

HOUSE BILL No. 5548

December 6, 2007, Introduced by Reps. Mayes, Palsrok, Accavitti and Nofs and referred to the Committee on Energy and Technology.

A bill to require certain providers of electric service to establish a renewable energy program and to achieve sustainable energy goals using renewable energy and energy efficiency programs; to prescribe the powers and duties of certain state agencies and officials; and to provide for sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Biomass" means any organic matter that can be converted
3 to usable fuel for the production of energy and is available on a
4 renewable basis, including, but not limited to, all of the
5 following:

6 (i) Agricultural crops and crop wastes.

7 (ii) Wood and wood wastes, including wood and wood waste from

1 wood product and paper processing.

2 (iii) Animal wastes.

3 (iv) Municipal wastewater sludge.

4 (v) Aquatic plants.

5 (vi) Food production and processing waste.

6 (vii) Municipal solid waste.

7 (b) "Commission" means the Michigan public service commission.

8 (c) "Electric utility" means a person, partnership,
9 corporation, association, or other legal entity whose transmission
10 or distribution of electricity the commission regulates under 1909
11 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to
12 460.10cc.

13 (d) "Installed capacity" means the total amount of electricity
14 a renewable energy system can generate in 1 hour at full load.

15 (e) "Portfolio standard" is the minimum percentage of a
16 provider's total annual retail kilowatt hour electricity sales in
17 this state that is required to be produced from a renewable energy
18 resource.

19 (f) "Provider" means any person that is in the business of
20 selling electricity to retail customers in this state and includes
21 all of the following:

22 (i) Any person or entity that is regulated by the commission
23 for the purpose of selling electricity to retail customers.

24 (ii) A municipal electric provider.

25 (iii) A cooperative electric provider.

26 (iv) An alternative electric supplier.

27 (v) An independent investor-owned electric utility.

1 (g) "Renewable energy" means electricity produced using a
2 renewable energy resource.

3 (h) "Renewable energy contract" means a contract to acquire
4 renewable energy and the associated renewable energy credits from 1
5 or more renewable energy systems.

6 (i) "Renewable energy credit" means a certified credit under
7 this act equal to 1 megawatt hour of generated renewable energy.

8 (j) "Renewable energy resource" means any of the following:

9 (i) Biomass.

10 (ii) Geothermal.

11 (iii) Solar thermal.

12 (iv) Photovoltaic cells and panels.

13 (v) Industrial cogeneration where an integrated unit generates
14 power and either cools, heats, or controls humidity in a building
15 or provides heating, drying, or chilling for an industrial process
16 not including electricity generation.

17 (vi) An incinerator brought into service before the effective
18 date of this act that complies with all federal and state
19 environmental regulations.

20 (vii) Wind.

21 (viii) Hydroelectric from existing hydroelectric facilities or
22 new hydroelectric facilities using existing dams unless those dams
23 are modified after the effective date of this act to increase their
24 holding capacity or further restrict water flow or in a manner that
25 does not fully incorporate best environmental practices.

26 (ix) Hydroelectric from pumped storage hydroelectric facilities
27 to the extent the water was pumped using energy generated from

1 renewable energy resources.

2 (x) Landfill gas.

3 (k) "Renewable energy resource" does not include the burning
4 or heating of tires, garbage, landscape waste, construction or
5 demolition debris, or general household, institutional, commercial,
6 office, or industrial lunchroom waste.

7 (l) "Renewable energy system" means a facility, electricity
8 generation system, or integrated set of electricity generation
9 systems that use renewable energy resources located in this state,
10 Illinois, Indiana, Minnesota, Ohio, Wisconsin, or the province of
11 Ontario or of Manitoba, Canada.

12 (m) "Terms and conditions" includes the price that a provider
13 of electric service is to pay to acquire electricity and the
14 associated renewable energy credits under a renewable energy
15 contract along with other contract provisions.

16 Sec. 3. By December 31, 2015, each provider shall achieve a
17 sustainable energy portfolio. The sustainable energy portfolio
18 shall be calculated by adding the following:

19 (a) The sum of the biennial and annual incremental energy
20 savings achieved under section 7 of the energy efficient Michigan
21 act, or the equivalent savings attributable to a provider that
22 makes payments under section 11 of the energy efficient Michigan
23 act.

24 (b) The portfolio for renewable energy achieved by the
25 provider under this act.

26 Sec. 5. (1) Subject to section 11, by December 31, 2015, each
27 provider shall meet a portfolio standard for renewable energy. The

1 portfolio standard is 10% of the total amount of kilowatt hours of
2 electricity sold by the provider to its retail customers in this
3 state during the calendar year.

4 (2) A provider shall comply with the renewable energy
5 portfolio standard required in this section by obtaining renewable
6 energy credits by any of the following means:

7 (a) Producing electric energy from renewable energy systems.

8 (b) Purchasing electric energy through a renewable energy
9 contract.

10 (c) Obtaining renewable energy credits from a renewable energy
11 system located in this state.

12 (3) If the provider enters a renewable energy contract after
13 the effective date of this act, the commission shall determine
14 whether the contract provides reasonable terms and conditions,
15 including, but not limited to, the length of that contract.

16 (4) The commission shall consider all actual costs reasonably
17 and prudently incurred by a regulated utility in meeting the
18 requirements of this act to be a cost of service. The commission
19 shall determine the mechanism for the recovery of those costs.
20 However, costs incurred obtaining renewable energy credits under
21 section 11(3) are not a recoverable cost of service.

22 Sec. 7. (1) The commission shall establish a system of
23 renewable energy credits that shall be used by a provider to comply
24 with its portfolio standard. The renewable energy credit program
25 shall comply with all of the following:

26 (a) A process to certify all existing renewable energy systems
27 operating on the effective date of this act as eligible to receive

1 renewable energy credits.

2 (b) A method for the transferability of credits.

3 (c) For power purchase agreements that exist on the effective
4 date of this act, the generator of the renewable energy shall be
5 considered to own any renewable energy credits unless the ownership
6 of the renewable energy credits is otherwise provided by contract.

7 (d) A renewable energy credit purchased from a source in this
8 state shall not be required to be used in this state.

9 (2) One renewable energy credit shall be granted for each
10 megawatt hour of electricity from a renewable energy resource. If
11 both a renewable energy resource and a nonrenewable energy resource
12 are used to generate electric energy, the commission shall grant
13 the renewable energy credits based on the proportion of the
14 renewable energy resource used. For purposes of complying with a
15 renewable portfolio standard, the following additional renewable
16 energy credits shall be counted under the following circumstances:

17 (a) 1-1/2 renewable energy credits for each megawatt hour of
18 electricity from solar power.

19 (b) 1/10 renewable energy credit for each megawatt hour of
20 electricity generated in this state from a renewable energy
21 resource in this state.

22 (c) 1/10 renewable energy credit for each megawatt hour of
23 electricity generated from a renewable energy resource, using
24 equipment made in this state as determined by the commission.

25 (d) 1/20 renewable energy credit for each megawatt hour of
26 electricity generated from a renewable energy resource, other than
27 wind, at peak demand time. The commission shall determine what

1 constitutes peak demand time.

2 (3) The commission shall establish a renewable energy credit
3 certification and tracking program. The certification and tracking
4 program may be contracted to and performed by a third party through
5 a system of competitive bidding. The renewable energy credit
6 certification and tracking program shall include all of the
7 following:

8 (a) Certification that the renewable energy system is a
9 qualified renewable energy system under this act.

10 (b) Certification that the operator of a renewable energy
11 system is in compliance with state and federal law applicable to
12 the operation of a renewable energy system at the time
13 certification is granted.

14 (c) Determining the date that the renewable energy credit is
15 valid for transfer under this act.

16 (d) A method for ensuring that renewable energy credits traded
17 and sold under this act are properly accounted under this act.

18 Sec. 13. (1) The commission shall not require a municipally
19 owned utility to purchase renewable energy credits under this act.

20 (2) Any person adversely affected may commence a civil action
21 for injunctive relief against a municipally owned utility that
22 fails to meet the requirements of this act. The action shall be
23 commenced in the circuit court for the circuit in which the alleged
24 violation occurred. An action shall not be filed under this
25 subsection unless the plaintiff has given the proposed defendant
26 and the commission at least 60 days' written notice of the
27 plaintiff's intent to sue, the basis for the suit, and the relief

1 sought. In issuing a final order in an action brought under this
2 subsection, the court may award costs of litigation, including
3 reasonable attorney and expert witness fees, to the prevailing or
4 substantially prevailing party.

5 Sec. 15. (1) Each provider of electric service shall submit to
6 the commission an annual report that provides information relating
7 to the actions taken by the provider to comply with the portfolio
8 standard.

9 (2) Each provider shall submit the annual report to the
10 commission after the end of each calendar year and within the time
11 prescribed by the commission. The report shall be submitted in a
12 format approved by the commission.

13 (3) Each annual report shall include all of the following
14 information:

15 (a) The amount of electricity and renewable energy credits
16 that the provider generated or acquired from renewable energy
17 systems during the reporting period and the amount of renewable
18 energy credits that the provider acquired, sold, or traded during
19 the reporting period to comply with its portfolio standard.

20 (b) The capacity of each renewable energy system owned,
21 operated, or controlled by the provider, the total amount of
22 electricity generated by each system during the reporting period,
23 and the percentage of that total amount that was generated directly
24 from renewable energy.

25 (c) Whether, during the reporting period, the provider began
26 construction on, acquired, or placed into operation any renewable
27 energy system.

1 (d) Any other information that the commission determines
2 necessary.

3 (4) Biennially, the commission shall file a report with the
4 legislature that does all of the following:

5 (a) Summarizes data collected under this section.

6 (b) Discusses the status of renewable energy in this state and
7 the effect of this act on electricity prices.

8 (c) Recommends changes in the definition of renewable energy
9 resource to reflect environmentally preferable technology.

10 Sec. 17. The commission shall promulgate rules to implement
11 this act pursuant to the administrative procedures act of 1969,
12 1969 PA 306, MCL 24.201 to 24.328.

13 Enacting section 1. As provided in section 5 of 1846 RS 1, MCL
14 8.5, this act is severable.

15 Enacting section 2. This act does not take effect unless all
16 of the following bills of the 94th Legislature are enacted into
17 law:

18 (a) House Bill No. 5383.

19 (b) House Bill No. 5384.

20 (c) House Bill No. 5520.

21 (d) House Bill No. 5521.

22 (e) House Bill No. 5522.

23 (f) House Bill No. 5523.

24 (g) House Bill No. 5524.

25 (h) Senate Bill No. _____ or House Bill No. 5549(request no.
26 05919'07).