



2019 SENATE BILL 494

October 10, 2019 - Introduced by Senators OLSEN, COWLES, DARLING, MILLER and WANGGAARD, cosponsored by Representatives WITTKE, ZIMMERMAN, KITCHENS, TRANEL, RAMTHUN, OLDENBURG, QUINN, KULP and GRUSZYNSKI. Referred to Committee on Natural Resources and Energy.

1 **AN ACT** *to renumber and amend* 121.91 (4) (o) 1.; *to amend* 121.91 (4) (o) 3.
2 and 121.91 (4) (o) 4.; and *to create* 115.28 (4m), 121.91 (4) (o) 1e. and 121.91
3 (4) (o) 1h. of the statutes; **relating to:** the school district revenue limit
4 adjustment for energy efficiency projects.

Analysis by the Legislative Reference Bureau

Current law generally limits the total amount of revenue per pupil that a school district may receive from general school aids and property taxes in a school year to the amount of revenue allowed per pupil in the previous school year plus a per pupil increase, if any, as provided by law. However, current law also includes several adjustments to the general revenue limit. For example, if a school district increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit, the school district's revenue limit is increased by the cost of that service.

Current law provides a revenue limit adjustment for the amount a school district spends on projects to implement energy efficiency measures or to purchase energy efficiency products if the school board adopted a resolution to do so before January 1, 2018. This bill makes the following changes to the energy efficiency revenue limit adjustment:

1. Eliminates the restriction that a school board must have passed a resolution before January 1, 2018, and makes the energy efficiency revenue limit adjustment available to a school board that adopts a resolution to use the revenue limit adjustment on or after date on which the bill becomes law.

SENATE BILL 494

2. Changes eligibility requirements for projects that qualify for the revenue limit adjustment. First, under the bill a qualifying project is a project to purchase or implement energy conservation measures. The bill incorporates the definition of “energy conservation measure” that applies to an energy savings performance contract. Second, the bill changes the eligibility requirement related to the term of any debt issued to finance the energy efficiency project that is the subject of the resolution. Under the bill, any debt issued to finance the project may not be for a term that is longer than 20 years, 80 percent of the useful life of the energy conservation measures, or 80 percent of the useful life of the facility at which the project is implemented, whichever is shorter. Under current law, the term of any debt issued to finance the project may not be more than 20 years. Under both current law and the bill, a qualifying project must result in energy or operational cost savings and must be governed by an energy savings performance contract.

3. Requires a resolution to utilize the revenue limit adjustment to include a statement that the school board has considered and made a good faith effort to comply with the legal requirements for the revenue limit adjustment.

4. Requires a school board to hold a public hearing on the resolution at least 30 days before voting on the resolution and to provide public notice of the public hearing at least 10 days before the public hearing. The bill includes a list of specific items that must be in the agenda for the public hearing.

5. Requires a school board that passes a resolution to submit a report to the Department of Public Instruction that includes a) the board vote on the resolution, b) the information required to be in the public hearing agenda, c) information about projected savings, and d) a statement signed by the school board president and the school district administrator that states that the school board has considered and made a good faith effort to comply with the legal requirements for the revenue limit adjustment. Under the bill, DPI must post the information in these reports on its Internet site.

6. Requires that if the school district issued debt to finance the project, the operational cost savings must be used to retire the debt. Under current law, only utility costs savings must be used to retire the debt.

Finally, under the bill, the Legislative Audit Bureau is requested to audit how school boards use the energy efficiency revenue limit adjustment during the two school years following the date on which the bill becomes law.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 115.28 (4m) of the statutes is created to read:
2 **115.28 (4m) ENERGY EFFICIENCY REVENUE LIMIT ADJUSTMENTS.** Publish on the
3 department’s Internet site each report received from a school board under s. 121.91

SENATE BILL 494

1 (4) (o) 1h. The state superintendent shall publish information under this subsection
2 in a sortable format.

3 **SECTION 2.** 121.91 (4) (o) 1. of the statutes is renumbered 121.91 (4) (o) 1. (intro.)
4 and amended to read:

5 121.91 (4) (o) 1. (intro.) Except as provided in subd. 1m. and subject to subd.
6 1e., if a school board adopts a resolution to do so that includes a statement that the
7 school board has considered and made a good faith effort to comply with the
8 requirements of this paragraph, the limit otherwise applicable to a school district
9 under sub. (2m) in any school year is increased by the amount spent by the school
10 district in that school year on a project to purchase or implement energy efficiency
11 conservation measures or to purchase energy efficiency products, as defined in s.
12 66.0133 (1) (a), including the payment of debt service on a bond or note issued, or a
13 state trust fund loan obtained, to finance the project, if the all of the following apply:

14 a. The project results in the avoidance of, or reduction in, energy costs or
15 operational costs, the,

16 b. The project is governed by a performance contract entered into under s.
17 66.0133, and the,

18 c. Any bond or note issued or state trust fund loan obtained to finance the
19 project is issued for a term not exceeding 20 years, 80 percent of the useful life of the
20 energy conservation measures, or 80 percent of the useful life of the facility at which
21 the project is implemented, whichever is shorter.

22 1c. If a school board issues a bond or note or obtains a state trust fund loan to
23 finance a project described in ~~this subdivision~~ subd. 1., a resolution adopted by a
24 school board under ~~this subdivision~~ subd. 1. is valid for each school year in which the
25 school board pays debt service on the bond, note, or state trust fund loan.

SENATE BILL 494**SECTION 3**

1 **SECTION 3.** 121.91 (4) (o) 1e. of the statutes is created to read:

2 121.91 (4) (o) 1e. At least 30 days before voting on a resolution under subd. 1.
3 to exceed the school district's revenue limit, a school board shall hold a public hearing
4 on the resolution. At least 10 days before the public hearing, the school board shall
5 publish a class 1 notice, under ch. 985, of the public hearing. A school board shall
6 include all of the following items in the agenda for the public hearing:

7 a. A detailed description of the project, including a description of the energy
8 conservation measures to be purchased or implemented.

9 b. Each facility that will be impacted by the project, including each facility at
10 which energy conservation measures will be used or installed.

11 c. The projected principle cost of the energy conservation measures.

12 d. The projected debt service cost of the energy conservation measures.

13 e. The total cost of the energy conservation measures.

14 f. The projected amount of time for the total energy or operational savings and
15 avoided costs to exceed the total cost of the energy conservation measures.

16 g. The projected useful life of the energy conservation measures.

17 h. The projected useful life of each facility at which energy conservation
18 measures will be made or installed.

19 i. The utility cost savings and the operational cost savings attributable to the
20 energy conservation measures. In calculating savings under this subd. 1e. i., a school
21 board may not include savings related to avoiding secondary damage.

22 j. The avoided inflationary costs and the avoided operational productivity costs
23 attributable to the energy conservation measures. In calculating avoided
24 inflationary costs under this subd. 1e. j., a school board shall use a standard that is

SENATE BILL 494

1 widely accepted in the midwest region to measure construction cost industry
2 inflation.

3 **SECTION 4.** 121.91 (4) (o) 1h. of the statutes is created to read:

4 121.91 (4) (o) 1h. A school board that passes a resolution under subd. 1. shall
5 submit a report to the department that includes all of the following:

6 a. The name of the school district.

7 b. The board vote on the resolution.

8 c. The projected amount and percentage of the bond, note, or state trust fund
9 loan obtained to finance the project that will be repaid from utility and operational
10 cost savings.

11 d. The projected amount and percentage of the bond, note, or state trust fund
12 loan obtained to finance the project that will be repaid by increasing the property tax
13 levy.

14 e. The information under subd. 1e. a. to j.

15 f. A certified statement signed by the school board president and the school
16 district administrator that states that the school board considered and made a good
17 faith effort to comply with the requirements under this paragraph.

18 **SECTION 5.** 121.91 (4) (o) 3. of the statutes is amended to read:

19 121.91 (4) (o) 3. If a school district issues a bond or note or obtains a state trust
20 fund loan to finance a project described in subd. 1. and the school district's utility or
21 operational costs are measurably reduced as a result of the project, the school board
22 shall use the savings to retire the bond, note, or state trust fund loan.

23 **SECTION 6.** 121.91 (4) (o) 4. of the statutes is amended to read:

24 121.91 (4) (o) 4. ~~Unless the resolution is adopted before January 1, 2018, subd.~~
25 ~~1. This paragraph~~ applies only to a resolution adopted after ~~December 3018~~ the

SENATE BILL 494**SECTION 6**

1 effective date of this subdivision ... [LRB inserts date]. A resolution adopted under
2 s. 121.91 (4) (o) 1., 2017 stats., before January 1, 2018, remains valid.

3 **SECTION 7. Nonstatutory provisions.**

4 (1) AUDIT OF THE USE OF THE ENERGY EFFICIENCY REVENUE LIMIT EXEMPTION. The
5 legislative audit bureau is requested to conduct, on or after July 1, 2022, a
6 performance evaluation audit of the use of the revenue limit exemption under s.
7 121.91 (4) (o) by school districts during the two school years following the effective
8 date of this subsection. If the bureau performs the audit, the bureau shall file a report
9 of its findings as provided in section 13.94 (1) (b) of the statutes.

10 (END)