

**SUBSTITUTE FOR
SENATE BILL NO. 557**

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; 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 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 certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

(MCL 460.1 to 460.11) by adding section 9p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 9P. (1) THE ATTORNEY GENERAL, ON HIS OR HER OWN MOTION OR**

1 UPON A REFERRAL FROM THE COMMISSION IN A CASE OF SERIOUS INJURY OR
2 DEATH, OR ANY CUSTOMER OF A MUNICIPALLY OWNED ELECTRIC OR NATURAL
3 GAS UTILITY MAY COMMENCE A CIVIL ACTION FOR INJUNCTIVE RELIEF OR
4 IMPOSITION OF A CIVIL FINE AS PROVIDED IN SUBSECTION (3) AGAINST
5 THAT MUNICIPALLY OWNED ELECTRIC OR NATURAL GAS UTILITY IF THE
6 UTILITY FAILS TO MEET THE APPLICABLE REQUIREMENTS OF THIS ACT. A
7 MUNICIPALLY OWNED ELECTRIC UTILITY SHALL ESTABLISH A COMPLAINT
8 RESOLUTION PROCESS FOR ITS CUSTOMERS TO RESOLVE ANY ALLEGATIONS OF
9 VIOLATIONS OF THIS ACT THAT HAVE NOT RESULTED IN A DEATH OR SERIOUS
10 INJURY.

11 (2) AN ACTION UNDER THIS SECTION SHALL BE COMMENCED IN THE
12 CIRCUIT COURT FOR THE CIRCUIT IN WHICH THE PRINCIPAL OFFICE OF THE
13 MUNICIPALLY OWNED ELECTRIC OR NATURAL GAS UTILITY IS LOCATED. AN
14 ACTION SHALL NOT BE FILED UNDER THIS SECTION UNLESS THE PROSPECTIVE
15 PLAINTIFF HAS GIVEN THE PROSPECTIVE DEFENDANT AT LEAST 60 DAYS'
16 WRITTEN NOTICE OF THE PROSPECTIVE PLAINTIFF'S INTENT TO SUE, THE
17 BASIS FOR THE SUIT, AND THE RELIEF SOUGHT. WITHIN 30 DAYS AFTER THE
18 PROSPECTIVE DEFENDANT RECEIVES WRITTEN NOTICE OF THE PROSPECTIVE
19 PLAINTIFF'S INTENT TO SUE, THE PROSPECTIVE DEFENDANT AND PLAINTIFF
20 SHALL MEET AND MAKE A GOOD FAITH ATTEMPT TO DETERMINE IF THERE IS A
21 CREDIBLE BASIS FOR THE ACTION. IF BOTH PARTIES AGREE THAT THERE IS
22 A CREDIBLE BASIS FOR THE ACTION, THE PROSPECTIVE DEFENDANT SHALL
23 TAKE ALL REASONABLE AND PRUDENT STEPS NECESSARY TO COMPLY WITH THE
24 APPLICABLE REQUIREMENTS OF THIS ACT WITHIN 10 DAYS OF THE MEETING
25 AND MAY ENTER INTO A COMPLIANCE AGREEMENT WHICH MAY INCLUDE THE
26 PAYMENT OF A CIVIL FINE.

27 (3) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT UNDER THIS

1 SECTION, A COURT MAY AWARD COSTS OF LITIGATION, INCLUDING
2 REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAILING OR
3 SUBSTANTIALLY PREVAILING PARTY. A COURT MAY ORDER A MUNICIPALLY
4 OWNED ELECTRIC OR NATURAL GAS UTILITY TO PAY A CIVIL FINE FOR THE
5 FIRST OFFENSE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$20,000.00.
6 FOR A SECOND OFFENSE, THE COURT MAY ORDER THE PERSON TO PAY A FINE
7 OF NOT LESS THAN \$2,000.00 OR MORE THAN \$40,000.00. FOR A THIRD AND
8 ANY SUBSEQUENT OFFENSE, THE COURT MAY ORDER THE PERSON TO PAY A
9 FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN \$50,000.00. A CIVIL
10 FINE ORDERED UNDER THIS SECTION SHALL BE DEPOSITED IN THE LOW
11 INCOME AND ENERGY EFFICIENCY FUND.

12 (4) A MUNICIPALLY OWNED ELECTRIC OR NATURAL GAS UTILITY OR A
13 CUSTOMER OF A MUNICIPALLY OWNED ELECTRIC OR NATURAL GAS UTILITY IS
14 SUBJECT TO THIS ACT ONLY AS EXPRESSLY PROVIDED IN THIS ACT. NOTHING
15 IN THIS ACT SHALL GIVE THE COMMISSION THE POWER TO REGULATE A
16 MUNICIPALLY OWNED ELECTRIC OR NATURAL GAS UTILITY. NOTHING IN THIS
17 SECTION SHALL BE CONSTRUED TO PREVENT A PARTY FROM PURSUING ANY
18 OTHER LEGAL OR EQUITABLE REMEDY THAT MAY BE AVAILABLE TO THEM.