December 21, 2020

Honorable Gretchen Whitmer, Governor
State of Michigan
111 South Capitol Avenue
Lansing, Michigan 48933

Dear Governor Whitmer,

We write to you today to express our joint local government opposition to Senate Bills 1105 and 1106 and urge you to veto this legislation. These bills attempt to mandate local units exempt utility-grade solar personal property from taxation and replace that tax revenue with a Payment In Lieu of Tax (PILT) system at a severely reduced level.

Our organizations have a history of support for alternative energy and support for the current Personal Property Tax reform system that reimburses local governments 100 percent for their Eligible Manufacturing Personal Property. We have also consistently stated our willingness to engage in a collaboratively developed PILT alternative to promote additional solar investment in Michigan.

Unfortunately, SBs 1105 and 1106 were crafted without the financial data necessary to develop an appropriate PILT reimbursement level and include provisions that run counter to local control and lacking the protections that are standard in other, existing economic development incentives utilized in Michigan.

The Michigan Department of Treasury has been working throughout the year to gather data on existing solar projects in Michigan and other states, along with analyzing the assessing treatment of that existing equipment, in order to provide a baseline that can be used by local governments and industry to craft a mechanism that both sides can support. That data and accompanying recommendations from the Department are still in process and it would be premature to approve this legislation prior to Treasury completing its review.

In addition to the need for this critical information to develop a cooperative proposal that our organizations can support, the following issues outline the reasons for our opposition to the bills before you:

- Based upon the PILT amount specified in the legislation, the proposed reimbursement to local governments and schools would amount to around .20 cents or less on the dollar for what would normally be paid for such a project—an amount we believe is inappropriate and would not subject to negotiation between the local unit and the developer under the language in the bill.
- The legislation would mandate local units to approve every eligible tax exemption application, regardless of the local unit's existing land use or development plan for the land in question. Local review and approval processes are standard

components of current local economic development incentives like the PA 198 Industrial Facilities Tax Exemption Certificate or PA 328 Personal Property Exemptions.

- Additional clarity is necessary to delineate the exemption would apply only to the personal property and not the underlying value to the land or related special assessments, including public safety or fire protection service assessments.
- Definitional language surrounding the inclusion of “any energy storage devices” and “all other equipment and materials” remains unclear as to the size, scope, and location of any such additional equipment, beyond the panels, racking systems, and related wiring that are commonly understood to be a part of such a project.
- The exemption offered in the legislation remains in effect for an undefined period, based upon when the project “permanently” ceases operation, with no parameters for who determines that permanent cessation. This also runs counter to many existing economic development incentives that have specific time periods that the exemption may remain in effect.
- The proposed language does not offer any allowance for an audit or other compliance enforcement, outside of the placement of a lien for nonpayment of the annual PILT.
- Penalty or interest on unpaid payments are not included nor any requirement to post a performance bond or other protection against abandonment and necessary site restoration if the developer walks away from the project in the future. Again, these are provisions that are standard in other existing economic development incentives.

Our organizations remain committed to working with the Legislature and the Administration to cooperatively develop an incentive that will promote solar development in Michigan, while also balancing the needs of local governments and the residents they serve.

We ask that you reject these bills at this time and urge the stakeholders to work together on a mutually agreeable proposal next term.

Thank you,

Judy Allen
Director of Government Relations
Michigan Townships Association

Deena Bosworth
Director of Government Affairs
Michigan Association of Counties

Chris Hackbarth
Director, State and Federal Affairs
Michigan Municipal League