

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4994

A bill to amend 1851 PA 156, entitled

"An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act,"

by amending section 11c (MCL 46.11c), as amended by 2002 PA 275.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11c. (1) A county board of commissioners may provide by
2 resolution for **THE ACQUISITION OR FINANCING OF** energy conservation
3 improvements to be made to county facilities **OR INFRASTRUCTURE** and
4 may pay for the improvements **OR THE FINANCING OR REFUNDING OF THE**
5 **IMPROVEMENTS** from the general fund of the county or from the
6 savings that result from the energy conservation improvements.
7 Energy conservation improvements may include, but are not limited
8 to, heating, **VENTILATING, OR AIR-CONDITIONING** system improvements,
9 fenestration improvements, roof improvements, the installation of

1 any insulation, the installation or repair of heating, **VENTILATING,**
2 or ~~air conditioning~~ **AIR-CONDITIONING** controls, and entrance or exit
3 way closures, **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH**
4 **AN ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY**
5 **IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

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

1 **SUBSECTION SHALL NOT BE SUBJECT TO THE REVISED MUNICIPAL FINANCE**
2 **ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, AND SHALL NOT BE A**
3 **MUNICIPAL SECURITY OR A DEBT AS THOSE TERMS ARE DEFINED IN THAT**
4 **ACT.** This subsection does not limit in any manner the borrowing or
5 bonding authority of a county as provided by law.

6 (3) ~~If~~ **PRIOR TO ENTERING INTO A CONTRACT FOR** energy
7 conservation improvements ~~are made as provided in~~ **UNDER** this
8 section, the county board of commissioners shall **DETERMINE THE**
9 **FOLLOWING INFORMATION AND, WITHIN 60 DAYS OF THE COMPLETION OF THE**
10 **IMPROVEMENTS, SHALL** report the following information to the
11 department of treasury: ~~within 60 days of the completion of the~~
12 ~~improvements.~~

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

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

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

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

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

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

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

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