

Legislative Analysis



POWERING MICHIGAN FORWARD

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House Bill 5145 as introduced
Sponsor: Rep. Gregory Markkanen
Committee: Energy
Revised 2-16-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5145 would amend the Clean and Renewable Energy and Energy Waste Reduction Act to revise provisions relating to the current distributed generation program to do the following:

- Remove the cap on customer participation in a distributed generation program operated by a utility or alternative electric supplier (AES).
- Increase the duration of a distributed generation program from not less than 10 years to not less than 20 years.
- Revise the definition of *modified net metering* and eliminate certain provisions to comport with the definitional change.

2016 PA 342, among other things, replaced the net metering program with a distributed generation program, although current net metering customers were allowed to remain in that program for up to 10 years after the date they entered into the program. Both of the programs enable customers of utilities or AESs to receive reimbursement from their electric supplier for electricity they generate from renewable sources (e.g., rooftop solar panels) but do not use. One of the main differences between the two programs is how participants are reimbursed for the excess electricity they generate that flows back to the electric grid. Under net metering, participants received the full retail rate, whereas under the distributed generation program, participants receive a rate determined by the utility or AES, which, in general, is closer to wholesale electricity rates.

House Bill 5145 is identical to Senate Bill 597 and is part of a broader package of legislation (HBs 5143 to 5145 and SBs 596 to 598) referred to as the Powering Michigan Forward package, which would revise provisions of the distributed generation program.

Under the 2016 legislation, the Michigan Public Service Commission (MPSC) was required to establish a distributed generation program that applied to all electric utilities whose rates are regulated by the MPSC or AESs in Michigan. The act requires the program to be designed for a period of not less than 10 years. The bill would increase the duration of the program to not less than 20 years.

The act also specifies that an electric utility or AES is not required to allow for a distributed generation program that is greater than 1% of its average in state peak load for the preceding five calendar years (although a utility or AES may exceed the 1% limit if approved by the MPSC). The utility or AES is required to notify the MPSC if its distributed generation program reaches that 1% limit. The act also specifies how that 1% is to be allocated between customers based on the amount of kilowatts the customer's equipment (electric generator or methane digester) is capable of generating. The bill would delete this provision, thus eliminating any cap or restriction on allocation between customers.

Currently, selection of customers for participation in the distributed generation program is based on the order in which the applications for participation are received by the utility or AES. The bill would delete this provision. Instead, selection would be based solely on meeting the interconnection and equipment requirements for participation. An electric utility or AES could not restrict the number of participants in the distributed generation program unless, in a hearing before the MPSC, it demonstrated to the commission's satisfaction that the restriction was necessary to protect the public health and safety or the integrity of the distribution system.

Currently, the distributed generation program must include requirements that distributed generation equipment and its installation meet all current local and state electric and construction code requirements. The act specifies that equipment certified by a nationally recognized testing laboratory to IEEE 1547.1 testing standards and in compliance with UL 1741 scope 1.1A, effective May 7, 2007, and installed in compliance with the act is considered to be compliant. The bill would also deem as compliant equipment meeting updates to those testing standards and scope approved by the MPSC.

The bill would delete a requirement that distributed generation customers with a system capable of generating 20 kilowatts or less qualify for true net metering and a requirement that customers with a system capable of generating more than 20 kilowatts qualify for modified net metering.

Currently, a charge for net metering and distributed generation customers established under section 6a of 1939 PA 3 cannot be reduced by any credit or other ratemaking mechanism for distributed generation under section 177 of this act. The bill would delete this provision.

Finally, the bill would delete from the definition of *modified net metering* a prohibition on recovering a charge for net metering and distributed generation customers established under section 6a of 1939 PA 3 more than once. The bill would also delete a provision that specifies that the definition is subject to section 177(5)—which, as described above, would also be eliminated.

House Bill 5145 would take effect 90 days after enactment and is tie-barred to HB 5144, which means that it could not take effect unless HB 5144 were also enacted into law.

MCL 460.1007, 460.1173, and 460.1177

FISCAL IMPACT:

House Bill 5145 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs. The effect of the legislation would depend on two factors: the influence that the removal of the distributed generation program cap would have on levels of program participation and the number of applications received from utilities to limit their program and the type of proceedings required to address these applications.

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