

**SUBSTITUTE FOR
HOUSE BILL NO. 4317**

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 on 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

1 facility.

2 (b) "Commission" means the state tax commission created by
3 1927 PA 360, MCL 209.101 to 209.107.

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

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

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

12 (f) "Qualified solar energy facility" or "qualified facility"
13 means a facility, whether owned or leased, that when constructed
14 and placed in service is located in a solar energy district and
15 that uses or will use solar energy as the sole source for the
16 generation of at least 2 megawatts of nameplate capacity,
17 alternating current, including any solar modules, inverter, racks,
18 tracking, on-site battery storage systems if identified in the
19 application pursuant to section 4(1)(a), controls, electric
20 interface, and all components that are positioned up to, and
21 including, the inversion of the current delivered from the
22 facility. Qualified solar energy facility or qualified facility
23 also includes all land improvements, except buildings, exclusively
24 used for the generation of solar energy at the facility, including
25 access roads, security fences, and communication facilities.
26 Qualified solar energy facility or qualified facility does not
27 include any distribution or transmission lines.

28 (g) "Solar energy district" or "district" means an area in a
29 qualified local governmental unit established as provided in

1 section 3(1).

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

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

6 (j) "Taxable value" means the value determined under section
7 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

8 (k) "Unzoned qualified local governmental unit" means a
9 qualified local governmental unit that has no zoning ordinance
10 within its zoning jurisdiction.

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

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

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

22 (c) All land within an unzoned qualified local governmental
23 unit is to be considered a solar energy district for purposes of
24 this act, unless the qualified local governmental unit, before
25 receiving an application under section 5, establishes a solar
26 energy district by resolution of its governing body, which action
27 is not subject to subsections (2) and (3).

28 (2) The legislative body of a qualified local governmental
29 unit may establish a solar energy district on its own initiative or

1 upon a written request filed by the owner or owners of real
2 property comprising more than 50% of all taxable value of the
3 property located within a proposed district. The written request
4 must be filed with the clerk of the qualified local governmental
5 unit.

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

20 (4) The actions by a qualified local governmental unit to
21 either approve or disapprove a solar energy district within this
22 act are discretionary and are for solar energy facilities tax
23 purposes only.

24 Sec. 4. (1) After a district is established under section 3,
25 including any district considered to exist pursuant to section
26 3(1)(b) or (c) or simultaneously with a request to establish a
27 district, the owner or lessee of a qualified facility not yet
28 placed in service may file an application for a solar energy
29 exemption certificate with the clerk of the qualified local

1 governmental unit. The application must be filed in the manner and
2 form prescribed by the commission. The application must contain or
3 be accompanied by all of the following:

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

7 (b) A general description of the proposed use of the qualified
8 facility.

9 (c) A description of the general nature and extent of the new
10 construction.

11 (d) A time schedule for undertaking and completing the
12 qualified facility.

13 (e) Information relating to the requirements in subsection
14 (4). All cost information regarding the claim for the exemption
15 must be considered taxpayer confidential information whether in
16 possession of the department or the local assessing unit and is not
17 subject to disclosure under the freedom of information act, 1976 PA
18 442, MCL 15.231 to 15.246.

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

20 (g) For a leased qualified facility, a copy of the lease
21 agreement or other writing confirming that the lessee is liable for
22 payment of the specific tax for the length of the certificate as
23 defined in section 7, and proof of that liability.

24 (h) For a qualified facility located on leased real property
25 or an easement, a copy of the memorandum of lease or memorandum of
26 easement, which must confirm that the duration of any lease of the
27 real property where the qualified facility is located, including
28 all options to extend the duration of the lease, is equal to or
29 exceeds the duration of the certificate as described in section 7.

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

18 (3) The qualified local governmental unit may charge the
19 applicant an application fee to process an application for the
20 certificate. Except as provided in section 14, the application fee
21 must not exceed the actual cost incurred by the qualified local
22 governmental unit in processing the application or \$30,000.00,
23 whichever is less.

24 (4) Upon receipt of notice of the filing of an application as
25 provided in subsection (2), the assessor shall estimate and furnish
26 to the local legislative body of the qualified local governmental
27 unit an estimate of the assessed value and the taxable value of the
28 qualified facility not yet placed in service to which the
29 application pertains.

1 (5) Using a form prescribed by the commission, an applicant
2 may transfer an application filed under this section to another
3 party if the legislative body of the qualified local governmental
4 unit has not yet taken any action under section 5. If an applicant
5 transfers an application within 30 days before the end of the 120-
6 day period required under section 5(1), the 120-day period is
7 extended by 30 days.

8 Sec. 5. (1) The legislative body of the qualified local
9 governmental unit, not more than 120 days after receipt of the
10 application by the clerk, shall by resolution either approve or
11 disapprove the application for a certificate in accordance with all
12 provisions of this act. The clerk shall retain the original of the
13 application and resolution. If approved, the clerk shall forward a
14 copy of the application, the resolution, and the assessed and
15 taxable value estimate referenced in section 4(4) to the commission
16 within 60 days after approval or before September 30 of the year,
17 whichever is first, in order for the applicant to be able to
18 receive the certificate for the following year. If the application
19 is determined to be incomplete, the clerk shall notify the
20 applicant in writing within 60 days after receipt of the incomplete
21 application, describing the deficiency and requesting the
22 additional information. The 120-day period is reset and tolled upon
23 notification by the clerk of a deficiency until all of the
24 information requested in writing by the clerk is received by the
25 qualified local governmental unit. The applicant has 60 days to
26 correct the deficiency, or the application is void unless the
27 applicant and the qualified local governmental unit agree in
28 writing to an extension of this period not to exceed an additional
29 30 days. The extension agreement must be completed in a form and

1 manner prescribed by the commission. The determination of the
2 completeness of an application is not an approval of the
3 application. If the application is disapproved, the reasons must be
4 set forth in writing in the resolution, and the clerk shall send,
5 by certified mail, a copy of the resolution to the applicant, the
6 assessor, and the commission. A resolution approving the
7 application is not effective unless approved by the commission as
8 provided in section 6.

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

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

23 Sec. 6. (1) Not more than 90 days after receipt of a copy of a
24 complete application and resolution approving the application
25 adopted under section 5, the commission shall approve the
26 application if it determines that the qualified facility complies
27 with all provisions of this act. Placement of a qualified facility
28 in service after the date of application under section 4 does not
29 disqualify the facility from receiving approval by a qualified

1 local governmental unit under section 5 or by the commission under
2 this section.

3 (2) Following approval of the application by the legislative
4 body of the qualified local governmental unit and the commission,
5 the commission shall issue to the applicant a certificate in the
6 form the commission determines, which must contain all of the
7 following:

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

10 (b) The time schedule for undertaking and completing the
11 qualified facility.

12 (c) A statement that unless revoked as provided in this act,
13 the certificate will remain in force for the period stated in the
14 certificate.

15 (d) A statement of the estimated taxable value of the
16 qualified facility for the tax year immediately preceding the
17 effective date of the certificate after deducting the taxable value
18 of the land as determined under section 4(4).

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

21 (4) The commission shall file with the clerk of the qualified
22 local governmental unit a copy of the certificate, and the
23 commission shall maintain a record of all certificates filed. The
24 commission shall also send, by certified mail, a copy of the
25 certificate to the applicant and the assessor of the local tax
26 collecting unit in which the qualified facility is located.

27 Sec. 7. A qualified facility for which a certificate is in
28 effect, but not the land on which the qualified facility is
29 located, for the period on and after the effective date of the

1 certificate and continuing for 20 years is exempt from ad valorem
2 property taxes collected under the general property tax act, 1893
3 PA 206, MCL 211.1 to 211.155.

4 Sec. 8. (1) An owner or lessee that claims an exemption under
5 this act shall provide to the qualified local governmental unit an
6 annual form as of December 31 of each year indicating the nameplate
7 capacity in alternating current of the qualified facility. The
8 annual form must be filed in the manner and form prescribed by the
9 commission and must include, but not be limited to, the addition to
10 the facility or retirement from the facility of any equipment
11 during that year.

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

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

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

25 (3) The amount of the specific tax as prescribed in subsection
26 (2) must be reduced to \$2,000.00 per megawatt of nameplate
27 capacity, alternating current as reported on the annual form
28 prescribed under section 8(1), for a qualified facility located on
29 1 or more of the following:

1 (a) Property owned by this state either at the time of
2 installation of the qualified facility or immediately prior to a
3 sale of the property to accommodate the installation of the
4 qualified facility.

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

8 (c) Property that was used or is currently used for commercial
9 or industrial purposes and that is a facility, historic resource,
10 functionally obsolete, or blighted, as those terms are defined in
11 section 2 of the brownfield redevelopment financing act, 1996 PA
12 381, MCL 125.2652, or a site or property as those terms are defined
13 in section 21303 of the natural resources and environmental
14 protection act, 1994 PA 451, MCL 324.21303.

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

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

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

22 (6) The solar energy facilities tax is an annual tax that
23 becomes a lien on July 1, payable at the same time and to the same
24 officer or officers as taxes imposed under the general property tax
25 act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Interest must
26 be added to delinquent amounts paid after September 14 at a rate of
27 1% per month or fraction of a month. Except as otherwise provided
28 in this section, the officer or officers shall disburse the
29 specific tax payments received by the officer or officers each year

1 to and among this state, cities, school districts, townships,
2 counties, villages, and authorities by December 1 using the tax
3 rates levied in the year in the same proportions as required by law
4 for the disbursement of taxes collected on industrial personal
5 property under the general property tax act, 1893 PA 206, MCL 211.1
6 to 211.155, as of the effective date of this act.

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

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

19 (9) A qualified facility located in a renaissance zone under
20 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
21 125.2696, is exempt from the specific tax levied under this act to
22 the extent and for the duration provided pursuant to the Michigan
23 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except
24 for that portion of the specific tax attributable to a special
25 assessment or a tax described in section 7ff(2) of the general
26 property tax act, 1893 PA 206, MCL 211.7ff. The specific tax
27 calculated under this subsection must be disbursed proportionately
28 to the taxing unit or units that levied the special assessment or
29 the tax described in section 7ff(2) of the general property tax

1 act, 1893 PA 206, MCL 211.7ff.

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

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

7 (b) The qualified facility has permanently ceased operations.

8 (2) The legislative body of the qualified local governmental
9 unit may by resolution request the commission to revoke the
10 certificate of a qualified facility for any of the following
11 reasons:

12 (a) The legislative body finds that completion of the
13 qualified facility has not occurred within the time authorized by
14 the legislative body in the certificate issued under section
15 6(2)(b), an extension of that time has not been granted by
16 resolution of the qualified local governmental unit for good cause,
17 and circumstances that are beyond the control of the holder of the
18 certificate have not occurred.

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

21 (c) The qualified facility has permanently ceased operations.

22 (3) Before revocation of the certificate as described in
23 subsection (1) or upon receipt of a resolution described in
24 subsection (2), the commission shall give notice in writing by
25 certified mail to the holder of the certificate, to the local
26 legislative body, to the assessor, and to the legislative body of
27 each local taxing unit that levies taxes on property in the local
28 governmental unit in which the qualified facility is located. The
29 commission shall afford the holder of the certificate, the local

1 legislative body, the assessor, and a representative of the
2 legislative body of each taxing unit an opportunity for a hearing.
3 If the requirements in subsection (2) have not been cured, the
4 commission shall consider the resolution and by order revoke the
5 certificate.

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

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

27 (a) A written request for reinstatement is submitted to the
28 legislative body of the qualified local governmental unit in which
29 the qualified facility is located and the commission by either the

1 holder of the revoked certificate or a subsequent owner of the
2 qualified facility seeking transfer of the revoked certificate.

3 (b) The legislative body of the qualified local governmental
4 unit submits to the commission a resolution of concurrence in the
5 requested reinstatement.

6 (c) The qualified facility continues to qualify under this
7 act.

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

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

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

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

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

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

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

28 (iii) The commission reinstates a revoked certificate under
29 subsection (5).

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

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

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

10 (c) The qualified facility has not permanently ceased
11 operations.

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

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

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

24 Sec. 13. (1) The department annually shall prepare and submit
25 to the committees of the house of representatives and senate
26 responsible for tax policy and economic development issues a report
27 on the utilization of this act, based on the information filed with
28 the commission.

29 (2) After this act has been in effect for 3 years, the

1 department shall prepare and submit to the committees of the house
2 of representatives and senate responsible for tax policy and
3 economic development issues an economic analysis of the costs and
4 benefits of this act in the 3 qualified local governmental units in
5 which it has been most heavily utilized.

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

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

21 Enacting section 1. This act does not take effect unless House
22 Bill No. 4318 of the 102nd Legislature is enacted into law.