

HOUSE BILL No. 6036

November 9, 2016, Introduced by Reps. Pscholka and Iden and referred to the Committee on Local Government.

A bill to amend 1968 PA 2, entitled
"Uniform budgeting and accounting act,"
(MCL 141.421 to 141.440a) by adding section 13a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 13A. (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE
2 LEGISLATIVE BODY OF A LOCAL UNIT MAY PROVIDE BY RESOLUTION FOR THE
3 ACQUISITION OR FINANCING OF ENERGY CONSERVATION IMPROVEMENTS TO BE
4 MADE TO FACILITIES OR INFRASTRUCTURE OWNED OR OPERATED BY THE LOCAL
5 UNIT AND MAY PAY FOR THE IMPROVEMENTS OR THE FINANCING OR REFUNDING
6 OF THE IMPROVEMENTS FROM THE GENERAL FUND OF THE LOCAL UNIT OR FROM
7 THE SAVINGS THAT RESULT FROM THE ENERGY CONSERVATION IMPROVEMENTS.
8 ENERGY CONSERVATION IMPROVEMENTS MAY INCLUDE, BUT ARE NOT LIMITED
9 TO, HEATING, VENTILATING, OR AIR-CONDITIONING SYSTEM IMPROVEMENTS,
10 FENESTRATION IMPROVEMENTS, ROOF IMPROVEMENTS, THE INSTALLATION OF
11 ANY INSULATION, THE INSTALLATION OR REPAIR OF HEATING, VENTILATING,

1 OR AIR-CONDITIONING CONTROLS, ENTRANCE OR EXIT WAY CLOSURES,
2 INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH AN ENERGY
3 CONSERVATION IMPROVEMENT, AND MUNICIPAL UTILITY IMPROVEMENTS
4 ASSOCIATED WITH AN ENERGY CONSERVATION IMPROVEMENT.

5 (2) THE LEGISLATIVE BODY OF A LOCAL UNIT MAY ACQUIRE, FINANCE,
6 OR REFUND 1 OR MORE OF THE ENERGY CONSERVATION IMPROVEMENTS
7 DESCRIBED IN SUBSECTION (1) BY INSTALLMENT CONTRACT, WHICH MAY
8 INCLUDE A LEASE-PURCHASE AGREEMENT DESCRIBED IN SUBSECTION (5), OR
9 MAY BORROW MONEY AND ISSUE NOTES FOR THE PURPOSE OF SECURING FUNDS
10 FOR THE IMPROVEMENTS OR MAY ENTER INTO CONTRACTS IN WHICH THE COST
11 OF THE ENERGY CONSERVATION IMPROVEMENTS IS PAID FROM A PORTION OF
12 THE 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 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 LIMITED
22 FULL FAITH AND CREDIT, TAX LIMITED OBLIGATIONS OF THE LOCAL UNIT,
23 PAYABLE FROM TAX LEVIES AND THE GENERAL FUND AS PLEDGED BY THE
24 LEGISLATIVE BODY OF THE LOCAL UNIT. THE NOTES SHALL BE SUBJECT TO
25 THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
26 141.2821. A LEASE-PURCHASE AGREEMENT ISSUED PURSUANT TO THIS
27 SUBSECTION SHALL NOT BE SUBJECT TO THE REVISED MUNICIPAL FINANCE

1 ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, AND SHALL NOT BE A
2 MUNICIPAL SECURITY OR A DEBT AS THOSE TERMS ARE DEFINED IN THAT
3 ACT. THIS SUBSECTION DOES NOT LIMIT IN ANY MANNER THE BORROWING OR
4 BONDING AUTHORITY OF A LOCAL UNIT AS PROVIDED BY LAW.

5 (3) PRIOR TO ENTERING INTO A CONTRACT FOR ENERGY CONSERVATION
6 IMPROVEMENTS UNDER THIS SECTION, THE LEGISLATIVE BODY OF A LOCAL
7 UNIT SHALL DETERMINE THE FOLLOWING INFORMATION AND, WITHIN 60 DAYS
8 OF THE COMPLETION OF THE IMPROVEMENTS, SHALL REPORT THE FOLLOWING
9 INFORMATION TO THE MICHIGAN PUBLIC SERVICE COMMISSION:

10 (A) NAME OF EACH FACILITY TO WHICH AN IMPROVEMENT IS MADE AND
11 A DESCRIPTION OF THE ENERGY CONSERVATION IMPROVEMENT.

12 (B) ACTUAL ENERGY CONSUMPTION DURING THE 12-MONTH PERIOD
13 BEFORE COMMENCEMENT OF THE IMPROVEMENT.

14 (C) PROJECT COSTS AND EXPENDITURES, INCLUDING THE TOTAL OF ALL
15 LEASE PAYMENTS OVER THE DURATION OF THE LEASE-PURCHASE AGREEMENT.

16 (D) ESTIMATED ANNUAL ENERGY SAVINGS, INCLUDING PROJECTED
17 SAVINGS OVER THE DURATION OF THE INSTALLMENT CONTRACT.

18 (4) IF ENERGY CONSERVATION IMPROVEMENTS ARE MADE AS PROVIDED
19 IN THIS SECTION, THE LEGISLATIVE BODY OF A LOCAL UNIT SHALL REPORT
20 TO THE MICHIGAN PUBLIC SERVICE COMMISSION, BY JULY 1 OF EACH OF THE
21 5 YEARS AFTER THE IMPROVEMENTS ARE COMPLETED, ONLY THE ACTUAL
22 ANNUAL ENERGY CONSUMPTION OF EACH FACILITY TO WHICH IMPROVEMENTS
23 ARE MADE. THE FORMS FOR THE REPORTS REQUIRED BY THIS SECTION SHALL
24 BE FURNISHED BY THE MICHIGAN PUBLIC SERVICE COMMISSION.

25 (5) AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY
26 INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR
27 CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS

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

1 IMPROVEMENTS.

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