March 9, 2016

House Tax Policy Committee
Lansing, Michigan

Re: HB 5401 – Air/Water Pollution Tax Credits

Dear Representatives,

The Michigan Environmental Council is a coalition of over 65 environmental, conservation and faith-based groups located across the state of Michigan. We support efforts to reduce air and water pollution in order to protect public health and the natural resources of Michigan. We urge legislators to examine closely both this bill and the underlying program.

Unfortunately, due to market changes since it was created, we think this program results in more pollution than it prevents. We also think that it unfairly reduces local tax revenues in urban areas that suffer disproportionately from the air pollution that still occurs. In addition, the proposed changes to the program weaken controls that current help protect Michigan taxpayers. We recommend opposition to the bill, and urge the committee to closely examine the program to determine if it should be repealed or phased out.

**Program Overview**

The Pollution Control Tax Credit Program basically exempts equipment used to reduce air and water pollution from sales, use and property taxes. The programs have been in place since the 1970's when the federal Clean Water Act and Water Pollution Control Act were passed. However, they have outlived whatever purpose they originally served. It is important to note, that these companies are receiving tax exemption for complying with federal law.

A vast majority of the tax exemptions have gone to utilities to control pollution related energy production. However, in today's market there are pollution free alternatives in the form of renewable energy (which are required to pay 100% of their taxes). This tax exemption now has become a state subsidy for coal and natural gas and is undermining our transition to cleaner energy sources. At the same time, these facilities continue to emit air and water pollution which results in hundreds of millions of dollars in health care costs and damages annually for Michigan residents.

Phasing out these tax exemptions would significantly increase local tax revenues and help protect public health by facilitating the closure of polluting facilities

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**Proposed Changes Fail to Protect Taxpayers**

Under the current program, the MDEQ determines if a expenditures meets the criteria under the law, for example "is designed and operated primarily for the control, capture, and removal of industrial waste" under the water program. Under the proposed change that determination will be made solely by a licensed engineer employed by the company which is getting the tax break.

Under the current program there are many instances where the tax certificate is either denied or approved for an amount significantly less than requested. Personnel at the Department of Treasury will not have the expertise needed to conduct the type of analysis which will be needed to determine the proper tax treatment of equipment.

**Suggested Action**

We recommend the legislators vote "no" on the legislation or delete the repeal of Sections 324.3703 and 324.5903.

We recommend the legislature amend the bill to phase out this program by accepting no new application and reduce the exemption for current equipment over the next ten years.

Sincerely,

James Clift, Policy Director