



AN ACT GENERALLY REVISING NATURAL RESOURCE LAWS; CREATING NATURAL RESOURCE-RELATED INVESTIGATION PROGRAMS; PROVIDING FOR A STUDY OF ECONOMIC IMPACTS OF COST DISALLOWANCES; EXEMPTING CERTAIN CHANGES FROM THE MAJOR FACILITY SITING ACT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 75-20-213 AND 75-20-219, MCA; AND PROVIDING AN EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.

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

Section 1. Hydrocarbon and geology investigation program -- purpose -- grants. (1) The bureau of mines and geology shall establish a hydrocarbon and geology investigation program to determine the existence of oil and gas deposits in the state. The purposes of the program are to determine if new methods of oil and gas production will improve production in existing oil and gas fields and to locate new fields containing oil and gas resources.

(2) In prioritizing areas to investigate, the bureau of mines and geology shall first consider counties where there exists historical evidence of oil and gas production, including the counties of Blaine, Carter, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Glacier, Hill, Liberty, McCone, Musselshell, Petroleum, Phillips, Pondera, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Teton, Toole, Treasure, Valley, and Yellowstone.

(3) The bureau of mines and geology may start an investigation when it has sufficient funds to conduct an investigation or in other circumstances the bureau determines appropriate.

(4) (a) Within 1 year of starting an investigation, the bureau of mines and geology shall present the results of the investigation in the form of maps and text to:

- (i) the counties included in the investigation;
- (ii) the economic affairs interim committee; and

(iii) the environmental quality council.

(b) After the establishment of the program, the bureau of mines and geology shall report to the legislature in accordance with 5-11-210.

(5) (a) To fulfill the requirements of subsections (1) and (2), the bureau of mines and geology may provide grants to faculty or students of any institution of higher education in the state in the areas of geology, geohydrology, civil engineering, chemical engineering, mechanical engineering, mining engineering, and petroleum engineering.

(b) The bureau of mines and geology shall provide notice of available grants to all institutions of higher education in the state and post notice on its website.

(c) Grant recipients pursuant to this subsection (5) shall report progress to the bureau of mines and geology at least twice a year in a manner determined by the bureau.

(6) The bureau of mines and geology may accept appropriations, gifts, grants, and reimbursements to be used for the purposes of this section.

Section 2. Coal ash markets investigation program. (1) The department of commerce shall establish a coal ash markets investigation program to determine the existence of economically viable markets to reuse coal ash.

(2) The department may start an investigation when it has sufficient funds to conduct an investigation or in other circumstances the department determines appropriate. The department may issue grants to qualified individuals or entities to conduct the investigation.

(3) (a) Within 1 year of starting an investigation, the department shall present the results of the investigation in the form of maps and text to:

(i) the economic interim affairs committee; and

(ii) the environmental quality council.

(b) After the establishment of the program, the department shall report to the legislature in accordance with 5-11-210.

(4) The department may accept appropriations, gifts, grants, and reimbursements to be used for the purposes of this section.

Section 3. Cost benefit analysis required. (1) The department shall establish guidelines to compare costs and benefits of continued disposal of coal combustion residues at electrical generation facilities versus economical ways to reuse coal combustion residues.

(2) The guidelines must include requirements for promptly determining when a cost-benefit analysis under this section is appropriate and necessary.

(3) Proposals for analysis under this section must be consistent with the size and scope of the waste disposal options under consideration or at least demonstrate significant quantifiable environmental impacts, economic impacts, or both and meet other beneficial use requirements.

(4) An analysis under this section that favors a beneficial use must be transmitted to the governor.

The governor may:

- (a) approve the document and order the prompt execution of the proposal;
- (b) return the document to the department for suggested revisions and resubmission to the governor;

or

- (c) deny the proposal.

Section 4. Study of economic impacts of cost disallowances. (1) The Montana bureau of business and economic research at the university of Montana shall study the economic impact of disallowances for replacement power costs made by the public service commission with respect to any coal-fired electric generation facilities located in the state.

(2) The study shall:

(a) determine the economic impact of the disallowances for replacement power costs on consumers;

(b) examine both the short- and long-term impacts on customers including any potential impacts that may occur in the future as a result of decision made by the public service commission;

(c) analyze whether the cost disallowances have resulted in any changes to a bond rating of any public utilities and whether those changes have resulted in any impacts to consumers; and

(d) evaluate if cost disallowances have occurred in other jurisdictions and whether there have been any measurable impacts on consumers.

- (3) The bureau of business and economic research shall complete the study by December 31, 2022.
- (4) The public service commission may not limit the scope of the study and shall cooperate and provide any information and materials necessary to complete the study.
- (5) Upon completion of the study, the bureau of business and economic research:
 - (a) shall present the study to the public service commission;
 - (b) may present the study to the energy and telecommunications interim committee, if scheduling permits; and
 - (c) upon request, may present the study to the house energy, technology, and federal relations committee and the senate energy and telecommunications committee during the 68th legislative session.
- (6) If the bureau of business and economic research is unable to present the study to the energy and telecommunications interim committee, the bureau shall mail a copy to each member of the committee.

Section 5. Electric generating facility fuel source change -- notice requirements. (1) (a) An amendment to a certificate is not required for an electric generating facility designed to generate 250 megawatts of electricity or more if a change is made at the facility to alter fuel sources necessary to maintain operations at the facility, if the certificate holder obtains necessary air and water quality permits under chapter 2 and chapter 5 of this title.

(b) Changes covered by subsection (1)(a) may include both the use of a new fuel source as well as any construction or modification made to the facility for the purpose of allowing the facility to accept and utilize a new fuel source. This includes but is not limited to the construction of unloading facilities, storage facilities, and conveyance systems, including conveyors, roads, and rail spurs.

(c) The department shall waive compliance with this chapter as it relates to a change made in accordance with subsection (1)(a).

(2) (a) A certificate holder making a change in a facility in accordance with subsection (1) shall file notice of the change with the department at least 60 days prior to making the change.

(b) The department may provide notice to all active parties to the original certification proceeding, but a hearing is not required.

(3) (a) A change under subsection (1) is neither a material increase in the environmental impact of

the facility nor a change or addition considered to affect compliance with a condition of the certificate.

(b) A change made in accordance with this section and notice of a change required in this section may not be used as the basis of an appeal of a final decision on a certificate by the department.

Section 6. Section 75-20-213, MCA, is amended to read:

"75-20-213. Supplemental material -- amendments. (1) ~~An~~ Except as provided in [section 5], an application for an amendment of an application or a certificate must be in the form and contain the information that the department by rule or by order prescribes. Notice of an application must be given as set forth in 75-20-211(3) and (4).

(2) An application may be amended by an applicant any time prior to the department's recommendation. If the proposed amendment is such that it prevents the department or the agencies listed in 75-20-216(6) from carrying out their duties and responsibilities under this chapter, the department may require additional filing fees and additional amendment application review time. The total review time may not exceed 9 months from the date the department accepts a completed application for amendment.

(3) The applicant shall submit supplemental material in a timely manner as requested by the department or as offered by the applicant to explain, support, or provide the detail with respect to an item described in the original application, without filing an application for an amendment. The department's determination as to whether information is supplemental or whether an application for amendment is required is conclusive."

Section 7. Section 75-20-219, MCA, is amended to read:

"75-20-219. Amendments to certificate. (1) (a) ~~Within~~ Except as provided in [section 5], within 30 days after notice of an amendment to a certificate is given as set forth in 75-20-213(1), including notice to all active parties to the original proceeding, the department shall determine whether the proposed change in the facility would result in a material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility as set forth in the certificate.

(b) ~~If~~ Except as provided in [section 5], if the department determines that the proposed change would result in a material increase in any environmental impact of the facility or a substantial change in the location of

all or a portion of the facility, the department shall grant, deny, or modify the amendment with conditions as it considers appropriate.

(c) ~~Except as provided in [section 5],~~ if the department determines that a modification of the proposed amendment to the certificate is needed, it shall consult with the applicant.

(2) ~~Except as provided in [section 5],~~ if those cases in which the department determines that the proposed change in the facility would not result in a material increase in any environmental impact or would not be a substantial change in the location of all or a portion of the facility, the department shall automatically grant the amendment either as applied for or upon terms or conditions that the department considers appropriate.

(3) ~~Except as provided in [section 5],~~ if a hearing is requested under 75-20-223(2), the party requesting the hearing has the burden of showing by clear and convincing evidence that the department's determination is not reasonable.

(4) ~~Except as provided in [section 5],~~ if an amendment is required to a certificate that would affect, amend, alter, or modify a decision, opinion, order, certification, or air or water quality permit issued by the department ~~or board,~~ the amendment must be processed under the applicable statutes administered by the department ~~or board.~~"

Section 8. Appropriations. There is appropriated from the general fund for the biennium beginning July 1, 2021:

- (1) \$125,000 to the bureau of mines and geology for the purposes of [section 1]; and
- (2) \$25,000 to the department of commerce for the purposes of [section 2].

Section 9. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 90, chapter 2, and the provisions of Title 90, chapter 2, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 75, chapter 10, part 2, and the provisions of Title 75, chapter 10, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 75, and the provisions of Title 75 apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 75, chapter 20, part 2, and the

provisions of Title 75, chapter 20, part 2, apply to [section 5].

Section 10. Effective date. [This act] is effective July 1, 2021.

Section 11. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. Coordination instruction. If both House Bill No. 5 and [this act] are passed and approved, and at least \$2 million is appropriated in House Bill No. 5 to the department of environmental quality for the purpose of leaking petroleum tank remediation to address risks to human health or the environment at petroleum sites where there is no readily apparent potentially liable person or entity that is financially viable, then \$125,000 of that appropriation is transferred to the bureau of mines and geology for the purposes of [section 1].

Section 13. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to certificates issued on or after January 1, 1976.

Section 14. Termination. [Section 4] terminates April 30, 2023.

- END -

I hereby certify that the within bill,
HB 648, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 648

INTRODUCED BY J. KASSMIER, W. GALT, C. KNUDSEN

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