

SUBSTITUTE FOR
HOUSE BILL NO. 4080

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1274a (MCL 380.1274a), as amended by 2003 PA
255.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1274a. (1) The board of a school district ~~—OR~~
2 intermediate school district ~~, or local act school district~~ may
3 contract with a qualified provider for **THE ACQUISITION OR FINANCING**
4 **OF** energy conservation **AND OPERATIONAL** improvements to school
5 facilities **OR INFRASTRUCTURE**. These improvements **OR THE FINANCING**
6 **OR REFUNDING OF THE IMPROVEMENTS** may be paid from operating funds
7 of the school district, ~~or~~ from the proceeds of bonds or notes
8 issued for energy conservation **AND OPERATIONAL** improvements **TO**
9 **SCHOOL FACILITIES, OR FROM AN INSTALLMENT CONTRACT OR LEASE-**

PURCHASE AGREEMENT, or the board or intermediate school board may enter into 1 or more energy saving performance contracts. These contracts may contain a written financial guarantee providing that the costs of improvements will be paid only if the energy savings are sufficient to cover them. Energy conservation **AND OPERATIONAL improvements TO SCHOOL FACILITIES** may include, but are not limited to, building envelope improvements; heating, **VENTILATING**, and cooling upgrades; lighting retrofits; installing or upgrading an energy management system; motor, pump, or fan replacements; domestic water use reductions; **INFORMATION TECHNOLOGY IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION AND OPERATIONAL IMPROVEMENT TO SCHOOL FACILITIES**; **MUNICIPAL UTILITY IMPROVEMENTS ASSOCIATED WITH AN ENERGY CONSERVATION AND OPERATIONAL IMPROVEMENT TO SCHOOL FACILITIES**; and upgrading other energy consuming equipment or appliances.

(2) A school board or intermediate school board that contracts for energy conservation **AND OPERATIONAL improvements TO SCHOOL FACILITIES** under subsection (1) may require the qualified provider to furnish a bond that guarantees energy cost savings for a specified period of time.

(3) If a school board or intermediate school board enters into an energy saving performance contract under this section, all of the following apply:

(a) The bids for the contract shall provide a detailed breakdown of the energy performance savings to be derived each year and for the duration of the energy saving performance contract, including at least all of the following:

(i) A description of the guaranteed energy use savings and tasks to be performed under the energy saving performance contract.

(ii) The combined total net cost of all of the energy conservation measures in the project.

(iii) The projected energy savings and operating and maintenance cost savings resulting from the project.

(iv) The useful life of each energy conservation measure.

(v) The simple payback period.

(b) The qualified provider shall certify that measurement and verification techniques for determining cost savings will be performed in accordance with the protocols ~~published in January 2001~~ **PROMULGATED** by the ~~international performance measurement and verification protocol inc.~~ **INTERNATIONAL PERFORMANCE MEASUREMENT AND VERIFICATION PROTOCOL, INC., NOW KNOWN AS EFFICIENCY VALUE ORGANIZATION.**

(4) The board of a school district ~~or~~ **OR** intermediate school district ~~or local act school district~~ may provide for the removal or treatment of asbestos or other material injurious to health for school facilities and may pay for the improvements from operating funds of the school district or from the proceeds of bonds or notes issued for that purpose.

(5) Issuance of bonds for the purposes authorized by this section shall be considered as issued for capital expenditures for all purposes including section 16 of article IX of the state constitution of 1963. **A LEASE-PURCHASE AGREEMENT ISSUED PURSUANT TO THIS SUBSECTION IS NOT SUBJECT TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, AND IS NOT A MUNICIPAL**

1 **SECURITY OR A DEBT AS THOSE TERMS ARE DEFINED IN THAT ACT.**

2 (6) Energy conservation **AND OPERATIONAL** improvements **TO SCHOOL**
3 **FACILITIES**, or substance removal or treatment authorized by this
4 section is subject to the competitive bidding requirements of
5 section 1267.

6 (7) If energy conservation **AND OPERATIONAL** improvements **TO**
7 **SCHOOL FACILITIES** are made by a school district ~~local act school~~
8 ~~district~~, or intermediate school district as provided in this
9 section, the school board or intermediate school board shall
10 **DETERMINE THE FOLLOWING INFORMATION AND SHALL** report the following
11 information to the state treasurer within 60 days after the
12 completion of the improvements:

13 (a) Name of each facility to which an improvement was made and
14 a description of the **ENERGY** conservation **AND OPERATIONAL**
15 improvements **TO SCHOOL FACILITIES**.

16 (b) Actual energy consumption during the 12-month period
17 before ~~completion~~ **COMMENCEMENT** of the improvement.

18 (c) Project costs and expenditures, **INCLUDING THE TOTAL OF ALL**
19 **LEASE PAYMENTS OVER THE DURATION OF THE LEASE-PURCHASE AGREEMENT**.

20 (d) Estimated annual energy savings, **INCLUDING PROJECTED**
21 **SAVINGS OVER THE DURATION OF THE INSTALLMENT CONTRACT**.

22 (8) If energy conservation **AND OPERATIONAL** improvements **TO**
23 **SCHOOL FACILITIES** are made as provided in this section, the school
24 board or intermediate school board shall report to the state
25 treasurer by July 1 of each of the 5 years after the improvements
26 are completed the actual annual energy consumption of each facility
27 to which improvements were made. The forms for the reports required

1 by this section shall be furnished by the state treasurer.

2 (9) AN INSTALLMENT CONTRACT DESCRIBED IN THIS SECTION MAY
3 INCLUDE A LEASE-PURCHASE AGREEMENT, WHICH MAY BE A MULTIYEAR
4 CONTRACTUAL OBLIGATION THAT PROVIDES FOR AUTOMATIC RENEWAL UNLESS
5 POSITIVE ACTION IS TAKEN BY THE BOARD OF THE SCHOOL DISTRICT OR
6 INTERMEDIATE SCHOOL DISTRICT TO TERMINATE THAT CONTRACT. PAYMENTS
7 UNDER A LEASE-PURCHASE AGREEMENT ARE A CURRENT OPERATING EXPENSE
8 SUBJECT TO ANNUAL APPROPRIATIONS OF FUNDS BY THE BOARD OF THE
9 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT AND SHALL OBLIGATE
10 THE BOARD OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT
11 ONLY FOR THOSE SUMS PAYABLE DURING THE FISCAL YEAR OF CONTRACT
12 EXECUTION OR ANY RENEWAL YEAR THEREAFTER. THE BOARD OF THE SCHOOL
13 DISTRICT OR INTERMEDIATE SCHOOL DISTRICT MAY MAKE PAYMENTS UNDER A
14 LEASE-PURCHASE AGREEMENT FROM ANY LEGALLY AVAILABLE FUNDS OR FROM A
15 COMBINATION OF ENERGY OR OPERATIONAL SAVINGS, CAPITAL
16 CONTRIBUTIONS, FUTURE REPLACEMENT COSTS AVOIDED, OR BILLABLE
17 REVENUE ENHANCEMENTS THAT RESULT FROM ENERGY CONSERVATION AND
18 OPERATIONAL IMPROVEMENTS TO SCHOOL FACILITIES, IF THE BOARD OF THE
19 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT HAS DETERMINED THAT
20 THOSE FUNDS ARE SUFFICIENT TO COVER, IN AGGREGATE OVER THE FULL
21 TERM OF THE CONTRACTUAL AGREEMENT, THE COST OF THE ENERGY
22 CONSERVATION AND OPERATIONAL IMPROVEMENTS TO SCHOOL FACILITIES. THE
23 LEASE-PURCHASE AGREEMENT TERMINATES IMMEDIATELY AND ABSOLUTELY AND
24 WITHOUT FURTHER OBLIGATION ON THE PART OF THE BOARD OF THE SCHOOL
25 DISTRICT OR INTERMEDIATE SCHOOL DISTRICT AT THE CLOSE OF THE FISCAL
26 YEAR IN WHICH IT WAS EXECUTED OR RENEWED OR AT SUCH TIME AS
27 APPROPRIATED AND OTHERWISE UNOBLIGATED FUNDS ARE NO LONGER

1 AVAILABLE TO SATISFY THE OBLIGATIONS OF THE BOARD OF THE SCHOOL
2 DISTRICT OR INTERMEDIATE SCHOOL DISTRICT UNDER THE LEASE-PURCHASE
3 AGREEMENT. DURING THE TERM OF THE LEASE-PURCHASE AGREEMENT, THE
4 BOARD OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT IS THE
5 VESTED OWNER OF THE ENERGY CONSERVATION AND OPERATIONAL
6 IMPROVEMENTS AND MAY GRANT A SECURITY INTEREST IN THE ENERGY
7 CONSERVATION AND OPERATIONAL IMPROVEMENTS TO THE PROVIDER OF THE
8 LEASE-PURCHASE AGREEMENT. THE BOARD OF THE SCHOOL DISTRICT OR
9 INTERMEDIATE SCHOOL DISTRICT SHALL NOT BE OBLIGATED UNDER A LEASE-
10 PURCHASE AGREEMENT FOR MORE THAN 20 YEARS AFTER EITHER THE DATE OF
11 THE FINAL COMPLETION OF THE ENERGY CONSERVATION AND OPERATIONAL
12 IMPROVEMENTS TO SCHOOL FACILITIES OR THE END OF THE USEFUL LIFE OF
13 THE AGGREGATE ENERGY CONSERVATION AND OPERATIONAL IMPROVEMENTS TO
14 SCHOOL FACILITIES, WHICHEVER OCCURS FIRST. UPON THE TERMINATION OF
15 THE LEASE-PURCHASE AGREEMENT AND THE SATISFACTION OF THE
16 OBLIGATIONS OF THE BOARD OF THE SCHOOL DISTRICT OR INTERMEDIATE
17 SCHOOL DISTRICT, THE PROVIDER OF THE LEASE-PURCHASE AGREEMENT SHALL
18 RELEASE ITS SECURITY INTEREST IN THE ENERGY CONSERVATION AND
19 OPERATIONAL IMPROVEMENTS.

20 (10) ~~(9)~~—As used in this section:

21 (a) "Energy saving performance contract" means an agreement
22 for the evaluation, recommendation, and implementation of energy
23 conservation measures including, but not limited to, an energy
24 audit or detailed energy study; the design, installation,
25 operation, and maintenance of 1 or more energy conservation
26 measures; energy management services; and an energy savings
27 guarantee.

1 (b) "Qualified provider" means an individual or a business
2 entity that is experienced in performing design, analysis, and
3 installation of energy conservation **AND OPERATIONAL** improvements
4 and facility energy management measures and that will provide these
5 services under the contract with a guarantee or on a performance
6 basis.

7 Enacting section 1. This amendatory act takes effect April 1,
8 2017.