

HOUSE BILL NO. 401

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "ELIGIBLE RENEWABLE RESOURCE" FOR THE PURPOSE OF ADMINISTERING THE RENEWABLE ENERGY PORTFOLIO STANDARD; ALLOWING LOW-EMISSION, NONTOXIC BIOMASS TO QUALIFY AS AN ELIGIBLE RENEWABLE RESOURCE AT ANY FACILITY REGARDLESS OF MEGAWATT CAPACITY; AMENDING SECTION 69-3-2003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 69-3-2003, MCA, is amended to read:

**"69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.

(2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.

(3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.

(4) "Community renewable energy project" means an eligible renewable resource that:

(a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or

(b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.

1 (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is  
2 selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or  
3 cooperative.

4 (b) The term does not include governmental entities selling electricity produced only by facilities  
5 generating less than 250 kilowatts that were in operation prior to 1990.

6 (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting  
7 in 2008, for which compliance with this part must be demonstrated.

8 (7) "Cooperative utility" means:

9 (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or

10 (b) an existing municipal electric utility as of May 2, 1997.

11 (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric  
12 generating resource to rapidly start, stop, increase, or decrease electricity production from that generating  
13 resource in order to respond to the balancing authority's need to match supply resources to loads on the  
14 transmission system.

15 (9) "Electric generating resource" means any plant or equipment used to generate electricity by any  
16 means.

17 (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity  
18 from another state into Montana that commences commercial operation after January 1, 2005, or a hydroelectric  
19 project expansion referred to in subsection (10)(d)(iii), any of which produces electricity from one or more of the  
20 following sources:

21 (a) wind;

22 (b) solar;

23 (c) geothermal;

24 (d) water power, in the case of a hydroelectric project that:

25 (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate  
26 rating of 10 megawatts or less;

27 (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric  
28 generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less; or

29 (iii) is an expansion of an existing hydroelectric project that commences construction and increases  
30 existing generation capacity on or after October 1, 2013. Engineering estimates of the average incremental

1 generation from the increase in existing generation capacity must be submitted to the commission for review. The  
2 commission shall determine an average annual incremental generation that will constitute the eligible renewable  
3 resource from the capacity expansion, subject to further revision by the commission in the event of significant  
4 changes in stream flow or dam operation.

5 (e) landfill or farm-based methane gas;

6 (f) gas produced during the treatment of wastewater;

7 (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic  
8 fuels from wood, forest, or field residues, including wood pieces that have been treated with chemical  
9 preservatives, such as creosote, pentachlorophenol, or copper-chrome arsenic, ~~and that are used at a facility that~~  
10 ~~has a nameplate capacity of 5 megawatts or less;~~

11 (h) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells; and

12 (i) the renewable energy fraction from:

13 (i) the sources identified in this subsection (10) of electricity production from a multiple-fuel process with  
14 fossil fuels;

15 (ii) flywheel storage as defined in 15-6-157(4)(d);

16 (iii) hydroelectric pumped storage as defined in 15-6-157(4)(e);

17 (iv) batteries; and

18 (v) compressed air derived from any of the sources in this subsection (10) that is forced into an  
19 underground storage reservoir and later released, heated, and passed through a turbine generator.

20 (11) "Local owners" means:

21 (a) Montana residents;

22 (b) general partnerships of which all partners are Montana residents;

23 (c) business entities organized under the laws of Montana that:

24 (i) have less than \$50 million of gross revenue;

25 (ii) have less than \$100 million of assets; and

26 (iii) have at least 50% of the equity interests, income interests, and voting interests owned by Montana  
27 residents;

28 (d) Montana nonprofit organizations;

29 (e) Montana-based tribal councils;

30 (f) Montana political subdivisions or local governments;

1 (g) Montana-based cooperatives other than cooperative utilities; or

2 (h) any combination of the individuals or entities listed in subsections (11)(a) through (11)(g).

3 (12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized  
4 to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency  
5 conditions, unforeseen load swings, and generation disruptions.

6 (13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter  
7 3, on January 1, 2005, including the public utility's successors or assignees.

8 (14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity  
9 generated by an eligible renewable resource that is tracked and verified by the commission and includes all of  
10 the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

11 (15) "Renewable energy fraction" means the proportion of electricity output directly attributable to  
12 electricity and associated renewable energy credits produced by one of the sources identified in subsection (10).

13 (16) "Seasonality" means the degree to which an electric generating resource is capable of producing  
14 electricity in each of the seasons of the year.

15 (17) "Small customer" means a retail customer that has an individual load with an average monthly  
16 demand of less than 5,000 kilowatts.

17 (18) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and  
18 immediately responsive to frequency control and that is needed to maintain system frequency stability during  
19 emergency conditions, unforeseen load swings, and generation disruptions.

20 (19) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the  
21 community renewable energy project and other eligible renewable resources that are:

22 (a) located within 5 miles of the project;

23 (b) constructed within the same 12-month period; and

24 (c) under common ownership."  
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26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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