

HOUSE BILL NO. 915

INTRODUCED BY J. SCHILLINGER, G. OBLANDER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF CERTAIN WIND GENERATION FACILITIES FOR PROPERTY TAX PURPOSES; MOVING CERTAIN WIND GENERATION FACILITIES FROM CLASS FOURTEEN TO CLASS THIRTEEN; PROVIDING A DEFINITION; AMENDING SECTIONS 15-6-137, 15-6-156, AND 15-6-157, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Except as provided in subsection (2), class seven property includes:

(a) all property owned by cooperative rural electrical associations that serve less than 95% of the electricity consumers within the incorporated limits of a city or town, except rural electric cooperative properties described in 15-6-141(1)(c);

(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) Class seven property does not include wind generation facilities, biomass generation facilities, energy storage facilities classified under 15-6-156 or 15-6-157, and property classified under 15-6-163.

(3) Class seven property is taxed at 8% of its market value."

Section 2. Section 15-6-156, MCA, is amended to read:

"15-6-156. Class thirteen property -- description -- taxable percentage. (1) Except as provided in subsections (2)(a) through (2)(i), class thirteen property includes:

(a) electrical generation facilities, except wind generation facilities, biomass generation facilities,

1 and energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

2 (b) electrical generation facilities, except wind generation facilities, biomass generation facilities,
3 and energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator
4 or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

5 (c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass
6 generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any
7 electrical energy producer;

8 (d) allocations of centrally assessed telecommunications services companies; and

9 (e) dedicated communications infrastructure described in 15-6-162(5) for which construction
10 commenced after June 30, 2027, or for which the 15-year period provided for in 15-6-162(5)(c) has expired;

11 (f) wind generation facilities of a centrally assessed electric power company; and

12 (g) wind generation facilities owned or operated by an exempt wholesale generator or an entity
13 certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451.

14 (2) Class thirteen property does not include:

15 (a) property owned by cooperative rural electric cooperative associations classified under 15-6-
16 135;

17 (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137
18 or 15-6-157;

19 (c) allocations of electric power company property under 15-6-141;

20 (d) electrical generation facilities included in another class of property;

21 (e) property owned by cooperative rural telephone associations and classified under 15-6-135;

22 (f) property owned by organizations providing telecommunications services and classified under
23 15-6-135;

24 (g) generation facilities that are exempt under 15-6-225;

25 (h) qualified data centers classified under 15-6-162; and

26 (i) property classified under 15-6-163.

27 (3) For the purposes of this section, the following definitions apply:

28 (a) (i) "Electrical generation facilities" means any combination of a physically connected generator

1 or generators, associated prime movers, and other associated property, including appurtenant land and
2 improvements and personal property, that are normally operated together to produce electric power. The term
3 includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or
4 gas turbines, turbine generators that are driven by falling water, or solar panel systems.

5 (ii) The term does not include electrical generation facilities used for noncommercial purposes or
6 exclusively for agricultural purposes.

7 (iii) (A) The term also does not include a qualifying facility certified by the federal energy regulatory
8 commission.

9 (B) To qualify for consideration of an abatement as allowed in 15-24-1402, the requesting entity
10 must disclose, in writing, its intent to request certification as a qualifying facility to the governing body.

11 (C) If the intent is not disclosed and an abatement granted, abatement may be rescinded by the
12 governing body.

13 (D) Certified qualifying facilities are classified under 15-6-134 and 15-6-138.

14 (iv) The term also does not include a facility that is owned and operated by a person not primarily
15 engaged in the generation or sale of electricity other than power from a small power production facility and
16 classified under 15-6-134 and 15-6-138.

17 (b) (i) "Fiber optic or coaxial cable" means any fiber optic or coaxial cable, including all capitalized
18 costs associated with installing and placing in service the fiber optic or coaxial cable, and other property that is
19 normally operated when installing and placing in service fiber optic or coaxial cable to deliver digital
20 communication and access to the internet.

21 (ii) The term does not include routers, head-end equipment, central office equipment and other
22 electronics, or hardware or software not directly associated with installing and placing in service fiber optic or
23 coaxial cable or the buildings used to house equipment.

24 (c) "Wind generation facilities" has the same meaning as provided in 15-6-157.

25 (4) (a) Except as provided in subsection (4)(b), class thirteen property is taxed at 6% of its market
26 value.

27 (b) (i) Except as provided in subsection (4)(b)(ii), fiber optic or coaxial cable installed and placed in
28 service on or after July 1, 2021, is exempt from taxation for a period of 5 years starting from the date the fiber

1 optic or coaxial cable was placed in service, after which the property exemption is phased out at a rate of 20%
2 a year, with the property being assessed at 100% of its taxable value after a 10-year period. In order to
3 maintain the exemption, the owner of fiber optic or coaxial cable shall reinvest the tax savings from the
4 exemption by installing and placing in service new fiber optic or coaxial cable in Montana within 2 years from
5 the date the owner first claimed the exemption provided for in this subsection (4)(b) without charging those
6 costs to the consumer. The cost of installing or placing into service fiber optic or coaxial cable with the
7 reinvested tax savings without charging those costs to the consumer must be equal to or greater than the value
8 of the tax savings received from the tax incentive.

9 (ii) Fiber optic or coaxial cable installed using federal funds received pursuant to Section 9901 of
10 the American Rescue Plan Act is not eligible for exemption from taxation under this section.

11 (iii) An entity that claims a tax exemption under this subsection (4)(b) shall maintain adequate
12 books and records demonstrating the investment the owner made when installing and placing in service fiber
13 optic or coaxial cable in Montana. The property owners shall make those records available to the department
14 for inspection upon request.

15 (5) (a) The property taxes exempted from taxation by subsection (4)(b) are subject to termination
16 or recapture if the department determines that the owner failed to install and place in service new coaxial or
17 fiber cable in Montana as provided in subsection (4)(b) or otherwise violates the provisions of this section.

18 (b) Upon notice from the department that the owner's exemption has terminated, any local
19 governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for
20 nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the
21 provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar
22 year in which the exemption was first claimed.

23 (c) The recapture of abated taxes may be cancelled, in whole or in part, if the local governing body
24 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
25 of the taxpayer."
26

27 **Section 3.** Section 15-6-157, MCA, is amended to read:

28 **"15-6-157. Class fourteen property -- description -- taxable percentage.** (1) Class fourteen

1 property includes:

2 ~~(a)~~ wind generation facilities of a centrally assessed electric power company;

3 ~~(b)~~ wind generation facilities owned or operated by an exempt wholesale generator or an entity

4 certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

5 ~~(c)~~(a) noncentrally assessed wind generation facilities owned or operated by any electrical energy
6 producer;

7 ~~(d)~~(b) wind generation facilities owned or operated by cooperative rural electric associations

8 described under 15-6-137;

9 ~~(e)~~(c) biomass generation facilities up to 25 megawatts in nameplate capacity of a centrally assessed
10 electric power company;

11 ~~(f)~~(d) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by
12 an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C.
13 16451;

14 ~~(g)~~(e) noncentrally assessed biomass generation facilities up to 25 megawatts in nameplate capacity
15 owned or operated by any electrical energy producer;

16 ~~(h)~~(f) biomass generation facilities up to 25 megawatts in nameplate capacity owned or operated by
17 cooperative rural electric associations described under 15-6-137;

18 ~~(i)~~(g) energy storage facilities of a centrally assessed electric power company;

19 ~~(j)~~(h) energy storage facilities owned or operated by an exempt wholesale generator or an entity
20 certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

21 ~~(k)~~(i) noncentrally assessed energy storage facilities owned or operated by any electrical energy
22 producer;

23 ~~(l)~~(j) energy storage facilities owned or operated by cooperative rural electrical associations
24 described under 15-6-137;

25 ~~(m)~~(k) battery energy storage systems that comply with federal standards on the manufacture and
26 installation of the systems that are owned and operated by an electrical energy storage producer, electrical
27 energy producer, or energy trading entity or by the owner or operator of an electrical vehicle charging site;

28 ~~(n)~~(l) all property of a biodiesel production facility, as defined in 15-24-3102, that has commenced

1 construction after June 1, 2007;

2 ~~(e)~~(m) all property of a biogas production facility, as defined in 15-24-3102, that has commenced
3 construction after June 1, 2007;

4 ~~(p)~~(n) all property of a biomass gasification facility, as defined in 15-24-3102;

5 ~~(q)~~(o) all property of a coal gasification facility, as defined in 15-24-3102, except for property in
6 subsection (1)(t) of this section, that sequesters carbon dioxide;

7 ~~(r)~~(p) all property of an ethanol production facility, as defined in 15-24-3102, that has commenced
8 construction after June 1, 2007;

9 ~~(s)~~(q) all property of a geothermal facility, as defined in 15-24-3102;

10 ~~(t)~~(r) all property of an integrated gasification combined cycle facility, as defined in 15-24-3102, that
11 sequesters carbon dioxide, as required by 15-24-3111(4)(c);

12 ~~(u)~~(s) all property or a portion of the property of a renewable energy manufacturing facility, as defined
13 in 15-24-3102, that has commenced construction after June 1, 2007;

14 ~~(v)~~(t) all property of a natural gas combined cycle facility;

15 ~~(w)~~(u) equipment that is used to capture and to prepare for transport carbon dioxide that will be
16 sequestered or injected for the purpose of enhancing the recovery of oil and gas, other than that equipment at
17 coal combustion plants of the types that are generally in commercial use as of December 31, 2007, that
18 commence construction after December 31, 2007;

19 ~~(x)~~(v) high-voltage direct-current transmission lines and associated equipment and structures,
20 including converter stations and interconnections, other than property classified under 15-6-159, that:

21 (i) originate in Montana with a converter station located in Montana east of the continental divide
22 and that are constructed after July 1, 2007;

23 (ii) are certified under the Montana Major Facility Siting Act; and

24 (iii) provide access to energy markets for Montana electrical generation facilities listed in this
25 section that commenced construction after June 1, 2007;

26 ~~(y)~~(w) all property of electric transmission lines, including substations, that originate at facilities
27 specified in this subsection (1), with at least 90% of electricity carried by the line originating at facilities specified
28 in this subsection (1) and terminating at an existing transmission line or substation that has commenced

1 construction after June 1, 2007;

2 ~~(z)~~(x) the qualified portion of an alternating current transmission line and its associated equipment
3 and structures, including interconnections, that has commenced construction after June 1, 2007;

4 ~~(aa)~~(y) all property of a renewable diesel production facility, as defined in 15-24-3102, that has
5 commenced construction after December 31, 2020; and

6 ~~(bb)~~(z) all property of a sustainable aviation fuel production facility, as defined in 15-24-3102, that has
7 commenced construction after December 31, 2020.

8 (2) (a) The qualified portion of an alternating current transmission line in subsection ~~(4)~~(z) (1)(x) is
9 that percentage, as determined by the department of environmental quality, of rated transmission capacity of
10 the line contracted for on a firm basis by buyers or sellers of electricity generated by facilities specified in
11 subsection (1) that are located in Montana.

12 (b) The department of revenue shall classify the total value of an alternating current transmission
13 line in accordance with the determination made by the department of environmental quality pursuant to
14 subsection (2)(a).

15 (c) The owner of property described under this subsection (2) shall disclose the location of the
16 generation facilities specified in subsection (1) and information sufficient to demonstrate that there is a firm
17 contract for transmission capacity available throughout the year. For purposes of the initial qualification, the
18 owner is not required to disclose financial terms and conditions of contracts beyond that needed for
19 classification.

20 (3) Class fourteen property does not include facilities:

21 (a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-414,
22 was not paid during the construction phase; or

23 (b) that are exempt under 15-6-225.

24 (4) For the purposes of this section, the following definitions apply:

25 (a) "Biomass generation facilities" means any combination of boilers, generators, associated prime
26 movers, and other associated property, including appurtenant land and improvements and personal property,
27 that are normally operated together to produce electric power from the burning of organic material other than
28 coal, petroleum, natural gas, or any products derived from coal, petroleum, or natural gas, with the use of

1 natural gas or other fuels allowed for ignition and to stabilize boiler operations.

2 (b) (i) "Compressed air energy storage" means the conversion of electrical energy to compressed
3 air by using an electrically powered turbocompressor for storage in vessels designed for that purpose and in the
4 earth, including but not limited to deep saline formations, basalt formations, aquifers, depleted oil or gas
5 reservoirs, abandoned mines, and mined rock cavities.

6 (ii) The term includes the conversion of compressed air into electrical energy by using
7 turboexpander equipment and electrical generation equipment.

8 (c) (i) "Energy storage facilities" means hydroelectric pumped storage property, compressed air
9 energy storage property, regenerative fuel cells, batteries, flywheel storage property, or any combination of
10 energy storage facilities directly connected to the electrical power grid and associated property, appurtenant
11 land and improvements, and personal property that are designed to:

12 (A) receive and store electrical energy as potential energy; and

13 (B) convert the stored energy into electrical energy for sale as an energy commodity or as
14 electricity services to balance energy flow on the electrical power grid in order to maintain a stable transmission
15 grid, including but not limited to frequency regulation ancillary services and frequency control.

16 (ii) The term includes only property that in the aggregate can store at least 0.25 megawatt hour
17 and has a power rating of at least 1 megawatt for a period of at least 0.25 hour.

18 (iii) The term does not include property, including associated property and appurtenant land and
19 improvements, that is used to hold water in ponds, reservoirs, or impoundments related to hydroelectric
20 pumped storage as defined in subsection (4)(e).

21 (d) "Flywheel storage" means a process that stores energy kinetically in the form of a rotating
22 flywheel. Energy stored by the rotating flywheel can be converted to electrical energy through the flywheel's
23 integrated electric generator.

24 (e) "Hydroelectric pumped storage" means a process that converts electrical energy to potential
25 energy by pumping water to a higher elevation, where it can be stored indefinitely and then released to pass
26 through hydraulic turbines and generate electrical energy.

27 (f) (i) "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity
28 and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

(ii) The term does not include a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system as defined in 15-6-163.

(g) "Wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(5) (a) The department of environmental quality shall determine whether to certify that a transmission line meets the criteria of subsection ~~(1)(x)~~, ~~(1)(y)~~, or ~~(1)(z)~~ (1)(v), (1)(w), or (1)(x), as applicable, based on an application provided for in 15-24-3112. The department of environmental quality shall review the certification 10 years after the line is operational, and if the property no longer meets the requirements of subsection ~~(1)(x)~~, ~~(1)(y)~~, or ~~(1)(z)~~ (1)(v), (1)(w), or (1)(x), the certification must be revoked.

(b) If the department of revenue finds that a certification previously granted was based on an application that the applicant knew was false or fraudulent, the property must be placed in class nine under 15-6-141. If the application was fraudulent, the applicant may be liable for additional taxes, penalty, and interest from the time that the certification was in effect.

(6) Class fourteen property is taxed at 3% of its market value."

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2024.

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