

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Representative Love
6

A Bill

HOUSE BILL 1776

For An Act To Be Entitled

8 AN ACT TO AMEND THE SUSTAINABLE ENERGY-EFFICIENT
9 BUILDINGS PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

12 TO AMEND THE SUSTAINABLE ENERGY-EFFICIENT
13 BUILDINGS PROGRAM.
14

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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code § 22-3-2001 is amended to read as follows:
20 22-3-2001. Title – Legislative findings.

21 (a) This subchapter shall be known and may be cited as the
22 "Sustainable Energy-Efficient Buildings Act".

23 (b) The General Assembly finds that:

24 (1)~~(A)~~ Public buildings can be built and renovated using
25 sustainable, energy-efficient methods that save money, reduce negative
26 environmental impacts, improve employee and student performance, and make
27 employees and students more productive;

28 ~~(B)~~(2) The main objectives of sustainable, energy-
29 efficient designs are to:

30 ~~(i)~~(A) Avoid resource depletion of energy, water,
31 and raw materials;

32 ~~(ii)~~(B) Prevent environmental degradation caused by
33 facilities and infrastructure throughout their life cycle; and

34 ~~(iii)~~(C) Create buildings that are livable,
35 comfortable, safe, and productive; and

36 ~~(2)~~(3) State-owned buildings and buildings owned by an



1 institution of higher education can be improved by establishing specific
 2 performance criteria and goals for sustainable, energy-efficient public
 3 buildings that are based on recognized, consensual standards with a
 4 scientifically proven basis and a history of successful performance.

5
 6 SECTION 2. Arkansas Code § 22-3-2002(3)-(6), concerning definitions
 7 regarding sustainable energy-efficient buildings, are amended to read as
 8 follows:

9 (3)(A) "Major facility" means a construction project larger than
 10 ~~twenty thousand (20,000)~~ fifty thousand (50,000) gross square feet of
 11 occupied or conditioned space.

12 (B) "Major facility" does not include a transmitter
 13 building or a pumping station;

14 (4) "Major renovation" means a building renovation project that:

15 (A) Costs more than fifty percent (50%) of its current
 16 replacement value;

17 (B) Is larger than ~~twenty thousand (20,000)~~ fifty thousand
 18 (50,000) gross square feet of occupied or conditioned space; and

19 (C) Is funded in whole or in part by the state;

20 (5) "Public agency" means a state agency, office, officer,
 21 board, department, or commission more than fifty thousand (50,000) gross
 22 square feet of occupied or conditioned space; and

23 (6) "Sustainable, energy-efficient public building" means a
 24 public building that, ~~by complying with this subchapter,;~~

25 (A) ~~has~~ Has the most economical energy and water
 26 efficiency for that type of building; and

27 (B) Is in compliance with this subchapter.

28
 29 SECTION 3. Arkansas Code § 22-3-2003(a), concerning the Sustainable
 30 Energy-Efficient Buildings Program, is amended to read as follows:

31 (a) The Sustainable Energy-Efficient Buildings Program is established
 32 to promote energy conservation in buildings owned or leased by public
 33 agencies and buildings owned or leased by institutions of higher education.
 34

35 SECTION 4. Arkansas Code § 22-3-2004(a) and (b), concerning standards
 36 for major facilities or major renovations, are amended to read as follows:

1 (a) The following minimum standards apply to a major facility:

2 (1) A major facility of a public agency or an institution of
3 higher education shall consider a life-cycle cost analysis and be designed,
4 constructed, and certified ~~to at least ten percent (10%) reduction below the~~
5 ~~baseline energy consumption determined~~ in accordance with the Performance
6 Rating Method of Appendix G of the American Society of Heating,
7 Refrigerating, and Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013,
8 as it existed on January 1, ~~2009~~ 2018;

9 (2) Subdivision (a)(1) of this section applies to a major
10 facility project that has not entered the schematic design phase on or before
11 ~~July 31, 2009~~ June 30, 2019; and

12 (3) An exception or a special standard for a specific type of
13 building or building facility that is found in the American Society of
14 Heating, Refrigerating, and Air-Conditioning Engineers, Standard ~~90.1-2007~~
15 90.1-2013, is included in the American Society of Heating, Refrigerating, and
16 Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013, under subdivision
17 (a)(1) of this section.

18 (b)(1) A major renovation of a public agency or an institution of
19 higher education shall consider a life-cycle cost analysis and be certified
20 ~~to at least ten percent (10%) reduction below the baseline energy consumption~~
21 ~~determined~~ in accordance with the Performance Rating Method of Appendix G of
22 the American Society of Heating, Refrigerating, and Air-Conditioning
23 Engineers, Standard ~~90.1-2007~~ 90.1-2013, as it existed on January 1, ~~2009~~
24 2018.

25 (2) Subdivision (b)(1) of this section applies to a major
26 renovation that has not entered the schematic design phase on or before ~~July~~
27 ~~31, 2009~~ June 30, 2019.

28
29 SECTION 5. Arkansas Code § 22-3-2004(d), concerning standards for
30 major facilities or major renovations, is amended to read as follows:

31 (d) If the Arkansas Energy Office or the institution of higher
32 education determines the American Society of Heating, Refrigerating, and Air-
33 Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013 is not practicable for a
34 major facility or major renovation, the Arkansas Energy Office or the
35 institution of higher education shall determine a practicable alternative
36 standard for the design and construction for that major facility or major

1 renovation.

2

3 SECTION 6. Arkansas Code § 22-3-2004(f)(2)(B), concerning standards
4 for major facilities or major renovations, is amended to read as follows:

5 (B) If the report under subdivision (f)(2)(A)(ii) of this
6 section shows that the building's average energy or water consumption over
7 the one-year period after the date of beneficial occupancy is more than the
8 baseline consumption determined in accordance with the Performance Rating
9 Method of Appendix G of the American Society of Heating, Refrigerating, and
10 Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013, as it existed on
11 January 1, ~~2009~~ 2018, the designer, the owner public agency or the owner
12 institution of higher education, the contractor, the contract manager at
13 risk, and the commissioning agent shall:

14 (i) Investigate;

15 (ii) Determine the cause for the failure to achieve
16 this section's performance standards; and

17 (iii) Recommend corrections or modifications to meet
18 this section's performance standards.

19

20 SECTION 7. Arkansas Code § 22-3-2006 is amended to read as follows:

21 22-3-2006. Program to manage energy usage of public agencies.

22 (a) The Arkansas Energy Office of the Arkansas Department of
23 Environmental Quality shall:

24 (1) Develop an energy program to manage energy, water, and other
25 utility uses for public agencies that will reduce total aggregate energy
26 consumption per gross square foot for all existing ~~state~~ applicable public
27 agency buildings ~~by twenty percent (20%) by 2014 and thirty percent (30%) by~~
28 ~~2017 based on energy consumption for the 2007-2008 fiscal year~~ if the savings
29 can be justified by a life-cycle cost analysis; ~~and~~

30 (2) Update this program annually; and

31 (3) Recommend public agency energy consumption reduction goals
32 every five (5) years.

33 (b) To implement its ~~plan~~ program, the Arkansas Energy Office of the
34 Arkansas Department of Environmental Quality shall to the extent funds are
35 available and appropriated:

36 (1) Develop and implement policies, procedures, and standards to

1 ensure that a public agency's purchasing practices:

2 (A) Improve the efficiency of energy, water, and other
3 utility uses; and

4 (B) Consider the cost of the product over its economic
5 life;

6 (2)~~(A)~~ Adopt and implement building energy design guidelines for
7 public agencies that include without limitation:

8 ~~(i)~~(A) Energy-use goals and standards;

9 ~~(ii)~~(B) Economic assumptions for life-cycle cost
10 analysis; and

11 ~~(iii)~~(C) Other criteria for building systems and
12 technologies.

13 ~~(B) The Arkansas Energy Office shall modify the design
14 criteria for the construction or the renovation of the facilities of a public
15 facility to require the conducting of a life-cycle cost analysis;~~

16 (3) Identify and recommend energy conservation maintenance and
17 operating procedures that:

18 (A) Are designed to reduce energy consumption within the
19 public facility; and

20 (B) Require no significant expenditure of funds;

21 (4) Require the maximum interchangeability and compatibility of
22 equipment components when energy management equipment is proposed for any
23 facility of a public agency; and

24 (5)~~(A) Develop an energy audit and a procedure for conducting an
25 energy audit.~~

26 ~~(B)(i) Within five (5) years after June 30, 2011, each
27 public agency occupying a state-owned building shall complete an energy audit
28 using American Society of Heating, Refrigerating and Air-Conditioning
29 Engineers audit procedures and report the findings to the Arkansas Energy
30 Office.~~

31 ~~(ii) The level of the energy audit in subdivision
32 (b)(5)(B)(i) of this section shall be consistent with the condition of each
33 public facility.~~

34 ~~(C) When conducting an energy audit under this subdivision
35 (b)(5), the Arkansas Energy Office shall identify and recommend any public
36 facility that is suitable for:~~

1 ~~(i) Building commissioning to reduce energy~~
 2 ~~consumption within the facility; or~~

3 ~~(ii) Installing an energy savings measure under a~~
 4 ~~guaranteed energy savings contract~~ Offer substantial recognition to a public
 5 agency that acts in a manner that furthers the program and goals under this
 6 section.

7 (c) The Arkansas Energy Office of the Arkansas Department of
 8 Environmental Quality may adopt architectural and engineering standards to
 9 implement this section.

10 (d) A public agency shall:

11 ~~(1) Develop and implement, to the extent funds are available, an~~
 12 ~~energy management plan to manage its energy, water, and other utility uses~~
 13 ~~that is consistent with the Arkansas Energy Office's energy management~~
 14 ~~program developed under this section;~~

15 ~~(2) Update its management plan annually, including without~~
 16 ~~limitation strategies for supporting the energy consumption reduction~~
 17 ~~requirements under subsection (a) of this section;~~

18 ~~(3)~~(1) Submit annually by October 31 to the Arkansas Energy
 19 Office a written report of the public agency's utility consumption and costs
 20 by fuel to which the Arkansas Energy Office shall respond with a
 21 recommendation annually by June 30;

22 ~~(4)~~(2) ~~Carry out the~~ Complete construction and renovation of a
 23 facility in a manner that:

24 (A) Furthers the program and goals under this section; and

25 (B) Ensures the use of life-cycle cost analyses and
 26 practices to conserve energy, water, and other utilities; and

27 ~~(5)~~(3) ~~Implement~~ Comply with the Arkansas Energy Office's
 28 ~~recommendations made~~ program under subdivision (b)(1) of this section, to the
 29 extent funds are available and appropriated.

30
 31 SECTION 8. Arkansas Code § 22-3-2008(a)(1), concerning the advisory
 32 committee for the Arkansas Energy Office of the Arkansas Department of
 33 Environmental Quality, is amended to read as follows:

34 (a)(1) The Director ~~of the Arkansas Energy Office~~ of the Arkansas
 35 Department of Environmental Quality ~~shall~~ or his or her designee may create
 36 and recommend members for a sustainable, energy-efficient building advisory

1 committee composed of:

2 (A) Representatives from the design and construction
3 industry who are involved in public works contracting;

4 (B) Persons from public agencies who are responsible for
5 overseeing public works projects or for developing energy efficiency programs
6 and policies; and

7 (C) Other persons that the Director ~~of the Arkansas Energy~~
8 ~~Office~~ of the Arkansas Department of Environmental Quality or his or her
9 designee considers to have useful information.

10

11 SECTION 9. Arkansas Code § 22-3-2009(b)(1), concerning regulations and
12 administration, is amended to read as follows:

13 (1) Develop or revise the architectural and engineering
14 standards, to the extent funds are available and appropriated, to provide
15 assistance in determining:

16 (A) The energy conservation measures that are best suited
17 to the unique characteristics of each building; and

18 (B) The specifications for the energy conservation
19 measures under this subchapter; and

20

21 SECTION 10. Arkansas Code § 22-3-2010(a), concerning performance
22 reviews and reports, is amended to read as follows:

23 (a) ~~The~~ To the extent that funds are available and appropriated, the
24 Arkansas Energy Office of the Arkansas Department of Environmental Quality,
25 ~~to the extent funds are available,~~ shall conduct a performance review of the
26 Sustainable Energy-Efficient Buildings Program that includes at least the
27 following:

28 (1) An identification of the costs of implementing energy-
29 efficient and water-efficient building standards in the design and
30 construction of a major facility or major renovation;

31 (2) An identification of the operating savings attributable to
32 the implementation of energy-efficient and water-efficient building
33 standards, including without limitation savings in energy, water, utility,
34 and maintenance costs; and

35 (3) ~~An identification of any impact on employee productivity~~
36 ~~from the application of the standards under this subchapter; and~~

1 ~~(4)~~ An evaluation of the effectiveness of the application of the
 2 standards under this subchapter.

3
 4 SECTION 11. Arkansas Code § 22-3-2011(a) and (b), concerning the
 5 applicability of the Sustainable Energy-Efficient Buildings Program, are
 6 amended to read as follows:

7 (a) The boards of trustees for the University of Arkansas, Arkansas
 8 State University, the University of Central Arkansas, Henderson State
 9 University, Arkansas Tech University, and Southern Arkansas University are
 10 exempt from the provisions of this subchapter if those institutions develop
 11 policies and procedures to meet the:

12 ~~(1) specific~~ Specific performance criteria and goals for a major
 13 facility or major renovation; and

14 ~~(2) Requirements of § 22-3-2006(d)(1).~~

15 (b)(1) The board of trustees of any institution of higher education
 16 that is not included under subsection (a) of this section may be exempted
 17 from the provisions of this subchapter by the Department of Higher Education.

18 (2) Before granting an exemption to a board of trustees of an
 19 institution of higher education under subdivision (b)(1) of this section, the
 20 department shall review and approve the policies and procedures to meet the:

21 ~~(A) specific~~ Specific performance criteria and goals for a
 22 major facility or major renovation; and

23 ~~(B) Requirements of § 22-3-2006(d)(1).~~