

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4993

A bill to amend 1846 RS 16, entitled
"Of the powers and duties of townships, the election and duties of
township officers, and the division of townships,"
by amending section 75b (MCL 41.75b), as amended by 2002 PA 226.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 75b. (1) A township board may provide for **THE ACQUISITION**
2 **OR FINANCING OF** energy conservation improvements to be made to
3 township facilities **OR INFRASTRUCTURE** and may pay for the
4 improvements **OR THE FINANCING OR REFUNDING OF THE IMPROVEMENTS** from
5 operating funds of the township or from the savings that result
6 from the energy conservation improvements. Energy conservation
7 improvements may include, but are not limited to, heating,
8 **VENTILATING, OR AIR-CONDITIONING** system improvements, fenestration
9 improvements, roof improvements, the installation of any
10 insulation, the installation or repair of heating, **VENTILATING,** or

1 ~~air conditioning~~ **AIR-CONDITIONING** controls, and ~~entrance or exit~~
2 way closures, **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH**
3 **AN ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY**
4 **IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

5 (2) The township board may acquire, **FINANCE, OR REFUND** 1 or
6 more of the energy conservation improvements described in
7 subsection (1) by installment contract, **WHICH MAY INCLUDE A LEASE-**
8 **PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),** or may borrow money
9 and issue notes for the purpose of securing funds for the
10 improvements or may enter into contracts in which the cost of the
11 energy conservation improvements is paid from a portion of the
12 savings that result from the energy conservation improvements.
13 These contractual agreements may provide that the cost of the
14 energy conservation improvements are paid only if the energy
15 savings are sufficient to cover their cost. An installment
16 contract, **A LEASE-PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5),**
17 or notes issued pursuant to this subsection shall extend for a
18 period of time not to exceed ~~10~~**20** years **FROM THE DATE OF THE FINAL**
19 **COMPLETION OF THE ENERGY CONSERVATION IMPROVEMENTS OR THE USEFUL**
20 **LIFE OF THE AGGREGATE ENERGY CONSERVATION IMPROVEMENTS, WHICHEVER**
21 **IS LESS.** Notes issued pursuant to this subsection shall be full
22 faith and credit, tax limited obligations of the township, payable
23 from tax levies and the general fund as pledged by the township
24 board. The notes are subject to the revised municipal finance act,
25 2001 PA 34, MCL 141.2101 to 141.2821. **A LEASE-PURCHASE AGREEMENT**
26 **ISSUED PURSUANT TO THIS SUBSECTION SHALL NOT BE SUBJECT TO THE**
27 **REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO**

1 141.2821, AND SHALL NOT BE A MUNICIPAL SECURITY OR A DEBT AS THOSE
2 TERMS ARE DEFINED IN THAT ACT. This subsection does not limit in
3 any manner the borrowing or bonding authority of a township as
4 provided by law.

5 (3) ~~IF PRIOR TO ENTERING INTO A CONTRACT FOR~~ energy
6 conservation improvements are ~~made as provided in~~ UNDER this
7 section, the township board shall DETERMINE THE FOLLOWING
8 INFORMATION AND, WITHIN 60 DAYS OF THE COMPLETION OF THE
9 IMPROVEMENTS, SHALL report the following information to the
10 Michigan public service commission: ~~within 60 days of the~~
11 ~~completion of the improvements.~~

12 (a) Name of each facility to which an improvement is made and
13 a description of the ENERGY conservation improvement.

14 (b) Actual energy consumption during the 12-month period
15 before ~~completion~~ COMMENCEMENT of the improvement.

16 (c) Project costs and expenditures, INCLUDING THE TOTAL OF ALL
17 LEASE PAYMENTS OVER THE DURATION OF THE LEASE-PURCHASE AGREEMENT.

18 (d) Estimated annual energy savings, INCLUDING PROJECTED
19 SAVINGS OVER THE DURATION OF THE INSTALLMENT CONTRACT.

20 (4) If energy conservation improvements are made as provided
21 in this section, the township board shall report to the Michigan
22 public service commission, by July 1 of each of the 5 years after
23 the improvements are completed, only the actual annual energy
24 consumption of each facility to which improvements are made. The
25 forms for the reports required by this section shall be furnished
26 by the Michigan public service commission.

27 (5) AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY

1 INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR
2 CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS
3 POSITIVE ACTION IS TAKEN BY THE LEGISLATIVE BODY TO TERMINATE THAT
4 CONTRACT. PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT SHALL BE A
5 CURRENT OPERATING EXPENSE SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS
6 BY THE LEGISLATIVE BODY AND SHALL OBLIGATE THE LEGISLATIVE BODY
7 ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT
8 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE LEGISLATIVE BODY MAY
9 MAKE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY
10 AVAILABLE FUNDS OR FROM A COMBINATION OF ENERGY OR OPERATIONAL
11 SAVINGS, CAPITAL CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED,
12 OR BILLABLE REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY
13 CONSERVATION IMPROVEMENTS, PROVIDED THAT THE LEGISLATIVE BODY HAS
14 DETERMINED THAT THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE
15 OVER THE FULL TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE
16 ENERGY CONSERVATION IMPROVEMENTS. THE LEASE-PURCHASE AGREEMENT WILL
17 TERMINATE IMMEDIATELY AND ABSOLUTELY AND WITHOUT FURTHER OBLIGATION
18 ON THE PART OF THE LEGISLATIVE BODY AT THE CLOSE OF THE FISCAL YEAR
19 IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS APPROPRIATED
20 AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER AVAILABLE TO SATISFY
21 THE OBLIGATIONS OF THE LEGISLATIVE BODY UNDER THE LEASE-PURCHASE
22 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
23 LEGISLATIVE BODY SHALL BE THE VESTED OWNER OF THE ENERGY
24 CONSERVATION IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE
25 ENERGY CONSERVATION IMPROVEMENTS TO THE PROVIDER OF THE LEASE-
26 PURCHASE AGREEMENT. UPON THE TERMINATION OF THE LEASE-PURCHASE
27 AGREEMENT AND THE SATISFACTION OF THE OBLIGATIONS OF THE

1 LEGISLATIVE BODY, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT
2 SHALL RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION
3 IMPROVEMENTS.

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