

Senate Bill 140

In The Senate

January 15, 1981	Introduced and referred to Committee on Natural Resources.
	Fiscal note requested.
January 21, 1981	Fiscal note returned.
February 16, 1981	Committee recommend bill do pass as amended.
February 17, 1981	Bill printed and placed on members' desks.
February 19, 1981	Second reading do pass.
February 20, 1981	Correctly engrossed.
February 21, 1981	Third reading passed.

In The House

February 23, 1981	Introduced and referred to Committee on Taxation.
April 23, 1981	Died in Committee.

1 *Senate* BILL NO. 140
 2 INTRODUCED BY *Dear Mike Anderson, Hoffmann*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL *James*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLASSIFY NEW
 6 QUALIFYING SMALL POWER PRODUCTION FACILITIES AS CLASS FIVE
 7 PROPERTY; INCREASING THE PERIOD OF CLASSIFICATION FOR
 8 PROPERTY USED IN THE PRODUCTION OF GASOHOL; AMENDING SECTION
 9 15-6-135, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-6-135, MCA, is amended to read:
 13
 14 "15-6-135. Class five property -- description --
 15 taxable percentage. (1) Class five property includes:

16 (a) all property used and owned by cooperative rural
 17 electrical and cooperative rural telephone associations
 18 organized under the laws of Montana, except property owned
 19 by cooperative organizations described in subsection (1)(c)
 20 of 15-6-137;

21 (b) air and water pollution control equipment as
 22 defined in this section;

23 (c) truck campers, motor homes, and camping and travel
 24 trailers, including fifth-wheel trailers, owned by and
 25 actually used primarily by a person 60 years of age or older
 who:

1 (i) is retired from full employment; and
 2 (ii) whose total income from all sources is not more
 3 than \$7,000 for a single person or \$8,000 for a married
 4 couple;

5 (d) new industrial property as defined in this
 6 section;

7 (e) any personal or real property used primarily in
 8 the production of gasohol during construction and for the
 9 first 3 5 years of its operation;

10 (f) any personal or real property used in a new
 11 qualifying small power production facility as defined in
 12 this section, during construction and for the first 5 years
 13 of operations.

14 (2) (a) "Air and water pollution equipment" means
 15 facilities, machinery, or equipment used to reduce or
 16 control water or atmospheric pollution or contamination by
 17 removing, reducing, altering, disposing, or storing
 18 pollutants, contaminants, wastes, or heat. The department of
 19 health and environmental sciences shall determine if such
 20 utilization is being made.

21 (b) The department's determination [as to air
 22 pollution equipment] may be appealed to the board of health
 23 and environmental sciences and may not be appealed to either
 24 a county tax appeal board or the state tax appeal board.
 25 However, the appraised value of the equipment as determined

1 by the department of revenue may be appealed to the county
 2 tax appeal board and the state tax appeal board.

3 (3) "New industrial property" means any new industrial
 4 plant, including land, buildings, machinery, and fixtures,
 5 used by new industries during the first 3 years of their
 6 operation. The property may not have been assessed within
 7 the state of Montana prior to July 1, 1961.

8 (4) (a) "New industry" means any person, corporation,
 9 firm, partnership, association, or other group that
 10 establishes a new plant in Montana for the operation of a
 11 new industrial endeavor, as distinguished from a mere
 12 expansion, reorganization, or merger of an existing
 13 industry.

14 (b) New industry includes only those industries that:

15 (i) manufacture, mill, mine, produce, process, or
 16 fabricate materials;

17 (ii) do similar work, employing capital and labor, in
 18 which materials unserviceable in their natural state are
 19 extracted, processed, or made fit for use or are
 20 substantially altered or treated so as to create commercial
 21 products or materials; or

22 (iii) engage in the mechanical or chemical
 23 transformation of materials or substances into new products
 24 in the manner defined as manufacturing in the 1972 Standard
 25 Industrial Classification Manual prepared by the United

1 STATES OFFICE OF MANAGEMENT AND BUDGET.

2 (5) New industrial property does not include:

3 (a) property used by retail or wholesale merchants,
 4 commercial services of any type, agriculture, trades, or
 5 professions;

6 (b) a plant that will create adverse impact on
 7 existing state, county, or municipal services; or

8 (c) property used or employed in any industrial plant
 9 that has been in operation in this state for 3 years or
 10 longer.

11 (6) "Qualifying small power production facility" means
 12 a facility that:

13 (a) produces electricity by the uses as a primary
 14 energy sources of biomass, waste, water, other renewable
 15 resources, or any combination of those sources;

16 (b) has a power production capacity that, together
 17 with any other facilities located at the same site, is not
 18 greater than 60 megawatts;

19 (c) is owned by a person not primarily engaged in the
 20 generation or sale of electricity; and

21 (d) is constructed or reconstructed after [the
 22 effective date of this act], provided that classification as
 23 class five property does not decrease the property tax
 24 assessment below the assessment as of [the effective date of
 25 this act].

1 ~~6711~~ Class five property is taxed at 3% of its
2 market value."

-End-

STATE OF MONTANA

REQUEST NO. 111-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 1981, there is hereby submitted a Fiscal Note for SB 140 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposal places small power production facilities in class five (3%) for property tax purposes. It also extends the time which gasohol plants are in class five from three to five years. At present there is no property in Montana classified under Section 15-6-135 (1)(e) so the change from three to five years will not result in any loss in revenue in the 82-83 biennium.

Since section 15-6-135 (1)(d) holds the assessed value of small power production facilities at their level as of the effective date of this proposal there will be no decrease in existing tax revenue to local governments.

It is not known how many gasohol plants or small power production facilities may be built during the next few years so it is impossible to give an estimate of how much revenue local governments would have to forego in the future if the proposal becomes law. In any event, value will be added to local tax bases by such construction; however, it will not be added at quite as rapid a rate as it would under present law.

LONG RANGE IMPACT

The effect of lowering the property tax on small power production facilities will be to shift the burden from the consumers of power to the local property taxpayer who lives near the facility. If the facilities are taxed at higher rates, such additional costs will be assessed to the energy consumer through the Public Service Commissioners rate making structure.

PREPARED BY THE DEPARTMENT OF REVENUE

Daniel M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

Approved by Committee
on Natural Resources

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21 defined in this section;

22 (c) truck campers, motor homes, and camping and travel
23 trailers, including fifth-wheel trailers, owned by and
24 actually used primarily by a person 60 years of age or older
25 who:

1 (i) is retired from full employment; and
2 (ii) whose total income from all sources is not more
3 than \$7,000 for a single person or \$8,000 for a married
4 couple;

5 (d) new industrial property as defined in this
6 section;

7 (e) any personal or real property used primarily in
8 the production of gasohol during construction and for the
9 first 3 1/2 years of its operation;

10 (f) any personal or real property used in a new
11 qualifying small power production facility, as defined in
12 this section, during construction and for the first 5 years
13 of operation.

14 (2) (a) "Air and water pollution equipment" means
15 facilities, machinery, or equipment used to reduce or
16 control water or atmospheric pollution or contamination by
17 removing, reducing, altering, disposing, or storing
18 pollutants, contaminants, wastes, or heat. The department of
19 health and environmental sciences shall determine if such
20 utilization is being made.

21 (b) The department's determination [as to air
22 pollution equipment] may be appealed to the board of health
23 and environmental sciences and may not be appealed to either
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25 However, the appraised value of the equipment as determined

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 9 firm, partnership, association, or other group that
 10 establishes a new plant in Montana for the operation of a
 11 new industrial endeavor, as distinguished from a mere
 12 expansion, reorganization, or merger of an existing
 13 industry.

14 (b) New industry includes only those industries that:
 15 (i) manufacture, mill, mine, produce, process, or
 16 fabricate materials;

17 (ii) do similar work, employing capital and labor, in
 18 which materials unserviceable in their natural state are
 19 extracted, processed, or made fit for use or are
 20 substantially altered or treated so as to create commercial
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 12 a facility that:

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 14 energy source of biomass, waste, water, wind, other
 15 renewable resources, or any combination of those sources;

16 (b) has a power production capacity NOT GREATER THAN
 17 50 MEGAWATTS that, together with any other facilities
 18 located at the same site, is not greater than 60 megawatts;

19 (c) is owned by a person not primarily engaged in the
 20 generation or sale of electricity; and

21 (d) is constructed or reconstructed after [the
 22 effective date of this act], provided that classification as
 23 class five property does not decrease the property tax
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