

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1094

By: Coates

AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2001, Section 318, as amended by Section 2, Chapter 299, O.S.L. 2004 (62 O.S. Supp. 2005, Section 318), which relates to performance based efficiency contracts; modifying definition; modifying certain items to be guaranteed; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 318, as amended by Section 2, Chapter 299, O.S.L. 2004 (62 O.S. Supp. 2005, Section 318), is amended to read as follows:

Section 318. A. For purposes of this section:

1. "Public entity" means any political subdivision of this state, or a public trust which has as a beneficiary a political subdivision of this state, or any institution of higher education which is part of The Oklahoma State System of Higher Education;

2. "Performance-based efficiency contract" means a contract for the design, development, financing, installation and service of any improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added to or used in any such building or facility; or any infrastructure related to water, wastewater, traffic lighting, street lighting, or other municipal assets; or any maintenance or operational strategy that is designed and implemented that will reduce utility consumption or lower operating costs, and may include, but is not limited to, one or more of the following:

- a. utility services,
- b. heating, ventilating or air conditioning system modifications or replacements and automated control systems,
- c. replacement or modifications of lighting fixtures,
- d. indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements when done in conjunction with other cost-saving measures,
- e. any additional building infrastructure improvement, cost saving, life safety or any other improvement that provides long-term operating cost reductions and is in compliance with state and local codes, ~~or~~
- f. any facility operation and support programs that reduce operating cost,
- g. equipment upgrades that improve accuracy of billable-revenue generating systems, or
- h. automated, electronic, or remotely-controlled systems or measures that reduce direct costs; and

3. "Qualified provider" means a person or business experienced or trained in the design, analysis and installation of energy conservation and facility management measures. A qualified provider must employ a professional engineer registered in the State of Oklahoma.

B. In addition to any other legally permissible alternatives of entering into contracts, any public entity may enter into performance-based efficiency contracts with a qualified provider pursuant to the provisions of this section. Further, any public entity may enter into an installment contract, lease purchase agreement or other contractual obligation for the purpose of financing performance-based efficiency projects for a term not to exceed twenty (20) years or the useful life of the project. A

qualified provider to whom the contract is awarded shall be required to give a sufficient bond to the public entity for its faithful performance of the contract. In addition, the public entity may require performance bonds covering the annual amount of guaranteed savings over the contract term.

The contract's cost savings or billable revenue increases to the public entity must be guaranteed each year during the term of the agreement. The savings or revenues must be sufficient to offset the annual costs of the contract. The contract shall provide for reimbursement to the public entity annually for any shortfall of guaranteed savings. Savings must be measured, verified and documented during each year of the term and may be utilized to meet the annual debt service. This section shall constitute the sole authority necessary to enter into performance-based efficiency contracts, without regard to compliance with other laws which may specify additional procedural requirements for execution of contracts.

SECTION 2. This act shall become effective November 1, 2006.

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