

HOUSE BILL No. 4991

October 15, 2015, Introduced by Rep. Pscholka and referred to the Committee on Local Government.

A bill to amend 1895 PA 3, entitled
"The general law village act,"
by amending section 36 (MCL 68.36), as amended by 2002 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36. (1) The council of a village may provide by
2 resolution for energy conservation improvements to be made to
3 village facilities **OR INFRASTRUCTURE** and may pay for the
4 improvements from operating funds of the village or from the
5 savings that result from the energy conservation improvements.
6 Energy conservation improvements may include, but are not limited
7 to, heating, **VENTILATING, OR AIR-CONDITIONING** system improvements,
8 fenestration improvements, roof improvements, the installation of
9 any insulation, the installation or repair of heating, **VENTILATING,**
10 or ~~air conditioning~~ **AIR-CONDITIONING** controls, ~~and~~ entrance or exit
11 way closures **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH AN**

1 **ENERGY CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY IMPROVEMENTS**
2 **ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.**

3 (2) The council of a village may acquire 1 or more of the
4 energy conservation improvements described in subsection (1) by
5 installment contract, **WHICH MAY INCLUDE A LEASE-PURCHASE AGREEMENT**
6 **DESCRIBED IN SUBSECTION (5)**, or may borrow money and issue notes
7 for the purpose of securing funds for the improvements or may enter
8 into contracts in which the cost of the energy conservation
9 improvements is paid from a portion of the savings that result from
10 the energy conservation improvements. These contractual agreements
11 may provide that the cost of the energy conservation improvements
12 are paid only if the energy savings are sufficient to cover their
13 cost. An installment contract, **A LEASE-PURCHASE AGREEMENT DESCRIBED**
14 **IN SUBSECTION (5)**, or notes issued pursuant to this subsection
15 shall extend for a period of time not to exceed ~~10~~**20** years **FROM**
16 **THE DATE OF INSTALLATION OF THE ENERGY CONSERVATION IMPROVEMENT.**
17 Notes issued pursuant to this subsection shall be full faith and
18 credit, tax limited obligations of the village, payable from tax
19 levies and the general fund as pledged by the council of the
20 village. The notes are subject to the revised municipal finance
21 act, 2001 PA 34, MCL 141.2101 to 141.2821. **A LEASE-PURCHASE**
22 **AGREEMENT ISSUED PURSUANT TO THIS SUBSECTION SHALL NOT BE SUBJECT**
23 **TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO**
24 **141.2821, AND SHALL NOT BE A MUNICIPAL SECURITY OR A DEBT AS THOSE**
25 **TERMS ARE DEFINED IN THAT ACT.** This subsection does not limit in
26 any manner the borrowing or bonding authority of a village as
27 provided by law.

1 (3) If energy conservation improvements are made as provided
2 in this section, the village council shall report the following
3 information to the department of treasury within 60 days of the
4 completion of the improvements:

5 (a) Name of each facility to which an improvement is made and
6 a description of the conservation improvement.

7 (b) Actual energy consumption during the 12-month period
8 before completion of the improvement.

9 (c) Project costs and expenditures.

10 (d) Estimated annual energy savings.

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

18 (5) AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY
19 INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR
20 CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS
21 POSITIVE ACTION IS TAKEN BY THE LEGISLATIVE BODY TO TERMINATE THAT
22 CONTRACT. PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT SHALL BE A
23 CURRENT OPERATING EXPENSE SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS
24 BY THE LEGISLATIVE BODY AND SHALL OBLIGATE THE LEGISLATIVE BODY
25 ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT
26 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE LEGISLATIVE BODY MAY
27 MAKE PAYMENTS UNDER A LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY

1 AVAILABLE FUNDS OR FROM A COMBINATION OF ENERGY OR OPERATIONAL
2 SAVINGS, CAPITAL CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED,
3 OR BILLABLE REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY
4 CONSERVATION IMPROVEMENTS, PROVIDED THAT THE LEGISLATIVE BODY HAS
5 DETERMINED THAT THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE
6 OVER THE FULL TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE
7 ENERGY CONSERVATION IMPROVEMENTS. THE LEASE-PURCHASE AGREEMENT WILL
8 TERMINATE IMMEDIATELY AND ABSOLUTELY AND WITHOUT FURTHER OBLIGATION
9 ON THE PART OF THE LEGISLATIVE BODY AT THE CLOSE OF THE FISCAL YEAR
10 IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS APPROPRIATED
11 AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER AVAILABLE TO SATISFY
12 THE OBLIGATIONS OF THE LEGISLATIVE BODY UNDER THE LEASE-PURCHASE
13 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
14 LEGISLATIVE BODY SHALL BE THE VESTED OWNER OF THE ENERGY
15 CONSERVATION IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE
16 ENERGY CONSERVATION IMPROVEMENTS TO THE PROVIDER OF THE LEASE-
17 PURCHASE AGREEMENT. UPON THE TERMINATION OF THE LEASE-PURCHASE
18 AGREEMENT AND THE SATISFACTION OF THE OBLIGATIONS OF THE
19 LEGISLATIVE BODY, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT
20 SHALL RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION
21 IMPROVEMENTS.

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