

RESIDENTIAL CLEAN ENERGY PROGRAMS

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House Bill 5397

Sponsor: Rep. Joe Haveman

Committee: Energy and Technology

Complete to 3-10-14

A SUMMARY OF HOUSE BILL 5397 AS INTRODUCED 3-6-14

House Bill 5397 creates the Municipal Utility Residential Clean Energy Program Act enabling municipalities that own electric utilities to establish a program by which financing could be provided to the record owners of residential property for energy efficiency projects.

The new act would be modeled on Public Act 270 of 2010, which created the Property Assessed Clean Energy Act, and which enables municipalities to provide financing to the record owners of privately-owned commercial or industrial properties for specified energy and water conservation projects.

Title. The act is called the Municipal Utility Residential Clean Energy Program Act.

Program description. Following prescribed procedures, a municipality (a city or village that owns an electric utility) may establish a residential clean energy program (RCEP), and designate one or more districts from time to time under the program. Under an RCEP, a municipality may enter into a contract with the record owner (meaning the fee title holder or land contract vendee of record) of property within a district to finance or refinance one or more energy projects on the property. "Energy projects," as defined in the act, relate to "energy efficiency improvements" and "renewable energy systems." Both of those terms are also defined in the act. (See Definitions below.)

The financing or refinancing may include the cost of materials and labor necessary for the installation; permit fees; inspection fees; application and administrative fees; bank fees; and all other fees that may be incurred by the property owner under the installation on a specific or pro rata basis, as determined by the municipality.

Steps to establish program. To establish a residential clean energy program (RCEP), the municipality's governing body would have to:

- Adopt a resolution of intent that includes: (1) a finding that the financing of energy projects is a valid public purpose; (2) a statement of intent to provide funds for energy projects to be repaid by charges on the electric utility bills for the property benefited, with the agreement of the record owners; (3) a description of the proposed arrangements for financing the program; (4) the types of energy projects that may be financed; (5) a reference to a report on the proposed program

and where the report is available; and (6) the time and place for a public hearing on the proposed program.

- Hold a public hearing for public comment on the proposed program, including the required program report.
- Adopt a resolution or ordinance establishing the program and setting forth its terms and conditions. The resolution must (1) include the matters required to be contained in the report—the report itself, or an amended version of it, may be incorporated by reference to satisfy this requirement; and (2) if the program were established by resolution, specify which aspects of the program are amendable without a new public hearing and which aspects are amendable only after a new public hearing.

Program amendment. An RCEP may be amended by resolution of the governing body or ordinance. The governing body must hold a hearing before amending the program only if this is required under the terms of the resolution establishing the program.

RCEP financing. An RCEP established by a city may be administered by a nonprofit corporation formed under Section 40 of the Home Rule City Act. The nonprofit corporation may be funded by money appropriated by the city, transferred from the city's municipally owned electric utility, if any, or provided by private sources.

An RCEP may provide for financing energy efficiency improvements through loans made to property owners by a nonprofit corporation described above or by private lenders facilitated by the nonprofit corporation.

If a nonprofit corporation makes loans to property owners, interest on the unpaid balance would be capped at a rate of not more than 7 percent per year; the loan would have to be repaid in monthly installments, which could not exceed the anticipated useful life of the project or 120 months, whichever is less; and the lender would have to comply with all state and federal laws applicable to the extension of credit for home improvements.

An RCEP may provide for billing any fees and the monthly installment payments as a per-meter charge on an electric bill. The payment would be considered part of the charges for electric services to the property for purposes of enforcement as provided under Section 21 of the Revenue Bond Act.

Electric service could be shut off for nonpayment of the per-meter charge in the same manner and under the same procedures as used to enforce nonpayment of other electric service charges. If notice of an RCEP loan is recorded with the register of deeds for the county in which the property is located, the obligation to pay the per-meter charge would run with the land and be binding on future customers contracting for electric service to the property.

Required report; availability for review. The report on a proposed RCEP must be made available for review on the municipality's website or at the office of the clerk or other official authorized to enter into program contracts. The report must include all of the following information:

- A form of contract between the municipality and the record owner governing the terms and conditions of financing and assessment under the program.
- The official authorized to enter into program contracts on behalf of the municipality.
- A maximum aggregate annual dollar amount for all financing to be provided by the local unit of government under the program.
- An application process and eligibility requirements for financing energy projects under the program.
- A method for determining interest rates on loan installments, repayment periods, and the maximum amount of a loan.
- An explanation of how monthly installment payments on loans will be billed and collected.
- A plan for raising capital to finance improvements under the program. The plan may include: (1) the sale of bonds, subject to the Revised Municipal Finance Act (MCL 141.2101 to 141.2821); (2) amounts to be advanced by the municipality through funds available to it from any other source; and (3) owner-arranged financing from a commercial lender. Under owner-arranged financing, the municipal electric utility may collect monthly installment payments on the electric utility bills and forward payments to the commercial lender or the record owner may pay the commercial lender directly.
- Information regarding all of the following, to the extent known, or procedures to determine the following in the future: (1) any reserve fund or funds to be used as security for bonds or notes; and (2) any application, administration, or other program fees to be charged to participating record owners that will be used to finance costs incurred by the municipality as a result of the record owner's participation.
- A requirement that the term for loan repayment not exceed the useful life of the energy project paid for by the loan or 120 months, whichever is less.
- Provisions for marketing and participant education.
- Provisions for adequate debt service reserve funds.
- Quality assurance and antifraud measures.
- A requirement that a baseline energy audit be conducted before an energy project is undertaken, to establish future energy savings. After the energy project is completed, the municipality must obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended.

Definitions. Terms defined in the bill include:

"District" means a district created under a clean energy program by a municipality. A municipality may create more than one district within its territorial jurisdiction, and districts may be separate, overlapping, or coterminous.

"Energy efficiency improvement" means equipment, devices, or materials intended to decrease energy consumption, including, but not limited to, all of the following:

- Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems.
- Storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflecting glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications to reduce energy consumption.
- Automated energy control systems.
- Heating, ventilating, or air-conditioning and distribution system modifications or replacements.
- Caulking, weather-stripping, and air sealing.
- Lighting fixtures that reduce the lighting system's energy use.
- Energy recovery systems.
- Day lighting systems.
- Electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity.
- Measures to reduce water usage or to increase the efficiency of water usage.
- Any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the governing body.

"Energy project" means "the installation or modification of an energy efficiency improvement or the acquisition, installation, or improvement of a renewable energy system."

"Governing body" means the township board or the council or other elected legislative body of a city or village.

"Person" means "an individual, firm, partnership, association, corporation, unincorporated joint venture, or trust, organized, permitted, or existing under the laws of this state or any other state, including a federal corporation, or a combination thereof. However, person does not include a local unit of government."

"Property" means "privately owned residential real property located within the municipality."

"Record owner" means "the person or persons possessed of the most recent fee title or land contract vendee's interest in property as shown by the records of the county register of deeds."

"Renewable energy resource" means "a resource that naturally replenishes over a human, not a geological, time frame that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following":

- Biomass.
- Solar and solar thermal energy.
- Wind energy.
- Geothermal energy.
- Methane gas captured from a landfill.

"Renewable energy system" means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that use one or more renewable energy resources to generate electricity. Renewable energy system includes a biomass stove but does not include an incinerator or digester.

FISCAL IMPACT:

Because the lenders, borrowers, and degree to which the loans would be granted cannot be identified, it is not possible to determine any state or local fiscal impact.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.