

SENATE BILL NO. 109

INTRODUCED BY DEBBY BARRETT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" UNDER THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; INCLUDING EXISTING HYDROELECTRIC RESOURCES WITHIN THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE"; AMENDING SECTIONS 69-3-2003, 90-3-1003, AND 90-4-1005, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-2003, MCA, is amended to read:

"69-3-2003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

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

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

1 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is
 2 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or
 3 cooperative.

4 (b) The term does not include governmental entities selling electricity produced only by facilities
 5 generating less than 250 kilowatts that were in operation prior to 1990.

6 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting
 7 in 2008, for which compliance with this part must be demonstrated.

8 (7) "Cooperative utility" means:

9 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

10 (b) an existing municipal electric utility as of May 2, 1997.

11 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric
 12 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating
 13 resource in order to respond to the balancing authority's need to match supply resources to loads on the
 14 transmission system.

15 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any
 16 means.

17 (10) (a) "Eligible renewable resource" means a facility either located within Montana or delivering
 18 electricity from another state into Montana that, except as provided in subsection (10)(b), commences commercial
 19 operation after January 1, 2005, and that produces electricity from one or more of the following sources:

20 ~~(a)~~(i) wind;

21 ~~(b)~~(ii) solar;

22 ~~(c)~~(iii) geothermal;

23 ~~(d)~~(iv) water power, in the case of a hydroelectric project that:

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

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

28 ~~(e)~~(v) landfill or farm-based methane gas;

29 ~~(f)~~(vi) gas produced during the treatment of wastewater;

30 ~~(g)~~(vii) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic

1 fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been
 2 treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

3 ~~(h)~~(viii) hydrogen derived from any of the sources in this subsection ~~(40)~~ (10)(a) for use in fuel cells;

4 ~~(i)~~(ix) the renewable energy fraction from the sources identified in ~~subsections (10)(a) through (10)(j)~~ this
 5 subsection (10)(a) of electricity production from a multiple-fuel process with fossil fuels; and

6 ~~(j)~~(x) compressed air derived from any of the sources in this subsection ~~(40)~~ (10)(a) that is forced into
 7 an underground storage reservoir and later released, heated, and passed through a turbine generator.

8 (b) (i) Except as provided in subsection (10)(b)(ii), the term also includes electricity produced from an
 9 existing hydroelectric facility that commenced commercial operation in Montana before January 1, 2005.

10 (ii) The term does not include federal hydroelectric facilities located in Montana.

11 (11) "Local owners" means:

12 (a) Montana residents or entities composed of Montana residents;

13 (b) Montana small businesses;

14 (c) Montana nonprofit organizations;

15 (d) Montana-based tribal councils;

16 (e) Montana political subdivisions or local governments;

17 (f) Montana-based cooperatives other than cooperative utilities; or

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

19 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized
 20 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency
 21 conditions, unforeseen load swings, and generation disruptions.

22 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
 23 3, on January 1, 2005, including the public utility's successors or assignees.

24 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity
 25 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of
 26 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

27 (15) "Seasonality" means the degree to which an electric generating resource is capable of producing
 28 electricity in each of the seasons of the year.

29 (16) "Small customer" means a retail customer that has an individual load with an average monthly
 30 demand of less than 5,000 kilowatts.

1 (17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and
2 immediately responsive to frequency control and that is needed to maintain system frequency stability during
3 emergency conditions, unforeseen load swings, and generation disruptions.

4 (18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the
5 community renewable energy project and other eligible renewable resources that are:

- 6 (a) located within 5 miles of the project;
7 (b) constructed within the same 12-month period; and
8 (c) under common ownership."
9

10 **Section 2.** Section 90-3-1003, MCA, is amended to read:

11 **"90-3-1003. Research and commercialization account -- use.** (1) The research and commercialization
12 account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research
13 and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section.

14 (2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth
15 opportunities for Montana and constitute a public purpose.

16 (3) The account may be used only for:

17 (a) loans that are to be used for research and commercialization projects to be conducted at research
18 and commercialization centers located in Montana;

19 (b) grants that are to be used for production agriculture research and commercialization projects, clean
20 coal research and development projects, or renewable resource research and development projects to be
21 conducted at research and commercialization centers located in Montana;

22 (c) matching funds for grants from nonstate sources that are to be used for research and
23 commercialization projects to be conducted at research and commercialization centers located in Montana; or

24 (d) administrative costs that are incurred by the board in carrying out the provisions of this part.

25 (4) At least 20% of the account funds approved for research and commercialization projects must be
26 directed toward projects that enhance production agriculture.

27 (5) (a) At least 30% of the account funds approved for research and commercialization projects must
28 be directed toward projects that enhance clean coal research and development or renewable resource research
29 and development.

30 (b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and

1 development or renewable resource research and development, subsection (5)(a) does not apply.

2 (6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total
3 project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

4 (7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research
5 and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

6 (a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

7 (b) whether the project shows promise for enhancing technology-based sectors of Montana's economy
8 or promise for commercial development of discoveries;

9 (c) whether the project employs or otherwise takes advantage of existing research and commercialization
10 strengths within the state's public university and private research establishment;

11 (d) whether the project involves a realistic and achievable research project design;

12 (e) whether the project develops or employs an innovative technology;

13 (f) verification that the project activity is located within the state;

14 (g) whether the project's research team possesses sufficient expertise in the appropriate technology area
15 to complete the research objective of the project;

16 (h) verification that the project was awarded based on its scientific merits, following review by a
17 recognized federal agency, philanthropic foundation, or other private funding source; and

18 (i) whether the project includes research opportunities for students.

19 (8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated
20 interest and earnings from the account must be retained in the account. Repayments of loans and any
21 agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the
22 transfer of technology from a research and commercialization center to another nonstate organization or
23 ownership of corporate stock in a private sector organization must be deposited in the account.

24 (9) The board shall refer grant applications to external peer review groups. The board shall compile a
25 list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall
26 review the application and make a recommendation to the board as to whether the application for a grant should
27 be approved. The board shall review the recommendation of the peer review group and either approve or deny
28 a grant application.

29 (10) The board shall identify whether a grant or loan is to be used for basic research, applied research,
30 or some combination of both. For the purposes of this section, "applied research" means research that is

1 conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is
 2 conducted to uncover the basic function or mechanism of a scientific question.

3 (11) For the purposes of this section:

4 (a) "clean coal research and development" means research and development of projects that would
 5 advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source
 6 well beyond the current level of technology used in commercial service;

7 (b) "renewable resource research and development" means research and development that would
 8 advance:

9 (i) the use of any of the sources of energy listed in ~~69-3-2003(10)~~ 69-3-2003(10)(a) to produce electricity;
 10 and

11 (ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources
 12 as an energy source well beyond the current level of technology used in commercial service."

13

14 **Section 3.** Section 90-4-1005, MCA, is amended to read:

15 **"90-4-1005. Energy development and demonstration grant program.** (1) There is an energy
 16 development and demonstration grant program within the department of environmental quality to fund technology
 17 development and demonstration:

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

21 (b) developing storage systems specifically designed to store energy generated from eligible renewable
 22 resources as defined in ~~69-3-2003~~ 69-3-2003(10)(a), including but not limited to compressed air energy storage
 23 systems;

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

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

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

29 (3) Money appropriated to the department of environmental quality for the purpose of the energy
 30 development and demonstration grant program may be used by the department for providing individual grants

1 in amounts up to \$500,000 and for administrative costs of 1% of the grant award.

2 (4) The grant application may include:

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

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

6 and

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

8

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

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