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BILL ANALYSIS

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House Bill 5680 (Substitute H-1 as reported without amendment)
Sponsor: Representative Bert Johnson
House Committee: Energy and Technology
Senate Committee: Finance

Date Completed: 8-30-10

RATIONALE

The Clean, Renewable, and Efficient Energy Act, enacted in 2008, establishes a renewable energy standard for electric providers. The standard requires 10% of a provider's energy to come from renewable sources by 2015. This requirement applies to entities whose distribution of electricity is regulated by the Public Service Commission (PSC), municipally owned utilities, and others. To recover the cost of complying with the renewable energy standard, electric providers are authorized to include a surcharge on customers' bills. Under the Income Tax Act, taxpayers may claim a credit for a percentage of an electric utility's surcharge. For this purpose, the definition of "electric utility" includes an entity whose distribution of electricity is regulated by the PSC, but it does not include a municipal utility. As a result, customers of municipally owned electric utilities are ineligible for the credit. It has been suggested that legislation should extend the credit to these customers.

CONTENT

The bill would amend the Income Tax Act to allow customers of a municipally owned electric utility to claim a credit for charges imposed to cover the cost of the utility's compliance with the renewable energy standard in the Clean, Renewable, and Efficient Energy Act.

Under the Income Tax Act, a taxpayer with a maximum adjusted gross income of $65,000, or a husband and wife filing a joint return with a maximum adjusted gross income of $130,000, may claim a credit equal to a percentage of the amount authorized for the customer's electric utility under Section 45(2)(a) of the Clean, Renewable, and Efficient Energy Act and paid during the tax year. The percentage of the authorized amount is 25% for the 2009 tax year, and 20% for the 2010 and 2011 tax years. If the credit exceeds the taxpayer's liability for the tax year, the excess may not be refunded.

(Under Section 45(2)(a) of the Clean, Renewable, and Efficient Energy Act, an electric provider must recover the incremental cost of compliance with the Act's renewable energy standard by an itemized charge on the customer's bill. A provider may not comply with the standard to the extent that recovery would have a retail rate impact that exceeds $3 per month per residential customer meter.)

Under the bill, a customer of a municipally owned electric utility also could claim the credit.

Currently, the credit is available for tax years beginning after December 31, 2008, and before December 31, 2012. The bill would refer to tax years beginning after December 31, 2008, and before January 1, 2012.

MCL 206.253

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 bill would correct an oversight that occurred when legislation established the Clean, Renewable, and Efficient Energy Act and amended the Income Tax Act. The amendment to the Income Tax Act adopted a definition of "electric utility" in the PSC law, which excludes municipally owned electric utilities, although they are subject to the renewable energy standard and may impose the surcharge. Under the bill, customers of these utilities, as well as customers of PSC-regulated providers, could claim the tax credit for the renewable energy surcharge. This would benefit taxpayers who are customers of Consumers Energy, Detroit Edison, the Lansing Board of Water and Light, and other municipal utilities that impose the surcharge.

Supporting Argument

The bill would correct an inconsistency in the Income Tax Act regarding the tax years for which the credit may be claimed. Although the Act specifies an authorized percentage for tax years 2009, 2010, and 2011, it also indicates that the credit is available for the 2012 tax year as well. The bill would clarify that 2011 is the last year for which the credit may be claimed.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce State income tax revenue, primarily to the General Fund, by an unknown amount. The actual reduction would depend upon how many taxpayers were eligible to claim the credit, the number of eligible taxpayers who actually would claim the credit, and the number of municipal utilities that assess the surcharge. It is unknown which municipal electric utilities assess the surcharge, but in 2009 only three of the State's nine investor-owned utilities, and none of the cooperatives, levied the surcharge. The maximum revenue reduction under the bill would likely be approximately $2.0 million, but the actual reduction would be less to the extent that there are municipal electric utilities that do not levy the surcharge.

Fiscal Analyst: David Zin

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