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Senate Bill 1316 (as enrolled)
Sponsor: Senator Bev Hammerstrom
Senate Committee: Finance
House Committee: Energy and Technology

PUBLIC ACT 593 of 2002

Date Completed: 4-18-03

CONTENT

The bill enacted the "Michigan Next Energy Authority Act" to create the Michigan Next Energy Authority and require it to certify certain property, taxpayers, and alternative energy technology businesses for the purpose of a property tax exemption or a single business tax (SBT) credit.

(The property tax exemption was created by House Bill 6074 (Public Act 549 of 2002), which amended the General Property Tax Act to exempt alternative energy property from personal property taxes, if the property is certified by the Michigan Next Energy Authority. Senate Bill 1322 (Public Act 531 of 2002) amended the Single Business Tax Act to allow an SBT credit for qualified business activity by an eligible taxpayer certified by the Authority, or qualified payroll of a taxpayer located in an alternative energy zone. House Bill 6071 (Public Act 512 of 2002) amended the Michigan Renaissance Zone Act to allow the designation of one renaissance zone as an alternative energy zone. A description of Senate Bill 1322 and House Bills 6071 and 6074, as enrolled, is contained in the Senate Fiscal Agency's First Analysis of Senate Bill 1316, dated 7-31-02.)

Senate Bill 1316 took effect on October 17, 2002.

Authority & Board

The bill created the Michigan Next Energy Authority as a "public body corporate and politic" within the Department of Management and Budget (DMB). The Authority must exercise its statutory functions independently of the DMB Director, although its budgeting,

procurement, and related administrative functions must be performed under the Director's direction. The accounts of the Authority may be subject to annual financial audits by the State Auditor General.

The Authority may contract with the DMB for the purpose of maintaining the rights and interests of the Authority.

The Authority is governed by a board consisting of the members of the Michigan Economic Growth Authority (MEGA). The board must adopt its own policies, procedures, schedule of regular meetings, and a regular meeting date, place, and time. The board is subject to the Open Meetings Act and the Freedom of Information Act, and may act only by resolution.

The Authority is exempt from taxes on real and personal property belonging to the Authority if it is used for a public purpose.

Authority Tax Exemption Certification

The bill requires the Authority to certify the following personal property and provide proof of certification to the assessor of the local tax collecting unit in which the property is located: alternative energy marine propulsion systems, alternative energy systems, and alternative energy vehicles; tangible personal property of an alternative energy technology business; and tangible personal property of a business that is not an alternative energy technology business, that is used solely for the purpose of researching, developing, and manufacturing an alternative energy technology. (An "alternative energy technology business" is a business engaged solely in the research,

development, or manufacture of alternative energy technology.)

To be certified, the personal property must not have been previously subject to taxation under the General Property Tax Act, or previously exempt from property taxes except for personal property exempt under House Bill 6074 or business inventory (which is not subject to property taxes).

The bill also requires the Authority to certify an alternative energy technology business, and provide proof of certification to the assessor of the local tax collecting unit in which the business is located. In addition, the Authority must certify an eligible taxpayer for purposes of claiming the credit under the Single Business Tax Act, and provide proof of certification of the eligible taxpayer's qualified business activity.

Authority Powers

The Authority may do the following:

- Promote the research, development, and manufacturing of alternative energy technology.
- Research and publish studies, investigations, surveys, and findings on the development and use of alternative energy technology.
- Adopt, amend, and repeal bylaws for the regulation of the Authority's affairs and the conduct of its business.
- Solicit and accept gifts, grants, loans, and other assistance from any person or the Federal, the State, or a local government or any agency of the Federal, the State, or a local government or participate in any other way in any Federal, State, or local government program.

The Authority may not operate an alternative energy technology business or otherwise engage in the manufacture of any commercial products.

Definitions

The bill contains definitions pertaining to alternative energy systems and vehicles, as described below.

Alternative Energy System. The bill defines "alternative energy system" as the small-scale

generation or release of energy from one or any combination of the following types of energy systems: fuel cell, photovoltaic, solar-thermal, wind, CHP, microturbine, miniturbine, stirling cycle, battery cell, clean fuel, and electricity storage. "Small-scale" means a single energy system with a generating capacity of two megawatts or less, or an integrated energy system with a generating capacity of 10 megawatts or less.

A "full cell energy system" is one or more fuel cells or fuel cell stacks (an assembly of fuel cells) and an inverter or other power conditioning unit. A "fuel cell" is an electromechanical device that uses an external fuel and continuously converts the energy released from the oxidation of fuel by oxygen directly into electricity without combustion and consists of an anode, a cathode, and an electrolyte. A fuel cell energy system may include a fuel cell processor, that is, a device that converts a fuel, including methanol, natural gas, or gasoline, into a hydrogen rich gas, without combustion for use in a fuel cell.

A "photovoltaic energy system" is a solar energy device composed of one or more photovoltaic cells or photovoltaic modules (an assembly of photovoltaic cells) and an inverter or other power conditioning unit. A "photovoltaic cell" is an integrated device consisting of layers of semiconductor materials and electrical contacts capable of converting incident light directly into electricity. A photovoltaic system may include batteries for power storage or an electricity storage device.

A "clean fuel energy system" is a device that is designed and used solely for the purpose of generating power from a clean fuel. It does not include a conventional gasoline or diesel fuel engine or a retrofitted conventional diesel or gasoline engine. "Clean fuel" means methane, natural gas, methanol neat or methanol blends containing at least 85% methanol, denatured ethanol neat or ethanol blends containing at least 85% ethanol, compressed or liquefied natural gas, liquefied petroleum gas, or hydrogen.

A "solar-thermal energy system" is an integrated unit consisting of a sunlight collection device, a system containing a heat transfer fluid to receive the collected sunlight, and heat exchangers to transfer the solar energy to a thermal storage tank to heat or

cool spaces or water or to generate electricity. "Wind energy system" means an integrated unit consisting of a wind turbine composed of a rotor, an electrical generator, a control system, an inverter or other power conditioning unit, and a tower, which uses moving air to produce power.

A "CHP energy system" is an integrated unit that generates power and either cools, heats, or controls humidity in buildings or provides heating, drying, or chilling for an industrial process, including and limited to both of the following: 1) an absorption chiller, a desiccant dehumidifier, or heat recovery equipment; and 2) a fuel cell energy system or an internal combustion engine, an external combustion engine, microturbine, or miniturbine fueled solely by a clean fuel.

A "microturbine" or "miniturbine energy system" is a system that generates electricity, composed of a compressor, combustor, turbine, and generator, fueled solely by a clean fuel with a maximum capacity of 250 kilowatts (for a microturbine) or two megawatts (for a miniturbine). A miniturbine system may include a recuperator and an alternator. A microturbine energy system may include an alternator, and must include a recuperator if it increases the efficiency of the energy system.

A "stirling cycle energy system" is a closed-cycle regenerative heat engine that is fueled solely by a clean fuel, and that uses an external combustion process, heat exchangers, pistons, a regenerator, and a confined working gas, such as hydrogen or helium, to convert heat into mechanical energy. A stirling cycle energy system may include a generator to generate electricity.

A "battery cell energy system" is one or more battery cells and an inverter or other power conditioning unit used to propel a motor vehicle or an alternative energy marine propulsion system; provide electricity that is distributed within a dwelling or other structure; and/or provide electricity to operate a portable electronic device, including a laptop computer, a personal digital assistant, or a cell phone. "Battery cell" means a closed electrochemical system that converts chemical energy from oxidation and reduction reactions directly into electric energy without combustion and without external fuel, and

consists of an anode, a cathode, and an electrolyte.

An "alternative energy marine propulsion system" is an onboard propulsion system or detachable outboard propulsion system for a watercraft that is powered by a fuel cell energy system, photovoltaic energy system, or advanced battery cell energy system, and that is the singular propulsion system for the watercraft. It does not include battery powered motors designed to assist in the propulsion of the watercraft during fishing or other recreational use.

Alternative Energy Vehicle. An alternative energy vehicle is a motor vehicle propelled by an alternative energy system, manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets Federal motor vehicle safety standards for its class of vehicles as defined by the Michigan Vehicle Code, and certifies that the motor vehicle meets local emissions standards. An alternative energy vehicle includes the following:

- An alternative fueled vehicle (a motor vehicle powered solely by a clean fuel energy system and fueled solely by a clean fuel).
- A fuel cell vehicle (a motor vehicle powered solely by a fuel cell energy system).
- An electric vehicle (a motor vehicle powered solely by a battery cell energy system).
- A hybrid vehicle (a motor vehicle that can only be powered by two or more alternative energy systems).
- A solar vehicle (a motor vehicle powered solely by a photovoltaic energy system).
- A hybrid electric vehicle (a vehicle powered by an integrated propulsion system consisting of an electric motor and combustion engine). A hybrid electric vehicle does not include a retrofitted conventional diesel or gasoline engine. It must obtain the power necessary to propel the vehicle from a combustion engine and a battery cell energy system; a fuel cell energy system; or a photovoltaic energy system.

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BACKGROUND

In his 2002 State of the State Message, former Governor John Engler stressed the importance of developing renewable sources of energy. He said: "It is no longer a question of whether, but when, we will leave behind an economy powered by fossil fuels." In particular, he mentioned the development of fuel cells as a technology that "...will revolutionize power generation", and quoted recent statements by the CEOs of General Motors and Ford that indicated their belief that fuel cells would one day replace the internal combustion engine as the major source of power for transportation. The Governor further stated that it cannot be assumed that Michigan will maintain its dominant place in the auto industry, and that the State must develop a strategy to prepare for the transformation of the auto industry, and society in general, from fossil fuel dependence to alternative energy sources.

In April 2002, the Governor presented an economic development plan referred to as "NextEnergy", designed to promote the research, development, commercialization, and manufacture of alternative energy technologies, such as hydrogen fuel cells, through a combination of tax credits and oversight by a new authority.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The Michigan Next Energy Authority is charged with the promotion and marketing of alternative energy technology for the State of Michigan. The Act permits the Authority to accept gifts, grants, loans, or assistance, but it is not authorized to assess or collect fees. The Authority is governed by the same board members as the Michigan Economic Growth Authority. The board members do not receive compensation other than travel and meeting expenses. The board may employ experts, consultants, accountants, or other technical and professional staff and may determine the compensation and terms of employment for those individuals.

The Authority is charged with certifying alternative energy property for purposes of the property tax exemption authorized in House Bill (H.B.) 6074 (Public Act 549 of

2002). Certification and tax exemption will affect new property only. Certification, by itself, will not have a fiscal impact on either the State or local units. The impact of the property tax exemption, as well as certain issues related to apparent conflicts between the certification provisions and the exemption language in H.B. 6074 are described in the fiscal impact analysis of that bill.

The Authority also is charged with certifying eligible taxpayers and alternative energy technology businesses for purposes of the single business tax credit under Senate Bill 1322 (Public Act 531 of 2002). Companion legislation also includes H.B. 6071 (Public Act 512 of 2002), which amended the Michigan Renaissance Zone Act.

A fiscal analysis of Senate Bill 1322 and House Bills 6071 and 6074 is contained in the Senate Fiscal Agency's First Analysis of Senate Bill 1316, dated 7-31-02.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.