

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/20/15

A Bill

HOUSE BILL 1646

5 By: Representative D. Douglas
6

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.
13
14

Subtitle

15 TO AMEND THE LAWS APPLICABLE TO CERTAIN
16 ENERGY EFFICIENCY CONTRACTS AND PROJECTS;
17 TO AMEND THE LOCAL GOVERNMENT CAPITAL
18 IMPROVEMENT REVENUE BOND ACT; AND TO
19 AMEND THE GUARANTEED ENERGY COST SAVINGS
20 ACT.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 *SECTION 1. Arkansas Code § 6-20-405, concerning energy savings*
27 *contracts for school districts, is amended to add an additional subsection to*
28 *read as follows:*

29 *(f)(1) The maximum term of an energy savings contract shall not exceed*
30 *the useful life of the energy conservation measures that are the subject of*
31 *the energy savings contract.*

32 *(2)(A) If more than one (1) type of energy conservation measure*
33 *is financed through a single debt issue under an energy savings contract*
34 *under this section, the term of the debt issue shall not exceed the weighted*
35 *average useful life of the equipment procured and installed to accomplish the*
36 *energy conservation measures.*



1 (B) In making the determination of the weighted average
2 useful life of the equipment procured and installed under this subdivision
3 (f)(2), the useful life for each item or category of equipment shall be
4 weighted on the basis of the initial capital cost of the item or category of
5 equipment compared to the total initial capital cost of all equipment for
6 energy conservation measures to be financed through the single debt issue.
7

8 SECTION 2. Arkansas Code § 14-164-402(15), concerning the definition
9 of "qualified efficiency contract" under the Local Government Capital
10 Improvement Revenue Bond Act, is amended to add an additional subdivision to
11 read as follows:

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

17 (i) The performance-based efficiency project results
18 in estimated efficiency savings that on an annual basis are equal to a
19 minimum of one hundred thirty-five percent (135%) of the annual cost,
20 including debt service, required to implement the performance-based
21 efficiency project;

22 (ii) The estimated efficiency savings of the
23 performance-based efficiency project have been reviewed and verified by a
24 professional engineer, as defined in § 17-30-101, who is not affiliated or
25 associated with the qualified efficiency engineering company; and

26 (iii)(a) If more than one (1) type of energy
27 efficiency measure is financed through a single debt issue under a qualified
28 efficiency contract under this subchapter, the term of the debt issue does
29 not exceed the weighted average useful life of the equipment procured and
30 installed to accomplish the performance-based efficiency project.

31 (b) In making the determination of the
32 weighted average useful life of the equipment procured and installed under
33 this subdivision (15)(J)(iii), the useful life for each item or category of
34 equipment shall be weighted on the basis of the initial capital cost of the
35 item or category of equipment compared to the total initial capital cost of
36 all equipment for energy efficiency measures to be financed through the

1 single debt issue.
2

3 SECTION 3. Arkansas Code § 14-164-405, concerning the issuance of
4 bonds under the Local Government Capital Improvement Revenue Bond Act of
5 1985, is amended to add an additional subsection to read as follows:

6 (c)(1) The maximum term of a qualified efficiency contract shall not
7 exceed the useful life of the energy efficiency measures that make up the
8 performance-based efficiency project that is the subject of the qualified
9 efficiency contract.

10 (2) In determining the useful life of the energy efficiency
11 measures and the overall performance-based efficiency project, the
12 municipality or county shall consider the determination made under § 14-164-
13 402(15)(J)(iii).
14

15 SECTION 4 Arkansas Code § 19-11-1206(a) and (b), concerning guaranteed
16 energy cost savings contract requirements, are amended to read as follows:

17 (a) The following provisions are required in a guaranteed energy cost
18 savings contract:

19 (1) A statement that the state agency shall maintain and operate
20 the energy cost savings measures as defined in the guaranteed energy cost
21 savings contract; and

22 (2) Either:

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

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

27 ~~(B)~~ (ii) If the annual energy or operational cost
28 savings fail to meet or exceed the annual costs of the energy cost savings
29 measure as required by the guaranteed energy cost savings contract, the
30 qualified provider shall reimburse the state agency for any shortfall of
31 guaranteed energy cost savings over the term of the guaranteed energy cost
32 savings contract; or

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

34 (i) The energy cost savings measure:

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

1 (b) Will result in estimated energy cost
2 savings and operational cost savings that on an annual basis are equal to a
3 minimum of one hundred thirty-five percent (135%) of the annual cost,
4 including debt service, required to implement the energy cost savings
5 measure;

6 (ii) The estimated operational cost savings of the
7 energy cost savings measure have been reviewed and verified by a professional
8 engineer, as defined in § 17-30-101, who is not affiliated or associated with
9 the qualified provider for the project; and

10 (iii)(a) If more than one (1) type of energy cost
11 savings measure is financed through a single debt issue under this
12 subchapter, the term of the debt issue does not exceed the weighted average
13 useful life of the equipment procured and installed to accomplish the energy
14 cost savings measures.

15 (b) In making the determination of the
16 weighted average useful life of the equipment procured and installed under
17 this subdivision (a)(2)(B)(iii), the useful life for each item or category of
18 equipment shall be weighted on the basis of the initial capital cost of the
19 item or category of equipment compared to the total initial capital cost of
20 all equipment for energy cost savings measures to be financed through the
21 single debt issue.

22 (b) The maximum term for a guaranteed energy cost savings contract is
23 ~~twenty~~ the lesser of:

24 (1) Twenty (20) years after the implementation of the energy
25 cost savings measures; or

26 (2)(A) The useful life of the energy cost savings measures that
27 are the subject of the guaranteed energy cost savings contract.

28 (B) In determining the useful life of the energy cost
29 savings measures, the state agency shall consider the determination made
30 under subdivision (a)(2)(B)(iii) of this section.

31
32 SECTION 5. Arkansas Code Title 19, Chapter 11, Subchapter 12, is
33 amended to add an additional section to read as follows:

34 19-11-1209. Evaluation of qualified providers.

35 (a) To promote entrepreneurship and encourage increased fair and
36 appropriate competition among qualified persons or businesses desiring to

1 expand or enter the field of completing projects involving energy cost
2 savings measures, the Arkansas Energy Office, for purposes of certifying
3 qualified providers, shall give full and fair consideration to each energy
4 efficiency and facility improvement project completed by a person or
5 business, including without limitation all subcontractors and employees of
6 the person or business, applying for certification as a qualified provider
7 regardless of whether:

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

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

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

17
18 */s/D. Douglas*
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36