Legislative Analysis

ENERGY CONSERVATION FINANCING FOR SCHOOL DISTRICTS

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House Bill 4080 (proposed Substitute H-1)
Sponsor: Rep. Beth Griffin
Committee: Local Government
Complete to 2-27-17

SUMMARY:

House Bill 4080 (H-1) would amend the Revised School Code to allow local school districts and intermediate school districts to use an additional method of financing the purchase of energy conservation and improvement projects. Specifically, the bill provides for the use of **lease-purchase agreements**, and expands permitted conservation and improvement projects to include "energy conservation **and operational** improvements to school facilities **or infrastructure**." (**Bolding** added to show changes described in the bill).

The bill would take effect April 1, 2017.

[Public Acts 119–123 of 2016 (House Bills 4990–4994) provided local units of government (counties, cities, villages, and townships) the option of using lease-purchase agreements for energy conservation improvement projects. This bill would put similar provisions in the Revised School Code for local and intermediate school districts.]

A more detailed summary follows, first on the methods of lease-purchase agreements, and second on the increased scope of projects allowed.

Lease-Purchase Agreements. Currently, school districts may pay for energy conservation improvements from:

- Operating funds of the school district.
- Proceeds from the sale of bonds.
- An energy savings performance contract that provides payment only when the energy savings are sufficient to cover the costs.

House Bill 4080 (H-1) would add "an installment contract or lease-purchase agreement" to the above list. This agreement—sometimes called a "tax exempt lease purchase agreement," or TELP—allows a governmental unit to enter into a purchasing agreement without incurring long-term debt. As described in the bill, the lease-purchase agreement:

(1) maybe a multiyear contractual agreement that renews automatically unless positive action is taken by the school board;
(2) is paid through an annual appropriation, with an amount only for the fiscal year of contract execution or renewal;

(3) is paid from any legally available fund, or from any combination of reduced costs and future savings, if deemed adequate by the school district;
(4) terminates immediately at the close of the fiscal year in which it was renewed or executed, or when appropriations are no longer available to satisfy the obligations;
(5) grants ownership of the improvements to the school district, which could grant a security interest in improvements to the provider of the agreement;
(6) is not subject to the Revised Municipal Finance Act; and
(7) is limited to no more than either 20 years after either the date of the final completion of the energy conservation and operation improvements to school facilities, or (b) the end of the useful life of the aggregate energy conservation and operational improvements to school facilities, whichever occurs first.

A report of total lease payments and projected savings from a project utilizing a lease-purchase agreement would be sent to the State Treasurer after completion of the improvement.

Scope of Projects. Currently, *energy conversation improvements* include, but are not limited to: building envelope improvements; heating and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; and upgrading other energy consuming equipment or applications.

HB 4080 (H-1) would add to the above list the following: information technology improvements associated with an energy conservation and operational improvement; ventilating upgrades; and municipal utility improvements associated with an energy conservation or operational improvement. The bill would expand the scope of projects from "energy conservation improvements" to "energy conservation **and operational** improvements." Additionally, the bill would specify that all energy conservation and operational improvements be made "to school facilities."

MCL 380.1274a

FISCAL IMPACT:

The fiscal impact to a local or intermediate school district would depend on the school district circumstances, structure of lease agreement, and the alternative financing methods available. Authorizing the use of a lease-purchase agreement as an additional financing method has the potential to increase energy conservation improvement projects and thereby reduce overall costs for school districts. While lease-purchase agreements don't normally have interest rates as low as bond financing, oftentimes they are a more cost-effective financing method than traditional commercial leases due to their tax-exempt nature.

BACKGROUND:

Lease-Purchase Agreements. Unlike traditional lease contracts, lease-purchase agreements would allow the school district to take title to the improvements when the school district completes the lease purchase payments. Therefore, the interest paid is tax-exempt, allowing for lower interest costs than traditional financing methods. The payment obligations are limited to the current operating budget and are therefore not deemed a long-term debt obligation of the school district. They are treated as multiple, renewable short-term leases. Despite not being considered a long-term debt obligation, a decision to not appropriate funds for the lease-purchase agreement would likely have a negative impact on the school district's credit rating. Because payment obligations are limited to the current operating budget, oftentimes it is the savings from the energy conservation improvement projects that are used to cover the lease-purchase payments, assuming energy savings targets are met.

It should be noted that any savings guarantee is usually independent of the obligation on the part of the school district to repay the lease-purchase obligation. Under the bill, the school district may grant a security interest in the energy conservation improvements to the provider of the lease-purchase agreement to assist in lowering overall financing costs. Presumably, the lessor could seek to recapture any assets secured by the security interest if the school district failed to appropriate funds to make payments under the lease purchase agreement.

Legislative Analyst: Patrick Morris
Fiscal Analyst: Ben Gielczyk