

HOUSE BILL NO. HB0275

Wind turbines-royalty fee.

Sponsored by: Representative(s) Miller, Byrd, Cohee, Davison, Harshman and Jaggi

A BILL

for

1 AN ACT relating to public utilities; imposing a royalty
2 upon the production of electricity as specified; providing
3 a rate; providing rulemaking authority; providing a
4 penalty; providing for applicability of the act; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 37-16-301 through 37-16-303 are
10 created to read:

11

12 ARTICLE 3

13 ROYALTY ON PRODUCTION OF ELECTRICITY

14

15 **37-16-301. Imposition; administration.**

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1 (a) There is imposed in this state a royalty fee on
2 each kilowatt hour produced from any wind turbine. The
3 royalty fee shall be equal to three percent (3%) of the
4 sales price received by the producer per kilowatt hour, or
5 portion thereof, produced in this state. The royalty shall
6 be imposed upon the production of any electricity generated
7 for sale or trade.

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9 (b) The public service commission shall enforce the
10 provisions of this article. The commission shall promulgate
11 rules and regulations necessary for the implementation and
12 enforcement of this article.

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14 (c) No royalty shall be imposed upon electricity
15 which is produced for the personal consumption of the
16 producer.

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18 **37-16-302. Compliance; collection procedures.**

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20 (a) Returns and reports. Any person producing
21 electricity in this state shall report the amount of
22 kilowatt hours produced and sold and the sales price
23 received therefore on or before February 1 of the year

1 immediately following the year in which the electricity was
2 produced.

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4 (b) Payment. Any person owing a royalty under this
5 article shall pay the royalty once each year on or before
6 February 1 of the year immediately following the year in
7 which the electricity was produced. The royalty shall be
8 collected by the public service commission.

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10 (c) Interest. Interest at an annual rate equal to
11 the average prime interest rate as determined by the state
12 treasurer during the preceding fiscal year plus four
13 percent (4%) shall be added to all delinquent royalties
14 under this article. To determine the average prime
15 interest rate, the state treasurer shall average the prime
16 interest rate for at least seventy-five percent (75%) of
17 the thirty (30) largest banks in the United States. The
18 interest rate on delinquent royalties shall be adjusted on
19 January 1 of each year following the year in which the
20 royalties first became delinquent. In no instance shall
21 the delinquent royalty rate be less than twelve percent
22 (12%) nor greater than eighteen percent (18%).

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24 (d) Penalties. The following shall apply:

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2 (i) If any person fails to make or file a return
3 and remit the royalty as required by this section the
4 commission shall impose a penalty of five percent (5%) of
5 the royalties due for each thirty (30) day period, or
6 fraction thereof, elapsing between the due date of the
7 return and the date filed, unless the person for good cause
8 obtains from the commission an extension of time for filing
9 prior to the due date for filing. In no event shall the
10 total penalty imposed by this subsection exceed twenty-five
11 percent (25%) of the royalty due. The commission, for good
12 cause, may waive a penalty imposed for failure to file a
13 return for any one (1) calendar year, provided that:

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15 (A) The return was filed within five (5)
16 business days following the due date, including an approved
17 extension period; and

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19 (B) The person owing the royalty requests
20 the waiver in writing within fifteen (15) days after the
21 return was filed, setting forth the reasons for the late
22 filing.

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1 (ii) If any part of a royalty deficiency is due
2 to negligence or intentional disregard of rules and
3 regulations there shall be added a penalty of five percent
4 (5%) of the amount of the deficiency plus interest as
5 provided by subsection (c) of this section. The royalties,
6 penalty and interest shall be paid within ten (10) days
7 after receipt of notice and demand by the commission;

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9 (iii) Royalties due together with interest,
10 penalties and costs shall be collectible by the commission
11 by appropriate judicial proceedings;

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13 (iv) The commission may credit or waive
14 penalties imposed by this section as part of a settlement
15 or for any other good cause.

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17 (e) Liens. Any delinquent royalty is a lien upon the
18 property of any owner from and after the time the royalty
19 is due until the royalty is paid. The lien shall have
20 preference over all liens except any valid mortgage or
21 other liens of record filed or recorded prior to the date
22 the royalty became due.

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24 **37-16-303. Distribution.**

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2 The proceeds from the royalty imposed by this article shall
3 be deposited in the general fund.

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5 **Section 2.** The royalty imposed by this act shall not
6 be effective unless and until the federal Bureau of Land
7 Management imposes a user fee on the placement of any wind
8 turbine on federal land and the user fee is greater than
9 five hundred dollars (\$500.00) per wind turbine. If the
10 federal government imposes a user fee as provided by this
11 section and the governor certifies that fact to the
12 department of revenue, then January 1 of the year
13 immediately following such imposition and notification, the
14 royalty imposed by this act shall become effective.

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16 **Section 3.** This act is effective January 1, 2010.

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(END)