

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1105**

A bill to provide for the exemption of certain renewable energy facilities from certain taxes; to levy and collect a payment in lieu of those taxes as to those facilities; to provide for the disposition of the payment in lieu of taxes; to provide for the obtaining and transferring of exemption certificates for certain renewable energy facilities and to prescribe the content of those certificates; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. This act shall be known and may be cited as the
- 2 "renewable energy facilities payment in lieu of tax act".
- 3 Sec. 2. As used in this act:
- 4 (a) "Commission" means the state tax commission created under



1 1927 PA 360, MCL 209.101 to 209.107.

2 (b) "Local governmental assessing authority" means the local
3 governmental jurisdiction charged with assessing properties subject
4 to property taxes collected under the general property tax act,
5 1893 PA 206, MCL 211.1 to 211.155.

6 (c) "Qualified renewable energy facility" means a facility not
7 placed in service at the time of application that uses solar energy
8 as the sole fuel source for the generation of at least 1 megawatt
9 of nameplate capacity, alternating current, including any energy
10 storage devices that store energy primarily from the facility, and
11 all other equipment and materials that comprise the facility.

12 Sec. 3. (1) An owner or lessee of a qualified renewable energy
13 facility may file an application for a renewable energy facilities
14 exemption certificate with the clerk of the local governmental
15 assessing authority where the qualified renewable energy facility
16 is or will be located. The application must be filed in a form and
17 manner prescribed by the commission. A qualified renewable energy
18 facility is not eligible to receive a certificate if the local
19 governmental assessing authority and the owner or lessee have
20 entered into a taxation agreement for the facility prior to the
21 effective date of this act unless the local governmental assessing
22 authority and the owner or lessee agree to renegotiate a new
23 taxation agreement to include an application for a renewable energy
24 facilities exemption certificate.

25 (2) The legislative body of the local governmental assessing
26 authority, not more than 60 days after receipt by its clerk of an
27 application filed under subsection (1), shall determine whether the
28 facility for which the exemption is claimed is a qualified
29 renewable energy facility and, by resolution, either approve or



1 disapprove the application in accordance with its determination. A
2 resolution disapproving an application must include a statement of
3 the reasons for the disapproval. If the application is approved,
4 the clerk shall forward a copy of the approving resolution and the
5 application to the commission within 30 days of approval or before
6 October 31 of that year, whichever is first. Approval of the
7 application by the legislative body of the local governmental
8 assessing authority does not affect or constitute any other local
9 government approval that the qualified renewable energy facility is
10 required to obtain. If the application is disapproved, the clerk
11 shall return the application, along with a copy of the disapproving
12 resolution, to the applicant by certified mail within 10 business
13 days of the disapproval. The applicant may file an appeal of the
14 disapproval to the commission within 10 business days after receipt
15 of the disapproving resolution.

16 (3) Within 60 days after receipt of an approved application
17 submitted to the commission before October 31 of that year, the
18 commission shall issue a renewable energy facilities exemption
19 certificate effective on the immediately succeeding December 31,
20 except that no certificate may take effect before December 31,
21 2022. The commission shall send a certificate by mail to the
22 applicant and a certified copy of the certificate by mail to the
23 assessor of the assessing unit where the facility is or is to be
24 located, and that copy must be filed in the assessor's office.

25 (4) Within 60 days after an applicant files an appeal of a
26 disapproved application, the commission shall affirm or reverse the
27 disapproved application based on its determination that the
28 proposed facility does or does not meet the requirements of a
29 qualified renewable energy facility. If the commission affirms the



1 disapproval, it shall notify the applicant by mail. If the
2 commission reverses the disapproval, it shall issue a certificate
3 effective on the immediately succeeding December 31 and transmit
4 the certificate to the applicant and a certified copy to the
5 assessor of the assessing unit where the facility is or is to be
6 located, and that copy must be filed in the assessor's office.

7 Sec. 4. Beginning on the effective date of its renewable
8 energy facilities exemption certificate issued under section 3, and
9 continuing thereafter for the period provided for under section 6,
10 a qualified renewable energy facility is exempt from both of the
11 following:

12 (a) The collection of taxes under the general property tax
13 act, 1893 PA 206, MCL 211.1 to 211.155, as provided in section 7yy
14 of the general property tax act, 1893 PA 206, MCL 211.7yy.

15 (b) If the qualified renewable energy facility is operated by
16 a lessee, occupant, user, or other person that does not own the
17 facility, ad valorem taxes imposed under 1953 PA 189, MCL 211.181
18 to 211.182, to the same extent as though that lessee, occupant,
19 user, or other person owned the qualified renewable energy
20 facility, in accordance with section 181(1) of 1953 PA 189, MCL
21 211.181.

22 Sec. 5. (1) An owner or lessee of a qualified renewable energy
23 facility for which a renewable energy facilities exemption
24 certificate is issued shall make an annual payment in lieu of tax
25 in the amount of \$4,000.00 per megawatt of nameplate capacity,
26 alternating current, plus an additional \$500.00 per megawatt-hour
27 of nameplate capacity, alternating current, of any energy storage
28 device that is part of the qualified renewable energy facility,
29 unless the owner or lessee of the qualified renewable energy



1 facility and the local governmental assessing authority mutually
2 agree in writing to a lesser annual amount per megawatt of
3 nameplate capacity, alternating current. The owner or lessee of a
4 qualified renewable energy facility and the local governmental
5 assessing authority may also agree in writing to a shorter duration
6 for the exemption certificate than the period that might otherwise
7 apply under section 6(1)(a), whether or not the parties' agreement
8 includes a provision decreasing the annual amount of the payment in
9 lieu of tax.

10 (2) The local tax collecting unit shall collect payments in
11 lieu of taxes made under this act annually on September 14 in the
12 same manner as taxes collected under the general property tax act,
13 1893 PA 206, MCL 211.1 to 211.155. Except as otherwise provided in
14 this section, the local tax collecting unit shall disburse payments
15 in lieu of taxes made under this act to and among the state,
16 cities, townships, villages, school districts, counties, and other
17 taxing authorities at the same times and in the same proportions as
18 required by law for the disbursement of taxes collected under the
19 general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
20 excluding any distribution that would have been made under section
21 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the
22 state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

23 (3) The amount of the annual payment in lieu of tax applicable
24 to a qualified renewable energy facility, until paid, is a lien on
25 the qualified renewable energy facility on the date the annual
26 payment is due. The lien may be enforced in the same manner as
27 provided by law for the foreclosure in the circuit courts of
28 mortgage liens upon real property.

29 Sec. 6. (1) A renewable energy facilities exemption



1 certificate remains in force for a period commencing on its
2 effective date and ending on the earliest of the following:

3 (a) The date the qualified renewable energy facility
4 permanently ceases commercial operation.

5 (b) A termination date mutually agreed upon by the owner or
6 lessee of the qualified renewable energy facility and the local
7 governmental assessing authority under section 5(1).

8 (c) The date of a revocation under subsection (2).

9 (2) A renewable energy facilities exemption certificate may be
10 revoked by the local governmental assessing authority if the owner
11 or lessee of the qualified renewable energy facility has failed to
12 make payment, as of the immediately succeeding March 1, as required
13 by section 5(1). Revocation under this subsection is effective
14 beginning December 31 immediately preceding the local governmental
15 assessing authority's revocation of the exemption certificate. A
16 party aggrieved by the revocation of a renewable energy facilities
17 exemption certificate may appeal the local government assessing
18 authority's decision to the commission or tax tribunal.

19 Sec. 7. (1) A renewable energy facilities exemption
20 certificate must be in a form prescribed by the commission. At a
21 minimum, the certificate must include all of the following:

22 (a) A description of the qualified renewable energy facility,
23 including the personal property tax parcel assigned to the
24 qualified renewable energy facility.

25 (b) A legal description of the real property on which the
26 qualified renewable energy facility is or will be located.

27 (c) A statement that unless revoked as provided under this act
28 the certificate remains in force for the period stated in the
29 certificate.



1 (2) A copy of any agreement entered into by the local
2 governmental assessing authority and the owner or lessee of the
3 qualified renewable energy facility under section 5(1) must be
4 attached to the certificate.

5 Sec. 8. A holder of a renewable energy facilities exemption
6 certificate may transfer the certificate to a new owner or lessee
7 of the qualified renewable energy facility. The holder of a
8 renewable energy facilities exemption certificate shall notify the
9 local governmental assessing authority of the transfer, and the new
10 owner or lessee must be assigned any contract entered into pursuant
11 to section 5(1).

12 Enacting section 1. This act does not take effect unless
13 Senate Bill No. 1106 of the 100th Legislature is enacted into law.