FIRST REGULAR SESSION

HOUSE BILL NO. 440

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HADEN.

1325H.01I 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 solar energy projects.

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Section A. Sections 153.030 and 153.034, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 137.124, 153.030, 153.034, and 393.1120, to read as follows:

137.124. 1. Beginning January 1, 2026, for purposes of assessing all real property, excluding land, or tangible personal property associated with a project that uses solar energy directly to generate electricity and that was built or was contracted to sell power, the tax liability actually owed shall be equal to two thousand five hundred dollars per megawatt of nameplate capacity.

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

3. Beginning January 1, 2026, for the purposes of assessing land that is associated with a project that uses solar energy directly to generate electricity, such real property shall be classified as subclass (3) real property and assessed as commercial property under this chapter.

153.030. 1. All bridges over streams dividing this state from any other state owned, used, leased or otherwise controlled by any person, corporation, railroad company or joint stock company, and all bridges across or over navigable streams within this state, where the

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.

charge is made for crossing the same, which are now constructed, which are in the course of construction, or which shall hereafter be constructed, and all property, real and tangible personal, owned, used, leased or otherwise controlled by telegraph, telephone, electric power and light companies, electric transmission lines, pipeline companies and express companies shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of private persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. For any other purpose.

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

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

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

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

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

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

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

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

(3) Notwithstanding any other provision of law to the contrary, beginning January 1, 2026, for any public utility company assessed under this chapter that has a solar energy project, such solar energy project shall be assessed using the methodology for real and personal property as provided in this subsection:

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

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

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

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

(a) Any property associated with a generation project which was originally constructed utilizing financing authorized pursuant to chapter 100 for construction shall be assessed upon the county assessor's local tax rolls. The assessor shall rely on the public utility company for cost information of the generation portion of the property as found in the public utility company's Federal Energy Regulatory Commission Financial Report Form Number One at the time of transfer of ownership, and depreciate the costs provided in a manner similar to other commercial and industrial property;

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

(c) All other business or personal property related to a generation project which was originally constructed utilizing financing pursuant to chapter 100 for construction 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;

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

(9) Roads, railroads, and bridges;

(10) Reservoirs, dams, and waterways;

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

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

(2) The real or tangible personal property referenced in subdivision (1) of this subsection shall include all equipment whose sole purpose is to support the integration of a wind generation asset into an existing system. Examples of such property may include, but are not limited to, wind chargers, windmills, wind turbines, wind towers, and associated

electrical equipment such as inverters, pad mount transformers, power lines, storage equipment directly associated with wind generation assets, and substations.

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

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

393.1120. 1. The total amount of real property associated with all solar energy projects that are established in any one county in this state shall not exceed an amount greater than two percent of all cropland in such county, as determined by the most recent U.S. Department of Agriculture Census of Agriculture, except as authorized under this section.

2. The county commission or other authorized governing body may increase the percentage of cropland under subsection 1 of this section by order, ordinance, regulation, or a vote of the residents of the county.

3. Any resident of the county shall have standing to bring suit in a circuit court of proper venue to enforce the provisions of subsection 1 of this section against a solar energy project developer if he or she believes that the cap under subsection 1 of this section has been met.

4. For all solar energy projects built on or after January 1, 2026, such project shall be subject to setback distances of at least one hundred feet to the nearest property boundary and at least five hundred feet to the nearest residence, church, or school in existence at the time of construction. Such distances shall not apply to homeowners who have received a written agreement that has been signed by all affected property owners within the setback distance. This subsection shall not apply to solar energy projects built and operating at capacity on or before December 31, 2025.

5. A solar energy company shall secure, through purchase or contract, all property rights or easements necessary for transmission and interconnection for the

solar energy project to connect to the electrical grid prior to beginning construction of the solar energy project.

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