

HOUSE BILL NO. 114

INTRODUCED BY A. OLSON

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE ELECTRICAL TRANSMISSION AND TRANSPORTATION OF ENERGY RESOURCES OIL AND GAS PIPELINES; ESTABLISHING A MONTANA ENERGY ELECTRICAL TRANSMISSION AND TRANSPORTATION PIPELINE AUTHORITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; REQUIRING THAT STATE AGENCIES COOPERATE WITH THE AUTHORITY; ~~CREATING A SPECIAL REVENUE ACCOUNT; STATUTORILY APPROPRIATING MONEY FROM THE WHOLESALE ENERGY TRANSACTION TAX TO THE AUTHORITY TO SUPPORT ITS ACTIVITIES; AMENDING SECTIONS 15-72-106 AND 17-7-502, MCA~~ PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 7] 6] may be cited as the "Montana ~~Energy~~ ELECTRICAL Transmission and ~~Transportation~~ PIPELINE Authority Act".

NEW SECTION. Section 2. Purpose and findings. The legislature finds and declares that:

(1) Montana is endowed with significant and very diverse energy resources. The development of Montana's energy resources is essential to a healthy state economy.

(2) Montana's energy resources provide a tremendous opportunity to diversify the state's economy and to stabilize and increase revenue to the state;

(3) ~~energy transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE constraints impede the development of the state's energy resources;

(4) an essential governmental function and public purpose are to assist with the removal of ELECTRICAL transmission and ~~transportation impediments~~ PIPELINE CONSTRAINTS to facilitate the development of Montana's energy resources;

(5) development of Montana's energy resources will promote the public interest by increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, and



1 improving the state's economy; and

2 (6) it is in the public interest that the Montana ~~energy transmission and transportation~~ ELECTRICAL
3 TRANSMISSION AND PIPELINE authority have the ability to facilitate the planning, development, economic analysis,
4 and coordination of ~~energy transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE facilities and
5 related supporting infrastructure within and outside of Montana.

6
7 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7] 6], unless the context
8 requires otherwise, the following definitions apply:

9 (1) "Department" means the department of commerce established in 2-15-1801.

10 (2) "Facilities" means ~~energy transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE
11 facilities and related supporting infrastructure, including any interest in those facilities.

12 (3) "Montana ~~energy transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE authority"
13 or "authority" means the citizen board established in [section 4].

14
15 **NEW SECTION. Section 4. Montana ~~energy transmission and transportation~~ ELECTRICAL**
16 **TRANSMISSION AND PIPELINE authority -- board composition -- procedures.** (1) There is a Montana ~~energy~~
17 ~~transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE authority consisting of a ~~seven-member~~
18 FIVE-MEMBER citizen board appointed by the governor.

19 (2) In selecting the members, the governor shall:

20 (a) consider each prospective member's knowledge and understanding of the structural and financial
21 dimensions of ~~energy~~ ELECTRICAL transmission, ~~transportation, and~~ DISTRIBUTION, AND generation components
22 AND PIPELINE COMPONENTS of the state's economy;

23 (b) ensure that ~~two~~ ONE of the ~~seven~~ FIVE members broadly ~~represent~~ REPRESENTS, as evidenced by ~~their~~
24 THE MEMBER'S background, experience, and livelihood, the following categories of energy consumption:

25 (i) residential;

26 (ii) agricultural; or

27 (iii) commercial and industrial enterprise;

28 (c) choose a member with substantial experience in natural gas and oil ~~transmission and transportation~~
29 PIPELINE issues;

30 (d) choose a member with substantial experience in electrical ~~energy~~ transmission, distribution, and

1 generation issues;

2 (e) choose a member with substantial experience in renewable electrical energy; and

3 (f) choose a member with substantial experience in synthetic liquid fuels.

4 (3) The members shall elect the presiding officer by majority vote.

5 (4) Members of the authority shall serve staggered 4-year terms. The governor shall designate ~~two~~ ONE
6 of the initial members to serve ~~2-year terms~~ A 2-YEAR TERM and ~~three~~ TWO of the initial members to serve 3-year
7 terms. Vacancies must be filled by appointment for the unexpired term. A member may not serve more than two
8 consecutive terms.

9 (5) The authority shall meet at least twice a year and may meet more frequently as required by
10 circumstances or at the request of any four or more members of the authority.

11 (6) Decisions of the authority require a simple majority of the whole membership.

12 (7) The authority is attached to the department for administrative purposes, ~~and in addition to any~~
13 ~~employees hired by the authority, the~~ ONLY, AND UNLESS INCONSISTENT WITH THIS SECTION, THE PROVISIONS OF
14 2-15-121 APPLY. THE department shall provide staff support to the authority. ~~The department shall~~ AND act as a
15 liaison between the authority and other state or federal agencies.

16 (8) All members of the authority must receive the same daily salary, per diem, expenses, and travel
17 allowances as members of the legislature, as provided in 5-2-302, while in actual attendance at meetings of the
18 authority and for performance of the members' duties relative to the authority.

19
20 NEW SECTION. Section 5. Authority powers. (1) The Montana ~~energy transmission and~~
21 ~~transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE authority may:

22 (1)(A) facilitate the planning, development, economic analysis, and coordination of facilities within and
23 outside Montana;

24 (2)(B) employ officers, agents, and employees that the authority considers necessary in carrying out the
25 provisions of [sections 1 through 7] 6];

26 (3)(C) contract for legal, financial, engineering, and other professional services necessary in carrying out
27 the provisions of [sections 1 through 7] 6];

28 (4)(D) receive by gift, grant, donation, or otherwise money, aid, or assistance from the United States, the
29 state of Montana, any political subdivision, or any other public entity;

30 (5)(E) assist in investigating, planning, establishing, and coordinating corridors for ~~the transmission and~~

1 ~~transportation of energy resources~~ ELECTRICAL TRANSMISSION AND OIL AND GAS PIPELINES;

2 (6)(F) participate in regional transmission organizations established in response to or in compliance with
3 an order of the federal energy regulatory commission or any regional transmission initiatives;

4 (7)(G) participate in a regional organization established for the purpose of planning, analyzing, and
5 coordinating ~~energy resource transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE projects
6 and infrastructure;

7 (8)(H) report any findings and recommendations to the governor and the energy and telecommunications
8 interim committee established in 5-5-202; and

9 (9)(I) perform other functions necessary to carry out the provisions of [sections 1 through 7] 6].

10 (2) THE AUTHORITY MAY NOT EXERCISE THE POWER OF EMINENT DOMAIN UNDER TITLE 70, CHAPTER 30.

11
12 NEW SECTION. Section 6. Interagency cooperation. (1) State agencies shall cooperate with the
13 authority in the planning of facilities or the permitting or constructing of those facilities.

14 (2) Within the limits of available resources, state agencies shall provide scientific, economic, and other
15 relevant data requested by the authority.

16
17 ~~NEW SECTION. Section 7. Funding -- special revenue account.~~ (1) There is a Montana energy
18 ~~transmission and transportation~~ ELECTRICAL TRANSMISSION AND PIPELINE authority special revenue account within
19 the state special revenue fund established in 17-2-102.

20 ~~(2) Revenue derived from the wholesale energy transaction tax pursuant to 15-72-106 must be deposited~~
21 ~~into this account.~~

22 ~~(3) The revenue received under this section must be used to meet the administrative costs of the~~
23 ~~authority.~~

24 ~~(4) The money in the account is statutorily appropriated, as provided in 17-7-502, to the authority.~~

25
26 ~~Section 8.~~ Section 15-72-106, MCA, is amended to read:

27 ~~"15-72-106. Collection of wholesale energy transaction tax -- disposition of revenue.~~ (1) A
28 transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax
29 collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by
30 15-72-104, both the tax and the excess must be remitted to the department.

1 ~~——— (2) A self-assessing distribution services provider is subject to the provisions of this part.~~

2 ~~——— (3) The Except as provided in subsection (4), the wholesale energy transaction tax collected under this~~
3 ~~part must be deposited in the general fund.~~

4 ~~——— (4) Beginning July 1, 2007, an amount sufficient to fund the activities of the Montana energy transmission~~
5 ~~and transportation ELECTRICAL TRANSMISSION AND PIPELINE authority established in [section 4], as determined by~~
6 ~~the authority, but not to exceed \$350,000 \$250,000 of the wholesale energy transaction tax collected under this~~
7 ~~part, must be deposited annually in the state special revenue account provided for in [section 7]."~~

8

9 ~~——— **Section 9.** Section 17-7-502, MCA, is amended to read:~~

10 ~~——— **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory~~
11 ~~appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the~~
12 ~~need for a biennial legislative appropriation or budget amendment.~~

13 ~~——— (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both~~
14 ~~of the following provisions:~~

15 ~~——— (a) The law containing the statutory authority must be listed in subsection (3):~~

16 ~~——— (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory~~
17 ~~appropriation is made as provided in this section.~~

18 ~~——— (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407;~~
19 ~~5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;~~
20 ~~15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369;~~
21 ~~15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;~~
22 ~~19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;~~
23 ~~20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306;~~
24 ~~23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504;~~
25 ~~44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;~~
26 ~~[section 7]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518;~~
27 ~~82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.~~

28 ~~——— (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
29 ~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
30 ~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana~~

1 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 2 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 3 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 4 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L.
 5 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 6 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 7 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion
 8 of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202,
 9 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005,
 10 the inclusion of 15-31-906 terminates January 1, 2010.)"

11
 12 NEW SECTION. SECTION 7. APPROPRIATION. THERE IS APPROPRIATED \$250,000 FROM THE GENERAL FUND
 13 TO THE DEPARTMENT OF COMMERCE FOR EACH OF THE FISCAL YEARS 2008 AND 2009 TO MEET THE ADMINISTRATIVE
 14 COSTS OF THE AUTHORITY CREATED IN [SECTION 4].

15
 16 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 7] 6] are intended to be
 17 codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through 7] 6].

18
 19 NEW SECTION. Section 9. Saving clause. [This act] does not affect rights and duties that matured,
 20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

21
 22 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are
 23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
 24 the part remains in effect in all valid applications that are severable from the invalid applications.

25
 26 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2007.

27 - END -