

SENATE BILL NO. 1031

July 23, 2020, Introduced by Senators IRWIN, ALEXANDER, BULLOCK, WOJNO, BAYER and GEISS and referred to the Committee on Energy and Technology.

A bill to authorize local units of government to adopt voluntary property assessment programs and to create districts to enable owners of noncommercial, nonindustrial real property to access financing for environmental hazard, water usage improvement, energy efficiency improvement, and renewable energy projects; to provide for the financing of the programs through certain state funds, investments, and other means; to authorize local units of government to issue bonds, notes, and other evidences of indebtedness; to authorize local units of government to advance

money made available from certain state funds and other sources; to authorize certain fees; to prescribe the powers and duties of certain governmental officers and entities; and to provide for remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act,

2 (a) "Anaerobic digester" means a device for optimizing the
3 anaerobic digestion of biomass for the purpose of recovering
4 biofuel for energy production.

5 (b) "Anaerobic digester energy system" means an anaerobic
6 digester and the devices used to generate electricity or heat from
7 biogas produced by the anaerobic digester or to store the biogas
8 for the future generation of electricity or heat.

9 (c) "District" means a district created under a property
10 assessment program by a local unit of government that lies within
11 the local unit of government's jurisdictional boundaries. A local
12 unit of government may create more than 1 district under the
13 program, and districts may be separate, overlapping, or
14 coterminous.

15 (d) "Energy efficiency improvement" means equipment, devices,
16 or materials intended to decrease energy consumption, including,
17 but not limited to, all of the following:

18 (i) Insulation in walls, roofs, floors, foundations, or heating
19 and cooling distribution systems.

20 (ii) Storm windows and doors; multi-glazed windows and doors;
21 heat-absorbing or heat-reflective glazed and coated window and door
22 systems; and additional glazing, reductions in glass area, and
23 other window and door system modifications that reduce energy
24 consumption.

1 (iii) Automated energy control systems.

2 (iv) Heating, ventilating, or air-conditioning and distribution
3 system modifications or replacements.

4 (v) Caulking, weather-stripping, and air sealing.

5 (vi) Replacement or modification of lighting fixtures to reduce
6 the energy use of the lighting system.

7 (vii) Energy recovery systems.

8 (viii) Day lighting systems.

9 (ix) Installation or upgrade of electrical wiring or outlets to
10 charge a motor vehicle that is fully or partially powered by
11 electricity.

12 (x) Any other installation or modification of equipment,
13 devices, or materials identified as increasing energy efficiency or
14 reducing emissions by the United States Department of Energy, the
15 Environmental Protection Agency, or similar entity.

16 (e) "Energy project" means the installation or modification of
17 an energy efficiency improvement or the acquisition, installation,
18 or improvement of a renewable energy system or anaerobic digester
19 energy system.

20 (f) "Environmental hazard project" means equipment, devices,
21 or materials intended to address environmental hazards, including,
22 but not limited to, measures to do any of the following:

23 (i) Mitigate lead, heavy metal, or PFAS contamination in
24 potable water systems.

25 (ii) Mitigate the effects of floods or drought.

26 (iii) Mitigate the effects of wildfires.

27 (iv) Increase the resistance of property against severe
28 weather.

(v) Mitigate lead paint contamination in housing built before 1978.

(vi) Mitigate the presence of microorganisms such as bacteria, viruses, and molds.

(g) "Governing body" means the county board of commissioners of a county, the township board of a township, or the council or other similar elected legislative body of a city or village.

(h) "Local unit of government" means a county, township, city, or village.

(i) "New construction energy project" means an energy project to which either of the following applies:

(i) It occurs at a newly constructed building or other structure.

(ii) It consists of significant modifications to an existing building or other structure.

(j) "Person" means an individual, firm, partnership, association, corporation, mission-based organization, unincorporated joint venture, or trust, organized, permitted, or existing under the laws of this state or any other state, including a federal corporation, or a combination thereof. However, person does not include a local unit of government.

(k) "Project" means an environmental hazard project, an energy efficiency improvement, installation of a renewable energy system, or a water usage improvement.

(l) "Property" means privately owned noncommercial, nonindustrial real property located within the local unit of government.

(m) "Property assessment program" or "program" means a program as described in section 2(2).

1 (n) "Record owner" means the person or persons possessed of
2 the most recent fee title or land contract vendee's interest in
3 property as shown by the records of the county register of deeds.

4 (o) "Renewable energy resource" means a resource that
5 naturally replenishes over a human, not a geological, time frame,
6 that is ultimately derived from solar power, water power, or wind
7 power. Renewable energy resource does not include petroleum,
8 nuclear, natural gas, or coal. A renewable energy resource comes
9 from the sun or from thermal inertia of the earth and minimizes the
10 output of toxic material in the conversion of the energy and
11 includes, but is not limited to, all of the following:

12 (i) Biomass.

13 (ii) Solar and solar thermal energy.

14 (iii) Wind energy.

15 (iv) Geothermal energy.

16 (v) Energy storage.

17 (vi) Methane gas captured from a landfill.

18 (p) "Renewable energy system" means a fixture, product,
19 device, or interacting group of fixtures, products, or devices on
20 the customer's side of the meter that uses 1 or more renewable
21 energy resources to generate electricity. Renewable energy system
22 includes a biomass stove but does not include an incinerator or
23 digester.

24 (q) "State drinking water revolving fund" means that fund as
25 established under section 16b of the shared credit rating act, 1985
26 PA 227, MCL 141.1066b.

27 (r) "State water pollution control revolving fund" means that
28 fund as established under section 16a of the shared credit rating
29 act, 1985 PA 227, MCL 141.1066a.

1 (s) "Water usage improvement" means a measure to reduce the
2 usage of water or increase the efficiency of water usage.

3 Sec. 2. (1) Pursuant to the procedures provided in section 3,
4 a local unit of government may establish a property assessment
5 program and may, from time to time, create a district or districts
6 under the program.

7 (2) Under a program, the local unit of government may enter
8 into a contract with the record owner of property within a district
9 to finance or refinance 1 or more projects on the property. The
10 contract may provide for the repayment of the cost of a project
11 through assessments on the property benefited. The financing or
12 refinancing may include the cost of materials and labor necessary
13 for installation and of permit fees, inspection fees, application
14 and administrative fees, bank fees, and all other fees that may be
15 incurred by the record owner pursuant to the installation on a
16 specific or pro rata basis, as determined by the local unit of
17 government.

18 Sec. 3. (1) To establish a property assessment program, the
19 governing body of a local unit of government shall take the
20 following actions in the following order:

21 (a) Adopt a resolution of intent that includes all of the
22 following:

23 (i) A finding that the financing of projects is a valid public
24 purpose.

25 (ii) A statement of intent to provide funds for projects, which
26 may be repaid by assessments on the property benefited, with the
27 agreement of the record owners.

28 (iii) A description of the proposed arrangements for financing
29 the program.

1 (iv) The types of projects that may be financed.

2 (v) Reference to a report on the proposed program as described
3 in section 4(1) and a location where the report is available
4 pursuant to section 4(2).

5 (vi) The time and place for a public hearing on the proposed
6 program.

7 (b) Hold a public hearing at which the public may comment on
8 the proposed program, including the report required by subdivision
9 (a) (v).

10 (c) Adopt a resolution establishing the program and setting
11 forth its terms and conditions, including all of the following:

12 (i) Matters required by section 4 to be included in the report.
13 For this purpose, the resolution may incorporate the report or an
14 amended version of the report by reference.

15 (ii) A description of aspects of the program that may be
16 amended without a new public hearing and aspects that may be
17 amended only after a new public hearing is held.

18 (2) A property assessment program may be amended by resolution
19 of the governing body. Adoption of the resolution shall be preceded
20 by a public hearing if required pursuant to subsection (1) (c).

21 Sec. 4. (1) The report required under section 3 on the
22 proposed property assessment program shall include all of the
23 following:

24 (a) A form of contract between the local unit of government
25 and the record owner governing the terms and conditions of
26 financing and assessment under the program.

27 (b) Identification of an official authorized to enter into a
28 program contract on behalf of the local unit of government.

29 (c) An application process and eligibility requirements for

1 financing projects under the program.

2 (d) A method for determining repayment periods, the maximum
3 amount of an assessment, and interest rates on assessment
4 installments.

5 (e) Explanation of how assessments will be made and collected
6 consistent with section 6(2).

7 (f) A plan for raising capital to finance improvements under
8 the program. The plan may include any of the following:

9 (i) The sale of bonds or notes, subject to the revised
10 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

11 (ii) Amounts to be advanced by the local unit of government
12 through funds available to it from the state water pollution
13 control revolving fund, state drinking water revolving fund, or
14 from any other source.

15 (iii) Other financial arrangements involving the state water
16 pollution control revolving fund and state drinking water revolving
17 fund.

18 (iv) Capital provided by program related investors and others

19 (g) Information regarding all of the following, to the extent
20 known, or procedures to determine the following in the future:

21 (i) Any reserve fund or funds to be used as security for bonds
22 or notes described in subdivision (g).

23 (ii) Any application, administration, or other program fees to
24 be charged to record owners participating in the program that will
25 be used to finance costs incurred by the local unit of government
26 as a result of the program.

27 (h) A requirement that the term of an assessment not exceed
28 the expected useful life of the project paid for by the assessment.

29 (i) A requirement for an appropriate ratio of the amount of

1 the assessment to the assessed value of the property.

2 (j) A requirement that the record owner affirm that there is
3 not a reverse mortgage on the property.

4 (k) A method to determine, from information provided by third
5 parties, that the record owner can afford the assessment.

6 (l) Provisions for marketing and participant education,
7 including, if applicable, the availability of rebates, subsidies,
8 or utility program funds for which property owners may be eligible.

9 (m) Quality assurance and antifraud measures.

10 (n) A principal forgiveness or forbearance program, supported
11 by, if applicable, the state water pollution control revolving fund
12 or the state drinking water revolving fund or by other means.

13 (o) A requirement that the contract and financing for the
14 project comply with applicable state and federal consumer financial
15 protection laws and regulations.

16 (p) A requirement that, before an energy project is
17 undertaken, a baseline energy audit or baseline energy modeling be
18 conducted to establish future energy savings.

19 (2) The local unit of government shall make the report
20 available for review on the local unit of government's website or
21 at the office of the clerk or the official authorized to enter
22 contracts on behalf of the local unit of government under the
23 program.

24 Sec. 5. (1) A local unit of government may impose an
25 assessment under a property assessment program only pursuant to a
26 written contract with the record owner of the property to be
27 assessed.

28 (2) Before entering into a contract with the record owner
29 under a program, the local unit of government shall verify all of

1 the following:

2 (a) That there are no delinquent taxes, special assessments,
3 or water or sewer charges on the property.

4 (b) That there are no delinquent assessments on the property
5 under a program.

6 Sec. 6. (1) An assessment imposed under a property assessment
7 program, including any interest on the assessment and any penalty,
8 constitute a lien against the property on which the assessment is
9 imposed until the assessment, including any interest or penalty, is
10 paid in full. The lien runs with the property and has the same
11 priority and status as other property tax and assessment liens. The
12 local unit of government has all rights in the case of delinquency
13 in the payment of an assessment as it does with respect to
14 delinquent property taxes. When the assessment, including any
15 interest and penalty, is paid, the lien shall be removed from the
16 property.

17 (2) Installments of assessments due under a program shall be
18 included in each summer and winter tax bill issued under the
19 general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and
20 shall be collected at the same time and in the same manner as taxes
21 collected under that act. Alternatively, installments may be billed
22 and collected as provided in a special assessment ordinance of
23 general applicability adopted by the local unit of government
24 pursuant to state law or local charter.

25 Sec. 7. (1) A local unit of government may issue bonds or
26 notes to finance projects under a property assessment program.

27 (2) Bonds or notes issued under subsection (1) shall not be
28 general obligations of the local unit of government, but shall be
29 secured by 1 or more of the following as provided by the governing

body in the resolution or ordinance approving the bonds or notes:

(a) Payments of assessments on benefited property within the district or districts specified.

(b) Reserves established by the local unit of government from grants, bond or note proceeds, or other lawfully available funds.

(c) Municipal bond insurance, lines or letters of credit, public or private guaranties, standby bond purchase agreements, collateral assignments, mortgages, or any other available means of providing credit support or liquidity, including, but not limited to, arrangements described in section 315 of the revised municipal finance act, 2001 PA 34, MCL 141.2315.

(d) Tax increment revenues that may be lawfully available for such purposes.

(e) Any other amounts lawfully available for such purposes.

(3) A pledge of assessments, funds, or contractual rights made by a governing body in connection with the issuance of bonds or notes by a local unit of government under this part constitutes a statutory lien on the assessments, funds, or contractual rights so pledged in favor of the person or persons to whom the pledge is given, without further action by the governing body. The statutory lien is valid and binding against all other persons, with or without notice.

(4) Bonds or notes of 1 series issued under this part may be secured on a parity with bonds or notes of another series issued by the local unit of government pursuant to the terms of a master indenture or master resolution entered into or adopted by the governing body of the local unit of government.

(5) Bonds or notes issued under this part are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to

1 141.2821.

2 (6) Bonds or notes issued under this part, and interest
3 payable on such bonds and notes, are exempt from all taxation by
4 this state and its political subdivisions.

5 (7) Bonds or notes issued under this part further essential
6 public and governmental purposes, including, but not limited to,
7 reduced energy costs, reduced greenhouse gas emissions, improved
8 public health, protection against climate hazards and other
9 environmental hazards, economic stimulation and development,
10 improved property valuation, and increased employment.

11 (8) A local unit of government may advance funds made
12 available by the state water pollution control revolving fund, the
13 state drinking water revolving fund, and other sources to finance
14 projects under a program.

15 Sec. 8. (1) A local unit of government may join with any other
16 local unit of government, the Michigan finance authority, created
17 by Executive Reorganization Order No. 2010-2, MCL 12.194, or any
18 other person, or with any number or combination thereof, by
19 contract or otherwise as may be permitted by law, for the
20 implementation of a property assessment program, in whole or in
21 part.

22 (2) If a program is implemented jointly by 2 or more local
23 units of government pursuant to subsection (1), a single public
24 hearing held jointly by the cooperating local units of government
25 is sufficient to satisfy the requirements of section 3(1)(b).

26 (3) If a program is implemented jointly by 1 or more local
27 units of government and the Michigan finance authority, the program
28 may join with the authority or authorities administering the state
29 water pollution control revolving fund or state drinking water

1 revolving fund of 1 or more other states, by contract or otherwise
2 as may be permitted by law, for the implementation of a multistate
3 program, in whole or in part.