



Senate Fiscal Agency
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House Bill 5120 (Substitute S-1 as reported)
House Bill 5121 (as reported without amendment)
Sponsor: Representative Abraham Aiyash (H.B. 5120)
Representative Ranjeev Puri (H.B. 5121)
House Committee: Energy, Communications, and Technology
Senate Committee: Energy and Environment

CONTENT

House Bill 5120 (S-1) would add Part 8 (Wind, Solar, and Storage Certification) to the Clean and Renewable Energy and Waste Reduction Act to do the following:

- Allow a wind energy, solar energy, or energy storage facility that had specified electric generating capacity, generally a utility-scale capacity, to obtain a certificate from the Michigan Public Service Commission (MPSC) to construct an energy facility.
- Require an electric provider or IPP to file for approval for a wind, solar, or energy storage facility with the affected local governmental unit if that unit had a renewable energy ordinance compatible with Part 8.
- Preempt a local policy, practice, regulation, rule, or other ordinance that prohibited or more restrictively regulated than Part 8 the construction, operation, use, dimensions, replacement, or maintenance of an energy facility upon the issuance of a certificate.
- Prescribe the process to apply for a certificate, including that the application for a certificate undergo a contested case proceeding.
- Prescribe the process that a local governmental unit exercising authority under a compatible renewable energy ordinance would have to follow in approving or denying an application to construct a wind, solar, or energy storage facility.
- Require an applicant for a certificate to make a one-time grant to each affected local unit for certain amounts for the purpose of covering costs associated with participation in a contested case proceeding.
- Require an applicant to conduct a public meeting concerning site plans in affected local units of government unless the local governmental unit exercises authority under a compatible renewable energy ordinance.
- Prescribe the requirements an applicant's site plan would have to meet, including setback requirements.
- Require the certificate's application material to contain certain information, such as environmental impacts and mitigation measures, public health and safety considerations, community locations, and compliance with environmental laws.
- Require the MPSC to notify an affected local unit of government and other interested parties of a complete application.
- Require the MPSC to issue a certificate or deny an application within one year of the application being filed and specify the requirements for granting a certificate.
- Require an applicant for a certificate to enter into a host community agreement and pay \$2,000 per megawatt of nameplate capacity upon operation of a facility and require that money to be spent on local police, fire, or public safety.
- Require an applicant to enter into a community benefits agreement if it could not reach a host community agreement.
- Specify that information obtained by the MPSC would be public record.

House Bill 5121 would amend the Michigan Zoning Enabling Act to subject a zoning ordinance to Part 8 of the Clean and Renewable Energy and Waste Reduction Act as proposed by House Bill 5120 (S-1). The bill also would require a renewable energy project that received present or former special land use approval to meet specific requirements.

MCL 160.1013 et al. (H.B. 5120)

MCL 125.3205 (H.B. 5121)

BRIEF RATIONALE

The Legislature could soon send to the Governor Senate Bill 271, which would require MPSC-regulated utilities to generate more electricity from renewable energy resources and ultimately achieve a clean energy portfolio of 100% clean energy by 2040.¹ If enacted, the bill would necessitate the buildout of more utility-scale renewable energy resources like solar, wind, and storage in the State; however, according to testimony, the current process for siting and permitting renewable energy resources in local governmental units has proven complex and has delayed the buildout of these resources. Accordingly, it has been suggested that the siting and permitting of renewable energy resources be regulated by the MPSC unless local governmental units demonstrated that they had requirements for the buildout of these resources that were compatible with those proposed by Part 8.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

House Bill 5120 (S-1) and House Bill 5121 could have indirect indeterminate positive fiscal impact on local units of government. Under House Bill 5120 (S-1), the MPSC would have to review any submitted applications and conduct proceedings as contested cases as prescribed by the Administrative Procedures Act. The extent of the costs associated with these undertakings would depend on the number of applications submitted and the extent of the proceedings. While some costs would be covered under existing appropriations, it is possible that additional appropriations would be required to fulfill the MPSC's new obligations. The bill would allow the MPSC to set application fees at a level sufficient to cover costs associated with the application process. In addition, the MPSC could charge applicants for the cost of engaging consultants to sufficiently review the submitted application materials; however, the MPSC could elect not to charge full costs for either of these undertakings. It is possible that an additional full-time-equivalent (FTE) could be engaged in this work, depending on the volume of activity. The average cost of an FTE is approximately \$137,500.

Date Completed: 11-8-23

Fiscal Analyst: Bobby Canell
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¹ As proposed in Senate Bill 271, clean energy systems generally would include electric generation facilities that generated electricity without emitting greenhouse gas or facilities that were fueled by natural gas and effectively captured 90% of carbon emitted, among others. The bill has passed the House and Senate as of November 7, 2023.

[floor/hb5120](#)

Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.