

FIRST REGULAR SESSION

HOUSE BILL NO. 916

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCCREERY.

1594H.031

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 143 and 386, RSMo, by adding thereto two new sections relating to solar gardens.

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

Section A. Chapters 143 and 386, RSMo, are amended by adding thereto two new sections, to be known as sections 143.2010 and 386.920, to read as follows:

143.2010. 1. As used in this section, the following terms mean:

(1) "Deduction", an amount subtracted from a taxpayer's Missouri adjusted gross income to determine Missouri taxable income for the tax year in which such deduction is claimed;

(2) "Solar garden", a facility that generates electricity by means of any solar photovoltaic device that is owned and financed at least in part by customer subscribers who shall receive compensation for ownership interests in the form of rebates or credits to electricity costs at a particular location serviced by the utility operating the solar garden;

(3) "Taxpayer", any individual subject to the income tax imposed under this chapter or who has an ownership interest in a solar garden and receives taxable income in the form of a rebate or credit as allowed under section 386.920 and in accordance with Missouri public service commission rules authorized under section 386.920.

2. In addition to all deductions listed in this chapter, for all tax years beginning on or after January 1, 2018, a taxpayer who receives income in the form of a rebate or credit issued under section 386.920 shall be allowed a deduction. The deduction amount shall be equal to the full amount of the rebate or credit received by a taxpayer during the requisite tax year. No taxpayer shall claim a tax deduction more than once under this section.

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 **3. The department of revenue, in consultation with the public service commission,**
19 **shall establish the procedure by which the deduction provided under this section may be**
20 **claimed and may promulgate rules to implement the provisions of this section. Any rule**
21 **or portion of a rule, as that term is defined in section 536.010, that is created under the**
22 **authority delegated in this section shall become effective only if it complies with and is**
23 **subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This**
24 **section and chapter 536 are nonseverable, and if any of the powers vested with the general**
25 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
26 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
27 **authority and any rule proposed or adopted after August 28, 2017, shall be invalid and**
28 **void.**

386.920. 1. This section shall be known and may be cited as the "Solar Garden
2 **Project Act".**

3 **2. Beginning August 28, 2018, the public service commission shall promulgate rules**
4 **to incentivize the construction and operation of solar garden pilot energy projects by**
5 **electric utilities subject to regulation by the commission under chapter 386 but shall not**
6 **include municipal utilities, rural electrical cooperatives, or any foreign or out-of-state**
7 **electric utility not subject to general regulation by the commission. The solar garden shall**
8 **be located within the utility service territory of the relevant electric utility while the**
9 **premise to which the subscription is attributed shall be located within either the same**
10 **municipality or county as the solar garden or another county adjacent to the county where**
11 **the solar garden is located.**

12 **3. A solar garden pilot project is a facility that generates up to two megawatts of**
13 **electricity by means of any solar photovoltaic device that is owned and financed at least in**
14 **part by customer-subscribers who shall receive compensation for ownership interests in**
15 **the form of rebates or credits to electricity costs at a particular location serviced by the**
16 **utility operating the solar garden. The commission shall enact rules governing the**
17 **ownership and use of solar gardens, including rules that specify:**

18 **(1) The rebates or credits proportion to be issued to customer-subscribers to solar**
19 **gardens in exchange for ownership interests;**

20 **(2) The definition of the ownership interest as a financial interest in a solar garden**
21 **that is subject to transfer on the open market but that guarantees only an indefinite rebate**
22 **or credit based on a particular location served by the utility. If a subscriber ceases to be**
23 **a customer at the premises where the subscription is based but, within a reasonable period**
24 **as determined by the commission, becomes a customer at another premise in the service**
25 **territory of the qualifying retail utility and located in the geographic area served by the**

26 community solar garden, the subscription shall continue in effect, but the bill credit and
27 other features of the subscription shall be adjusted as necessary to reflect any differences
28 between the new and previous premises' customer classification and average annual
29 consumption of electricity;

30 (3) A maximum limit on rebate or credit amounts of one hundred twenty percent
31 of a customer-subscriber's average annual electricity consumption. Credits shall be
32 permitted to roll over indefinitely to following months if no payment is due until the
33 subscriber ceases to be a customer;

34 (4) Allowance for the sale of electricity from the utility financed and owned portion
35 of the solar garden and allowance for the sale of any excess energy not necessary to meet
36 the one hundred twenty percent rebate or credit limit on the open market at a value of the
37 solar rate or applicable retail rate;

38 (5) Allowance for no less than one hundred percent of the energy produced by a
39 solar garden to be counted towards the solar or renewable energy mandates of chapter 393
40 and any future solar or renewable energy mandates required by general law;

41 (6) Requirements for submission of a plan for solar garden construction and
42 interconnection and for approval thereof by the commission prior to the start of
43 construction. The commission may require pre-approval and the issuance of a certificate
44 of convenience and necessity;

45 (7) Rules governing customer subscriber notification, fee, and cost and benefit
46 descriptions;

47 (8) Rules governing individual tax deductions for investment in solar gardens as
48 authorized under section 143.2010; and

49 (9) Rules ensuring that the construction and operation of a particular solar garden
50 are consistent with the public interest.

51 4. Each solar garden shall have at least ten subscribers; however, no single
52 subscriber shall be permitted to purchase more than forty percent of any one particular
53 solar garden's electricity. In addition, each subscription shall be sized to represent at least
54 one kilowatt of the solar garden's generating capacity.

55 5. This section shall not require the mandatory construction or operation of a solar
56 garden pilot energy project. No individual customer subscriber shall be considered an
57 electric utility by reason of a purchase of ownership interests in a solar garden. The
58 transfer and sale of ownership in a solar garden shall not be considered the sale of a stock,
59 bond, or other security subject to regulation under chapter 409.

60 6. The commission may require periodic reporting by regulated utilities on all
61 accounting, financial, and health and safety information relevant to solar garden pilot

62 **projects and may enact transparency requirements such as the requirement that utilities**
63 **allow for both financial and physical audits or inspections of solar gardens.**

64 **7. The public service commission may promulgate rules and regulations for the**
65 **administration of this section. Any rule or portion of a rule, as that term is defined in**
66 **section 536.010, that is created under the authority delegated in this section shall become**
67 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
68 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**
69 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
70 **the effective date, or to disapprove and annul a rule are subsequently held**
71 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
72 **after August 28, 2017, shall be invalid and void.**

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