

SENATE BILL NO. 748

November 30, 2021, Introduced by Senators BAYER, CHANG, GEISS, IRWIN, SANTANA, WOJNO, BRINKS, POLEHANKI, ALEXANDER, BULLOCK, MOSS and HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to provide for the creation of a home weatherization, fuel switching, repair, improvement, and hazards remediation program; to provide for contractor qualifications; to provide for the powers and duties of certain state and local governmental officers and entities; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. As used in this act:
- 2 (a) "Department" means the department of health and human
- 3 services.
- 4 (b) "Dwelling" means a single-family home or a building with 5

1 or more dwelling units.

2 (c) "Efficient fuel-switching improvement" means an
3 improvement that meets all of the following criteria:

4 (i) Requires the installation of equipment.

5 (ii) Replaces a fuel, in whole or part.

6 (iii) As a result of replacement of the fuel, does both of the
7 following:

8 (A) Results in a net reduction of statewide greenhouse gas
9 emissions over the lifetime of the improvement.

10 (B) Increases emissions efficiency resulting in fewer
11 emissions created per unit of useful output of an energy-consuming
12 device, averaged over the lifetime of the improvement.

13 (d) "Environmental protection community" means a geographic
14 area that the department of environment, Great Lakes, and energy,
15 has identified as a community facing a disproportionate
16 environmental burden, using both of the following:

17 (i) Tools such as the United States Environmental Protection
18 Agency's EJSCREEN.

19 (ii) Indicators such as sensitive populations, socioeconomic
20 factors, exposures, and environmental effects.

21 (e) "Fuel" means energy, including electricity, propane,
22 natural gas, heating oil, gasoline, diesel fuel, or steam, consumed
23 at a dwelling by a retail utility customer.

24 (f) "Prewetherization" means modification of a dwelling that
25 improves its overall healthfulness and safety for occupants or
26 allows weatherization. Prewetherization includes, but is not
27 limited to, all of the following:

28 (i) Site or structural work.

29 (ii) Asbestos, lead, or other toxic chemical abatement.

1 (iii) Roof repair or replacement.

2 (iv) Wiring repair or replacement, new electrical wiring, and
3 electrical panel upgrades.

4 (v) Mold remediation.

5 (vi) Improvements to indoor air quality and ventilation,
6 including installation of electric appliances and heating and
7 cooling devices.

8 (vii) Installation of smoke and carbon monoxide alarms.

9 (viii) Exterior lighting and security.

10 (ix) Pest management.

11 (g) "Program" means the program created under section 3.

12 (h) "Weatherization" means the modification of a dwelling
13 using a whole dwelling approach to improve heating or cooling
14 efficiency, improve building shell efficiency, increase air
15 tightness and sealing, or otherwise reduce energy use, including,
16 but not limited to, any of the following:

17 (i) Caulking and weather-stripping.

18 (ii) Insulation of ceilings, attics, walls, floors, or water
19 heaters.

20 (iii) Installation of storm windows or storm doors.

21 (iv) Heating or cooling system modifications, including, but
22 not limited to, installation of furnace ignition systems and clock
23 thermostats.

24 Sec. 3. (1) The department shall create a program that does
25 all of the following:

26 (a) Contracts with organizations to hire workers and
27 apprentices for, purchase materials for, and perform
28 preweatherization, weatherization, and efficient fuel-switching.

29 (b) Prioritizes weatherization for both of the following:

1 (i) Households in which an individual age 65 or older resides.

2 (ii) Households with income that is less than 250% of the
3 federal poverty guidelines published annually in the Federal
4 Register by the United States Department of Health and Human
5 Services under its authority to revise the poverty line under 42
6 USC 9902.

7 (c) Prioritizes creation of weatherization jobs and
8 apprenticeships in the following:

9 (i) Communities in which a high proportion of household income
10 is spent on energy costs.

11 (ii) Environmental protection communities.

12 (d) Provides for auditing of energy use before weatherization.

13 (e) Provides for appropriate verification and monitoring of
14 projects under the program.

15 (2) Funding provided to the program may also be used to
16 support department program staff and technical assistance,
17 including, but not limited to, technical assistance to complete
18 home auditing before weatherization and verification and monitoring
19 after weatherization.

20 (3) The department shall consider entering into a single
21 contract for preweatherization, weatherization, or efficient fuel-
22 switching improvements of multiple eligible households within the
23 same geographic area.

24 Sec. 5. (1) A person is not eligible to be a contractor or
25 subcontractor under the program unless the person meets all of the
26 following requirements:

27 (a) Is qualified and responsible.

28 (b) Has sufficient capabilities to successfully perform
29 program contracts, including the necessary experience, equipment,

1 technical skills and qualifications, and organizational, financial,
2 and personnel resources.

3 (c) Has a satisfactory record of compliance with labor and
4 employment laws, including, but not limited to, the following:

5 (i) The workforce opportunity wage act, 2014 PA 138, MCL
6 408.411 to 408.424.

7 (ii) The improved workforce opportunity wage act, 2018 PA 337,
8 MCL 408.931 to 408.945.

9 (iii) The fair labor standards act of 1938, 29 USC 201 to 219.

10 (iv) The national labor relations act, 29 USC 151 to 169.

11 (d) Has a satisfactory environmental record, including, but
12 not limited to, sustainability practices and compliance with the
13 natural resources and environmental protection act, 1994 PA 451,
14 MCL 324.101 to 324.90106, the clean water act, 33 USC 1251 to 1388,
15 and the clean air act, 42 USC 7401 to 7675, and other environmental
16 laws.

17 (2) A contractor that submits a bid for a contract under the
18 program shall include with the bid a completed questionnaire signed
19 under penalty of perjury. The department shall develop the
20 questionnaire within 90 days after the effective date of this act.
21 The department shall post the questionnaire on its website or
22 otherwise make the questionnaire available to all contractors
23 interested in bidding on projects under the program.

24 (3) The questionnaire under subsection (2) shall require the
25 contractor to provide all of the following information:

26 (a) The contractor's current business name and any former
27 business names.

28 (b) The contractor's principals and history.

29 (c) State and local licenses held by the contractor.

1 (d) Confirmation that all subcontractors and employees will
2 maintain applicable state and local licenses.

3 (e) A list of projects of comparable size and complexity that
4 the contractor has completed within the immediately preceding 5
5 years.

6 (f) Proof of insurance.

7 (g) A statement regarding staffing capabilities and labor
8 sources.

9 (h) A warranty statement regarding labor, equipment, and
10 materials.

11 (i) Documentation that the contractor, within the preceding 12
12 months, filed a tax return under the Michigan business tax act,
13 2007 PA 36, MCL 208.1101 to 208.1601, in which a portion or all of
14 the income tax base is allocated or apportioned to this state.

15 (j) Any violations of federal, state, or local law, including,
16 but not limited to, this act and laws described in subsection
17 (1)(c) and (d), of which it has been convicted in the past 10
18 years. A contractor that has violated this act within the preceding
19 5 years is not eligible to bid on a contract under the program.

20 (k) Any other specified documentation or information, other
21 than bid amount, necessary for the purposes of subsection (1) or
22 (6).

23 (4) The department shall not award bids before the fourteenth
24 day after the deadline for receipt of bids. The department may
25 determine that a contractor is not a responsible bidder after
26 notifying the contractor of the proposed determination and
27 providing an opportunity for a hearing. The contractor must request
28 the hearing within 5 days after receipt of the notice. If the
29 department determines that a contractor is not a responsible

1 bidder, the department shall not consider the contractor's bid.

2 (5) The department shall maintain a list of contractors
3 determined under subsection (4) within the past 2-year period not
4 to be responsible bidders. A listed contractor is not eligible to
5 bid on a contract under the program.

6 (6) The department shall consider all of the following in
7 awarding bids under the program:

8 (a) Bid amount.

9 (b) The contractor's business accountability, including
10 qualifications of management and supervisory personnel, references,
11 and quality assurance program.

12 (c) Workplace safety, including all of the following:

13 (i) Documentation of an ongoing safety training program for
14 employees approved by the Michigan occupational safety and health
15 administration.

16 (ii) Worker's compensation experience modification rating.

17 (iii) Whether all craft laborers have completed at least 10
18 hours of training developed by the United States Department of
19 Labor, Occupational Safety and Health Administration.

20 (d) Workforce development factors, including all of the
21 following:

22 (i) Pay rates of employees.

23 (ii) Provision of health insurance, pension, paid leave, and
24 other benefits.

25 (iii) Participation in a registered apprenticeship program.

26 (iv) Registration with the United States Department of Labor,
27 Office of Apprenticeship.

28 (v) The ratio of masters or journeypersons to apprentices
29 proposed to be used, if applicable.

1 (e) Social equity, including all of the following:

2 (i) The percentage of the contractor's workforce that can be
3 drawn from area residents.

4 (ii) Equal opportunity programs.

5 (iii) Assurance that the contractor is an equal opportunity
6 employer.

7 Sec. 7. To the extent consistent with federal statutes, the
8 contract between the department and a contractor shall require the
9 contractor, in all purchases for projects under the program, all
10 other things being equal, to give preference to either of the
11 following:

12 (a) Products manufactured or services offered by Michigan-
13 based firms.

14 (b) Biobased products whose content is sourced in this state.

15 Sec. 9. The department, in conjunction with the department of
16 licensing and regulatory affairs and the department of environment,
17 Great Lakes, and energy, shall develop and implement policies and
18 procedures for sharing information regarding potential contractors'
19 histories of compliance with laws described in section 5(1)(c) and
20 (d).

21 Sec. 11. Within 1 year after the effective date of this act,
22 the department shall promulgate rules to implement this act
23 pursuant to the administrative procedures act of 1969, 1969 PA 306,
24 MCL 24.201 to 24.328. The rules shall include, but need not be
25 limited to, both of the following:

26 (a) A list of preweatherization measures eligible for
27 inclusion in the program.

28 (b) Standards and procedures for determining and facilitating
29 the participation of multiple-unit dwellings in the program. The

1 department shall convene a stakeholder group to review these
2 standards and procedures within 6 months after their promulgation
3 and at least once every 5 years thereafter. The stakeholder group
4 shall include, but is not limited to, representatives of
5 multifamily housing owners and developers and advocates for persons
6 with low income.

7 Sec. 13. (1) The director of the department shall enforce this
8 act.

9 (2) The state administrative board may take action to enforce
10 this act to the extent consistent with 1921 PA 2, MCL 17.1 to 17.3.

11 (3) In exercising general supervisory control over the
12 functions and activities of all administrative departments, boards,
13 commissioners, and officers of this state and of all state
14 institutions as required by section 3 of 1921 PA 2, MCL 17.3, the
15 state administrative board shall monitor compliance with the
16 requirements of this act.

17 (4) A report of a violation of this act shall be transmitted
18 to the director of the department, the state administrative board,
19 and the governor's chief compliance officer.