

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0343

SENATE STATE AFFAIRS ENGROSSED NO. **SB 58** - 1/20/2010

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to revise certain real property taxes for small renewable
2 energy facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For purposes of this Act, a renewable resource is a resource that generates
5 electricity from facilities using one or more of the following sources:

6 (1) Wind that uses wind as the source of energy to produce electricity;

7 (2) Solar that uses the sun as the source of energy to produce electricity;

8 (3) Hydroelectric that uses water as the source of energy to produce electricity;

9 (4) Hydrogen that is generated from one of the sources listed in this section;

10 (5) Biomass that uses agricultural crops and agricultural wastes and residues, wood and
11 wood wastes and residues, animal and other degradable organic wastes, municipal
12 solid waste, or landfill gas as the fuel to produce electricity; or

13 (6) Geothermal that uses energy contained in heat that continuously flows outward from
14 the earth as the source of energy to produce electricity.



1 Section 2. For purposes of this Act, a renewable energy facility is a facility that uses a
2 renewable resource as its energy source for the purpose of producing electricity.

3 Section 3. For renewable energy facilities with less than five megawatts of nameplate
4 capacity, all real property used or constructed for the purpose of producing electricity using a
5 renewable resource as an energy source is classified for tax purposes as renewable energy
6 property and shall be assessed and taxed in the same manner as other real property and shall be
7 locally assessed by the county director of equalization pursuant to § 10-3-16. For the purposes
8 of this Act, the first fifty thousand dollars of the assessed value of the renewable energy property
9 or seventy percent of the assessed value of the renewable energy property, whichever is greater,
10 is exempt from the real property tax.

11 Section 4. Renewable energy property is not subject to any discretionary formulas authorized
12 by Title 10.

13 Section 5. That § 10-4-36 be repealed.

14 ~~10-4-36. For wind energy properties with less than five thousand kilowatts of nameplate~~
15 ~~capacity, all real property used or constructed for the purpose of producing electricity for~~
16 ~~commercial purposes that utilizes the wind as an energy source is classified for tax purposes as~~
17 ~~wind energy property and shall be assessed and taxed in the same manner as other real property~~
18 ~~and shall be locally assessed by the county director of equalization pursuant to § 10-3-16. For~~
19 ~~the purposes of §§ 10-4-36 to 10-4-38, inclusive, real property includes the base, foundation,~~
20 ~~tower, and substations. Real property does not include the wind turbine or blades attached~~
21 ~~thereto.~~

22 Section 6. That § 10-4-37 be repealed.

23 ~~10-4-37. Any wind energy property of a commercial wind power production facility with~~
24 ~~less than five thousand kilowatts of nameplate capacity shall be assessed under the provisions~~

1 of this chapter:

2 Section 7. That § 10-4-38 be repealed.

3 ~~10-4-38. Wind energy property is not subject to any discretionary formulas authorized by~~
4 ~~Title 10.~~

5 Section 8. That § 10-6-35.8 be repealed.

6 ~~10-6-35.8. Terms used in §§ 10-6-35.8 to 10-6-35.18, inclusive, unless the context otherwise~~
7 ~~requires, mean:~~

8 ~~(1) "Base credit," the property tax assessment credit as authorized during the last year of~~
9 ~~qualification under § 10-6-35.15;~~

10 ~~(2) "Biomass," an energy source derived from the conversion of organic matter by~~
11 ~~biological, thermochemical combustion, and advanced processes. The organic matter~~
12 ~~may include, but is not limited to, agricultural products, agriculture and forest~~
13 ~~residues, municipal sewage, and other organic wastes;~~

14 ~~(3) "Commercial application" or "commercial," the use of a renewable resource energy~~
15 ~~system in commercial, industrial, or agricultural production or processing;~~

16 ~~(4) "Equipment," all the controls, tanks, pumps, heat exchangers, generators, and other~~
17 ~~hardware necessary to install a renewable resource energy system, except that~~
18 ~~associated with a secondary system;~~

19 ~~(5) "Passive solar energy system," the equipment used, designed, and installed for~~
20 ~~conductive, convective, or radiant energy transfer in the heating or cooling of a~~
21 ~~structure. However, "passive solar energy system" does not include materials that~~
22 ~~serve primarily as structural components of a structure;~~

23 ~~(6) "Renewable resource energy system" or "system," the equipment which produces~~
24 ~~energy from a renewable resource for on-site consumption, including a passive solar~~

1 energy system;

2 ~~(7) "Renewable resources," a relatively nondepleting source of energy, including, but not~~
3 ~~limited to the sun, wind, and geothermal and biomass sources;~~

4 ~~(8) "Residential applications" or "residential," the use of a renewable resource energy~~
5 ~~system for space conditioning, water heating, or electrical generation or any~~
6 ~~combination thereof, for a structure;~~

7 ~~(9) "Secondary system," the equipment and hardware necessary to supplement,~~
8 ~~complement, or in any manner support a renewable resource energy system;~~

9 ~~(10) "Secretary," the secretary of revenue and regulation;~~

10 ~~(11) "Structure," a building whose interior space is conditioned by heating or cooling. The~~
11 ~~term includes but is not limited to dwellings, operating plants, office buildings, and~~
12 ~~public buildings.~~

13 Section 9. That § 10-6-35.9 be repealed.

14 ~~10-6-35.9. An owner of any real property is entitled to a property tax assessment credit if~~
15 ~~the owner attaches or includes a renewable resource energy system as a part of an improvement~~
16 ~~to real property for either residential or commercial applications.~~

17 Section 10. That § 10-6-35.10 be repealed.

18 ~~10-6-35.10. No property tax assessment credit may be used for systems which produce~~
19 ~~energy for sale to persons other than the owner of the real property on which the system is~~
20 ~~located, unless the system is a biomass renewable resource energy system using an anaerobic~~
21 ~~digester.~~

22 Section 11. That § 10-6-35.11 be repealed.

23 ~~10-6-35.11. The property tax assessment credit shall not apply when title to the property has~~
24 ~~been transferred. This section does not apply to transfers of residential property when the new~~

1 owner will be the first occupant of the structure.

2 Section 12. That § 10-6-35.12 be repealed.

3 ~~—10-6-35.12. The property tax assessment credit for a residential application of a renewable~~
4 ~~resource energy system or for an ethyl alcohol production system is a sum equal to the assessed~~
5 ~~valuation of the real property with the renewable resource energy system minus the assessed~~
6 ~~valuation of the real property without the system. However, a property tax assessment credit~~
7 ~~shall not be less than the actual installed cost of the renewable resource energy system or the~~
8 ~~ethyl alcohol production system.~~

9 Section 13. That § 10-6-35.13 be repealed.

10 ~~—10-6-35.13. The property tax assessment credit for a commercial application is fifty percent~~
11 ~~of the actual installed cost of the renewable resource energy system.~~

12 Section 14. That § 10-6-35.14 be repealed.

13 ~~—10-6-35.14. The property tax assessment credit provided for in §§ 10-6-35.12 and 10-6-~~
14 ~~35.13 shall be adjusted to include any federal income tax credit which may be available at the~~
15 ~~time the owner applies for the assessment credit.~~

16 Section 15. That § 10-6-35.15 be repealed.

17 ~~—10-6-35.15. The property tax assessment credit may be applied for three continuous years~~
18 ~~for a residential application of a renewable resource energy system and three continuous years~~
19 ~~for a commercial application or an ethyl alcohol production system. At the end of this time, the~~
20 ~~owner of the real property is entitled to a property tax assessment credit of:~~

21 ~~—(1)— Seventy-five percent of the base credit for the first year subsequent to termination of~~
22 ~~the credit period;~~

23 ~~—(2)— Fifty percent of the base credit for the second year subsequent to termination of the~~
24 ~~credit period;~~

1 ~~—(3)— Twenty-five percent of the base credit for the third year subsequent to termination of~~
2 ~~the credit period.~~

3 Section 16. That § 10-6-35.16 be repealed.

4 ~~—10-6-35.16. An applicant for an energy property tax assessment credit shall file two copies~~
5 ~~of the statement with the county director of equalization of the county in which the property is~~
6 ~~located and one copy with the Department of Revenue and Regulation. An owner of more than~~
7 ~~one renewable resource energy system shall file a separate statement for each system. The~~
8 ~~statement shall be filed between November first and December tenth of the first year for which~~
9 ~~the credit is to be applied. The applicant does not need to resubmit the application for the~~
10 ~~property tax assessment credit unless the property ownership is transferred or the property has~~
11 ~~a change in use.~~

12 Section 17. That § 10-6-35.17 be repealed.

13 ~~—10-6-35.17. The statement shall be made on forms prescribed by the secretary of the~~
14 ~~Department of Revenue and Regulation. The forms shall include at least the following~~
15 ~~information:~~

16 ~~—(1)— The name and current address of the owner;~~

17 ~~—(2)— The legal description of the property;~~

18 ~~—(3)— Whether the credit is for a residential or commercial application of a renewable~~
19 ~~resource energy system or for an ethyl alcohol production system;~~

20 ~~—(4)— The type of general energy source for the system;~~

21 ~~—(5)— The primary use of the system;~~

22 ~~—(6)— The total installed cost of the system; and~~

23 ~~—(7)— Such other information as the secretary requires.~~

24 ~~—Copies of all receipts and such other records as may be necessary to establish the actual~~

1 ~~installed cost of the system shall be attached to a certified statement.~~

2 Section 18. That § 10-6-35.18 be repealed.

3 ~~—10-6-35.18. Upon verification of the statement by the director of equalization of the county~~

4 ~~in which the real property is located, the auditor shall make the deduction.~~

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

156R0357

SENATE COMMERCE ENGROSSED NO. **SB 68** - 2/1/2010

Introduced by: Senators Gant and Miles and Representatives Kirkeby and Feickert

1 FOR AN ACT ENTITLED, An Act to update certain references to the building code.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 11-10-5 be amended to read as follows:

4 11-10-5. If the governing body of any local unit of government adopts any ordinance
5 prescribing standards for new construction, ~~such~~ the ordinance shall comply with the ~~2006~~ 2009
6 edition of the International Building Code as published by the International Code Council,
7 Incorporated. The governing body may amend, modify, or delete any portion of the International
8 Building Code before enacting such an ordinance. Additional deletions, modifications, and
9 amendments to the municipal ordinance may, ~~from time to time~~, be made by the governing body
10 and are effective upon their adoption and filing with the municipal finance officer. Additional
11 deletions, modifications, and amendments to the county ordinance may, ~~from time to time~~, be
12 made by the governing body, and are effective upon their adoption and filing with the county
13 auditor. The ordinance may not apply to mobile or manufactured homes as defined in chapter
14 32-7A which are constructed in compliance with the applicable prevailing standards of the
15 United States Department of Housing and Urban Development at the time of construction. No



1 ordinance may require that any fire sprinkler be installed in a single family dwelling. The
2 ordinance may not apply to any specialty resort or vacation home establishment as defined in
3 chapter 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2009
4 edition of the International Building Code.

5 Section 2. That § 11-10-6 be amended to read as follows:

6 11-10-6. The design standard for any new construction commenced after July 1, 2009,
7 within the boundaries of any local unit of government that has not adopted an ordinance
8 prescribing standards for new construction pursuant to § 11-10-5 shall be based on the ~~2006~~
9 2009 edition of the International Building Code as published by the International Code Council,
10 Incorporated. Each local unit of government may adopt an ordinance allowing local
11 administration and enforcement of the design standard. The provisions of this section do not
12 apply to new construction for any one or two family dwelling, mobile or manufactured home,
13 townhouse, or farmstead and any accessory structure or building thereto. For purposes of this
14 section the term, farmstead, means a farm or ranch, including any structure or building located
15 on the land. The provisions of this section do not apply to any mobile or manufactured home
16 as defined in chapter 32-7A which is used for purposes other than residential that is constructed
17 in compliance with the applicable prevailing standards of the United States Department of
18 Housing and Urban Development at the time of construction if the structure complies with
19 applicable accessibility standards for the occupancy intended. The provisions of this section do
20 not apply to any specialty resort or vacation home establishment as defined in chapter 34-18 that
21 is constructed in compliance with the requirements of Group R-3 of the 2009 edition of the
22 International Building Code.

State of South Dakota

EIGHTY-FIFTH SESSION
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841R0501

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 74** - 2/1/2010

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Nesselhuf, Adelstein, Heidepriem, Nelson, and Turbak Berry and
Representatives Engels, Cutler, and Feinstein

1 FOR AN ACT ENTITLED, An Act to clarify the use of treatments involving human embryonic
2 stem cells.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-14 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Nothing in this chapter prohibits the use of any Food and Drug Administration approved
7 treatments derived from or involving human embryonic stem cells.



State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

554R0532

SENATE STATE AFFAIRS ENGROSSED NO. **SB 82** - 2/1/2010

Introduced by: Senators Gant, Abdallah, Howie, and Miles and Representatives Hamiel, Frerichs, Gibson, Moser, Rounds, and Russell

1 FOR AN ACT ENTITLED, An Act to require certain state contracts to be displayed on a
2 searchable internet website.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The state shall display on the searchable internet website created pursuant to § 1-27-45
7 copies of each written contract for supplies, services, or professional services of ten thousand
8 dollars or more, each written contract filed with the state auditor pursuant to § 1-24A-1, and
9 each written contract filed with the attorney general pursuant to § 1-11-15. Each contract shall
10 be displayed electronically not less than sixty days after commencement of the contract term and
11 for not less than one year following the end of the contract term.

