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BILL ANALYSIS

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House Bill 6036 (as passed by the House)
Sponsor: Representative Al Pscholka
House Committee: Local Government
Senate Committee: Government Operations

Date Completed: 12-14-16

CONTENT

The bill would amend the Uniform Budgeting and Accounting Act to do the following:

- **Authorize a local unit's legislative body to provide for the acquisition or financing of energy conservation improvements to the local unit's facilities or infrastructure.**
- **Allow the legislative body to pay for the improvements or their financing or refunding from the local unit's general fund or from savings resulting from the improvements.**
- **Allow the legislative body to acquire, finance, or refund the improvements by installment contract, by borrowing money and issuing notes, or by entering into contracts under which an improvement's cost was paid from the resulting savings.**
- **Allow an installment contract to include a lease-purchase agreement, and prescribe requirements applicable to such an agreement.**
- **Require the legislative body to make certain determinations pertaining to project costs and expenditures and estimated energy savings before entering into a contract for energy conservation improvements, and report that information to the Public Service Commission (PSC) upon the improvements' completion.**
- **Require the legislative body to report to the PSC the annual energy consumption of each affected facility for each of the five years after the improvements were completed.**

The bill would take effect 90 days after enactment.

Except as otherwise provided by law, the bill would allow the legislative body of a local unit to provide by resolution for the acquisition or financing of energy conservation improvements to be made to facilities or infrastructure owned or operated by the local unit, and to pay for the improvements or their financing or refunding from the local unit's general fund or from the savings that resulted from the improvements.

(The Act defines "local unit" as a village, city, or township, or an authority or commission established by a county, village, city, or township resolution, motion, ordinance, or charter.)

Energy conservation improvements could include, but would not be limited to, the following:

- Heating, ventilating, or air-conditioning system improvements.
- Fenestration improvements.
- Roof improvements.

-- The installation of insulation.
-- The installation or repair of heating, ventilating, or air-conditioning controls.
-- Entrance or exit way closures.
-- Information technology improvements associated with an energy conservation improvement.
-- Municipal utility improvements associated with an energy conservation improvement.

The legislative body could acquire, finance, or refund one or more of the improvements by installment contract, which could include a lease-purchase agreement (described below), or could borrow money and issue notes to secure funds for the improvements. The legislative body also could enter into contracts in which the cost of the improvements was paid from a portion of the savings that resulted from them. These contractual agreements could provide that the cost would be paid only if the energy savings were sufficient to cover the cost of the improvements. An installment contract, a lease-purchase agreement, or notes would have to extend for a period of up to 20 years from the date of the improvements' final completion or the useful life of the aggregate improvements, whichever was less. Notes issued under the bill would be limited full faith and credit, tax limited obligations of the local unit, payable from tax levies and the general fund as pledged by the local unit's legislative body. The notes would be subject to the Revised Municipal Finance Act. A lease-purchase agreement would not be subject to that Act, and would not be a municipal security or a debt as defined in that Act. These provisions would not limit in any manner the borrowing or bonding authority of a local unit as provided by law.

Before entering into a contract for energy conservation improvements, a local unit's legislative body would have to determine and, within 60 days after completion of the improvements, would have to report to the PSC the following information:

-- 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 the lease-purchase agreement.
-- Estimated annual energy savings, including projected savings over the duration of the installment contract.

If energy conservation improvements were made as provided in the bill, the local unit's legislative body would have to report to the PSC, by July 1 of each of the five years after the improvements were completed, only the actual annual energy consumption of each facility to which they were made. The PSC would have to furnish the forms for the reports.

An installment contract could include a lease-purchase agreement, which could be a multiyear contractual obligation that provided for automatic renewal unless the legislative body took positive action to terminate the contract.

Payments under a lease-purchase agreement would be a current operating expense subject to annual appropriations of funds by the legislative body and would obligate the legislative body only for those sums payable during the fiscal year of contract execution or any subsequent renewal year. The legislative body could make payments under such an 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, provided that the legislative body had determined that those funds were sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the improvements. The lease-purchase agreement would terminate immediately and absolutely and without further obligation on the legislative body's part at the close of the fiscal year in which it was executed or renewed, or when appropriated and otherwise unobligated funds were no longer available to satisfy the legislative body's obligations under the agreement. During the term of the agreement, the legislative body would be the vested owner of the improvements and could grant a security interest in them to the provider of the agreement. When the agreement was terminated and the legislative body's obligations were satisfied, the provider of the agreement would have to release its security interest in the improvements.

(The Act defines "legislative body" as any of the following:

-- The council, commission, or other entity vested with the legislative power of a village.
-- The council or other entity vested with the legislative power of a city.
-- The board of education of a local or intermediate school district.
-- A township board.
-- A county board of commissioners.
-- A board of county road commissioners.
-- The board of directors of a public school academy.
-- The official body that is granted general governing powers over an authority or organization of government established by law that may spend authority or organization funds.)

Proposed MCL 141.433a | Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would reduce the cost of local government to the extent that cost-saving energy conservation projects were undertaken pursuant to the bill. Cities, villages, townships, and counties already have explicit authorization to undertake these projects. The bill would clarify that with the approval of the local legislative body, authorities and commissions created by a city, village, township, or county also could pay for energy conservation improvements using a variety of financing mechanisms including lease-purchase agreements. The amount of any savings would depend on the decision of a local unit of government to undertake a project, the characteristics of the individual project, and the details of a financing agreement.

Fiscal Analyst: Elizabeth Pratt

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