



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4317 (Substitute H-1 as reported without amendment)
House Bill 4318 (as reported without amendment)
Sponsor: Representative Curtis VanderWall (H.B. 4317)
Representative Cynthia Neeley (H.B. 4318)
House Committee: Tax Policy
Senate Committee: Energy and Environment

CONTENT

House Bill 4317 (H-1) would enact the "Solar Energy Facilities Taxation Act" to do the following:

- Allow for the establishment of solar energy districts in a qualified local governmental unit under specified circumstances.
- Require a legislative body, before adopting a resolution for the establishment of a solar energy district, to give written notice by mail to certain stakeholders and to set a public hearing on the establishment of the district.
- Allow an owner or lessee of a qualified facility, generally a facility with at least two megawatts of nameplate capacity (maximum rated output), that was not yet placed in service to file an application for a solar energy exemption certificate with the clerk of the qualified local governmental unit that had established a solar energy district.
- Require an application to include specified information, including a general description of the qualified facility and its proposed nameplate capacity.
- Require the legislative body of a qualified local governmental unit to approve or disapprove by resolution an application for a certificate within 120 days of receiving it, and if approved, require the legislative body's clerk to forward a copy of the application, resolution, and assessed taxable value to the State Tax Commission.
- Require the Commission to approve an application and resolution within 90 days of receiving them if they complied with the Act and to issue an applicant a certificate that contained specified information.
- Exempt a qualified facility for which a certificate was in effect from ad valorem property taxes collected under the General Property Tax Act for the effective period of the certificate and continuing for 20 years.
- Levy the solar energy facilities tax upon the owner or lessee of a qualified facility to which a certificate was in effect and specify that in each year after the facility was placed in service, the tax would be equal to \$7,000 per megawatt of nameplate capacity, except as otherwise provided by the Act.
- Require the Commission to revoke a certificate under certain circumstances.
- Prescribe reporting requirements for each qualified local governmental unit granting a certificate and the Department of Treasury.
- Prohibit a new exemption from being granted under the Act after December 31, 2031, but allow exemptions then in effect to continue until the expiration or revocation of the certificate.

House Bill 4318 would amend the General Property Tax Act to specify that a facility for which a solar energy facility exemption certificate had been issued, but not the land on which the facility was or would be located, would be exempt from taxation under the Act for the period beginning on the effective date of the certificate and continuing as long as the certificate was in force.

The bills are tie-barred.

MCL 211.9 & 211.9f (H.B. 4318)

BRIEF RATIONALE

Generally, utility-scale solar facilities are facilities that have at least two megawatts of nameplate capacity. According to testimony, the property tax valuation of these facilities has been inconsistent and contentious, at times resulting in litigation between local governments and facility owners. Some people believe that this litigation burdens local governments and delays the buildout of renewable energy in the State. It has been suggested that a payment in lieu of taxes be established to standardize the tax valuation of these facilities.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

House Bills 4317 and 4318 are reintroductions of Senate Bills 1106 and 1107 from the 2021-2022 Legislative Session. The Senate Committee on Energy and Technology held a hearing on the Senate Bills, but they received no further action.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bills likely would have an indeterminate, although likely negative, fiscal impact on local governments of unknown magnitude. Qualified facilities that received an exemption would be exempt from property taxes, including school operating millages and the State Education Tax (SET). However, most facilities likely are (or would be) exempt from the SET and local school operating mills under existing exemptions. The facilities tax they would have to pay under the bill would be distributed in the same proportion as the property taxes exempted.

Because the decision to create a solar energy district would be voluntary, a qualified facility likely would be responsible for a facilities tax that was less than the property taxes that otherwise would be owed for the facility. Assuming that to be the case, all affected taxing jurisdictions would receive less revenue than under current law. For any facilities that otherwise would not be exempt from the SET and local school operating mills, State revenue from the SET to the School Aid Fund would be reduced, and the State costs of the foundation allowance would increase if the per pupil foundation allowance were maintained. The fiscal impact for any given jurisdiction would depend on the specific characteristics of the facility exempted, as well as the taxable value of the facility and local millage rates.

Date Completed: 6-27-23

Fiscal Analyst: Bobby Canell

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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.