

1 HOUSE BILL NO. 576

2 INTRODUCED BY J. SCHILLINGER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE MONTANA RENEWABLE POWER
5 PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; AMENDING SECTIONS 69-5-121, 90-4-
6 1005, AND 90-4-1202, MCA; REPEALING SECTIONS 69-3-2001, 69-3-2002, 69-3-2003, 69-3-2004, 69-3-
7 2005, 69-3-2006, 69-3-2007, AND 69-3-2008, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
8 AND A RETROACTIVE APPLICABILITY DATE."

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

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12 **Section 1.** Section 69-5-121, MCA, is amended to read:

13 **"69-5-121. Definitions.** As used in 69-5-122, 69-5-123, and this section, the following definitions
14 apply:

15 (1) "Added structure" means any outbuildings, improvements, irrigation pumps, facilities, or other
16 structures located on a small customer's property.

17 (2) "Commercial structure" means a building used for commercial purposes.

18 (3) "Contractor" means a person who submits a proposal to construct or enters into a contract to
19 construct an extension and who is licensed, insured, a member of the national electrical contractors
20 association, and experienced in comparable construction.

21 (4) "Electric utility" means:

22 (a) a public utility regulated by the public service commission pursuant to Title 69, chapter 3, that
23 provides electrical service for heat, light, or power to a small customer; or

24 (b) a utility qualifying as a rural electric cooperative pursuant to Title 35, chapter 18, that provides
25 electrical service for heat, light, or power to a small customer.

26 (5) "Extension" means any works or improvements necessary to connect a residential, commercial, or
27 added structure of a small customer to an electric utility's distribution or transmission system.

28 (6) "Residential structure" means a single-family house, trailer, manufactured home, or mobile home,

1 excluding any outbuildings, improvements, irrigation pumps, facilities, or other structures located on the
2 property.

3 (7) "Small customer" ~~has the meaning provided in 69-3-2003~~ means a retail customer that has an
4 individual load with an average monthly demand of less than 5,000 kilowatts."

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6 **Section 2.** Section 90-4-1005, MCA, is amended to read:

7 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
8 development and demonstration grant program within the department of environmental quality to fund
9 technology development and demonstration:

10 (a) advancing the development and utilization of energy storage systems, including but not limited to
11 mediums, such as accumulators, fuel cells, and batteries, that store energy that may be drawn upon at a later
12 date for use;

13 (b) developing storage systems specifically designed to store energy generated from eligible
14 renewable resources ~~as defined in 69-3-2003~~, including but not limited to compressed air energy storage
15 systems;

16 (c) promoting the efficiency, environmental performance, and cost-competitiveness of energy storage
17 systems beyond the current level of technology; and

18 (d) advancing the development of alternative energy systems as defined in 15-32-102.

19 (2) Entities that may be eligible for grants include but are not limited to units of the Montana university
20 system, agricultural research centers, or private entities or research centers.

21 (3) Money appropriated to the department of environmental quality for the purpose of the energy
22 development and demonstration grant program may be used by the department for providing individual grants
23 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

24 (4) The grant application may include:

25 (a) a project plan sufficient to allow a reasonable determination regarding the potential feasibility of
26 advancing energy storage or alternative energy systems;

27 (b) a business plan to allow a reasonable determination regarding the financial feasibility of the
28 project; and

1 (c) a reporting process to ensure progress toward project goals.

2 (5) For the purposes of this section "eligible renewable resource" means a facility either located in the
3 state or delivering electricity from another state into the state that commences commercial operation after
4 January 1, 2005, or a hydroelectric project expansion referred to in subsection (5)(d)(iii), any of which produces
5 electricity from one or more of the following sources:

6 (a) wind;

7 (b) solar;

8 (c) geothermal;

9 (d) water power, in the case of a hydroelectric project that:

10 (i) does not require a new appropriation, diversion, or impoundment of water and that has a
11 nameplate rating of 10 megawatts or less;

12 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have
13 hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; or

14 (iii) is an expansion of an existing hydroelectric project that commences construction and increases
15 existing generation capacity on or after October 1, 2013;

16 (e) landfill or farm-based methane gas;

17 (f) gas produced during the treatment of wastewater;

18 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic
19 fuels from wood, forest, or field residues, including wood pieces that have been treated with chemical
20 preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, and that are used at a facility
21 that has a nameplate capacity of 5 megawatts or less;

22 (h) hydrogen derived from any of the sources in this subsection for use in fuel cells; and

23 (i) the renewable energy fraction from:

24 (i) the sources identified in this subsection (5) of electricity production from a multiple-fuel process
25 with fossil fuels;

26 (ii) flywheel storage as defined in 15-6-157(4)(d);

27 (iii) hydroelectric pumped storage as defined in 15-6-157(4)(e);

28 (iv) batteries; and

1 (v) compressed air derived from any of the sources in this subsection (5) that is forced into an
 2 underground storage reservoir and later released, heated, and passed through a turbine generator."

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4 **Section 3.** Section 90-4-1202, MCA, is amended to read:

5 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions
 6 apply:

7 (1) "Ancillary services" ~~has the meaning provided in 69-3-2003~~ means services or tariff provisions
 8 related to generation and delivery of electric power other than simple generation, transmission, or distribution.
 9 Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and
 10 dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive
 11 power.

12 (2) "Bond" means bond, note, or other obligation.

13 (3) "Clean renewable energy bonds" means one or more bonds issued by a governmental body
 14 pursuant to section 54 of the Internal Revenue Code, 26 U.S.C. 54, and this part.

15 (4) "Commission" means the public service commission provided for in 69-1-102.

16 (5) "Common ownership" means the same or substantially similar persons or entities that maintain a
 17 controlling interest in more than one community renewable energy project even if the ownership shares differ
 18 between two community renewable energy projects. Two community renewable energy projects may not be
 19 considered to be under common ownership simply because the same entity provided debt or equity, or both
 20 debt and equity, to both projects.

21 (6) "Community renewable energy project" means an eligible renewable resource as defined in 90-4-
 22 1005 that is interconnected on the utility side of the meter in which local owners have a controlling interest and
 23 that is less than or equal to 25 megawatts in total calculated nameplate capacity.

24 ~~(5)(7)~~ "Governing authority" means a council, board, or other body governing the affairs of the
 25 governmental body.

26 ~~(6)(8)~~ "Governmental body" means a city, town, county, school district, consolidated city-county,
 27 Indian tribal government, or any other political subdivision of the state, however organized.

28 ~~(7)(9)~~ "Intermittent generation resource" means a generator that operates on a limited and irregular

1 basis due to the inconsistent nature of its fuel supply, which is primarily wind or solar power.

2 ~~(8)(10)~~ "Internal Revenue Code" has the meaning provided in 15-30-2101.

3 (11) "Local owners" means:

4 (a) Montana residents;

5 (b) general partnerships of which all partners are Montana residents;

6 (c) business entities organized under the laws of the state that:

7 (i) have less than \$50 million of gross revenue;

8 (ii) have less than \$100 million of assets; and

9 (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana
10 residents;

11 (d) Montana nonprofit organizations;

12 (e) Montana-based tribal councils;

13 (f) Montana political subdivisions or local governments;

14 (g) Montana-based cooperatives other than cooperative utilities; or

15 (h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).

16 ~~(9)(12)~~ "Project" means:

17 (a) a facility qualifying as a "qualified project" within the meaning of section 54(d)(2) of the Internal
18 Revenue Code, 26 U.S.C. 54(d)(2);

19 (b) a community renewable energy project as defined in ~~69-3-2003(4)(a)~~ SUBSECTION (6); or

20 (c) an alternative renewable energy source as defined in 15-6-225.

21 (13) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
22 community renewable energy project and other eligible renewable resources that are:

23 (a) located within 5 miles of the project;

24 (b) constructed within the same 12-month period; and

25 (c) under common ownership."

26
27 **NEW SECTION. SECTION 4. EXISTING PROJECTS AND CONTRACTS -- GRANDFATHER CLAUSE. [THIS ACT]**

28 **DOES NOT AFFECT A PUBLIC UTILITY'S CONTINUED RECOVERY OF COSTS, OR RATE BASE TREATMENT OF INVESTMENT,**

1 ASSOCIATED WITH ANY EXISTING RENEWABLE ENERGY PROJECT AND MAY NOT BE CONSTRUED TO ALTER, AMEND,
 2 DIMINISH, OR INVALIDATE RIGHTS OR DUTIES GOVERNED BY CONTRACT, AGREEMENT, OR LEASE ENTERED INTO PRIOR TO
 3 [THE EFFECTIVE DATE OF THIS ACT].

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5 NEW SECTION. Section 5. Repealer. The following sections of the Montana Code Annotated are
 6 repealed:

7 69-3-2001. Short title.

8 69-3-2002. Findings.

9 69-3-2003. Definitions.

10 69-3-2004. Renewable resource standard -- administrative penalty -- waiver.

11 69-3-2005. Procurement -- cost recovery -- reporting.

12 69-3-2006. Commission authority -- rulemaking authority.

13 69-3-2007. Cost caps.

14 69-3-2008. Cooperative utility -- exemption -- standard.

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16 NEW SECTION. Section 6. Notification to tribal governments. The secretary of state shall send a
 17 copy of [this act] to each federally recognized tribal government in Montana.

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19 NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured,
 20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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22 NEW SECTION. SECTION 8. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
 23 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
 24 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
 25 APPLICATIONS.

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27 COORDINATION SECTION. SECTION 9. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 237
 28 AND [THIS ACT] ARE PASSED AND APPROVED, THEN SENATE BILL NO. 237 IS VOID.

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COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 475 AND [THIS ACT] ARE PASSED AND APPROVED, THE HOUSE BILL NO. 475 IS VOID.

NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 12. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to ~~the compliance year beginning January 1, 2021~~ ANY APPLICATION PENDING OR COMMENCED BEFORE THE PUBLIC SERVICE COMMISSION PRIOR TO [THE EFFECTIVE DATE OF THIS ACT].

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