

1 **SENATE FLOOR VERSION**

February 18, 2014

2 **AS AMENDED**

3 SENATE BILL NO. 1245

By: Mazzei of the Senate

4 and

5 Sears of the House

6  
7  
8 **[ public finance - efficiency contracts - reporting**  
9 **of specified information - effective date -**  
10 **emergency ]**

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

20 2. "Performance-based efficiency contract" means a contract for  
21 the design, development, financing, installation and service of any  
22 improvement, repair, alteration or betterment of any building or  
23 facility owned, operated or planned by a public entity; or any  
24 equipment, fixture or furnishing to be added to or used in any such

1 building or facility; or any maintenance or operational strategy  
2 that is designed and implemented that will reduce utility  
3 consumption or lower operating costs, and may include, but is not  
4 limited to, one or more of the following:

5 a. utility services,

6 b. heating, ventilating or air conditioning system  
7 modifications or replacements and automated control  
8 systems,

9 c. replacement or modifications of lighting fixtures,

10 d. indoor air quality improvements to increase air  
11 quality that conform to the applicable state or local  
12 building code requirements when done in conjunction  
13 with other cost-saving measures,

14 e. any additional building infrastructure improvement,  
15 cost saving, life safety or any other improvement that  
16 provides long-term operating cost reductions and is in  
17 compliance with state and local codes, or

18 f. any facility operation and support programs that  
19 reduce operating cost; and

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

1 B. In addition to any other legally permissible alternatives of  
2 entering into contracts, any public entity may enter into  
3 performance-based efficiency contracts with a qualified provider  
4 pursuant to the provisions of this section. Further, any public  
5 entity may enter into an installment contract, lease purchase  
6 agreement or other contractual obligation for the purpose of  
7 financing performance-based efficiency projects for a term not to  
8 exceed twenty (20) years or the useful life of the project. Any  
9 public entity proposing to enter into an agreement under this  
10 section shall work with the State Bond Advisor to determine the most  
11 cost-effective financing, including publicly offered or privately  
12 placed bonds, notes or other obligations secured by the efficiency  
13 contracts. Any public entity entering into a financing secured by  
14 an efficiency contract shall report the amount of outstanding leases  
15 or contracts issued under this subsection each year for inclusion in  
16 the State Bond Advisor's annual report on state obligations. A  
17 qualified provider to whom the contract is awarded shall be required  
18 to give a sufficient bond to the public entity for its faithful  
19 performance of the contract. In addition, the public entity may  
20 require performance bonds covering the annual amount of guaranteed  
21 savings over the contract term.

22 The contract's cost savings to the public entity must be  
23 guaranteed each year during the term of the agreement. The savings  
24 must be sufficient to offset the annual costs of the contract. The

1 contract shall provide for reimbursement to the public entity  
2 annually for any shortfall of guaranteed savings. Savings must be  
3 measured, verified and documented during each year of the term and  
4 may be utilized to meet the annual debt service. This section shall  
5 constitute the sole authority necessary to enter into performance-  
6 based efficiency contracts, without regard to compliance with other  
7 laws which may specify additional procedural requirements for  
8 execution of contracts.

9 SECTION 2. This act shall become effective July 1, 2014.

10 SECTION 3. 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.

14 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
15 February 18, 2014 - DO PASS AS AMENDED  
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