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HOUSE BILL NO. 10

INTRODUCED BY MAEDJE, CARNEY

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE OFFICE OF BUDGET
AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING REVENUE FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX TO MAKE DEBT SERVICE PAYMENTS ON CERCLA BONDS; CREATING A CERCLA COST RECOVERY SPECIAL REVENUE ACCOUNT; COORDINATING CERTAIN PROVISIONS OF THE CERCLA MATCH DEBT SERVICE ACCOUNT, CERCLA BONDS, THE HAZARDOUS WASTE/CERCLA SPECIAL REVENUE ACCOUNT, AND THE CERCLA COST RECOVERY SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 15-38-106, 75-10-621, 75-10-622, AND 75-10-623, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-38-106, MCA, is amended to read:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) on April 1 of each year ANNUALLY IN DUE COURSE, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under [section 5], to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

~~(a)~~(b) \$366,000 of the proceeds of the resource indemnity and ground water assessment taxes in the ground water assessment account established by 85-2-905;

~~(b)~~(c) 50% of the remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects;

~~(e)~~(d) \$150,000 of the remaining proceeds of the resource indemnity and ground water assessment

taxes in the natural resource workers' tuition scholarship account established in 39-10-106 for the first fiscal year following July 1 immediately after the date that the governor certifies that the resource indemnity trust fund balance has reached \$100 million and for succeeding fiscal years, the amount required under 39-10-106(4);

~~(d)~~(e) all remaining proceeds in the orphan share account established in 75-10-743.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer. (Terminates June 30, 2007--sec. 10, Ch. 586, L. 2001.)

15-38-106. (Effective July 1, 2007) Payment of tax -- records -- collection of taxes -- refunds. (1)

The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) on April 1 of each year ANNUALLY IN DUE COURSE, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under [section 5], to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

~~(a)~~(b) \$366,000 of the proceeds in the ground water assessment account established by 85-2-905;

~~(b)~~(c) 50% of the remaining proceeds in the orphan share account established in 75-10-743; and

~~(e)~~(d) all remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount

computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 2. Section 75-10-621, MCA, is amended to read:

"75-10-621. Hazardous waste/CERCLA special revenue account. (1) There is a hazardous waste/CERCLA special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the hazardous waste/CERCLA account:

(a) revenue obtained from the interest income of the resource indemnity trust fund under the provisions of 15-38-202, together with interest accruing on that revenue;

(b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds of the bonds or notes; and

(c) revenue from penalties or damages collected under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

(3) Appropriations may be made from the hazardous waste/CERCLA account only for the following purposes and subject to the following conditions:

~~(a) funds are statutorily appropriated, as provided in 17-7-502(4), to the CERCLA match debt service account necessary to make principal, interest, and premium payments due on CERCLA bonds;~~

~~(b)(a)~~ not more than one-half of the interest income received for any biennium from the resource indemnity trust fund may be appropriated on a biennial basis for:

(i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage tanks and the state share to obtain matching federal funds;

(ii) implementation of Title 75, chapter 10, part 6, pertaining to state assistance to and cooperation with the federal government for remedial action under CERCLA;

(iii) expenses of the department in administering and overseeing the implementation of Title 75, chapter 10, parts 4 and 6; and

(iv) state expenses relating to investigation and remedial action for any hazardous substance defined in 75-10-602; and

~~(e)(b)~~ to the extent funds are available after the appropriations in ~~subsections~~ subsection (3)(a) ~~and~~

~~(3)(b)~~, the department may, as appropriate, seek authorization from the legislature or, when the legislature is not in session, through the budget amendment process provided for in Title 17, chapter 7, part 4, to spend funds for:

- (i) state participation in remedial action under section 104 of CERCLA;
- (ii) state costs for maintenance of sites at which remedial action under CERCLA has been completed;

and

- (iii) the state share to obtain matching federal funds for underground storage tank corrective action.

(4) For the purposes of subsection ~~(3)(c)~~ (3)(b), the legislature finds that a need for state special revenue to obtain matching federal funds for underground storage tank corrective action or for remedial action under section 104 of CERCLA constitutes a serious unforeseen and unanticipated circumstance for the purpose of meeting the definition of "emergency" in 17-7-102. The legislature further finds that the inability of the department to match the federal funds as the funds become available would seriously impair the functions of the department in carrying out its responsibilities under Title 75, chapter 10, parts 4 and 6.

(5) There is no dollar limit to the hazardous waste/CERCLA account. Unused balances remain in the account until appropriated by the legislature for the purposes specified in this section."

Section 3. Section 75-10-622, MCA, is amended to read:

"75-10-622. CERCLA match debt service fund. (1) There is a CERCLA match debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges, allocates, and directs to be credited to the CERCLA match debt service fund ~~as received an amount necessary to satisfy principal and interest payments due on outstanding CERCLA bonds~~ money from the resource indemnity and ground water assessment tax, as provided in 15-38-106, and from the CERCLA cost recovery account, as provided in [section 5].

(3) Money in the CERCLA match debt service fund is statutorily appropriated, as provided in 17-7-502(4)."

Section 4. Section 75-10-623, MCA, is amended to read:

"75-10-623. CERCLA bonds. (1) When authorized by the legislature and within limits of the authorization and the further limitations established in this section, the board of examiners may issue and sell CERCLA bonds of the state in the amount and manner it considers necessary and proper to ~~finance the match requirements~~ fund state participation in remedial action under section 104 of CERCLA, as amended, state costs for maintenance of sites at which remedial action under CERCLA has been completed, the state share required

to obtain matching federal funds and to finance the match requirements for federal money for underground storage tank corrective action, and costs of issuing the bonds or notes. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds issued and interest and redemption premiums payable on the bonds according to their terms.

(2) Each series of CERCLA bonds may be issued by the board of examiners upon request of the department of environmental quality, at public or private sale, in the denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at a rate or rates, maturing at a rate or rates, maturing at the time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at earlier times and prices and upon notice, with provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of the banking institution or institutions within or outside the state, as the board of examiners determines, subject to the limitations contained in 17-5-731 and this section.

(3) In the issuance of each series of CERCLA bonds, the interest rates, maturities, and any mandatory redemption provisions of the bonds must be established in a manner that the funds then specifically pledged and appropriated by law to the CERCLA match debt service fund will, in the judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of the bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. The bonds, notes, and any interest coupons appurtenant to the bonds and notes must be signed by the members of the board of examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all the bonds and notes issued and sold.

(5) All proceeds of bonds or notes issued under this section must be deposited in the hazardous waste/CERCLA special revenue account established in 75-10-621.

(6) All actions taken by the board of examiners under this section must be authorized by a vote of a majority of the members."

NEW SECTION. Section 5. CERCLA cost recovery account. (1) There is a CERCLA cost recovery special revenue account in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the CERCLA cost recovery account amounts obtained by the department through cost recovery under CERCLA for costs paid, in whole or in part, with the proceeds of CERCLA bonds authorized in 75-10-623, together with interest on the proceeds.

(3) (a) Money in the CERCLA cost recovery account must be transferred to the CERCLA match debt service fund in each fiscal year in an amount then available, but not to exceed the amount necessary to pay the principal of, premium, if any, and interest on the bonds and notes issued pursuant to 75-10-623 to become due in the next fiscal year, or as appropriate, to pay the redemption price of the bonds or notes.

(b) Money in the CERCLA cost recovery account, including interest on the money in the account, that is not transferred to the CERCLA match debt service fund must be retained in the CERCLA cost recovery account as long as any principal of, premium, if any, or interest on the CERCLA bonds or notes authorized in 75-10-623, the proceeds of which were applied, in whole or in part, to costs associated with the cost recovery, remains unpaid or the payment of the costs associated with cost recovery has not been provided for in a manner that would cause the defeasance of bonds.

NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an integral part of Title 75, chapter 10, part 6, and the provisions of Title 75, chapter 10, part 6, apply to [section 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2003.

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