Energy Conservation & Operational Improvement Financing for Public K-12 School Districts
House Bill 4080 (Rep. Griffin)

HB 4080 serves as clean-up legislation to HB 6036 of 2016 (now Public Act 529 of 2016). PA 529 of 2016 amended the Uniform Budgeting and Accounting Act to allow local governments, including local authorities and K-12 public schools, to use tax-exempt lease-purchase agreements (TELPs) to finance energy conservation improvements. HB 4080 provides the additional necessary clarification on TELPs to the existing performance contracting provisions for K-12 public schools under the School Code.

Lease purchase agreements can be a more cost-effective financing method than traditional commercial leases due to their tax-exempt nature. Michigan state and local governments have been given the ability to enter into TELPs and avoid incurring long-term debt that impacts their bond rating. TELP agreements are paid through annual appropriations that can be suspended if there is dissatisfaction with the purchase. Michigan state and local governmental bodies, in addition to forty-eight other states use TELP financing at the local level – this bill would bring us up to a level playing-field with them in K-12 public education.

Under HB 4080, public K-12 school districts can provide for energy conservation and operational improvements to their facilities and pay for them from operating funds (or the K-12 general fund) or from savings resulting from energy conservation and operational savings.

- HB 4080 specifies that an installment contract could include a TELP agreement—a multi-year contractual obligation that provides for automatic renewal unless positive action were taken by the school district to terminate the contract.
- Payments under a TELP would be considered a current operating expense subject to annual appropriations.
- During the term of the lease-purchase agreement, the legislative body would be the vested owners of the energy conservation and operational improvements, and local officials could grant a security interest in those improvements to the provider of the lease-purchase agreement. Upon termination of the agreement (and the satisfaction of the obligations of the school district), the provider of the lease-purchase agreement would be required to release its security interest.
- The bill states that TELPs would not be subject to the Revised Municipal Finance Act, and would not be a municipal security or a debt as those terms are defined in that act.
- Energy conservation improvements may include, but are not limited to, 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 adds operational improvements which may include, but are not limited to, information technology and infrastructure improvements, security technology and infrastructure improvements, and fire safety systems.

Unlike traditional lease contracts, TELPs allow the public K-12 school district to take title to the improvements when the lease is signed. 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 local public school district. They are treated as multiple, renewable short-term leases. Often energy and operational savings from the improvement projects are used to cover the lease-purchase payments when energy and operational savings targets are met. Performance Contracts (PC) are typically leveraged to ensure payment through energy and operational savings.