



HOUSE BILL No. 4928

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July 8, 1993, Introduced by Rep. Gustafson and referred to the Committee on Public Utilities.

A bill to amend section 60 of Act No. 3 of the Public Acts of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as amended by Act No. 323 of the Public Acts of 1990, being section 460.60 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 60 of Act No. 3 of the Public Acts of  
2 1939, as amended by Act No. 323 of the Public Acts of 1990, being

1 section 460.60 of the Michigan Compiled Laws, is amended to read  
2 as follows:

3 Sec. 60. (1) As used in this section:

4 (a) "Resource recovery facility" means a facility that meets  
5 all of the following requirements:

6 (i) Has machinery, equipment, and structures installed for  
7 the primary purpose of recovering energy through the incineration  
8 of qualified solid waste, QUALIFIED landfill gas, or scrap  
9 tires.

10 (ii) Utilizes at least 80% of its total annual fuel input in  
11 the form of qualified solid waste, at least 90% of its total  
12 annual fuel input in the form of QUALIFIED landfill gas, or 90%  
13 of its total annual fuel input in the form of scrap tires, exclu-  
14 sive of fuel used for normal start-up and shutdown.

15 (iii) Is a qualifying facility as defined by the federal  
16 energy regulatory commission pursuant to the public utility regu-  
17 latory policies act of 1978, Public Law 95-617, 92 Stat. 3117.

18 (B) "QUALIFIED LANDFILL GAS" MEANS GAS RECLAIMED FROM A TYPE  
19 II LANDFILL AS DEFINED IN R 299.4105 OF THE MICHIGAN ADMINISTRA-  
20 TIVE CODE.

21 (C) ~~(b)~~ "Qualified solid waste" means solid waste that may  
22 be lawfully disposed of in a type II landfill as defined ~~by~~ IN  
23 R 299.4105 of the Michigan administrative code, and which is gen-  
24 erated within this state.

25 (D) ~~(c)~~ "Scrap tire", "scrap tire hauler", and "scrap tire  
26 processor" mean those terms as they are defined in the scrap tire

1 regulatory act, Act No. 133 of the Public Acts of 1990, being  
2 sections 299.561 to 299.572 of the Michigan Compiled Laws.

3       (2) Public utilities with more than 500,000 customers in  
4 this state shall enter into power purchase agreements for the  
5 purchase of capacity and energy from resource recovery facilities  
6 THAT INCINERATE QUALIFIED LANDFILL GAS; that ~~will process~~  
7 INCINERATE qualified solid waste, at least 50.1% of which is gen-  
8 erated within the service areas of the public utility; or,  
9 subject to the provisions of this section, THAT INCINERATE scrap  
10 tires, under rates, charges, terms, and conditions of service  
11 that, for these facilities, may differ from those negotiated,  
12 authorized, or prescribed for purchases from qualifying facili-  
13 ties that are not resource recovery facilities. If a resource  
14 recovery facility incinerates scrap tires, or any other tires  
15 that are obtained from outside the state, or if more than 50.1%  
16 of the scrap tires or other tires are obtained outside the public  
17 utility service area, the public utility may in partial satisfac-  
18 tion of its obligation under this subsection purchase capacity  
19 and energy from the facility but ~~shall~~ IS not ~~be~~ obligated by  
20 this act to purchase the facility's capacity and energy. A  
21 resource recovery facility that incinerates at least 90% of its  
22 total annual fuel input in the form of scrap tires shall accept  
23 all scrap tires that first became scrap tires in the state and  
24 that are delivered to the facility by a scrap tire processor or a  
25 scrap tire hauler. The first 6,000,000 of these scrap tires  
26 delivered to the resource recovery facility each year shall be  
27 charged a rate not greater than an amount equal to \$34.50 per

1 ton, increased each calendar quarter beginning July 1, 1990, by  
2 an amount equal to the increase in the all items version of the  
3 consumer price index for urban wage earners and clerical workers  
4 during the prior calendar quarter. Including power purchase  
5 agreements executed prior to June 30, 1989, this section ~~shall~~  
6 DOES not apply after 120 megawatts of electric resource recovery  
7 facility capacity in a utility's service territory have been con-  
8 tracted and entered in commercial operation. ~~Further, the pro-~~  
9 ~~visions of~~ ADDITIONALLY, this section ~~shall~~ DOES not apply to  
10 more than the first 30 megawatts of scrap tire fueled resource  
11 recovery facility capacity in the state that has been contracted  
12 and entered in commercial operation. Excluding rate provisions,  
13 if ~~a provision or~~ 1 OR MORE provisions of a purchase agreement  
14 remain in dispute, each party shall submit to the commission all  
15 of the purchase agreement provisions of their last best offer and  
16 a supporting brief. On each disputed provision, the commission  
17 shall within 60 days either select or reject with recommendation  
18 the offers submitted by either party.

19 (3) A power purchase agreement entered into by a public  
20 utility for the purchase of capacity and energy from a resource  
21 recovery facility shall be filed with the commission and a con-  
22 tested case proceeding shall commence immediately pursuant to  
23 chapter 4 of the administrative procedures act of 1969, Act  
24 No. 306 of the Public Acts of 1969, being sections 24.271 to  
25 24.287 of the Michigan Compiled Laws. Notwithstanding  
26 section 6j, a power purchase agreement shall be considered  
27 approved if the commission does not approve or disapprove the

1 agreement within 6 months of the date of the filing of the  
 2 agreement. ~~/ or April 3, 1989, whichever is later.~~ Approval  
 3 pursuant to this subsection ~~shall constitute~~ CONSTITUTES prior  
 4 approval under section 6j(13)(b).

5 (4) The energy rate component of all power sales contracts  
 6 for resource recovery facilities shall be equal to the avoided  
 7 energy cost of the purchasing utility.

8 (5) When averaged over the term of the contract, the capac-  
 9 ity rate component of all power sales contracts for resource  
 10 recovery facilities may be equal to but not less than the full  
 11 avoided cost of the utility as determined by the commission. In  
 12 determining the capacity rate, the commission may assume that the  
 13 utility needs capacity.

14 (6) Capacity purchased by a utility prior to January 1, 2000  
 15 under a power sales contract with a resource recovery facility  
 16 shall not be considered directly or indirectly in determining the  
 17 utility's reserve margin, reserve capacity, or other resource  
 18 capability measurement. ~~The legislature and the Michigan public~~  
 19 ~~service commission shall receive an annual accounting from a~~  
 20 ~~resource recovery facility which incinerates scrap tires to~~ TO  
 21 insure compliance with ~~the provisions of~~ this act, A RESOURCE  
 22 RECOVERY FACILITY THAT INCINERATES SCRAP TIRES SHALL PROVIDE AN  
 23 ANNUAL ACCOUNTING TO THE LEGISLATURE AND THE COMMISSION. The  
 24 annual accounting shall include the total amount of scrap tires  
 25 incinerated at the resource recovery facility and the percentage  
 26 of those scrap tires that prior to incineration were used within  
 27 this state for their original intended purpose.