

Legislative Analysis



PROPERTY ASSESSED CLEAN ENERGY PROGRAMS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5011 as introduced
Sponsor: Rep. Yousef Rabhi

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5012 as introduced
Sponsor: Rep. Felicia Brabec

Committee: Energy
Revised 8-2-21

SUMMARY:

House Bills 5011 and 5012 would each amend the Property Assessed Clean Energy (PACE) Act, which enables local units of government (defined as counties, cities, townships, and villages) to provide financing to the record owners of privately owned commercial or industrial properties for specified energy and water conservation projects. House Bill 5011 would amend provisions pertaining to the PACE program, add and revise defined terms, and apply the PACE program to agricultural and certain multifamily residential property. House Bill 5012 would require new construction energy projects to exceed Uniform Energy Code requirements.

House Bill 5011 would amend the title of the act to include water usage improvements and environmental hazard projects among the programs the act authorizes local units of governments to promote. Currently, among other things, the act allows a local unit of government to establish a PACE program and create districts within which the local unit can enter into a contract with the record owner of *property* to finance or refinance one or more *energy projects* on the property. In these provisions and in other substantive provisions throughout the act, the bill would replace *energy project* with *project*, which would change the scope of those provisions to include *environmental hazard projects* in addition to energy projects. The bill would also make numerous nonsubstantive revisions in addition to proposed amendments described below.

Definitions

The bill would add several new definitions to the act and modify certain existing terms. New and revised terms would include the following:

Property would be expanded to mean any of the following privately owned real property located within the local unit of government:

- Commercial or industrial property (current definition).
- Agricultural property (added by the bill).
- Multifamily residential property with four or more dwelling units (added by the bill).

Project would be added to mean an *environmental hazard project* or an *energy project*.

Environmental hazard project would be added to mean the acquisition, installation, replacement, or modification of equipment, devices, or materials intended to address environmental hazards, including measures to do any of the following:

- Mitigate lead, heavy metal, or PFAS contamination in potable water systems.

- Mitigate the effects of floods or drought.
- Increase the resistance of property against severe weather.
- Mitigate lead paint contamination.

Energy project would be revised to mean an energy efficiency improvement (as defined in the act) or the acquisition, installation, replacement, or modification of a renewable energy system or **anaerobic digester** energy system.

New construction energy project would be added to mean an energy project to which either of the following applies:

- It occurs at a newly constructed building or other structure.
- It consists of significant modifications to an existing building or other structure.

Anaerobic digester would be revised to mean a facility that uses microorganisms to break down biodegradable material in the absence of oxygen, producing methane and an organic product. In addition, **anaerobic digester energy system** would be revised to refer to “methane” instead of “biogas” as the substance used to generate electricity or heat.

Renewable energy resource would be revised to mean a resource that naturally replenishes over a human time frame, rather than a geological time frame, whose conversion to a usable form of energy minimizes the output of toxic materials. Renewable energy resource would not include petroleum, nuclear material, natural gas, or coal. Renewable energy resource would include at least all of the following:

- Biomass.
- Solar and solar thermal energy.
- Wind energy.
- Geothermal energy.
- Energy storage.
- Methane gas captured from a landfill.

Bonds

To establish a PACE program, a local unit of government must adopt a resolution of intent establishing the program and setting forth its terms and conditions. Local units of government may issue bonds to finance a PACE program. The act currently declares that these bonds or notes “further essential public and governmental purposes, including, but not limited to, reduced energy costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.” The bill would add “improved public health” and “protection against climate hazards and other environmental hazards” to this list of essential purposes.

MCL 460.933

House Bill 5012 would amend provisions of the act that require a report on a proposed PACE program to be made available for review on the local unit of government’s website or at the office of the clerk or other official authorized to enter into program contracts. The act describes the information that must be included in the report. Included in that information is a requirement that a baseline energy audit be conducted before an energy project is undertaken. The bill would allow either a baseline energy audit or baseline energy modeling to be conducted before an energy project was undertaken.

For an energy project financed with more than \$250,000 in assessments, the act now provides that the report must include a requirement that the contractor guarantee to the record owner that the energy project will achieve a savings-to-investment ratio greater than one and agree to pay the record owner, on an annual basis, any shortfall in savings below that level. The act currently requires the guarantee to be *in the contract for installation of the energy project*. The bill would instead require the guarantee be given *unless waived by the record owner*. Further, the bill would provide that this requirement of a guarantee does not apply to a ***new construction energy project*** (defined as described above).

The bill would add a requirement that, for a ***new construction energy project***, the report must include a requirement that the building or other structure exceed applicable requirements of the Michigan Uniform Energy Code.

MCL 460.939

The bills are tie-barred to each other, which means that neither bill could take effect unless both bills were enacted.

FISCAL IMPACT:

Generally, the bills would have a minimal fiscal impact on local governments that have or establish a PACE district. The fiscal impact for each local unit of government would be directly related to the local government's usage of the expanded offerings in its PACE plan and their impact on development and property values. Local units of government retain discretion regarding the creation of PACE programs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.