

Act No. 120
Public Acts of 2016
Approved by the Governor
May 19, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Rep. Pscholka

ENROLLED HOUSE BILL No. 4991

AN ACT to amend 1895 PA 3, entitled “An act to provide for the government of certain villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies,” by amending section 36 (MCL 68.36), as amended by 2002 PA 276.

The People of the State of Michigan enact:

Sec. 36. (1) The council of a village may provide by resolution for the acquisition or financing of energy conservation improvements to be made to village facilities or infrastructure and may pay for the improvements or the financing or refunding of the improvements from operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating, ventilating, or air-conditioning system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating, ventilating, or air-conditioning controls, entrance or exit way closures, information technology improvements associated with an energy conservation improvement, and municipal utility improvements associated with an energy conservation improvement.

(2) The council of a village may acquire, finance, or refund 1 or more of the energy conservation improvements described in subsection (1) by installment contract, which may include a lease-purchase agreement described in subsection (5), or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract, a lease-purchase agreement described in subsection (5), or notes issued pursuant to this subsection shall extend for a period of time not to exceed 20 years from the date of the final completion of the energy conservation improvements or the useful life of the aggregate energy conservation improvements, whichever is less. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the village, payable from tax levies and the general fund as pledged by the council of the village. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. A lease-purchase agreement issued pursuant to this subsection shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall not be a municipal security or a debt as those terms are defined in that act. This subsection does not limit in any manner the borrowing or bonding authority of a village as provided by law.

(3) Prior to entering into a contract for energy conservation improvements under this section, the village council shall determine the following information and, within 60 days of the completion of the improvements, shall report the following information to the department of treasury:

- (a) Name of each facility to which an improvement is made and a description of the energy conservation improvement.
- (b) Actual energy consumption during the 12-month period before commencement of the improvement.
- (c) Project costs and expenditures, including the total of all lease payments over the duration of the lease-purchase agreement.
- (d) Estimated annual energy savings, including projected savings over the duration of the installment contract.

(4) If energy conservation improvements are made as provided in this section, the village council shall report to the department of treasury, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the department of treasury.

(5) An installment contract described in this section may include a lease-purchase agreement, which may be a multiyear contractual obligation that provides for automatic renewal unless positive action is taken by the legislative body to terminate that contract. Payments under a lease-purchase agreement shall be a current operating expense subject to annual appropriations of funds by the legislative body and shall obligate the legislative body only for those sums payable during the fiscal year of contract execution or any renewal year thereafter. The legislative body may make payments under a lease-purchase agreement from any legally available funds or from a combination of energy or operational savings, capital contributions, future replacement costs avoided, or billable revenue enhancements that result from energy conservation improvements, provided that the legislative body has determined that those funds are sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the energy conservation improvements. The lease-purchase agreement will terminate immediately and absolutely and without further obligation on the part of the legislative body at the close of the fiscal year in which it was executed or renewed or at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the legislative body under the lease-purchase agreement. During the term of the lease-purchase agreement, the legislative body shall be the vested owner of the energy conservation improvements and may grant a security interest in the energy conservation improvements to the provider of the lease-purchase agreement. Upon the termination of the lease-purchase agreement and the satisfaction of the obligations of the legislative body, the provider of the lease-purchase agreement shall release its security interest in the energy conservation improvements.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor