

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

375X0529

HOUSE BILL NO. 1177

Introduced by: Representatives Solum, Hawley, Peterson (Kent), Rozum, and Wiik and
Senators Holien, Brown, Cammack, and Parsley

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning tax incentives for
2 certain energy facilities.

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

4 Section 1. That § 10-35-16 be amended to read:

5 10-35-16. Terms as used in this section and §§ 10-35-17 to 10-35-21, inclusive, mean:

- 6 (1) "Collector system," all property used or constructed to interconnect individual wind
7 turbines or solar panels within a ~~wind farm~~ renewable facility into a common project,
8 including inverters, step-up transformers, electrical collection equipment, collector
9 substation transformers, and communication systems;
- 10 (2) "Company," any person, corporation, limited liability company, association,
11 company, partnership, political subdivision, rural electric cooperative, or any group
12 or combination acting as a unit;
- 13 (3) "Nameplate capacity," the number of kilowatts a ~~wind farm~~ renewable facility can
14 produce, as assigned to the power units in the ~~wind farm~~ renewable facility by the
15 manufacturer and determined by the secretary;



1 (4) "Renewable facility," any wind farm or solar facility;

2 (5) "Solar facility," all real or personal property used or constructed for the purpose of
3 producing electricity for commercial purposes utilizing solar radiation as an energy
4 source and with a nameplate capacity of at least five thousand kilowatts. The term
5 includes the collector system;

6 (6) "Transmission line," an electric transmission line and associated facilities including
7 the collector system, with a design of one hundred fifteen kilovolts or more;

8 (4)(7) "Wind farm," all real or personal property used or constructed for the purpose of
9 producing electricity for commercial purposes utilizing the wind as an energy source
10 and with a nameplate capacity of at least five thousand kilowatts. The term includes
11 the collector system;

12 ~~(5) "Transmission line," an electric transmission line and associated facilities including~~
13 ~~the collector system, with a design of one hundred fifteen kilovolts or more.~~

14 Section 2. That § 10-35-17 be amended to read:

15 10-35-17. Any company owning or holding under lease, or otherwise, real or personal
16 property used, or intended for use, as a wind farm producing power for the first time ~~on or~~ after
17 ~~July 1~~ June 30, 2007, and ~~prior to~~ before April 1, 2015, shall pay the alternative annual taxes
18 provided in §§ 10-35-18 and 10-35-19. A wind farm that produces power for the first time on
19 or after ~~April 1~~ March 31, 2015, or a solar facility that produces power for the first time after
20 June 30, 2016, shall pay the alternative annual taxes provided in §§ 10-35-18 and 10-35-19.1.

21 The alternative taxes imposed by §§ 10-35-18, 10-35-19, and 10-35-19.1, are in lieu of all taxes
22 levied by the state, counties, municipalities, school districts, or other political subdivisions of
23 the state on the personal and real property of the company which is used or intended for use as
24 a ~~wind farm~~ renewable facility, but are not in lieu of the retail sales and service tax imposed by

1 chapter 10-45, the use tax imposed by chapter 10-46, or any other tax.

2 Section 3. That § 10-35-18 be amended to read:

3 10-35-18. Any company owning or holding under lease, or otherwise, real or personal
4 property used, or intended for use, as a wind farm producing power for the first time ~~on or~~ after
5 July 1 June 30, 2007, or a solar facility producing power for the first time after June 30, 2016,
6 shall pay an annual tax equal to three dollars multiplied by the nameplate capacity of the ~~wind~~
7 farm renewable facility. The tax shall be imposed beginning the first calendar year the ~~wind~~
8 farm renewable facility generates gross receipts. The tax shall be paid annually to the secretary
9 the first day of February of the following year. The tax for the first calendar year shall be
10 prorated based upon the percentage of the calendar year remaining after the company generates
11 gross receipts. Except as otherwise provided in §§ 10-35-16 to 10-35-21, inclusive, the
12 provisions of chapter 10-59 apply to the administration of the tax.

13 Section 4. That § 10-35-19.1 be amended to read:

14 10-35-19.1. Any company owning or holding under lease, or otherwise, real or personal
15 property used, or intended for use, as a wind farm producing power for the first time ~~on or~~ after
16 April 1 March 31, 2015, or a solar facility producing power for the first time after June 30,
17 2016, shall pay an annual tax of \$.00045 per kilowatt hour of electricity produced by the ~~wind~~
18 farm renewable facility. The owner of a ~~wind farm~~ renewable facility subject to the tax shall file
19 a report with the secretary detailing the amount of electricity in kilowatt-hours that was
20 produced by the wind farm for the previous calendar year. The secretary shall prescribe the form
21 of the report. The tax for the electricity produced in a calendar year shall become due and be
22 payable to the secretary on the first day of February of the following year. Except as otherwise
23 provided in §§ 10-35-16 to 10-35-21, inclusive, the provisions of chapter 10-59 apply to the
24 administration of the tax.