

SECOND REGULAR SESSION

# HOUSE BILL NO. 2556

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DUGGER.

6498H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 67.2800, 67.2810, 67.2815, and 67.2830, RSMo, and to enact in lieu thereof four new sections relating to the property assessment clean energy act.

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

Section A. Sections 67.2800, 67.2810, 67.2815, and 67.2830, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 67.2800, 67.2810, 67.2815,  
3 and 67.2830, to read as follows:

67.2800. 1. Sections 67.2800 to 67.2835 shall be known and may be cited as the  
2 "Property Assessment Clean Energy Act".

3 2. As used in sections 67.2800 to 67.2835, the following words and terms shall mean:

4 (1) "Assessment contract", a contract entered into between a clean energy development  
5 board and a property owner under which the property owner agrees to pay an annual assessment  
6 for a period of up to [twenty] **twenty-five** years in exchange for financing of an energy efficiency  
7 improvement or a renewable energy improvement;

8 (2) "Authority", the state environmental improvement and energy resources authority  
9 established under section 260.010;

10 (3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean  
11 energy development board;

12 (4) "Clean energy conduit financing", the financing of energy efficiency improvements  
13 or renewable energy improvements for a single parcel of property or a unified development  
14 consisting of multiple adjoining parcels of property under section 67.2825;

15 (5) "Clean energy development board", a board formed by one or more municipalities  
16 under section 67.2810;

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.

17 (6) "Energy efficiency improvement", any acquisition, installation, or modification on  
18 or of publicly or privately owned property designed to reduce the energy consumption of such  
19 property, including but not limited to:

20 (a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling  
21 distribution systems;

22 (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or  
23 heat-reflective windows and doors, and other window and door improvements designed to reduce  
24 energy consumption;

25 (c) Automatic energy control systems;

26 (d) Heating, ventilating, or air conditioning distribution system modifications and  
27 replacements;

28 (e) Caulking and weatherstripping;

29 (f) Replacement or modification of lighting fixtures to increase energy efficiency of the  
30 lighting system without increasing the overall illumination of the building unless the increase in  
31 illumination is necessary to conform to applicable state or local building codes;

32 (g) Energy recovery systems; [and]

33 (h) Daylighting systems; **and**

34 **(i) Facilities providing for water conservation or pollutant control;**

35 (7) "Municipality", any county, city, or incorporated town or village of this state;

36 (8) "Project", any energy efficiency improvement or renewable energy improvement;

37 (9) "Property assessed clean energy local finance fund", a fund that may be established  
38 by the authority for the purpose of making loans to clean energy development boards to establish  
39 and maintain property assessed clean energy programs;

40 (10) "Property assessed clean energy program", a program established by a clean energy  
41 development board to finance energy efficiency improvements or renewable energy  
42 improvements under section 67.2820;

43 (11) "Renewable energy improvement", any acquisition and installation of a fixture,  
44 product, system, device, or combination thereof on publicly or privately owned property that  
45 produces energy from renewable resources, including, but not limited to photovoltaic systems,  
46 solar thermal systems, wind systems, biomass systems, or geothermal systems.

47 3. All projects undertaken under sections 67.2800 to 67.2835 are subject to the  
48 applicable municipality's ordinances and regulations, including but not limited to those  
49 ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or  
50 architectural review.

67.2810. 1. One or more municipalities may form clean energy development boards for  
2 the purpose of exercising the powers described in sections 67.2800 to 67.2835. Each clean

3 energy development board shall consist of not less than three members, as set forth in the  
4 ordinance or order establishing the clean energy development board. Members shall serve terms  
5 as set forth in the ordinance or order establishing the clean energy development board and shall  
6 be appointed:

7 (1) If only one municipality is participating in the clean energy development board, by  
8 the chief elected officer of the municipality with the consent of the governing body of the  
9 municipality; or

10 (2) If more than one municipality is participating, in a manner agreed to by all  
11 participating municipalities.

12 2. A clean energy development board shall be a political subdivision of the state and  
13 shall have all powers necessary and convenient to carry out and effectuate the provisions of  
14 sections 67.2800 to 67.2835, including but not limited to the following:

15 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections  
16 67.2800 to 67.2835;

17 (2) To adopt an official seal;

18 (3) To sue and be sued;

19 (4) To make and enter into contracts and other instruments with public and private  
20 entities;

21 (5) To accept grants, guarantees, and donations of property, labor, services, and other  
22 things of value from any public or private source;

23 (6) To employ or contract for such managerial, legal, technical, clerical, accounting, or  
24 other assistance it deems advisable;

25 (7) To levy and collect **or to cause the collection of** special assessments under an  
26 assessment contract with a property owner and to record [such] **delinquent** special assessments  
27 as a lien on the property;

28 (8) To borrow money from any public or private source and issue bonds and provide  
29 security for the repayment of the same;

30 (9) To finance a project under an assessment contract;

31 (10) To collect reasonable fees and charges in connection with making and servicing  
32 assessment contracts and in connection with any technical, consultative, or project assistance  
33 services offered;

34 (11) To invest any funds not required for immediate disbursement in obligations of the  
35 state of Missouri or of the United States or any agency or instrumentality thereof, or in bank  
36 certificates of deposit; provided, however, the limitations on investments provided in this  
37 subdivision shall not apply to proceeds acquired from the sale of bonds which are held by a  
38 corporate trustee; and

39 (12) To take whatever actions necessary to participate in and administer a clean energy  
40 conduit financing or a property assessed clean energy program.

41 3. No later than July first of each year, the clean energy development board shall file  
42 with each municipality that participated in the formation of the clean energy development board  
43 and with the director of the department of natural resources an annual report for the preceding  
44 calendar year that includes:

45 (1) A brief description of each project financed by the clean energy development board  
46 during the preceding calendar year, which shall include the physical address of the property, the  
47 name or names of the property owner, an itemized list of the costs of the project, and the name  
48 of any contractors used to complete the project;

49 (2) The amount of assessments due and the amount collected during the preceding  
50 calendar year;

51 (3) The amount of clean energy development board administrative costs incurred during  
52 the preceding calendar year;

53 (4) The estimated cumulative energy savings resulting from all energy efficiency  
54 improvements financed during the preceding calendar year; and

55 (5) The estimated cumulative energy produced by all renewable energy improvements  
56 financed during the preceding calendar year.

57 4. No lawsuit to set aside the formation of a clean energy development board or to  
58 otherwise question the proceedings related thereto shall be brought after the expiration of sixty  
59 days from the effective date of the ordinance or order creating the clean energy development  
60 board. No lawsuit to set aside the approval of a project, an assessment contract, or a special  
61 assessment levied by a clean energy development board, or to otherwise question the proceedings  
62 related thereto shall be brought after the expiration of sixty days from the date that the  
63 assessment contract is executed.

67.2815. 1. A clean energy development board shall not enter into an assessment  
2 contract or levy or collect a special assessment for a project without making a finding that there  
3 are sufficient resources to complete the project and that the estimated economic benefit expected  
4 from the project during the financing period is equal to or greater than the cost of the project.

5 2. An assessment contract shall be executed by the clean energy development board and  
6 the benefitted property owner or property owners and shall provide:

7 (1) A description of the project, including the estimated cost of the project and details  
8 on how the project will either reduce energy consumption or create energy from renewable  
9 sources;

10 (2) A mechanism for:

11 (a) Verifying the final costs of the project upon its completion; and

12 (b) Ensuring that any amounts advanced or otherwise paid by the clean energy  
13 development board toward costs of the project will not exceed the final cost of the project;

14 (3) An acknowledgment by the property owner that the property owner has received or  
15 will receive a special benefit by financing a project through the clean energy development board  
16 that equals or exceeds the total assessments due under the assessment contract;

17 (4) An agreement by the property owner to pay annual special assessments for a period  
18 not to exceed [twenty] **twenty-five** years, as specified in the assessment contract;

19 (5) A statement that the obligations set forth in the assessment contract, including the  
20 obligation to pay annual special assessments, are a covenant that shall run with the land and be  
21 obligations upon future owners of such property; and

22 (6) An acknowledgment that no subdivision of property subject to the assessment  
23 contract shall be valid unless the assessment contract or an amendment thereof divides the total  
24 annual special assessment due between the newly subdivided parcels pro rata to the special  
25 benefit realized by each subdivided parcel.

26 3. The total special assessments levied against a property under an assessment contract  
27 shall not exceed the sum of the cost of the project, including any required energy audits and  
28 inspections, or portion thereof financed through the participation in a property assessed clean  
29 energy program or clean energy conduit financing, including the costs of any audits or  
30 inspections required by the clean energy development board, plus such administration fees,  
31 interest, and other financing costs reasonably required by the clean energy development board.

32 4. The clean energy development board shall provide a copy of each signed assessment  
33 contract to the local county assessor and county collector and shall cause a copy of such  
34 assessment contract to be recorded in the real estate records of the county recorder of deeds.

35 5. Special assessments agreed to under an assessment contract shall be a lien on the  
36 property against which it is assessed on behalf of the applicable clean energy development board  
37 from the date that each annual assessment under the assessment contract becomes [due]  
38 **delinquent**. Such special assessments shall [be collected by the county collector in the same  
39 manner and with] **have** the same priority as ad valorem real property taxes **and shall, at the**  
40 **option of the clean energy development board, be collected by the energy development**  
41 **board or by the county collector in conjunction with the collection of other real property**  
42 **taxes and assessments**. [Once] **If collected by the county collector**, the county collector shall  
43 pay over such special assessment revenues to the clean energy development board in the same  
44 manner in which revenues from ad valorem real property taxes are paid to other taxing districts.  
45 Such special assessments shall be collected as provided in this subsection from all subsequent  
46 property owners, including the state and all political subdivisions thereof, for the term of the  
47 assessment contract.

48           6. Any clean energy development board that contracts for outside administrative services  
49 to provide financing origination for a project shall offer the right of first refusal to enter into such  
50 a contract to a federally insured depository institution with a physical presence in Missouri upon  
51 the same terms and conditions as would otherwise be approved by the clean energy development  
52 board. Such right of first refusal shall not be applicable to the origination of any transaction that  
53 involves the issuance of bonds by the clean energy development board.

          67.2830. 1. A clean energy development board may issue bonds payable from special  
2 assessment revenues generated by assessment contracts and any other revenues pledged thereto.  
3 The bonds shall be authorized by resolution of the clean energy development board, shall bear  
4 such date or dates, and shall mature at such time or times as the resolution shall specify, provided  
5 that the term of any bonds issued for a clean energy conduit financing shall not exceed [twenty]  
6 **twenty-five** years. The bonds shall be in such denomination, bear interest at such rate, be in  
7 such form, be issued in such manner, be payable in such place or places, and be subject to  
8 redemption as such resolution may provide. Notwithstanding any provision to the contrary under  
9 this section, issuance of the bonds shall conform to the requirements of subsection 1 of section  
10 108.170.

11           2. Any bonds issued under this section shall not constitute an indebtedness of the state  
12 or any municipality. Neither the state nor any municipality shall be liable on such bonds, and  
13 the form of such bonds shall contain a statement to such effect.

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