

HOUSE BILL NO. 323

INTRODUCED BY T. JACOBSON

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF AIR AND WATER POLLUTION CONTROL EQUIPMENT; MOVING AIR AND WATER POLLUTION CONTROL EQUIPMENT FROM CLASS FIVE TO CLASS EIGHT; AMENDING SECTIONS 15-6-135 AND 15-6-138, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

~~(b) air and water pollution control equipment as defined in this section;~~

~~(e)~~(b) new industrial property as defined in this section;

~~(d)~~(c) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

~~(e)~~(d) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

~~(f)~~(e) machinery and equipment used in electrolytic reduction facilities; and

~~(g)~~(f) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

~~(2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities, machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices,~~

1 or equipment is not eligible for certification under this section.

2 ~~—— (b) Requests for certification must be made on forms available from the department of revenue.~~

3 ~~Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,~~

4 ~~orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.~~

5 ~~—— (c) The department of environmental quality shall promulgate rules specifying procedures, including~~

6 ~~timeframes for certification application, and definitions necessary to identify air and water pollution control~~

7 ~~equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the~~

8 ~~valuation of qualifying air and water pollution control equipment. The department of environmental quality shall~~

9 ~~identify and track compliance in the use of certified air and water pollution control equipment and report~~

10 ~~continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated~~

11 ~~incidents of noncompliance at a facility do not affect certification.~~

12 ~~—— (d) A person may appeal the certification, classification, and valuation of the property to the state tax~~

13 ~~appeal board. Appeals on the property certification must name the department of environmental quality as the~~

14 ~~respondent, and appeals on the classification or valuation of the equipment must name the department of~~

15 ~~revenue as the respondent.~~

16 ~~(3)(2)~~ (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,

17 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been

18 assessed within the state of Montana prior to July 1, 1961.

19 (b) New industrial property does not include:

20 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,

21 or professions unless the business or profession meets the requirements of subsection ~~(4)(b)(v)~~ (3)(b)(v);

22 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

23 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years

24 or longer.

25 ~~(4)(3)~~ (a) "New industry" means any person, corporation, firm, partnership, association, or other group

26 that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a

27 mere expansion, reorganization, or merger of an existing industry.

28 (b) New industry includes only those industries that:

29 (i) manufacture, mill, mine, produce, process, or fabricate materials;

30 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state

1 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial
2 products or materials;

3 (iii) engage in the mechanical or chemical transformation of materials or substances into new products
4 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared
5 by the United States office of management and budget;

6 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50%
7 or more of an industry's gross sales or receipts are earned from outside the state; or

8 (v) earn 50% or more of their annual gross income from out-of-state sales.

9 ~~(5)~~(4) Class five property is taxed at 3% of its market value."
10

11 **Section 2.** Section 15-6-138, MCA, is amended to read:

12 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
13 includes:

14 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

15 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
16 except those included in class five under 15-6-135;

17 (c) for oil and gas production, all:

18 (i) machinery;

19 (ii) fixtures;

20 (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water
21 storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas
22 metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is
23 skidable, portable, or movable;

24 (iv) tools that are not exempt under 15-6-219; and

25 (v) supplies except those included in class five;

26 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
27 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
28 as provided in 15-6-220, and supplies except those included in class five;

29 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
30 specifically included and taxed in another class or that are rented under a purchase incentive rental program as

1 defined in 15-6-202(4);

2 (f) special mobile equipment as defined in 61-1-101;

3 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
4 commercial establishments as defined in this section;

5 (h) x-ray and medical and dental equipment;

6 (i) citizens' band radios and mobile telephones;

7 (j) radio and television broadcasting and transmitting equipment;

8 (k) cable television systems;

9 (l) coal and ore haulers;

10 (m) theater projectors and sound equipment;

11 (n) air and water pollution control equipment as defined in this section; and

12 ~~(n)~~(o) all other property that is not included in any other class in this part, except that property that is
13 subject to a fee in lieu of a property tax.

14 (2) As used in this section, the following definitions apply:

15 (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,
16 machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing,
17 abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the
18 creation of air or water pollutants that, except for the use of the item, would be released to the environment.

19 (b) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are
20 primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

21 ~~(b)~~(c) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or
22 service, wholesale, retail, or food-handling business.

23 ~~(c)~~(d) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas
24 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,
25 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil
26 transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

27 (3) Except as provided in 15-24-1402 and 15-24-2102, class eight property is taxed at:

28 (a) for the first \$6 million of taxable market value in excess of the exemption amount in subsection (4),
29 1.5%; and

30 (b) for all taxable market value in excess of \$6 million, 3%.

1 (4) The first \$100,000 of market value of class eight property of a person or business entity is exempt
2 from taxation.

3 (5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services
4 to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and
5 centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to
6 central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all
7 affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be
8 aggregated for purposes of determining the 500-mile threshold.

9 (6) (a) With regard to air and water pollution control equipment, a reduction in pollutants obtained through
10 operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification
11 under this section.

12 (b) Requests for certification for air and water pollution control equipment must be made on forms
13 available from the department of revenue. Certification may not be granted unless the applicant is in substantial
14 compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long
15 as substantial compliance continues.

16 (c) The department of environmental quality shall promulgate rules specifying procedures, including
17 timeframes for certification application, and definitions necessary to identify air and water pollution control
18 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the
19 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall
20 identify and track compliance in the use of certified air and water pollution control equipment and report
21 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated
22 incidents of noncompliance at a facility do not affect certification.

23 (d) A person may appeal the certification, classification, and valuation of the property to the state tax
24 appeal board. Appeals on the property certification must name the department of environmental quality as the
25 respondent, and appeals on the classification or valuation of the equipment must name the department of
26 revenue as the respondent."

27
28 **NEW SECTION. Section 3. Applicability.** [This act] applies to property tax years beginning after
29 December 31, 2015.

30 - END -