

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0342

SENATE BILL NO. 59

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to revise certain contractors' excise tax refunds for small
2 power production facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-34A-80 be amended to read as follows:

5 49-34A-80. Any ~~commercial~~ small power production facility; utilizing renewable resources;
6 ~~such as sun, wind, geothermal, or biomass~~; that begins generating electricity after June 30, 2001,
7 and produces ten megawatts or less of electricity as measured by nameplate rating, ~~and is~~
8 ~~located within one county and owned by a natural person, corporation, nonprofit or for profit~~
9 ~~business organization, or tribal council (if the facility is located outside the boundaries of the~~
10 ~~reservation), irrigation district, drainage district, or other political subdivision or agency of the~~
11 ~~state authorized by statute to carry on the business of developing, transmitting, utilizing, or~~
12 ~~distributing electric power~~ is subject to the provisions of §§ 49-34A-80 to 49-34A-92, inclusive,
13 for any new or expanded facility.

14 Section 2. That § 49-34A-82 be amended to read as follows:

15 49-34A-82. Terms used in §§ 49-34A-80 to 49-34A-92, inclusive, mean:



- 1 (1) "Department," the Department of Revenue and Regulation;
- 2 (2) "New or expanded facility," a new ~~commercial~~ small power production facility as
3 defined in § 49-34A-80 or an addition to an existing ~~commercial~~ small power
4 production facility, the construction or installation of which is subject to contractors'
5 excise tax pursuant to chapter 10-46A or 10-46B;
- 6 (3) "Project," the installation or construction of ~~the first~~ ten megawatts or less of
7 generation capacity of a new or expanded facility;
- 8 (4) "Project cost," the amount paid in money for a project;
- 9 (5) "Renewable resource," a resource that generates electricity from facilities using one
10 or more of the following sources:
 - 11 (a) Wind that uses wind as the source of energy to produce electricity;
 - 12 (b) Solar that uses the sun as the source of energy to produce electricity;
 - 13 (c) Hydroelectric that uses water as the source of energy to produce electricity;
 - 14 (d) Hydrogen that is generated from one of the sources listed in this subdivision;
 - 15 (e) Biomass that uses agricultural crops and agricultural wastes and residues,
16 wood and wood wastes and residues, animal and other degradable organic
17 wastes, municipal solid waste, or landfill gas as the fuel to produce electricity;
18 or
 - 19 (f) Geothermal that uses energy contained in heat that continuously flows outward
20 from the earth as the source of energy to produce electricity;
- 21 (6) "Secretary," the secretary of the Department of Revenue and Regulation.

22 Section 3. That § 49-34A-83 be amended to read as follows:

23 49-34A-83. Any person may apply for and obtain a refund or credit for contractors' excise
24 taxes imposed and paid under the provisions of chapter 10-46A or 10-46B for the construction

1 of a new or expanded facility that is a ~~commercial~~ small power production facility that is
2 defined in § 49-34A-80.

3 Section 4. That § 49-34A-84 be amended to read as follows:

4 49-34A-84. The refund pertains only to project costs incurred and paid after July 1, 2001.
5 The refund pertains only to project costs that were incurred and paid within thirty-six months
6 of the approval of the application required by §§ 49-34A-80 to 49-34A-92, inclusive. No refund
7 may be made unless:

8 ~~—(1)—The project costs exceed five hundred thousand dollars; and~~

9 ~~—(2)—The the person applying for the refund obtains a permit from the secretary as set forth~~
10 in § 49-34A-86.