

**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
7 that uses solar energy as the sole fuel source for the generation
8 of at least 1 megawatt of nameplate capacity, alternating current,
9 including any energy storage devices that store energy primarily
10 from the facility, and all other equipment and materials that
11 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. An existing or proposed
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 in order for an
7 applicant to receive the renewable energy facilities exemption
8 certificate for the qualified renewable energy facility effective
9 for the following year. If the application is disapproved, the
10 clerk shall return the application, along with a copy of the
11 disapproving resolution, to the applicant by certified mail within
12 10 business days of the disapproval. The applicant may file an
13 appeal of the disapproval to the commission within 10 business days
14 after receipt of the disapproving resolution.

15 (3) Within 60 days after receipt of an approved application
16 submitted to the commission before October 31 of that year, the
17 commission shall issue a renewable energy facilities exemption
18 certificate effective on the immediately succeeding December 31.
19 The commission shall send a certificate by mail to the applicant
20 and a certified copy of the certificate by mail to the assessor of
21 the assessing unit where the facility is or is to be located, and
22 that copy must be filed in the assessor's office.

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



1 effective on the immediately succeeding December 31 and transmit
2 the certificate to the applicant and a certified copy to the
3 assessor of the assessing unit where the facility is or is to be
4 located, and that copy must be filed in the assessor's office.

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

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

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

20 Sec. 5. (1) An owner or lessee of a qualified renewable energy
21 facility for which a renewable energy facilities exemption
22 certificate is issued shall make an annual payment in lieu of tax
23 in the amount of \$3,500.00 per megawatt of nameplate capacity,
24 alternating current, unless the owner or lessee of the qualified
25 renewable energy facility and the local governmental assessing
26 authority mutually agree in writing to a lesser annual amount per
27 megawatt of nameplate capacity, alternating current. The owner or
28 lessee of a qualified renewable energy facility and the local
29 governmental assessing authority may also agree in writing to a



1 shorter duration for the exemption certificate than the period that
2 might otherwise apply under section 6(1)(a), whether or not the
3 parties' agreement includes a provision decreasing the annual
4 amount of the payment in lieu of tax.

5 (2) The local tax collecting unit shall collect payments in
6 lieu of taxes made under this act annually on September 14 in the
7 same manner as taxes collected under the general property tax act,
8 1893 PA 206, MCL 211.1 to 211.155. Except as otherwise provided in
9 this section, the local tax collecting unit shall disburse payments
10 in lieu of taxes made under this act to and among the state,
11 cities, townships, villages, school districts, counties, and other
12 taxing authorities at the same times and in the same proportions as
13 required by law for the disbursement of taxes collected under the
14 general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
15 excluding any distribution that would have been made under section
16 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the
17 state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

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

24 Sec. 6. (1) A renewable energy facilities exemption
25 certificate remains in force for a period commencing on its
26 effective date and ending on the earliest of the following:

27 (a) The date the qualified renewable energy facility
28 permanently ceases commercial operation.

29 (b) A termination date mutually agreed upon by the owner or



1 lessee of the qualified renewable energy facility and the local
2 governmental assessing authority under section 5(1).

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

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

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

17 (a) A description of the qualified renewable energy facility,
18 including the personal property tax parcel assigned to the
19 qualified renewable energy facility.

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

22 (c) A statement that unless revoked as provided under this act
23 the certificate remains in force for the period stated in the
24 certificate.

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

29 Sec. 8. A holder of a renewable energy facilities exemption



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

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

