

# Legislative Analysis



## PROPERTY TAX EXEMPTION FOR SMALL-SCALE ENERGY DEVICES

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House Bill 4103 (Substitute H-3)

Sponsor: Rep. Jeff Mayes

Committee: Energy and Technology

### First Analysis (3-17-09)

**BRIEF SUMMARY:** The bill would add a new Section 7mm to the General Property Tax Act to exempt from the property tax certain eligible small-scale energy conversion devices using solar, wind, geothermal, biomass, or water energy installed before January 1, 2014. **Solar, wind, geothermal, and water** devices would have to meet standards prescribed by the Michigan Next Energy Authority to qualify. **Biomass** devices, such as wood stoves or any other devices using "biomass" as defined in Public Act 295 of 2008, would have to meet standards contained in the federal Clean Air Act and be certified by the Environmental Protection Agency to qualify.

**FISCAL IMPACT:** The fiscal impact of this bill depends on the number of the small-scale energy conversion devices that would be exempt.

### THE APPARENT PROBLEM:

Recent changes in state energy law and policy, including the Clean, Renewable, and Efficient Energy Act of 2008 (Public Act 295 of 2008) encourage individuals and businesses to install small-scale renewable energy devices to increase the amount of energy derived from renewable sources in Michigan. (For example, net metering provisions in Public Act 295 allow the owners of certain energy generation devices, such as solar panels or wind turbines, to sell excess energy to their electricity provider.) In addition, at the federal level, income tax credits exist for purchasing energy efficient devices, including solar panels, wind turbines, and biomass stoves. See *BACKGROUND INFORMATION*.

However, to the extent that installing solar panels, wind turbines, biomass stoves, or other renewable energy devices leads to an increase in the taxable value of someone's property (or a reclassification of all or part of the property for tax purposes), individuals and businesses may be reluctant to invest in them. In addition, some individuals say they have already invested in wind turbines with the understanding that installing them would not affect their property tax bill, only to find out otherwise later. As a way to encourage installation of more of these devices in Michigan, and to provide relief to people who have recently installed small-scale wind turbines on residential property, Legislation has been proposed to exempt eligible devices from taxation under the General Property Tax Act.

## **THE CONTENT OF THE BILL:**

The bill would add a new Section 7mm to the General Property Tax Act to exempt eligible small-scale solar, wind, geothermal, biomass, or water energy conversion devices from taxation under the General Property Tax Act. The bill establishes the following eligibility rules:

- Except for wind devices installed on residential property, the installation of devices would have to be completed *after* the bill's effective date and before January 1, 2014. In other words, the bill would not apply to most devices that are already completely installed when the bill takes effect but to new installations.
- Wind devices on residential real property, installed after December 31, 2007 and before January 1, 2014, would be eligible.
- Only "small-scale" devices, meaning those with a nameplate capacity of not more than 150 kilowatts, would be eligible for the property tax exemption. [Note: Although the bill appears to contemplate that the eligible devices could be used for heating, cooling, or electric supply, the definition of "small-scale" seems to be limited to devices used for electric supply.]
- **Solar, wind, geothermal, and water** energy devices would have to meet standards prescribed by the Michigan Next Energy Authority to qualify for the property tax exemption.
- **Biomass** devices would be required to use "biomass" as defined in Public Act 295 of 2008, MCL 460.1003, meet standards found in Chapter 85 of the Clean Air Act, 42 USC 7401 to 7671a, and be certified by the U.S. Environmental Protection Agency to qualify for the property tax exemption.

[Under Public Act 295 of 2008, "**biomass**" means "any organic matter that is not derived from fossil fuels, that can be converted to usable fuel for the production of energy, and that replenishes over a human, not a geological, time frame, including, but not limited to, all of the following": (1) agricultural crops and crop wastes; (2) short-rotation energy crops; (3) herbaceous plants; (4) trees and wood, but only if derived from sustainably managed forests or procurement systems, as defined in Section 261c of the Management and Budget Act, (5) paper and pulp products; (6) precommercial wood thinning waste, brush, or yard waste; (7) wood wastes and residues from the processing of wood products or paper; (8) animal wastes; (9) wastewater sludge or sewage; (10) aquatic plants; (11) food production and processing waste, and (12) organic by-products from the production of biofuels.]

- Only the "the mechanism or series of mechanisms designed primarily to collect, convert, transfer, or store for future use solar, wind, geothermal, biomass, or water energy for the purposes of heating, cooling, or electric supply," would be exempt from taxation; those parts of a system that are necessary regardless of the energy source would remain subject to taxation.

- Eligible water devices would be groundwater heat pumps and low-head hydro-energy conversion devices (except for low-head hydro-energy conversion systems owned by public utilities which would not qualify).

Proposed MCL 211.7mm

### **COMMITTEE ACTION:**

Small-scale biomass devices were not eligible devices in the bill as introduced but were added in the committee substitute (Substitute H-3). As introduced, the bill established procedures under which a device's owner would apply to the Michigan Next Energy Authority for an eligibility determination and the Michigan Tax Commission would issue an exemption certificate to the owner and the local tax collecting unit, if the device was determined to be eligible. The committee removed all provisions pertaining to these eligibility certificates.

### **BACKGROUND INFORMATION:**

Existing exemption for "alternative energy personal property." "Alternative energy personal property," including, among other things, an "alternative energy system," within the meaning of the Michigan Next Energy Act, is already exempt from the collection of taxes under Section 9i of the General Property Tax Act, MCL 211.9i. The Michigan Next Energy Act's definition of "alternative energy system," found at MCL 207.822, means the small-scale generation or release of energy from the following types of energy systems: (1) A fuel cell energy system.; (2) A photovoltaic energy system; (3) **A solar-thermal energy system;** (4) **A wind energy system;** (5) A CHP energy system; (6) A microturbine energy system; (7) A miniturbine energy system; (8) A Stirling cycle energy system; (9) A battery cell energy system; (10) A clean fuel energy system; (11) An electricity storage system; (12) **A biomass energy system;** and (13) A thermoelectric energy system. (Emphasis added.)

EPA-certified wood stoves. According to the EPA, many wood stoves and fireplace inserts sold today are certified as having low emissions by the EPA, whereas many biomass pellet stoves are not EPA certified because they are cleaner burning and are not required to be certified as having low emissions. A description of various types of wood and biomass stoves and inserts can be found on the EPA website: <http://www.epa.gov/woodstoves/basic.html>

A list of EPA-Certified Wood Stoves, as of February 9, 2009, can be found at: [www.epa.gov/Compliance/resources/publications/monitoring/caa/woodstoves/certifiedwood.pdf](http://www.epa.gov/Compliance/resources/publications/monitoring/caa/woodstoves/certifiedwood.pdf)

Federal income tax credits. Information about federal income tax credits for installing solar panels, wind turbines, biomass stoves, and other items, updated March 9, 2009 to reflect changes made by the recent federal stimulus package, can be found at: [http://www.energystar.gov/index.cfm?c=products.pr\\_tax\\_credits](http://www.energystar.gov/index.cfm?c=products.pr_tax_credits)

## **ARGUMENTS:**

### **For:**

Without the property tax exemption created by the bill, even very motivated homeowners and businesses may be reluctant to invest in small-scale renewable energy systems because of uncertainty about how the installation would affect their property taxes. This bill will keep property tax considerations from discouraging individuals and businesses from installing the types of devices that both the federal and state governments are trying to promote.

### **Response:**

Section 9i of the General Property Tax Act already exempts many "alternative energy" devices from taxation under the General Property Tax Act? Has the overlap between that exemption and the one to be created by this bill been carefully studied? For instance, under existing Section 9i, the Michigan Next Energy Authority has to certify the alternative energy property is eligible, whereas under the exemption proposed by the bill, there does not appear to be any certification process.

Given that the bill appears to cover heating, cooling, and electrical generation devices, should the definition of "small-scale" be limited, as it is currently, to electrical generation devices measured in kilowatts? (Heating devices such as geothermal heat pumps or EPA-certified wood stoves generate heat, not electricity, and would not have nameplate generation capacity measured in kilowatts.)

Does the requirement that biomass devices be certified by the EPA exclude cleaner burning biomass pellet stoves that do not need EPA certification because they are cleaner burning to begin with? Is this what is intended?

## **POSITIONS:**

The Department of Treasury supports the bill. (3-10-09)

The Michigan Assessors Association supports the bill as reported. (3-12-09)

The Indiana Michigan Power Company indicated support for the bill. (3-10-09)

The Michigan Farm Bureau indicated support of the concept of the bill. (3-10-09)

The Michigan Sustainable Energy Coalition supports the bill, but would like see the definition of "small scale" amended to include larger capacity devices in the future. (3-10-09)

Plum Creek Timber indicated support of the bill. (3-10-09)

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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.