

AN ACT

ENTITLED, An Act to revise certain provisions concerning tax incentives for certain energy facilities.

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

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

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

- (1) "Collector system," all property used or constructed to interconnect individual wind turbines or solar panels within a renewable facility into a common project, including inverters, step-up transformers, electrical collection equipment, collector substation transformers, and communication systems;
- (2) "Company," any person, corporation, limited liability company, association, company, partnership, political subdivision, rural electric cooperative, or any group or combination acting as a unit;
- (3) "Nameplate capacity," the number of kilowatts a renewable facility can produce, as assigned to the power units in the renewable facility by the manufacturer and determined by the secretary;
- (4) "Renewable facility," any wind farm or solar facility;
- (5) "Solar facility," all real or personal property used or constructed for the purpose of producing electricity for commercial purposes utilizing solar radiation as an energy source and with a nameplate capacity of at least five thousand kilowatts. The term includes the collector system;
- (6) "Transmission line," an electric transmission line and associated facilities including the collector system, with a design of one hundred fifteen kilovolts or more;
- (7) "Wind farm," all real or personal property used or constructed for the purpose of

producing electricity for commercial purposes utilizing the wind as an energy source and with a nameplate capacity of at least five thousand kilowatts. The term includes the collector system.

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

10-35-17. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time after June 30, 2007, and before April 1, 2015, shall pay the alternative annual taxes provided in §§ 10-35-18 and 10-35-19. A wind farm that produces power for the first time after March 31, 2015, or a solar facility, shall pay the alternative annual taxes provided in §§ 10-35-18 and 10-35-19.1. The alternative taxes imposed by §§ 10-35-18, 10-35-19, and 10-35-19.1, are in lieu of all taxes levied by the state, counties, municipalities, school districts, or other political subdivisions of the state on the personal and real property of the company which is used or intended for use as a renewable facility, but are not in lieu of the retail sales and service tax imposed by chapter 10-45, the use tax imposed by chapter 10-46, or any other tax.

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

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

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

10-35-19.1. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a wind farm producing power for the first time after March 31, 2015, shall pay an annual tax of \$.00045 per kilowatt hour of electricity produced by the wind farm. Any company owning or holding under lease, or otherwise, real or personal property used, or intended for use, as a solar facility, shall pay an annual tax of \$.00090 per kilowatt hour of electricity produced by the solar facility. The owner of a renewable facility subject to the tax shall file a report with the secretary detailing the amount of electricity in kilowatt-hours that was produced by the renewable facility for the previous calendar year. The secretary shall prescribe the form of the report. The tax for the electricity produced in a calendar year shall become due and be payable to the secretary on the first day of February of the following year. Except as otherwise provided in §§ 10-35-16 to 10-35-21, inclusive, the provisions of chapter 10-59 apply to the administration of the tax.

Section 5. That § 10-35-20 be amended to read:

10-35-20. The secretary shall deposit the tax imposed by §§ 10-35-18, 10-35-19, and 10-35-19.1 into the renewable facility tax fund. There is created in the state treasury the renewable facility tax fund.

Section 6. That § 10-35-21 be amended to read:

10-35-21. The secretary shall distribute all of the tax deposited in the renewable facility tax fund pursuant to § 10-35-18 and twenty percent of the tax deposited in the renewable facility tax fund pursuant to §§ 10-35-19 and 10-35-19.1 to the county treasurer where the renewable facility is located. If a renewable facility is located in more than one county, each county shall receive the same percentage of the tax as the percentage of wind towers or solar facilities in the renewable facility located in the county. Upon receipt of the taxes, the county auditor shall apportion the tax among the school districts, the county, and the organized townships where a wind tower or solar facility is

located. The tax shall be apportioned by the county auditor by allocating fifty percent of the tax to the school district where each wind tower or solar facility is located, fifteen percent to the organized township where each wind tower or solar facility is located, and thirty-five percent to the county. If a wind tower or solar facility is located in a township that is not organized, the unorganized township's share of the tax for that wind tower or solar facility is allocated to the county. The secretary shall distribute the money to the counties on or before the first day of May. Any remaining revenue in the renewable facility tax fund shall be deposited in the state general fund.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1177

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1177
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State