

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

DRAFT JLL/JLL
SENATE BILL

5 By: Senator <NA>
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For An Act To Be Entitled

8 AN ACT TO AMEND THE GUARANTEED ENERGY COST SAVINGS
9 ACT; TO ALLOW STATE AGENCIES TO USE MAINTENANCE AND
10 OPERATIONS APPROPRIATIONS FOR DEBT SERVICE RELATED TO
11 A GUARANTEED ENERGY COST SAVINGS CONTRACT; AND FOR
12 OTHER PURPOSES.
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Subtitle

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15 TO AMEND THE GUARANTEED ENERGY COST
16 SAVINGS ACT AND TO ALLOW STATE AGENCIES
17 TO USE MAINTENANCE AND OPERATIONS
18 APPROPRIATIONS FOR DEBT SERVICE RELATED
19 TO A GUARANTEED ENERGY COST SAVINGS
20 CONTRACT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 19-4-522(d)(1), concerning maintenance and
27 operations subclassifications and expenses, is amended to add an additional
28 subdivision to read as follows:

29 (S) Debt service on equipment or measures required by a
30 guaranteed energy cost savings contract executed under the Guaranteed Energy
31 Cost Savings Act, § 19-11-1201 et seq.;
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33 SECTION 2. Arkansas Code § 19-11-1205 is amended to read as follows:
34 19-11-1205. Evaluation of ~~proposals~~ responses to solicitations.

35 (a) A In a state agency's evaluation of each qualified provider's
36 ~~proposal~~ response to a solicitation under § 19-11-1204, the state agency

1 shall include an analysis of:

2 ~~(1) The estimates of all costs, including, but not limited to,~~
 3 ~~modifications, remodeling, a preinstallation energy audit or analysis,~~
 4 ~~design, engineering, installation, maintenance, repairs, debt service, and~~
 5 ~~postinstallation project monitoring, data collection, and reporting;~~

6 ~~(2) A determination whether there will be a (1) Whether the~~
 7 ~~qualified provider is most qualified to meet the objectives of the~~
 8 ~~solicitation, including without limitation a reduction in the state agency's~~
 9 ~~energy consumption or operating costs resulting from the proposal a~~
 10 ~~guaranteed energy cost savings contract with the qualified provider;~~

11 ~~(3) (2) The qualifications and experience of the properly state-~~
 12 ~~licensed qualified provider;~~

13 ~~(4) The relative importance of price, return of investment,~~
 14 ~~financial performance, stability, quality, technical ability, experience, or~~
 15 ~~any other relevant evaluation factor;~~

16 ~~(5) Tasks to be performed under the proposal; and~~

17 ~~(6) Timeframes within which the work will be completed.~~

18 (3) The technical approach to the energy cost savings measures;

19 (4) The financial aspects of the energy cost savings measures;

20 (5) The overall benefit to the state agency; and

21 (6) Any other relevant factors.

22 (b) After evaluating ~~the proposals~~ a response to a solicitation as
 23 required under subsection (a) of this section, a state agency may:

24 (1) ~~The state agency may reject any proposal~~ Reject the
 25 response; or

26 (2) Award a contract to a qualified provider to conduct an
 27 energy audit to be used in developing the guaranteed energy cost savings
 28 contract ~~in a manner consistent with the Arkansas Procurement Law, § 19-11-~~
 29 ~~201 et seq.~~

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 31 SECTION 3. Arkansas Code § 19-11-1206 is amended to read as follows:

32 19-11-1206. ~~Contract~~ Guaranteed energy cost savings contract
 33 requirements.

34 (a) A The following provisions are required in a guaranteed energy
 35 cost savings contract ~~shall include the properly state licensed qualified~~
 36 ~~provider's guarantee that:~~

1 (1) A statement that the state agency is not eligible to receive
 2 reimbursement under subdivision (a)(2)(C) of this section if:

3 (A) The state agency fails or refuses to install, operate,
 4 and maintain any new or existing equipment, improvement, or facility that is
 5 an essential component of the energy cost savings measures required by the
 6 guaranteed energy cost savings contract; and

7 (B) The failure or refusal to properly install, operate,
 8 and maintain the new or existing equipment, improvement, or facility under
 9 subdivision (a)(1)(A) of this section has a significant negative impact on
 10 the energy cost savings guaranteed under the guaranteed energy cost savings
 11 contract;

12 (2) A guarantee by the qualified provider that:

13 ~~(1)~~ (A) The energy cost savings and operational cost
 14 savings to be realized over the term of the guaranteed energy cost savings
 15 contract ~~shall~~ meet or exceed the costs of the energy cost savings measures;

16 ~~(2)~~ (B) The payback period for heating, ventilation, and
 17 air conditioning systems ~~shall be~~ is based on the equipment capacity and
 18 efficiency as certified by the ~~Air-Conditioning and Refrigeration Institute~~
 19 ~~Air-Conditioning, Heating and Refrigeration Institute~~; and

20 ~~(3)~~ (C) If the annual energy or operational cost savings
 21 fail to meet or exceed the annual costs of the energy cost savings measure as
 22 required by the guaranteed energy cost savings contract, the qualified
 23 provider shall reimburse the state agency for any shortfall of guaranteed
 24 energy cost savings on an annual basis.

25 (b) The maximum term for a guaranteed energy cost savings contract ~~may~~
 26 ~~not have a term beyond~~ is twenty (20) years.

27 (c) Before entering into a guaranteed energy cost savings contract,
 28 the state agency shall require the qualified provider to file with the state
 29 agency a ~~bid bond, payment and performance bond,~~ or similar assurance as
 30 provided under § 19-11-235.

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 32 SECTION 4. Arkansas Code Title 19, Chapter 11, Subchapter 12 is
 33 amended to add two additional sections to read as follows:

34 19-11-1207. Administration of subchapter.

35 The Arkansas Energy Office shall administer this subchapter, including
 36 without limitation promulgating rules regarding the following:

1 (1) Standards for measuring and verifying the performance of
2 energy cost savings measures; and

3 (2) A standard contract form for use by a state agency in
4 entering into a guaranteed energy cost savings contract.

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6 19-11-1208. Maintenance and operation.

7 Notwithstanding any law to the contrary, a state agency may utilize
8 maintenance and operations appropriations for the payment of equipment and
9 energy cost savings measures required by a guaranteed energy cost savings
10 contract.

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