

## Summary of Energy and Telecommunications Legislation 2011 Legislative Session

The 2011 Legislature acted on a number of bills involving energy policy, utility regulation, project permitting, and taxation. This summary provides an overview of major legislation, excluding the budget provisions of House Bill 2, in the following areas:

ETIC Bills and Duties, PSC	MEPA and MFSA
Renewable Resources and Conservation	Utilities
Coal	Energy Related Taxation
Telecommunications	

The summary focuses only on legislation approved by the Legislature that has become law.

### **ETIC Bills, PSC Bills, Revision of ETIC Responsibilities**

During the 2009-2010 interim, the ETIC approved the drafting of three pieces of committee legislation and six pieces of legislation at the request of the Public Service Commission. Seven of the nine bills were passed and approved. One of the PSC bill draft requests failed in House Federal Relations Energy and Telecommunications, and one ETIC bill, HB 59 which would have allowed hydroelectric project expansions be included in the RPS, was vetoed by the Governor. Two additional bills that were approved revised the ETIC's statutory duties.

#### ETIC Committee Bills

**HB 22** Extends the sunset on wireless 9-1-1 funding for less-populated counties.

**SB 65** Modifies the process for revising the state energy policy, requiring the ETIC to examine the energy policy at its first interim meeting and determine if additional review is needed.

#### Revision of ETIC Duties

**SB 7** Requires electrical generation facilities and utilities in Montana that buy or sell renewable energy credits to file renewable energy credit reports with the Department of Revenue and ETIC.

**SB 327** Requires the DNRC to report to ETIC on feasibility studies currently required under law to assess water projects owned or controlled by the state for electricity generation potential.

**SB 65** (Discussed under ETIC Committee Bills.)

**SB 305** Revises Montana's energy policy. The energy policy is reviewed by the ETIC each interim.

#### Public Service Commission

**HB 60** Eliminates the appointment of a supervisor of motor carriers by the PSC.

**HB 62** Eliminates procedures for challenging municipal sewer rates by filing a complaint with the PSC.

**HB 78** Clarifies the definition of "local owners" in the renewable power production and rural economic development act.

**HB 92** Requires the PSC to set rates for qualifying small power production facilities using avoided costs over the term of the contract.

**SB 62** Eliminates the PSC's ability to assign customers to electricity buying cooperatives.

### **Renewable Resources and Conservation**

**HB 51** Modifies the procedures for payment of energy cost savings from projects funded from energy conservation program bonds and creates a debt service account.

**HB 78** (Discussed under Public Service Commission.)

**HB182** Allows school districts to issue bonds for conservation measures without a public vote. Bonds are paid back with cost savings from conservation investment.

**HB 295** Revises and establishes parameters for wind easements and wind energy rights. Wind energy rights are defined as property rights and are appurtenant to the surface estate.

**HB594** Requires Montana Department of Transportation to use recycled glass processed into glass cullet, reclaimed asphalt and concrete, and recycled tires in projects if cost effective and compatible with engineering standards.

**SB 7** (Discussed under Revision of ETIC Duties.)

**SB 62** (Discussed under Public Service Commission.)

### **Coal**

**SB 285** Requires the monitoring of carbon dioxide injection wells for 50 years unless an alternative timeframe is approved by the Board of Oil and Gas Conservation. An operator is required to continue to accept liability for a carbon dioxide storage reservoir and the stored carbon for a minimum of 30 years.

**SB 292** Defines "in situ coal gasification" and directs the Board of Environmental Review to adopt rules for in situ coal gasification.

**SB 297** Defines a "coal beneficiation plant" and excludes coal beneficiation plants from permitting and regulation under the Montana Strip and Underground Mining Reclamation Act.

**HB 479** Grants the Board of Oil and Gas Conservation rulemaking authority to regulate wells injections to restore or enhance the microbial conversion of hydrocarbon substrates to methane gas as Class II injection wells.

**HB 533** Revises state land mine leasing laws to clarify limits on leasing and to establish leasing procedures for coal. It allows more discretion by the Board of Land Commissioners in determining the value of a lease and requirements for a surety bond. The duration of leases, if permits are challenged, also are established.

**SB 286** Establishes a new permitting process for coal prospecting.

### **Telecommunications**

**SB 246** Clarifies the petition process of a regulated telecommunication services provider for submitting a plan for an alternative form of regulation and eliminated certain requirements for an order modifying a plan for an alternative form of regulation.

**HB 22** (Discussed under ETIC Committee Bills.)

### **MEPA , MFSA and Permitting Related to Energy Projects**

**SB 47** Clarifies the powers of the Board of Environmental Review related to air quality permitting and rulemaking for forestry equipment and excludes most equipment for permitting requirements.

**SB 233** Revises the intent of environmental impact analysis and an environmental assessments under MEPA and clarifies that alternatives included in an alternatives analysis are discretionary. Outlines requirements for state-sponsored and private projects in an environmental review. Requires that the scope of an environmental review is only within Montana's borders and limits the procedures for legal challenges under MEPA to remand, with additional legal contingencies.

**SB 206** Revises the Major Facility Siting Act to require the Department of Environmental Quality to examine a 1-mile-wide facility siting corridor along the facility route when conducting a review in accordance with MEPA. Exempts siting modifications within the facility siting corridor from MEPA and requires facilities to be sited in federally designated energy corridors when compatible with other siting and reliability requirements.

**SB 312** Revises metal mine reclamation laws to require draft permits be issued for complete and compliant applications. The time lines for reviews under MEPA for mining permits also are changed.

**SB 320** Encourages the upgrading and construction of transmission lines within existing rights-of-way to avoid the proliferation of new transmission corridors and clarifies legislative findings and certain definitions under the Montana Major Facility Siting Act. Any new line of 230 kV or greater is exempt from MFSA, if the developer gets agreement from more than 75% of the owners who collectively own more than 75% of the property along the centerline. A collection of new lines, of less than 150 miles total length but not necessarily contiguous, is exempt if they connect a facility to the regional grid or are needed to provide firm transmission service. (Prior to enactment of SB 320, this was only available for individual new lines.)

### **Utilities**

**HB 169** Repeals the Electricity Buying Cooperative Act.

**HB 198** Clarifies that utilities possess the power of eminent domain for projects providing service to the customers of its regulated service and facilities granted a MFSA certificate possess the power of eminent domain for public uses in accordance with Title 70, chapter 30.

**HB 233** Requires certain qualifying small power production facilities to accept a rate schedule approved by the PSC and extends the time within which the PSC is required to render a decision.

**SB 205** Prohibits a utility from providing electricity supply service in another utility's service territory.

**HB 291** Provides a refund to certain customers who pay for the extension of a distribution line to a residential structure if additional customers connect to the extension. Additional customers pay an equal proportionate share of the total amount paid for the extension, and the payments are refunded on a pro rata basis.

### **Energy Related Taxation**

**SB 172** Classifies certain energy storage facilities as class fourteen property and exempts class fourteen energy storage facilities from the provisions of the major facility siting act.

**SB 266** Sets the abatement of the coal gross proceeds tax on coal produced by a new or expanding underground coal mine at 50% for the first ten years. Allows local government to set the local tax abatement on other mines at 50% or less.