

SECOND REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 2762, 2816 & 2402

103RD GENERAL ASSEMBLY

6405H.05C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 137.016, 153.030, 153.034, and 523.010, RSMo, and to enact in lieu thereof six new sections relating to solar energy projects.

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

Section A. Sections 137.016, 153.030, 153.034, and 523.010, RSMo, are repealed
2 and six new sections enacted in lieu thereof, to be known as sections 137.016, 137.124,
3 153.030, 153.034, 393.1120, and 523.010, to read as follows:

137.016. 1. As used in Section 4(b) of Article X of the Missouri Constitution, the
2 following terms mean:

3 (1) "Residential property", all real property improved by a structure which is used or
4 intended to be used for residential living by human occupants, vacant land in connection with
5 an airport, land used as a golf course, manufactured home parks, bed and breakfast inns in
6 which the owner resides and uses as a primary residence with six or fewer rooms for rent, and
7 time-share units as defined in section 407.600, except to the extent such units are actually
8 rented and subject to sales tax under subdivision (6) of subsection 1 of section 144.020, but
9 residential property shall not include other similar facilities used primarily for transient
10 housing. For the purposes of this section, "transient housing" means all rooms available for
11 rent or lease for which the receipts from the rent or lease of such rooms are subject to state
12 sales tax pursuant to subdivision (6) of subsection 1 of section 144.020;

13 (2) "Agricultural and horticultural property", all real property used for agricultural
14 purposes and devoted primarily to the raising and harvesting of crops; to the feeding,
15 breeding and management of livestock which shall include breeding, showing, and boarding
16 of horses; to dairying, or to any other combination thereof; and buildings and structures
17 customarily associated with farming, agricultural, and horticultural uses. Agricultural and

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.

18 horticultural property shall also include land devoted to and qualifying for payments or other
19 compensation under a soil conservation or agricultural assistance program under an
20 agreement with an agency of the federal government. Agricultural and horticultural property
21 shall further include any reliever airport. Real property classified as forest croplands shall not
22 be agricultural or horticultural property so long as it is classified as forest croplands and shall
23 be taxed in accordance with the laws enacted to implement Section 7 of Article X of the
24 Missouri Constitution. Agricultural and horticultural property shall also include any sawmill
25 or planing mill defined in the U.S. Department of Labor's Standard Industrial Classification
26 (SIC) Manual under Industry Group 242 with the SIC number 2421. Agricultural and
27 horticultural property shall also include urban and community gardens. For the purposes of
28 this section, "urban and community gardens" shall include real property cultivated by
29 residents of a neighborhood or community for the purposes of providing agricultural
30 products, as defined in section 262.900, for the use of residents of the neighborhood or
31 community, and shall not include a garden intended for individual or personal use;

32 (3) "Utility, industrial, commercial, railroad and other real property", all real property
33 used directly or indirectly for any commercial, mining, industrial, manufacturing, trade,
34 professional, business, or similar purpose, including all property centrally assessed by the
35 state tax commission but shall not include floating docks, portions of which are separately
36 owned and the remainder of which is designated for common ownership and in which no one
37 person or business entity owns more than five individual units. All other real property not
38 included in the property listed in subclasses (1) and (2) of Section 4(b) of Article X of the
39 Missouri Constitution, as such property is defined in this section, shall be deemed to be
40 included in the term "utility, industrial, commercial, railroad and other real property".

41 2. Pursuant to Article X of the state Constitution, any taxing district may adjust its
42 operating levy to recoup any loss of property tax revenue, except revenues from the surtax
43 imposed pursuant to Article X, Subsection 2 of Section 6 of the Constitution, as the result of
44 changing the classification of structures intended to be used for residential living by human
45 occupants which contain five or more dwelling units if such adjustment of the levy does not
46 exceed the highest tax rate in effect subsequent to the 1980 tax year. For purposes of this
47 section, loss in revenue shall include the difference between the revenue that would have been
48 collected on such property under its classification prior to enactment of this section and the
49 amount to be collected under its classification under this section. The county assessor of each
50 county or city not within a county shall provide information to each taxing district within its
51 boundaries regarding the difference in assessed valuation of such property as the result of
52 such change in classification.

53 3. All reclassification of property as the result of changing the classification of
54 structures intended to be used for residential living by human occupants which contain five or
55 more dwelling units shall apply to assessments made after December 31, 1994.

56 4. Where real property is used or held for use for more than one purpose and such
57 uses result in different classifications, the county assessor shall allocate to each classification
58 the percentage of the true value in money of the property devoted to each use; except that,
59 where agricultural and horticultural property, as defined in this section, also contains a
60 dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to
61 five acres immediately surrounding such farm dwelling shall be residential property, as
62 defined in this section, provided that the portion of property used or held for use as an urban
63 and community garden shall not be residential property. This subsection shall not apply to
64 any reliever airport. **The provisions of this subsection shall be construed to apply to any**
65 **portion of real property in subclass (2) used for the purpose of energy production**
66 **activities for resale to be proportionally calculated, assessed, and reclassified as subclass**
67 **(3) real property, except that the provisions shall not apply to agreements authorized**
68 **under chapter 100 or to solar photovoltaic energy systems, as described in subdivision**
69 **(46) of subsection 2 of section 144.030, that were constructed and producing solar energy**
70 **prior to August 9, 2022.**

71 5. All real property which is vacant, unused, or held for future use; which is used for a
72 private club, a not-for-profit or other nonexempt lodge, club, business, trade, service
73 organization, or similar entity; or for which a determination as to its classification cannot be
74 made under the definitions set out in subsection 1 of this section, shall be classified according
75 to its immediate most suitable economic use, which use shall be determined after
76 consideration of:

77 (1) Immediate prior use, if any, of such property;

78 (2) Location of such property;

79 (3) Zoning classification of such property; except that, such zoning classification
80 shall not be considered conclusive if, upon consideration of all factors, it is determined that
81 such zoning classification does not reflect the immediate most suitable economic use of the
82 property;

83 (4) Other legal restrictions on the use of such property;

84 (5) Availability of water, electricity, gas, sewers, street lighting, and other public
85 services for such property;

86 (6) Size of such property;

87 (7) Access of such property to public thoroughfares; and

88 (8) Any other factors relevant to a determination of the immediate most suitable
89 economic use of such property.

90 6. All lands classified as forest croplands shall not, for taxation purposes, be
91 classified as subclass (1), subclass (2), or subclass (3) real property, as such classes are
92 prescribed in Section 4(b) of Article X of the Missouri Constitution and defined in this
93 section, but shall be taxed in accordance with the laws enacted to implement Section 7 of
94 Article X of the Missouri Constitution.

**137.124. 1. Beginning August 28, 2026, 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 and that was built or was contracted to
4 sell power, the tax liability actually owed shall be equal to four thousand dollars per
5 megawatt of nameplate capacity.**

**6 2. Nothing in this section shall be construed to prohibit a project from engaging
7 in enhanced enterprise zone agreements under sections 135.950 to 135.973 or similar tax
8 abatement agreements with state or local officials or to affect any existing enhanced
9 enterprise zone agreements. Nothing in this section shall be construed to apply to
10 agreements authorized under chapter 100.**

**11 3. Beginning August 28, 2026, for the purposes of assessing land that is
12 associated with a project that uses solar energy directly to generate electricity in excess
13 of five megawatts, such real property used for the facility may be classified as subclass
14 (3) real property and assessed as commercial property under this chapter. Such
15 reclassification shall not include any land for setbacks or undeveloped land not part of
16 such facility.**

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.

45

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.

97

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, 2027, for any public utility company assessed under this chapter that 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 subdivision:**

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

124 **Nothing in this subdivision shall be construed to apply to agreements authorized under**
125 **chapter 100.**

126 7. (1) If any public utility company assessed pursuant to this chapter has ownership
127 of any real or personal property associated with a generation project which was originally
128 constructed utilizing financing authorized pursuant to chapter 100 for construction, upon the
129 transfer of ownership of such property to the public utility company such property shall be
130 valued and taxed by any local authorities having jurisdiction under the provisions of chapter
131 137 and other relevant provisions of law.

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

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

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

148 (c) All other business or personal property related to a generation project which was
149 originally constructed utilizing financing pursuant to chapter 100 for construction shall be
150 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. Nothing in this subdivision shall be construed to apply to agreements**
50 **authorized under chapter 100 or to solar photovoltaic energy systems, as described in**
51 **subdivision (46) of subsection 2 of section 144.030, that were constructed and producing**
52 **solar energy prior to August 9, 2022.**

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

393.1120. 1. (1) For all solar energy projects built on or after January 1, 2027,
2 **such project shall be subject to setback distances of at least five hundred feet from the**
3 **nearest occupied dwelling in existence at the time of construction, as measured from the**
4 **nearest solar panel to the nearest occupied dwelling. If the solar energy project facility**
5 **is screened by a native vegetation screen, permanent tight board, or other screen fence**
6 **at a height that reasonably restricts visibility of solar panels and adjacent occupied**
7 **dwelling, the setback distance shall be at least three hundred feet. No solar panel shall**
8 **be located within fifty feet of the property line. Such distances shall not apply to a**
9 **property owner who has entered into a written agreement between the solar energy**
10 **project and the property owner to waive or reduce the setback requirements from**
11 **occupied dwellings or property lines. This subsection shall not apply to solar energy**
12 **projects in possession of a certificate of convenience and necessity granted by the public**
13 **service commission or built and operating at capacity on or before December 31, 2026.**
14 **If a county utilizes planning and zoning, the local planning and zoning rules shall**
15 **supersede the provisions of this subsection, provided that the setback provisions are not**
16 **more restrictive than the provisions of this subsection.**

17 (2) For the purposes of this subsection, an "occupied dwelling" means any
18 dwelling as defined under section 305.400 that is actually used and inhabited on a
19 regular basis as a residence by one or more lawful occupants.

20 2. A solar energy company shall secure, through purchase or contract, all
21 property rights or easements necessary for transmission and interconnection for the
22 solar energy project to connect to the electrical grid prior to beginning construction of
23 the solar energy project.

24 3. (1) A solar energy project shall:

25 (a) Provide written notification to the county in which the project shall be
26 located prior to the start of construction;

27 **(b) File a decommissioning plan with the county prior to the completion of**
28 **construction. The decommissioning plan for any solar energy project no longer in**
29 **operation shall be prepared and the cost calculated by an engineer licensed in this state;**
30 **and**

31 **(c) Prior to completion of construction, secure a bond in the amount of the cost**
32 **of decommissioning the solar energy project and reclamation of the land as close as**
33 **reasonably possible to the condition prior to construction of the facility after the facility**
34 **ceases operation.**

35 **(2) This subsection shall not apply to any solar energy project constructed under**
36 **an agreement authorized under chapter 100 or any solar energy project constructed by**
37 **an electrical corporation regulated by the public service commission.**

38 **(3) Counties may enact ordinances, rules, regulations, or orders necessary for**
39 **the administration of this subsection. No ordinance, rule, regulation, or order shall be**
40 **enacted to prohibit or place an undue burden on a solar energy project beyond that**
41 **which is required to administer this subsection.**

42 **4. Nothing in this section shall be construed to apply to agreements authorized**
43 **under chapter 100.**

44 **5. The provisions of this section shall not apply to any solar energy project or**
45 **system that uses solar energy directly to generate five megawatts or less of energy.**

523.010. 1. In case land, or other property, is sought to be appropriated by any road,
2 railroad, street railway, telephone, telegraph or any electrical corporation organized for the
3 manufacture or transmission of electric current for light, heat or power, including the
4 construction, when that is the case, of necessary dams and appurtenant canals, flumes, tunnels
5 and tailraces and including the erection, when that is the case, of necessary electric steam
6 powerhouses, hydroelectric powerhouses and electric substations or any oil, pipeline or gas
7 corporation engaged in the business of transporting or carrying oil, liquid fertilizer solutions,
8 or gas by means of pipes or pipelines laid underneath the surface of the ground, or other
9 corporation created under the laws of this state for public use, and such corporation and the
10 owners cannot agree upon the proper compensation to be paid, or in the case the owner is
11 incapable of contracting, be unknown, or be a nonresident of the state, such corporation may
12 apply to the circuit court of the county of this state where such land or any part thereof lies by
13 petition setting forth the general directions in which it is desired to construct its road, railroad,
14 street railway, telephone, or telegraph line or electric line, including, when that is the case, the
15 construction and maintenance of necessary dams and appurtenant canals, tunnels, flumes and
16 tailraces and, when that is the case, the appropriation of land submerged by the construction
17 of such dam, and including the erection and maintenance, when that is the case, of necessary
18 electric steam powerhouses, hydroelectric powerhouses and electric substations, or oil,

19 pipeline, liquid fertilizer solution pipeline, or gas line over or underneath the surface of such
20 lands, a description of the real estate, or other property, which the company seeks to acquire;
21 the names of the owners thereof, if known; or if unknown, a pertinent description of the
22 property whose owners are unknown and praying the appointment of three disinterested
23 residents of the county, as commissioners, or a jury, to assess the damages which such owners
24 may severally sustain in consequence of the establishment, erection and maintenance of such
25 road, railroad, street railway, telephone, telegraph line, or electrical line including damages
26 from the construction and maintenance of necessary dams and the condemnation of land
27 submerged thereby, and the construction and maintenance of appurtenant canals, flumes,
28 tunnels and tailraces and the erection and maintenance of necessary electric steam
29 powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline, or gas
30 line over or underneath the surface of such lands; to which petition the owners of any or all as
31 the plaintiff may elect of such parcels as lie within the county or circuit may be made parties
32 defendant by names if the names are known, and by the description of the unknown owners of
33 the land therein described if their names are unknown.

34 2. If the proceedings seek to affect the lands of persons under conservatorship, the
35 conservators must be made parties defendant. If the present owner of any land to be affected
36 has less estate than a fee, the person having the next vested estate in remainder may at the
37 option of the petitioners be made party defendant; but if such remaindermen are not made
38 parties, their interest shall not be bound by the proceedings.

39 3. It shall not be necessary to make any persons party defendants in respect to their
40 ownership unless they are either in actual possession of the premises to be affected claiming
41 title or having a title of the premises appearing of record upon the proper records of the
42 county.

43 4. Except as provided in subsection 5 of this section, nothing in this chapter shall be
44 construed to give a public utility, as defined in section 386.020, or a rural electric cooperative,
45 as provided in chapter 394, the power to condemn property which is currently used by another
46 provider of public utility service, including a municipality or a special purpose district, when
47 such property is used or useful in providing utility services, if the public utility or cooperative
48 seeking to condemn such property, directly or indirectly, will use or proposes to use the
49 property for the same purpose, or a purpose substantially similar to the purpose for which the
50 property is being used by the provider of the public utility service.

51 5. A public utility or a rural electric cooperative may only condemn the property of
52 another provider of public utility service, even if the property is used or useful in providing
53 utility services by such provider, if the condemnation is necessary for the public purpose of
54 acquiring a nonexclusive easement or right-of-way across the property of such provider and
55 only if the acquisition will not materially impair or interfere with the current use of such

56 property by the utility or cooperative and will not prevent or materially impair such provider
57 of public utility service from any future expansion of its facilities on such property.

58 6. If a public utility or rural electric cooperative seeks to condemn the property of
59 another provider of public utility service, and the conditions in subsection 4 of this section do
60 not apply, this section does not limit the condemnation powers otherwise possessed by such
61 public utility or rural electric cooperative.

62 7. Suits in inverse condemnation or involving dangerous conditions of public
63 property against a municipal corporation established under Article VI, Section 30(a) of the
64 Missouri Constitution shall be brought only in the county where such land or any part thereof
65 lies.

66 8. For purposes of this chapter, the authority for an electrical corporation as defined in
67 section 386.020, except for an electrical corporation operating under a cooperative business
68 plan as described in section 393.110, to condemn property for purposes of constructing an
69 electric plant subject to a certificate of public convenience and necessity under subsection 1
70 of section 393.170 shall not extend to the construction of a merchant transmission line with
71 Federal Energy Regulatory Commission negotiated rate authority unless such line has a
72 substation or converter station located in Missouri which is capable of delivering an amount
73 of its electrical capacity to electrical customers in this state that is greater than or equal to the
74 proportionate number of miles of the line that passes through the state. The provisions of this
75 subsection shall not apply to applications filed pursuant to section 393.170 prior to August 28,
76 2022.

77 **9. For the purposes of this chapter, the authority of any corporation set forth in**
78 **subsection 1 of this section to condemn property shall not extend to:**

79 **(1) The construction or erection of any plant, tower, panel, or facility that**
80 **utilizes, captures, or converts wind or air currents to generate or manufacture**
81 **electricity; or**

82 **(2) The construction or erection of any plant, tower, panel, or facility that**
83 **utilizes, captures, or converts the light or heat generated by the sun to generate or**
84 **manufacture electricity.**

85 **10. Subject to subsection 8 of this section, but notwithstanding subsection 9 of**
86 **this section, the authority of any corporation set forth in subsection 1 of this section to**
87 **condemn property shall extend to acquisition of rights needed to construct, operate, and**
88 **maintain collection lines, distribution lines, transmission lines, communications lines,**
89 **substations, switchyards, and other facilities needed to collect and deliver energy**

90 **generated or manufactured by the facilities described in subsection 9 of this section to**
91 **the distribution or transmission grid.**

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