CHAPTER 1160

SAND AND GRAVEL REMOVAL FROM STATE-OWNED LANDS

S.F. 2371

AN ACT relating to royalty fees for removal of sand and gravel from state-owned lands and waters located on the Cedar river in certain counties and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 461A.53, Code 2009, is amended to read as follows:

461A.53 Permits.

1. The commission may enter into agreements for the removal of ice, sand, gravel, stone, wood, or other natural material from lands or waters under the jurisdiction of the commission if, after investigation, it is determined that such removal will not be detrimental to the state's interest.

2. The commission may specify the terms and consideration under which such removal is permitted and issue written permits for such removal.

3. Notwithstanding subsection 2, the commission shall issue written permits with a royalty fee of ten cents per ton for the removal of sand and gravel for the purposes of flood control from state-owned lands and waters under the jurisdiction of the commission located on the Cedar river in a county with a population of more than one hundred twenty-seven thousand. This subsection is repealed on June 30, 2015.

Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 2010

CHAPTER 1161

REPLACEMENT TAXES ON COGENERATION FACILITIES

S.F. 2373

AN ACT relating to the administration of the replacement tax for new cogeneration facilities, and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 437A.3, subsection 1, Code Supplement 2009, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For new cogeneration facilities, the assessed value shall be determined as provided in section 437A.16A.

Sec. 2. Section 437A.3, subsection 4, Code Supplement 2009, is amended to read as follows:

4. *a.* "*Cogeneration facility*" means a facility with a capacity of two hundred megawatts or less that uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy and, except for ownership, meets the criteria to be a qualifying cogeneration facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

b. "New cogeneration facility" means any of the following:

(1) A cogeneration facility, regardless of capacity, which is first placed into service on or after January 1, 2009, that uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy and meets the criteria to be a qualifying cogeneration facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

(2) A cogeneration facility in service prior to January 1, 2009, that became subject to the replacement generation tax under section 437A.6 for the first time on or after January 1, 2009.

Sec. 3. Section 437A.3, subsection 11, paragraph b, subparagraphs (1) and (2), Code Supplement 2009, are amended to read as follows:

(1) An electric power generating plant that is owned by or leased to an electric company, electric cooperative, ~~or~~ municipal utility, or any other taxpayer, and that initially generates electricity subject to replacement generation tax under section 437A.6 on or after January 1, 2003.

(2) An electric power generating plant that is owned by or leased to an electric company, electric cooperative, ~~or~~ municipal utility, or any other taxpayer, that initially generated electricity subject to replacement generation tax under section 437A.6 before January 1, 2003, and that is sold, leased, or transferred, in full or in part, on or after January 1, 2003. If any portion of an electric power generating plant is sold, the entire plant shall be treated as if it were a new electric power generating plant.

Sec. 4. Section 437A.5, subsection 1, paragraph c, unnumbered paragraph 3, Code 2009, is amended to read as follows:

If the new electric power generating plant is part of a cogeneration facility or new cogeneration facility, the natural gas delivery rate for that plant shall be the lesser of the natural gas delivery rate established in this paragraph "c" or the rate per therm of natural gas as in effect at the time of the initial natural gas deliveries to the plant for the natural gas competitive service area where the new electric power generating plant is located.

Sec. 5. Section 437A.8, subsection 4, paragraph d, Code 2009, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a taxpayer has paid an amount of replacement tax, penalty, or interest which was deposited into the property tax relief fund and which was not due, all of the provisions of section 437A.14, subsection 1, paragraph "*b*", shall apply with regard to any claim for refund or credit filed by the taxpayer. The director shall have sole discretion as to whether the erroneous payment will be refunded to the taxpayer or credited against any replacement tax due, or to become due, from the taxpayer that would be subject to deposit in the property tax relief fund.

Sec. 6. Section 437A.15, subsection 7, paragraph b, Code Supplement 2009, is amended to read as follows:

b. The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers through January 1, ~~2010~~ 2013. If the task force recommends modifications to the replacement tax that will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter, the department of management shall transmit those recommendations to the general assembly.

Sec. 7. NEW SECTION. **437A.16A New cogeneration facilities.**

1. *a.* Except as otherwise provided by this chapter, the property of a new cogeneration facility subject to replacement tax that is primarily and directly used in the production, generation, transmission, or delivery of electricity shall be exempt from taxation by means of applying a credit, as computed in this section, representing the value of this exempt property against the assessed value of the entire new cogeneration facility as determined by the local assessor under the provisions of chapters 427, 427A, 427B, 428, 441, and any other applicable abatement and exemption provisions under this Code.

b. Following the March 31 due date for the replacement tax return as required by section 437A.8, the director shall annually determine the assessed value of the new cogeneration facility exempt property by dividing the prior year's replacement tax liability attributable to that facility by the current fiscal year's consolidated taxing district rate for the taxing district where the facility is located, then multiplying the quotient by one thousand. The director shall certify this value to the local assessor on or before April 10 of the current calendar year. The assessor shall apply this certified value as a credit against the total assessed value of the facility. The allowable credit shall not exceed the total value of the new cogeneration facility as determined by the local assessor for the assessment year and any excess credits shall not be applied to any other assessment year.

c. A credit shall not be applied to a new cogeneration facility for the first year the facility becomes subject to the replacement tax if it first became subject to the replacement tax after January 1 of that year. For the first year in which the new cogeneration facility is subject to the replacement tax as of January 1 of that year, the taxpayer shall estimate the total replacement taxes due for that year and report that estimate to the director by March 31, and the director shall base the determination of assessed value from that estimate. If the estimate varies by more than five percent from the actual replacement tax liability for the year in which the facility was first subject to the replacement tax as of January 1, the director shall adjust the next year's assessed value calculation by increasing or decreasing the current replacement tax calculation to reflect the difference between the estimate and the actual replacement tax owed for the year in which the facility was first subject to replacement tax as of January 1.

2. The director shall classify each new cogeneration facility as a separate taxpayer for reporting purposes and shall allocate the entire replacement tax attributable to the new cogeneration facility to the local taxing district or districts where that facility is located. The assessed value of the exempt property of the new cogeneration facility shall be the basis for determining the statewide property tax imposed by section 437A.18.

3. Any cogeneration facility placed in service prior to January 1, 2009, that did not qualify as a self-generator under subsection 437A.3, subsection 27, as of January 1, 2009, shall be subject exclusively to the replacement tax.

Sec. 8. Section 437A.18, Code 2009, is amended to read as follows:

437A.18 Tax imposition.

An annual statewide property tax of three cents per one thousand dollars of assessed value is imposed upon all property described in ~~section~~ sections 437A.16 and 437A.16A on the assessment date of January 1.

Sec. 9. Section 437A.19, subsection 1, paragraph a, Code Supplement 2009, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) Any gas or transmission property at acquisition cost of more than one million dollars that was transferred or disposed of in the preceding calendar year by local taxing district.

Sec. 10. Section 437A.19, subsection 2, paragraph e, Code Supplement 2009, is amended to read as follows:

e. In addition to reporting the assessed values as described in this subsection, the director, on or before October 31 of each assessment year, shall also report to the department of management and to the auditor of each county the taxable value of taxpayer property as of January 1 of such assessment year for each local taxing district. For purposes of this chapter, "*taxable value*" means the value for all property subject to the replacement tax annually determined by the director, by dividing the estimated annual replacement tax liability for that property by the ~~prior~~ current fiscal year's consolidated taxing district rate for the taxing district where that property is located, then multiplying the quotient by one thousand. A taxpayer who paid more than five hundred thousand dollars in replacement tax in the previous tax year or who believes ~~their~~ the taxpayer's replacement tax liability will vary more than ten percent from the previous tax year shall report to the director by October 1 of the current calendar year, on forms prescribed by the director, the estimated replacement tax liability that will be attributable to all of the taxpayer's property subject to replacement tax

for the current tax year. The department shall utilize the estimated replacement tax liability as reported by the taxpayer or the taxpayer's prior year's replacement tax amounts to estimate the current tax year's taxable value for that property. Furthermore, a taxpayer who has a new major addition of operating property which is put into service for the first time in the current calendar year shall report to the director by October 1 of the current calendar year, or at the time the major addition is put into service, whichever time is later, on forms prescribed by the director, the cost of the major addition and, if not previously reported, shall report the estimated replacement taxes which that asset will generate in the current calendar year. For the purposes of computing the taxable value of property in a taxing district, the taxing district's share of the estimated replacement tax liability shall be the taxing district's percentage share of the "assessed value allocated by property tax equivalent" multiplied by the total estimated replacement tax. "Assessed value allocated by property tax equivalent" shall be determined by dividing the taxpayer's current year assessed valuation in a taxing district by one thousand, and then multiplying by the prior year's consolidated tax rate.

Sec. 11. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2010, for tax years beginning on or after that date.

Approved April 23, 2010

CHAPTER 1162

ENVIRONMENTALLY PREFERABLE CLEANING AND MAINTENANCE POLICY FOR STATE AND PUBLIC EDUCATION FACILITIES

H.F. 823

AN ACT requiring public schools, community colleges, institutions under the control of the state board of regents, and state agencies to comply with an environmentally preferable cleaning and maintenance policy unless specified conditions for noncompliance are satisfied.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. **8A.318 Building cleaning and maintenance — environmentally preferable cleaning products.**

1. *Findings and intent.* The general assembly finds that human beings are vulnerable to and may be severely affected by exposure to chemicals, hazardous waste, and other environmental hazards. The federal environmental protection agency estimates that human exposure to indoor air pollutants can be two to five times, and up to one hundred times, higher than outdoor levels. Children, teachers, janitors, and other staff members spend a significant amount of time inside school buildings. Likewise, state employees and citizens of this state spend a significant amount of time inside state buildings. These individuals are continuously exposed to chemicals from cleaners, waxes, deodorizers, and other maintenance products.

2. *Definitions.* As used in this section, unless the context otherwise requires:

a. "Environmentally preferable cleaning and maintenance products" includes but is not limited to cleaning and maintenance products identified by the department and posted on the department's internet site.

b. "State building" means a public facility or building owned by or leased by the state, or an agency or department of the state.

3. *Use of environmentally preferable cleaning and maintenance products.*

a. All school districts in this state, community colleges, institutions under the control of the state board of regents, and state agencies utilizing state buildings, are encouraged to conform