

HOUSE BILL No. 4656

March 19, 2009, Introduced by Reps. Mayes and Schuitmaker and referred to the Committee on Energy and Technology.

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

(MCL 460.1 to 460.11) by adding section 9p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9P. (1) THE ATTORNEY GENERAL, ON HIS OR HER OWN MOTION OR
2 UPON A REFERRAL FROM THE COMMISSION IN A CASE OF SERIOUS INJURY OR
3 DEATH, OR ANY CUSTOMER OF A MUNICIPALLY OWNED ELECTRIC UTILITY MAY
4 COMMENCE A CIVIL ACTION FOR INJUNCTIVE RELIEF AGAINST THAT
5 MUNICIPALLY OWNED ELECTRIC UTILITY IF THE UTILITY FAILS TO MEET THE
6 APPLICABLE REQUIREMENTS OF THIS ACT.

7 (2) AN ACTION UNDER THIS SECTION SHALL BE COMMENCED IN THE
8 CIRCUIT COURT FOR THE CIRCUIT IN WHICH THE PRINCIPAL OFFICE OF THE
9 MUNICIPALLY OWNED ELECTRIC UTILITY IS LOCATED. AN ACTION SHALL NOT
10 BE FILED UNDER THIS SECTION UNLESS THE PROSPECTIVE PLAINTIFF HAS
11 GIVEN THE PROSPECTIVE DEFENDANT AT LEAST 60 DAYS' WRITTEN NOTICE OF
12 THE PROSPECTIVE PLAINTIFF'S INTENT TO SUE, THE BASIS FOR THE SUIT,
13 AND THE RELIEF SOUGHT. WITHIN 30 DAYS AFTER THE PROSPECTIVE
14 DEFENDANT RECEIVES WRITTEN NOTICE OF THE PROSPECTIVE PLAINTIFF'S
15 INTENT TO SUE, THE PROSPECTIVE DEFENDANT AND PLAINTIFF SHALL MEET
16 AND MAKE A GOOD FAITH ATTEMPT TO DETERMINE IF THERE IS A CREDIBLE
17 BASIS FOR THE ACTION. IF BOTH PARTIES AGREE THAT THERE IS A
18 CREDIBLE BASIS FOR THE ACTION, THE PROSPECTIVE DEFENDANT SHALL TAKE
19 ALL REASONABLE AND PRUDENT STEPS NECESSARY TO COMPLY WITH THE
20 APPLICABLE REQUIREMENTS OF THIS ACT WITHIN 90 DAYS OF THE MEETING.

21 (3) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT UNDER THIS
22 SECTION, A COURT MAY AWARD COSTS OF LITIGATION, INCLUDING
23 REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAILING OR
24 SUBSTANTIALLY PREVAILING PARTY.

25 (4) A MUNICIPALLY OWNED ELECTRIC UTILITY OR A CUSTOMER OF A
26 MUNICIPALLY OWNED ELECTRIC UTILITY IS SUBJECT TO THIS ACT ONLY AS
27 EXPRESSLY PROVIDED IN THIS ACT. NOTHING IN THIS ACT SHALL GIVE THE

1 COMMISSION THE POWER TO REGULATE A MUNICIPALLY OWNED ELECTRIC
2 UTILITY.