

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 880**

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers and certain providers of electric vehicle charging services; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; 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 on the public service commission; to provide for the powers and duties of certain state governmental officers and entities; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to

allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

by amending section 9t (MCL 460.9t), as added by 2013 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9t. (1) The low-income energy assistance fund is created
2 ~~within~~**in** the state treasury.

3 (2) The state treasurer may receive money or other assets from
4 any source for deposit into the fund. The state treasurer shall
5 direct the investment of the fund ~~. The state treasurer shall and~~
6 credit to the fund interest and earnings from fund investments.
7 **Beginning December 1, 2025, and by each December 1 thereafter, the**
8 **state treasurer shall report to the commission the total amount of**
9 **money that was collected by the fund and the remaining balance of**
10 **the fund from the immediately preceding fiscal year.**

11 (3) Money in the fund at the close of the fiscal year ~~shall~~
12 ~~remain~~**remains** in the fund and ~~shall~~**does** not lapse to the general
13 fund.

14 (4) The department of licensing and regulatory affairs ~~shall~~
15 ~~be~~**is** the administrator of the fund for auditing purposes.

16 (5) Subject to the limitations imposed in this section, the
17 department of **health and** human services shall expend money from the
18 fund, ~~upon~~**on** appropriation, as provided in the Michigan energy
19 assistance act, 2012 PA 615, MCL 400.1231 to ~~400.1236.~~**400.1235.**
20 The department of **health and** human services, in consultation with
21 the ~~public service~~ commission, shall ensure that all money
22 collected for the fund from a geographic area is returned, to the
23 extent possible, to that geographic area ~~and~~ **ensure the fund is**
24 **administered to promote all of the following:**

1 (a) Statewide access to the Michigan energy assistance program
2 established in section 3 of the Michigan energy assistance act,
3 2012 PA 615, MCL 400.1233, ensuring that funds collected from a
4 specific geographic area are, to the extent possible, returned to
5 eligible low-income customers in that specific geographic area.

6 (b) Collaboration between the department of health and human
7 services, the commission, energy providers, and entities that
8 administer assistance programs to ensure that, to the extent
9 possible, eligible low-income customers in a geographic area are
10 receiving funds proportional to what customers in that geographic
11 area are being assessed.

12 (c) For energy providers and entities that administer
13 assistance programs, education and outreach on availability of the
14 assistance programs and funding.

15 (6) Beginning March 1, 2027, and by each March 1 thereafter,
16 the department of health and human services shall provide to the
17 house and senate appropriations subcommittee for the department of
18 health and human services budget and the house and senate standing
19 committees on energy a report that contains all of the following
20 information:

21 (a) The distribution of money from the fund across this state.

22 (b) A summary of total funds received and assistance awarded
23 for each county in this state.

24 (c) A summary of the education, marketing, and outreach to
25 improve the distribution of funds.

26 (7) The department of health and human services may combine
27 the report required under subsection (6) with the report required
28 under section 3 of the Michigan energy assistance act, 2012 PA 615,
29 MCL 400.1233.

1 (8) ~~(6)~~ Subject to the limitations imposed in this subsection,
2 the ~~public service~~ commission may, after an opportunity to comment,
3 annually approve a low-income energy assistance funding factor no
4 later than ~~July 31~~ **May 1** of each year for the subsequent fiscal
5 year. The low-income energy assistance funding factor ~~shall~~ **must** be
6 the same across all customer classes. ~~and shall~~ **Before the**
7 **effective date of the 2024 amendatory act that amended this**
8 **section, the low-income energy assistance funding factor must** not
9 exceed **a cap of \$1.00**. ~~The amount used by the public service~~
10 ~~commission to calculate a low-income energy assistance funding~~
11 ~~factor during each fiscal year shall not exceed \$50,000,000.00~~
12 ~~minus both the amount appropriated from the general fund in that~~
13 ~~fiscal year for home energy assistance and the amount remaining in~~
14 ~~the fund from the prior fiscal year.~~ **Beginning on the effective**
15 **date of the 2024 amendatory act that amended this section, the**
16 **commission may increase the low-income energy assistance funding**
17 **factor to \$1.25 and by not more than \$0.25 each year thereafter.**
18 **Subject to this subsection, the low-income energy assistance**
19 **funding factor must not exceed a cap of \$2.00. Beginning in 2029,**
20 **and each year thereafter, the commission shall adjust the cap on**
21 **the low-income energy assistance funding factor by the percentage**
22 **increase in the United States Consumer Price Index for the**
23 **immediately preceding calendar year. If the remaining balance**
24 **reported under subsection (2) is greater than 10% of the funds**
25 **collected by the low-income energy assistance funding factor in the**
26 **fiscal year for which the remaining balance was reported, the**
27 **commission shall set the low-income energy assistance funding**
28 **factor at a rate at which the total funds collected will not exceed**
29 **the total amount of funds collected by the low-income energy**

1 **assistance funding factor in the year for which the report under**
 2 **subsection (2) is made minus the remaining balance reported under**
 3 **subsection (2).** An electric utility, municipally owned electric
 4 utility, or cooperative electric utility that collects money under
 5 this subsection shall remit that money to the state treasurer for
 6 deposit in the fund on a monthly basis no later than 30 days after
 7 the last day in each calendar month. The electric utility,
 8 municipally owned electric utility, or cooperative electric utility
 9 shall list the low-income energy assistance funding factor as a
 10 separate line item on each customer's bill.

11 **(9)** ~~(7)~~ An electric utility, municipally owned electric
 12 utility, or cooperative electric utility **with fewer than 45,000**
 13 **residential electric customers** may elect to ~~not collect~~ **opt out of**
 14 a low-income energy assistance funding factor under this section by
 15 annually filing a notice with the public service commission by ~~July~~
 16 ~~1. Notwithstanding any other provision of this act, an electric~~
 17 ~~utility, municipally owned electric utility, or cooperative~~
 18 ~~electric utility that elects to not collect a low-income energy~~
 19 ~~assistance funding factor under this section shall not shut off~~
 20 ~~service to any residential customer from November 1 to April 15 for~~
 21 ~~nonpayment of a delinquent account.~~ **April 1. The notice filed by the**
 22 **utility must include the total number of retail billing meters the**
 23 **utility serves in this state that would be subject to the low-**
 24 **income energy assistance funding factor if the utility were not**
 25 **opting out. The utility shall provide the number of retail billing**
 26 **meters to the commission as both a total of retail billing meters**
 27 **in the utility's service territory and a total of billing meters by**
 28 **county.**

29 **(10)** An electric utility, municipally owned electric utility,

1 or cooperative electric utility that opts out under subsection (9)
2 must establish and fund an energy assistance program for its
3 residential customers that provides assistance to its residential
4 customers for both their electric and home heating needs consistent
5 with the eligibility requirements of the Michigan energy assistance
6 program established in section 3 of the Michigan energy assistance
7 act, 2012 PA 615, MCL 400.1233. An electric utility, municipally
8 owned utility, or cooperative electric utility shall ensure that
9 the funds available for energy assistance programs established
10 under this subsection are sufficient to provide assistance to all
11 eligible customers who apply, but the utility is not required to
12 spend more for an energy assistance program than what the utility
13 would have collected from the low-income energy assistance funding
14 factor if the utility did not opt out under subsection (9).

15 Beginning October 1, 2025, and annually thereafter, an electric
16 utility, municipally owned utility, or cooperative electric utility
17 that opts out under subsection (9) shall provide notice to its
18 residential customers of available energy assistance provided by
19 the utility. The notice must include a description of the program,
20 eligibility guidelines, application information, and a statement
21 that the utility's assistance program is offered instead of
22 collecting the low-income energy assistance factor. The utility
23 shall include information regarding the assistance program on its
24 website. Beginning December 1, 2026, and annually thereafter, an
25 electric utility, municipally owned utility, or cooperative
26 electric utility that opts out under subsection (9) shall submit to
27 the commission a report that contains the following information:

28 (a) The total amount of funds available for energy assistance
29 for the utility's customers.

1 (b) The total number of the utility's customers, by county,
2 that applied for energy assistance through the utility program.

3 (c) The total number of the utility's customers, by county,
4 that received assistance.

5 (d) The total amount of assistance provided to the utility's
6 customers, by county, including a description of the amount of
7 assistance provided for each home heating commodity.

8 (e) Any other information the commission considers necessary
9 to demonstrate compliance with this subsection.

10 (11) The commission may develop a template that utilities may
11 use to meet the reporting requirements of subsection (10).

12 (12) The attorney general or a customer of a municipally owned
13 utility or cooperative electric utility that opts out under
14 subsection (9) may commence a civil action for injunctive relief
15 against the municipally owned utility or cooperative electric
16 utility if that utility fails to meet the requirements of this
17 section. The attorney general or customer shall commence an action
18 under this subsection in the circuit court for the county in which
19 the principal office of the utility is located. The attorney
20 general or customer shall not file an action under this subsection
21 unless the attorney general or customer has given the utility at
22 least 60 days' written notice of the intent to sue, the basis for
23 the suit, and the relief sought. Not later than 30 days after the
24 utility receives written notice of the intent to sue, the utility
25 and the attorney general or customer shall meet and make a good-
26 faith attempt to determine if there is a credible basis for the
27 action. The utility shall take all reasonable and prudent steps
28 necessary to comply with the applicable requirements of this
29 section within 90 days after the meeting if there is a credible

1 basis for the action. If the parties do not agree as to whether
2 there is a credible basis for the action, the attorney general or
3 customer may proceed to file the suit. The commission shall ensure
4 that an electric utility that opts out under subsection (9)
5 complies with this subsection and may, after opportunity for a
6 hearing, take steps to enforce the requirements of this subsection.

7 (13) ~~(8)~~—An electric utility, municipally owned electric
8 utility, ~~or~~ cooperative electric utility, that does not opt out
9 under subsection ~~(7)~~, ~~(9)~~, or ~~an~~ association representing a
10 municipally owned electric utility or cooperative electric utility
11 that does not opt out under subsection ~~(7)~~, ~~(9)~~, shall annually
12 provide to the ~~public service~~ commission by ~~July~~ **April** 1 the number
13 of retail billing meters it serves in this state that are subject
14 to the low-income energy assistance funding factor. **The utility**
15 **shall provide the number of retail billing meters to the commission**
16 **as both a total of retail billing meters in the utility's service**
17 **territory and a total of billing meters by county.**

18 (14) ~~(9) Nothing in this~~ **This** act ~~gives~~ **does not give** the
19 ~~public service~~ commission the power to regulate a municipally owned
20 electric utility.

21 (15) ~~(10)~~—As used in this section:

22 (a) "Fund" means the low-income energy assistance fund created
23 in subsection (1).

24 (b) "Low-income energy assistance funding factor" means a
25 nonbypassable surcharge on each retail billing meter payable
26 monthly by every customer receiving a retail distribution service
27 from an electric utility, municipally owned electric utility, or
28 cooperative electric utility, that does not opt out under
29 subsection ~~(7)~~, ~~(9)~~, regardless of the identity of the customer's

1 electric generation supplier. The low-income energy assistance
2 funding factor ~~shall~~**must** not be charged on more than 1 residential
3 meter per residential site.

4 **(c) "United States Consumer Price Index" means the United**
5 **States Consumer Price Index for all urban consumers as defined and**
6 **reported by the United States Department of Labor, Bureau of Labor**
7 **Statistics.**

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 102nd Legislature are
10 enacted into law:

11 (a) Senate Bill No. 353.

12 (b) Senate Bill No. 881.