

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 838
AN ACT

To repeal sections 260.035, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof five new sections relating to the means of energy production.

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

Section A. Sections 260.035, 393.1025, and 393.1030, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 260.035, 393.1025, 393.1030, 393.1905, and 393.1910, to read as follows:

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

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

(2) To adopt an official seal;

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

(4) To sue and be sued;

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

(6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease, 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.

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