

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 134

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION OF ENERGY SYSTEMS USING SOLAR ENERGY; AMENDING SECTION 63-3501, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3502B, IDAHO CODE, TO PROVIDE FOR THE LEVY OF TAX ON SOLAR ENERGY ELECTRICAL PRODUCTION; AMENDING SECTION 63-3503B, IDAHO CODE, TO PROVIDE FOR FILING OPERATORS' STATEMENTS AND FOR THE ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF SOLAR ENERGY BY THE STATE TAX COMMISSION; AMENDING SECTIONS 63-3504, 63-3505 AND 63-3506, IDAHO CODE, TO PROVIDE REFERENCE TO A PRODUCER OF ELECTRICITY BY MEANS OF SOLAR ENERGY; AND AMENDING SECTION 63-602JJ, IDAHO CODE, TO PROVIDE A PROPERTY TAX EXEMPTION FOR CERTAIN OPERATING PROPERTY OF PRODUCERS OF ELECTRICITY BY MEANS OF SOLAR ENERGY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3501, Idaho Code, be, and the same is hereby amended to read as follows:

63-3501. DEFINITIONS. For the purposes of this chapter:

(a) The term "cooperative electrical association" means any nonprofit, cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering electric power to its members.

(b) The term "cooperative natural gas association" means any nonprofit cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering natural gas to its members.

(c) The term "cost of power" means the cost of power purchases and generation included in reports to, and in accordance with applicable requirements of, the rural electrification administration, United States department of agriculture, by cooperative electrical associations which are borrowers from the rural electrification administration, and for cooperative electrical associations which are not borrowers from the rural electrification administration, such costs which could have been included by such cooperative electrical associations using equivalent reporting and accounting requirements. The state tax commission shall prescribe necessary rules for the purpose of providing a uniform method of reporting cost of power purchases and generation by cooperative electrical associations, consistent with the reporting and accounting requirements of the rural electrification administration.

(d) The term "cost of gas" means the cost of natural gas purchased by cooperative natural gas associations from wholesale or other suppliers of natural gas for delivery to members of the cooperative natural gas association.

(e) The term "gross electrical earnings" means the gross receipts of a cooperative electrical association from the distribution, delivery and sale of electric power within the state of Idaho, but shall not include any earnings or receipts from the distribution, delivery or sale of electric power consumed in pumping water for irrigation or drainage purposes within the state of Idaho, upon the land of such consumer and for the use and benefit of his own land, and where such consumer has received from the association a refund, rebate, or credit of three and one-half percent (3 1/2%) of the cost to him of the electric power so used and consumed.

(f) The term "gross natural gas earnings" means the gross receipts of a cooperative natural gas association from the distribution, delivery and sale of natural gas within the state of Idaho.

(g) The term "gross wind, solar or geothermal energy earnings" means the gross receipts of a wind energy generator, solar energy generator or a geothermal energy generator from the distribution, delivery and sale to a customer for the direct use or resale of electrical energy generated, manufactured or produced by means of wind energy, solar energy or geothermal energy within the state of Idaho.

(h) The term "operating property" means and includes all real estate, fixtures or personal property owned, controlled, operated or managed by such electrical or natural gas association, or producer of electricity at an electrical generating facility capable of generating in excess of one thousand (1,000) kilowatts of electricity by means of wind energy, solar energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, in connection with or to facilitate the generation, transmission, distribution, delivery, or measuring of electric power, natural gas, or electrical energy generated, manufactured or produced by an electrical generating facility capable of generating in excess of one thousand (1,000) kilowatts of electricity by means of wind energy, solar energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, and all conduits, ducts, or other devices, materials, apparatus or property for containing, holding or carrying conductors used for the transmission, distribution and delivery of electric power, natural gas, or electrical energy generated, manufactured or produced by means of an electrical generating facility capable of generating in excess of one thousand (1,000) kilowatts of electricity, wind energy, solar energy or geothermal energy, excluding entities that are regulated by the Idaho public utilities commission as to price, including construction tools, materials and supplies.

(i) The term "nonoperating property" means all other property, real or personal, owned, controlled or managed by such electrical or natural gas association.

(j) The term "taxing unit" shall include any of the following that had property taxes levied in the prior year: the separate taxing districts of the county as well as the county itself and any such taxing district's fund having a different geographical boundary than such taxing district itself.

(k) The term "tax levy" means the total tax levies fixed by each taxing district, as defined herein, in the prior calendar year.

(l) The term "WPPSS 4 and 5 costs" means, for a cooperative electrical association which is a participant under the Washington public power supply

1 system nuclear projects numbers 4 and 5 participants' agreement, dated July
2 14, 1976, all of its costs in connection with Washington public power supply
3 system nuclear projects numbers 4 and 5.

4 (m) The term "weighted wire mileage factor" means a figure which is ar-
5 rived at by multiplying the tax levy of each taxing unit by the number of wire
6 miles of transmission and distribution lines of such cooperative electrical
7 association situated in such taxing unit.

8 (n) The term "gas line mileage factor" means a figure which is arrived
9 at by multiplying the tax levy of each taxing unit by the number of miles of
10 natural gas transmission and distribution lines of such cooperative natural
11 gas association situated in such taxing unit.

12 SECTION 2. That Section 63-3502B, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 63-3502B. LEVY OF TAX ON WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL EN-
15 ERGY ELECTRICAL PRODUCTION. There shall be levied against every producer of
16 electricity by means of wind energy, solar energy or geothermal energy a wind
17 energy tax, a solar energy tax or a geothermal energy tax equal to three per-
18 cent (3%) of such producer's gross wind energy earnings, solar energy earn-
19 ings or geothermal energy earnings. This wind energy tax, solar energy tax
20 or geothermal energy tax shall be in lieu of all other taxes on the operating
21 property, as defined in section 63-3501(h), Idaho Code, of such wind energy
22 producer, of such solar energy producer or of such geothermal energy pro-
23 ducer.

24 SECTION 3. That Section 63-3503B, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 63-3503B. FILING OPERATORS' STATEMENTS -- ALLOTMENT AND APPORTION-
27 MENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, SOLAR
28 ENERGY OR GEOTHERMAL ENERGY BY STATE TAX COMMISSION. Every producer of
29 electricity by means of wind energy, by means of solar energy or by means
30 of geothermal energy in this state shall file with the state tax commission
31 of the state of Idaho an operator's statement in the manner as provided for
32 in section 63-404, Idaho Code, and shall include thereon a statement of
33 the prior calendar year's gross wind energy earnings, gross solar energy
34 earnings or gross geothermal energy earnings. Upon examining and verifying
35 said statement, the state tax commission shall compute the amount of the
36 wind energy tax, the solar energy tax or the geothermal energy tax based on
37 the gross wind energy earnings, the gross solar energy earnings or the gross
38 geothermal energy earnings and shall allot to each county in which the oper-
39 ating property of such producer is situate either: that proportion of the
40 total wind energy tax, that proportion of the total solar energy tax or that
41 proportion of the total geothermal energy tax of such producer shown to be
42 due as the same proportion that the total original cost of operating property
43 situate in such county bears to the total original cost of operating property
44 of such producer for the wind energy project, of such producer for the solar
45 energy project or of such producer for the geothermal energy project. The
46 state tax commission shall then, for each county, apportion the wind energy
47 tax, solar energy tax or geothermal energy tax so allotted to such county

among the several taxing units thereof within which any operating property of such producer is situate, by apportioning to each such taxing unit that proportion of the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county. For such apportionment, the state tax commission shall calculate the weighted original cost which shall be the product of the original cost of such operating property within such taxing unit times such taxing unit's property tax levy for the prior year and the weighted apportionment rate which shall be the ratio of the wind energy tax, of the solar energy tax or of the geothermal energy tax as the case may be, allotted to such county, to the aggregate weighted original cost for all such taxing units within which the operating property is located and then shall calculate the apportionment of the wind energy tax, solar energy tax or geothermal energy tax for each such taxing unit to be equal to the product of the weighted original cost times the weighted apportionment rate. The state tax commission shall, on or before the second Monday in August, notify the state superintendent of public instruction, the county auditor, and the county treasurer of such allotment and apportionment and the amounts thereof. On or before the third Monday in August, the county auditor shall notify the appropriate taxing units of the amount of wind energy tax, the amount of solar energy tax or the amount of the geothermal energy tax being apportioned.

SECTION 4. That Section 63-3504, Idaho Code, be, and the same is hereby amended to read as follows:

63-3504. COLLECTION BY COUNTY TREASURER -- PENALTY AND INTEREST IMPOSED WHEN DELINQUENT. Upon receipt of the notification of the allotment and apportionment of such taxes by the state tax commission by the county treasurer, said county treasurer shall, not later than June 15 of each year, notify each cooperative electrical association, natural gas cooperative, and producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, of the amount of taxes owed, and the apportionment thereof to the county and to the several taxing districts in the county and such tax shall be due and payable not later than July 1, following and, upon the payment thereof, the county treasurer shall pay over to each taxing district its apportionment as herein determined. Any such taxes not paid by July 1, as aforesaid, shall become delinquent and a penalty of five percent (5%) thereof shall be imposed, together with interest at the rate of one percent (1%) per month from July 1 until paid.

SECTION 5. That Section 63-3505, Idaho Code, be, and the same is hereby amended to read as follows:

63-3505. TAXES A LIEN ON PROPERTY OF ASSOCIATION OR PRODUCER UNTIL PAID. All taxes due and payable under this chapter shall be a lien on all property, real and personal, of the electrical, or natural gas association, or the producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, owing the same, as of June 15 of each year and shall be discharged only by the payment thereof. In any action to enforce payment of any delinquent taxes due under this chapter, the county prosecuting such action shall be entitled to a judgment for the reason-

1 able costs of prosecuting such action, as well as for the delinquent taxes,
2 penalty and interest.

3 SECTION 6. That Section 63-3506, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 63-3506. ASSESSMENT OF NONOPERATING PROPERTY BY ASSESSOR. The nonop-
6 erating property of any cooperative electrical or natural gas association,
7 or producer of electricity by means of wind energy, by means of solar energy
8 or by means of geothermal energy, shall be assessed by the county assessor
9 of the county wherein such property is situate, and taxes levied against the
10 same shall be a lien, and shall be due and payable, in the same manner as are
11 any other taxes on property.

12 SECTION 7. That Section 63-602JJ, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 63-602JJ. PROPERTY EXEMPT FROM TAXATION -- CERTAIN OPERATING PROPERTY
15 OF PRODUCER OF ELECTRICITY BY MEANS OF WIND ENERGY, BY MEANS OF SOLAR ENERGY
16 OR BY MEANS OF GEOTHERMAL ENERGY. The following property is exempt from tax-
17 ation: (i) operating property of producers of electricity by means of wind
18 energy exclusively used to produce electricity by means of wind energy on
19 which the tax on gross wind energy earnings will be paid; ~~and~~ (ii) operat-
20 ing property of producers of electricity by means of geothermal energy ex-
21 clusively used to produce electricity by means of geothermal energy on which
22 the tax on gross geothermal energy earnings will be paid; and (iii) operating
23 property of producers of electricity by means of solar energy exclusively
24 used to produce electricity by means of solar energy on which the tax on gross
25 solar energy earnings will be paid.