

1 SENATE BILL NO. 381

2 INTRODUCED BY L. JONES

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT OF ROYALTIES TO LANDOWNERS
5 BY OWNERS OR OPERATORS OF MERCHANT TRANSMISSION LINES; PROVIDING THAT ROYALTIES ARE
6 BASED ON THE NUMBER OF INSERTION POINTS USED FOR POLES, STRUCTURES, AND OTHER
7 CONNECTIONS OF TRANSMISSION LINES ON PRIVATE LAND; PROVIDING FOR A ROYALTY AMOUNT;
8 CREATING A ROYALTY ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE AND AN
9 APPLICABILITY DATE."

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

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13 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions
14 apply:

15 (1) "Insertion point" means a physical connection that is made to the earth by a pole, each leg of a tower
16 structure, a guy wire anchor, or any other object used to support electric transmission wires for a merchant
17 transmission line.

18 (2) "Merchant transmission line" means a transmission facility that transmits electricity for which costs
19 are not established and recovered by a regulatory authority and for which the owner or operator of the
20 transmission facility charges rates and assumes market risks for transmitting electricity for third parties. The
21 transmission facility must meet the current criteria used for evaluating merchant transmission projects by the
22 federal energy regulatory commission. A merchant transmission line consists of a single transmission line with
23 specified termination points constructed and entered into service as a single unit.

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25 NEW SECTION. **Section 2. Landowner royalty payments -- merchant transmission lines.** (1) For
26 the shared compensation arising from use of their land for facilitating the transmission of electrical energy, the
27 owners of property subject to an easement or right-of-way for the operation of a merchant transmission line must
28 be paid an annual royalty by the owner or operator of the merchant transmission line. The owner or operator shall
29 pay an amount equal to 1% of the total gross operating revenue generated by the merchant transmission line
30 during each calendar year and shall pay an amount equal to 0.05% of the total gross revenue of the merchant

1 transmission line to the department of revenue for deposit in the state general fund for operation of the royalty
2 advisory board provided for in [section 3].

3 (2) The owner or operator of a merchant transmission line shall pay to each private landowner an annual
4 royalty fee based upon the number of insertion points located on the property owner's land in Montana. The
5 royalty payment for each insertion point is equal to the amount of royalty to be paid on the line as determined in
6 subsection (1) divided by the total number of insertion points located on private land for the merchant
7 transmission line during the same calendar year. The royalty fee must be paid on a calendar-year basis, and the
8 payment must be made to each owner no later than April 1 of each year for royalties due for the previous
9 calendar year.

10 (3) The department of revenue shall audit the owner or operator of the merchant transmission line after
11 the first year the line is in service and not less than once every 3 years after the first audit. The department shall
12 determine whether the owner or operator has correctly determined the total gross operating revenue of the line
13 and whether royalty distributions comply with the provisions of [sections 1 through 3]. The department shall use
14 generally accepted accounting principles in making the determination and may request the advice of the royalty
15 advisory board in circumstances that are unique to the payment of royalties under [sections 1 through 3].

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17 **NEW SECTION. Section 3. Royalty advisory board.** (1) There is a merchant transmission line
18 advisory board.

19 (2) (a) The board consists of seven members who are appointed as follows:

20 (i) five members are appointed by the governor, including:

21 (A) a person who when appointed to the board is a qualified structural engineer;

22 (B) a person with expertise in electric transmission;

23 (C) a person who represents the agricultural industry;

24 (D) a person who is a certified public accountant; and

25 (E) a member of the public at large;

26 (ii) one member, who may be a legislator, is appointed by the president of the senate; and

27 (iii) one member, who may be a legislator, is appointed by the speaker of the house of representatives.

28 (b) The board is attached to the department of revenue for administrative purposes only as provided in
29 2-15-121.

30 (c) Members of the board must be compensated in accordance with 2-18-501 through 2-18-503 for each

1 day in board attendance.

2 (3) The board shall meet at least twice annually and may meet at other times when requested by the
3 director of revenue.

4 (4) The board shall advise the department of revenue relating to circumstances that are unique to
5 payment of royalties under [sections 1 through 3], what constitutes insertion points, and other matters necessary
6 to provide an equitable royalty payment system.

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8 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified
9 as an integral part of Title 69, chapter 4, and the provisions of Title 69, chapter 4, apply to [sections 1 through 3].

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11 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 2011.

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13 **NEW SECTION. Section 6. Applicability.** [This act] applies to merchant transmission lines that
14 commence service after July 1, 2011.

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