December 6, 2007, Introduced by Reps. Mayes, Palsrok, Accavitti and Nofs and referred to the Committee on Energy and Technology.

A bill to require certain providers of electric service to establish a renewable energy program and to achieve sustainable energy goals using renewable energy and energy efficiency programs; to prescribe the powers and duties of certain state agencies and officials; and to provide for sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Biomass" means any organic matter that can be converted to usable fuel for the production of energy and is available on a renewable basis, including, but not limited to, all of the following:

(i) Agricultural crops and crop wastes.

(ii) Wood and wood wastes, including wood and wood waste from
wood product and paper processing.

(iii) Animal wastes.

(iv) Municipal wastewater sludge.

(v) Aquatic plants.

(vi) Food production and processing waste.

(vii) Municipal solid waste.

(b) "Commission" means the Michigan public service commission.

(c) "Electric utility" means a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity the commission regulates under 1909 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 460.10cc.

(d) "Installed capacity" means the total amount of electricity a renewable energy system can generate in 1 hour at full load.

(e) "Portfolio standard" is the minimum percentage of a provider's total annual retail kilowatt hour electricity sales in this state that is required to be produced from a renewable energy resource.

(f) "Provider" means any person that is in the business of selling electricity to retail customers in this state and includes all of the following:

(i) Any person or entity that is regulated by the commission for the purpose of selling electricity to retail customers.

(ii) A municipal electric provider.

(iii) A cooperative electric provider.

(iv) An alternative electric supplier.

(v) An independent investor-owned electric utility.
(g) "Renewable energy" means electricity produced using a renewable energy resource.

(h) "Renewable energy contract" means a contract to acquire renewable energy and the associated renewable energy credits from 1 or more renewable energy systems.

(i) "Renewable energy credit" means a certified credit under this act equal to 1 megawatt hour of generated renewable energy.

(j) "Renewable energy resource" means any of the following:

(i) Biomass.

(ii) Geothermal.

(iii) Solar thermal.

(iv) Photovoltaic cells and panels.

(v) Industrial cogeneration where an integrated unit generates power and either cools, heats, or controls humidity in a building or provides heating, drying, or chilling for an industrial process not including electricity generation.

(vi) An incinerator brought into service before the effective date of this act that complies with all federal and state environmental regulations.

(vii) Wind.

(viii) Hydroelectric from existing hydroelectric facilities or new hydroelectric facilities using existing dams unless those dams are modified after the effective date of this act to increase their holding capacity or further restrict water flow or in a manner that does not fully incorporate best environmental practices.

(ix) Hydroelectric from pumped storage hydroelectric facilities to the extent the water was pumped using energy generated from
renewable energy resources.

(x) Landfill gas.

(k) "Renewable energy resource" does not include the burning or heating of tires, garbage, landscape waste, construction or demolition debris, or general household, institutional, commercial, office, or industrial lunchroom waste.

(l) "Renewable energy system" means a facility, electricity generation system, or integrated set of electricity generation systems that use renewable energy resources located in this state, Illinois, Indiana, Minnesota, Ohio, Wisconsin, or the province of Ontario or of Manitoba, Canada.

(m) "Terms and conditions" includes the price that a provider of electric service is to pay to acquire electricity and the associated renewable energy credits under a renewable energy contract along with other contract provisions.

Sec. 3. By December 31, 2015, each provider shall achieve a sustainable energy portfolio. The sustainable energy portfolio shall be calculated by adding the following:

(a) The sum of the biennial and annual incremental energy savings achieved under section 7 of the energy efficient Michigan act, or the equivalent savings attributable to a provider that makes payments under section 11 of the energy efficient Michigan act.

(b) The portfolio for renewable energy achieved by the provider under this act.

Sec. 5. (1) Subject to section 11, by December 31, 2015, each provider shall meet a portfolio standard for renewable energy. The
portfolio standard is 10% of the total amount of kilowatt hours of electricity sold by the provider to its retail customers in this state during the calendar year.

(2) A provider shall comply with the renewable energy portfolio standard required in this section by obtaining renewable energy credits by any of the following means:

(a) Producing electric energy from renewable energy systems.
(b) Purchasing electric energy through a renewable energy contract.
(c) Obtaining renewable energy credits from a renewable energy system located in this state.

(3) If the provider enters a renewable energy contract after the effective date of this act, the commission shall determine whether the contract provides reasonable terms and conditions, including, but not limited to, the length of that contract.

(4) The commission shall consider all actual costs reasonably and prudently incurred by a regulated utility in meeting the requirements of this act to be a cost of service. The commission shall determine the mechanism for the recovery of those costs. However, costs incurred obtaining renewable energy credits under section 11(3) are not a recoverable cost of service.

Sec. 7. (1) The commission shall establish a system of renewable energy credits that shall be used by a provider to comply with its portfolio standard. The renewable energy credit program shall comply with all of the following:

(a) A process to certify all existing renewable energy systems operating on the effective date of this act as eligible to receive
(b) A method for the transferability of credits.

(c) For power purchase agreements that exist on the effective date of this act, the generator of the renewable energy shall be considered to own any renewable energy credits unless the ownership of the renewable energy credits is otherwise provided by contract.

(d) A renewable energy credit purchased from a source in this state shall not be required to be used in this state.

(2) One renewable energy credit shall be granted for each megawatt hour of electricity from a renewable energy resource. If both a renewable energy resource and a nonrenewable energy resource are used to generate electric energy, the commission shall grant the renewable energy credits based on the proportion of the renewable energy resource used. For purposes of complying with a renewable portfolio standard, the following additional renewable energy credits shall be counted under the following circumstances:

(a) 1-1/2 renewable energy credits for each megawatt hour of electricity from solar power.

(b) 1/10 renewable energy credit for each megawatt hour of electricity generated in this state from a renewable energy resource in this state.

(c) 1/10 renewable energy credit for each megawatt hour of electricity generated from a renewable energy resource, using equipment made in this state as determined by the commission.

(d) 1/20 renewable energy credit for each megawatt hour of electricity generated from a renewable energy resource, other than wind, at peak demand time. The commission shall determine what
(3) The commission shall establish a renewable energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The renewable energy credit certification and tracking program shall include all of the following:

(a) Certification that the renewable energy system is a qualified renewable energy system under this act.

(b) Certification that the operator of a renewable energy system is in compliance with state and federal law applicable to the operation of a renewable energy system at the time certification is granted.

(c) Determining the date that the renewable energy credit is valid for transfer under this act.

(d) A method for ensuring that renewable energy credits traded and sold under this act are properly accounted under this act.

Sec. 13. (1) The commission shall not require a municipally owned utility to purchase renewable energy credits under this act.

(2) Any person adversely affected may commence a civil action for injunctive relief against a municipally owned utility that fails to meet the requirements of this act. The action shall be commenced in the circuit court for the circuit in which the alleged violation occurred. An action shall not be filed under this subsection unless the plaintiff has given the proposed defendant and the commission at least 60 days' written notice of the plaintiff's intent to sue, the basis for the suit, and the relief
sought. In issuing a final order in an action brought under this
subsection, the court may award costs of litigation, including
reasonable attorney and expert witness fees, to the prevailing or
substantially prevailing party.

Sec. 15. (1) Each provider of electric service shall submit to
the commission an annual report that provides information relating
to the actions taken by the provider to comply with the portfolio
standard.

(2) Each provider shall submit the annual report to the
commission after the end of each calendar year and within the time
prescribed by the commission. The report shall be submitted in a
format approved by the commission.

(3) Each annual report shall include all of the following
information:

(a) The amount of electricity and renewable energy credits
that the provider generated or acquired from renewable energy
systems during the reporting period and the amount of renewable
energy credits that the provider acquired, sold, or traded during
the reporting period to comply with its portfolio standard.

(b) The capacity of each renewable energy system owned,
operated, or controlled by the provider, the total amount of
electricity generated by each system during the reporting period,
and the percentage of that total amount that was generated directly
from renewable energy.

(c) Whether, during the reporting period, the provider began
construction on, acquired, or placed into operation any renewable
energy system.
(d) Any other information that the commission determines necessary.

(4) Biennially, the commission shall file a report with the legislature that does all of the following:

(a) Summarizes data collected under this section.

(b) Discusses the status of renewable energy in this state and the effect of this act on electricity prices.

(c) Recommends changes in the definition of renewable energy resource to reflect environmentally preferable technology.

Sec. 17. The commission shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable.

Enacting section 2. This act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) House Bill No. 5383.

(b) House Bill No. 5384.

(c) House Bill No. 5520.

(d) House Bill No. 5521.

(e) House Bill No. 5522.

(f) House Bill No. 5523.

(g) House Bill No. 5524.

(h) Senate Bill No. _____ or House Bill No. 5549(request no. 05919'07).