemption requirements of  
78 this subsection for each year, or an accelerated renewable  
79 buyer may choose to certify satisfaction of this exemption  
80 by reporting to the commission individually.

81 [(6)] (5) The commission may promulgate such rules and  
82 regulations as may be necessary to implement the provisions  
83 of this subsection. Any rule or portion of a rule, as that  
84 term is defined in section 536.010, that is created under  
85 the authority delegated in this section shall become  
86 effective only if it complies with and is subject to all of

87 the provisions of chapter 536 and, if applicable, section  
88 536.028. This section and chapter 536 are nonseverable and  
89 if any of the powers vested with the general assembly  
90 pursuant to chapter 536 to review, to delay the effective  
91 date, or to disapprove and annul a rule are subsequently  
92 held unconstitutional, then the grant of rulemaking  
93 authority and any rule proposed or adopted after August 28,  
94 2025, shall be invalid and void.

95 ~~[(7)]~~ (6) Nothing in this section shall be construed  
96 as imposing or authorizing the imposition of any reporting,  
97 regulatory, or financial burden on an accelerated renewable  
98 buyer.

99 3. The commission, in consultation with the department  
100 and within one year of November 4, 2008, shall select a  
101 program for tracking and verifying the trading of renewable  
102 energy credits. An unused credit may exist for up to three  
103 years from the date of its creation. A **renewable energy**  
104 credit may be used only once to comply with sections  
105 393.1020 to 393.1030 and may not also be used to satisfy any  
106 similar nonfederal requirement. An electric utility may not  
107 use a credit derived from a green pricing program.  
108 Certificates from net-metered sources shall initially be  
109 owned by the customer-generator. The commission, except  
110 where the department is specified, shall make whatever rules  
111 are necessary to enforce the renewable energy standard.

112 Such rules shall include:

113 (1) A maximum average retail rate increase of one  
114 percent determined by estimating and comparing the electric  
115 utility's cost of compliance with least-cost renewable  
116 generation and the cost of continuing to generate or  
117 purchase electricity from entirely nonrenewable sources,  
118 taking into proper account future environmental regulatory

119 risk including the risk of greenhouse gas regulation.  
120 Notwithstanding the foregoing, until June 30, 2020, if the  
121 maximum average retail rate increase would be less than or  
122 equal to one percent if an electric utility's investment in  
123 solar-related projects initiated, owned or operated by the  
124 electric utility is ignored for purposes of calculating the  
125 increase, then additional solar rebates shall be paid and  
126 included in rates in an amount up to the amount that would  
127 produce a retail rate increase equal to the difference  
128 between a one percent retail rate increase and the retail  
129 rate increase calculated when ignoring an electric utility's  
130 investment in solar-related projects initiated, owned, or  
131 operated by the electric utility. Notwithstanding any  
132 provision to the contrary in this section, even if the  
133 payment of additional solar rebates will produce a maximum  
134 average retail rate increase of greater than one percent  
135 when an electric utility's investment in solar-related  
136 projects initiated, owned or operated by the electric  
137 utility are included in the calculation, the additional  
138 solar rebate costs shall be included in the prudently  
139 incurred costs to be recovered as contemplated by  
140 subdivision (4) of this subsection;

141 (2) Penalties of at least twice the average market  
142 value of renewable energy credits for the compliance period  
143 for failure to meet the targets of subsection 1 of this  
144 section. An electric utility will be excused if it proves  
145 to the commission that failure was due to events beyond its  
146 reasonable control that could not have been reasonably  
147 mitigated, or that the maximum average retail rate increase  
148 has been reached. Penalties shall not be recovered from  
149 customers. Amounts forfeited under this section shall be  
150 remitted to the department to purchase renewable energy

151 credits needed for compliance. Any excess forfeited  
152 revenues shall be used by the division of energy solely for  
153 renewable energy and energy efficiency projects;

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

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

162 4. As provided for in this section, except for those  
163 electrical corporations that qualify for an exemption under  
164 section 393.1050, each electric utility shall make available  
165 to its retail customers a solar rebate for new or expanded  
166 solar electric systems sited on customers' premises, up to a  
167 maximum of twenty-five kilowatts per system, measured in  
168 direct current that were confirmed by the electric utility  
169 to have become operational in compliance with the provisions  
170 of section 386.890. The solar rebates shall be two dollars  
171 per watt for systems becoming operational on or before June  
172 30, 2014; one dollar and fifty cents per watt for systems  
173 becoming operational between July 1, 2014, and June 30,  
174 2015; one dollar per watt for systems becoming operational  
175 between July 1, 2015, and June 30, 2016; fifty cents per  
176 watt for systems becoming operational between July 1, 2016,  
177 and June 30, 2017; fifty cents per watt for systems becoming  
178 operational between July 1, 2017, and June 30, 2019; twenty-  
179 five cents per watt for systems becoming operational between  
180 July 1, 2019, and June 30, 2020; and zero cents per watt for  
181 systems becoming operational after June 30, 2020. An  
182 electric utility may, through its tariffs, require

183 applications for rebates to be submitted up to one hundred  
184 eighty-two days prior to the June thirtieth operational  
185 date. Nothing in this section shall prevent an electrical  
186 corporation from offering rebates after July 1, 2020,  
187 through an approved tariff. If the electric utility  
188 determines the maximum average retail rate increase provided  
189 for in subdivision (1) of subsection 3 of this section will  
190 be reached in any calendar year, the electric utility shall  
191 be entitled to cease paying rebates to the extent necessary  
192 to avoid exceeding the maximum average retail rate increase  
193 if the electrical corporation files with the commission to  
194 suspend its rebate tariff for the remainder of that calendar  
195 year at least sixty days prior to the change taking effect.  
196 The filing with the commission to suspend the electrical  
197 corporation's rebate tariff shall include the calculation  
198 reflecting that the maximum average retail rate increase  
199 will be reached and supporting documentation reflecting that  
200 the maximum average retail rate increase will be reached.  
201 The commission shall rule on the suspension filing within  
202 sixty days of the date it is filed. If the commission  
203 determines that the maximum average retail rate increase  
204 will be reached, the commission shall approve the tariff  
205 suspension. The electric utility shall continue to process  
206 and pay applicable solar rebates until a final commission  
207 ruling; however, if the continued payment causes the  
208 electric utility to pay rebates that cause it to exceed the  
209 maximum average retail rate increase, the expenditures shall  
210 be considered prudently incurred costs as contemplated by  
211 subdivision (4) of subsection 3 of this section and shall be  
212 recoverable as such by the electric utility. As a condition  
213 of receiving a rebate, customers shall transfer to the  
214 electric utility all right, title, and interest in and to

215 the renewable energy credits associated with the new or  
216 expanded solar electric system that qualified the customer  
217 for the solar rebate for a period of ten years from the date  
218 the electric utility confirmed that the solar electric  
219 system was installed and operational.

220 5. The department shall, in consultation with the  
221 commission, establish by rule a certification process for  
222 electricity generated from renewable resources and used to  
223 fulfill the requirements of subsection 1 of this section.  
224 Certification criteria for renewable energy generation shall  
225 be determined by factors that include fuel type, technology,  
226 and the environmental impacts of the generating facility.  
227 Renewable energy facilities shall not cause undue adverse  
228 air, water, or land use impacts, including impacts  
229 associated with the gathering of generation feedstocks. If  
230 any amount of fossil fuel is used with renewable energy  
231 resources, only the portion of electrical output  
232 attributable to renewable energy resources shall be used to  
233 fulfill the portfolio requirements.

234 6. In carrying out the provisions of this section, the  
235 commission and the department shall include methane  
236 generated from the anaerobic digestion of farm animal waste  
237 and thermal depolymerization or pyrolysis for converting  
238 waste material to energy as renewable energy resources for  
239 purposes of this section.

240 7. The commission shall have the authority to  
241 promulgate rules for the implementation of this section, but  
242 only to the extent such rules are consistent with, and do  
243 not delay the implementation of, the provisions of this  
244 section. Any rule or portion of a rule, as that term is  
245 defined in section 536.010, that is created under the  
246 authority delegated in this section shall become effective

247 only if it complies with and is subject to all of the  
248 provisions of chapter 536 and, if applicable, section  
249 536.028. This section and chapter 536 are nonseverable and  
250 if any of the powers vested with the general assembly  
251 pursuant to chapter 536 to review, to delay the effective  
252 date, or to disapprove and annul a rule are subsequently  
253 held unconstitutional, then the grant of rulemaking  
254 authority and any rule proposed or adopted after August 28,  
255 2013, shall be invalid and void.

256 **8. An electrical corporation, as defined in section**  
257 **386.020, shall not demand any charge for service based on**  
258 **the costs of construction work in progress for any nuclear**  
259 **power generating facility.**

393.1905. Notwithstanding any provision of law to the  
2 contrary, no nuclear energy related cost may be recovered  
3 through any surcharge or any ratemaking mechanism outside a  
4 general rate proceeding.

393.1910. 1. As used in this section, the following  
2 terms shall mean:

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

4 (2) "Zero emission credit", a tradable certificate or  
5 proof that one megawatt-hour of electricity has been  
6 generated from a zero emission facility after December 31,  
7 2028;

8 (3) "Zero emission facility", a facility that is  
9 fueled by nuclear power, or any technology that is developed  
10 in the future that is determined to be a zero emission  
11 facility as determined by the commission, is interconnected  
12 with an appropriate regional transmission organization or  
13 independent system operator, as defined in section 393.1080,  
14 and becomes operational after December 31, 2028.

15           2. The commission may authorize an electric utility to  
16 offer or participate in a zero emission credit program or  
17 tariff. The commission may prescribe such rules and  
18 regulations to carry into effect the provisions of this  
19 section as it may deem necessary.

20           3. A zero emission credit may exist for up to three  
21 years from the date of its creation, may only be used once,  
22 and may not also be used to satisfy any similar nonfederal  
23 requirement if one exists.

24           4. The public service commission shall not increase  
25 the allowed return on equity for an electric utility solely  
26 because that utility is constructing a zero emission  
27 facility, as defined in subsection 1 of this section.

28           5. The commission may promulgate such rules and  
29 regulations as may be necessary to implement the provisions  
30 of this section. Any rule or portion of a rule, as that  
31 term is defined in section 536.010, that is created under  
32 the authority delegated in this section shall become  
33 effective only if it complies with and is subject to all of  
34 the provisions of chapter 536 and, if applicable, section  
35 536.028. This section and chapter 536 are nonseverable and  
36 if any of the powers vested with the general assembly  
37 pursuant to chapter 536 to review, to delay the effective  
38 date, or to disapprove and annul a rule are subsequently  
39 held unconstitutional, then the grant of rulemaking  
40 authority and any rule proposed or adopted after August 28,  
41 2026, shall be invalid and void.

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