



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1105 (Substitute S-1 as reported)
Senate Bill 1106 (as reported without amendment)
Sponsor: Senator Curtis S. VanderWall
Committee: Finance

CONTENT

Senate Bill 1105 (S-1) would enact the "Renewable Energy Facilities Payment in Lieu of Tax Act" to do the following:

- Allow an owner or lessee of a qualified renewable energy facility to file an application for a renewable energy facilities exemption certificate with the clerk of the local governmental assessing authority where the facility was or would be located.
- Require the legislative body of the assessing authority, within 60 days of receiving an application, to determine whether the facility for which the exemption was claimed was a qualified renewable energy facility and either approve or disapprove the application in accordance with its determination.
- Require the State Tax Commission, within 60 days of receiving an approved application submitted before October 31 of that year, to issue a renewable energy facilities exemption certificate effective on the immediately succeeding December 31.
- Prescribe procedures for an appeal of an assessing authority's disapproval of an application.
- Prescribe the information that would have to be included in a certificate.
- Specify that, while its renewable energy facilities exemption certificate was in force, a facility would be exempt from property tax and ad valorem taxes imposed under Public Act 189 of 1953.
- Require an owner or lessee of a facility for which a certificate was issued to make an annual payment in lieu of tax of \$3,500 per megawatt of nameplate capacity, unless the owner or lessee of the facility and the local governmental assessing authority agreed to a lesser amount.
- Specify that a certificate issued under the proposed Act would be in force beginning on its effective date and ending on the date the facility permanently ceased operation, an agreed upon termination date, or the date of revocation, whichever was earlier.
- Allow the holder of a certificate to transfer it to a new owner or lessee of a qualified renewable energy facility.

Senate Bill 1106 would amend the General Property Tax Act to specify that a facility for which a renewable energy facilities exemption certificate issued under the proposed Renewable Energy Facilities Payment in Lieu of Tax Act, but not the land on which the facility was or would be located, would be exempt from tax collected under the General Property Tax Act for the period beginning on the certificate's effective date and continuing as long as the certificate was in force.

The bills are tie-barred.

Proposed MCL 211.7xx (S.B. 1106)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills likely would have an indeterminate, although likely negative, fiscal impact on local governments of unknown magnitude. Qualified facilities that received an exemption would be exempt from property taxes, including school operating millages and the State Education Tax. However, most facilities likely are exempt from the State Education Tax and local school operating mills under existing exemptions. The payments in lieu of taxes taxpayers would be required to pay under the bill would be distributed in the same proportion as the property taxes exempted, excluding any payments for school operating millages and the State Education Tax (assuming these millages were levied on the property). Because the decision to apply for an exemption would be voluntary, it is assumed that a qualified facility would apply for an exemption only if the payments in lieu of taxes would be less than the normal property taxes owed for the facility.

The wording in the bills is somewhat ambiguous regarding how State Education Tax and school operating mills would be addressed by the local tax collecting unit. It is unclear if the "excluding" language regarding these payments is intend to mean a) that the State Education Tax and school operating payments would have to be subtracted first (holding the School Aid Fund harmless from any changes in the bill) and the remaining revenue prorated across the remaining taxing jurisdictions, or b) if the revenue generated from the payment in lieu of taxes would have to be made only to taxing jurisdictions other than the State Education Tax or local school districts for school operating purposes (meaning that the School Aid Fund would bear 100% of the loss while other taxing jurisdictions would bear a prorated loss).

If the first interpretation is correct, the bills would have no fiscal impact on the State Education Tax or the School Aid Fund, and any revenue loss would be experienced by other tax jurisdictions, with the majority of the impact falling on local units of government. If the second interpretation is correct, State revenue from the State Education Tax to the School Aid Fund would be reduced, and the State costs of the foundation allowance would increase if the per pupil foundation allowance were maintained. Other taxing jurisdictions, primarily local units of government, likely would receive less revenue than under current law, but more revenue than they would under the first interpretation.

The fiscal impact for any given jurisdiction would depend on the nameplate capacity of the facility exempted, as well as the taxable value of the facility and local millage rates.

Date Completed: 11-10-20

Fiscal Analyst: Ryan Bergan
David Zin