

## HOUSE BILL NO. 114

INTRODUCED BY A. OLSON

BY REQUEST OF THE ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE

ABILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE TRANSMISSION AND TRANSPORTATION OF ENERGY RESOURCES; ESTABLISHING A MONTANA ENERGY TRANSMISSION AND TRANSPORTATION AUTHORITY; PROVIDING THE AUTHORITY WITH CERTAIN POWERS; REQUIRING THAT STATE AGENCIES COOPERATE WITH THE AUTHORITY; CREATING A SPECIAL REVENUE ACCOUNT; STATUTORILY APPROPRIATING MONEY FROM THE WHOLESALE ENERGY TRANSACTION TAX TO THE AUTHORITY TO SUPPORT ITS ACTIVITIES; AMENDING SECTIONS 15-72-106 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana Energy Transmission and Transportation Authority Act".

NEW SECTION. **Section 2. Purpose and findings.** The legislature finds and declares that:

(1) Montana is endowed with significant and very diverse energy resources. The development of Montana's energy resources is essential to a healthy state economy.

(2) Montana's energy resources provide a tremendous opportunity to diversify the state's economy and to stabilize and increase revenue to the state;

(3) energy transmission and transportation constraints impede the development of the state's energy resources;

(4) an essential governmental function and public purpose are to assist with the removal of transmission and transportation impediments to facilitate the development of Montana's energy resources;

(5) development of Montana's energy resources will promote the public interest by increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, and improving the state's economy; and

(6) it is in the public interest that the Montana energy transmission and transportation authority have the ability to facilitate the planning, development, economic analysis, and coordination of energy transmission and

transportation facilities and related supporting infrastructure within and outside of Montana.

**NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of commerce established in 2-15-1801.

(2) "Facilities" means energy transmission and transportation facilities and related supporting infrastructure, including any interest in those facilities.

(3) "Montana energy transmission and transportation authority" or "authority" means the citizen board established in [section 4].

**NEW SECTION. Section 4. Montana energy transmission and transportation authority -- board composition -- procedures.** (1) There is a Montana energy transmission and transportation authority consisting of a seven-member citizen board appointed by the governor.

(2) In selecting the members, the governor shall:

(a) consider each prospective member's knowledge and understanding of the structural and financial dimensions of energy transmission, transportation, and generation components of the state's economy;

(b) ensure that two of the seven members broadly represent, as evidenced by their background, experience, and livelihood, the following categories of energy consumption:

(i) residential;

(ii) agricultural; or

(iii) commercial and industrial enterprise;

(c) choose a member with substantial experience in natural gas and oil transmission and transportation issues;

(d) choose a member with substantial experience in electrical energy transmission, distribution, and generation issues;

(e) choose a member with substantial experience in renewable electrical energy; and

(f) choose a member with substantial experience in synthetic liquid fuels.

(3) The members shall elect the presiding officer by majority vote.

(4) Members of the authority shall serve staggered 4-year terms. The governor shall designate two of the initial members to serve 2-year terms and three of the initial members to serve 3-year terms. Vacancies must be filled by appointment for the unexpired term. A member may not serve more than two consecutive terms.

(5) The authority shall meet at least twice a year and may meet more frequently as required by circumstances or at the request of any four or more members of the authority.

(6) Decisions of the authority require a simple majority of the whole membership.

(7) The authority is attached to the department for administrative purposes, and in addition to any employees hired by the authority, the department shall provide staff support to the authority. The department shall act as a liaison between the authority and other state or federal agencies.

(8) All members of the authority must receive the same daily salary, per diem, expenses, and travel allowances as members of the legislature, as provided in 5-2-302, while in actual attendance at meetings of the authority and for performance of the members' duties relative to the authority.

**NEW SECTION. Section 5. Authority powers.** The Montana energy transmission and transportation authority may:

(1) facilitate the planning, development, economic analysis, and coordination of facilities within and outside Montana;

(2) employ officers, agents, and employees that the authority considers necessary in carrying out the provisions of [sections 1 through 7];

(3) contract for legal, financial, engineering, and other professional services necessary in carrying out the provisions of [sections 1 through 7];

(4) receive by gift, grant, donation, or otherwise money, aid, or assistance from the United States, the state of Montana, any political subdivision, or any other public entity;

(5) assist in investigating, planning, establishing, and coordinating corridors for the transmission and transportation of energy resources;

(6) participate in regional transmission organizations established in response to or in compliance with an order of the federal energy regulatory commission or any regional transmission initiatives;

(7) participate in a regional organization established for the purpose of planning, analyzing, and coordinating energy resource transmission and transportation projects and infrastructure;

(8) report any findings and recommendations to the governor and the energy and telecommunications interim committee established in 5-5-202; and

(9) perform other functions necessary to carry out the provisions of [sections 1 through 7].

**NEW SECTION. Section 6. Interagency cooperation.** (1) State agencies shall cooperate with the

authority in the planning of facilities or the permitting or constructing of those facilities.

(2) Within the limits of available resources, state agencies shall provide scientific, economic, and other relevant data requested by the authority.

**NEW SECTION. Section 7. Funding -- special revenue account.** (1) There is a Montana energy transmission and transportation authority special revenue account within the state special revenue fund established in 17-2-102.

(2) Revenue derived from the wholesale energy transaction tax pursuant to 15-72-106 must be deposited into this account.

(3) The revenue received under this section must be used to meet the administrative costs of the authority.

(4) The money in the account is statutorily appropriated, as provided in 17-7-502, to the authority.

**Section 8.** Section 15-72-106, MCA, is amended to read:

**"15-72-106. Collection of wholesale energy transaction tax -- disposition of revenue.** (1) A transmission services provider shall collect the tax imposed under 15-72-104 from the taxpayer and pay the tax collected to the department. If the transmission services provider collects a tax in excess of the tax imposed by 15-72-104, both the tax and the excess must be remitted to the department.

(2) A self-assessing distribution services provider is subject to the provisions of this part.

(3) ~~The~~ Except as provided in subsection (4), the wholesale energy transaction tax collected under this part must be deposited in the general fund.

(4) Beginning July 1, 2007, an amount sufficient to fund the activities of the Montana energy transmission and transportation authority established in [section 4], as determined by the authority, but not to exceed \$350,000 of the wholesale energy transaction tax collected under this part, must be deposited annually in the state special revenue account provided for in [section 7]."

**Section 9.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; [section 7]; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

**NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through 7].

NEW SECTION. **Section 11. 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 12. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 2007.

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