

**SUBSTITUTE FOR  
HOUSE BILL NO. 5663**

A bill to authorize local units of government to adopt property assessed clean energy programs and to create districts to promote the use of renewable energy systems and energy efficiency improvements by owners of real property; to provide for the financing of such programs through voluntary property assessments and other means; to authorize a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements from the proceeds thereof; to provide for the repayment of bonds, notes, and other evidences of indebtedness; to authorize certain fees; to prescribe the powers and duties of certain governmental officers and entities; and to provide for remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "property assessed clean energy act".

3           Sec. 3. As used in this act:

4           (a) "District" means a district created under a property  
5 assessed clean energy program by a local unit of government that  
6 lies within the local unit of government's jurisdictional  
7 boundaries. A local unit of government may create more than 1  
8 district under the program, and districts may be separate,  
9 overlapping, or coterminous.

10           (b) "Energy efficiency improvement" means the installation or  
11 modification of equipment, devices, or materials intended to  
12 decrease energy consumption, including, but not limited to, all of  
13 the following:

14           (i) Insulation in walls, roofs, floors, foundations, or heating  
15 and cooling distribution systems.

16           (ii) Storm windows and doors; multi-glazed windows and doors;  
17 heat-absorbing or heat-reflective glazed and coated window and door  
18 systems; and additional glazing, reductions in glass area, and  
19 other window and door system modifications that reduce energy  
20 consumption.

21           (iii) Automated energy control systems.

22           (iv) Heating, ventilating, or air-conditioning and distribution  
23 system modifications or replacements.

24           (v) Caulking, weather-stripping, and air sealing.

25           (vi) Replacement or modification of lighting fixtures to reduce  
26 the energy use of the lighting system.

27           (vii) Energy recovery systems.

1 (viii) Day lighting systems.

2 (ix) Installation or upgrade of electrical wiring or outlets to  
3 charge a motor vehicle that is fully or partially powered by  
4 electricity.

5 (x) Any other installation or modification of equipment,  
6 devices, or materials approved as a utility cost-savings measure by  
7 the governing body.

8 (c) "Governing body" means the county board of commissioners  
9 of a county, the township board of a township, or the council or  
10 other similar elected legislative body of a city or village.

11 (d) "Local unit of government" means a county, township, city,  
12 or village.

13 (e) "Person" means an individual, firm, partnership,  
14 association, corporation, unincorporated joint venture, or trust,  
15 organized, permitted, or existing under the laws of this state or  
16 any other state, including a federal corporation, or a combination  
17 thereof. However, person does not include a local unit of  
18 government.

19 (f) "Property" means privately owned real property located  
20 within the local unit of government.

21 (g) "Property assessed clean energy program" or "program"  
22 means a program as described in section 5(2).

23 (h) "Record owner" means the person or persons possessed of  
24 the most recent fee title or land contract vendee's interest in  
25 property as shown by the records of the county register of deeds.

26 (i) "Renewable energy resource" means a resource that  
27 naturally replenishes over a human, not a geological, time frame

1 and that is ultimately derived from solar power, water power, or  
2 wind power. Renewable energy resource does not include petroleum,  
3 nuclear, natural gas, or coal. A renewable energy resource comes  
4 from the sun or from thermal inertia of the earth and minimizes the  
5 output of toxic material in the conversion of the energy and  
6 includes, but is not limited to, all of the following:

7 (i) Biomass.

8 (ii) Solar and solar thermal energy.

9 (iii) Wind energy.

10 (iv) Geothermal energy.

11 (v) Methane gas captured from a landfill.

12 (j) "Renewable energy system" means a fixture, product,  
13 device, or interacting group of fixtures, products, or devices  
14 installed on the customer's side of the meter that use 1 or more  
15 renewable energy resources to generate electricity. Renewable  
16 energy system includes a biomass stove but does not include an  
17 incinerator or digester.

18 Sec. 5. (1) Pursuant to the procedures provided in section 7,  
19 a local unit of government may establish a property assessed clean  
20 energy program and may, from time to time, create a district or  
21 districts under the program.

22 (2) Under the program, the local unit of government may enter  
23 into a contract with the record owner of property within a district  
24 to finance or refinance energy efficiency improvements or the  
25 acquisition, installation, or improvement of 1 or more renewable  
26 energy systems on the property. The contract shall provide for the  
27 repayment of the cost of the energy efficiency improvements or

1 renewable energy systems through assessments upon the property  
2 benefited. The financing or refinancing may include the cost of  
3 materials and labor necessary for installation, permit fees,  
4 inspection fees, application and administrative fees, bank fees,  
5 and all other fees that may be incurred by the property owner  
6 pursuant to the installation on a specific or pro rata basis, as  
7 determined by the local unit of government.

8       Sec. 7. (1) To establish a property assessed clean energy  
9 program, the governing body of a local unit of government shall  
10 take the following actions in the following order:

11       (a) Adopt a resolution of intent that includes all of the  
12 following:

13       (i) A finding that the financing of renewable energy systems  
14 and energy efficiency improvements is a valid public purpose.

15       (ii) A statement of intent to provide funds for energy  
16 efficiency improvements and renewable energy systems to be repaid  
17 by assessments on the property benefited, with the agreement of the  
18 record owners.

19       (iii) A description of the proposed arrangements for financing  
20 the program.

21       (iv) The types of energy efficiency improvements and renewable  
22 energy systems that may be financed.

23       (v) Reference to a report on the proposed program as described  
24 in section 9(1) and a location where the report is available  
25 pursuant to section 9(2).

26       (vi) The time and place for a public hearing on the proposed  
27 program.

1 (b) Hold a public hearing at which the public may comment on  
2 the proposed program, including the report required by section 9.

3 (c) Adopt a resolution establishing the program and setting  
4 forth its terms and conditions, including a description of which  
5 aspects of the program may be amended without a new public hearing  
6 and which aspects may be amended only after a new public hearing is  
7 held.

8 (2) A property assessed clean energy program may be amended by  
9 resolution of the governing body. Adoption of the resolution shall  
10 be preceded by a public hearing if required pursuant to subsection  
11 (1)(c).

12 Sec. 9. (1) The report on the proposed program required under  
13 section 7 shall include all of the following:

14 (a) A form of contract between the local unit of government  
15 and record owner governing the terms and conditions of financing  
16 and assessment under the program.

17 (b) Identification of an official authorized to enter into a  
18 program contract on behalf of the local unit of government.

19 (c) A maximum aggregate annual dollar amount for all financing  
20 to be provided by the local unit of government under the program.

21 (d) An application process and eligibility requirements for  
22 financing energy efficiency improvements or renewable energy  
23 systems under the program.

24 (e) A method for determining interest rates on assessment  
25 installments, repayment periods, and the maximum amount of an  
26 assessment.

27 (f) Explanation of how assessments will be made and collected

1 consistent with section 13(2).

2 (g) A plan for raising capital to finance improvements under  
3 the program. The plan may include any of the following:

4 (i) The sale of bonds or notes, subject to the revised  
5 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

6 (ii) Amounts to be advanced by the local unit of government  
7 through funds available to it from any other source.

8 (h) Information regarding all of the following, to the extent  
9 known, or procedures to determine the following in the future:

10 (i) Any reserve fund or funds to be used as security for bonds  
11 or notes described in subdivision (g).

12 (ii) Any application, administration, or other program fees to  
13 be charged to property owners participating in the program that  
14 will be used to finance costs incurred by the local unit of  
15 government as a result of the program.

16 (2) The local unit of government shall make the report  
17 available for review on the local unit of government's website or  
18 at the office of the clerk or the official authorized to enter  
19 contracts on behalf of the local unit of government under the  
20 property assessed clean energy program.

21 Sec. 11. (1) A local unit of government may impose an  
22 assessment under a property assessed clean energy program only  
23 pursuant to a written contract with the record owner of the  
24 property to be assessed.

25 (2) Before entering into a contract with a property owner  
26 under a program, the local unit of government shall verify all of  
27 the following:

1 (a) That there are no delinquent taxes, special assessments,  
2 or water or sewer charges on the property.

3 (b) That there are no delinquent assessments on the property  
4 under a property assessed clean energy program.

5 Sec. 13. (1) An assessment imposed under a property assessed  
6 clean energy program, including any interest on the assessment and  
7 any penalty, constitute a lien against the property on which the  
8 assessment is imposed until the assessment, including any interest  
9 or penalty, is paid in full. The lien runs with the property and  
10 has the same priority and status as other property tax and  
11 assessment liens. The local unit of government has all rights in  
12 the case of delinquency in the payment of an assessment as it does  
13 with respect to delinquent property taxes. When the assessment,  
14 including any interest and penalty, is paid, the lien shall be  
15 removed from the property.

16 (2) Installments of assessments due under a program shall be  
17 included in each summer and winter tax bill issued under the  
18 general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and  
19 shall be collected at the same time and in the same manner as taxes  
20 collected under the general property tax act, 1893 PA 206, MCL  
21 211.1 to 211.155. Alternatively, installments may be billed and  
22 collected as provided in a special assessment ordinance of general  
23 applicability adopted by the local unit of government pursuant to  
24 state law or local charter.

25 Sec. 15. (1) A local unit of government may issue bonds or  
26 notes to finance energy efficiency improvements and renewable  
27 energy systems under a property assessed clean energy program.

1           (2) Bonds or notes issued under subsection (1) shall not be  
2 general obligations of the local unit of government, but shall be  
3 secured by 1 or more of the following as provided by the governing  
4 body in the resolution or ordinance approving the bonds or notes:

5           (a) Payments of assessments on benefited property within the  
6 district or districts specified.

7           (b) Reserves established by the local unit of government from  
8 grants, bond or note proceeds, or other lawfully available funds.

9           (c) Municipal bond insurance, lines or letters of credit,  
10 public or private guaranties, standby bond purchase agreements,  
11 collateral assignments, mortgages, and any other available means of  
12 providing credit support or liquidity, including, but not limited  
13 to, arrangements described in section 315 of the revised municipal  
14 finance act, 2001 PA 34, MCL 141.2315.

15           (d) Tax increment revenues that may be lawfully available for  
16 such purposes.

17           (e) Any other amounts lawfully available for such purposes.

18           (3) A pledge of assessments, funds, or contractual rights made  
19 by a governing body in connection with the issuance of bonds or  
20 notes by a local unit of government under this act constitutes a  
21 statutory lien on the assessments, funds, or contractual rights so  
22 pledged in favor of the person or persons to whom the pledge is  
23 given, without further action by the governing body. The statutory  
24 lien is valid and binding against all other persons, with or  
25 without notice.

26           (4) Bonds or notes of 1 series issued under this act may be  
27 secured on a parity with bonds or notes of another series issued by

1 the local unit of government pursuant to the terms of a master  
2 indenture or master resolution entered into or adopted by the  
3 governing body of the local unit of government.

4 (5) A local unit of government may issue its general  
5 obligation bonds or notes under this act for the purpose of:

6 (a) Establishing a reserve fund to secure bonds or notes  
7 issued pursuant to subsection (1).

8 (b) Paying the costs associated with creating a property  
9 assessed clean energy program, including, but not limited to, legal  
10 fees, the cost of preparing forms of contracts, the cost of  
11 establishing procedures and regulations, the cost of preparing the  
12 report described in section 9(1), and the cost of conducting  
13 preliminary energy audits within the local unit of government.

14 (6) Bonds or notes issued under this act are subject to the  
15 revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
16 141.2821.

17 (7) Bonds or notes issued under this act, and interest payable  
18 on such bonds and notes, are exempt from all taxation by this state  
19 and its political subdivisions.

20 (8) Bonds or notes issued under this act further essential  
21 public and governmental purposes, including, but not limited to,  
22 reduced energy costs, reduced greenhouse gas emissions, economic  
23 stimulation and development, improved property valuation, and  
24 increased employment.

25 Sec. 17. (1) A local unit of government may join with any  
26 other local unit of government, or with any person, or with any  
27 number or combination thereof, by contract or otherwise as may be

1 permitted by law, for the implementation of a property assessed  
2 clean energy program, in whole or in part.

3 (2) If a property assessed clean energy program is implemented  
4 jointly by 2 or more local units of government pursuant to  
5 subsection (1), a single public hearing held jointly by the  
6 cooperating local units of government is sufficient to satisfy the  
7 requirements of section 7(1)(b).