

## SENATE BILL NO. 453

INTRODUCED BY B. KEENAN, ELLIOTT, MCNUTT, MOOD, TESTER, F. THOMAS, BARKUS,  
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A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING CERTAIN ELECTRICAL GENERATION FACILITIES IN CLASS NINE PROPERTY FOR PROPERTY TAX PURPOSES; MOVING EXISTING WHOLESALE EXEMPT ELECTRICAL GENERATION FACILITIES FROM CLASS THIRTEEN TO CLASS NINE; AMENDING SECTIONS 15-6-141 AND 15-6-156, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-6-141, MCA, is amended to read:

**"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) electrical generation facilities that were constructed prior to January 1, 2003, and owned or operated by an exempt wholesale generator or entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) electrical generation facilities not operated by a centrally assessed electric power utility company that

uses the facilities primarily to produce electricity for sale and distribution to its own retail customers at rates regulated by a state agency;

~~(b)~~(d) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

~~(c)~~(e) centrally assessed companies' allocations except:

(i) electrical generation facilities included in class thirteen;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

(iii) property owned by organizations providing telephone communications to rural areas and classified in class five;

(iv) railroad transportation property included in class twelve;

(v) airline transportation property included in class twelve; and

(vi) telecommunications property included in class thirteen.

(2) For the purposes of this section, the term "electrical generation facilities" has the meaning provided in 15-6-156(3).

~~(2)~~(3) Class nine property is taxed at 12% of market value."

**Section 2.** Section 15-6-156, MCA, is amended to read:

**"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in subsections (2)(a) through ~~(2)(g)~~ (2)(i), class thirteen property includes:

(a) electrical generation facilities of a centrally assessed electric power utility company that uses the facilities primarily to produce electricity for sale and distribution to its own retail customers at rates regulated by a state agency;

(b) electrical generation facilities that were constructed after December 31, 2002, and owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed electrical generation facilities owned or operated by any electrical energy producer; and

(d) allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

- (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137;
- (c) allocations of electric power company property under 15-6-141;
- (d) electrical generation facilities included in another class of property;
- (e) property owned by cooperative rural telephone associations and classified in class five;
- (f) property owned by organizations providing telecommunications services and classified in class five;

and

- (g) generation facilities that are exempt under 15-6-225;
- (h) electrical generation facilities that were constructed before January 1, 2003, and owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a, and classified in class nine; and
- (i) electrical generation facilities not operated by a centrally assessed electric power utility company that uses the facilities primarily to produce electricity for sale and distribution to its own retail customers at rates regulated by a state agency.

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated as of December 31, 2002, by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138.

(4) Class thirteen property is taxed at 6% of its market value."

NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2002.

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