

ENGROSSED SENATE  
BILL NO. 1070

By: Price and Herbert of the  
Senate

and

Steidley of the House

[ schools - entering into certain contracts -  
requiring performance bond - effective date -  
emergency ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 5-131.2 of Title 70, unless  
there is created a duplication in numbering, reads as follows:

A. The board of education of any school district may enter into  
a contract for the purpose of implementing energy conservation  
measures designed to reduce the energy consumption or operating  
costs of school facilities. A contract to which this section  
applies includes one or more of the following:

1. Insulation of the building structure or systems within the  
building;

2. Storm windows or doors, caulking or weather-stripping,  
multiglazed windows or doors, heat-absorbing or heat-reflective,  
glazed, and coated window or door systems, additional glazing,  
reductions in glass area, or other window and door system  
modifications that reduce energy consumption;

3. Automatic or computerized energy control systems;

4. Heating, ventilating or air conditioning system modifications or replacements;

5. Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system, but not for the sole purpose of increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building codes for the lighting system after the proposed modifications are made;

6. Indoor air quality improvements;

7. Energy recovery systems;

8. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

9. Any life safety measures that provide long-term operating cost reductions; and

10. Building operation programs that reduce the operating costs.

B. Before entering into a contract for services as provided in subsection A of this section, the board shall require the provider of the energy conservation measures to file with the board a performance bond that is in an amount the board finds reasonable and necessary to protect the interests of the school district and that covers the value of the guaranteed savings on the contract and is conditioned on the faithful execution of the terms of the contract.

C. The board may enter into a contract for a period of more than one (1) year for the implementation of energy conservation measures with a person or business entity if the board finds that the amount the school district would spend on the energy conservation measures will not exceed the amount to be saved in energy and operating costs over ten (10) years from the date of installation. If the term of a contract for energy conservation measures exceeds one (1) year, the district's contractual obligation

in any year during the term of the contract may not exceed the total energy and operating cost savings including, but not limited to, electrical, gas or other utility cost savings and operating cost savings resulting from automatic monitoring and control, as determined by the board in this subsection, divided by the number of years in the contract term. The board shall consider all costs of the energy conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service. The contract shall also provide that the board may terminate the agreement if funds are not available for payment.

D. A contract for energy conservation measures, with respect to existing buildings or facilities, may be a lease-purchase contract, with a term not to exceed ten (10) years, that meets federal tax requirements for tax-free municipal leasing or long-term financing.

E. A contract under this section shall be let under competitive proposal procedures. Notice of the request for proposals shall be published in the manner provided for competitive bidding. Requests for proposals must solicit quotations and must specify the relative importance of guaranteed savings, price, financial performance and stability, quality, technical ability, experience and other evaluation factors. The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the school district considering the guaranteed savings and other evaluation factors set forth in the request for proposals.

F. In accordance with the terms of a request for proposals under subsection E of this section and with rules adopted by the board of education, the school district may conduct discussions with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final

offers, the school district may allow proposal revisions after submissions and before the award of the contract.

G. If provided in a request for proposals under subsection E of this section, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals confidential during negotiations.

H. Upon completion of all negotiations, the board shall give notice of intent to award a contract to the selected offeror. The notice of intent shall be published in the same manner as the notice of request for proposals. All proposals shall be open for public inspection after the notice of intent to award is published, but trade secrets and proprietary information clearly identified in the proposals shall not be open for public inspection.

SECTION 2. This act shall become effective July 1, 1996.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 4th day of March, 1996.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_, 1996.

Speaker of the House of Representatives