



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 4990 (Substitute S-1)  
House Bill 4991 (Substitute S-1)  
House Bill 4992 (Substitute S-1)  
House Bill 4993 (Substitute S-1)  
House Bill 4994 (Substitute S-1)  
Sponsor: Representative Al Pscholka  
House Committee: Local Government  
Senate Committee: Local Government

Date Completed: 4-18-16

**CONTENT**

**The bills would amend provisions of various statutes that authorize local units of government to acquire energy conservation improvements, to do the following:**

- **Include a lease-purchase agreement among the mechanisms a local unit may use to acquire or finance energy conservation improvements.**
- **Specify conditions that would apply to a lease-purchase agreement.**
- **Increase from 10 years to 20 years the period over which a local unit may borrow money or contract for energy conservation improvements, and extend the 20-year limit to a lease-purchase agreement.**
- **Expand the types of energy conservation improvements authorized.**
- **Revise reporting requirements pertaining to energy conservation improvements.**

House Bill 4990 (S-1) would amend the Home Rule City Act. House Bill 4991 (S-1) would amend the General Law Village Act. House Bill 4992 (S-1) would amend the Home Rule Village Act. House Bill 4993 (S-1) would amend Chapter 16 of the Revised Statutes of 1846, which deals with the powers and duties of townships. House Bill 4994 (S-1) would amend Public Act 156 of 1851, which defines the powers and duties of county boards of commissioners.

Each bill would take effect 90 days after enactment.

**Energy Conservation Improvements**

Under each of the Acts that the bills would amend, a local unit of government (through its legislative or governing body) may provide for energy conservation improvements to be made to the local unit's facilities and may pay for those improvements from its general fund or the savings that result from the improvements. Under the bills, a local unit could provide for the acquisition or financing of energy conservation improvements to be made to the local unit's facilities or infrastructure. The local unit could pay for the improvements, or the financing or refunding of the improvements, from its general fund or the resulting savings.

Currently, energy conservation improvements may include, but are not limited to, the following:

- Heating system improvements.

- Fenestration improvements.
- Roof improvements.
- The installation of any insulation.
- The installation or repair of heating controls.
- Entrance or exit way closures.

Under the bills, energy conservation improvements also could include any of the following:

- Ventilating or air-conditioning system improvements.
- The installation or repair of ventilating or air-conditioning controls.
- Information technology improvements associated with an energy conservation improvement.
- Municipal utility improvements associated with an energy conservation improvement.

### Funding of the Improvements

The Acts specify that local units may acquire one or more of the appropriate energy conservation improvements by installment contract, borrow money and issue notes for the purpose of securing funds for the improvement, or enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the improvements. The bills would allow local units to acquire, finance, or refund the improvements in any of those manners. The bills also specify that an installment contract could include a lease-purchase agreement.

Currently, an installment contract or notes issued to secure funds for energy conservation improvements may extend for a period of up to 10 years. Under the bills, an installment contract, a lease-purchase agreement, or notes issued to secure funds for the improvements could extend for up to 20 years from the date of completion of the energy conservation improvements or the useful life of the aggregate energy conservation improvements, whichever was shorter.

### Report to the PSC

Under each of the Acts, if energy conservation improvements are made, the local unit must report the following information to the Michigan Public Service Commission (PSC) within 60 days of completion of the improvements:

- The name of each facility to which an improvement is made and a description of the improvement.
- Actual energy consumption during the 12-month period before completion of the improvement.
- Project costs and expenditures.
- Estimated annual energy savings.

Under the bills, instead, before entering into a contract for energy conservation improvements, the local unit would have to determine the following information and, within 60 days of the completion of the improvements, report that information to the PSC:

- The name of each facility to which an improvement was made and a description of the improvement.
- Actual energy consumption during the 12-month period before commencement of the improvement.
- Project costs and expenditures, including the total of all lease payments over the duration of a lease-purchase agreement.
- Estimated annual energy savings, including projected savings over the duration of an installment contract.

## Lease-Purchase Agreement

The bills specify that a lease-purchase agreement could be a multiyear contractual obligation that provided for automatic renewal unless the local unit took positive action to terminate the contract. Payments under a lease-purchase agreement would have to be a current operating expense subject to annual appropriations of funds and would obligate the local unit only for the sums payable during the fiscal year of contract execution or any later renewal year.

The local unit could 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 resulted from energy conservation improvements. The local unit would have to determine that those funds were sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the improvements.

A lease-purchase agreement would terminate immediately and absolutely, and without further obligation on the part of the local unit, at the close of the fiscal year in which the agreement was executed or renewed or when appropriated and otherwise unobligated funds were no longer available to satisfy the local unit's obligations under the lease-purchase agreement. During the term of the agreement, the local unit would be the vested owner of the energy conservation improvements and could grant a security interest in the improvements to the provider of the lease-purchase agreement. Upon the termination of the lease-purchase agreement and the satisfaction of the local unit's obligations, the provider of the agreement would have to release its security interest in the energy conservation improvements.

The bills specify that a lease-purchase agreement would not be subject to the Revised Municipal Finance Act and would not be a municipal security or a debt as those terms are defined in that Act.

MCL 117.5f (H.B. 4990)  
68.36 (H.B. 4991)  
78.24b (H.B. 4992)  
41.75b (H.B. 4993)  
46.11c (H.B. 4994)

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bills would tend to reduce the cost of local government by providing expanded financing options for energy conservation improvements. The fiscal impact on a particular local governmental unit would depend on local decisions to undertake and finance energy conservation and related information technology and municipal utility improvements under the options proposed by the bills, and the cost and return of specific projects.

The bills would have no fiscal impact on State government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.