

Ballot Proposal 3 of 2012



RENEWABLE ENERGY: 25% BY 2025

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**Ballot Proposal 2012-3
November 2012 General Election
Placed on the ballot by petition**

Complete to 10-16-12

THE CONTENT OF THE BALLOT PROPOSAL:

The following is the official language as it will appear on the ballot.

**A PROPOSAL TO AMEND THE STATE CONSTITUTION
TO ESTABLISH A STANDARD FOR RENEWABLE ENERGY**

This proposal would:

Require electric utilities to provide at least 25% of their annual retail sales of electricity from renewable energy sources, which are wind, solar, biomass, and hydropower, by 2025.

Limit to not more than 1% per year electric utility rate increases charged to consumers only to achieve compliance with the renewable energy standard.

Allow annual extensions of the deadline to meet the 25% standard in order to prevent rate increases over the 1% limit.

Require the legislature to enact additional laws to encourage the use of Michigan made equipment and employment of Michigan residents.

Should this proposal be approved?

YES ___

NO ___

BRIEF SUMMARY:

A "YES" vote would be a vote in favor of establishing a 25% renewable energy standard.
A "NO" vote would be a vote against establishing a 25% renewable energy standard.

The proposal was put on the ballot as a result of a petition from Michigan Energy, Michigan Jobs, whose website is: <http://mienergymijobs.com/>. An opposition group, Clean, Affordable, Renewable Energy for Michigan Coalition (CARE), has a website at: <http://www.careformich.com/>.

A DESCRIPTION OF THE PROPOSAL:

Proposal 3, if enacted, would add a new Section 55 to Article IV of the State Constitution to require by 2025 that 25% of each electricity provider's annual retail electricity sales be derived from the generation or purchase of electricity produced from clean renewable electric energy sources. Under the proposal, the standards should be implemented *"incrementally and in a manner that fosters a diversity of energy generation technologies."*

Also, the proposal would put into the State Constitution a statement that, *"It is the policy of Michigan to promote and encourage the use of clean and renewable electric energy resources."* The proposal says that *"Clean renewable electric energy sources, which naturally replenish over a human rather than geological time frame, are wind, solar, biomass, and hydropower."* The entire text of the proposed amendment is copied on Page 9 of this analysis.

The proposal would restrict where generation facilities used to meet the 25% standard could be located. Specifically, facilities would have to be located in Michigan or within the retail customer service territory of an electric utility, municipally-owned utility, or electric cooperative operating in Michigan.

Utilities would have to charge consumers for electricity generated from renewable sources in the same manner as for electricity generated from other sources (non-renewable sources). Utilities also would be prohibited from increasing electric rates by more than 1% each year as a result of having to comply with the 25% standard. Utilities could be granted annual extensions to meet the standard, but only to the extent demonstrated to be necessary for the utility to remain in compliance with the rate limitation.

Proposal 3 would require the Legislature to enact laws that promote and encourage the employment of Michigan residents and the use of Michigan-manufactured equipment in the production and distribution of electricity derived from renewable energy sources.

The proposal contains a severability provision that specifies that a portion held unconstitutional would be severable from the remaining portions of the enacted proposal, which would have to be implemented to the fullest possible extent.

FISCAL IMPACT:

Proposal 3 would have an indeterminate fiscal impact on the Michigan Public Service Commission (MPSC) depending on how the Legislature decides to implement the 25% renewable energy standard (RES) by 2025. The current 10% RES under Public Act 295 of 2008 is implemented by the Renewable Energy Section within the Electric Reliability Division of the MPSC. The FY 2011-12 expenditures for the Electric Reliability Division as a whole, including two additional administrative sections which implement programs unrelated to the RES, were approximately \$2.3 million.

Proposal 3 would have an indeterminate fiscal impact on local governments that own municipal electric providers to the extent that the RES affects the costs of generating electricity for these municipal electric providers; increased costs, if any, may be passed on to customers in renewable energy surcharges subject to cost caps.

BACKGROUND INFORMATION:

What is a renewable energy standard (RES)?

According to the Environmental Protection Agency (EPA), an RES is a state-based method designed to increase the generation of renewable energy by requiring electric utilities and retail providers to generate a specified minimum amount of their energy production from renewable energy sources. The goal of an RES is to encourage renewable energy development in an effort to make it more cost competitive with conventional forms of electricity generation. Generally speaking, there are three ways a utility can meet an RES: (1) by owning and operating their own renewable energy facility and utilizing the energy generated, (2) by purchasing renewable energy credits from eligible facilities that generate renewable energy, or (3) by purchasing electricity from another entity that produced it using renewable energy sources.

For an overview of renewable energy standards by state, see the following:

<http://www.ncsl.org/issues-research/energyhome/state-renewable-portfolio-standards.aspx> or http://www.dsireusa.org/documents/summarymaps/RPS_map.pdf

Current law: Public Act 295 of 2008

Public Act 295 of 2008 (referred to as PA 295) created the Clean, Renewable, and Efficient Energy Act, which established a renewable energy standard for investor-owned utilities, alternative energy suppliers, municipally owned utilities, and electric cooperatives, requiring that each produce at least 10% of their retail sales from renewable sources by 2015.¹

Under current law, electricity providers can meet the 10% RES using various methods, including generating electricity from renewable systems or purchasing renewable energy credits. Utilities can also use energy efficiency and energy optimization credits toward meeting a percentage of the RES.

Implementation of PA 295

The implementation of PA 295 is supported by statutory annual assessments on regulated public utilities in Michigan. Every two years, applicable electric providers must submit a Renewable Energy Plan (REP) to the MPSC for approval, delineating how they will comply with the RES.

MPSC staff assists electric providers with the RES compliance process through training and informational meetings. Compliance with the RES is demonstrated through the use of renewable energy certificates (RECs), whereby one REC is issued for each megawatt-

¹ [http://www.legislature.mi.gov/\(S\(3a3lu155jibqhe55to2mru55\)\)/mileg.aspx?page=getObject&objectName=2007-SB-0213](http://www.legislature.mi.gov/(S(3a3lu155jibqhe55to2mru55))/mileg.aspx?page=getObject&objectName=2007-SB-0213)

hour (MWh) of renewable energy generated. Additionally, RECs may be augmented by incentive renewable energy credits or substituted with energy optimization credits and advanced cleaner energy credits for certain projects within certain limits. RECs may be unbundled from the renewable energy for which they were issued and traded among market participants.

RECs are retired once they are used by an electric provider to satisfy the annual RES requirement. The MPSC contracts with a private third party, APX Inc., to administer the REC program. APX Inc. operates an online REC accounting system (known as the Michigan Renewable Energy Certification System or MIRECS) which tracks the issuance, exchange, and retirement of RECs. APX Inc. levies fees on electric providers and other market participants to use MIRECS and is financially solvent without support from state funds.

2012 report on the implementation of the PA 295 Renewable Energy Standard²

The MPSC reports the vast majority of electric providers are expected to be able to meet PA 295's 10% RES by 2015 and anticipates electric providers will be able to obtain required renewable energy while remaining within PA 295's rate limits. The MPSC estimates 3.8% of energy generated in 2011 was renewable and projects renewable energy will constitute 5% of energy generation in 2012 and 8.4% by 2013. Detroit Edison and Consumers Energy have driven the expansion of renewable energy and incurred the bulk of associated costs. As of 2012, wind energy represents 94% of the renewable energy generated in Michigan.

PA 295 permits electric providers to recover the incremental costs of compliance with the RES through a surcharge on customer energy bills. Detroit Edison and Wisconsin Electric Power Co. assess the statutory maximum of \$36 per year on residential customers, while Alpena Power Co. assesses \$2.88, and Consumers Energy assesses \$7.80 per residential customer per year. The MPSC reports that electric providers assessing renewable energy surcharges expended \$7.6 million on renewable energy in 2009, \$21.7 million in 2010, and an \$78.6 million in 2011 [in the 2012 MPSC report].

The MPSC worked with consultants hired by Consumers Energy to develop the required lifecycle cost of electricity generated by a new conventional coal-fired facility as a guidepost to use in comparing the costs of generating renewable energy. That levelized cost is \$133/MWh in 2008 dollars and was adopted by all electric providers. The MPSC reports that the combined average levelized contract price for renewable energy purchased by electric providers is less than the \$133/MWh levelized cost of a new conventional coal plant (with the exception of a single hydro-electric contract). The weighted combined average levelized contract price for electricity generated by all renewable sources approved by the MPSC to date is \$91/MWh, which is equal to approximately 68% of the levelized cost of a new conventional coal plant.

² http://www.michigan.gov/documents/mpsc/implementation_PA295_renewable_energy2-15-2012_376924_7.pdf

The MPSC notes that prices of renewable energy contracts have been much lower than expected and that the average levelized costs of these contracts continue to decline. The most recent contracts approved by the MPSC for wind energy had a levelized cost of \$61-\$64/MWh.³

ARGUMENTS MADE BY PROPONENTS:

** One major argument advanced by proponents of Proposal 3 is that it will spur job creation and economic development within Michigan. Their expectation is that substantial direct investments will be made in Michigan to construct, operate, and maintain renewable energy facilities. According to a study by Michigan State University's Land Policy Institute and Center for Economic Analysis and the Michigan Environmental Council, Proposal 3 would have a total job year impact of nearly 74,000. [In this study, jobs are measured by job years, meaning full employment for one person for 2080 hours in a 12-month span. This includes roughly 30,000 job years from construction and 43,000 job years from operations and maintenance. Additional jobs in manufacturing could be realized as Michigan companies gain a greater share of the market share.]

** They say requiring increased production of renewable energy will encourage additional investment in research and development. The proposal could help Michigan be a leader in innovative technologies. There was much controversy surrounding the passage of Michigan's 10% renewable energy standard. Yet, according to information from the Michigan Public Service Commission, utilities are on track to meet the current standard. Raising the standard will continue to drive innovation and growth in this sector. Continued advancements in production technology could help reduce Michigan's dependence on fossil fuels that must be imported from other states. As a result, that money will be spent within Michigan on new and existing renewable energy facilities and directly impact our economy. A Michigan State University/Michigan Environmental Council study concluded Proposal 3 would result in a \$10.3 billion total investment in renewable energy in Michigan. Michigan has already seen significant investments in renewable energy as a result of PA 295. Several companies have emerged, producing solar panels and wind turbines and working on developing battery technology to store the energy generated from renewable sources.

** Supporters say that the proposal is responsible public policy that will be good for the environment. Using more wind, solar, and other alternative energy sources will mean less pollution and cleaner and healthier air and water. They say it will help to protect the Great Lakes, reduce asthma and lung disease, and ultimately save lives.

** Proponents believe putting the renewable energy standard in the Constitution will give it more permanence. The current renewable energy standard (PA 295) is established in statute and could be changed at any time by a majority vote of the Legislature. Placing it

³ The costs of generating renewable energy are partially subsidized by the federal Production Tax Credit (PTC) for renewable energy. This tax credit will expire at the end of 2012 if Congress does not act to extend it. For more information, see: http://dsireusa.org/incentives/incentive.cfm?Incentive_Code=US13E.

in the Constitution would remove political influences and ensure changes are only made by vote of the citizens of Michigan. This would provide stability and structure to the renewable energy market.

** Proponents believe the proposal will help reduce electricity rates over the long term because increased production of renewable energy will lessen our dependence on fossil fuels. As the price of fossil fuels (mainly coal) rises, electricity rates will likely follow. Electricity rates are protected from large increases under this proposal because it contains a 1% cost cap. Specifically, utilities would be prohibited from increasing electricity rates by more than 1% per year in complying with the renewable energy standard. This would ensure that customers do not experience immediate increases in costs as a result.

** Supporters point out that diversifying the sources of Michigan's electricity reduces the risk of volatile changes in prices paid by electricity customers. When electricity is predominantly generated from a single source, fluctuations in resource prices (e.g. coal) or weather conditions (e.g. wind) will result in volatility of the electric prices paid by customers. Alternatively, if electricity is generated from a diverse mix of sources, the fluctuations of the price or condition affecting a single generation source are less likely to result in substantial market-wide changes in electrical prices.

[For a study commissioned by the Michigan Environmental Council and published by Michigan State University researchers from the Land Policy Institute and Center for Economic Analysis projecting the impact of the proposal on employment and investment, see: http://www.environmentalcouncil.org/mecReports/MSU_Jobs_Report_25x25.pdf

For a study commissioned by the Michigan Environmental Council and authored by independent analysts, estimating the impact of Proposal 3 on utility rates, see: <http://environmentalcouncil.org/mecReports/25by2025-ImpactonUtilityRates.pdf>]

ARGUMENTS MADE BY OPPONENTS:

** A major argument advanced by the opponents of Proposal 3 is that it will lead to significant increases in electric rates. In order to meet the 25% standard, utilities will be faced with one of two options: produce more of their own renewable energy or purchase renewable energy credits or renewable energy from another producer. Utilities use both methods to meet the current 10% standard. Proposal 3 contains a provision that would require that the facilities used to satisfy the 25% standard be located within Michigan or within a service area that covers a part of Michigan. If current renewable generating systems are not able to meet the increased demand, new facilities will have to be built. These projects are costly, and it is unclear how those costs would be met given the 1% cost cap. According to the Citizens Research Council⁴, rate increases that result from increased transmission costs will not be covered by the 1% cost cap. Additionally, the cost cap will not restrict a utility's ability to increase rates to make up for the increased costs of producing or buying electricity from non-renewable sources.

⁴ <http://www.crcmich.org/PUBLICAT/2010s/2012/memo1118.pdf>

** Others say that increased renewable energy production, especially from wind, will not, as opponents claim, sufficiently reduce electricity rates going forward. According to the Citizens Research Council (using data from the U.S. Energy Information Administration), Michigan generated 58.4% of its electricity from coal in 2010; only 3.6% was derived from conventional renewable sources. As coal prices continue to rise, it is reasonable to expect that electricity rates will follow suit. There is disagreement as to whether renewable sources of energy, specifically wind and solar, can significantly reduce our dependency on coal. Coal is a very efficient fuel to meet the demands of peak energy usage because output can be controlled. Since wind and solar energy production are dependent upon the wind blowing and the sun shining, there are times when these facilities cannot operate at full capacity. Additionally, there is no guarantee that wind and solar generation will coincide with peak energy demand. Most energy producers would likely prefer to invest in generation facilities that can operate at full capacity during peak demand times.

** Critics say that the constitution is not the appropriate place to establish energy policy. Many believe energy policy should be flexible and be able to adapt to meet the changing technology and market-based needs of society. Michigan's current renewable energy standard is contained in statute where it can be amended by a majority vote of the Legislature. This is the more appropriate place to set energy policy because it provides for a less complicated way to amend the standard in the future. If the constitutional 25% RES were found to be unfeasible down the road, it could only be changed through another constitutional amendment. While 29 states and the District of Columbia have a renewable energy standard in statute, if this Proposal passes, Michigan would be the only state with a renewable energy standard in its constitution.

** Some opponents speculate that provisions of current law (PA 295), which are also contained within Proposal 3, may run afoul of the U.S. Constitution's Commerce Clause. Both current law and the proposal require that the generation facilities used to meet the renewable energy standard be located in Michigan or within the service territory of a utility that operates in Michigan. The geographic restriction is designed to promote in-state generation of renewable energy and provide for in-state job and economic growth. To date, PA 295 has not been challenged on this ground, but several states have seen lawsuits filed against their renewable energy standards challenging the constitutionality of perceived discriminatory requirements for in-state generation⁵.

** Critics note that Proposal 3 appears to be in conflict with PA 295 as to which renewable energy sources could be used to meet the standard. The most glaring inconsistency is that PA 295 allows the use of geothermal energy while the ballot proposal would not. According to the Environmental Protection Agency, 28 states (including Michigan) count geothermal energy⁶ toward reaching the renewable energy standard. Further, the proposal does not explicitly mention landfill gas or municipal solid waste, which are both included as biomass under PA 295. Additionally, Proposal 3

⁵ http://tjogel.org/wp-content/uploads/2012/05/Ferrey_Final.pdf

⁶ http://www.epa.gov/chp/state-policy/renewable_fs.html

would remove a utility's ability to count energy efficiency programs toward fulfilling a portion of the RES as authorized under PA 295.

** Opponents point out that if wind power remains the primary source of renewable energy, the imposition of this new standard will require the siting and construction of a large number of wind turbines, which some people consider harmful to the landscape. There is also concern that should local residents resist siting of wind turbines, the pressure of the constitutional mandate will result ultimately in the state overriding local unit review and local sentiment.

[For a study funded by the Clean Affordable Renewable Energy for Michigan Coalition (CARE) and conducted by Public Sector Consultants, which addresses the costs of generating renewable energy versus energy from conventional sources, see:
<http://www.pscinc.com/LinkClick.aspx?fileticket=fuPX1uar-q8%3d&tabid=65>

For a study of the impact on energy costs of the current 10% renewable energy standard and the proposed 25% standard conducted by the Beacon Hill Institute for the Mackinac Center for Public Policy, see:
<http://www.mackinac.org/archives/2012/25X25STUDY.pdf>]

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■ This analysis was prepared by nonpartisan House staff for use by House members and the general public in their deliberations, and does not constitute an official statement of the intent of the proposal.

**Initiative Petition
Amendment to the Constitution**

Full Text of Proposal

Proposal to amend the Michigan constitution of 1963 by adding a new §55 to Article 4, Legislative Branch:

§55 Michigan's Clean Renewable Electric Energy Standard

Sec. 55 (1) It is the policy of Michigan to promote and encourage the use of clean renewable electric energy sources. Clean renewable electric energy sources, which naturally replenish over a human rather than geological time frame, are wind, solar, biomass and hydropower.

- (2) Beginning no later than 2025, at least 25% of each electricity provider's annual retail electricity sales in Michigan shall be derived from the generation or purchase of electricity produced from clean renewable electric energy sources. The foregoing clean renewable electric energy standard shall be implemented incrementally and in a manner that fosters a diversity of energy generation technologies. Facilities used for satisfying the standard shall be located within Michigan or within the retail customer service territory of any electric utility, municipally-owned electric utility or cooperative electric utility operating in Michigan.
- (3) Consumers shall be charged for electricity from clean renewable electric energy sources in the same manner as for electricity from other sources.
- (4) To protect consumers, compliance with the clean renewable electric energy standard shall not cause rates charged by electricity providers to increase by more than 1% in any year. Annual extensions for meeting the standard may be granted, but only to the extent demonstrated to be necessary for an electricity provider to comply with the foregoing rate limitation.
- (5) The legislature shall enact laws to promote and encourage the employment of Michigan residents and the use of equipment manufactured in Michigan in the production and distribution of electricity derived from clean renewable electric energy sources.
- (6) Any provision or portion of this section held unconstitutional shall be severable from the remaining portions, which shall be implemented to the maximum extent possible.