

# HOUSE BILL No. 4990

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

A bill to amend 1909 PA 279, entitled  
"The home rule city act,"  
by amending section 5f (MCL 117.5f), as amended by 2002 PA 201.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

1           (3) If energy conservation improvements are made as provided  
2 in this section, the legislative body of a city shall report the  
3 following information to the Michigan public service commission  
4 within 60 days of the 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 legislative body of a city shall report to the  
13 Michigan public service commission, by July 1 of each of the 5  
14 years after the improvements are completed, only the actual annual  
15 energy consumption of each facility to which improvements are made.  
16 The forms for the reports required by this section shall be  
17 furnished by the Michigan public service commission.

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.