

HOUSE BILL NO. 622
INTRODUCED BY H. RASER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ENERGY-RELATED AND ECOLOGICAL TAX INCENTIVES; PROVIDING FOR THE CREATION OF A SPECIAL IMPROVEMENT DISTRICT FOR THE PURCHASE, INSTALLATION, MAINTENANCE, AND MANAGEMENT OF ALTERNATIVE ENERGY PRODUCTION FACILITIES; EXPANDING GEOTHERMAL SYSTEMS TAX CREDIT TO INCLUDE ALTERNATIVE ENERGY SYSTEMS AND INCREASING THE CREDIT FROM \$250 TO \$500 FOR ALTERNATIVE ENERGY SYSTEMS; EXPANDING WIND-GENERATED ELECTRICITY INVESTMENT CREDIT TO INCLUDE ALTERNATIVE ENERGY SYSTEMS; AMENDING SECTIONS 7-12-4102, 15-32-102, 15-32-115, 15-32-201, 15-32-401, AND 15-32-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 7-12-4102, MCA, is amended to read:

"7-12-4102. Authorization for creation of special improvement districts. (1) The city or town council ~~has power to~~ may:

- (a) create special improvement districts, designating them by number;
- (b) ~~to~~ extend the time for payment of assessments levied upon the districts for district improvements for a period not exceeding 20 years or, if refunding bonds are issued pursuant to 7-12-4194, for a period not exceeding 30 years;
- (c) ~~to~~ make the assessments payable in installments; and
- (d) ~~to~~ pay all expenses ~~of whatever character~~ incurred in making the improvements with special improvement warrants or bonds.

(2) Whenever the public interest or convenience requires, the city council may:

- (a) create special improvement districts for acquiring by purchase, building, constructing, or maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;
- (b) create special improvement districts for acquiring by purchase or building and constructing municipal swimming pools and other recreation facilities;
- (c) create special improvement districts and order the whole or a portion, either in length or width, of one

or more of the streets, avenues, alleys, or places or public ways of the city:

- (i) graded or regraded to the official grade;
- (ii) planked or replanked;
- (iii) paved or repaved;
- (iv) macadamized or remacadamized;
- (v) graveled or regraveled;
- (vi) piled or repiled;
- (vii) capped or recapped;
- (viii) surfaced or resurfaced;
- (ix) oiled or reoiled;

(d) create special improvement districts and order the acquisition, construction, or reconstruction within the districts of:

(i) sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings (including the planting of grassplots and setting out of trees);

(ii) sewers, ditches, drains, conduits, and channels for sanitary ~~and/or~~ or drainage purposes, with outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels, and other appurtenances;

(iii) waterworks, water mains, and extensions of water mains;

(iv) pipes, hydrants, and hose connections for irrigating purposes;

(v) appliances for fire protection;

(vi) tunnels, viaducts, conduits, subways, breakwaters, levees, retaining walls, bulkheads, and walls of rock or other material to protect them from overflow or injury by water;

(vii) the opening of streets, avenues, and alleys and the planting of trees on the streets, avenues, and alleys;

(e) create special improvement districts and order the construction or reconstruction in, over, or through property or rights-of-way owned by the city of:

(i) tunnels, sewers, ditches, drains, conduits, and channels for sanitary ~~and/or~~ or drainage purposes, with necessary outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connection sewers, ditches, drains, conduits, channels, and other appurtenances;

(ii) pipes and hose connections for irrigating; and hydrants and appliances for fire protection;

(iii) breakwaters, levees, retaining walls, and bulkheads; and

(iv) walls of rock or other material to protect the streets, avenues, lanes, alleys, courts, places, public ways, and other property in the city from overflow by water;

(f) create special improvement districts to make monetary advances or contributions to aid in the construction of additional natural gas and electric distribution lines and telecommunications facilities in order to extend those public utility services;

(g) create special improvement districts and order work to be done that is considered necessary to improve the whole or a portion of the streets, avenues, sidewalks, alleys, places, or public ways, property, or right-of-way of the city;

(h) create special improvement districts to acquire and improve by purchase, gift, bequest, lease, or other means land to be designated as public park or open-space land;

(i) create special improvement districts for the conversion of overhead utilities to underground locations in accordance with 69-4-311 through 69-4-314; ~~and~~

(j) create special improvement districts for the purchase, installation, maintenance, and management of alternative energy production facilities; and

~~(j)~~(k) maintain, preserve, and care for any of the improvements authorized in this section.

(3) The city governing body may order and create special improvement districts covering projects abutting the city limits and include properties outside the city where the special improvement district abuts and benefits that property. Property owners within the proposed district boundaries outside the city may not be included in the special improvement district if 40% of those property owners protest the creation of the special improvement district. The property outside the city must be treated in a similar manner as to improvements, notices, and assessments as the property inside the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the special improvement district prior to passing the resolution of intention or the resolution creating the special improvement district. A copy of the resolution of intention and the resolution creating the special improvement district must be provided to the county commissioners upon the passage of the respective resolutions."

Section 2. Section 15-32-102, MCA, is amended to read:

"15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Alternative energy system" means the generation system or equipment used to convert energy sources into usable sources by using fuel cells, geothermal systems, low emission wood or biomass combustion, and other recognized nonfossil forms of energy generation.

~~(1)~~(2) "Building" means:

- (a) a single or multiple dwelling, including a mobile home or manufactured home; or
- (b) a building used for commercial, industrial, or agricultural purposes that is enclosed with walls and a roof.

~~(2)~~(3) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

~~(3)~~(4) "Energy conservation purpose" means one or both of the following results of an investment:

- (a) reducing the waste or dissipation of energy; or
- (b) reducing the amount of energy required to accomplish a given quantity of work.

~~(4)~~(5) "Geothermal system" means a system that transfers energy either from the ground, by way of a closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a residential building.

~~(5)~~(6) "Low emission wood or biomass combustion device" means a noncatalytic stove or furnace that:

- (a) (i) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and
- (ii) has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of environmental quality pursuant to 15-32-203; or
- (iii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department of environmental quality pursuant to 15-32-203; or
- (b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of environmental quality pursuant to 15-32-203.

~~(6)~~(7) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

~~(7)~~(8) "Recognized nonfossil forms of energy generation" means:

- (a) a system that captures energy or converts energy sources into usable sources by using:
 - (i) solar energy, including passive solar systems;

- (ii) wind;
- (iii) solid waste; or
- (iv) the decomposition of organic wastes;
- (b) a system that produces electric power from solid wood wastes; or
- (c) a small system that uses water power by means of an impoundment that is not over 20 acres in surface area."

Section 3. Section 15-32-115, MCA, is amended to read:

"15-32-115. Credit for geothermal alternative energy system -- to whom available -- eligible costs -- limitations. (1) A resident individual taxpayer who completes installation of ~~a geothermal~~ an alternative energy system, as defined in 15-32-102, in the taxpayer's principal dwelling is entitled to claim a tax credit, as provided in subsection ~~(3)~~ (2), against the taxpayer's tax liability under chapter 30 for a portion of the installation costs of the system, up to ~~\$250~~ \$500 ~~per a~~ year for 4 years. The credit may not exceed the taxpayer's income tax liability for the taxable year in which the credit is claimed.

- ~~(2) For the purposes of this section, installation costs include the cost of:~~
- ~~—— (a) trenching, well drilling, casing, and downhole heat exchangers;~~
 - ~~—— (b) piping, control devices, and pumps that move heat from the earth to heat or cool the building;~~
 - ~~—— (c) ground source or ground coupled heat pumps;~~
 - ~~—— (d) liquid-to-air heat exchanger, ductwork, and fans installed with a ground heat well that pump heat from a well into a building; and~~
 - ~~—— (e) design and labor.~~
- ~~(3)~~ (2) The tax credit allowed under this section is deductible from the taxpayer's income tax liability for the taxable year in which the installation costs were incurred and for the next 3 taxable years succeeding the taxable year in which the installation costs were incurred. There is no carryback or carryforward of the credit permitted under this section."

Section 4. Section 15-32-201, MCA, is amended to read:

"15-32-201. Amount of credit -- to whom available. (1) A resident individual taxpayer who completes installation of an energy system using a recognized nonfossil form of energy generation, as defined in 15-32-102, in the taxpayer's principal dwelling prior to January 1, 1993, or who acquires title to a dwelling prior to January 1, 1993, that is to be used as the taxpayer's principal dwelling and is equipped with an energy system for which

the credit allowed by this part has never been claimed is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of the system, including installation costs, less grants received or, if the federal government provides for a tax credit substantially similar in kind (not in amount), then a tax credit in an amount equal to 5% of the first \$1,000 and 2 1/2% of the next \$3,000 of the cost of the system, including installation costs, less grants received, against the income tax liability imposed against the taxpayer pursuant to chapter 30.

(2) A resident individual taxpayer who completes installation of an energy system using a low emission wood or biomass combustion device, as defined in 15-32-102(5)(a), in the taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal to 20% of the first \$1,000 and 10% of the next \$3,000 of the cost of the system, including the installation costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

(3) A resident individual taxpayer who completes installation of an energy system that uses a low emission wood or biomass combustion device, as defined in 15-32-102(5)(b), in the taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of the system, including the installation costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30."

Section 5. Section 15-32-401, MCA, is amended to read:

"15-32-401. Purpose and statement of policy. The purpose of this part is to encourage the development of ~~a~~ an alternative energy industry, including wind energy, industry in Montana without adversely affecting tax ~~revenues~~ revenue received from existing economic activity in the state. Because of the ~~wind~~ alternative energy potential within the state, it is desirable to encourage ~~wind~~ alternative energy generation for the purpose of attracting ~~wind~~ alternative energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure ~~wind-generated~~ alternatively generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to ~~a wind~~ an alternative energy industry without subtracting from existing sources of revenue to the state."

Section 6. Section 15-32-402, MCA, is amended to read:

"15-32-402. Commercial investment credit -- ~~wind-generated electricity~~ alternative energy systems. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that

makes an investment of \$5,000 or more in certain depreciable property qualifying under section 38 of the Internal Revenue Code of 1954, as amended, for a commercial system located in Montana which generates ~~electricity energy~~ energy by means of ~~wind power~~ alternative energy systems as defined in 15-32-102 is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce ~~wind~~ alternative energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the ~~wind~~ alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the ~~wind~~ alternative energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those expenditures that qualify under section 38 of the Internal Revenue Code of 1954, as amended, and that are associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system."

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 8. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000.

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