

FIRST REGULAR SESSION
[CORRECTED]
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 220
100TH GENERAL ASSEMBLY

0313S.09T

2019

AN ACT

To repeal sections 144.020, 153.030, and 153.034, RSMo, and to enact in lieu thereof four new sections relating to the taxation of companies regulated by the public service commission.

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

Section A. Sections 144.020, 153.030, and 153.034, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 144.020, 153.030, 153.034, and
3 393.1073, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used
2 motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the
3 highways or waters of this state which are required to be titled under the laws of the state of
4 Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the
5 privilege of engaging in the business of selling tangible personal property or rendering taxable
6 service at retail in this state. The rate of tax shall be as follows:

7 (1) Upon every retail sale in this state of tangible personal property, excluding motor
8 vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to
9 be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this

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.

10 subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such
11 sale involves the exchange of property, a tax equivalent to four percent of the consideration paid
12 or charged, including the fair market value of the property exchanged at the time and place of
13 the exchange, except as otherwise provided in section 144.025;

14 (2) A tax equivalent to four percent of the amount paid for admission and seating
15 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,
16 games and athletic events, except amounts paid for any instructional class;

17 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of
18 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or
19 industrial consumers;

20 (4) (a) A tax equivalent to four percent on the basic rate paid or charged on all sales of
21 local and long distance telecommunications service to telecommunications subscribers and to
22 others through equipment of telecommunications subscribers for the transmission of messages
23 and conversations and upon the sale, rental or leasing of all equipment or services pertaining or
24 incidental thereto; except that, the payment made by telecommunications subscribers or others,
25 pursuant to section 144.060, and any amounts paid for access to the internet or interactive
26 computer services shall not be considered as amounts paid for telecommunications services;

27 (b) **If local and long distance telecommunications services subject to tax under this**
28 **subdivision are aggregated with and not separately stated from charges for**
29 **telecommunications service or other services not subject to tax under this subdivision,**
30 **including, but not limited to, interstate or international telecommunications services, then**
31 **the charges for nontaxable services may be subject to taxation unless the**
32 **telecommunications provider can identify by reasonable and verifiable standards such**
33 **portion of the charges not subject to such tax from its books and records that are kept in**
34 **the regular course of business, including, but not limited to, financial statement, general**
35 **ledgers, invoice and billing systems and reports, and reports for regulatory tariffs and**
36 **other regulatory matters;**

37 (c) **A telecommunications provider shall notify the director of revenue of its**
38 **intention to utilize the standards described in paragraph (b) of this subdivision to**
39 **determine the charges that are subject to sales tax under this subdivision. Such**
40 **notification shall be in writing and shall meet standardized criteria established by the**
41 **department regarding the form and format of such notice;**

42 (d) **The director of revenue may promulgate and enforce reasonable rules and**
43 **regulations for the administration and enforcement of the provisions of this subdivision.**
44 **Any rule or portion of a rule, as that term is defined in section 536.010 that is created**
45 **under the authority delegated in this section shall become effective only if it complies with**

46 **and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028.**
47 **This section and chapter 536 are nonseverable and if any of the powers vested with the**
48 **general assembly pursuant to chapter 536, to review, to delay the effective date, or to**
49 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
50 **rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be**
51 **invalid and void;**

52 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of
53 services for transmission of messages of telegraph companies;

54 (6) A tax equivalent to four percent on the amount of sales or charges for all rooms,
55 meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore,
56 dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are
57 regularly served to the public. The tax imposed under this subdivision shall not apply to any
58 automatic mandatory gratuity for a large group imposed by a restaurant when such gratuity is
59 reported as employee tip income and the restaurant withholds income tax under section 143.191
60 on such gratuity;

61 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets
62 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such
63 buses and trucks as are licensed by the division of motor carrier and railroad safety of the
64 department of economic development of Missouri, engaged in the transportation of persons for
65 hire;

66 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
67 tangible personal property, provided that if the lessor or renter of any tangible personal property
68 had previously purchased the property under the conditions of sale at retail or leased or rented
69 the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor,
70 renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or
71 subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers,
72 motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid
73 as provided in this section and section 144.070. In no event shall the rental or lease of boats and
74 outboard motors be considered a sale, charge, or fee to, for or in places of amusement,
75 entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to,
76 for, or in such places of amusement, entertainment or recreation. Rental and leased boats or
77 outboard motors shall be taxed under the provisions of the sales tax laws as provided under such
78 laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales
79 or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax
80 upon the lease or rental thereof;

81 (9) A tax equivalent to four percent of the purchase price, as defined in section 144.070,
82 of new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for
83 use on the highways or waters of this state which are required to be registered under the laws of
84 the state of Missouri. This tax is imposed on the person titling such property, and shall be paid
85 according to the procedures in section 144.440.

86 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525
87 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the
88 words "This ticket is subject to a sales tax."

153.030. 1. All bridges over streams dividing this state from any other state owned,
2 used, leased or otherwise controlled by any person, corporation, railroad company or joint stock
3 company, and all bridges across or over navigable streams within this state, where the charge is
4 made for crossing the same, which are now constructed, which are in the course of construction,
5 or which shall hereafter be constructed, and all property, real and tangible personal, owned, used,
6 leased or otherwise controlled by telegraph, telephone, electric power and light companies,
7 electric transmission lines, pipeline companies and express companies shall be subject to
8 taxation for state, county, municipal and other local purposes to the same extent as the property
9 of private persons.

10 2. And taxes levied thereon shall be levied and collected in the manner as is now or may
11 hereafter be provided by law for the taxation of railroad property in this state, and county
12 commissions, county boards of equalization and the state tax commission are hereby required
13 to perform the same duties and are given the same powers, including punitive powers, in
14 assessing, equalizing and adjusting the taxes on the property set forth in this section as the county
15 commissions and boards of equalization and state tax commission have or may hereafter be
16 empowered with, in assessing, equalizing, and adjusting the taxes on railroad property; and an
17 authorized officer of any such bridge, telegraph, telephone, electric power and light companies,
18 electric transmission lines, pipeline companies, or express company or the owner of any such toll
19 bridge, is hereby required to render reports of the property of such bridge, telegraph, telephone,
20 electric power and light companies, electric transmission lines, pipeline companies, or express
21 companies in like manner as the authorized officer of the railroad company is now or may
22 hereafter be required to render for the taxation of railroad property.

23 3. On or before the fifteenth day of April in the year 1946 and each year thereafter an
24 authorized officer of each such company shall furnish the state tax commission and county clerks
25 a report, duly subscribed and sworn to by such authorized officer, which is like in nature and
26 purpose to the reports required of railroads under chapter 151 showing the full amount of all real
27 and tangible personal property owned, used, leased or otherwise controlled by each such
28 company on January first of the year in which the report is due.

29 4. If any telephone company assessed pursuant to chapter 153 has a microwave relay
30 station or stations in a county in which it has no wire mileage but has wire mileage in another
31 county, then, for purposes of apportioning the assessed value of the distributable property of such
32 companies, the straight line distance between such microwave relay stations shall constitute
33 miles of wire. In the event that any public utility company assessed pursuant to this chapter has
34 no distributable property which physically traverses the counties in which it operates, then the
35 assessed value of the distributable property of such company shall be apportioned to the physical
36 location of the distributable property.

37 5. (1) Notwithstanding any provision of law to the contrary, beginning January 1, 2019,
38 a telephone company shall make a one-time election within the tax year to be assessed:

39 (a) Using the methodology for property tax purposes as provided under this section; or

40 (b) Using the methodology for property tax purposes as provided under this section for
41 property consisting of land and buildings and be assessed for all other property exclusively using
42 the methodology utilized under section 137.122.

43

44 If a telephone company begins operations, including a merger of multiple telephone companies,
45 after August 28, 2018, it shall make its one-time election to be assessed using the methodology
46 for property tax purposes as described under paragraph (b) of subdivision (1) of this subsection
47 within the year in which the telephone company begins its operations. A telephone company that
48 fails to make a timely election shall be deemed to have elected to be assessed using the
49 methodology for property tax purposes as provided under subsections 1 to 4 of this section.

50 (2) The provisions of this subsection shall not be construed to change the original
51 assessment jurisdiction of the state tax commission.

52 (3) Nothing in subdivision (1) of this subsection shall be construed as applying to any
53 other utility.

54 (4) (a) The provisions of this subdivision shall ensure that school districts may avoid
55 any fiscal impact as a result of a telephone company being assessed under the provisions of
56 paragraph (b) of subdivision (1) of this subsection. If a school district's current operating levy
57 is below the greater of its most recent voter-approved tax rate or the most recent voter-approved
58 tax rate as adjusted under subdivision (2) of subsection 5 of section 137.073, it shall comply with
59 section 137.073.

60 (b) Beginning January 1, 2019, any school district currently operating at a tax rate equal
61 to the greater of the most recent voter-approved tax rate or the most recent voter-approved tax
62 rate as adjusted under subdivision (2) of subsection 5 of section 137.073 that receives less tax
63 revenue from a specific telephone company under this subsection, on or before January
64 thirty-first of the year following the tax year in which the school district received less revenue

65 from a specific telephone company, may by resolution of the school board impose a fee, as
66 determined under this subsection, in order to obtain such revenue. The resolution shall include
67 all facts that support the imposition of the fee. If the school district receives voter approval to
68 raise its tax rate, the district shall no longer impose the fee authorized in this paragraph.

69 (c) Any fee imposed under paragraph (b) of this subdivision shall be determined by
70 taking the difference between the tax revenue the telephone company paid in the tax year in
71 question and the tax revenue the telephone company would have paid in such year had it not
72 made an election under subdivision (1) of this subsection, which shall be calculated by taking
73 the telephone company valuations in the tax year in question, as determined by the state tax
74 commission under paragraph (d) of this subdivision, and applying such valuations to the
75 apportionment process in subsection 2 of section 151.150. The school district shall issue a
76 billing, as provided in this subdivision, to any such telephone company. A telephone company
77 shall have forty-five days after receipt of a billing to remit its payment of its portion of the fees
78 to the school district. Notwithstanding any other provision of law, the issuance or receipt of such
79 fee shall not be used:

80 a. In determining the amount of state aid that a school district receives under section
81 163.031;

82 b. In determining the amount that may be collected under a property tax levy by such
83 district; or

84 c. For any other purpose.
85

86 For the purposes of accounting, a telephone company that issues a payment to a school district
87 under this subsection shall treat such payment as a tax.

88 (d) When establishing the valuation of a telephone company assessed under paragraph
89 (b) of subdivision (1) of this subsection, the state tax commission shall also determine the
90 difference between the assessed value of a telephone company if:

91 a. Assessed under paragraph (b) of subdivision (1) of this subsection; and

92 b. Assessed exclusively under subsections 1 to 4 of this section.
93

94 The state tax commission shall then apportion such amount to each county and provide such
95 information to any school district making a request for such information.

96 (e) This subsection shall expire when no school district is eligible for a fee.

97 **6. (1) If any public utility company assessed pursuant to this chapter has**
98 **ownership of any real or personal property associated with a project which uses wind**
99 **energy directly to generate electricity, such wind energy project property shall be valued**

and taxed by any local authorities having jurisdiction under the provisions of chapter 137 and other relevant provisions of the law.

(2) Notwithstanding any provision of law to the contrary, beginning January 1, 2020, for any public utility company assessed pursuant to this chapter which has a wind energy project, such wind energy project shall be assessed using the methodology for real and personal property as provided in this subsection:

(a) Any wind energy property of such company shall be assessed upon the county assessor's local tax rolls;

(b) Any property consisting of land and buildings related to the wind energy project shall be assessed under chapter 137; and

(c) All other business or personal property related to the wind energy project shall be assessed using the methodology provided under section 137.122.

153.034. 1. The term "distributable property" of an electric company shall include all the real or tangible personal property which is used directly in the generation and distribution of electric power, but not property used as a collateral facility nor property held for purposes other than generation and distribution of electricity. Such distributable property includes, but is not limited to:

- (1) Boiler plant equipment, turbogenerator units and generators;
- (2) Station equipment;
- (3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;
- (4) Substation equipment and fences;
- (5) Rights-of-way;
- (6) Reactor, reactor plant equipment, and cooling towers;
- (7) Communication equipment used for control of generation and distribution of power;
- (8) Land associated with such distributable property.

2. The term "local property" of an electric company shall include all real and tangible personal property owned, used, leased or otherwise controlled by the electric company not used directly in the generation and distribution of power and not defined in subsection 1 of this section as distributable property. Such local property includes, but is not limited to:

- (1) Motor vehicles;
- (2) Construction work in progress;
- (3) Materials and supplies;
- (4) Office furniture, office equipment, and office fixtures;
- (5) Coal piles and nuclear fuel;
- (6) Land held for future use;
- (7) Workshops, warehouses, office buildings and generating plant structures;

25 (8) Communication equipment not used for control of generation and distribution of
26 power;

27 (9) Roads, railroads, and bridges;

28 (10) Reservoirs, dams, and waterways;

29 (11) Land associated with other locally assessed property and all generating plant land.

30 **3. (1) Any real or tangible personal property associated with a project which uses**
31 **wind energy directly to generate electricity shall be valued and taxed by local authorities**
32 **having jurisdiction under the provisions of chapter 137 and any other relevant provisions**
33 **of law. The method of taxation prescribed in subsection 2 of section 153.030 and**
34 **subsection 1 of this section shall not apply to such property.**

35 **(2) The real or tangible personal property referenced in subdivision (1) of this**
36 **subsection shall include all equipment whose sole purpose is to support the integration of**
37 **a wind generation asset into an existing system. Examples of such property may include,**
38 **but are not limited to, wind chargers, windmills, wind turbines, wind towers, and**
39 **associated electrical equipment such as inverters, pad mount transformers, power lines,**
40 **storage equipment directly associated with wind generation assets, and substations.**

393.1073. 1. There is hereby established the "Task Force on Wind Energy", which
2 **shall be composed of the following members:**

3 **(1) Three members of the house of representatives, with two appointed by the**
4 **speaker of the house of representatives and one appointed by the minority floor leader of**
5 **the house of representatives;**

6 **(2) Three members of the senate, with two appointed by the president pro tempore**
7 **of the senate and one appointed by the minority floor leader of the senate; and**

8 **(3) Two representatives from Missouri county governments with experience in wind**
9 **energy valuations, with one being a currently elected county assessor to be appointed by**
10 **the speaker of the house of representatives, and one being a currently elected county clerk**
11 **to be appointed by the president pro tempore of the senate.**

12 **2. The task force shall conduct public hearings and research, and shall compile a**
13 **report for delivery to the general assembly by no later than December 31, 2019. Such**
14 **report shall include information on the following:**

15 **(1) The economic benefits and drawbacks of wind turbines to local communities**
16 **and the state;**

17 **(2) The fair, uniform, and standardized assessment and taxation of wind turbines**
18 **and their connected equipment owned by a public utility company at the county level in**
19 **all counties;**

20 **(3) Compliance with existing federal and state programs and regulations; and**

21 **(4) Potential legislation that will provide a uniform assessment and taxation**
22 **methodology for wind turbines and their connected equipment owned by a public utility**
23 **company that will be used in every county of Missouri.**

24 **3. The task force shall meet within thirty days after its creation and shall organize**
25 **by selecting a chairperson and vice chairperson, one of whom shall be a member of the**
26 **senate and the other a member of the house of representatives. Thereafter, the task force**
27 **may meet as often as necessary in order to accomplish the tasks assigned to it. A majority**
28 **of the task force shall constitute a quorum, and a majority vote of such quorum shall be**
29 **required for any action.**

30 **4. The staff of house research and senate research shall provide necessary clerical,**
31 **research, fiscal, and legal services to the task force, as the task force may request.**

32 **5. The members of the task force shall serve without compensation, but any actual**
33 **and necessary expenses incurred in the performance of the task force's official duties by**
34 **the task force, its members, and any staff assigned to the task force shall be paid from the**
35 **joint contingent fund.**

36 **6. This section shall expire on December 31, 2019.**

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