

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

HOUSE BILL 1646

4
5 By: Representative D. Douglas
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For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS APPLICABLE TO CERTAIN ENERGY
9 EFFICIENCY CONTRACTS AND PROJECTS; TO AMEND THE LOCAL
10 GOVERNMENT CAPITAL IMPROVEMENT REVENUE BOND ACT; TO
11 AMEND THE GUARANTEED ENERGY COST SAVINGS ACT; AND FOR
12 OTHER PURPOSES.
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Subtitle

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16 TO AMEND THE LAWS APPLICABLE TO CERTAIN
17 ENERGY EFFICIENCY CONTRACTS AND PROJECTS;
18 TO AMEND THE LOCAL GOVERNMENT CAPITAL
19 IMPROVEMENT REVENUE BOND ACT; AND TO
20 AMEND THE GUARANTEED ENERGY COST SAVINGS
21 ACT.
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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 § 14-164-402(15), concerning the definition
27 of "qualified efficiency contract" under the Local Government Capital
28 Improvement Revenue Bond Act, is amended to add an additional subdivision to
29 read as follows:

30 (J) To encourage the implementation of performance-based
31 efficiency projects that result in a high level of energy and efficiency
32 savings that can be reasonably estimated before implementation, the issuer
33 may substitute the terms and conditions stated in subdivisions (15)(A)-(G) of
34 this section with documentation that verifies that:

35 (i) The performance-based efficiency project results
36 in estimated efficiency savings that on an annual basis are equal to one



1 hundred thirty-five percent (135%) of the annual cost, including debt
 2 service, required to implement the performance-based efficiency project; and
 3 (ii) The estimated efficiency savings of the
 4 performance-based efficiency project have been reviewed and verified by a
 5 professional engineer, as defined in § 17-30-101, who is not affiliated or
 6 associated with the qualified efficiency engineering company.

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 8 SECTION 2. Arkansas Code § 19-11-1206(a), concerning guaranteed energy
 9 cost savings contract requirements, is amended to read as follows:

10 (a) The following provisions are required in a guaranteed energy cost
 11 savings contract:

12 (1) A statement that the state agency shall maintain and operate
 13 the energy cost savings measures as defined in the guaranteed energy cost
 14 savings contract; and

15 (2) Either:

16 (A) A guarantee by the qualified provider that:

17 ~~(A)~~ (i) The energy cost savings and operational cost
 18 savings to be realized over the term of the guaranteed energy cost savings
 19 contract meet or exceed the costs of the energy cost savings measures; and

20 ~~(B)~~ (ii) If the annual energy or operational cost
 21 savings fail to meet or exceed the annual costs of the energy cost savings
 22 measure as required by the guaranteed energy cost savings contract, the
 23 qualified provider shall reimburse the state agency for any shortfall of
 24 guaranteed energy cost savings over the term of the guaranteed energy cost
 25 savings contract; or

26 (B) Documentation by the state agency verifying that:

27 (i) The energy cost savings measure:

28 (a) Satisfies the definition of "energy cost
 29 savings measure" under § 19-11-1202(1)(A)(ii); and

30 (b) Will result in estimated energy cost
 31 savings and operational cost savings that on an annual basis are equal to one
 32 hundred thirty-five percent (135%) of the annual cost, including debt
 33 service, required to implement the energy cost savings measure; and

34 (ii) The estimated operational cost savings of the
 35 energy cost savings measure have been reviewed and verified by a professional
 36 engineer, as defined in § 17-30-101, who is not affiliated or associated with

1 the qualified provider for the project.

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 3 SECTION 3. Arkansas Code Title 19, Chapter 11, Subchapter 12, is
 4 amended to add an additional section to read as follows:

5 19-11-1209. Evaluation of qualified providers.

6 (a) To promote entrepreneurship and encourage increased fair and
 7 appropriate competition among qualified persons or businesses desiring to
 8 expand or enter the field of completing projects involving energy cost
 9 savings measures, the Arkansas Energy Office, for purposes of certifying
 10 qualified providers, shall give full and fair consideration to each energy
 11 efficiency and facility improvement project completed by a person or
 12 business, including without limitation all subcontractors and employees of
 13 the person or business, applying for certification as a qualified provider
 14 regardless of whether:

15 (1) The project was completed under a guaranteed energy cost
 16 savings contract; and

17 (2) The financing for the project was arranged or provided by
 18 the person or business.

19 (b) The office shall evaluate and approve qualified providers, using
 20 the standards stated in § 19-11-1202 and this section, within ninety (90)
 21 days of submission by an applicant of information demonstrating that the
 22 applicant qualifies to complete energy cost savings measures as a qualified
 23 provider.