

HCS SCS SB 1181, 1100, 1262 & 1263 -- ENERGY REGULATION

SPONSOR: Engler (Schoeller)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Utilities by a vote of 9 to 1.

This substitute changes the laws regarding energy regulation. In its main provisions, the substitute:

- (1) Requires up to 10% of the funds appropriated to the Facilities Maintenance Reserve Fund to be used for energy projects with a 10-year or less payback period;
- (2) Requires the Department of Natural Resources to establish minimum energy efficiency standards for new and substantially renovated state buildings with over 5,000 square feet based on the International Energy Conservation Code 2006. State buildings beginning construction or renovations on or after July 1, 2009, must meet the new standards. The Office of Administration will determine whether the energy efficiency standard is met and may exempt buildings based on safety or cost considerations;
- (3) Allows low-interest loans through the Linked Deposit Loan Program for eligible alternative energy operations producing and selling fuel or power from alternative energy sources including solar, hydroelectric, wind, and qualified biomass;
- (4) Authorizes an income tax deduction, beginning January 1, 2009, administered by the department for the cost of home energy audits and implementing audit recommendations. The deduction is limited to \$1,000 per taxpayer per year or \$2,000 for taxpayers filing combined returns;
- (5) Establishes the Show Me Green Sales Tax Holiday beginning in 2009 and every year thereafter. Energy Star certified appliances, up to \$1,500 per appliance, will be exempt from state sales taxes from April 19 through April 25. Political subdivisions may opt in at their discretion;
- (6) Requires representatives from the departments of Labor and Industrial Relations, Elementary and Secondary Education, Agriculture, Economic Development, and Natural Resources to meet at least twice a year to collaborate to secure grants established under the federal Energy Independence and Security Act of 2007. The Department of Natural Resources will coordinate the inter-agency group, and the group will annually report to the Governor and General Assembly on the grants secured no later than the first Wednesday after the first Monday in January;

(7) Requires the Missouri Energy Task Force to reconvene at least annually to review progress made toward meeting the recommendations of its final report and issue an annual status report to the Governor and General Assembly by December 31;

(8) Designates the Energy Center of the Department of Natural Resources as a coordinator for energy sustainability activities in the state;

(9) Establishes the Renewable Energy Information and Reporting Act which requires the Missouri Public Service Commission to provide an annual report on renewable energy trends and new developments to the Governor, General Assembly, any public interest group interested in energy and the environment, and all entities in the energy industry. The report's requirements are specified in the substitute;

(10) Authorizes the commission to grant approval, which will have the same effect as approval granted prior to construction of an electric generating facility, to an existing electric generating facility if the commission determines that the approval is necessary or convenient for the public service. Retroactive approval will not invalidate or otherwise alter existing civil cases. The power to grant this retroactive approval expires on August 28, 2009;

(11) Requires purchased gas adjustment rates to include the gas cost portion of net write-offs incurred by a gas corporation in providing service to its customers as part of rate adjustments in the purchase price of natural gas approved by the commission. These write-offs will not count as tariff increases for the purpose of the gas corporation's revenue notification requirements to cities and counties in Section 393.275, RSMo;

(12) Requires purchasers of scrap metal to keep a record of each transaction including a copy of a federal or state-issued form of identification from the seller, the date and time of delivery, and the description and weight of all metals purchased. Scrap metal includes any aluminum, copper, brass, or bronze wire; cable; pipe; tubing; bar; ingots; rod; fitting; or fastener. Records are required to be kept for a minimum of 24 months and must be available for inspection by law enforcement. Any person violating this provision will be guilty of a class A misdemeanor. Transactions not exceeding \$50 or transactions between scrap metal dealers with fixed business locations are exempt from the record-keeping requirement;

(13) Requires scrap metal dealers to make any payment over \$500 by check, electronic transfer, or any other method in which a financial institution maintains a record of the transaction;

(14) Prohibits scrap metal dealers from purchasing metal beer kegs of six gallons or more unless purchasing them from the brewer or its representative. Any person violating this provision will be guilty of a class A misdemeanor punishable only by fine;

(15) Prohibits scrap metal dealers from purchasing items such as manhole covers, street signs, bleachers, or guardrails that are identifiable as belonging to a political subdivision, electric cooperative, or utility. Any person violating this provision will be guilty of a class B misdemeanor;

(16) Allows electric suppliers to trim, remove, and control trees and vegetation that threaten the safe and reliable operation of electrical service. Permissible distances from power lines for removing trees are specified based on the voltage of the power line. Any tree that actually threatens the power supply may be trimmed or removed after a 14-day notice to the owner even if the tree is not within the recommended distance guidelines unless the electric supplier determines that removal of the tree is immediately necessary or the electric supplier is trimming or removing trees following a major weather event or other emergency situation. If any tree which is trimmed by an electric supplier dies within three months as a result of the trimming, the owner may request in writing that the electric supplier remove the tree at the supplier's expense. The electric supplier must respond to the request within 90 days;

(17) Creates penalties for corporations, persons, and public utilities that violate any law, order, decision, decree, rule, direction, demand, or requirement of the Missouri Public Service Commission relating to federally mandated natural gas safety standards. Municipalities that own gas plants are only liable for violations of natural gas safety laws, rules, and orders. The maximum penalty per violation will be \$15,000, and the maximum penalty for multiple violations or a continuing violation of the same rule will be \$150,000; beginning January 1, 2015, the maximum penalties will be \$20,000 and \$200,000; beginning January 1, 2025, the maximum penalties will be \$25,000 and \$250,000; beginning January 1, 2035, the maximum penalties will be \$30,000 and \$300,000; and beginning January 1, 2040, the maximum penalties will be \$40,000 and \$400,000. In determining penalty amounts, the commission may consider the degree of culpability, prior violations, the effect of the penalty on operations, good faith efforts at compliance, ability to pay, and any other matters deemed relevant. The acts and omissions of officers, agents, and employees of any corporation, person, public utility, or other owner of a gas plant will be considered the acts or omissions of the gas plant owner;

(18) Increases, from \$600 to \$800, the maximum allowable funding for households eligible to receive financial assistance for heating and cooling expenses from the Utilicare Stabilization Fund, administered by the Department of Social Services per household per fiscal year and makes the funding mandatory. The stabilization fund will be subject to appropriations rather than the current \$5 million cap;

(19) Creates a sales tax holiday from June 27, 2008, through June 29, 2008, for certain energy efficient products. All products \$600 or less in price are eligible and the first \$1,500 spent on energy efficient products during the tax holiday will be tax free;

(20) Prohibits gas and electric providers from June 1 to September 30 from disconnecting service to residential customers on days when the temperature is expected to rise above 95 degrees Fahrenheit or the heat index is expected to rise above 105 degrees Fahrenheit for the following 24-hour period or on days when service personnel will not be able to reconnect service and the temperature or heat index is expected to rise to the regulated levels;

(21) Allows the Department of Natural Resources to implement a unified permit schedule process for applicants who need multiple permits for a similar activity or project. The department may waive otherwise applicable procedural requirements for permits and establish a schedule for issuing permits to an applicant. Considerations for determining the timing of the unified permit schedule are specified in the substitute. Public comment periods and substantive legal requirements cannot be waived by the department to facilitate the new scheduling process;

(22) Creates the Studies in Energy Conservation Fund to be used for professorships in energy efficiency and conservation at public state universities. The professorships will be administered by the Department of Higher Education in coordination with the Department of Natural Resources. Funding for the positions is subject to appropriations;

(23) Expands the authority of the counties of Clay and Jefferson to include the adoption of regulations for electrical wiring and its installation and the licensing of individuals to make them consistent with the authority granted to all other first and second classification counties. Currently, these counties are authorized, without voter approval, to adopt building and construction regulations; require building permits; license certain building contractors; require inspections; establish and collect fees for permits, licenses, and inspections; and appoint a building commission to oversee these regulations, permits,

licenses, and inspections;

(24) Requires a regional electric cooperative that provides service to two or more municipalities within Missouri to allow the municipalities to appoint at least four members to its governing board. Appointments will be made by a majority vote of the mayors of the municipalities served by the cooperative, and the individuals appointed will have the same rights and benefits as other members of the board and be subject to Section 394.140. The provisions of the substitute may be enforced by an injunction prohibiting any regional electric cooperative who fails to comply with any of the requirements of the substitute from operating within Missouri; and

(25) Requires school districts, beginning in the 2009-2010 school year, to establish a "green" cleaning policy to promote environmentally sensitive cleaning products, unless the policy would result in an increase in the cleaning costs of the district. The Department of Elementary and Secondary Education, in consultation with the Department of Health and Senior Services and other interested parties, will establish annual guidelines for green cleaning programs and product specifications, beginning February 24, 2009, for distribution to the districts and also will post the guidelines on the Department of Elementary and Secondary Education's web site.

The provisions of the substitute regarding the income tax deduction for home energy audits expire December 31, 2013.

The substitute contains an emergency clause for the provisions regarding the sales tax holiday for energy efficient goods.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Up to or Greater than \$18,778,214 in FY 2009, Up to or Greater than \$1,805,733 in FY 2010, and Up to or Greater than \$1,832,651 in FY 2011. Estimated Cost on Other State Funds of Unknown in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters say that the bill will make state buildings more energy efficient, improve federal grant opportunities, and encourage low-interest loans for environmental projects. It should save the state in energy costs.

Testifying for the bill were Senator Engler; Department of Natural Resources; Missouri Retailers Association; Missouri Energy Development Association; Thomson Incorporated; and Missouri Association for Community Action.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that appliance standards should be set by federal law and that many proposed state standards would be preempted.

Testifying on the bill was Multi-State Associates, Incorporated on behalf of Consumers Electronics Association.