

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 253

Introduced by Larson, 40; Cornett, 45.

Read first time January 11, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-6203, Revised Statutes Cumulative Supplement, 2010; to
3 eliminate provisions relating to a tax credit relative to
4 wind energy generating facilities; to provide an
5 operative date; to repeal the original section; and to
6 declare an emergency.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-6203, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 77-6203 (1) The owner of a wind energy generation
4 facility annually shall pay a nameplate capacity tax equal to the
5 total nameplate capacity of the commissioned wind turbine of the wind
6 energy generation facility multiplied by a tax rate of three thousand
7 five hundred eighteen dollars per megawatt.

8 (2) No tax shall be imposed on a wind energy generation
9 facility:

10 (a) Owned or operated by the federal government, the
11 State of Nebraska, a public power district, a public power and
12 irrigation district, an individual municipality, a registered group
13 of municipalities, an electric membership association, or a
14 cooperative; or

15 (b) That is a customer-generator as defined in section
16 70-2002.

17 (3) No tax levied pursuant to this section shall be
18 construed to constitute restricted funds as defined in section 13-518
19 for the first five years after the wind energy generation facility is
20 commissioned.

21 (4) The presence of one or more wind energy generation
22 facilities or supporting infrastructure shall not be a factor in the
23 assessment, determination of actual value, or classification under
24 section 77-201 of the real property underlying or adjacent to such
25 facilities or infrastructure.

1 (5)(a) The Department of Revenue shall collect the tax
2 due under this section.

3 (b) The tax shall be imposed beginning the first calendar
4 year the wind turbine is commissioned. A wind energy generation
5 facility commissioned prior to July 15, 2010, shall be subject to the
6 tax levied pursuant to sections 77-6201 to 77-6204 on and after
7 January 1, 2010. ~~The amount of property tax previously paid on a wind
8 energy generation facility commissioned prior to July 15, 2010, which
9 is greater than the amount that would have been paid pursuant to
10 sections 77-6201 to 77-6204 from the date of commissioning until
11 January 1, 2010, shall be credited against any tax due under Chapter
12 77, and any amount so credited that is unused in any tax year shall
13 be carried over to subsequent tax years until fully utilized.~~

14 (c)(i) The tax for the first calendar year shall be
15 prorated based upon the number of days remaining in the calendar year
16 after the wind turbine is commissioned.

17 (ii) In the first year in which a wind energy generation
18 facility is taxed or in any year in which additional commissioned
19 nameplate capacity is added to a wind energy generation facility, the
20 taxes on the initial or additional nameplate capacity shall be
21 prorated for the number of days remaining in the calendar year.

22 (iii) When a wind turbine is decommissioned or made
23 nonoperational by a change in law or decertification from its status
24 as a certified renewable export facility during a tax year, the taxes
25 shall be prorated for the number of days during which the wind

1 turbine was not decommissioned or was operational.

2 (iv) When the capacity of a wind turbine to produce
3 electricity is reduced but the wind turbine is not decommissioned,
4 the nameplate capacity of the wind turbine is deemed to be unchanged.

5 (6)(a) On March 1 of each year, the owner of a wind
6 energy generation facility shall file with the Department of Revenue
7 a report on the nameplate capacity of the facility for the previous
8 year from January 1 through December 31. All taxes shall be due on
9 April 1 and shall be delinquent if not paid on a quarterly basis on
10 April 1 and each quarter thereafter. Delinquent quarterly payments
11 shall draw interest at the rate provided for in section 45-104.02, as
12 such rate may from time to time be adjusted.

13 (b) The owner of a wind energy generation facility is
14 liable for the taxes under this section with respect to the facility,
15 whether or not the owner of the facility is the owner of the land on
16 which the facility is situated.

17 (7) Failure to file a report required by subsection (6)
18 of this section, filing such report late, failure to pay taxes due,
19 or underpayment of such taxes shall result in a penalty of five
20 percent of the amount due being imposed for each quarter the report
21 is overdue or the payment is delinquent, except that the penalty
22 shall not exceed ten thousand dollars.

23 (8) The Department of Revenue shall enforce the
24 provisions of this section. The department shall adopt and promulgate
25 rules and regulations necessary for the implementation and

1 enforcement of this section.

2 (9) The Department of Revenue shall separately identify
3 the proceeds from the tax imposed by this section and shall pay all
4 such proceeds over to the county treasurer of the county where the
5 wind energy generation facility is located within thirty days after
6 receipt of such proceeds.

7 (10) The changes made to this section by this legislative
8 bill become operative on January 1, 2010, for any wind energy
9 generation facility commissioned before, on, or after July 15, 2010.

10 Sec. 2. Original section 77-6203, Revised Statutes
11 Cumulative Supplement, 2010, is repealed.

12 Sec. 3. Since an emergency exists, this act takes effect
13 when passed and approved according to law.