

# HOUSE BILL No. 5792

May 21, 1990, Introduced by Reps. Kosteva, Trim, DeMars, Sikkema and Brown and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 60 of Act No. 3 of the Public Acts of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as added by Act No. 2 of the Public Acts of 1989, being section 460.60 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1.   Section 60 of Act No. 3 of the Public Acts of  
2 1939, as added by Act No. 2 of the Public Acts of 1989, being

1 section 460.60 of the Michigan Compiled Laws, is amended to read  
2 as follows:

3 Sec. 60. (1) As used in this section:

4 (a) "Resource recovery facility" means a facility that meets  
5 all of the following requirements:

6 (i) Has machinery, equipment, and structures installed for  
7 the primary purpose of recovering energy through the incineration  
8 of qualified solid waste, ~~or~~ landfill gas, OR SCRAP TIRES.

9 (ii) Utilizes at least 80% of its total annual fuel input in  
10 the form of qualified solid waste, ~~or~~ at least 90% of its total  
11 annual fuel input in the form of landfill gas, OR 80% OF ITS  
12 TOTAL ANNUAL FUEL INPUT IN THE FORM OF SCRAP TIRES.

13 (iii) Is a qualifying facility as defined by the federal  
14 energy regulatory commission pursuant to the public utility regu-  
15 latory policies act of 1978, Public Law 95-617, 92 Stat. 3117.

16 (b) "Qualified solid waste" means solid waste that may be  
17 lawfully disposed of in a type II landfill as defined by  
18 R 299.4105 of the Michigan administrative code, and which is gen-  
19 erated within this state.

20 (c) "SCRAP TIRE" MEANS A TIRE THAT IS NO LONGER BEING USED  
21 FOR ITS ORIGINAL INTENDED PURPOSE.

22 (2) ~~Beginning June 30, 1989, public~~ PUBLIC utilities with  
23 more than 500,000 customers in this state shall enter into power  
24 purchase agreements for the purchase of capacity and energy from  
25 resource recovery facilities that will process qualified solid  
26 waste, at least 50.1% of which is generated within the service  
27 areas of the public utility; OR SCRAP TIRES, under rates,

1 charges, terms, and conditions of service that, for these  
2 facilities, may differ from those negotiated, authorized, or pre-  
3 scribed for purchases from qualifying facilities that are not  
4 resource recovery facilities. Including power purchase agree-  
5 ments executed prior to June 30, 1989, this section shall not  
6 apply after 120 megawatts of electric resource recovery facility  
7 capacity in a utility's service territory have been contracted  
8 and entered in commercial operation. Excluding rate provisions,  
9 if a provision or provisions of a purchase agreement remain in  
10 dispute, each party shall submit to the commission all of the  
11 purchase agreement provisions of their last best offer and a sup-  
12 porting brief. On each disputed provision, the commission shall  
13 within 60 days either select or reject with recommendation the  
14 offers submitted by either party.

15 (3) A power purchase agreement entered into by a public  
16 utility for the purchase of capacity and energy from a resource  
17 recovery facility shall be filed with the commission and a con-  
18 tested case proceeding shall commence immediately pursuant to  
19 chapter 4 of the administrative procedures act of 1969, Act  
20 No. 306 of the Public Acts of 1969, being sections 24.271 to  
21 24.287 of the Michigan Compiled Laws. Notwithstanding  
22 section 6j, a power purchase agreement shall be considered  
23 approved if the commission does not approve or disapprove the  
24 agreement within 6 months of the date of the filing of the agree-  
25 ment, or ~~the effective date of the amendatory act that added~~  
26 ~~this section~~ APRIL 3, 1989, whichever is later. Approval

1 pursuant to this subsection shall constitute prior approval under  
2 section 6j(13)(b).

3       (4) The energy rate component of all power sales contracts  
4 for resource recovery facilities shall be equal to the avoided  
5 energy cost of the purchasing utility.

6       (5) When averaged over the term of the contract, the capac-  
7 ity rate component of all power sales contracts for resource  
8 recovery facilities may be equal to but not less than the full  
9 avoided cost of the utility as determined by the commission. In  
10 determining the capacity rate, the commission may assume that the  
11 utility needs capacity.

12       (6) Capacity purchased by a utility prior to January 1, 2000  
13 under a power sales contract with a resource recovery facility  
14 shall not be considered directly or indirectly in determining the  
15 utility's reserve margin, reserve capacity, or other resource  
16 capability measurement.