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BILL ANALYSIS

House Bill 4080 (Substitute H-1 as passed by the House)
Sponsor: Representative Beth Griffin
House Committee: Local Government
Senate Committee: Local Government

Date Completed: 3-21-17

CONTENT

The bill would amend the Revised School Code to include energy conservation and operational improvements to school facilities or infrastructure among permitted conservation improvement projects in local school districts and intermediate school districts, and allow such projects to be financed from an installment contract or lease-purchase agreement.

Under the Code, the board of a school district or intermediate school district (ISD) may contract with a qualified provider for energy conservation improvements to school facilities. The improvements may be paid for from operating funds of the school district or from the proceeds of bonds or notes issued for energy conservation improvements, or the board or intermediate school board may enter into one or more energy saving performance contracts. The bill would expand the permitted conservation improvement projects to include energy conservation and operational improvements to school facilities or infrastructure. The bill also would allow the improvements or the financing or refunding of the improvements to be paid for from an installment contract or lease-purchase agreement.

Currently, energy conservation improvements include 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 appliances. The bill would add to the list of improvements ventilating upgrades; information technology improvements associated with an energy conservation and operational improvement to school facilities; and municipal utility improvements associated with an energy conservation and operational improvement to school facilities.

The bill provides that an installment contract could include a lease-purchase agreement, which could be a multiyear contractual obligation that would provide for automatic renewal unless the board of a school district or ISD took positive action to terminate that contract. A lease-purchase agreement would not be subject to the Revised Municipal Finance Act and would not be a municipal security or a debt as defined under the Act.

Payments under a lease-purchase agreement would be a current operating expense subject to annual appropriations of funds by the board of a school district or ISD and would obligate the board only for those sums payable during the fiscal year of contract execution or any renewal year. The board could make payments under a lease-purchase 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 and operational improvements to school facilities, if the board determined that those funds were sufficient to cover, in aggregate over the full term of the contractual agreement, the cost of the energy conservation and operational improvements to school facilities.

The lease-purchase agreement would terminate immediately and absolutely and without further obligation on the part of the board of the school district or ISD 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 obligations of the board under the agreement.

During the term of the lease-purchase agreement, the board of the school district or ISD would be the vested owner of the energy conservation and operational improvements and could grant a security interest in them to the provider of the lease-purchase agreement. The board would not be obligated under the agreement for more than 20 years after either the date of the final completion of the energy conservation and operational improvements to school facilities or the end of the useful life of the aggregate improvements to school facilities, whichever occurred first. Upon the termination of the lease-purchase agreement and the satisfaction of the obligations of the board, the provider of the agreement would have to release its security interest in the energy conservation and operational improvements.

Currently, if energy conservation improvements are made by a school district or ISD, the school board or intermediate school board must report the following information to the State Treasurer within 60 days after the completion of the improvements:

-- Name of each facility to which an improvement was made and a description of the conservation improvements.
-- Actual energy consumption during the 12-month period before completion of the improvement.
-- Project costs and expenditures.
-- Estimated annual energy savings.

Under the bill, the report would have to include actual energy consumption during the 12-month period before commencement of the improvement, rather than before completion; project costs and expenditures would have to include the total of all lease payments over the duration of the lease-purchase agreement; and estimated annual energy savings would have to include projected savings over the duration of the installment contract.

The bill would take effect on April 1, 2017.

MCL 380.1274a Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on the State and an indeterminate impact on local units of government. Since school districts would vary in selecting and entering into installment contracts or lease-purchase agreements, it is impossible to determine an overall effect on local school districts. However, districts that did select these instruments in order to provide for energy conversation and operational improvements to facilities would experience energy and facility cost savings. Districts also would experience savings by using lease-purchase agreements as opposed to traditional leases, since lease-purchase agreements are tax-exempt.

Fiscal Analyst: Cory Savino

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