



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bills 1046 and 1047 (as introduced 1-22-08)  
Sponsor: Senator Mark C. Jansen (S.B. 1046)  
Senator Roger Kahn, M.D. (S.B. 1047)  
Committee: Energy Policy and Public Utilities

Date Completed: 1-24-08

### **CONTENT**

**Senate Bill 1046** would create the "Low-Income Energy Efficiency Account Program Act", and **Senate Bill 1047** would amend the Income Tax Act, to do the following:

- Establish an account program within the Public Service Commission (PSC) to give eligible individuals and families an opportunity to establish accounts for energy efficiency purchases.
- Require the PSC to select program sites to administer the accounts, and fiduciary organizations to provide technical assistance to program sites and establish and manage reserve accounts.
- Specify criteria for the PSC to consider in reviewing the qualifications of program sites and fiduciary organizations.
- Allow an individual or family whose income was 200% of the Federal poverty level or less to establish an account.
- Require a program site to enter into a participant savings plan agreement with each account holder, and provide matching funds for an account holder's contributions to the account.
- Require fiduciary organizations to file annual reports with the PSC, and require the Commission to file an annual report with the Legislature.
- Allow a taxpayer who was not an account holder to claim a nonrefundable income tax credit

equal to 75% of contributions made to a reserve fund.

- Specify that the income tax credits could not exceed an annual cumulative total of \$1.0 million.

The bills are tie-barred. Senate Bill 1046 would take effect on January 1, 2009.

### **Senate Bill 1046**

#### Account Program

The bill would establish the account program within the Public Service Commission. The program would have to provide eligible individuals and families with an opportunity to establish accounts to be used for energy efficiency purchases. The PSC would have to establish policies and procedures for the program.

The PSC would have to select both of the following:

- Program sites to administer the accounts on a not-for-profit basis.
- Fiduciary organizations to provide technical assistance and support to program sites and establish and manage reserve accounts on a not-for-profit basis.

In reviewing the qualifications of fiduciary organizations and program sites, the PSC would have to consider all of the following factors:

- The organization's not-for-profit status.
- The organization's fiscal accountability.

- The organization's ability to provide or raise money for matching contributions.
- The significance and quality of proposed auxiliary services to support the program's goals.
- The ability to maintain and manage necessary program data for tracking account holders and participants in the program and for development of required reports.

In reviewing the qualifications of fiduciary organizations, the PSC also would have to consider an organization's ability to do all of the following:

- Administer one or more reserve funds to provide matching funds for account holders pursuant to participant savings plan agreements.
- Administer any money appropriated by the State for the purposes of the proposed Act.
- Collaborate with program sites on a regional basis.
- Provide technical assistance and support to program sites to assist them in administering programs effectively.
- Work in conjunction with approved program sites to hold, manage, and disburse match funds for accounts as provided in the bill.
- Maintain and manage necessary program data for tracking account holders and participants in the program and for required development reports.

In reviewing the qualifications of program sites, the PSC would have to consider the ability of a program site to develop and implement participant savings plan agreements to be used with account holders, that would include at least all of the following:

- The purpose for which the account was established.
- The schedule of deposits that the account holder would make to the account.
- The agreed-upon amount of matching funds and the projected date when the funds would be provided.

The PSC also would have to consider the ability of a program site to develop a partnership with all account holders with whom the program site had a participant savings plan agreement to assist them effectively to make financial decisions

relating to the use of the funds available through the accounts, and to offer support services to maximize the opportunities provided by the program.

The PSC would have to work cooperatively with financial institutions, fiduciary organizations, program sites, and contributors to implement the programs under the proposed Act, and could promulgate rules as needed to implement it.

#### Individual or Family Accounts

An individual or family whose household income was less than or equal to 200% of the Federal poverty level could apply to a program site to establish an account. A program site could approve applications to the extent that it had match funds available to meet match commitments in participant savings plan agreements.

A program site could reject an application if approving it would result in the establishment of an account by one or more members of a family that had established an account for the same person for the same purpose.

If a program site approved an individual's or family's application to establish an account, the individual would have to do all of the following:

- Establish the account with a financial institution.
- Enter into a participant savings plan agreement with the program site.
- Declare, with the program site's approval, the purpose for which the account was established.
- Meet any other criteria the program site required.

An account would have to be established for the purchase of energy efficient windows, insulation, and other energy efficient products for the primary residence of an individual account holder.

For withdrawals, an account would have to require the signatures of the account holder and an administrator of the program site with which the account holder had a participant savings plan agreement.

## Participant Savings Plan Agreements

A program site would have to enter into a participant savings plan agreement with each account holder who was approved to establish an account. The program site would have to provide matching funds for contributions to the account by the account holder pursuant to the agreement.

Matching fund distributions would have to be made on behalf of an account holder pursuant to a participant savings plan agreement at the same time that the account holder withdrew money to pay qualified expenses. Matching distributions would have to be at least a match of \$1 for every \$1 withdrawn from an account by an account holder to pay expenses for a purpose described above or for a purpose approved by the PSC. Matching distributions would have to be made by check to the order of the account holder and the entity he or she was paying.

Money withdrawn during a calendar year from an account by an account holder for a purpose described above would have to be matched by the program site as provided in the participant savings plan agreement between the account holder and the program site.

## Tax Credit

An individual who was not an account holder and who was subject to the State income tax could claim a credit under Section 277 of the Income Tax Act (which Senate Bill 1047 would add), equal to 75% of contributions made to the reserve fund of a fiduciary organization. The total of all credits under Section 277 could not exceed \$1.0 million per calendar year.

The administrator of a fiduciary organization that administered one or more reserve funds, with the cooperation of the participating financial institutions, would have to submit to the PSC the names of contributors and the total amount that each contributed to an account reserve fund for each calendar year. The PSC would have to determine the date by which the information was to be submitted.

A taxpayer who made a contribution to a reserve fund would have to apply to the PSC for certification that the contribution

qualified for a credit. An application would have to be approved or denied within 45 days after its receipt. If the application were approved, the PSC would have to issue a certificate stating that the taxpayer was eligible to claim a credit based on the contribution and the amount of the credit. If the application were not approved or denied within the 45-day period, it would be considered approved and the PSC would have to issue a certificate. If an application were denied, a taxpayer would not be prohibited from subsequently applying for another contribution.

In reviewing tax credit applications, the PSC would have to consider all of the following criteria:

- The funds available to match contributions were deposited into a reserve fund in the same year that the credit would be claimed.
- The approval of the credit would not exceed the annual \$1.0 million cap for all credits.
- The overall benefit to the program of the contribution for which a credit was requested.

A taxpayer could not claim a credit in excess of the amount approved by the PSC. A taxpayer would have to attach the tax credit certificate received from the PSC to the income tax return on which a credit was claimed.

## Annual Reports

A fiduciary organization selected to administer an account program would have to file with the PSC an annual report of the organization's account program activity. The report would have to be filed by September 30 each year, and include at least all of the following:

- The number of accounts administered by the fiduciary organization.
- The amount of deposits and matching deposits for each account.
- The number of withdrawals made.
- The number of terminated accounts and the reasons for termination.
- Any other information the PSC required for the purpose of making a return-on-investment analysis.

By December 31 each year, the PSC would have to file with the Secretary of the Senate and the Clerk of the House of Representatives a report that included all of the information in the fiduciary organization reports, and copies of any changes in policies or procedures used to administer the proposed Act that occurred during the year.

#### Other Provisions

Contingent Beneficiary. An account holder would have to name at least one contingent beneficiary at the time the account was established and could change beneficiaries at any time. If an account holder died, the account would have to be transferred to a contingent beneficiary. If the named beneficiary were deceased or otherwise could not accept the transfer, the money would have to be transferred to the beneficiary's estate.

Withdrawal Verification. A financial institution would not be responsible for verifying whether withdrawals from accounts held at the financial institution were made in accordance with and for a purpose allowed under the proposed Act.

#### **Senate Bill 1047**

Under the bill, for tax years beginning after December 31, 2008, a taxpayer who was not an account holder under the proposed Low-Income Energy Efficiency Account Program Act could claim an income tax credit equal to 75% of the contributions the taxpayer made in the tax year to the reserve fund of a fiduciary organization pursuant to that Act.

If the amount of the credit exceeded the taxpayer's tax liability for the tax year, the excess portion could not be refunded.

The credits under the bill could not exceed an annual cumulative maximum amount of \$1.0 million. The determination of the maximum allowed would have to be made as provided in the proposed Act.

Proposed MCL 206.277 (S.B. 1047)

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

##### **Senate Bill 1046**

The bill would increase the costs of the Public Service Commission by an unknown amount. The bill does not propose any appropriation to cover the additional responsibilities that it would create; thus, the PSC would be required to absorb these costs within its existing resources.

##### **Senate Bill 1047**

There is no way to know how many taxpayers would contribute to a reserve fund for a low-income energy efficiency account program, so a reasonable estimate of the amount of the credit, which would equal 75% of their contribution, is not possible at this time. However, the maximum amount of the total credit granted to taxpayers would be capped at \$1.0 million annually. This loss of income tax revenue up to \$1.0 million annually would primarily affect the General Fund/General Purpose budget. Local units of government would not be directly affected by this bill.

Fiscal Analyst: Elizabeth Pratt  
Maria Tyszkiewicz  
Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.