Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

ENERGY CONSERVATION FINANCING FOR COMMUNITY COLLEGES

House Bill 4457 as enacted
Public Act 133 of 2017
Sponsor: Rep. Brandt Iden
House Committee: Local Government
Senate Committee: Local Government
Complete to 11-13-17

BRIEF SUMMARY:

Public Act 23 of 2017 (House Bill 4080) provided school districts the option of using lease-purchase agreements for energy conservation and operational improvement projects. House Bill 4457 would put nearly identical provisions in the Community College Act for community colleges.

FISCAL IMPACT:

The fiscal impact to a community college would depend on the community college 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 community colleges. 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.

DETAILED SUMMARY:

House Bill 4457 would amend the Community College Act (MCL 389.122) to allow community colleges to use an additional method of financing for 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 be made to community college facilities **or infrastructure**." (**Bolding** added to show changes described in the bill).

The bill would take effect 90 days after enactment.

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, community colleges may provide for and acquire energy conservation improvements from:

- Operating funds
- Savings that result from the energy conservation improvements.
- Installment contracts
- Borrowing money and issuing notes
- Contracts in which the cost of the improvement is paid from a portion of the savings that result from the improvement

House Bill 4457 would add that the installment contract "may include a lease-purchase agreement described in this subdivision." 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) may be a multiyear contractual agreement that renews automatically unless positive action is taken by the board of trustees;
(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 sufficient by the board of trustees;
(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 board of trustees, 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 (a) 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.

Scope of Projects. Currently, *energy conversation improvements* include, but are not limited to: heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air condition controls, and entrance or exit way closures.

HB 4457 would describe *energy conservation and operational improvements* as all of the above and add: ventilating or air-conditioning system improvements; the installation or repair of ventilating controls; information technology improvements associated with an energy conservation and operational improvement; and municipal utility improvements associated with an energy conservation and operational improvement.

BACKGROUND:

Lease-Purchase Agreements. Unlike traditional lease contracts, lease-purchase agreements would allow the community college to take title to the improvements when the community college 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 community college. 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 community college'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 community college to repay the lease-purchase obligation. Under the bill, the community college 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 community college failed to appropriate funds to make payments under the lease purchase agreement.

Legislative Analyst: Patrick Morris
Fiscal Analysts: Ben Gielczyk
Perry Zielak