

SENATE BILL No. 853

November 29, 2001, Introduced by Senator NORTH and referred to the Committee on Finance.

A bill to amend 1895 PA 3, entitled "The general law village act," by amending section 36 of chapter VIII, sections 5, 21, and 25 of chapter IX, and sections 4 and 5 of chapter XII (MCL 68.36, 69.5, 69.21, 69.25, 72.4, and 72.5), section 36 of chapter VIII as amended by 1989 PA 28 and sections 5, 21, and 25 of chapter IX and sections 4 and 5 of chapter XII as amended by 1998 PA 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VIII

Sec. 36. (1) The council of a village may provide by resolution for energy conservation improvements to be made to village facilities and may pay for the improvements from operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements,

SENATE BILL No. 853

1
2
3
4
5
6
7

1 fenestration improvements, roof improvements, the installation of
2 any insulation, the installation or repair of heating or air con-
3 ditioning controls, and entrance or exit way closures.

4 (2) The council of a village may acquire 1 or more of the
5 energy conservation improvements described in subsection (1) by
6 installment contract or may borrow money and issue notes for the
7 purpose of securing funds for the improvements or may enter into
8 contracts in which the cost of the energy conservation improve-
9 ments is paid from a portion of the savings that result from the
10 energy conservation improvements. These contractual agreements
11 may provide that the cost of the energy conservation improvements
12 are paid only if the energy savings are sufficient to cover their
13 cost. An installment contract or notes issued pursuant to this
14 subsection shall extend for a period of time not to exceed 10
15 years. Notes issued pursuant to this subsection shall be full
16 faith and credit, tax limited obligations of the village, payable
17 from tax levies and the general fund as pledged by the council of
18 the village. The notes ~~shall be~~ ARE subject to the ~~municipal~~
19 ~~finance act, Act No. 202 of the Public Acts of 1943, being sec-~~
20 ~~tions 131.1 to 139.3 of the Michigan Compiled Laws~~ REVISED
21 MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.
22 ~~The notes shall bear interest at a rate determined by the coun-~~
23 ~~cil of the village, not to exceed the rate provided in section 1a~~
24 ~~of chapter III of the municipal finance act, Act No. 202 of the~~
25 ~~Public Acts of 1943, being section 133.1a of the Michigan~~
26 ~~Compiled Laws.~~ This subsection does not limit in any manner the
27 borrowing or bonding authority of a village as provided by law.

1 (3) If energy conservation improvements are made as provided
2 in this section, the village council shall report the following
3 information to the Michigan public service commission within 60
4 days of the completion of the improvements:

5 (a) Name of each facility to which an improvement is made
6 and a description of the conservation improvement.

7 (b) Actual energy consumption during the 12-month period
8 before completion of the improvement.

9 (c) Project costs and expenditures.

10 (d) Estimated annual energy savings.

11 (4) If energy conservation improvements are made as provided
12 in this section, the village council shall report to the Michigan
13 public service commission, by July 1 of each of the 5 years after
14 the improvements are completed, only the actual annual energy
15 consumption of each facility to which improvements are made. The
16 forms for the reports required by this section shall be furnished
17 by the Michigan public service commission.

18 CHAPTER IX

19 Sec. 5. The council may raise by special assessment upon
20 the lands in sewer districts and special assessment districts,
21 for the purpose of defraying the cost and expense of grading,
22 paving, and graveling streets, and for constructing drains and
23 sewers, and for making other local improvements, charged upon the
24 lands in the district in proportion to frontage or benefits, such
25 sums as they shall consider necessary to defray the costs of the
26 improvements. ~~Money raised by special assessments to defray the~~
27 ~~expense of any such local improvement shall be held as a special~~

1 lighting works as provided in this chapter. The council may fix
2 the time and place of the payment of the principal and interest
3 of the debt contracted under the provisions of this chapter, and
4 issue bonds of the village ~~therefor, but the rate of interest~~
5 ~~shall not exceed 6% per annum, and the bonds shall not be sold~~
6 ~~for less than their par value~~ FOR THOSE PURPOSES. BONDS ISSUED
7 UNDER THIS SECTION ARE SUBJECT TO THE REVISED MUNICIPAL FINANCE
8 ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.

9 (2) The total amount expended for the purchase or construc-
10 tion of the lighting works shall not exceed the amount of the
11 estimate of expense ~~therefor~~ provided for in section 3 of this
12 chapter.

13 Sec. 5. (1) After lighting works have been purchased or
14 constructed in the village as provided in this chapter, the coun-
15 cil may raise and expend money to repair, alter, or extend the
16 lighting works without submitting the question to the electors of
17 the village. However, the sum to be so raised, in any 1 year,
18 shall be included in, and shall not increase the total amount
19 that the council is authorized to raise under section 1 of
20 chapter IX.

21 (2) Instead of raising ~~such~~ THE funds by tax, the council
22 may, by a contract that does not impose a general obligation on
23 the village, provide for repairs, alterations, or extensions of
24 the lighting works. The contract shall provide for payment of
25 the contract out of the net revenues which, after payment of
26 obligations due, provision for payment of obligations to become
27 due, and payment of legitimate and necessary operating and other

1 expenses are available from the operation of the lighting works
2 after completion of the repairs, alterations, or extensions. The
3 contract shall provide for the retention of title to materials
4 furnished in the seller until paid for in full. However, a con-
5 tract made under this section does not deprive the people of the
6 village of any right vested in them by the constitution or the
7 laws of this state, grant a franchise or its operating equiva-
8 lent, or convey title to property to any person not possessed of
9 such title before the execution of the title retaining contract.

10 ~~Unless an exception from prior approval is available under~~
11 ~~subsection (4), a title retaining contract shall be approved by~~
12 ~~the department of treasury or its successor agency before becom-~~
13 ~~ing binding upon the village. The department of treasury or its~~
14 ~~successor agency shall determine its approval or disapproval upon~~
15 ~~all of the following factors:~~

16 (a) ~~Whether the contract conforms to this act.~~

17 (b) ~~Whether after payment of legitimate and necessary oper-~~
18 ~~ating and other expenses, and payments due or to become due on~~
19 ~~any existing obligations, the probable revenues pledged to the~~
20 ~~payment of the contract will be sufficient to pay the principal~~
21 ~~and interest on the contract when due.~~

22 (c) ~~Whether the cost of the repairs, alterations, or exten-~~
23 ~~sions to be paid by the contract are excessive.~~

24 (3) Instead of raising funds to repair, alter, or extend the
25 lighting works by tax as provided by section 1 of chapter IX, or
26 using funds available from the operation of the lighting works,
27 as provided in this section, the council may borrow money and

1 issue bonds in the manner provided in section 3 of this chapter
2 for the acquisition or construction of lighting works, except
3 that approval of the proposal requires the affirmative vote of
4 3/5 of the electors voting on the question.

5 ~~(4) The requirement of subsection (2) for obtaining the~~
6 ~~prior approval of the department of treasury or its successor~~
7 ~~agency before a title retaining contract may become binding is~~
8 ~~subject to sections 10 and 11 of chapter III of the municipal~~
9 ~~finance act, 1943 PA 202, MCL 133.10 and 133.11, and the depart-~~
10 ~~ment of treasury shall have the same authority as provided by~~
11 ~~section 11 of chapter III of the municipal finance act, 1943 PA~~
12 ~~202, MCL 133.11, to issue an order providing or denying an excep-~~
13 ~~tion from the prior approval required by subsection (2) for a~~
14 ~~title retaining contract authorized by this section.~~