

FIRST REGULAR SESSION

# HOUSE BILL NO. 1169

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCNEIL.

2193H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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 the 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 in this chapter.

**2. In addition to all deductions listed in this chapter, for all taxable years beginning on or after January 1, 2016, a taxpayer who receives income in the form of rebates or credits issued under section 386.920 shall be allowed a deduction. The deduction amount shall be equal to the full amount of the rebates or credits received by a taxpayer during the requisite fiscal year who has an ownership interest in a solar garden and receives taxable income in the form of such rebates or credits as allowed under section 386.920 and in accordance with Missouri public service commission rules authorized under section 386.920. 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 commission, shall establish**  
19 **the procedure by which the deduction provided in this section may be claimed, and may**  
20 **promulgate rules to implement the provisions of this section. Any rule or portion of a rule,**  
21 **as that term is defined in section 536.010, that is created under the authority delegated in**  
22 **this section shall become effective only if it complies with and is subject to all of the**  
23 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**  
24 **are nonseverable, and if any of the powers vested with the general assembly pursuant to**  
25 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**  
26 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
27 **proposed or adopted after August 28, 2015, shall be invalid and void.**

28           **4. Under section 23.253 of the Missouri sunset act:**

29           **(1) The provisions of the new program authorized under this section shall**  
30 **automatically sunset on December thirty-first six years after the effective date of this**  
31 **section unless reauthorized by an act of the general assembly; and**

32           **(2) If such program is reauthorized, the program authorized under this section**  
33 **shall automatically sunset on December thirty-first twelve years after the effective date of**  
34 **the reauthorization of this section; and**

35           **(3) This section shall terminate on December thirty-first of the calendar year**  
36 **immediately following the calendar year in which the program authorized under this**  
37 **section is sunset. The termination of the program as described in this subsection shall not**  
38 **be construed to preclude any taxpayer who claims any benefit under any program that is**  
39 **sunset under this subsection from claiming such benefit for all allowable activities related**  
40 **to such claim that were completed before the program was sunset, or to eliminate any**  
41 **responsibility of the administering agency to verify the continued eligibility of projects**  
42 **receiving tax credits and to enforce other requirements of law that applied before the**  
43 **program was sunset.**

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

3           **2. Beginning August 28, 2016, the commission shall promulgate rules to incentivize**  
4 **the construction and operation of solar garden pilot energy projects by electric utilities**  
5 **subject to regulation by the commission under chapter 386, but shall not include municipal**  
6 **utilities, rural electrical cooperatives, or any foreign or out-of-state electric utility not**  
7 **subject to general regulation by the commission.**

8           **3. The commission shall enact rules defining a solar garden pilot project as a**  
9 **facility that generates electricity by means of any solar photovoltaic device that is owned**  
10 **and financed at least in part by customer subscribers who shall receive compensation for**

11 ownership interests in the form of rebates or credits to electricity costs at a particular  
12 location serviced by the utility operating the solar garden. The commission shall enact  
13 rules governing the ownership and use of solar gardens, including rules that specify:

14 (1) Percentage requirements demarcating the type of permissible ownership  
15 interests of the utility and its customer subscribers in the solar garden, taking into account  
16 the need for utilities to engage in ongoing maintenance, operation, and renovation of solar  
17 gardens to increase economic efficiency over time;

18 (2) The rebate or credit proportion to be received by customer subscribers to solar  
19 gardens in exchange for ownership interests;

20 (3) 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 on which the subscription is based, but within a reasonable  
24 period as determined by the commission, becomes a customer at another premises in the  
25 service territory of the qualifying retail utility and within the geographic area served by  
26 the community solar garden, the subscription shall continue in effect, but the bill credit  
27 and other features of the subscription shall be adjusted as necessary to reflect any  
28 differences between the new and previous premises' customer classification and average  
29 annual consumption of electricity;

30 (4) A maximum limit on a rebate or credit of one hundred twenty percent of a  
31 customer subscriber's average annual electricity consumption;

32 (5) Allowance for the sale of electricity from the utility financed and owned portion  
33 of the solar garden and allowance for the sale of any excess energy not necessary to meet  
34 the one hundred percent rebate or credit limit on the open market at a reasonable rate of  
35 return on investment;

36 (6) Allowance for not less than one hundred percent of the energy produced by a  
37 solar garden to be counted towards the solar or renewable energy mandates of chapter 393  
38 and any future solar or renewable energy mandates required by general law;

39 (7) Requirements for submission of a plan for solar garden construction and  
40 interconnection for approval by the commission prior to the start of construction. The  
41 commission may require preapproval and the issuance of a certificate of convenience and  
42 necessity;

43 (8) Rules governing a minimum size and maximum size or generating capacity for  
44 solar gardens;

45 (9) Rules governing subscriber location and the location of solar gardens, taking  
46 into account existing service areas and local land use and zoning requirements;

47           **(10) Rules governing customer subscriber notification, fee, and cost and benefit**  
48 **descriptions;**

49           **(11) Rules governing individual tax deductions for investment in solar gardens as**  
50 **authorized under section 143.2010; and**

51           **(12) Rules ensuring that the construction and operation of a particular solar garden**  
52 **are consistent with the public interest.**

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

58           **5. The commission may require periodic reporting by regulated utilities on all**  
59 **accounting, financial, and health and safety information relevant to solar garden pilot**  
60 **projects and may enact transparency requirements such as the requirement that utilities**  
61 **allow for both financial and physical audits or inspections of solar gardens.**

62           **6. The public service commission may promulgate rules and regulations for the**  
63 **administration of this section. Any rule or portion of a rule, as that term is defined in**  
64 **section 536.010, that is created under the authority delegated in this section shall become**  
65 **effective only if it complies with and is subject to all of the provisions of chapter 536, and,**  
66 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
67 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
68 **the effective date, or to disapprove and annul a rule are subsequently held**  
69 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
70 **after August 28, 2015, shall be invalid and void.**

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