

HOUSE BILL NO. 5011

June 15, 2021, Introduced by Reps. Rabhi, Brabec, Kuppa, Sowerby, Aiyash, Stone, Rogers and Hood and referred to the Committee on Energy.

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

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

13 Sec. 3. As used in this act:

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

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

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

29 (d) "Energy efficiency improvement" means **the acquisition,**

1 **installation, replacement, or modification of** equipment, devices,
2 or materials intended to decrease energy consumption, including,
3 but not limited to, ~~all~~**any** of the following:

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

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

11 (iii) Automated energy control systems.

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

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

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

17 (vii) Energy recovery systems.

18 (viii) Day lighting systems.

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

22 (x) Measures to reduce the usage of water or increase the
23 efficiency of water usage.

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

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

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

2 **(ii) The acquisition, installation, ~~or improvement~~ replacement,**
3 **or modification** of a renewable energy system or anaerobic digester
4 energy system.

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

9 **(i) Mitigate lead, heavy metal, or PFAS contamination in**
10 **potable water systems.**

11 **(ii) Mitigate the effects of floods or drought.**

12 **(iii) Increase the resistance of property against severe**
13 **weather.**

14 **(iv) Mitigate lead paint contamination.**

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

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

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

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

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

27 **(j) ~~(h)~~—"Person" means an individual, firm, partnership,**
28 **association, corporation, unincorporated joint venture, or trust,**
29 **organized, permitted, or existing under the laws of this state or**

1 any other state, including, **but not limited to**, a federal
 2 corporation, or a combination thereof. However, person does not
 3 include a local unit of government.

4 **(k) "Project" means an environmental hazard project or energy**
 5 **project.**

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

9 **(i) Commercial property.**

10 **(ii) Industrial property.**

11 **(iii) Agricultural property.**

12 **(iv) Multifamily residential property with 4 or more dwelling**
 13 **units.**

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

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

19 **(o) ~~(l)~~**"Renewable energy resource" means a resource that
 20 naturally replenishes over a human, ~~not~~ **rather than** a geological,
 21 time frame and ~~that is ultimately derived from solar power, water~~
 22 ~~power, or wind power. Renewable energy resource does not include~~
 23 ~~petroleum, nuclear, natural gas, or coal. A renewable energy~~
 24 ~~resource comes from the sun or from thermal inertia of the earth~~
 25 ~~and minimizes the output of toxic material in the conversion of the~~
 26 **which to a usable form of energy and minimizes the output of toxic**
 27 **materials. Renewable energy resource does not include petroleum,**
 28 **nuclear material, natural gas, or coal. Renewable energy resource**
 29 includes, but is not limited to, all of the following:

- 1 (i) Biomass.
 2 (ii) Solar and solar thermal energy.
 3 (iii) Wind energy.
 4 (iv) Geothermal energy.
 5 (v) Methane gas captured from a landfill.

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

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

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

28 Sec. 7. (1) To establish a property assessed clean energy
 29 program, ~~the a governing body of a local unit of government shall~~

1 take the following actions in the following order:

2 (a) Adopt a resolution of intent that includes all of the
3 following:

4 (i) A finding that the financing of ~~energy~~ projects is a valid
5 public purpose.

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

9 (iii) A description of the proposed arrangements for financing
10 the **property assessed clean energy** program.

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

12 (v) Reference to a report on the proposed **property assessed**
13 **clean energy** program as described in section 9(1) and a location
14 where the report is available pursuant to section 9(2).

15 (vi) The time and place for a public hearing on the proposed
16 **property assessed clean energy** program.

17 (b) Hold a public hearing at which the public may comment on
18 the proposed **property assessed clean energy** program, including the
19 report ~~required by section 9~~. **described in section 9(1)**.

20 (c) Adopt a resolution establishing the **property assessed**
21 **clean energy** program and setting forth its terms and conditions,
22 including all of the following:

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

26 (ii) A description of ~~which~~ aspects of the **property assessed**
27 **clean energy** program **that** may be amended without **holding** a new
28 public hearing and ~~which~~ aspects **that** may be amended only after a
29 new public hearing is held.

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

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

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

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

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

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

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

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

1 including any interest ~~and-or~~ penalty, is paid, **the local unit of**
 2 **government shall remove** the lien ~~shall be removed~~ from the
 3 property.

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

7 (a) **Included** in each summer and winter tax bill issued under
 8 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155,
 9 and shall be collected at the same time and in the same manner as
 10 taxes collected under ~~the general property tax act, 1893 PA 206,~~
 11 ~~MCL 211.1 to 211.155. Alternatively, installments may be billed~~
 12 **that act.**

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

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

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

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

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

27 (c) Municipal bond insurance, lines or letters of credit,
 28 public or private guaranties, standby bond purchase agreements,
 29 collateral assignments, mortgages, ~~and-or~~ any other available means

1 of providing credit support or liquidity, including, but not
 2 limited to, arrangements described in section 315 of the revised
 3 municipal finance act, 2001 PA 34, MCL 141.2315.

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

6 (e) Any other amounts lawfully available for ~~such~~
 7 ~~purposes.~~ **that purpose.**

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

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

21 (5) Bonds or notes issued under this act are subject to the
 22 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
 23 141.2821.

24 (6) Bonds or notes issued under this act, and interest payable
 25 on such bonds and notes, are exempt from ~~all~~ taxation by this state
 26 and its political subdivisions.

27 (7) Bonds or notes issued under this act further essential
 28 public and governmental purposes, including, but not limited to,
 29 reduced energy costs, reduced greenhouse gas emissions, **improved**

1 **public health, protection against climate hazards and other**
2 **environmental hazards**, economic stimulation and development,
3 improved property valuation, and increased employment.

4 Sec. 17. A commercial or industrial electric customer that
5 installs or modifies an electric energy efficiency improvement
6 under a property assessed clean energy program is exempt from the
7 energy optimization charges the customer would otherwise incur
8 under section 89 or 91 of the clean ~~and~~ renewable ~~energy~~ and
9 ~~efficient-energy~~ **waste reduction** act, 2008 PA 295, MCL 460.1089 and
10 460.1091, if the customer conducts a self-directed energy
11 ~~optimization~~ **waste reduction** plan under and subject to the
12 applicable requirements of section 93 of the clean ~~and~~ renewable
13 ~~energy~~ and ~~efficient-energy~~ **waste reduction** act, 2008 PA 295, MCL
14 460.1093. These requirements include, but are not limited to, the
15 requirement that the plan provide for aggregate energy savings that
16 each year meet or exceed the energy ~~optimization~~ **waste reduction**
17 standards based on the electricity purchases in the previous year
18 for the site or sites covered by the self-directed plan.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No.____ or House Bill No. 5012 (request no.
21 03298'21) of the 101st Legislature is enacted into law.