

# Alternative Energy Legislative Update

A Presentation to the  
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By  
Jennifer Utter Heston

**Fraser Trebilcock**<sup>TM</sup>  
LAWYERS

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- Full-service law firm with 40+ attorneys
- Extensive experience in nearly every specialty
- Registered as Michigan Lobbyist-Agents
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# Alternative Energy Practice Group

- Dedicated to addressing the growing needs of renewable energy producers and consumers and alternative fuel providers.
- Group consists of six attorneys with more than 100 years of energy experience.
  - Michael S. Ashton
  - Jennifer U. Heston
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# Agenda

- Legislation enacted within the past year impacting the alternative energy industry
- Legislation introduced this session that could impact the alternative energy industry
- Discussion/Comments

# Enacted Laws

- Public Act 217 of 2008
- Public Act 287 of 2008
- Public Act 295 of 2008
- Public Act 320 of 2008
- Public Act 321 of 2008
- Public Act 322 of 2008
- Public Act 329 of 2008
- Public Act 335 of 2008
- Public Act 5 of 2009
- Public Act 6 of 2009
- Public Act 26 of 2009

# Public Act 217 of 2008

(HB 4950)

- ❑ Amends the Renaissance Zone Act
- ❑ Introduced June 19, 2007
- ❑ Effective July 16, 2008
- ❑ Redefines a “renewable energy facility” to include wind and solar energy systems, in addition to biomass systems. Also redefines a “renewable energy facility” to include not just systems that create energy, but facilities focused on research, development of manufacturing of wind energy systems and solar energy systems

# Public Act 287 of 2008

(SB 1048)

- ❑ Amends the Income Tax Act
- ❑ Introduced January 22, 2008
- ❑ Effective October 6, 2008
- ❑ Creates a new Energy Star appliance income tax credit and a new renewable energy surcharge income tax credit

# Public Act 295

(SB 213)

- “Clean, Renewable, and Efficient Energy Act”
- Introduced February 20, 2002
- Effective October 6, 2008
- Numerous significant provisions

# Public Act 295

(SB 213)

- Part 1. General Provisions
- Part 2. Energy Standards
  - Subpart A. Renewable Energy
  - Subpart B. Energy Optimization
  - Subpart C. Miscellaneous
- Part 3. State Government Energy Efficiency and Conservation
- Part 4. Wind Energy Resource Zones
- Part 5. Net Metering
- Part 6. Miscellaneous Commission Provisions

# Renewable Energy

- Renewable Energy Plan
- Renewable Energy Standards
- Renewable Energy Credits
- Advanced Cleaner Energy Credits

# Renewable Energy Standards

- Renewable Energy Capacity Portfolio
  - Applies to only DTE and Consumers Energy
- Renewable Energy Credit Portfolio
  - Applies to all retail electric providers

# Renewable Energy Standards

- Renewable Energy Capacity Portfolio
  - CECo must achieve a renewable energy capacity portfolio of not less than 200 MW by December 31, 2013 and 500 MW by December 31, 2015.
  - DTE must achieve a renewable energy capacity portfolio of not less than 300 MW by December 31, 2013 and 600 MW by December 31, 2015.

# Renewable Energy Standards

- Renewable energy credit portfolio - 10% by 2015
  - A provider must determine its base line amount of renewable energy credits and then calculate the difference between its base line and 10%.
  - Providers must eliminate the differential pursuant to the following schedule:
    - 20% in 2012
    - 33.3% in 2013
    - 50% in 2014
    - 100% in 2015 and beyond

# Renewable Energy Credits

- 1 MWh = 1 Renewable Energy Credit (“REC”)
- Additional “incentive” RECs for:
  - Solar energy (2 RECs for each MWh);
  - Renewable energy, other than wind, produced at peak times (1/5 REC);
  - Renewable energy produced at off-peak times stored for use during peak times (1/5 REC);
  - Renewable energy produced from equipment constructed in Michigan (1/10 REC, only for first 3 years); and
  - Renewable energy produced from a system constructed using a workforce composed of Michigan residents (1/10 REC, only for first 3 years).

# Energy Optimization

- Energy Optimization Plan
- Minimum Energy Savings
- Energy Optimization Credits
- Cost Recovery
- Alternative Compliance Payment
- Self-Directed Plans

# Minimum Energy Savings

- Electric provider's EO program must achieve minimum savings standards:
  - 0.3% in 2008 and 2009 from 2007 sales level
  - 0.5% in 2010 from 2009 sales level
  - 0.75% in 2011 from 2010 sales level
  - 1.0% in 2012, 2013, 2014, and 2015 over prior year sales level

# Wind Energy Resource Zones

- The Board shall study Michigan's wind resource and viability of commercial wind generation, and issue a report listing regions with highest potential.
- Utilities and transmission companies shall issue a report identifying infrastructure that is needed to deliver maximum and minimum wind production potential in the regions with highest potential.
- Based on the Board report, the MPSC shall issue an order designating the area in the state likely to be the most productive of wind energy as the primary wind energy resource zone and may designate other zones.
- In conjunction with its order, the MSPC shall issue a report to the Legislature on the effect of setback requirements and noise limitations under local zoning or other ordinances.

# Net Metering

- The MPSC is required to establish rules for a statewide net metering program. Program must be for at least 10 years.
- Customers of any class shall be permitted to interconnect eligible electric generators.
- Program is limited to generators with capacity designed to meet only the customer's needs.

# Public Act 320 of 2008

(SB 1126)

- Amends the Strategic Fund Act
- Introduced February 19, 2008
- Effective December 18, 2008
- Requires the Fund to identify, publish, and market an inventory of prime sites for the location of renewable fuel plants

# Public Act 321 of 2008

(SB 1130)

- ❑ Amends the Motor Fuels Quality Act
- ❑ Introduced February 19, 2008
- ❑ Effective December 18, 2008
- ❑ Creates a “Renewable Fuels Fund”
- ❑ Requires the Department of Agriculture to administer the Fund, promote alternative fuel production and use, provide grants to improve the production of alternative fuels, and promote vehicles powered by renewable fuels

# Public Act 322 of 2008

(SB 1467)

- Amends the Income Tax Act
- Introduced September 10, 2008
- Effective December 18, 2008
- Creates an income tax check-off for deposits into the Renewable Fuels Fund

# Public Act 329 of 2008

(HB 5746)

- ❑ Amends the Renaissance Zone Act
- ❑ Introduced February 14, 2008
- ❑ Effective December 18, 2008
- ❑ Requires the Agriculture Commission's recommendation of renaissance zones for renewable energy facilities
- ❑ Requires that not fewer than 5 of the renewable energy renaissance zones be designated for facilities that focus primarily on the production of cellulosic biofuels

# Public Act 335 of 2008

(HB 5878)

- ❑ Amends the Business Tax Act
- ❑ Introduced March 11, 2008
- ❑ Effective December 23, 2008
- ❑ For tax years 2009-2011, permits a service station owner to claim a tax credit equal to 30% of the cost to convert a pump to deliver E85 or biodiesel blends

# Public Acts 5 and 6 of 2009

(HB 4515 and SB 319)

- Amend the Business Tax Act
- Effective April 6, 2009
- Allows the Michigan Economic Growth Authority (MEGA) to enter into up to three tax credit agreements, rather than one agreement, for the construction of an integrative battery cell manufacturing facility
- Allows MEGA to adopt a resolution authorizing such an agreement until October 1, 2009 rather than August 1, 2009
- Increases from \$70.0 million to \$90.0 million the total MBT credits allowed for expenses for certain vehicle engineering activities

# Public Act 26 of 2009

(SB 466)

- Amends the Business Tax Act
- Introduced April 23, 2009
- Effective May 12, 2009
- Allows the Michigan Economic Growth Authority (MEGA) to enter into up to four tax credit agreements, rather than three agreements, for the construction of an integrative battery cell manufacturing facility
- Increases from \$90.0 million to \$135.0 million the total MBT credits allowed for expenses for certain vehicle engineering activities

# Bills in Committee

- Renewables
  - General
  - Biomass
  - Solar
  - Wind
  - Portfolio Standards
  - Net Metering
- Energy Efficiency and Conservation
- Alternative Energy Vehicles
- Transportation Fuels
- Other

# Renewables - General

- HB 4004/HB 4485 – Create an income tax credit for the purchase and installation of renewable energy systems
- HB 4137 – Requires utilities to adopt a feed-in tariff for renewable energy sources
- HB 4242 – Authorizes the Public Service Commission to make no-interest loans to schools for energy efficiency improvements made in conjunction with installing a renewable energy system
- HB 4243 – Establishes the alternative energy revolving loan fund
- HB 4887 – Permits the installation of renewable energy systems on land zoned for agriculture

# Renewables - Biomass

- HB 4107 – Creates an income tax credit for the purchase and installation of biomass stoves
- HB 4170 – Creates an income tax credit for the collections of biomass made into biofuels
- HB 4241 – Provides an income tax credit for cost of biomass fuel
- HB 4484 – Provides a business tax credit for the cost of manufacturing corn-burning stoves for residential use

# Renewables - Solar

- HB 4231/HB 4338 – Provide an income tax credit for investments in residential solar systems

# Renewables - Wind

- HB 4023 – Requires certain electric providers to adopt community based energy development tariffs
- HB 4521 – Expands the personal property tax exemption to include more property associated with a wind system

# Renewables - Net Metering

- HB 4124 – Provides a business tax credit for the cost of net metered renewable energy generators
- HB 4652 – Creates an “expanded capacity metering” program for larger renewable energy systems associated with public schools, state government buildings and farms
- HB 4681 – Provides an income tax credit for the cost of net metered renewable energy systems
- SB 46 – Provides schools loans for net metering

# Energy Efficiency and Conservation

- HB 4056 – Creates an expedited building permit process for LEED certified projects
- HB 4068/HB 4069 – Create use and sales tax exemptions for certain energy conservation products
- HB 4124 – Provides a business tax credit for costs to construct/rehab LEED certified buildings
- HB 4193/HB 4926 – Provide an income tax credit for “green” investment in a residential building
- HB 4217 – Requires high efficiency lighting in state buildings
- HB 4575 – Authorizes government subdivisions to adopt “green” building codes
- HB 4630 – Provides an income tax credit for the purchase of Energy Star products
- HB 4756 – Requires the adoption of the International Energy Conservation Code
- HB 5032 – Requires a certain percentage of state-owned buildings to be LEED certified

# Alternative Energy Vehicles

- HB 4037 – For tax years 2010-2015, creates a \$250 income tax credit for the purchase of a new alternative fuel vehicle
- HB 4504 – Increases the number of business tax credits for battery cell manufacturers
- HB 4800 – Exempts from sales tax the value of a used vehicle when traded-in towards the purchase of a new alternative energy vehicle
- HB 5032 – Requires 10% of state-owned vehicles to be alternative energy vehicles by 2022
- HB 5042 – Establishes standards for state-owned, energy efficient vehicles

# Transportation Fuels

- HB 4111 – Requires gasoline without ethanol to be made available to marinas for use in watercraft
- HB 4838/SB 594 – Permit the production of ethanol on land zoned for agriculture
- SB 485 – Requires gasoline to contain 2% ethanol

# Conclusion

Questions or Comments?

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