

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
SENATE BILL NO. 848
95TH GENERAL ASSEMBLY

4632L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 273.327, 273.329, 393.150, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof eight new sections relating to energy and animals, with a penalty provision and an emergency clause for certain sections.

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

Section A. Sections 273.327, 273.329, 393.150, 393.1025, and 393.1030, RSMo, are
2 repealed and eight new sections enacted in lieu thereof, to be known as sections 262.005,
3 267.810, 273.327, 273.329, 386.715, 393.150, 393.1025, and 393.1030, to read as follows:

**262.005. 1. Agriculture which provides food, energy, and security is the foundation
2 and stabilizing force of Missouri's economy. To protect this vital sector of Missouri's
3 economy, it shall be the right of citizens to raise domesticated animals in a humane manner
4 without the state imposing an undue economic burden on animal owners.**

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

**6 (1) "Generally accepted scientific principles", agricultural standards and practices
7 established by the University of Missouri, and the most current industry standards and
8 practices;**

**9 (2) "Humane manner", care of animals regarding the animal's health and
10 environment in compliance with generally accepted scientific principles;**

**11 (3) "Undue economic burden", expenses incurred resulting from changes in
12 agricultural practices deemed legal under current state or local laws or ordinances.**

**267.810. 1. There is hereby established within the department of agriculture the
2 "Missouri Animal Care Advisory Committee". The Missouri animal care advisory
3 committee shall have the authority to review and make recommendations on the welfare
4 of poultry, livestock, and licensed dog breeding facilities in this state.**

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.

5 **2. The committee shall be comprised of the following members:**

6 **(1) The director of the department of agriculture, who shall be a nonvoting member**
7 **and serve as chair of the board;**

8 **(2) The chair of the Missouri Senate Agriculture Committee, who shall be a**
9 **nonvoting member;**

10 **(3) The chair of the Missouri House Agriculture Committee, who shall be a**
11 **nonvoting member;**

12 **(4) The state veterinarian;**

13 **(5) The chair of the University of Missouri Animal Sciences Division;**

14 **(6) The chair of the Missouri State University Animal Sciences Division;**

15 **(7) The University of Missouri Food Animal Veterinary Extension Specialist;**

16 **(8) A producer member representative of the Missouri Cattlemen's Association;**

17 **(9) A producer member representative of the Missouri Pork Association;**

18 **(10) A producer member representative of the Missouri Egg Council;**

19 **(11) A producer member representative of the Missouri Dairy Association;**

20 **(12) A producer member representative of the Poultry Federation;**

21 **(13) A producer member representative of the Missouri Corn Growers Association;**

22 **(14) A producer member representative of the Missouri Soybean Association;**

23 **(15) A producer member representative of the Missouri Farm Bureau;**

24 **(16) A member representative of the Equine Council;**

25 **(17) A member representative of the Missouri Livestock Marketing Association;**

26 **(18) A member representative of the Missouri Federation of Animal Owners; and**

27 **(19) A producer member representative of the Missouri Rice Council.**

28 **3. The committee shall review the animal care practices related to poultry,**
29 **livestock, and licensed dog breeding facilities in this state and, when necessary, make**
30 **recommendations to the general assembly. When reviewing such practices, the committee**
31 **shall consider all of the following:**

32 **(1) The health and husbandry of poultry, livestock, and dogs at licensed dog**
33 **breeding facilities;**

34 **(2) Generally accepted farm management practices;**

35 **(3) Generally accepted veterinary standards and practices;**

36 **(4) The economic impact on poultry and livestock farmers, licensed dog breeders,**
37 **consumers, and the affected sector as a whole;**

38 **(5) Species specific animal care guidelines established by the respective national**
39 **poultry, livestock, and licensed dog breeders organizations.**

40 **4. The committee shall review national species specific animal care guidelines once**
41 **every five years.**

42 **5. Members of the committee shall not be compensated for their service on the**
43 **committee nor shall the members be reimbursed for any expenses associated with their**
44 **service on the committee. Members of the committee shall serve as long as they hold their**
45 **respective positions or until they are replaced on the committee by their respective**
46 **organizations.**

47 **6. The department of agriculture shall provide technical support to the board and**
48 **provide a meeting place for the committee.**

49 **7. All meetings, business, and activities of the board shall be subject to the**
50 **provisions of chapter 610.**

 273.327. No person shall operate an animal shelter, pound or dog pound, boarding
2 kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited
3 show or exhibit, or act as a dealer or commercial breeder, unless [he] **such person** has obtained
4 a license for such operations from the director. An applicant shall obtain a separate license for
5 each separate physical facility subject to sections 273.325 to 273.357 which is operated by the
6 applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357
7 may voluntarily apply for a license. Application for such license shall be made in the manner
8 provided by the director. The license shall expire annually unless revoked. As provided by rules
9 to be promulgated by the director, the license fee shall range from one hundred to five hundred
10 dollars per year. Pounds[,] or dog pounds [and animal shelters] shall be exempt from payment
11 of such fee. License fees shall be levied for each license issued or renewed on or after January 1,
12 1993.

 273.329. 1. The director may refuse to issue or renew or may revoke a license on any
2 one or more of the following grounds:

3 (1) Material and deliberate misstatement in the application for any original license or for
4 any renewal license under sections 273.325 to 273.357;

5 (2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated
6 pursuant thereto;

7 (3) Conviction of any violation of any state or federal law relating to the disposition or
8 treatment of animals;

9 (4) Failure to provide adequate food, water, housing or sanitary facilities for animals
10 under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel,
11 contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.

12 **2. The department of agriculture shall not retain, contract with, or otherwise utilize**
13 **the services of the personnel of any nonprofit organization for the purpose of inspection**

14 or licensing of any animal shelter, pound, or dog pound, boarding kennel, commercial
15 kennel, contract kennel, commercial breeder, hobby or show breeder, or pet shop under
16 sections 273.325 to 273.357.

17 3. Operation of an animal shelter, pound or dog pound, boarding kennel, commercial
18 kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or
19 dealer without a valid license shall constitute a class A misdemeanor.

386.715. 1. The public counsel shall, prior to the beginning of each fiscal year,
2 make available to the commission an estimate of the expenses to be incurred by the public
3 counsel during such fiscal year, reasonably attributable to his or her responsibilities with
4 respect to public utilities under sections 386.700 and 386.710 and shall also separately
5 estimate the amount of such expenses directly attributable to such responsibilities with
6 respect to each of the following groups of public utilities: electrical corporations, gas
7 corporations, water corporations, heating companies, telephone corporations, telegraph
8 corporations, sewer corporations, and any other public utility as defined in section 386.020,
9 as well as the amount of such expenses not directly attributable to any such group.

10 2. The public counsel shall allocate to each such group of public utilities the
11 estimated expenses directly attributable to his or her responsibilities under sections 386.700
12 to 386.710 with respect to such group and an amount equal to such proportion of the
13 estimated expenses not directly attributable to any group as the gross intrastate operating
14 revenues of such group during the three preceding calendar years bears to the total gross
15 intrastate operating revenues of all public utilities subject to the jurisdiction of the
16 commission during such calendar years. The amount so allocated to telephone
17 corporations shall not exceed ten percent of the total estimated expenses directly
18 attributable to the public counsel's responsibilities under sections 386.700 to 386.710. The
19 commission shall then assess, on behalf of the public counsel, the amount so allocated to
20 each group of public utilities, subject to reduction as provided in this section, to the public
21 utilities in such group in proportion to its respective gross intrastate operating revenues
22 during the preceding calendar year. The total amount so assessed to all such public
23 utilities shall not exceed two hundredths of one percent of the total gross intrastate
24 operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in
25 this section shall authorize the commission to determine how the public counsel allocates
26 the estimated expenses directly attributable to his or her responsibilities under sections
27 386.700 and 386.710 with respect to public utilities described in subsection 1 of this section
28 or how the assessment imposed under this section is spent by the public counsel.

29 3. On behalf of the public counsel, the commission shall render a statement of such
30 assessment to each such public utility on or before July first and the amount so assessed

31 to each such public utility shall be paid by it to the director of revenue in full on or before
32 July fifteenth next following the rendition of such statement, except that any such public
33 utility may at its election pay such assessment in four equal installments not later than the
34 following dates next following the rendition of such statement, to wit: July fifteenth,
35 October fifteenth, January fifteenth and April fifteenth. The director of revenue shall
36 remit such payments to the state treasurer.

37 4. The state treasurer shall credit such payments to a special fund, which is hereby
38 created, to be known as "The Public Counsel Fund", which fund, or its successor fund
39 created under section 33.571, shall be devoted solely to the payment of expenditures
40 actually incurred by the public counsel and attributable to his or her responsibilities under
41 sections 386.700 to 386.710 with respect to such public utilities subject to the jurisdiction
42 of the commission. Any amount remaining in such special fund or its successor fund at the
43 end of any fiscal year shall not revert to the general revenue fund, but shall be applicable
44 by appropriation of the general assembly to the payment of such expenditures of the public
45 counsel in the succeeding fiscal year and shall be applied by the public counsel to the
46 reduction of the amount to be assessed to such public utilities in such succeeding fiscal
47 year, such reduction to be allocated to each group of public utilities in proportion to the
48 respective gross intrastate operating revenues of the respective groups during the
49 preceding calendar year.

50 5. In order to enable the public counsel to make the allocations and assessments
51 provided for in this section, each public utility subject to the jurisdiction of the commission
52 shall file with the commission on or before March thirty-first of each year, a statement
53 under oath showing its gross intrastate operating revenues for the preceding calendar year,
54 and if any public utility shall fail to file such statement within the time established in this
55 subsection, the commission shall estimate such revenue. Such estimate shall be binding on
56 such public utility for the purpose of this section.

393.150. 1. Whenever there shall be filed with the commission by any gas corporation,
2 electrical corporation, water corporation or sewer corporation any schedule stating a new rate or
3 charge, or any new form of contract or agreement, or any new rule, regulation or practice relating
4 to any rate, charge or service or to any general privilege or facility, the commission shall have,
5 and it is hereby given, authority, either upon complaint or upon its own initiative without
6 complaint, at once, and if it so orders without answer or other formal pleading by the interested
7 gas corporation, electrical corporation, water corporation or sewer corporation, but upon
8 reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of
9 contract or agreement, rule, regulation or practice, and pending such hearing and the decision
10 thereon, the commission upon filing with such schedule, and delivering to the gas corporation,

11 electrical corporation, water corporation or sewer corporation affected thereby, a statement in
12 writing of its reasons for such suspension, may suspend the operation of such schedule and defer
13 the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not
14 for a longer period than [one hundred and twenty] **ninety** days beyond the time when such rate,
15 charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect;
16 and after full hearing, whether completed before or after the rate, charge, form of contract or
17 agreement, rule, regulation or practice goes into effect, the commission may make such order in
18 reference to such rate, charge, form of contract or agreement, rule, regulation or practice as
19 would be proper in a proceeding initiated after the rate, charge, form of contract or agreement,
20 rule, regulation or practice had become effective.

21 2. If any such hearing cannot be concluded within the period of suspension, as above
22 stated, the commission may, in its discretion, extend the time of suspension for a further period
23 not exceeding [six] **two** months. At any hearing involving a rate sought to be increased, the
24 burden of proof to show that the increased rate or proposed increased rate is just and reasonable
25 shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation,
26 and the commission shall give to the hearing and decision of such questions preference over all
27 other questions pending before it and decide the same as speedily as possible. **As the party with**
28 **the burden of proof, the gas corporation, electrical corporation, water corporation, or**
29 **sewer corporation shall submit written direct testimony in support of its filing at the time**
30 **the filing is made. Those parties not bearing the burden of proof shall have the**
31 **opportunity to submit written rebuttal testimony relating to the filing no later than the**
32 **date that leaves at least sixty percent of the period of suspension remaining, and such**
33 **corporation shall have the opportunity to submit written surrebuttal testimony no later**
34 **than the date that leaves at least forty percent of the period of suspension remaining. The**
35 **commission shall issue its order deciding the matter no later than twenty days prior to the**
36 **end of the suspension period under subsection 1 of this section, or the further suspension**
37 **period under this subsection, whichever applies, and shall make its order reflecting its**
38 **decision effective ten days after its issuance. The new rates approved by the commission's**
39 **order shall be implemented by the corporation's filing of new schedules at least five**
40 **business days prior to the end of the suspension period under subsection 1 of this section,**
41 **or the further suspension period under this subsection, whichever applies. Unless such**
42 **schedules are rejected by the commission for failure to comply with the order, the**
43 **schedules shall take effect automatically without the need for further action by or order**
44 **of the commission, and notwithstanding the pendency of any application for rehearing, no**
45 **later than the first day following the end of the applicable suspension period. Where any**
46 **filed schedules are rejected by the commission for failure to comply with the commission's**

47 **order, the gas corporation, electrical corporation, water corporation, or sewer corporation**
48 **shall be permitted to file replacement schedules that are in compliance with the**
49 **commission's order with a proposed effective date not less than five business days after the**
50 **date of filing. Unless such schedules are rejected by the commission for failure to comply**
51 **with the order, the schedules shall take effect automatically on the proposed effective date**
52 **without the need for further action by or order of the commission notwithstanding the**
53 **pendency of any application for rehearing and regardless of whether the proposed effective**
54 **date is later than the end of the suspension period.**

55 **3. Where under subsection 2 of this section the commission further suspends any**
56 **schedule that seeks to state a new rate, the commission shall determine the new rate**
57 **utilizing certain information updated as of sixty days prior to the end of the period of**
58 **suspension. Such updated information shall include all additions to plant-in-service, all**
59 **significant changes to expenses and revenues, and such other changes as are necessary to**
60 **maintain a proper matching of revenues, expenses, and rate base.**

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

- 2 (1) "Commission", the public service commission;
- 3 (2) "Department", the department of natural resources;
- 4 (3) "Electric utility", any electrical corporation as defined by section 386.020;
- 5 (4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one
6 megawatt-hour of electricity has been generated from renewable energy sources; and
- 7 (5) "Renewable energy resources", electric energy produced from wind, solar thermal
8 sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic
9 agricultural residues, plant residues, methane from landfills, **from agricultural operations**, or
10 from wastewater treatment, **thermal depolymerization or pyrolysis for converting waste**
11 **material to energy**, clean and untreated wood such as pallets, hydropower (not including
12 pumped storage) that does not require a new diversion or impoundment of water and that has a
13 nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by one of the
14 above-named renewable energy sources, and other sources of energy not including nuclear that
15 become available after November 4, 2008, and are certified as renewable by rule by the
16 department.

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

- 5 (1) No less than two percent for calendar years 2011 through 2013;
- 6 (2) No less than five percent for calendar years 2014 through 2017;

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

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

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10 At least two percent of each portfolio requirement shall be derived from solar energy. The
11 portfolio requirements shall apply to all power sold to Missouri consumers whether such power
12 is self-generated or purchased from another source in or outside of this state. A utility may
13 comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible
14 energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

15 2. The commission, in consultation with the department and within one year of
16 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
17 energy credits. An unused credit may exist for up to three years from the date of its creation.
18 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not also
19 be used to satisfy any similar nonfederal requirement. An electric utility may not use a credit
20 derived from a green pricing program. Certificates from net-metered sources shall initially be
21 owned by the customer-generator. The commission, except where the department is specified,
22 shall make whatever rules are necessary to enforce the renewable energy standard. Such rules
23 shall include:

24 (1) A maximum average retail rate increase of one percent determined by estimating and
25 comparing the electric utility's cost of compliance with least-cost renewable generation and the
26 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking
27 into proper account future environmental regulatory risk including the risk of greenhouse gas
28 regulation;

29 (2) Penalties of at least twice the average market value of renewable energy credits for
30 the compliance period for failure to meet the targets of subsection 1. An electric utility will be
31 excused if it proves to the commission that failure was due to events beyond its reasonable
32 control that could not have been reasonably mitigated, or that the maximum average retail rate
33 increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited
34 under this section shall be remitted to the department to purchase renewable energy credits
35 needed for compliance. Any excess forfeited revenues shall be used by the department's energy
36 center solely for renewable energy and energy efficiency projects;

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

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

42 3. Each electric utility shall make available to its retail customers a standard rebate offer
43 of at least two dollars per installed watt for new or expanded solar electric systems sited on
44 customers' premises, up to a maximum of twenty-five kilowatts per system, that become
45 operational after 2009.

46 4. The department shall, in consultation with the commission, establish by rule a
47 certification process for electricity generated from renewable resources and used to fulfill the
48 requirements of subsection 1 of this section. Certification criteria for renewable energy
49 generation shall be determined by factors that include fuel type, technology, and the
50 environmental impacts of the generating facility. Renewable energy facilities shall not cause
51 undue adverse air, water, or land use impacts, including impacts associated with the gathering
52 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,
53 only the portion of electrical output attributable to renewable energy resources shall be used to
54 fulfill the portfolio requirements.

55 **5. In carrying out the provisions of this section, the commission and the department**
56 **shall include methane generated from the anaerobic digestion of farm animal waste and**
57 **thermal depolymerization or pyrolysis for converting waste material to energy as**
58 **renewable energy resources for purposes of this section.**

Section B. Because immediate action is necessary to ensure the adequate funding for
2 public representation in matters related to public utilities and to provide timely decisions with
3 regard to utility rates, the enactment of section 386.715 and the repeal and reenactment of section
4 393.150 of section A this act are deemed necessary for the immediate preservation of the public
5 health, welfare, peace and safety, and is hereby declared to be an emergency act within the
6 meaning of the constitution, and the enactment of section 386.715 and the repeal and
7 reenactment of section 393.150 of section A of this act shall be in full force and effect upon its
8 passage and approval.

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