

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1359

6 By: Stanislawski and Brown of
7 the Senate

8 and

9 Brumbaugh of the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to performance-based energy
12 contracts; amending 62 O.S. 2011, Section 318, which
13 relates to performance-based energy contracts by
14 public entities; modifying definition; making
15 optional certain bonding requirement; clarifying cost
16 savings for purposes of contractual agreement
17 requirement; and declaring an emergency.

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

19 SECTION 1. AMENDATORY 62 O.S. 2011, Section 318, is
20 amended to read as follows:

21 Section 318. A. For purposes of this section:

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

26 2. "Performance-based efficiency contract" means a contract for
27 the design, development, financing, installation and service of any

1 improvement, repair, alteration or betterment of any building or
2 facility owned, operated or planned by a public entity; or any
3 equipment, fixture or furnishing to be added to or used in any such
4 building or facility; or any maintenance or operational strategy
5 that is designed and implemented ~~that will~~ to reduce utility
6 consumption or lower operating costs, increase revenue through
7 efficiency gain, and may include, but is not limited to, one or more
8 of the following:

- 9 a. utility services,
- 10 b. heating, ventilating or air conditioning system
11 modifications or replacements and automated control
12 systems,
- 13 c. replacement or modifications of lighting fixtures,
- 14 d. indoor air quality improvements to increase air
15 quality that conform to the applicable state or local
16 building code requirements when done in conjunction
17 with other cost-saving measures,
- 18 e. any additional building infrastructure improvement,
19 cost saving, life safety or any other improvement that
20 provides long-term operating cost reductions and is in
21 compliance with state and local codes, ~~or~~
- 22 f. water meters and measuring systems efficiencies, or
- 23 g. any facility operation and support programs that
24 reduce operating cost; and

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

6 B. In addition to any other legally permissible alternatives of
7 entering into contracts, any public entity may enter into
8 performance-based efficiency contracts with a qualified provider
9 pursuant to the provisions of this section. Further, any public
10 entity may enter into an installment contract, lease purchase
11 agreement or other contractual obligation for the purpose of
12 financing performance-based efficiency projects for a term not to
13 exceed twenty (20) years or the useful life of the project. A
14 qualified provider to whom the contract is awarded shall be required
15 to give a sufficient bond to the public entity for its faithful
16 performance of the contract. In addition, the public entity may
17 require performance bonds covering the annual amount of guaranteed
18 savings over the contract term.

19 The contract's cost savings to the public entity must be guaranteed
20 each year during the term of the agreement. In addition to the
21 actual utility cost savings to be guaranteed by the agreement, other
22 cost savings may include, but not be limited to, increased revenue
23 resulting from installation of more accurate utility meters and
24 metering systems.

1 The savings must be sufficient to offset the annual costs of the
2 contract. The contract shall provide for reimbursement to the
3 public entity annually for any shortfall of guaranteed savings.
4 Savings must be measured, verified and documented during each year
5 of the term and may be utilized to meet the annual debt service.

6 This section shall constitute the sole authority necessary to
7 enter into performance-based efficiency contracts, without regard to
8 compliance with other laws which may specify additional procedural
9 requirements for execution of contracts.

10 SECTION 2. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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