

HOUSE BILL NO. HB0191

Wind power taxation.

Sponsored by: Representative(s) Stubson, Byrd, Illoway and
Wallis and Senator(s) Coe, Perkins and
Peterson

A BILL

for

1 AN ACT relating to taxation and revenue; providing
2 amendments to the tax upon the production of electricity
3 from wind resources as specified; providing for
4 imposition, taxation rate, exemptions and distribution as
5 specified; repealing prior exemption; and providing for an
6 effective date.

7

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

9

10 **Section 1.** W.S. 39-22-103, 39-22-104, 39-22-105 by
11 creating a new subsection (c) and 39-22-111 are created to
12 read:

13

14 **39-22-103. Imposition.**

15

1 There is levied an excise tax upon the privilege of
2 producing electricity from wind resources in this state.
3 The tax shall be imposed upon the production of any
4 electricity produced from wind resources for sale or trade
5 on or after January 1, 2012, and shall be paid by the
6 person producing such electricity. The tax shall only
7 apply to wind generation facilities which begin commercial
8 operation on or after January 1, 2012. The tax shall be
9 imposed on each megawatt hour of electricity produced from
10 wind resources at the point of interconnection with an
11 electric transmission line.

12

13 **39-22-104. Taxation rate.**

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15 (a) The tax rate shall be ~~one dollar (\$1.00)~~ three
16 dollars (\$3.00) on each megawatt hour, or portion thereof,
17 which is produced in this state.

18

19 (b) For any project which begins commercial operation
20 prior to January 1, 2012, the tax imposed by subsection (a)
21 of this section on each megawatt hour, or portion thereof,
22 shall be phased in at the following amounts and on the
23 following schedule:

24

1 (i) Twenty-five cents (\$.25) for generation
2 occurring in calendar year 2012 through calendar year 2016
3 inclusive;

4
5 (ii) Fifty cents (\$.50) for generation occurring
6 in calendar year 2017 through calendar year 2021 inclusive;

7
8 (iii) Seventy-five cents (\$.75) for generation
9 occurring in calendar year 2022 through calendar year 2026
10 inclusive;

11
12 (iv) One dollar (\$1.00) for generation occurring
13 in calendar year 2027 through calendar year 2031 inclusive;

14
15 (v) Three dollars (\$3.00) for generation
16 occurring in calendar year 2032 and subsequent calendar
17 years.

18
19 **39-22-105. Exemptions.**

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21 (c) Any person subject to the tax imposed by W.S.
22 39-22-103 shall not be liable for any sales tax imposed
23 under W.S. 39-15-101 through 39-15-111, or any use tax
24 imposed under W.S. 39-16-101 through 39-16-111 on the sale

1 or use of tangible personal property or services to
2 acquire, purchase, fabricate, transport, construct,
3 install, erect and make operational a wind generation
4 facility up to the point of interconnection with an
5 existing transmission grid. The exemption provided by this
6 subsection shall not apply to routine maintenance
7 activities and equipment utilized and acquired after any
8 wind generation facility begins commercial operations.

9

10 **39-22-111. Distribution.**

11

12 (a) The proceeds from the tax imposed by this chapter
13 shall be transferred to the state treasurer to be
14 distributed as follows:

15

16 (i) Sixty percent (60%) shall be distributed ~~to~~
17 ~~the counties in this state where the generating facility is~~
18 ~~located. The amount shall be proportionately distributed~~
19 ~~to each county based upon the percentage of the assessed~~
20 ~~value of the generating facilities located within the~~
21 ~~county as compared to the total assessed value of~~
22 ~~generating facilities located within the state; in the same~~
23 manner as excise taxes are distributed under W.S.
24 39-15-111(b) as follows:

1

2

(A) Credit sixty-nine percent (69%) to the state general fund;

4

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(B) The remaining share shall be distributed within each county as follows:

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8

(I) To each county in the proportion that the population of the county situated outside the corporate limits of its cities and towns bears to the total population of the county including cities and towns for deposit into the county's general fund;

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14

(II) To each city and town within the county in the proportion the population of the city or town bears to the population of the county for deposit into the city or town's general fund.

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(ii) Forty percent (40%) shall be deposited in the state general fund.

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22

(b) Notwithstanding subsection (a) of this section, for the period beginning January 1, 2012 and ending June 30, 2016, or until the account balance under paragraph (i)

24

1 of this subsection reaches the amount of ten million
2 dollars (\$10,000,000.00), whichever occurs first, the state
3 treasurer shall distribute the proceeds from the tax
4 imposed by this article as follows:

5

6 (i) Forty percent (40%) shall be deposited into
7 an impact assistance account which is hereby created;

8

9 (ii) The remaining share shall be distributed as
10 provided by subsection (a) of this section.

11

12 (c) If it is determined that any county is impacted
13 by an industrial facility producing electricity from wind
14 resources as provided by W.S. 39-15-111(c) or 39-16-111(c),
15 a county, on behalf of the county, cities and towns of the
16 county which are in the affected area of the industrial
17 facility producing electricity from wind resources, may
18 apply for impact assistance payments from the impact
19 assistance account created by paragraph (b)(i) of this
20 section. The affected county or counties may then receive
21 an amount not to exceed two percent (2%) of the total value
22 of the industrial facility in impact assistance payments
23 from the impact assistance account. The county shall
24 distribute the money as provided by W.S. 39-15-111(c) or

1 39-16-111(c). In the event a county receives impact
2 assistance payments from the impact assistance account and
3 the permit is not issued under W.S. 35-12-106, a county and
4 those receiving assistance payments through a county shall
5 not be liable for the repayment of those amounts.

6
7 (d) Following the time period for distribution of the
8 proceeds under subsection (b) of this section, the state
9 treasurer shall distribute the proceeds from the tax
10 imposed by this article as follows:

11
12 (i) Twenty percent (20%) shall be deposited into
13 an impact assistance account created by paragraph (b)(i) of
14 this section;

15
16 (ii) The remaining share shall be distributed as
17 provided by subsection (a) of this section.

18
19 **Section 2.** W.S. 39-22-105(b) is repealed.

20
21 **Section 3.** This act is effective January 1, 2012.

22
23

(END)