

**Senate Fiscal Agency**  
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**SFA****BILL ANALYSIS**

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House Bill 5457 (as passed by the Senate)  
House Bill 5458 (Substitute H-1 as passed by the Senate)  
House Bill 5459 (as passed by the Senate)  
Sponsor: Representative Ken Bradstreet (House Bill 5457)  
Representative Joseph Rivet (House Bill 5458)  
Representative Barb Vander Veen (House Bill 5459)  
House Committee: Energy and Technology  
Senate Committee: Technology and Energy

Date Completed: 7-18-02

### **RATIONALE**

The Michigan Energy Employment Act prescribes the powers and duties of municipalities to acquire, finance, maintain, and operate facilities for the generation, transmission, and distribution of electric power. The governing bodies of two or more municipalities engaged in this activity may create a joint agency for the purpose of undertaking a "project" to supply electric power for their present or future needs. Also, a governmental unit may enter into a joint venture agreement to develop, finance, construct, acquire, improve, or operate a project in or outside of the State, with one or more municipalities, joint agencies, or power utilities. ("Governmental unit" means a municipality or a joint agency venture project. "Joint agency" means a combination of two or more municipalities, authorities, or other public bodies organized according to the Act.) Currently, there are two joint agencies that operate in Michigan.

The Customer Choice and Electricity Reliability Act, adopted in 2000, restructured the way the State regulates the electric utility industry, by, for example, allowing customers to choose an alternative electric supplier, mandating a rate reduction, and requiring certain electric utilities to expand available capacity. The Act also requires each investor-owned electric utility in the State to do one of the following, at its option: join a multistate regional transmission system organization (RTO) approved by the Federal Energy Regulatory Commission (FERC); join another FERC-approved multistate independent transmission

organization; or divest its interest in its transmission facilities to an independent transmission owner.

According to the Michigan Municipal Electric Association, FERC is urging owners of electric transmission systems to participate in independent RTOs. It has been pointed out that the Customer Choice and Electricity Reliability Act does not address whether a municipal electric utility joint agency may join an RTO, or transfer its transmission facilities to an RTO. Further, the Michigan Energy Employment Act, which allows the creation of a joint agency to supply electric power, is silent regarding RTOs. Some people believe that joint agencies should be given specific statutory authority to join RTOs.

### **CONTENT**

The bills would amend the Michigan Energy Employment Act to authorize a joint agency (e.g., two or more municipalities engaged in the generation, transmission, or distribution of electricity) to have an ownership interest in a multistate regional transmission system organization or transfer the agency's interest in transmission facilities to such an organization.

House Bill 5457 would amend the definition of "project" to include stock, membership units, or any other interest in an RTO approved by the Federal government and operating in Michigan, or a transmission-owning entity that was a member of such an RTO. Currently, the

Act defines "project" as a system or facility for the generation, transmission, or transformation of electricity carried out by a municipal electric utility system by any means.

House Bill 5458 (H-1) states that a joint agency could do either or both of the following:

- Transfer all or part of its interest in transmission facilities to an RTO approved by the Federal government and operating in Michigan or to one or more of its transmission-owning members.
- Purchase, acquire, sell, or otherwise transfer stock, membership units, or any other interest in an RTO or in one or more of its transmission-owning members.

House Bill 5459 would limit the current requirement that a joint agency, before undertaking a project, determine that it is necessary to provide for the projected needs for power and energy of its members. Under the bill, this requirement would apply only to a project for the construction or acquisition of facilities for the transmission or generation of electric power and energy.

MCL 460.805 (H.B. 5457)  
460.844 (H.B. 5458)  
460.840 (H.B. 5459)

## **BACKGROUND**

According to the Michigan Municipal Electric Association, the electric utility joint agencies that operate in Michigan are the Michigan Public Power Agency and the Michigan South Central Power Agency. The first joint agency's member municipalities are Bay City, Charlevoix, Grand Haven, Harbor Springs, Hart, Holland, Lansing, Lowell, Petosky, Portland, Traverse City, Zeeland, and Chelsea. The other joint agency consists of Coldwater, Hillsdale, Marshall, Clinton, and Union City.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The Customer Choice and Electricity Reliability Act is starting to cause significant changes in the electric utility industry of the State. For

instance, FERC has approved the sale of Consumer's Energy transmission system to another entity, and Consumers earlier transferred its facilities to a subsidiary. Detroit Edison is in the process of transferring its transmission facilities to a subsidiary. While the Act requires investor-owned electric utilities to join an RTO, or divest their interest in transmission facilities to an independent transmission owner, it says nothing about requiring or allowing municipal electric utility joint agencies to join an RTO or divest their transmission facilities. In addition, the Michigan Energy Employment Act does not address this issue. Thus, while the trend in the electric utility industry is to join RTOs, with the encouragement of FERC in an attempt to develop large regional markets nationwide, joint agencies have no statutory authority to participate. It has been pointed out that the inability of joint agencies to join this movement puts them at a disadvantage; that is, without the authority to join an RTO, hold an interest in an RTO, and transfer their transmission facilities to an RTO, joint agencies may be left behind as the electric utility industry evolves, or they may be unable to obtain the best access to electricity for their member municipalities. The bills would help to ensure that joint agencies would have the same options as other electricity utility providers.

Legislative Analyst: George Towne

## **FISCAL IMPACT**

The bills would have no fiscal impact on the State. The fiscal impact on local units is indeterminate and likely to be minimal. Regional transmission organizations are traditionally nonprofit entities designed to circumvent discriminatory pricing for the transmission of electricity. The RTO covering Michigan is a for-profit entity and was scheduled to begin operation in December 2001. No data are available regarding the transmission costs or fees for the RTO covering Michigan. The bills would not require joint agencies to join an RTO and the fiscal impact depends upon whether a joint agency would join an RTO and what the transmission prices of the RTO are relative to the transmission prices for the joint agency. Given that transmission costs nationally comprise less than 9% of the price of electricity and that substantial price

differentials are unlikely given the purposes and economics of most joint agencies, the fiscal impact is likely to be minimal even if a joint agency were to join an RTO. The two joint agencies in Michigan involve a limited number of communities.

Fiscal Analyst: David Zin

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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.