

# SENATE BILL NO. 1105

September 10, 2020, Introduced by Senator VANDERWALL and referred to the Committee on Finance.

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) "Energy storage system" means commercially available  
5 technology that, by chemical, thermal, mechanical, or other means,  
6 is capable of storing energy for a period of time before returning  
7 the energy in the form of electricity.

8       (b) "Local governmental assessing authority" means the local  
9 governmental jurisdiction charged with assessing properties subject  
10 to property taxes collected under the general property tax act,  
11 1893 PA 206, MCL 211.1 to 211.155.

12       (c) "Qualified renewable energy facility" means a solar energy  
13 facility or an energy storage system. Qualified renewable energy  
14 facility does not include the land on which the facility is or will  
15 be located.

16       (d) "Solar energy facility" means a proposed or existing  
17 facility that uses solar energy as the sole fuel source for the  
18 generation of electricity, including any battery energy storage  
19 devices systems that store energy primarily from the solar  
20 facility, and all other equipment and materials that comprise the  
21 facility.

22       Sec. 3. (1) An owner or lessee of a qualified renewable energy  
23 facility may file an application for a renewable energy facilities  
24 exemption certificate with the clerk of the local governmental  
25 assessing authority where the qualified renewable energy facility  
26 is or will be located. The application must be filed in a form and  
27 manner prescribed by the state tax commission.

28       (2) The legislative body of the local governmental assessing  
29 authority, not more than 60 days after receipt by its clerk of an

1 application filed under subsection (1), shall by resolution approve  
2 the application for a renewable energy facilities exemption  
3 certificate unless it determines that the applicant is not eligible  
4 for the exemption. If it approves the application, the legislative  
5 body of the local governmental assessing authority shall issue a  
6 renewable energy facilities exemption certificate for the qualified  
7 renewable energy facility effective on the immediately succeeding  
8 December 31.

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

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

17 (b) If the qualified renewable energy facility is operated by  
18 a lessee, occupant, user, or other person that does not own the  
19 facility, ad valorem taxes imposed under 1953 PA 189, MCL 211.181  
20 to 211.182, to the same extent as though that lessee, occupant,  
21 user, or other person owned the qualified renewable energy  
22 facility, in accordance with section 181(1) of 1953 PA 189, MCL  
23 211.181.

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

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

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

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

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

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

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

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

10       (2) A renewable energy facilities exemption certificate may be  
11 revoked by the local governmental assessing authority if there has  
12 been a final judicial determination that the owner or lessee of the  
13 qualified renewable energy facility has failed to make any payment  
14 required by, or breached any agreement entered into pursuant to,  
15 section 5(1). Any revocation is effective beginning December 31  
16 immediately succeeding the final judicial determination.

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

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

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

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

29       (2) A copy of any agreement entered into by the local

1 governmental assessing authority and the owner or lessee of the  
2 qualified renewable energy facility under section 5(1) must be  
3 attached to the certificate.

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

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