

# HOUSE BILL NO. 4317

March 22, 2023, Introduced by Rep. VanderWall and referred to the Committee on Tax Policy.

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. If an applicant  
13 transfers an application within 30 days before the end of the 90-  
14 day period required under section 5(1), the 90-day period is  
15 extended by 30 days.

16 Sec. 5. (1) The legislative body of the qualified local  
17 governmental unit, not more than 90 days after receipt of the  
18 application by the clerk, shall by resolution either approve or  
19 disapprove the application for a certificate in accordance with all  
20 provisions of this act. The clerk shall retain the original of the  
21 application and resolution. If approved, the clerk shall forward a  
22 copy of the application and resolution to the commission within 60  
23 days after approval or before September 30 of the year, whichever  
24 is first, in order for the applicant to be able to receive the  
25 certificate for the following year. If the application is  
26 determined to be incomplete, the clerk shall notify the applicant  
27 in writing within 60 days after receipt of the incomplete  
28 application, describing the deficiency and requesting the  
29 additional information. The 90-day period is reset and tolled upon

1 notification by the clerk of a deficiency until all of the  
2 information requested in writing by the clerk is received by the  
3 qualified local governmental unit. The applicant has 60 days to  
4 correct the deficiency, or the application is void unless the  
5 applicant and the qualified local governmental unit agree in  
6 writing to an extension of this period not to exceed an additional  
7 30 days. The extension agreement must be completed in a form and  
8 manner prescribed by the commission. The determination of the  
9 completeness of an application is not an approval of the  
10 application. If the application is disapproved, the reasons must be  
11 set forth in writing in the resolution, and the clerk shall send,  
12 by certified mail, a copy of the resolution to the applicant, the  
13 assessor, and the commission. A resolution approving the  
14 application is not effective unless approved by the commission as  
15 provided in section 6.

16 (2) Within 14 days after the adoption of a resolution  
17 disapproving the application under subsection (1), the owner or  
18 lessee may request the legislative body of the qualified local  
19 governmental unit to reconsider the application by submitting  
20 information not previously included in the application submitted  
21 under section 4. Within 60 days after receipt of the request for  
22 reconsideration, the legislative body of the qualified local  
23 governmental unit shall review the new information and by  
24 resolution either approve or disapprove the request for  
25 reconsideration in accordance with subsection (1).

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



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

9           (2) Following approval of the application by the legislative  
10 body of the qualified local governmental unit and the commission,  
11 the commission shall issue to the applicant a certificate in the  
12 form the commission determines, which must contain all of the  
13 following:

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

16           (b) The time schedule for undertaking and completing the  
17 qualified facility.

18           (c) A statement that unless revoked as provided in this act,  
19 the certificate will remain in force for the period stated in the  
20 certificate.

21           (d) A statement of the estimated taxable value of the  
22 qualified facility for the tax year immediately preceding the  
23 effective date of the certificate after deducting the taxable value  
24 of the land.

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

27           (4) The commission shall file with the clerk of the qualified  
28 local governmental unit a copy of the certificate, and the  
29 commission shall maintain a record of all certificates filed. The

1 commission shall also send, by certified mail, a copy of the  
2 certificate to the applicant and the assessor of the local tax  
3 collecting unit in which the qualified facility is located.

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

10 Sec. 8. (1) An owner or lessee that claims an exemption under  
11 this act shall provide to the qualified local governmental unit an  
12 annual form as of December 31 of each year indicating the nameplate  
13 capacity in alternating current of the qualified facility. The  
14 annual form must be filed in the manner and form prescribed by the  
15 commission.

16 (2) The assessor of each qualified local governmental unit in  
17 which there is a qualified facility with respect to which 1 or more  
18 certificates have been issued and are in force shall determine  
19 annually as of December 31 the estimated or actual assessed value,  
20 taxable value, and nameplate capacity of each qualified facility  
21 separately.

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

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

1 (3) The amount of the specific tax as prescribed in subsection  
2 (2) must be reduced to \$2,000.00 per megawatt of nameplate  
3 capacity, alternating current as reported on the annual form  
4 prescribed under section 8(1), for a qualified facility located on  
5 1 or more of the following:

6 (a) Property owned by this state either at the time of  
7 installation of the qualified facility or immediately prior to a  
8 sale of the property to accommodate the installation of the  
9 qualified facility.

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

13 (c) Property that was used or is currently used for commercial  
14 or industrial purposes and that is a facility, historic resource,  
15 functionally obsolete, or blighted, as those terms are defined in  
16 section 2 of the brownfield redevelopment financing act, 1996 PA  
17 381, MCL 125.2652, or a site or property as those terms are defined  
18 in section 21303 of the natural resources and environmental  
19 protection act, 1994 PA 451, MCL 324.21303.

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

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

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

27 (6) The solar energy facilities tax is an annual tax that  
28 becomes a lien on July 1, payable at the same time and to the same  
29 officer or officers as taxes imposed under the general property tax

1 act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Interest must  
2 be added to delinquent amounts paid after September 14 at a rate of  
3 1% per month or fraction of a month. Except as otherwise provided  
4 in this section, the officer or officers shall disburse the  
5 specific tax payments received by the officer or officers each year  
6 to and among this state, cities, school districts, townships,  
7 counties, villages, and authorities by December 1 using the tax  
8 rates levied in the year in the same proportions as required by law  
9 for the disbursement of taxes collected on industrial personal  
10 property under the general property tax act, 1893 PA 206, MCL 211.1  
11 to 211.155, as of the effective date of this act.

12 (7) For intermediate school districts receiving state aid  
13 under sections 56 and 62 of the state school aid act of 1979, 1979  
14 PA 94, MCL 388.1656 and 388.1662, of the amount of the specific tax  
15 that would otherwise be disbursed to an intermediate school  
16 district, all or a portion, to be determined on the basis of the  
17 tax rates being utilized to compute the amount of state aid, must  
18 be paid to the state treasury to the credit of the state school aid  
19 fund established by section 11 of article IX of the state  
20 constitution of 1963.

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

24 (9) A qualified facility located in a renaissance zone under  
25 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
26 125.2696, is exempt from the specific tax levied under this act to  
27 the extent and for the duration provided pursuant to the Michigan  
28 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except  
29 for that portion of the specific tax attributable to a special

1 assessment or a tax described in section 7ff(2) of the general  
2 property tax act, 1893 PA 206, MCL 211.7ff. The specific tax  
3 calculated under this subsection must be disbursed proportionately  
4 to the taxing unit or units that levied the special assessment or  
5 the tax described in section 7ff(2) of the general property tax  
6 act, 1893 PA 206, MCL 211.7ff.

7       Sec. 10. (1) Upon receipt of a request by certified mail to  
8 the commission by the holder of a certificate requesting revocation  
9 of the certificate, the commission shall by order revoke the  
10 certificate for any of the following reasons:

11       (a) The facility has not yet been placed in service.

12       (b) The qualified facility has permanently ceased commercial  
13 operation.

14       (2) The legislative body of the qualified local governmental  
15 unit may by resolution request the commission to revoke the  
16 certificate of a qualified facility for any of the following  
17 reasons:

18       (a) The legislative body finds that completion of the  
19 qualified facility has not occurred within the time authorized by  
20 the legislative body in the certificate issued under section  
21 6(2)(b), an extension of that time has not been granted by  
22 resolution of the qualified local governmental unit for good cause,  
23 and circumstances that are beyond the control of the holder of the  
24 certificate have not occurred.

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

27       (c) The qualified facility has permanently ceased commercial  
28 operation.

29       (3) Before revocation of the certificate as described in

1 subsection (1) or upon receipt of a resolution described in  
2 subsection (2), the commission shall give notice in writing by  
3 certified mail to the holder of the certificate, to the local  
4 legislative body, to the assessor, and to the legislative body of  
5 each local taxing unit that levies taxes upon property in the local  
6 governmental unit in which the qualified facility is located. The  
7 commission shall afford the holder of the certificate, the local  
8 legislative body, the assessor, and a representative of the  
9 legislative body of each taxing unit an opportunity for a hearing.  
10 If the requirements in subsection (2) have not been cured, the  
11 commission shall consider the resolution and by order revoke the  
12 certificate.

13 (4) The order of the commission revoking a certificate under  
14 subsection (1) or (2) is effective on the December 31 next  
15 following the date of the order, and the commission shall send by  
16 certified mail copies of its order of revocation to the holder of  
17 the certificate, to the local legislative body, to the assessor,  
18 and to the legislative body of each taxing unit that levies taxes  
19 upon property in the qualified local governmental unit in which the  
20 qualified facility is located. If the commission revokes a  
21 certificate for nonpayment of the specific tax under subsection  
22 (2)(b), the holder of the certificate shall within 90 days of the  
23 revocation repay all of the prior years' net tax savings under the  
24 certificate, calculated by the commission by subtracting the  
25 specific tax paid from the amount of property tax that would have  
26 been levied on the qualified facility if the certificate had not  
27 been in effect based on the value determined under section 8(2). If  
28 not repaid, the prior years' net tax savings must be added to the  
29 next property tax bill for the qualified facility.

1 (5) Notwithstanding any other provision of this act, the  
2 commission shall reinstate a revoked certificate if all of the  
3 following conditions are met during the 20-year period described in  
4 section 7:

5 (a) A written request for reinstatement is submitted to the  
6 legislative body of the qualified local governmental unit in which  
7 the qualified facility is located and the commission by either the  
8 holder of the revoked certificate or a subsequent owner of the  
9 qualified facility seeking transfer of the revoked certificate.

10 (b) The legislative body of the qualified local governmental  
11 unit submits to the commission a resolution of concurrence in the  
12 requested reinstatement.

13 (c) The qualified facility continues to qualify under this  
14 act.

15 (6) If, after a qualified facility is placed in service, the  
16 commission revokes a certificate for the cessation of operations  
17 under subsection (1)(b) or (2)(c), the holder of the certificate is  
18 subject to a 1-time continuation payment based on the number of  
19 years remaining on the 20-year period described in section 7. The  
20 commission shall calculate the continuation payment as the product  
21 of the number of years remaining, the annual solar energy  
22 facilities tax required under section 9(2) or 9(3), and an  
23 applicable percentage. The applicable percentage is equal to 1 of  
24 the following:

25 (a) If 11 or more years of the 20-year period remain, 25%.

26 (b) If 6 or more years and less than 11 years of the 20-year  
27 period remain, 50%.

28 (c) If the 20-year period is not complete and less than 6  
29 years of it remain, 75%.

1 (d) Notwithstanding subdivisions (a) to (c), 0% if any of the  
2 following apply:

3 (i) The 20-year period is complete.

4 (ii) The cessation of operations is due to an act of God and  
5 the owner has no intent to resume commercial operations.

6 (iii) The commission reinstates a revoked certificate under  
7 subsection (5).

8 Sec. 11. (1) Not later than 30 days after a qualified local  
9 governmental unit receives a request to transfer a certificate, the  
10 qualified local governmental unit shall approve the transfer from  
11 the holder of the certificate and assign the certificate to a new  
12 owner or lessee of the qualified facility if all of the following  
13 conditions are met:

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

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

17 (c) The qualified facility has not permanently ceased  
18 commercial operation.

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

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

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



1 pertains.

2           Sec. 13. (1) The department annually shall prepare and submit  
3 to the committees of the house of representatives and senate  
4 responsible for tax policy and economic development issues a report  
5 on the utilization of this act, based on the information filed with  
6 the commission.

7           (2) After this act has been in effect for 3 years, the  
8 department shall prepare and submit to the committees of the house  
9 of representatives and senate responsible for tax policy and  
10 economic development issues an economic analysis of the costs and  
11 benefits of this act in the 3 qualified local governmental units in  
12 which it has been most heavily utilized.

13           Sec. 14. As a condition to an exemption granted under this  
14 act, a qualified local governmental unit may impose a fee or adopt  
15 a bonding requirement for a qualified facility if the purpose of  
16 the fee or bond is to provide for the removal of an abandoned or  
17 improperly maintained qualified facility, including a facility that  
18 a qualified local governmental unit determines should be removed to  
19 protect public health, safety, or welfare. However, a qualified  
20 local governmental unit may impose a fee or adopt a bonding  
21 requirement for a qualified facility under this section only if the  
22 qualified facility is not otherwise subject to a decommissioning  
23 fee or removal bond under general zoning ordinances or land use  
24 permitting.

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

28           Enacting section 1. This act does not take effect unless  
29 Senate Bill No. \_\_\_\_ or House Bill No. 4318 (request no. 00214'23 a)

**1** of the 102nd Legislature is enacted into law.