

# Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

## Amendment Form

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### Subtitle of House Bill No. 2715

"AN ACT CONCERNING ENERGY SAVINGS CONTRACTS FOR SCHOOL DISTRICTS."

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### Amendment No. 1 to House Bill No. 2715.

Amend House Bill No. 2715 as originally introduced:

Add Senators Miller, Bookout as cosponsors

AND

Add Representative Cook as cosponsor

AND

Page 1, delete lines 19 and 20 and substitute the following:

"SECTION 1. Arkansas Code § 6-20-405 is amended to read as follows:  
6-20-405. Energy savings contract.

(a) As used in this section:

(1)(A) "Energy savings contract" means a contract for the implementation of one (1) or more energy conservation measures as defined in § 6-20-401 and shall include a an investment grade preinstallation energy audit ~~or~~ and analysis.

(B) The contract may provide that all payments except obligations on termination of the contract before its expiration are to be made over time and that the energy cost savings are guaranteed by the qualified provider to the extent necessary to pay all of the costs of the energy conservation measures, including all costs of financing and annual services that may include the measurement and verification of the guaranteed savings.

(C) The energy conservation measures to be performed under the contract may be paid for with ~~either~~ any combination of revenue or nonrevenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts, or lease-purchase agreements.

(D) Obligations incurred pursuant to a guaranteed energy savings contract are not included in computing a school district's debt ratio.

(E) If an energy savings contract is to be executed concurrently with one (1) or more conventional construction contracts for a



common structure, the energy savings contract shall be separate and distinct from the other contract;

(2)(A) "Qualified provider" means a business that:

(i) Possesses a valid Arkansas contractor's license;  
(ii) Has a minimum of five (5) years' experience in the analysis, design, implementation, and installation of energy efficiency and facility improvement measures;

(iii) Has the technical and financial capabilities to ensure that the measures generate energy cost savings and the ability to provide maintenance and ongoing measurement of these measures to ensure and verify energy savings; and

(iv) Is preapproved by the Division of Public School Academic Facilities and Transportation.

(B) A qualified provider to whom the contract is awarded:

(i) Shall be required to provide a payment and performance bond to the school district for its faithful performance of the equipment installation; and

(ii) May be required to provide a letter of credit, surety bond, escrowed funds, or a corporate guarantee from a company with an investment grade credit rating in an amount necessary to ensure the effective performance of the contract; and

(3)(A) "Request for qualifications" means a negotiated procurement.

(B)(i) Notice of the request for qualifications shall be published one (1) time each week for no ~~fewer~~ less than two (2) consecutive weeks in a newspaper of statewide circulation.

(ii) Responses shall be sealed and opened in a public forum at a date within ~~twenty (20)~~ thirty (30) days from the last publication, at which point the school district shall evaluate the qualifications.

(b) The school district may select the qualified provider or providers best qualified and capable of performing the desired work and negotiate an energy savings contract for the project.

(c)(1) A school district may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures ~~recommended in the proposal~~ detailed in the contract would not exceed the amount to be saved in any combination of energy costs or operational costs, or future capital expenditures avoided within a twenty-year period from the date of installation if the recommendations in the proposal are followed.

(2) The qualified provider's proposal shall include:

(A) The estimates of all costs of installation, modifications, or remodeling, including, without limitation, costs of a an investment grade preinstallation energy audit ~~or~~ and analysis, design, engineering, installation, commissioning, maintenance, repairs, debt service, postinstallation project monitoring, savings measurement and verification, and data collection and reporting, as well as whether energy consumed or the operating costs, or both, will be reduced;

(B) The qualifications of the provider;

(C) ~~Certification that all energy consuming products utilized in the projects will be certified with the appropriate standards by the Air Conditioning and Refrigeration Institute~~ The amount and specific

sources of operational savings and capital cost avoidance that the school district acknowledges will occur without future measurement and verification;  
and

(D) A statement from an Arkansas-licensed professional engineer that he or she was a member of the qualified provider's project team that completed a comprehensive energy audit and analysis of the school district's facilities; and

(E) The reasonably expected useful life of each recommended energy conservation measure.

(3)(A) Except as provided in subdivision (c)(3)(C) of this section, before entering into any energy savings contract, the contract shall be reviewed by an engineer who is:

(i) Licensed in the State of Arkansas; and

(ii) Designated by the division as qualified to review energy savings contracts.

(B)(i) The engineer conducting the contract review shall report to the district any comments or issues that he or she believes merit consideration by the district before the district executes the energy savings contract.

(ii) The engineer shall bear no liability for any estimation of energy savings generated as part of a contract review under this subdivision (c)(3).

(C) Third-party review as provided in this subdivision (c)(3) shall not be required if the qualified provider demonstrates that the provider is a current member in good standing of the Energy Service Company or Energy Service Provider category of the National Association of Energy Service Companies.

(d)(1) The qualified provider shall provide to the school district an annual reconciliation report of the guaranteed energy-use savings.

(2) The qualified provider shall reimburse the school district for any annual shortfall of guaranteed energy-use savings ~~projected in the project~~ as stated in the contract.

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

The Amendment was read \_\_\_\_\_  
By: Representative Harris  
GLG/LEF - 03-20-2007 10:46  
GLG228 \_\_\_\_\_ Chief Clerk