

# SENATE BILL NO. 1106

June 30, 2022, Introduced by Senator VANDERWALL and referred to the Committee on Energy and Technology.

A bill to provide for the establishment of solar energy districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners or lessees of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; and to prescribe the powers and duties of certain state and local governmental officials.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "solar energy facilities  
2 taxation act".

3           Sec. 2. As used in this act:

4           (a) "Applicant" means an owner or lessee of a qualified  
5 facility.

6           (b) "Commission" means the state tax commission created by  
7 1927 PA 360, MCL 209.101 to 209.107.

8           (c) "Construction in progress" means a facility not yet placed  
9 in service but for which on-site delivery of any component  
10 described in subdivision (f) has been delivered to the site as of  
11 December 31 of that year. Construction in progress does not include  
12 land improvements or site preparation.

13           (d) "Department" means the department of treasury.

14           (e) "Qualified local governmental unit" means a city, village,  
15 or township.

16           (f) "Qualified solar energy facility" or "qualified facility"  
17 means a facility, whether owned or leased, that when constructed  
18 and placed in service is located in a solar energy district and  
19 that uses or will use solar energy as the sole source for the  
20 generation of at least 2 megawatts of nameplate capacity,  
21 alternating current, including any solar modules, inverter, racks,  
22 tracking, on-site battery storage systems, controls, electric  
23 interface, and all components that are positioned up to, and  
24 including, the inversion of the current delivered from the  
25 facility. Qualified solar energy facility or qualified facility  
26 also includes all land improvements, except buildings, exclusively  
27 used for the generation of solar energy at the facility, including  
28 access roads, security fences, and communication facilities.

1 Qualified solar energy facility or qualified facility does not  
2 include any distribution or transmission lines.

3 (g) "Solar energy district" or "district" means an area in a  
4 qualified local governmental unit established as provided in  
5 section 3(1).

6 (h) "Solar energy facilities tax" or "specific tax" means the  
7 specific tax levied under this act.

8 (i) "Solar energy facility exemption certificate" or  
9 "certificate" means a certificate issued under section 6.

10 (j) "Taxable value" means the value determined under section  
11 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

12 (k) "Unzoned qualified local governmental unit" means a  
13 qualified local governmental unit that has no zoning ordinance  
14 within its zoning jurisdiction.

15 Sec. 3. (1) One or more solar energy districts may be  
16 established in a qualified local governmental unit in any of the  
17 following ways:

18 (a) Pursuant to subsections (2) to (4), by resolution of the  
19 legislative body of the qualified local governmental unit that has  
20 a zoning ordinance within its zoning jurisdiction.

21 (b) By the existence or establishment of a zoning ordinance  
22 designating the area within the qualified local governmental unit  
23 where a qualified solar energy facility can be located as a  
24 permitted or special use. Subsections (2) to (4) do not apply to a  
25 solar energy district established under this subdivision.

26 (c) All land within an unzoned qualified local governmental  
27 unit is to be considered a solar energy district for purposes of  
28 this act, unless the qualified local governmental unit, before  
29 receiving an application under section 5, establishes a solar

1 energy district by resolution of its governing body, which action  
2 is not subject to subsections (2) and (3).

3 (2) The legislative body of a qualified local governmental  
4 unit may establish a solar energy district on its own initiative or  
5 upon a written request filed by the owner or owners of real  
6 property comprising more than 50% of all taxable value of the  
7 property located within a proposed district. The written request  
8 must be filed with the clerk of the qualified local governmental  
9 unit.

10 (3) Before adopting a resolution establishing a district, the  
11 legislative body shall give written notice by certified mail to the  
12 legislative body of each taxing unit that levies ad valorem  
13 property taxes in the proposed district and the owners of all real  
14 property in the proposed district and shall set a public hearing on  
15 the establishment of the district at which any of those owners,  
16 taxing units, and any other resident or taxpayer of the qualified  
17 local governmental unit may appear and be heard. The legislative  
18 body shall give public notice of the hearing not less than 10 days  
19 or more than 30 days before the date of the hearing. Public notice  
20 under this subsection must be provided by online posting on the  
21 qualified local governmental unit's website if online posting is  
22 available and by physical posting in a location open to the public  
23 in the office of the qualified local governmental unit.

24 (4) The legislative body of a qualified local governmental  
25 unit shall provide a copy of the approved resolution by certified  
26 mail to the commission and the county in which the district is  
27 located.

28 (5) The actions by a qualified local governmental unit to  
29 either approve or disapprove a solar energy district within this

1 act are discretionary and are for solar energy facilities tax  
2 purposes only.

3       Sec. 4. (1) After a district is established under section 3,  
4 including any district considered to exist pursuant to section 3(b)  
5 or 3(c), or simultaneously with a request to establish a district,  
6 the owner or lessee of a qualified facility not yet placed in  
7 service may file an application for a solar energy exemption  
8 certificate with the clerk of the qualified local governmental  
9 unit. The application must be filed in the manner and form  
10 prescribed by the commission. The application must contain or be  
11 accompanied by all of the following:

12       (a) A general description of the qualified facility, including  
13 the proposed nameplate capacity and itemized list of facility  
14 components, including any on-site battery storage.

15       (b) A general description of the proposed use of the qualified  
16 facility.

17       (c) A description of the general nature and extent of the new  
18 construction.

19       (d) A time schedule for undertaking and completing the  
20 qualified facility.

21       (e) Information relating to the requirements in subsection  
22 (4). All cost information regarding the claim for the exemption  
23 must be considered taxpayer confidential information whether in  
24 possession of the department or the local assessing unit and is not  
25 subject to disclosure under the freedom of information act, 1976 PA  
26 442, MCL 15.231 to 15.246.

27       (f) The proposed location of the qualified facility.

28       (g) For a leased qualified facility, a copy of the lease  
29 agreement or other writing confirming that the lessee is liable for

1 payment of the specific tax for the length of the certificate as  
2 defined in section 7, and proof of that liability.

3 (h) For a qualified facility located on leased real property  
4 or an easement, a copy of the memorandum of lease or memorandum of  
5 easement, which must confirm that the duration of any lease of the  
6 real property where the qualified facility is located, including  
7 all options to extend the duration of the lease, is equal to or  
8 exceeds the duration of the certificate as described in section 7.

9 (2) Upon receipt of an application for a certificate, the  
10 clerk of the qualified local governmental unit shall provide  
11 written notice of the application, in a form and manner as  
12 prescribed by the commission, to the assessor of the local tax  
13 collecting unit in which the qualified facility is located and the  
14 legislative body of each taxing unit that levies ad valorem  
15 property taxes in the qualified local governmental unit in which  
16 the qualified facility is located. Before acting upon the  
17 application, unless a public hearing has been held under section 3,  
18 the legislative body of the qualified local governmental unit shall  
19 hold a public hearing on the application and give public notice to  
20 the applicant, the assessor, a representative of each affected  
21 taxing unit, and the general public. Public notice under this  
22 subsection must be provided by online posting on the qualified  
23 local governmental unit's website if online posting is available  
24 and by physical posting in a location open to the public in the  
25 office of the qualified local governmental unit.

26 (3) The qualified local governmental unit may charge the  
27 applicant an application fee to process an application for the  
28 certificate. Except as provided in section 14, the application fee  
29 must not exceed the actual cost incurred by the qualified local

1 governmental unit in processing the application or \$30,000.00,  
2 whichever is less.

3 (4) Upon receipt of notice of the filing of an application as  
4 provided in subsection (2), the assessor shall estimate and furnish  
5 to the local legislative body of the qualified local governmental  
6 unit an estimate of the assessed value and the taxable value of the  
7 qualified facility not yet placed in service to which the  
8 application pertains.

9 (5) Using a form prescribed by the commission, an applicant  
10 may transfer an application filed under this section to another  
11 party if the legislative body of the qualified local governmental  
12 unit has not yet taken any action under section 5.

13 Sec. 5. (1) The legislative body of the qualified local  
14 governmental unit, not more than 90 days after receipt of the  
15 application by the clerk, shall by resolution either approve or  
16 disapprove the application for a certificate in accordance with all  
17 provisions of this act. The clerk shall retain the original of the  
18 application and resolution. If approved, the clerk shall forward a  
19 copy of the application and resolution to the commission within 60  
20 days of approval or before September 30 of the year, whichever is  
21 first, in order for the applicant to be able to receive the  
22 certificate for the following year. If disapproved, the reasons  
23 must be set forth in writing in the resolution, and the clerk shall  
24 send, by certified mail, a copy of the resolution to the applicant,  
25 the assessor, and the commission. A resolution approving the  
26 application is not effective unless approved by the commission as  
27 provided in section 6.

28 (2) Within 14 days after the adoption of a resolution  
29 disapproving the application under subsection (1), the owner or

1 lessee may request the legislative body of the qualified local  
2 governmental unit to reconsider the application by submitting  
3 information not previously included in the application submitted  
4 under section 4. Within 60 days after receipt of the request for  
5 reconsideration, the legislative body of the qualified local  
6 governmental unit shall review the new information and by  
7 resolution either approve or disapprove the request for  
8 reconsideration in accordance with subsection (1).

9 (3) The actions by a qualified local governmental unit to  
10 either approve or disapprove an application for a certificate  
11 within this act are discretionary and are for solar energy  
12 facilities tax purposes only.

13 Sec. 6. (1) Not more than 90 days after receipt of a copy of  
14 an application and resolution approving the application adopted  
15 under section 5, the commission shall approve the resolution if it  
16 determines that the facility complies with all provisions of this  
17 act. Placement of a qualified facility in service after the date of  
18 application under section 4 does not disqualify the facility from  
19 receiving approval by a qualified local governmental unit under  
20 section 5 or by the commission under this section.

21 (2) Following approval of the application by the legislative  
22 body of the qualified local governmental unit and the commission,  
23 the commission shall issue to the applicant a certificate in the  
24 form the commission determines, which must contain all of the  
25 following:

26 (a) The address of the real property on which the qualified  
27 facility is located.

28 (b) The time schedule for undertaking and completing the  
29 qualified facility.



1 (c) A statement that unless revoked as provided in this act,  
2 the certificate will remain in force for the period stated in the  
3 certificate.

4 (d) A statement of the estimated taxable value of the  
5 qualified facility for the tax year immediately preceding the  
6 effective date of the certificate after deducting the taxable value  
7 of the land.

8 (3) The effective date of the certificate is the December 31  
9 immediately following the date of issuance of the certificate.

10 (4) The commission shall file with the clerk of the qualified  
11 local governmental unit a copy of the certificate, and the  
12 commission shall maintain a record of all certificates filed. The  
13 commission shall also send, by certified mail, a copy of the  
14 certificate to the applicant and the assessor of the local tax  
15 collecting unit in which the qualified facility is located.

16 Sec. 7. A qualified facility for which a certificate is in  
17 effect, but not the land on which the qualified facility is  
18 located, for the period on and after the effective date of the  
19 certificate and continuing for 20 years is exempt from ad valorem  
20 property taxes collected under the general property tax act, 1893  
21 PA 206, MCL 211.1 to 211.155.

22 Sec. 8. (1) An owner or lessee that claims an exemption under  
23 this section shall provide to the qualified local governmental unit  
24 an annual form as of December 31 of each year indicating the  
25 nameplate capacity in alternating current of the qualified  
26 facility. The annual form must be filed in the manner and form  
27 prescribed by the commission.

28 (2) The assessor of each qualified local governmental unit in  
29 which there is a qualified facility with respect to which 1 or more

1 certificates have been issued and are in force shall determine  
2 annually as of December 31 the estimated or actual assessed value,  
3 taxable value, and nameplate capacity of each qualified facility  
4 separately.

5       Sec. 9. (1) The solar energy facilities tax is levied upon the  
6 owner or lessee of a qualified facility to which a certificate is  
7 in effect under this act, as described in subsections (2) to (5).

8       (2) Except as provided in subsections (3), (4), and (5), the  
9 amount of the solar energy facilities tax, in each year after the  
10 facility is placed in service, is equal to \$7,000.00 per megawatt  
11 of nameplate capacity, alternating current as reported on the  
12 annual form prescribed under section 8(1).

13       (3) The amount of the specific tax as prescribed in subsection  
14 (2) must be reduced to \$2,000.00 per megawatt of nameplate  
15 capacity, alternating current as reported on the annual form  
16 prescribed under section 8(1), for a qualified facility located on  
17 1 or more of the following:

18       (a) Property owned by this state either at the time of  
19 installation of the qualified facility or immediately prior to a  
20 sale of the property to accommodate the installation of the  
21 qualified facility.

22       (b) Property located in an opportunity zone designated by the  
23 United States Department of Treasury in April 2018 under the tax  
24 cuts and jobs act of 2017, Public Law No. 115-97.

25       (c) Property that was used or is currently used for commercial  
26 or industrial purposes and that is a facility, historic resource,  
27 functionally obsolete, or blighted, as those terms are defined in  
28 section 2 of the brownfield redevelopment financing act, 1996 PA  
29 381, MCL 125.2652, or a site or property as those terms are defined

1 in section 21303 of the natural resources and environmental  
2 protection act, 1994 PA 451, MCL 324.21303.

3 (d) Improved real property used for another purpose if the  
4 qualified facility is attached to the improvement.

5 (4) For construction in progress, the specific tax prescribed  
6 in subsections (2) and (3) must be reduced by 50%.

7 (5) After the effective date of the certificate, but prior to  
8 the commencement of construction in progress, the specific tax  
9 prescribed in subsections (2) and (3) must be reduced by 100%.

10 (6) The solar energy facilities tax is an annual tax that  
11 becomes a lien on July 1, payable at the same time and to the same  
12 officer or officers as taxes imposed under the general property tax  
13 act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Interest must  
14 be added to delinquent amounts paid after September 14 at a rate of  
15 1% per month or fraction of a month. Except as otherwise provided  
16 in this section, the officer or officers shall disburse the  
17 specific tax payments received by the officer or officers each year  
18 to and among this state, cities, school districts, townships,  
19 counties, villages, and authorities by December 1 using the tax  
20 rates levied in the year in the same proportions as required by law  
21 for the disbursement of taxes collected on industrial personal  
22 property under the general property tax act, 1893 PA 206, MCL 211.1  
23 to 211.155, as of the effective date of this act.

24 (7) For intermediate school districts receiving state aid  
25 under sections 56 and 62 of the state school aid act of 1979, 1979  
26 PA 94, MCL 388.1656 and 388.1662, of the amount of the specific tax  
27 that would otherwise be disbursed to an intermediate school  
28 district, all or a portion, to be determined on the basis of the  
29 tax rates being utilized to compute the amount of state aid, must

1 be paid to the state treasury to the credit of the state school aid  
2 fund established by section 11 of article IX of the state  
3 constitution of 1963.

4 (8) The officer or officers shall send a copy of the amount of  
5 disbursement made to each unit under this section to the department  
6 on a form provided by the department.

7 (9) A qualified facility located in a renaissance zone under  
8 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
9 125.2696, is exempt from the specific tax levied under this act to  
10 the extent and for the duration provided pursuant to the Michigan  
11 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except  
12 for that portion of the specific tax attributable to a special  
13 assessment or a tax described in section 7ff(2) of the general  
14 property tax act, 1893 PA 206, MCL 211.7ff. The specific tax  
15 calculated under this subsection must be disbursed proportionately  
16 to the taxing unit or units that levied the special assessment or  
17 the tax described in section 7ff(2) of the general property tax  
18 act, 1893 PA 206, MCL 211.7ff.

19 Sec. 10. (1) Upon receipt of a request by certified mail to  
20 the commission by the holder of a certificate requesting revocation  
21 of the certificate, the commission shall by order revoke the  
22 certificate if the facility has not yet been placed in service or  
23 has permanently ceased commercial operation.

24 (2) The legislative body of the qualified local governmental  
25 unit may by resolution request the commission to revoke the  
26 certificate of a qualified facility for any of the following  
27 reasons:

28 (a) The legislative body finds that completion of the  
29 qualified facility has not occurred within the time authorized by

1 the legislative body in the certificate issued under section  
2 6(2)(b), an extension of that time has not been granted by  
3 resolution of the qualified local governmental unit for good cause,  
4 and circumstances that are beyond the control of the holder of the  
5 certificate have not occurred.

6 (b) The specific tax under this act has not been paid within 1  
7 year of September 14 as provided in section 9(6).

8 (c) The qualified facility has permanently ceased commercial  
9 operation.

10 (3) Upon revocation of the certificate as described in  
11 subsection (1) or receipt of a resolution described in subsection  
12 (2), the commission shall give notice in writing by certified mail  
13 to the holder of the certificate, to the local legislative body, to  
14 the assessor, and to the legislative body of each local taxing unit  
15 that levies taxes upon property in the local governmental unit in  
16 which the qualified facility is located. The commission shall  
17 afford the holder of the certificate, the local legislative body,  
18 the assessor, and a representative of the legislative body of each  
19 taxing unit an opportunity for a hearing. If the requirements in  
20 subsection (2) have not been cured, the commission shall consider  
21 the resolution and by order revoke the certificate.

22 (4) The order of the commission revoking a certificate under  
23 subsection (1) or (2) is effective on the December 31 next  
24 following the date of the order, and the commission shall send by  
25 certified mail copies of its order of revocation to the holder of  
26 the certificate, to the local legislative body, to the assessor,  
27 and to the legislative body of each taxing unit that levies taxes  
28 upon property in the qualified local governmental unit in which the  
29 qualified facility is located. If the commission revokes a

1 certificate for nonpayment of the specific tax under subsection  
2 (2)(b), the holder of the certificate shall within 90 days of the  
3 revocation repay all of the prior years' net tax savings under the  
4 certificate, calculated by the commission by subtracting the  
5 specific tax paid from the amount of property tax that would have  
6 been levied on the qualified facility if the certificate had not  
7 been in effect based on the value determined under section 8(2). If  
8 not repaid, the prior years' net tax savings must be added to the  
9 next property tax bill for the qualified facility.

10 (5) Notwithstanding any other provision of this act, the  
11 commission shall reinstate a revoked certificate if all of the  
12 following conditions are met:

13 (a) A written request for reinstatement is submitted to the  
14 legislative body of the qualified local governmental unit in which  
15 the facility is located and the commission by either the holder of  
16 the revoked certificate or a subsequent owner of the facility  
17 seeking transfer of the revoked certificate.

18 (b) The legislative body of the qualified local governmental  
19 unit submits to the commission a resolution of concurrence in the  
20 requested reinstatement.

21 (c) The facility continues to qualify under this act.

22 Sec. 11. (1) Not later than 30 days after a qualified local  
23 governmental unit receives a request to transfer a certificate, the  
24 qualified local governmental unit shall approve the transfer from  
25 the holder of the certificate and assign the certificate to a new  
26 owner or lessee of the qualified facility if all of the following  
27 conditions are met:

28 (a) The new owner or lessee consents to the terms of the  
29 existing certificate and all provisions of this act.

1 (b) All taxes on the qualified facility have been paid.

2 (c) The qualified facility has not permanently ceased  
3 commercial operation.

4 (d) In the case of a leased qualified facility, the lessee has  
5 provided a copy of the lease agreement or other writing confirming  
6 that the lessee is liable for payment of the specific tax for the  
7 remaining length of the certificate and proof of that liability.

8 (2) A qualified local governmental unit shall notify the  
9 commission of a transfer under this section not later than 30 days  
10 after approval of the transfer.

11 Sec. 12. Not later than June 15 each year, each qualified  
12 local governmental unit granting a certificate shall report to the  
13 department on the status of each exemption. The report must include  
14 the current taxable value of the property to which the exemption  
15 pertains.

16 Sec. 13. (1) The department annually shall prepare and submit  
17 to the committees of the house of representatives and senate  
18 responsible for tax policy and economic development issues a report  
19 on the utilization of this act, based on the information filed with  
20 the commission.

21 (2) After this act has been in effect for 3 years, the  
22 department shall prepare and submit to the committees of the house  
23 of representatives and senate responsible for tax policy and  
24 economic development issues an economic analysis of the costs and  
25 benefits of this act in the 3 qualified local governmental units in  
26 which it has been most heavily utilized.

27 Sec. 14. As a condition to an exemption granted under this  
28 act, a qualified local governmental unit may impose a fee or adopt  
29 a bonding requirement for a qualified facility if the purpose of

1 the fee or bond is to provide for the removal of an abandoned or  
2 improperly maintained qualified facility, including a facility that  
3 a qualified local governmental unit determines should be removed to  
4 protect public health, safety, or welfare. However, a qualified  
5 local governmental unit may impose a fee or adopt a bonding  
6 requirement for a qualified facility under this section only if the  
7 qualified facility is not otherwise subject to a decommissioning  
8 fee or removal bond under general zoning ordinances or land use  
9 permitting.

10       Sec. 15. A new exemption must not be granted under this act  
11 after December 31, 2031, but an exemption then in effect continues  
12 until the expiration or revocation of the certificate.

13       Enacting section 1. This act does not take effect unless  
14 Senate Bill No. 1107 of the 101st Legislature is enacted into  
15 law.