

SUBSTITUTE FOR
SENATE BILL NO. 303

A bill to amend 2010 PA 270, entitled
"Property assessed clean energy act,"
by amending the title and sections 3, 5, 7, 11, 13, 15, and 17 (MCL
460.933, 460.935, 460.937, 460.941, 460.943, 460.945, and 460.947),
section 3 as amended by 2017 PA 242.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to authorize local units of government to adopt
3 property assessed clean energy programs and to create districts to
4 promote ~~the use of~~ renewable energy systems, ~~and~~ energy efficiency
5 improvements, **water usage improvements, and environmental hazard**
6 **projects** by owners of certain real property; to provide for the
7 financing of ~~such~~ **the** programs through voluntary property

1 assessments, commercial lending, and other means; to authorize a
2 local unit of government to issue bonds, notes, and other evidences
3 of indebtedness and to pay the cost of renewable energy systems,
4 ~~and energy efficiency improvements, water usage improvements, and~~
5 **environmental hazard projects** from the proceeds thereof; to provide
6 for the repayment of bonds, notes, and other evidences of
7 indebtedness; to authorize certain fees; to prescribe the powers
8 and duties of certain governmental officers and entities; and to
9 provide for remedies.

10 Sec. 3. As used in this act:

11 (a) "Anaerobic digester" means a ~~device for optimizing the~~
12 ~~anaerobic digestion of biomass for the purpose of recovering~~
13 ~~biofuel for energy production.~~ **facility that uses microorganisms to**
14 **break down biodegradable material in the absence of oxygen,**
15 **producing methane and an organic product.**

16 (b) "Anaerobic digester energy system" means an anaerobic
17 digester and the devices used to generate electricity or heat from
18 ~~biogas methane~~ produced by the anaerobic digester or to store the
19 ~~biogas methane~~ for the future generation of electricity or heat.

20 (c) "District" means a district **that is created by a local**
21 **unit of government** under a property assessed clean energy program
22 ~~by a local unit of government and~~ that lies within the local unit
23 of government's jurisdictional boundaries. A local unit of
24 government may create more than 1 district under the program, and
25 districts may be separate, overlapping, or coterminous.

26 (d) "Energy efficiency improvement" means **the acquisition,**
27 **installation, replacement, or modification of** equipment, devices,
28 or materials intended to decrease energy consumption, including,
29 but not limited to, ~~all~~ **any** of the following:

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

3 (ii) Storm windows and doors; multi-glazed windows and doors;
4 heat-absorbing or heat-reflective glazed and coated window and door
5 systems; and additional glazing, reductions in glass area, and
6 other window and door system modifications that reduce energy
7 consumption.

8 (iii) Automated energy control systems.

9 (iv) Heating, ventilating, or air-conditioning and distribution
10 ~~system modifications or replacements.~~**systems.**

11 (v) Caulking, weather-stripping, ~~and or~~ air sealing.

12 (vi) ~~Replacement or modification of lighting~~**Lighting** fixtures.
13 ~~to reduce the energy use of the lighting system.~~

14 (vii) Energy recovery systems.

15 (viii) Day lighting systems.

16 (ix) ~~Installation or upgrade of electrical~~**Electrical** wiring or
17 outlets to charge a motor vehicle that is fully or partially
18 powered by electricity.

19 (x) Measures to reduce the usage of water or increase the
20 efficiency of water usage.

21 (xi) Any other ~~installation or modification of~~ equipment,
22 devices, or materials approved as a utility cost-savings measure by
23 the governing body.

24 (e) "Energy project" means ~~the installation or modification of~~
25 **an any of the following:**

26 (i) **An** energy efficiency improvement. ~~or the~~

27 (ii) **The** acquisition, installation, ~~or improvement~~**replacement,**
28 **or modification** of a renewable energy system or anaerobic digester

1 energy system.

2 (f) "Environmental hazard project" means the acquisition,
3 installation, replacement, or modification of equipment, devices,
4 or materials intended to address environmental hazards, including,
5 but not limited to, measures to do any of the following:

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

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

9 (iii) Increase the resistance of property against severe
10 weather.

11 (iv) Mitigate lead paint contamination.

12 (g) ~~(f)~~—"Governing body" means the county board of
13 commissioners of a county, the township board of a township, or the
14 council or other similar elected legislative body of a city or
15 village.

16 (h) ~~(g)~~—"Local unit of government" means a county, township,
17 city, or village.

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

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

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

24 (j) ~~(h)~~—"Person" means an individual, firm, partnership,
25 association, corporation, unincorporated joint venture, or trust,
26 organized, permitted, or existing under the laws of this state or
27 any other state, including, **but not limited to**, a federal
28 corporation, or a combination thereof. However, person does not
29 include a local unit of government.

1 (k) "Project" means an environmental hazard project or energy
2 project.

3 (l) ~~(i)~~ "Property" means **any of the following** privately owned
4 ~~commercial or industrial~~ real property located within the local
5 unit of government: -

6 (i) **Commercial property.**

7 (ii) **Industrial property.**

8 (iii) **Agricultural property.**

9 (m) ~~(j)~~ "Property assessed clean energy program" or "program"
10 means a program as described in section 5(2).

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

14 (o) ~~(l)~~ "Renewable energy resource" means a resource that
15 naturally replenishes over a human, ~~not~~ **rather than** a geological,
16 time frame and ~~that is ultimately derived from solar power, water~~
17 ~~power, or wind power. Renewable energy resource does not include~~
18 ~~petroleum, nuclear, natural gas, or coal. A renewable energy~~
19 ~~resource comes from the sun or from thermal inertia of the earth~~
20 ~~and minimizes the output of toxic material in the conversion of the~~
21 **whose conversion to a usable form of energy and minimizes the**
22 **output of toxic materials. Renewable energy resource does not**
23 **include petroleum, nuclear material, natural gas, or coal.**

24 **Renewable energy resource** includes, but is not limited to, all of
25 the following:

26 (i) Biomass.

27 (ii) Solar and solar thermal energy.

28 (iii) Wind energy.

29 (iv) Geothermal energy.

1 (v) Methane gas captured from a landfill.

2 (p) ~~(m)~~ "Renewable energy system" means a fixture, product,
3 device, or interacting group of fixtures, products, or devices on
4 the customer's side of the meter that use 1 or more renewable
5 energy resources to generate electricity. Renewable energy system
6 includes a biomass stove but does not include an incinerator or
7 digester.

8 Sec. 5. (1) Pursuant to ~~the procedures provided in section 7,~~
9 a local unit of government may establish a property assessed clean
10 energy program and may ~~, from time to time,~~ create a district or
11 districts under the program.

12 (2) Under a **property assessed clean energy** program, the local
13 unit of government may enter into a contract with the record owner
14 of property within a district to finance or refinance 1 or more
15 ~~energy~~ projects on the property. The contract may provide for the
16 repayment of the cost of ~~an energy~~ a project through assessments
17 ~~upon~~ on the property benefited. The financing or refinancing may
18 include the cost of materials and labor necessary for ~~installation,~~
19 **the project and the amount of** permit fees, inspection fees,
20 application and administrative fees, bank fees, ~~and all or any~~
21 other fees that may be incurred by the record owner ~~pursuant to~~ **for**
22 the installation on a specific or pro rata basis, as determined by
23 the local unit of government.

24 Sec. 7. (1) To establish a property assessed clean energy
25 program, ~~the a governing body of a local unit of government~~ shall
26 take the following actions in the following order:

27 (a) Adopt a resolution of intent that includes all of the
28 following:

29 (i) A finding that the financing of ~~energy~~ projects is a valid

1 public purpose.

2 (ii) A statement of intent to provide funds for ~~energy~~
3 projects, which may be repaid by assessments on the property
4 benefited, with the agreement of the ~~record owners~~. **record owner.**

5 (iii) A description of the proposed arrangements for financing
6 the program.

7 (iv) The types of ~~energy~~ projects that may be financed.

8 (v) Reference to a report on the proposed program as described
9 in section 9(1) and a location where the report is available
10 pursuant to section 9(2).

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

13 (b) Hold a public hearing at which the public may comment on
14 the proposed program, including the report ~~required by section~~
15 ~~9~~. **described in section 9(1).**

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

18 (i) Matters required by section ~~9~~**9(1)** to be included in the
19 report. For this purpose, the resolution may incorporate the report
20 or an amended version ~~thereof~~ **of the report** by reference.

21 (ii) A description of ~~which~~ aspects of the program **that** may be
22 amended without **holding** a new public hearing and ~~which~~ aspects **that**
23 may be amended only after a new public hearing is held.

24 (2) ~~A property assessed~~ **The governing body may amend a**
25 **property assessed** clean energy program ~~may be amended by~~
26 ~~resolution. of the governing body. Adoption of the resolution shall~~
27 ~~be preceded by~~ **Before adopting the resolution, the governing body**
28 **shall hold** a public hearing if required ~~pursuant to~~ **under**
29 subsection (1)(c).

1 Sec. 11. (1) A local unit of government may impose an
 2 assessment under a property assessed clean energy program only
 3 pursuant to a written contract **entered into under section 5(2)** with
 4 the record owner of the property to be assessed.

5 (2) Before entering into a contract with ~~a~~**the** record owner
 6 under a ~~program, section 5(2),~~ the local unit of government ~~shall~~
 7 **must** verify all ~~that none~~ of the following **are delinquent with**
 8 **respect to the property:**

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

11 ~~(b) That there are no delinquent assessments on the property~~

12 **(a) A tax, special assessment, or water or sewer charge.**

13 **(b) An assessment for another project** under a property
 14 assessed clean energy program.

15 Sec. 13. (1) An assessment imposed under a property assessed
 16 clean energy program, including any interest on the assessment and
 17 any penalty, constitute a lien against the property on which the
 18 assessment is imposed until the assessment, including any interest
 19 or penalty, is paid in full. The lien runs with the property and
 20 has the same priority and status as other property tax and
 21 assessment liens. The local unit of government has all rights in
 22 the case of delinquency in the payment of an assessment as it does
 23 with respect to delinquent property taxes. When the assessment,
 24 including any interest ~~and~~**or** penalty, is paid, **the local unit of**
 25 **government shall remove** the lien ~~shall be removed~~ from the
 26 property.

27 (2) Installments of assessments due under a **property assessed**
 28 **clean energy** program shall be ~~included~~**managed as provided in 1 of**
 29 **the following:**

1 **(a) Included** in each summer and winter tax bill issued under
 2 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
 3 and ~~shall be collected at the same time and in the same manner as~~
 4 ~~taxes collected under the general property tax act, 1893 PA 206,~~
 5 ~~MCL 211.1 to 211.155. Alternatively, installments may be billed~~
 6 **that act.**

7 **(b) Billed** and collected as provided in a special assessment
 8 ordinance of general applicability adopted by the local unit of
 9 government pursuant to state law or local charter.

10 Sec. 15. (1) A local unit of government may issue bonds or
 11 notes to finance ~~energy~~ projects under a property assessed clean
 12 energy program.

13 (2) Bonds or notes issued under subsection (1) shall not be
 14 general obligations of the local unit of government, but shall be
 15 secured by 1 or more of the following as provided by the governing
 16 body in the resolution or ordinance approving the bonds or notes:

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

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

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

27 (d) Tax increment revenues that may be lawfully available for
 28 ~~such purposes.~~ **that purpose.**

29 (e) Any other ~~amounts~~ **resources** lawfully available for ~~such~~

1 ~~purposes.~~ **that purpose.**

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

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

15 (5) Bonds or notes issued under this act are subject to the
 16 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
 17 141.2821.

18 (6) Bonds or notes issued under this act, and interest payable
 19 on ~~such~~ **the** bonds and notes, are exempt from ~~all~~ taxation by this
 20 state and its political subdivisions.

21 (7) Bonds or notes issued under this act further essential
 22 public and governmental purposes, including, but not limited to,
 23 reduced energy costs, reduced greenhouse gas emissions, **improved**
 24 **public health, protection against climate hazards and other**
 25 **environmental hazards**, economic stimulation and development,
 26 improved property valuation, and increased employment.

27 Sec. 17. A commercial or industrial electric customer that
 28 installs or modifies an electric energy efficiency improvement
 29 under a property assessed clean energy program is exempt from the

1 energy optimization charges the customer would otherwise incur
2 under section 89 or 91 of the clean ~~and~~ renewable ~~energy~~ and
3 ~~efficient-energy~~ **waste reduction** act, 2008 PA 295, MCL 460.1089 and
4 460.1091, if the customer conducts a self-directed energy
5 ~~optimization~~ **waste reduction** plan under and subject to the
6 applicable requirements of section 93 of the clean ~~and~~ renewable
7 ~~energy~~ and ~~efficient-energy~~ **waste reduction** act, 2008 PA 295, MCL
8 460.1093. These requirements include, but are not limited to, the
9 requirement that the plan provide for aggregate energy savings that
10 each year meet or exceed the energy ~~optimization~~ **waste reduction**
11 standards based on the electricity purchases in the previous year
12 for the site or sites covered by the self-directed plan.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. 302 of the 102nd Legislature is enacted into
15 law.