



# HOUSE BILL No. 5326

October 25, 1995, Introduced by Rep. Alley and referred to the Committee on Conservation, Environment and Great Lakes.

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. 10 of the Public Acts of 1994, 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. 10 of the Public Acts of 1994, 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) "Qualified solid waste" means solid waste that may be  
22 lawfully disposed of in a type II landfill as defined in  
23 R 299.4105 of the Michigan administrative code, and which is gen-  
24 erated within this state.

25 (d) "Scrap tire", "scrap tire hauler", and "scrap tire  
26 processor" mean those terms as they are defined in ~~the scrap~~  
27 ~~tire regulatory act, Act No. 133 of the Public Acts of 1990,~~

1 ~~being sections 299.561 to 299.572~~ PART 169 (SCRAP TIRES) OF THE  
2 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, ACT NO. 451  
3 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.16901 TO 324.16909  
4 of the Michigan Compiled Laws.

5       (2) Public utilities with more than 500,000 customers in  
6 this state shall enter into power purchase agreements for the  
7 purchase of capacity and energy from resource recovery facilities  
8 that incinerate qualified landfill gas; that incinerate qualified  
9 solid waste, at least 50.1% of which is generated within the  
10 service areas of the public utility; or, subject to the provi-  
11 sions of this section, that incinerate scrap tires, under rates,  
12 charges, terms, and conditions of service that, for these facili-  
13 ties, may differ from those negotiated, authorized, or prescribed  
14 for purchases from qualifying facilities that are not resource  
15 recovery facilities. If a resource recovery facility incinerates  
16 scrap tires, or any other tires that are obtained from outside  
17 the state, or if more than 50.1% of the scrap tires or other  
18 tires are obtained outside the public utility service area, the  
19 public utility may in partial satisfaction of its obligation  
20 under this subsection purchase capacity and energy from the  
21 facility but is not obligated by this act to purchase the  
22 facility's capacity and energy. A resource recovery facility  
23 that incinerates at least 90% of its total annual fuel input in  
24 the form of scrap tires shall accept all scrap tires that first  
25 became scrap tires in the state and that are delivered to the  
26 facility by a scrap tire processor or a scrap tire hauler. The  
27 first 6,000,000 of these scrap tires delivered to the resource

1 recovery facility each year shall be charged a rate not greater  
2 than an amount equal to \$34.50 per ton, increased each calendar  
3 quarter beginning July 1, 1990, by an amount equal to the  
4 increase in the all items version of the consumer price index for  
5 urban wage earners and clerical workers during the prior calendar  
6 quarter. Including power purchase agreements executed prior to  
7 June 30, 1989, this section does not apply after 120 megawatts of  
8 electric resource recovery facility capacity in a utility's serv-  
9 ice territory have been contracted and entered in commercial  
10 operation. Additionally, this section does not apply to more  
11 than the first 30 megawatts of scrap tire fueled resource recov-  
12 ery facility capacity in the state that has been contracted and  
13 entered in commercial operation. Excluding rate provisions, if 1  
14 or more provisions of a purchase agreement remain in dispute,  
15 each party shall submit to the commission all of the purchase  
16 agreement provisions of their last best offer and a supporting  
17 brief. On each disputed provision, the commission shall within  
18 60 days either select or reject with recommendation the offers  
19 submitted by either party.

20 (3) A power purchase agreement entered into by a public  
21 utility for the purchase of capacity and energy from a resource  
22 recovery facility shall be filed with the commission and a con-  
23 tested case proceeding shall commence immediately pursuant to  
24 chapter 4 of the administrative procedures act of 1969, Act  
25 No. 306 of the Public Acts of 1969, being sections 24.271 to  
26 24.287 of the Michigan Compiled Laws. Notwithstanding  
27 section 6j, a power purchase agreement shall be considered

1 approved if the commission does not approve or disapprove the  
2 agreement within 6 months of the date of the filing of the  
3 agreement. Approval pursuant to this subsection constitutes  
4 prior 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. To insure compliance with this act, a  
19 resource recovery facility that incinerates scrap tires shall  
20 provide an annual accounting to the legislature and the  
21 commission. The annual accounting shall include the total amount  
22 of scrap tires incinerated at the resource recovery facility and  
23 the percentage of those scrap tires that prior to incineration  
24 were used within this state for their original intended purpose.