

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 131
100TH GENERAL ASSEMBLY

0380H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 523.262 and 537.340, RSMo, and to enact in lieu thereof three new sections relating to the distribution of energy.

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

Section A. Sections 523.262 and 537.340, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 523.262, 537.340, and 620.3150, to read as
3 follows:

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent
2 domain shall only be vested in governmental bodies or agencies whose governing body is elected
3 or whose governing body is appointed by elected officials or in an urban redevelopment
4 corporation operating pursuant to a redevelopment agreement with the municipality for a
5 particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

6 2. A private utility company, public utility, rural electric cooperative, municipally owned
7 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the
9 purposes of this section, the term "common carrier" shall not include motor carriers, contract
10 carriers, or express companies. Where a condemnation by such an entity results in a displaced
11 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section
12 523.205 shall apply unless the condemning entity is subject to the relocation assistance
13 provisions of the federal Uniform Relocation Assistance Act.

14 3. Any entity with the power of eminent domain and pursuing the acquisition of property
15 for the purpose of constructing a power generation facility after December 31, 2006, after
16 providing notice in a newspaper of general circulation in the county where the facility is to be

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 constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior
18 to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the
19 property owner with notification of the identity of the condemning authority and the proposed
20 purpose for which the condemned property shall be used at the time of making the initial offer.

21 **4. Private entities shall not have the power of eminent domain under the provisions**
22 **of this section for the purposes of constructing above-ground merchant lines. For the**
23 **purposes of this subsection, "merchant line" means a high-voltage direct current electric**
24 **transmission line which does not provide for the erection of electric substations at intervals**
25 **of less than fifty miles, which substations are necessary to accommodate both the purchase**
26 **and sale to persons located in this state of electricity generated or transmitted by the**
27 **private entity.**

537.340. 1. If any person shall cut down, injure or destroy or carry away any tree placed
2 or growing for use, shade or ornament, or any timber, rails or wood standing, being or growing
3 on the land of any other person, including any governmental entity, or shall dig up, quarry or
4 carry away any stones, ore or mineral, gravel, clay or mold, or any ice or other substance or
5 material being a part of the realty, or any roots, fruits or plants, or cut down or carry away grass,
6 grain, corn, flax or hemp in which such person has no interest or right, standing, lying or being
7 on land not such person's own, or shall knowingly break the glass or any part of it in any building
8 not such person's own, the person so offending shall pay to the party injured treble the value of
9 the things so injured, broken, destroyed or carried away, with costs. Any person filing a claim
10 for damages pursuant to this section need not prove negligence or intent.

11 2. Notwithstanding the provisions of subsection 1 of this section, the following rules
12 shall apply to the trimming, removing, and controlling of trees and other vegetation by any
13 electric supplier:

14 (1) Every electric supplier that operates electric transmission or distribution lines shall
15 have the authority to maintain the same by trimming, removing, and controlling trees and other
16 vegetation posing a hazard to the continued safe and reliable operation thereof;

17 (2) An electric supplier may exercise its authority under subdivision (1) of this
18 subsection if the trees and other vegetation are within the legal description of any recorded
19 easement or, in the absence of a recorded easement, the following:

20 (a) Within ten feet, plus one-half the length of any attached cross arm, of either side of
21 the centerline of electricity lines potentially energized at or below 34.5 kilovolts measured line
22 to line and located within the limits of any city; or

23 (b) Within thirty feet of either side of the centerline of electricity lines potentially
24 energized at or below 34.5 kilovolts measured line to line and located outside the limits of any
25 city; or

26 (c) Within fifty feet of either side of the centerline of electricity lines potentially
27 energized between 34.5 and one hundred kilovolts measured line to line; or

28 (d) Within the greater of the following for any electricity lines potentially energized at
29 one hundred kilovolts or more measured line to line:

30 a. Seventy-five feet to either side of the centerline; or

31 b. Any required clearance distance adopted by either the Federal Energy Regulatory
32 Commission or an Electric Reliability Organization authorized by the Energy Policy Act of 2005,
33 16 U.S.C. Section 824o. Such exercise shall be considered reasonable and necessary for the
34 proper and reliable operation of electric service and shall create a rebuttable presumption, in
35 claims for property damage, that the electric supplier acted with reasonable care, operated within
36 its rights regarding the operation and maintenance of its electricity lines, and has not committed
37 a trespass;

38 (3) An electric supplier may trim, remove, and control trees and other vegetation outside
39 the provisions in subdivision (2) of this subsection if such actions are necessary to maintain the
40 continued safe and reliable operation of its electric lines;

41 (4) An electric supplier may secure from the owner or occupier of land greater authority
42 to trim, remove, and control trees and other vegetation than the provisions set forth in
43 subdivision (2) of this subsection and may exercise any and all rights regarding the trimming,
44 removing, and controlling of trees and other vegetation granted in any easement held by the
45 electric supplier;

46 (5) An electric supplier may trim or remove any tree of sufficient height outside the
47 provisions of subdivision (2) of this subsection when such tree, if it were to fall, would threaten
48 the integrity and safety of any electric transmission or distribution line and would pose a hazard
49 to the continued safe and reliable operation thereof;

50 (6) Prior to the removal of any tree under the provisions of subdivision (5) of this
51 subsection, an electric supplier shall notify the owner or occupier of land, if available, at least
52 fourteen days prior to such removal unless either the electric supplier deems the removal to be
53 immediately necessary to continue the safe and reliable operation of its electricity lines, or the
54 electric supplier is trimming or removing trees and other vegetation following a major weather
55 event or other emergency situation;

56 (7) If any tree which is partially trimmed by an electric supplier dies within three months
57 as a result of said trimming, the owner or occupier of land upon which the tree was trimmed may
58 request in writing that the electric supplier remove said tree at the electric supplier's expense.
59 The electric supplier shall respond to such request within ninety days;

60 (8) Nothing in this subsection shall be interpreted as requiring any electric supplier to
61 fully exercise the authorities granted in this subsection.

62 3. For purposes of this section, the term "electric supplier" means any rural electric
63 cooperative that is subject to the provisions of chapter 394~~[, and]~~ ; any electrical corporation
64 which is required by its bylaws to operate on the not-for-profit cooperative business plan, with
65 its consumers who receive service as the stockholders of such corporation, and which holds a
66 certificate of public convenience and necessity to serve a majority of its customer-owners in
67 counties of the third classification as of August 28, 2003; **any municipally owned or operated**
68 **electric power system that is subject to the provisions of chapter 91; and any municipally**
69 **owned utility whose service area is set by state statute, service agreement, or other**
70 **authority to include areas which are not incorporated into city limits.**

620.3150. 1. The comprehensive state energy plan developed by the division of
2 **energy shall be reviewed by the division by January 1, 2021, and biennially thereafter, and**
3 **updated if necessary, in accordance with the provisions of this section.**

4 **2. The state's comprehensive state energy plan shall be reviewed to ensure that it:**

- 5 **(1) Is consistent with Article I, Section 2 of the Missouri Constitution;**
6 **(2) Encourages private investment in energy solutions that will help customers**
7 **better manage their energy bills and help reduce fuel costs while ensuring fairness;**
8 **(3) Develops free market strategies to attract private capital investment;**
9 **(4) Identifies and evaluates transportation alternatives;**
10 **(5) Creates an uncumbersome regulatory environment that allows the state's energy**
11 **utilities to chart a vibrant changing future by operating with greater efficiency, consumer**
12 **flexibility, and reliability, and that supports pricing that is predictable and sustainable;**
13 **(6) Supports public and private efforts to foster a supply of energy to consumers**
14 **that is abundant, reliable, and cost efficient; and**
15 **(7) Monitors areas of potential growth or development, including forecasts of five**
16 **and ten years for energy demand and supply, infrastructure demands, and identification**
17 **of additional costs, risks, benefits, uncertainties, and market potential of energy supply**
18 **resource alternatives.**

19 **3. The division of energy, either directly or through contracting with an**
20 **organization that is qualified to adequately meet the aforementioned goals, shall use a**
21 **diverse stakeholder system through both online engagement and in-person meetings**
22 **throughout the state to conduct the review.**

23 **4. A report shall be issued by the division of energy, along with the review required**
24 **under this section, that shall suggest policy changes for the state that:**

- 25 **(1) Provide improved reliability of the energy systems within the state;**
26 **(2) Insulate customers from volatility in market prices;**
27 **(3) Reduce the overall cost of energy in the state;**

- 28 **(4) Reasonably address public health and environmental impacts;**
29 **(5) Identify and analyze emerging trends in supply, price, demand, and technology,**
30 **as well as energy policies and programs that impact the state; and**
31 **(6) Protect against adversarial threats to cybersecurity, grid security, and the**
32 **physical integrity of energy infrastructure.**
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34 **The division of energy shall submit the report to the speaker of the house of representatives**
35 **and the president pro tempore of the senate.**

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