

FIRST REGULAR SESSION

# HOUSE BILL NO. 1065

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HADEN.

2205H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 153.030 and 153.034, RSMo, and to enact in lieu thereof four new sections relating to regulation of solar energy.

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

Section A. Sections 153.030 and 153.034, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 67.5350, 137.124, 153.030, and 153.034, to read as follows:

**67.5350. 1. As used in this section, the following terms shall mean:**

(1) "Material amendment", any amendment to a permit issued by a county commission to construct a solar farm which:

(a) Changes the solar farm's generation type from one type of utility facility to another;

(b) Increases the facility's nameplate capacity; and

(c) Changes the boundaries of the solar farm unless the new boundaries of the facility are completely within the previous boundaries of the facility or the facility components outside of the previous boundary are underground;

(2) "Solar farm", a group of photovoltaic interconnected solar panels or arrays that convert sunlight into electricity for the primary purpose of wholesale or retail sales of generated electricity, including all on-site equipment and facilities necessary for the proper operation of the facility, such as electrical collection and transmission lines, battery storage systems, transformers, substations, and operations and maintenance facilities within at least twenty continuous acres.

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.

16           **2. Prior to obtaining a certificate of public convenience or necessity issued by the**  
17 **Missouri public service commission, any person constructing a solar farm shall first**  
18 **submit an application to the county commission in each county where the solar farm is**  
19 **to be located.**

20           **3. The county commission of any county shall adopt any order or ordinance**  
21 **requiring a permit to construct a solar farm within specified boundaries located in**  
22 **whole or in part in an unincorporated area of a county. Such permit shall require any**  
23 **construction to be at least one thousand linear feet from any church or school or city,**  
24 **town, or village limit or any private residence.**

25           **4. Within ninety days of receiving an application to construct a solar farm, the**  
26 **county commission shall hold a public meeting before the issuance of any such permit to**  
27 **construct a solar farm. Notice shall be provided at least fourteen days prior to the**  
28 **public meeting. At the public meeting, the applicant shall provide in writing the**  
29 **following information:**

30           **(1) The maximum nameplate capacity of the solar farm; and**

31           **(2) A map of the proposed geographic boundaries of the project within that**  
32 **county.**

33           **5. Not later than ninety days after the public meeting, the county commission**  
34 **shall:**

35           **(1) Issue a permit to the applicant accepting the construction proposal;**

36           **(2) Issue a permit to the applicant limiting the boundaries of the proposed solar**  
37 **farm to a smaller geographic area, completely within what was proposed by the**  
38 **applicant; or**

39           **(3) Deny the permit and prohibit the construction of the solar farm by the**  
40 **applicant.**

41           **6. Any applicant intending to make a material amendment once a permit is**  
42 **issued shall submit a new application for a permit to the county commission.**

43           **7. The county commission shall require any applicant who is issued a permit to**  
44 **obtain liability insurance in an amount sufficient to cover any damages that may arise**  
45 **from the construction of the solar farm.**

46           **8. The Missouri public service commission shall not issue a certificate of public**  
47 **convenience or necessity to any applicant who did not receive a permit to construct a**  
48 **solar farm from the county commission in each county where the solar farm is to be**  
49 **located.**

137.124. 1. Beginning January 1, 2024, for purposes of assessing all real  
2 property, excluding land, or tangible personal property associated with a project that  
3 uses solar energy directly to generate electricity, thirty-seven and one-half percent of the

4 **original costs shall be the true value in money of such property. Such value shall begin**  
5 **the year immediately following the year of construction of the property. The original**  
6 **costs shall reflect either:**

7 (1) **The actual and documented original property cost to the taxpayer, as shall be**  
8 **provided by the taxpayer to the assessor; or**

9 (2) **In the absence of actual and documented original property cost to the**  
10 **taxpayer, the estimated cost of the property by the assessor, using an authoritative cost**  
11 **guide.**

12 **2. Nothing in this section shall be construed to prohibit a project from engaging**  
13 **in enhanced enterprise zone agreements under sections 135.950 to 135.973 or similar tax**  
14 **abatement agreements with state or local officials or to affect any existing enhanced**  
15 **enterprise zone agreements.**

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

10 2. ~~And~~ Taxes levied ~~thereon~~ **under subsection 1 of this section** shall be levied  
11 and collected in the manner as is now or may hereafter be provided by law for the taxation of  
12 railroad property in this state, and county commissions, county boards of equalization and the  
13 state tax commission are hereby required to perform the same duties and are given the same  
14 powers, including punitive powers, in assessing, equalizing and adjusting the taxes on the  
15 property set forth in this section as the county commissions and boards of equalization and  
16 state tax commission have or may hereafter be empowered with, in assessing, equalizing, and  
17 adjusting the taxes on railroad property; and an authorized officer of any such bridge,  
18 telegraph, telephone, electric power and light companies, electric transmission lines, pipeline  
19 companies, or express company or the owner of any such toll bridge, is hereby required to  
20 render reports of the property of such bridge, telegraph, telephone, electric power and light  
21 companies, electric transmission lines, pipeline companies, or express companies in like  
22 manner as the authorized officer of the railroad company is now or may hereafter be required  
23 to render for the taxation of railroad property.

24 3. On or before the fifteenth day of April in the year 1946 and each year thereafter an  
25 authorized officer of each such company shall furnish the state tax commission and county

26 clerks a report, duly subscribed and sworn to by such authorized officer, which is like in  
27 nature and purpose to the reports required of railroads under chapter 151 showing the full  
28 amount of all real and tangible personal property owned, used, leased or otherwise controlled  
29 by each such company on January first of the year in which the report is due.

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

38 5. (1) Notwithstanding any provision of law to the contrary, beginning January 1,  
39 2019, a telephone company shall make a one-time election within the tax year to be assessed:

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

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

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46 If a telephone company begins operations, including a merger of multiple telephone  
47 companies, after August 28, 2018, it shall make its one-time election to be assessed using the  
48 methodology for property tax purposes as described under paragraph (b) of subdivision (1) of  
49 this subsection within the year in which the telephone company begins its operations. A  
50 telephone company that fails to make a timely election shall be deemed to have elected to be  
51 assessed using the methodology for property tax purposes as provided under subsections 1 to  
52 4 of this section.

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

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

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

63 (b) Beginning January 1, 2019, any school district currently operating at a tax rate  
64 equal to the greater of the most recent voter-approved tax rate or the most recent voter-  
65 approved tax rate as adjusted under subdivision (2) of subsection 5 of section 137.073 that  
66 receives less tax revenue from a specific telephone company under this subsection, on or  
67 before January thirty-first of the year following the tax year in which the school district  
68 received less revenue from a specific telephone company, may by resolution of the school  
69 board impose a fee, as determined under this subsection, in order to obtain such revenue. The  
70 resolution shall include all facts that support the imposition of the fee. If the school district  
71 receives voter approval to raise its tax rate, the district shall no longer impose the fee  
72 authorized in this paragraph.

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

84 a. In determining the amount of state aid that a school district receives under section  
85 163.031;

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

88 c. For any other purpose.

89

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

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

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

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

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

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

101 6. (1) If any public utility company assessed pursuant to this chapter has ownership  
102 of any real or personal property associated with a project which uses **solar or** wind energy  
103 directly to generate electricity, such **solar or** wind energy project property shall be valued and  
104 taxed by any local authorities having jurisdiction under the provisions of chapter 137 and  
105 other relevant provisions of the law.

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

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

112 (b) All other real property, excluding land, or personal property related to the wind  
113 energy project shall be assessed using the methodology provided under section 137.123.

114 **(3) Notwithstanding any other provision of law to the contrary, beginning**  
115 **January 1, 2024, for any public utility company assessed under this chapter which has a**  
116 **solar energy project, such solar energy project shall be assessed using the methodology**  
117 **for real and personal property as provided in this subsection:**

118 **(a) Any solar energy property of such company shall be assessed upon the**  
119 **county assessor's local tax rolls; and**

120 **(b) All other real property, excluding land, or personal property related to the**  
121 **solar energy project shall be assessed using the methodology provided under section**  
122 **137.124.**

123 7. (1) If any public utility company assessed pursuant to this chapter has ownership  
124 of any real or personal property associated with a generation project which was originally  
125 constructed utilizing financing authorized pursuant to chapter 100 for construction, upon the  
126 transfer of ownership of such property to the public utility company such property shall be  
127 valued and taxed by any local authorities having jurisdiction under the provisions of chapter  
128 137 and other relevant provisions of law.

129 (2) Notwithstanding any provision of law to the contrary, beginning January 1, 2022,  
130 for any public utility company assessed pursuant to this chapter which has ownership of any  
131 real or personal property associated with a generation project which was originally  
132 constructed utilizing financing authorized pursuant to chapter 100 for construction, upon the  
133 transfer of ownership of such property to the public utility company such property shall be  
134 assessed as follows:

135 (a) Any property associated with a generation project which was originally  
136 constructed utilizing financing authorized pursuant to chapter 100 for construction shall be

137 assessed upon the county assessor's local tax rolls. The assessor shall rely on the public utility  
138 company for cost information of the generation portion of the property as found in the public  
139 utility company's Federal Energy Regulatory Commission Financial Report Form Number  
140 One at the time of transfer of ownership, and depreciate the costs provided in a manner  
141 similar to other commercial and industrial property;

142 (b) Any property consisting of land and buildings related to the generation property  
143 associated with a generation project which was originally constructed utilizing financing  
144 pursuant to chapter 100 for construction shall be assessed under chapter 137; and

145 (c) All other business or personal property related to a generation project which was  
146 originally constructed utilizing financing pursuant to chapter 100 for construction shall be  
147 assessed using the methodology provided under section 137.122.

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

6 (1) Boiler plant equipment, turbogenerator units and generators;

7 (2) Station equipment;

8 (3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;

9 (4) Substation equipment and fences;

10 (5) Rights-of-way;

11 (6) Reactor, reactor plant equipment, and cooling towers;

12 (7) Communication equipment used for control of generation and distribution of  
13 power;

14 (8) Land associated with such distributable property.

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

19 (1) Motor vehicles;

20 (2) Construction work in progress;

21 (3) Materials and supplies;

22 (4) Office furniture, office equipment, and office fixtures;

23 (5) Coal piles and nuclear fuel;

24 (6) Land held for future use;

25 (7) Workshops, warehouses, office buildings and generating plant structures;

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

28 (9) Roads, railroads, and bridges;

29 (10) Reservoirs, dams, and waterways;

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

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

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

43 **(3) The real or tangible personal property referenced in subdivision (1) of this**  
44 **subsection shall also include all equipment whose sole purpose is to support the**  
45 **integration of a solar generation asset into an existing system. Examples of such**  
46 **property may include, but are not limited to, solar panels, solar panel mounting racks,**  
47 **and associated electrical equipment such as inverters, battery packs, power meters,**  
48 **power lines, storage equipment directly associated with solar generation assets, and**  
49 **substations.**

50 4. For any real or tangible personal property associated with a generation project  
51 which was originally constructed utilizing financing authorized under chapter 100 for  
52 construction, upon the transfer of ownership of such property to a public utility, such property  
53 shall be valued and taxed by local authorities having jurisdiction under the provisions of  
54 chapter 137 and any other relevant provisions of law. The method of taxation prescribed in  
55 subsection 2 of section 153.030 and subsection 1 of this section shall not apply to such  
56 property.

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