

FIRST REGULAR SESSION

# HOUSE BILL NO. 1176

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BAKER (25) (Sponsor), ROORDA, McCLANAHAN,  
HOLSMAN, LOWE (44), LOW (39), LAMPE AND BROWN (50) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

2098L.01I

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### AN ACT

To amend chapter 393, RSMo, by adding thereto nine new sections relating to renewable energy.

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

Section A. Chapter 393, RSMo, is amended by adding thereto nine new sections, to be  
2 known as sections 393.1100, 393.1103, 393.1106, 393.1109, 393.1110, 393.1112, 393.1115,  
3 393.1118, and 393.1121, to read as follows:

**393.1100. Sections 393.1100 to 393.1115 shall be known and may be cited as the**  
2 **"Renewable Energy Act".**

**393.1103. As used in sections 393.1100 to 393.1115, the following terms shall mean:**  
2 **(1) "Cogeneration", is the simultaneous production of electricity and heat using a**  
3 **single fuel such as natural gas. The heat produced from the electricity generating process**  
4 **is captured and utilized to produce high and low level steam. The steam can be used as a**  
5 **heat source for both industrial and domestic purposes and can be used in steam turbines**  
6 **to generate additional electricity;**

7 **(2) "Commission", the public service commission;**

8 **(3) "Department", the department of natural resources;**

9 **(4) "Renewable energy", energy from wind, solar, thermal sources, photovoltaic**  
10 **cells and panels, animal wastes and by products, dedicated crops grown for energy**  
11 **production, plant-based residues, fuel cells using hydrogen produced by a renewable**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 energy source, and other alternative sources of energy as defined by rule by the department;

13 (5) "Renewable energy certificate", a certificate that can be used by electricity  
14 suppliers to establish compliance with the renewable portfolio standard and may include  
15 certificates that are monitored, accounted for, or transferred by or through a regional  
16 system or trading program for any region in which an electricity supplier is located;

17 (6) "Supplier", a supplier of electricity who is regulated by the commission.

393.1106. 1. The department shall, in consultation with the commission, prescribe  
2 by rule a portfolio requirement for all suppliers of electrical energy who are regulated by  
3 the commission to generate or purchase electricity generated from renewable energy. Such  
4 portfolio requirement shall provide that electricity from renewable energy shall constitute:

5 (1) Four to six percent of electricity supplied in this state after December 31, 2011;

6 (2) Eight to twelve percent of electricity supplied in this state after December 31,  
7 2015;

8 (3) Seventeen to twenty-three percent of electricity supplied in this state after  
9 December 31, 2020.

10 2. Within the rates described in subsection 1 of this section, the final rate  
11 requirement shall be determined by the public service commission based on the availability  
12 of renewable sources and ensuring customer rates will not rise more than three percent.  
13 The renewable energy shall be added to the kilowatt hour levels only to the extent that it  
14 is possible without increasing electric rates more than three percent higher than the electric  
15 rates would otherwise be attributable to the cost of continuing to generate or purchase  
16 electricity generated from one hundred percent nonrenewable sources, which includes coal,  
17 natural gas, nuclear energy, and other nonrenewable sources. The market price of  
18 renewable energy certificates shall be part of the basis for determining the impact of  
19 renewable electricity on customer rates.

393.1109. 1. The department shall establish a "Renewable Energy Certificate  
2 Trading Program" to enforce the provisions of sections 393.1100 to 393.1115. The  
3 department shall ensure that one megawatt hour of renewable electricity production equals  
4 one renewable energy certificate.

5 2. Suppliers may purchase or sell renewable energy certificates in order to meet the  
6 renewable energy requirements. Such suppliers may also keep such certificates for up to  
7 three years, and may keep such renewable energy certificates resulting from current  
8 renewable electricity production before August 28, 2007.

9 3. Audits shall be conducted quarterly after redemption of the renewable energy  
10 certificates for that quarter to determine the renewable energy requirement for the next  
11 proceeding year.

12           **4. Failure to meet the renewable energy requirement shall result in a penalty of two**  
13 **hundred percent of the market cost of a renewable energy certificate per megawatt of the**  
14 **missed target production set forth in section 393.1106. Such penalty shall be paid into the**  
15 **Missouri renewable energy loan authority fund established in section 393.1121.**

**393.1110. The department shall direct suppliers to utilize cogeneration and**  
2 **establish standards for interconnection of cogeneration systems to the utility grid.**  
3 **Interconnection equipment shall have an anti-islanding technology to ensure the safety of**  
4 **line workers. Also, customers shall give suppliers authority to access on-site meters as well**  
5 **as allow the utility to inspect the on-site energy source if the customer plans to sell**  
6 **electricity back to the grid. Electricity shall be sold back at an hourly actual avoided cost**  
7 **rate. Utilities may purchase such electricity to fulfill renewable portfolio standards.**  
8 **Electricity distributors shall reimburse customer-generators the renewable certificate value**  
9 **of the renewable energy supplied. The maximum size of customer-owned renewable**  
10 **energy production shall be one megawatt.**

**393.1112. Notwithstanding any other provision of law, yard waste may be disposed**  
2 **so that landfills producing electricity from gas may introduce such material to accelerate**  
3 **the gas production process.**

**393.1115. The department shall promulgate rules to implement the provisions of**  
2 **sections 393.1100 to 393.1115. Any rule or portion of a rule, as that term is defined in**  
3 **section 536.010, RSMo, that is created under the authority delegated in this section shall**  
4 **become effective only if it complies with and is subject to all of the provisions of chapter**  
5 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**  
6 **RSMo, are nonseverable and if any of the powers vested with the general assembly under**  
7 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
8 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
9 **rule proposed or adopted after August 28, 2007, shall be invalid and void.**

**393.1118. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

2           **(1) The provisions of the new program authorized under sections 393.1100 to**  
3 **393.1115 shall automatically sunset six years after the effective date of sections 393.1100**  
4 **to 393.1115 unless reauthorized by an act of the general assembly; and**

5           **(2) If such program is reauthorized, the program authorized under sections**  
6 **393.1100 to 393.1115 shall automatically sunset twelve years after the effective date of the**  
7 **reauthorization of sections 393.1100 to 393.1115; and**

8           **(3) Sections 393.1100 to 393.1115 shall terminate on September first of the calendar**  
9 **year immediately following the calendar year in which the program authorized under**  
10 **sections 393.1100 to 393.1115 is sunset.**

393.1121. 1. There is hereby established as a governmental instrumentality of the state of Missouri the "Missouri Renewable Energy Loan Authority", which shall constitute a body corporate and politic.

2. The authority shall ensure all applicants including local governments, municipalities, cooperatives, utilities, and owners of residential, commercial, and agricultural property receive a low interest loan for the purpose of financing renewable energy producing products or facilities or qualifying energy efficient and energy conserving appliances and products in this state. The authority shall develop a method for such applicants to apply to the authority for loans and approve disbursements of the loans. Loan applications shall be considered on a need-based program as well as according to efficiency and size of the project with priority given to larger and more efficient proposed renewable energy projects. Priorities only apply to new projects and not for existing projects.

3. As used in this section, the following terms mean:

(1) "Applicant", any local government, municipality, cooperative, utility, and owner of residential, commercial, and agricultural property, which submits an application for loans on financial assistance to the authority;

(2) "Authority", the Missouri renewable energy loan authority;

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

(4) "Department", the Missouri department of natural resources.

4. The authority shall consist of five members appointed by the governor by and with the advice and consent of the senate. Not more than three members shall be of the same political party. All members shall be residents of this state. In making appointments to the authority, the governor shall take into consideration nominees recommended to him for appointment by the department. The members of the authority first appointed by the governor shall be appointed to serve for terms of one, two, and three years, the term of each member to be designated by the governor. The successor of each member shall be appointed for a term of three years or until their successors have been appointed, but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term. Any member shall be eligible for reappointment. The authority shall elect one of its members as chairman and another as vice chairman and shall appoint a secretary and a treasurer, which offices may be combined, and who need not be members of the authority. Three members of the authority shall constitute a quorum for the purpose of conducting business and exercising the powers of the authority. Action may be taken by the authority upon the affirmative vote of at least three of its members. Each member of the authority shall not be entitled to compensation except for their reasonable and necessary expenses

37 actually incurred in discharging their duties under the provisions of this section. Any  
38 member of the authority may be removed by the governor for misfeasance, malfeasance,  
39 willful neglect of duty, or other cause after notice and a public hearing unless the notice or  
40 hearing shall be expressly waived in writing.

41       5. There is hereby established in the state treasury a fund to be known as the  
42 "Missouri Renewable Energy Loan Authority Fund", which shall consist of moneys  
43 appropriated annually by the general assembly, which includes a one-time start-up amount  
44 of fifteen million dollars to establish such fund, and from any moneys paid as a penalty for  
45 violating subsection 4 of section 393.1109 and this subsection. In addition the fund may  
46 include any gifts, contributions, grants, or bequests received from federal, state, private,  
47 or other sources. The fund shall be administered by the authority. Upon appropriation,  
48 money in the fund shall be used solely to provide low interest loans for renewable energy  
49 projects and related expenses. If any amount is used for purposes otherwise provided in  
50 this section, two hundred percent of the loan amount shall be repaid and deposited into the  
51 fund created under this section. Notwithstanding the provisions of section 33.080, RSMo,  
52 to the contrary, moneys in the fund shall not be transferred to the credit of the general  
53 revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be  
54 credited to the fund.

55       6. The authority shall have the following powers, together with all powers  
56 incidental thereto or necessary for the performance thereof:

- 57       (1) To have perpetual succession as a body politic and corporate;  
58       (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;  
59       (3) To sue and be sued and to prosecute and defend, at law or in equity, in any  
60 court having jurisdiction of the subject matter and of the parties;  
61       (4) To have and to use a corporate seal and to alter the same at pleasure;  
62       (5) To maintain an office at such place or places in the state of Missouri as it may  
63 designate;  
64       (6) To accept appropriations, gifts, grants, bequests, and devises and to utilize or  
65 dispose of the same to carry out its purpose;  
66       (7) To make and execute contracts, releases, compromises, and other instruments  
67 necessary or convenient for the exercise of its powers, or to carry out its purpose;  
68       (8) To collect reasonable fees and charges in connection with making and servicing  
69 its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and  
70 in connection with providing technical, consultative and project assistant services. Such  
71 fees and charges shall be used to pay the costs of the authority;

72           **(9) To invest any funds not required for immediate disbursement in obligations of**  
73 **the state of Missouri or of the United States government or any instrumentality thereof, the**  
74 **principal and interest of which are guaranteed by the state of Missouri, or the United**  
75 **States government or any instrumentality thereof, or certificates of deposit or time deposits**  
76 **of federally insured banks, or federally insured savings and loan associations or of insured**  
77 **credit unions, or, with respect to moneys pledged or held under a trust estate or otherwise**  
78 **available for the owners of bonds or other forms of indebtedness, any investment**  
79 **authorized under the bond resolution governing the security and payment of such**  
80 **obligations or repurchase agreements for the specified investments;**

81           **(10) To acquire, hold and dispose of personal property for its purposes;**

82           **(11) To enter into agreements or other transactions with any federal or state**  
83 **agency, any person and any domestic or foreign partnership, corporation, association or**  
84 **organization.**

85           **7. The authority may from time to time issue renewal notes. Renewal notes may**  
86 **be sold at public or private sale and the proceeds applied to the purchase, redemption, or**  
87 **payment of the notes to be refunded.**

88           **8. (1) The authority may set interest rates between one percent and two points**  
89 **below the prime interest rates.**

90           **(2) The ratio of loan to project cost and the amortization period of loans made by**  
91 **the authority shall be determined in accordance with regulations promulgated by the**  
92 **authority.**

93           **9. The renewable energy loan authority is assigned to the department. The**  
94 **authority shall annually file with the director of the department a report of its previous**  
95 **year's income, expenditures and bonds or other forms of indebtedness issued and**  
96 **outstanding.**

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