

HOUSE BILL NO. 962

INTRODUCED BY L. HELLEGAARD, J. WINDY BOY, J. READ, J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ENERGY LAWS; PROVIDING FOR ATTORNEY GENERAL ENFORCEMENT IN ENERGY CLOSURES; REQUIRING GENERATION FACILITY NOTIFICATION; REQUIRING THE PUBLIC SERVICE COMMISSION TO CATALOG GENERATING FACILITIES; PROVIDING FOR THE COMMISSION STUDY OF ELECTROMAGNETIC PULSE MITIGATION; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Forced retirement of electrical generation facilities -- legislative findings -- reporting.** (1) The legislature finds that:

- (a) affordable, reliable, dispatchable, and secure energy resources are important to the health, safety, and welfare of the state's citizens;
- (b) the state has invested substantial resources in the development of affordable, reliable, dispatchable, and secure energy resources within the state;
- (c) the early retirement of an electrical generation facility that provides affordable, reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the state's citizens;
- (d) the state's police powers, reserved to the state by the United States constitution provide the state with sovereign authority to make and enforce laws for the protection of the health, safety, and welfare of the state's citizens;
- (e) the state has a duty to defend the production and supply of affordable, reliable, dispatchable, and secure energy from external regulatory interference;
- (f) with respect to the retirement of an electrical generation facility, the protection of the health, safety, and welfare of the state's citizens is primary and takes precedence over any attempt from an external regulatory body to mandate, restrict, or influence the early retirement of an electrical generation facility in the state; and

1 (g) federal consultation with the office of the attorney general prior to promulgating any rule or  
2 regulation that may result in the closure of an electrical generation facility in Montana is in the best interest of  
3 the state of Montana.

4 (2) A qualified utility that receives notice of any federal regulation that may result in the forced  
5 retirement of a qualified utility's electrical generation facility shall inform the office of the attorney general of the  
6 regulation within 30 days after the receipt of notice.

7 (3) After being informed as described in subsection (2), the office of the attorney general may take  
8 any action necessary to defend the interests of the state with respect to electricity generation by the qualified  
9 utility, including filing an action in court or participating in administrative proceedings.

10 (4) As used in this section, the following definitions apply:

11 (a) "Dispatchable" means available for use on demand and generally available to be delivered at a  
12 time and quantity of the operator's choosing.

13 (b) "Electrical generation facility" means a facility that generates electricity for provision to  
14 customers.

15 (c) "Forced retirement" means the closure of an electrical generation facility as a result of a federal  
16 regulation that either directly mandates the closure of an electrical generation facility or for which the costs of  
17 compliance are so high as to effectively force the closure of an electrical generation facility.

18 (d) "Qualified utility" means an electric corporation or cooperative that serves retail customers in  
19 the state.

20 (e) "Reliable" means generally able to provide a continuous supply of electricity at the proper  
21 voltage and frequency and the resiliency to withstand sudden or unexpected disturbances.

22 (f) "Secure" means protected against disruption, tampering, and external interference.

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24 **NEW SECTION. Section 2. Notification of generation facilities -- reporting.** (1) The commission  
25 shall send a copy of [this act] to each electrical generation facility in Montana upon passage and approval.

26 (2) The commission shall create an electronic notification form to comply with [this act].

27 (3) The commission may examine measures to mitigate the effects of geomagnetic disturbances  
28 and electromagnetic pulse on the state's transmission system.

