

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/5/97

# A Bill

ACT 962 OF 1997  
HOUSE BILL 1934

5 By: Representatives Terry Smith, Choate, Newman, Baker, and Thicksten  
6  
7

## For An Act To Be Entitled

8  
9 "AN ACT RELATING TO THE FINANCING OF ENERGY CONSERVATION  
10 MEASURES BY SCHOOL DISTRICTS; AND FOR OTHER PURPOSES."  
11

### Subtitle

12  
13 "AN ACT RELATING TO THE FINANCING OF  
14 ENERGY CONSERVATION MEASURES BY SCHOOL  
15 DISTRICTS."  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. An act to amend Arkansas Code 6-20-401 by inserting an  
20 additional subsection at the end thereof to read as follows:

21 "(4) Energy conservation measures means any improvement, repair,  
22 alteration, or betterment of any building or facility owned or operated by a  
23 school district or any equipment, fixture, or furnishing to be added to or  
24 used in any such building or facility that is designed to reduce energy  
25 consumption or operating costs, and may include, without limitation, one or  
26 more of the following:

27 (A) Insulation of the building structure or systems within the  
28 building;

29 (B) Storm windows or doors, caulking or weather-stripping, multi-  
30 glazed windows or doors, heat absorbing or heat reflective glazed and coated  
31 window or door systems, additional glazing, reductions in glass area, or other  
32 window and door system modifications that reduce energy consumption;

33 (C) Automated or computerized energy control systems;

34 (D) Heating, ventilating, or air conditioning system  
35 modifications or replacements;

36 (E) Replacements or modifications of lighting fixtures to

1 increase the energy efficiency of the lighting system;

2 (F) Indoor air quality improvements to increase air quality that  
3 conform to the applicable state or local building code requirements even in  
4 lieu of an increase in energy usage;

5 (G) Any additional building infrastructure improvements, cost  
6 savings, life safety, other safety or conservation measures that provide long-  
7 term operating cost reductions and are in compliance with state and local  
8 codes;

9 (H) Building operation programs that reduce operating costs."

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11 SECTION 2. Arkansas Code 6-20-402(a) is amended to read as follows:

12 "(a) The amount of obligations incurred by a school district for any  
13 school fiscal year shall not be in excess of the revenue receipts of the  
14 district for that year except as provided herein and in §§ 6-20-801 et seq.  
15 and 6-20-1201 et seq. School districts may issue postdated warrants or enter  
16 into installment contracts or lease purchase agreements for the following  
17 purposes:

18 (1) Purchase of school buses;

19 (2) Payment of premiums of insurance policies on school  
20 buildings, facilities, and equipment in instances where the insurance coverage  
21 extends three (3) years or longer;

22 (3) Purchase of equipment;

23 (4) Repair and renovation of school facilities;

24 (5) Purchase of school sites; ~~and~~

25 (6) Payment of the district's pro rata part of employing  
26 professional appraisers as authorized by laws providing for the appraisal, or  
27 reappraisal, and assessment of property for ad valorem tax purposes- ; and

28 (7) Purchase of energy conservation measures."

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30 SECTION 3. Arkansas Code 6-20-402(b)(1) is amended to read as follows:

31 "(b)(1)(A) ~~Postdated~~ Except as provided in (b)(1)(B) of this section,  
32 postdated warrants, lease purchase agreements, and installment contracts must  
33 be paid within ~~six (6)~~ eight (8) years of the date of issuance of the  
34 postdated warrant or the execution of the written lease purchase agreement or  
35 installment contract, as the case may be. Postdated warrants, lease purchase  
36 agreements, and installment contracts must be registered, on forms provided by

1 the State Board of Education, with the treasurer of the district and the State  
2 Board of Education.

3 (B) Postdated warrants, lease purchase agreements, and  
4 installment contracts for the purchase and installation of energy conservation  
5 measures must be paid within ten (10) years after the date of issuance of the  
6 postdated warrant or the execution of the written lease purchase agreement or  
7 installment contract, as the case may be."

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9 SECTION 4. Arkansas 6-20-405 is amended to read as follows:

10 "§ 6-20-405. ~~[Repealed]~~

11 (a) As used in this section, unless the context otherwise requires:

12 (1) Energy Savings Contract means a contract for the  
13 implementation of one or more energy conservation measures as defined in  
14 Arkansas Code 6-20-401. The energy conservation measures to be performed  
15 under such contract may be paid for with either revenue or nonrevenue receipts  
16 of a school district or alternatively, financed by the issuance of postdated  
17 warrants or entering into installment contracts or lease purchase agreements.  
18 The contract may provide that all payments, except obligations on termination  
19 of the contract before its expiration, are to be made over time and the energy  
20 cost savings are guaranteed to the extent necessary to pay the costs of the  
21 energy conservation measures. Obligations incurred pursuant to such a  
22 guaranteed energy savings contract are not included in computing a district's  
23 debt ratio.

24 (2) Qualified provider means a person or business experienced or  
25 trained in the design, implementation, or installation of energy conservation  
26 measures. A qualified provider to whom the contract is awarded may be  
27 required to give a sufficient bond to the school district for its faithful  
28 performance of the equipment installation and/or accomplishment of the  
29 guaranteed savings.

30 (3) Request for proposals means a negotiated procurement.  
31 Notice of the request for proposals shall be published one (1) time each week  
32 for not less than two (2) consecutive weeks in a newspaper of the school  
33 districts choosing and having a circulation in the county or city where the  
34 contract is to be performed. Proposals shall be sealed and opened in a public  
35 forum at a date within ten (10) days from the last publication, at which point  
36 the district shall evaluate the proposals.

1           (b) A school district may utilize a request for proposals to negotiate  
2 an energy savings contract or may enter into an energy savings contract with a  
3 qualified provider after evaluating any proposal received from a qualified  
4 provider through a method other than request for proposal.

5           (c) A school district may enter into a guaranteed energy savings  
6 contract with a qualified provider if it finds that the amount it would spend  
7 on the energy conservation measures recommended in the proposal would not  
8 exceed the amount to be saved in either energy or operational costs, or both,  
9 within a ten (10) year period from the date of installation, if the  
10 recommendations in the proposal are followed. The qualified provider shall  
11 reimburse the school district for any shortfall of guaranteed energy savings  
12 projected in the project.

13           (d) The district should analyze:

14                   (1) the estimates of all costs of installation, modifications or  
15 remodeling, including, without limitation, costs of a pre-installation energy  
16 audit or analysis, design, engineering, installation maintenance, repairs,  
17 debt service, and post installation project monitoring, data collection, and  
18 reporting, as well as whether energy consumed or the operating costs, or both,  
19 will be reduced, and

20                   (2) the qualifications of the provider.

21           (e) The district may select the provider or providers best qualified  
22 and capable of performing the desired work and negotiate a contract for the  
23 project.

24           (f) This section shall constitute the sole authority necessary to  
25 accomplish the purposes of this section, without regard to compliance with  
26 other laws which may specify procedural requirements for execution of  
27 contracts."

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29           SECTION 5. All provisions of this act of a general and permanent nature  
30 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
31 Revision Commission shall incorporate the same in the Code.

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33           SECTION 6. If any provision of this act or the application thereof to  
34 any person or circumstance is held invalid, such invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without  
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 7. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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7 SECTION 8. EMERGENCY. It is found and determined by the General  
8 Assembly of the State of Arkansas that school districts in Arkansas urgently  
9 need a way to finance the purchase and installation of energy conservation  
10 measures that reduce energy consumption and operating costs of school  
11 facilities, and that create a better quality and safer learning environment;  
12 and it is necessary that school districts be able to pay for the energy  
13 conservation measures over a period of ten (10) years in order for the savings  
14 generated from the energy conservation measures to pay for the energy  
15 conservation measures. Therefore an emergency is declared to exist and this  
16 act being immediately necessary for the preservation of the public peace,  
17 health and safety shall become effective on the date of its approval by the  
18 Governor. If the bill is neither approved nor vetoed by the Governor, it  
19 shall become effective on the expiration of the period of time during which  
20 the Governor may veto the bill. If the bill is vetoed by the Governor and the  
21 veto is overridden, it shall become effective on the date the last house  
22 overrides the veto.

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*/s/Rep. Terry Smith et al*

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