

**MIRS Newsletter**  
**September 18, 2008**

**Energy Passes At Last**

After months of being "90 percent there," the alternative energy package that kept most of the Lansing lobbyist corps gainfully employed since last fall finally passed the Legislature today.

Gov. Jennifer [GRANHOLM](#), who had long championed the package and led a town hall on energy at the Democratic National Convention, was already touting it on her trade mission in Japan. She and Democrats claim it will create 30,000 new jobs, although Senate Majority Leader Mike [BISHOP](#) (R-Rochester), who ultimately supported it, was skeptical.

[SB 0213](#) and [HB 5524](#), which were tie-barred, both shot out of conference committee this morning after *MIRS* confirmed before 10 a.m. that a deal was reached. The last piece worked out Wednesday night was on net metering, making [SB 0213](#) "an omnibus bill," said Sen. Patty [BIRKHOLZ](#) (R-Saugatuck), the legislation's sponsor.

Birkholz and Sen. Randy [RICHARDVILLE](#) (R-Monroe) become the go-to sources on the legislation in the Senate while Rep. Jeff [MAYES](#) (D-Bay City), Rep. Mike [NOFS](#) (R-Battle Creek) and Rep. Frank [ACCAVITTI](#) (D-Eastpointe) became key negotiators in the House.

In the end, the bills won over enough Senate Republicans and dashed the hopes of smaller energy companies and those clamoring for more consumer choice. Back in June, the package was about 80 percent there, sources tell *MIRS*, with [SB 0213](#) being the stickier of the two.

[SB 0213](#), which created new alternative energy goals and a projected \$200 million energy efficiency program, passed 83-24 in the House. Voting no were all Republicans: Reps. Dan [ACCAVATTI](#) (R-Chesterfield), Dave [AGEMA](#) (R-Grandville), Fran [AMOS](#) (R-Waterford), Jack [BRANDENBURG](#) (R-Harrison Twp.), Tom [CASPERSON](#) (R-Escanaba), Craig [DEROCHE](#) (R-Novi), Kevin [ELSENHEIMER](#) (R-Bellaire), Judy [EMMONS](#) (R-Sheridan), John [GARFIELD](#) (R-Rochester), Jack [HOOGENDYK](#) (R-Kalamazoo), Bill [HUIZENGA](#) (R-Zeeland), David [LAW](#) (R-Commerce Twp.), Arlan [MEEKHOF](#) (R-Olive Twp.), John [MOOLENAAR](#) (R-Midland), Chuck [MOSS](#) (R-Birmingham), Neal [NITZ](#) (R-Baroda), Brian [PALMER](#) (R-Romeo), Phil [PAVLOV](#) (R-St. Clair), David [ROBERTSON](#) (R-Grand Blanc), Rick [SHAFFER](#) (R-Three Rivers), Fulton [SHEEN](#) (R-Plainwell), John [STAHL](#) (R-North Branch), John [STAKOE](#) (R-Highland) and Glenn [STEIL](#) (R-Grand Rapids).

The Senate voted 26-10. Voting no were Sens. Cameron [BROWN](#) (R-Fawn River Twp.), Tom [GEORGE](#) (R-Texas Twp.), Ron [JELINEK](#) (R-Three Oaks), Wayne [KUIPERS](#) (R-Holland), John [PAPPAGEORGE](#) (R-Troy), Alan [SANBORN](#) (R-Richmond), Nancy [CASSIS](#) (R-Novi), Alan [CROPSEY](#) (R-DeWitt), Roger [KAHN](#) (R-Saginaw) and Mark [JANSEN](#) (R-Cutlerville).

Energy Policy Chair Bruce [PATTERSON](#) (R-Canton), who unexpectedly sprung the bills from committee this summer after clashing with leadership, left shortly after session began for a family emergency and

was excused from voting. Sen. Randy [RICHARDVILLE](#) (R-Monroe) praised him for "thinking in a big picture way" about energy and Bishop noted his extensive knowledge on the issue, but said he "wouldn't speak to why he wasn't here today." Sen. Valde [GARCIA](#) (R-Howell) also was excused.

The House voted 78-29 on [HB 5524](#), which guarantees DTE and Consumers Energy 90 percent of the future energy market and ends industry's subsidies of consumers' rates. Voting against it were the same cast as SB 213 with the exception of Elsenheimer, Moolenaar and Robertson who voted yes and the following House members who voted no: Reps. Robert [DEAN](#) (D-Grand Rapids), Kevin [GREEN](#) (R-Wyoming), Jim [MARLEAU](#) (R-Lake Orion), Kim [MELTZER](#) (R-Clinton Twp.), Paul [OPSOMMER](#) (R-DeWitt), Tom [PEARCE](#) (R-Rockford), Bettie Cook [SCOTT](#) (D-Detroit) and Lorence [WENKE](#) (R-Richland).

[HB 5524](#) passed the Senate, 25-11. Voting no were Brown, Birkholz, George, Jansen, Jelinek, Kahn, Kuipers, Sanborn, Sen. Bill [HARDIMAN](#) (R-Kentwood), Sen. Jerry [VAN WOERKOM](#) (R-Norton Shores) and Sen. Gretchen [WHITMER](#) (D-East Lansing).

Getting Immediate Effect proved a challenge and after the board held at 25 votes for several minutes, the lights flickered off at 3:23 p.m., prompting hearty laughter.

"All right, I'll vote for it," grinned Sanborn.

Shortly afterward, Sen. Glenn [ANDERSON](#) (D-Westland), who had been a holdout on last year's tax vote, finally went green, bringing the Senate to the required two-thirds majority.

A third bill on energy efficiency, [SB 1048](#) sponsored by Birkholz, also passed 36-0 in the Senate and 106-0 in the House.

[SB 0213](#) ballooned from nine pages to 102. It ended up encompassing a 10 percent mandated Renewable Portfolio Standard (RPS) by 2015, which includes solar, biomass, wind, hydro, geothermal, municipal solid waste and landfill gas. Consumers must build or purchase 200 megawatts of new renewable energy by 2013 and 500 mw by 2015. DTE has to build or purchase 300 mw by 2013 and 600 mw by 2015.

The Michigan Public Service Commission (MPSC) could grant two deadline extensions for the 2015 deadline, including feasibility limitations, equipment costs and availability, transmission and interconnection, electric system reliability and labor shortages. If two extensions are granted, the provider could petition the MPSC to be in compliance.

The cost cap for renewables is \$3 per month for residential, \$16.58 per month for commercial secondary and \$187.50 for commercial primary or industrial. If providers don't meet the RPS, they can't recoup the cost of purchasing renewable energy credits from ratepayers.

There is \$40 million in consumer tax credits for energy efficiency. And there's a net metering provision

that allows consumers to sell energy back on the grid.

The bill ended up containing elements from [HB 5525](#), [HB 5548](#) and [HB 5549](#). The conference report on [SB 0213](#) was unanimously approved.

Brown was the lone no vote on the Conference Committee report on [HB 5524](#), which curtailed electric choice to guarantee a market for Consumers Energy and DTE and deskewed rates so that business is no longer subsidizing residential consumers. Brown offered an amendment that would have provided certainty for DTE and Consumers, while keeping consumer choice, that also failed 5-1.

He decried the process as a "flawed one at best" and said the bill was "vastly overreaching" and "decidedly contrary to free market principles." Brown said rates could jump 25 percent because of the legislation.

"The Conference Committee report will not play well in the court of public opinion, nor in the pocketbooks of the hardworking men and women of this state," Brown predicted.

Accavitti tried to lighten the mood, declaring, "I think I had black hair and 20/20 vision when we started the process."

He thanked a number of people for their hard work, singling out Nofs, whom Accavitti inadvertently called "Mr. Chairman" after he took over in 2007.

"He probably didn't correct you, either," cracked Richardville.

The term-limited Nofs got downright nostalgic about the process that started about two years ago, gushing that the conference bills were even better than the House versions "which were pretty good bills."

[HB 5524](#) tampers with P.A. 141. Opponents claim this kills customer choice in favor of the two incumbent utilities, but proponents say currently others are only 2.5 percent of the market. With 10 percent allowed under the bill, Richardville said this actually increases competition four-fold.

The controversial deskewing provision means business will no longer subsidize consumer rates. That's capped at 2.5 percent over five years.

The bill provides a 25 percent income tax credit to residents for rate increases due to the RPS for the first three years. The bill also requires utility companies to clearly list the cost of RPS fees on customer bills.

Cost overruns for new plants are limited to 10 percent for new plants, which means added costs passed on to consumers up front. Nofs argues that in the 14 years it takes to build a nuclear plant, 10 percent is

low and Richardville said this is the standard used for roads. But Brown said that on a \$5 billion plant, ratepayers could be on the hook for \$500 million and that's not fair.

A certificate of need for combing \$500 million in investments over a six-year period are put into one CON. The MPSC Chair will not report directly to the Governor. There also were two carve-outs for two companies, Tondu and Cleveland Cliffs.

After the conference committees, many were eager to get the bills through so as not to lose Senate Republican votes. Richardville said opponents were already doing push polls in various districts telling people their electric rates would go up.

On the Senate floor, Sen. Liz [BRATER](#) (D-Ann Arbor) was quick to praise the Governor and [SB 0213](#)'s job-creating potential. She said it sends the message that "Michigan is open for business."

Sen. Michelle [MCMANUS](#) (R-Lake Leelanau) made the argument that the MPSC and other proponents have been making for years that doing nothing was the costlier solution.

"Had we done nothing, energy rates would have increased and Michigan would have lost out on billions of dollars worth of new jobs and investment. The cutting-edge, clean energy technologies brought forth in this plan will create good-paying jobs and will help ensure a safe and reliable energy future for Michigan residents and job providers," she said.

However, Kuipers slammed it as "the wrong outcome at the wrong time," also warning of a "massive rate hike at a time we can least afford it" with 8.9 percent unemployment.

"I would urge my colleagues to think long and hard in the five minutes you have left before we vote," he said. Within 30 seconds, the board was open and the bill passed a minute later.

Brown once again voiced his opposition to [HB 5524](#) and said the Big Three would have loved for Michigan to guarantee them a 90 percent share of the market, but they never did that for them and so shouldn't appease the two major utilities.

Bishop said he viewed this as a long-range energy plan and not a job-creator. He acknowledged it was hard to vote for, as it was for many in the Senate GOP caucus. Bishop said this allowed Michigan to take control of its energy destiny and be less dependent on foreign sources, which will mean prices will eventually be driven down.

He said Michigan's RPS was well-chosen at 10 percent, saying other states with 25 percent went for the "unattainable and unrealistic."

"There are a number of leaders on renewable energy nationwide and now Michigan is in that game," Bishop said.

Both conference reports passed in the House without one second of debate.

After session, Minority Leader DeRoche acknowledged the need to diversify the state's energy portfolio, something Republican presidential nominee John **McCAIN** has discussed, but he said he didn't like how the bill gave the utilities the ability to claim some of the costs of future generation from ratepayers up front.

"The company is supposed to take the risk, not my grandmother," he said.

Mayes countered that the up-front costs were kept to a minimum, but that some were needed in order to smooth out the ultimate "sticker shock" ratepayers would ultimately see when a new power plant finally came on line.

Dillon defended his decision to hold a vote on the issue, which could be used against House candidates in the weeks preceding the Nov. 4 election, by pointing to the public's frustration with rising energy prices.

"When gas went up to \$4 a gallon, they were frustrated," Dillon said of voters. "We had no energy policy in this state and there's no reason to suspect that what is happening to gas won't happen to electricity. The public is getting it and what is happening."

Dillon, Mayes and Rep. David [PALSROK](#) (R-Manistee) stressed that the cost of doing nothing is significantly more than the cost of the package. Mayes pointed to an MPSC report that energy costs were going up 20 percent a year. The Senate Fiscal Agency estimated in May that the bills, at the time, would mean a 4.4 percent hike in rates for DTE customers and a 4.6 percent hike for Consumers customers.

Nofs said today's package was about Michigan liberating itself from out-of-state energy.

"We control our own destiny on energy with this. Right now, we're at the whims of others," he said. "Yesterday, we didn't control our own destiny. Today, we do."