

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator VanderWall

ENROLLED SENATE BILL No. 1105

AN ACT to provide for the exemption of certain renewable energy facilities from certain taxes; to levy and collect a payment in lieu of those taxes as to those facilities; to provide for the disposition of the payment in lieu of taxes; to provide for the obtaining and transferring of exemption certificates for certain renewable energy facilities and to prescribe the content of those certificates; and to provide for the powers and duties of certain state and local governmental officers and entities.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “renewable energy facilities payment in lieu of tax act”.

Sec. 2. As used in this act:

(a) “Commission” means the state tax commission created under 1927 PA 360, MCL 209.101 to 209.107.

(b) “Local governmental assessing authority” means the local governmental jurisdiction charged with assessing properties subject to property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(c) “Qualified renewable energy facility” means a facility not placed in service at the time of application that uses solar energy as the sole fuel source for the generation of at least 1 megawatt of nameplate capacity, alternating current, including any energy storage devices that store energy primarily from the facility, and all other equipment and materials that comprise the facility.

Sec. 3. (1) An owner or lessee of a qualified renewable energy facility may file an application for a renewable energy facilities exemption certificate with the clerk of the local governmental assessing authority where the qualified renewable energy facility is or will be located. The application must be filed in a form and manner prescribed by the commission. A qualified renewable energy facility is not eligible to receive a certificate if the local governmental assessing authority and the owner or lessee have entered into a taxation agreement for the facility prior to the effective date of this act unless the local governmental assessing authority and the owner or lessee agree to renegotiate a new taxation agreement to include an application for a renewable energy facilities exemption certificate.

(2) The legislative body of the local governmental assessing authority, not more than 60 days after receipt by its clerk of an application filed under subsection (1), shall determine whether the facility for which the exemption is claimed is a qualified renewable energy facility and, by resolution, either approve or disapprove the application in accordance with its determination. A resolution disapproving an application must include a statement of the reasons for the disapproval. If the application is approved, the clerk shall forward a copy of the approving

resolution and the application to the commission within 30 days of approval or before October 31 of that year, whichever is first. Approval of the application by the legislative body of the local governmental assessing authority does not affect or constitute any other local government approval that the qualified renewable energy facility is required to obtain. If the application is disapproved, the clerk shall return the application, along with a copy of the disapproving resolution, to the applicant by certified mail within 10 business days of the disapproval. The applicant may file an appeal of the disapproval to the commission within 10 business days after receipt of the disapproving resolution.

(3) Within 60 days after receipt of an approved application submitted to the commission before October 31 of that year, the commission shall issue a renewable energy facilities exemption certificate effective on the immediately succeeding December 31, except that no certificate may take effect before December 31, 2022. The commission shall send a certificate by mail to the applicant and a certified copy of the certificate by mail to the assessor of the assessing unit where the facility is or is to be located, and that copy must be filed in the assessor's office.

(4) Within 60 days after an applicant files an appeal of a disapproved application, the commission shall affirm or reverse the disapproved application based on its determination that the proposed facility does or does not meet the requirements of a qualified renewable energy facility. If the commission affirms the disapproval, it shall notify the applicant by mail. If the commission reverses the disapproval, it shall issue a certificate effective on the immediately succeeding December 31 and transmit the certificate to the applicant and a certified copy to the assessor of the assessing unit where the facility is or is to be located, and that copy must be filed in the assessor's office.

Sec. 4. Beginning on the effective date of its renewable energy facilities exemption certificate issued under section 3, and continuing thereafter for the period provided for under section 6, a qualified renewable energy facility is exempt from both of the following:

(a) The collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, as provided in section 7yy of the general property tax act, 1893 PA 206, MCL 211.7yy.

(b) If the qualified renewable energy facility is operated by a lessee, occupant, user, or other person that does not own the facility, ad valorem taxes imposed under 1953 PA 189, MCL 211.181 to 211.182, to the same extent as though that lessee, occupant, user, or other person owned the qualified renewable energy facility, in accordance with section 181(1) of 1953 PA 189, MCL 211.181.

Sec. 5. (1) An owner or lessee of a qualified renewable energy facility for which a renewable energy facilities exemption certificate is issued shall make an annual payment in lieu of tax in the amount of \$4,000.00 per megawatt of nameplate capacity, alternating current, plus an additional \$500.00 per megawatt-hour of nameplate capacity, alternating current, of any energy storage device that is part of the qualified renewable energy facility, unless the owner or lessee of the qualified renewable energy facility and the local governmental assessing authority mutually agree in writing to a lesser annual amount per megawatt of nameplate capacity, alternating current. The owner or lessee of a qualified renewable energy facility and the local governmental assessing authority may also agree in writing to a shorter duration for the exemption certificate than the period that might otherwise apply under section 6(1)(a), whether or not the parties' agreement includes a provision decreasing the annual amount of the payment in lieu of tax.

(2) The local tax collecting unit shall collect payments in lieu of taxes made under this act annually on September 14 in the same manner as taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155. Except as otherwise provided in this section, the local tax collecting unit shall disburse payments in lieu of taxes made under this act to and among the state, cities, townships, villages, school districts, counties, and other taxing authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, excluding any distribution that would have been made under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(3) The amount of the annual payment in lieu of tax applicable to a qualified renewable energy facility, until paid, is a lien on the qualified renewable energy facility on the date the annual payment is due. The lien may be enforced in the same manner as provided by law for the foreclosure in the circuit courts of mortgage liens upon real property.

Sec. 6. (1) A renewable energy facilities exemption certificate remains in force for a period commencing on its effective date and ending on the earliest of the following:

(a) The date the qualified renewable energy facility permanently ceases commercial operation.

(b) A termination date mutually agreed upon by the owner or lessee of the qualified renewable energy facility and the local governmental assessing authority under section 5(1).

(c) The date of a revocation under subsection (2).

(2) A renewable energy facilities exemption certificate may be revoked by the local governmental assessing authority if the owner or lessee of the qualified renewable energy facility has failed to make payment, as of the immediately succeeding March 1, as required by section 5(1). Revocation under this subsection is effective beginning December 31 immediately preceding the local governmental assessing authority's revocation of the exemption certificate. A party aggrieved by the revocation of a renewable energy facilities exemption certificate may appeal the local government assessing authority's decision to the commission or tax tribunal.

Sec. 7. (1) A renewable energy facilities exemption certificate must be in a form prescribed by the commission. At a minimum, the certificate must include all of the following:

(a) A description of the qualified renewable energy facility, including the personal property tax parcel assigned to the qualified renewable energy facility.

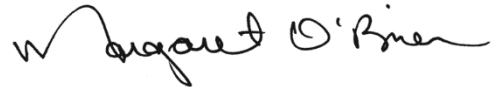
(b) A legal description of the real property on which the qualified renewable energy facility is or will be located.

(c) A statement that unless revoked as provided under this act the certificate remains in force for the period stated in the certificate.

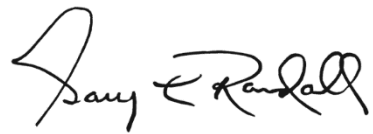
(2) A copy of any agreement entered into by the local governmental assessing authority and the owner or lessee of the qualified renewable energy facility under section 5(1) must be attached to the certificate.

Sec. 8. A holder of a renewable energy facilities exemption certificate may transfer the certificate to a new owner or lessee of the qualified renewable energy facility. The holder of a renewable energy facilities exemption certificate shall notify the local governmental assessing authority of the transfer, and the new owner or lessee must be assigned any contract entered into pursuant to section 5(1).

Enacting section 1. This act does not take effect unless Senate Bill No. 1106 of the 100th Legislature is enacted into law.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor