

HOUSE BILL NO. HB0074

Small modular nuclear reactor permitting.

Sponsored by: Representative(s) Miller, Burkhart, Harshman, Laursen and Simpson and Senator(s) Bebout and Boner

A BILL

for

1 AN ACT relating to environmental quality and utilities;
2 authorizing permits of small modular nuclear reactors;
3 specifying permit requirements; authorizing the replacement
4 of coal generation capacity with small modular nuclear
5 reactor capacity; making conforming amendments; exempting
6 small modular nuclear reactors from public service
7 commission regulation; imposing a tax; requiring
8 rulemaking; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 35-11-2101 and 39-23-101 through
13 39-23-111 are created to read:

14

15

ARTICLE 21

1 SMALL MODULAR NUCLEAR REACTORS

2

3 **35-11-2101. Permits for small modular nuclear**
4 **reactors.**

5

6 (a) After recommendation from the director and
7 consultation with the appropriate advisory boards, the
8 council shall promulgate rules and regulations to authorize
9 the permitting of small modular nuclear reactors for the
10 purpose of generating electricity. Rules promulgated under
11 this subsection shall be subject to the following:

12

13 (i) Any public utility or person that currently
14 owns a plant, property or facility for the generation of
15 electricity that currently uses coal or natural gas may
16 apply to replace the coal or natural gas generation with
17 generation using a small modular nuclear reactor;

18

19 (ii) The small modular nuclear reactor shall
20 have a rated capacity not greater than the lesser of three
21 hundred (300) megawatts or the current rated capacity at
22 the plant, property or facility using coal or natural gas

1 proposed to be transitioned to a small modular nuclear
2 reactor;

3

4 (iii) The small modular nuclear reactor shall be
5 located on the same site as the current plant, property or
6 facility that the small modular nuclear reactor would
7 replace;

8

9 (iv) A permit shall not be issued under this
10 section until the small modular nuclear reactor has
11 received a license or permit to construct or operate the
12 reactor from the United States Nuclear Regulatory
13 Commission;

14

15 (v) Any reports, notifications and violations
16 sent to or from the United States Nuclear Regulatory
17 Commission by or to the proposed operator of the small
18 modular nuclear reactor shall also be submitted to the
19 department.

20

21 (b) Any person seeking a permit for a small modular
22 nuclear reactor under subsection (a) of this section shall

1 comply with the reporting requirements for exempt
2 activities under W.S. 35-12-119(d).

3

4 (c) The provisions of chapters 1 through 3 of title
5 37 shall not apply to a person who operates a small modular
6 nuclear reactor in accordance with the provisions of this
7 section.

8

9 (d) Any person operating a small modular nuclear
10 reactor in the state of Wyoming shall not store spent
11 nuclear fuel or high-level radioactive waste from the small
12 modular nuclear reactor on the site of the small modular
13 nuclear reactor without first meeting all of the
14 requirements of the United States Nuclear Regulatory
15 Commission and of W.S. 35-11-1501 through 35-11-1507.

16

17 (e) Nothing in this section shall be deemed to affect
18 the authority of the United States Nuclear Regulatory
19 Commission.

20

21 (f) As used in this section:

22

1 (i) "High-level radioactive waste" means as
2 defined in W.S. 35-11-1501(a)(i);

3
4 (ii) "Public utility" means as defined in W.S.
5 37-1-101(a)(vi);

6
7 (iii) "Small modular nuclear reactor" means a
8 nuclear reactor that:

9
10 (A) Has a rated capacity of not more than
11 three hundred (300) megawatts of electricity;

12
13 (B) Can be constructed and operated in
14 combination with other similar reactors at a single site,
15 if additional reactors are necessary; and

16
17 (C) Has been licensed by the United States
18 Nuclear Regulatory Commission and is in compliance with all
19 requirements and conditions imposed by the commission.

20
21 (iv) "Spent nuclear fuel" means as defined in
22 W.S. 35-11-1501(a)(iv).

23

1

CHAPTER 23

2

TAX UPON PRODUCTION OF ELECTRICITY FROM NUCLEAR REACTORS

3

4

39-23-101. Definitions.

5

6 There are no specific applicable provisions for definitions
7 for this chapter.

8

9

39-23-102. Administration.

10

11 The department of revenue shall enforce the provisions of
12 this chapter. The department shall promulgate rules and
13 regulations necessary for the implementation and
14 enforcement of this chapter.

15

16

39-23-103. Imposition.

17

18 There is levied an excise tax upon the sale of electricity
19 from nuclear reactors in this state. The tax shall be
20 imposed upon the sale of any electricity produced from
21 nuclear reactors on or after January 1, 2021 and shall be
22 paid by the person selling such electricity. The tax shall

1 be imposed on each megawatt hour of electricity that is
2 generated from the nuclear reactor and sold.

3

4 **39-23-104. Taxation rate.**

5

6 The tax rate shall be five dollars (\$5.00) on each megawatt
7 hour, or portion thereof, which is sold in this state.

8

9 **39-23-105. Exemptions.**

10

11 (a) No tax shall be imposed upon electricity which is
12 produced from any generating facility owned or operated by
13 the federal government, state of Wyoming or by any county
14 or municipality in this state.

15

16 (b) No tax shall be imposed upon electricity which is
17 produced for the personal consumption of the producer. For
18 purposes of this subsection, "electricity produced for the
19 personal consumption of the producer" shall include any
20 excess production of electricity that does not exceed five
21 hundred (500) kilowatt hours in any twenty-four (24) hour
22 period.

23

1 (c) No tax shall be imposed on any test or
2 demonstration small modular nuclear reactor licensed and
3 operated in accordance with W.S. 35-11-2101(b) and
4 35-11-431 through 35-11-433.

5

6 **39-23-106. Licensing; permits.**

7

8 There are no specific applicable provisions for licenses
9 and permits for this chapter.

10

11 **39-23-107. Compliance; collection procedures.**

12

13 (a) Returns and reports. Any person producing
14 electricity from nuclear reactors within this state which
15 is subject to the tax imposed by this chapter shall report
16 the amount of megawatt hours produced in this state on or
17 before February 1 of the year immediately following the
18 year in which the electricity was produced.

19

20 (b) Payment. Any person owing a tax under this
21 chapter shall pay the tax once each year on or before
22 February 1 of the year immediately following the year in

1 which the electricity was produced. The tax shall be
2 collected by the department of revenue.

3

4 (c) Timelines. There are no specific applicable
5 provisions for timelines for this chapter.

6

7 **39-23-108. Enforcement.**

8

9 (a) Audits. There are no specific applicable
10 provisions for audits for this chapter.

11

12 (b) Interest. Interest at an annual rate equal to the
13 average prime interest as determined by the state treasurer
14 during the preceding fiscal year, plus four percent (4%),
15 shall be added to all delinquent taxes under this chapter.
16 To determine the average prime interest rate, the state
17 treasurer shall average the prime interest for at least
18 seventy-five percent (75%) of the thirty (30) largest banks
19 in the United States. The interest rate on delinquent taxes
20 shall be adjusted on January 1 of each year following the
21 year in which the taxes first became delinquent. In no
22 instance shall the delinquent interest rate be less than

1 twelve percent (12%) nor greater than eighteen percent
2 (18%).

3

4 (c) Penalties. The following shall apply:

5

6 (i) If any person fails to make or file a return
7 and remit the tax as required by W.S. 39-23-107, the
8 department shall impose a penalty of five percent (5%) of
9 the taxes due for each thirty (30) day period, or fraction
10 thereof, elapsing between the due date of the return and
11 the date filed, unless the person for good cause obtains
12 from the department an extension of time for filing prior
13 to the due date for filing. In the event of an extension,
14 the person shall pay the interest due on delinquent
15 payments set forth in subsection (b) of this section. In no
16 event shall the total penalty imposed by this subsection
17 exceed twenty-five percent (25%) of the tax due. The
18 department, for good cause, may waive a penalty imposed for
19 failure to file a return for any one (1) calendar year,
20 provided that:

21

1 (A) The return was filed within five (5)
2 business days following the due date, including an approved
3 extension period; and

4

5 (B) The taxpayer requests the waiver in
6 writing within fifteen (15) days after the return was
7 filed, setting forth the reasons for the late filing.

8

9 (ii) If any part of a tax deficiency is due to
10 the negligence or intentional disregard of rules and
11 regulations there shall be added a penalty of five percent
12 (5%) of the amount of the deficiency plus interest as
13 provided by subsection (b) of this section. The taxes,
14 penalty and interest shall be paid by the taxpayer within
15 ten (10) days after receipt of notice and demand by the
16 department;

17

18 (iii) Taxes due together with interest,
19 penalties and costs shall be collectible by the department
20 by appropriate judicial proceedings;

21

1 (iv) The department may credit or waive
2 penalties imposed by this section as part of a settlement
3 or for any other good cause.

4

5 (d) Liens. Any delinquent tax is a lien upon the
6 property of any owner from and after the time the tax is
7 due until the tax is paid. The tax lien shall have
8 preference over all liens except any valid mortgage or
9 other liens of record filed or recorded prior to the date
10 the tax became due.

11

12 (e) Tax sales. There are no specific applicable
13 provisions for tax sales for this chapter.

14

15 **39-23-109. Taxpayer remedies.**

16

17 (a) Credits. The following shall apply:

18

19 (i) The taxpayer is entitled to receive an
20 offsetting credit for any property tax paid in connection
21 with the sale of electricity produced from a nuclear
22 reactor;

23

1 (ii) Any credit under this subsection may be
2 carried forward to succeeding reporting periods.

3

4 **39-23-110. Statute of limitations.**

5

6 There are no specific applicable provisions for a statute
7 of limitations for this chapter.

8

9 **39-23-111. Distribution.**

10

11 One hundred percent (100%) of the proceeds from the tax
12 imposed by this chapter shall be distributed by the
13 department and deposited in the state general fund, with
14 receipt and acknowledgement submitted to the state
15 treasurer.

16

17 **Section 2.** W.S. 35-11-103(a)(xiii), 35-12-119(c) by
18 creating a new paragraph (vi) and 37-1-101(a)(vi) by
19 creating a new subparagraph (N) are amended to read:

20

21 **35-11-103. Definitions.**

22

1 (a) For the purpose of this act, unless the context
2 otherwise requires:

3
4 (xiii) "This act" means W.S. 35-11-101 through
5 35-11-403, 35-11-405, 35-11-406, 35-11-408 through
6 35-11-1106, 35-11-1414 through 35-11-1432, 35-11-1601
7 through 35-11-1613, 35-11-1701, 35-11-1801 through
8 35-11-1803, ~~and~~ 35-11-2001 through 35-11-2004 and
9 35-11-2101.

10

11 **35-12-119. Exemptions; information required.**

12

13 (c) The construction, operation and maintenance of
14 the following activities are exempt from this chapter:

15

16 (vi) Small modular nuclear reactors seeking and
17 receiving permits in accordance with W.S. 35-11-2101.

18

19 **37-1-101. Definitions.**

20

21 (a) As used in chapters 1, 2, 3, 12 and 17 of this
22 title:

23

1 (vi) "Public utility" means and includes every
2 person that owns, operates, leases, controls or has power
3 to operate, lease or control:

4

5 (N) The provisions of chapters 1, 2 and 3
6 of this title shall not apply to small modular nuclear
7 reactors operating under permits issued in accordance with
8 W.S. 35-11-2101.

9

10 **Section 3.** The environmental quality council and the
11 department of environmental quality shall promulgate rules
12 regarding the permitting of small modular nuclear reactors
13 in accordance with the provisions of this act.

14

15 **Section 4.** This act is effective immediately upon
16 completion of all acts necessary for a bill to become law
17 as provided by Article 4, Section 8 of the Wyoming
18 Constitution.

19

20

(END)