

SECOND REGULAR SESSION

# SENATE BILL NO. 1093

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROMINE.

Read 1st time February 25, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6630S.011

## 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 property assessments for energy efficiency improvements.

*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  
2 repealed and four new sections enacted in lieu thereof, to be known as sections  
3 67.2800, 67.2810, 67.2815, and 67.2830, to read as follows:

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

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

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

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

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

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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

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

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

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

28 (c) Automatic energy control systems;

29 (d) Heating, ventilating, or air conditioning distribution system  
30 modifications and replacements;

31 (e) Caulking and weatherstripping;

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

36 (g) Energy recovery systems; [and]

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

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

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

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

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

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

51 (11) "Renewable energy improvement", any acquisition and installation  
52 of a fixture, product, system, device, or combination thereof on publicly or  
53 privately owned property that produces energy from renewable resources,

54 including, but not limited to photovoltaic systems, solar thermal systems, wind  
55 systems, biomass systems, or geothermal systems.

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

67.2810. 1. One or more municipalities may form clean energy  
2 development boards for the purpose of exercising the powers described in sections  
3 67.2800 to 67.2835. Each clean energy development board shall consist of not less  
4 than three members, as set forth in the ordinance or order establishing the clean  
5 energy development board. Members shall serve terms as set forth in the  
6 ordinance or order establishing the clean energy development board and shall be  
7 appointed:

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

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

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

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

19 (2) To adopt an official seal;

20 (3) To sue and be sued;

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

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

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

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

30 (8) To borrow money from any public or private source and issue bonds

31 and provide security for the repayment of the same;

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

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

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

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

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

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

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

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

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

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

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

67 related thereto shall be brought after the expiration of sixty days from the date  
68 that the assessment contract is executed.

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

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

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

12 (2) A mechanism for:

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

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

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

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

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

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

33 3. The total special assessments levied against a property under an  
34 assessment contract shall not exceed the sum of the cost of the project, including

35 any required energy audits and inspections, or portion thereof financed through  
36 the participation in a property assessed clean energy program or clean energy  
37 conduit financing, including the costs of any audits or inspections required by the  
38 clean energy development board, plus such administration fees, interest, and  
39 other financing costs reasonably required by the clean energy development board.

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

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

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

67.2830. 1. A clean energy development board may issue bonds payable  
2 from special assessment revenues generated by assessment contracts and any  
3 other revenues pledged thereto. The bonds shall be authorized by resolution of

4 the clean energy development board, shall bear such date or dates, and shall  
5 mature at such time or times as the resolution shall specify, provided that the  
6 term of any bonds issued for a clean energy conduit financing shall not exceed  
7 [twenty] **twenty-five** years. The bonds shall be in such denomination, bear  
8 interest at such rate, be in such form, be issued in such manner, be payable in  
9 such place or places, and be subject to redemption as such resolution may  
10 provide. Notwithstanding any provision to the contrary under this section,  
11 issuance of the bonds shall conform to the requirements of subsection 1 of section  
12 108.170.

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

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Bill

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