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BILL



ANALYSIS

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House Bill 4457 (as passed by the House)
Sponsor: Representative Brandt Iden
House Committee: Local Government
Senate Committee: Local Government

Date Completed: 9-12-17

CONTENT

The bill would amend the Community College Act to do the following:

- Include energy conservation and operational improvements to community college facilities or infrastructure among permitted conservation improvement projects, and allow such projects to be financed from a lease-purchase agreement.**
- Specify that the term of an installment contract, lease-purchase agreement, or notes could not exceed 20 years from the final completion or useful life of the improvements.**

The bill would take effect 90 days after its enactment.

Energy Conservation & Operational Improvements

The Act authorizes a community college board of trustees to provide for energy conservation improvements to be made to community college facilities, and to pay for the improvements from operating funds of the community college district or from the savings that result from the improvements. The bill would allow a board of trustees to provide for the acquisition or financing of energy conservation and operational improvements to be made to community college facilities or infrastructure and to pay for the improvements or the financing or refunding of the improvements from the district's operating funds or from the savings that resulted from the improvements.

Currently, energy conservation improvements may include heating system improvements; fenestration improvements; roof improvements; the installation of any insulation; the installation or repair of heating controls; and entrance or exit way closures. The bill would add to the list of improvements 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.

Lease-Purchase Agreement

The Act allows a community college board of trustees to acquire one or more energy conservation improvements by installment contract, to borrow money and issue notes for the purpose of securing funds for the improvements, or to enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result

from the improvements. The bill would allow a board of trustees to acquire, finance, or refund one or more energy conservation and operational improvements by these methods, and provides that an installment contract could include a lease-purchase agreement.

A lease-purchase agreement could be a multiyear contractual obligation that would provide for automatic renewal unless the board of trustees took positive action to terminate that contract. Payments under a lease-purchase agreement would have to be a current operating expense subject to annual appropriations of funds by the board and would obligate it 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, 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 improvements.

A lease-purchase agreement would terminate immediately and absolutely and without further obligation on the part of the board of trustees at the close of the fiscal year in which it was executed or renewed or at such time as appropriated and otherwise unobligated funds were no longer available to satisfy the obligations of the board under the lease-purchase agreement.

During the term of a lease-purchase agreement, the board of trustees would be the vested owner of the energy conservation and operational improvements and could grant a security interest in the improvements to the provider of the lease-purchase agreement. Upon the termination of the 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 improvements.

A lease-purchase agreement issued under the bill would not be subject to the Revised Municipal Finance Act, and would not be a municipal security or a debt as defined in that Act.

Term of Financing Method

Currently, the term of an installment contract or notes issued for energy conservation improvements may not exceed 25 years from the date of installation of the improvements. The bill would specify that the term of an installment contract, a lease-purchase agreement, or notes could not exceed 20 years from the date of the final completion of the energy conservation and operational improvements or the useful life of the aggregate energy conservation and operational improvements, whichever was less.

MCL 389.122

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate impact on local community college districts. Costs and savings would depend on the extent to which lease purchase agreements were used, and the terms of those agreements.

Fiscal Analyst: Bill Bowerman

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