

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 92

By: Mazzei and Sharp of the
Senate

and

Sears of the House

COMMITTEE SUBSTITUTE

An Act relating to efficiency contracts; amending 62 O.S. 2011, Section 318, which relates to performance-based efficiency contracts with qualified providers; adding definition; requiring certain determination be made for certain agreements proposed by state governmental entities; requiring certain report under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2011, 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;

1 2. "Performance-based efficiency contract" means a contract for
2 the design, development, financing, installation and service of any
3 improvement, repair, alteration or betterment of any building or
4 facility owned, operated or planned by a public entity; or any
5 equipment, fixture or furnishing to be added to or used in any such
6 building or facility; or any maintenance or operational strategy
7 that is designed and implemented that will reduce utility
8 consumption or lower operating costs, and may include, but is not
9 limited to, one or more of the following:

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

6 4. "State governmental entity" means the State of Oklahoma or
7 any agency, board, commission, authority, department, public trust
8 of which the state is the beneficiary or other instrumentality of
9 state government, other than a public trust with the state as
10 beneficiary whose jurisdiction is limited to one county, including,
11 but not limited to, the following:

- 12 a. Oklahoma Municipal Power Authority,
- 13 b. Oklahoma Development Authority,
- 14 c. Oklahoma Industrial Finance Authority,
- 15 d. Grand River Dam Authority,
- 16 e. Oklahoma Water Resources Board,
- 17 f. Northeast Oklahoma Public Facilities Authority,
- 18 g. Oklahoma Turnpike Authority,
- 19 h. Oklahoma Housing Finance Authority, and
- 20 i. Oklahoma Public, Industrial and Cultural Facilities
21 Authority.

22 B. In addition to any other legally permissible alternatives of
23 entering into contracts, any public entity may enter into
24 performance-based efficiency contracts with a qualified provider

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

19 The contract's cost savings to the public entity must be
20 guaranteed each year during the term of the agreement. The savings
21 must be sufficient to offset the annual costs of the contract. The
22 contract shall provide for reimbursement to the public entity
23 annually for any shortfall of guaranteed savings. Savings must be
24 measured, verified and documented during each year of the term and

1 may be utilized to meet the annual debt service. This section shall
2 constitute the sole authority necessary to enter into performance-
3 based efficiency contracts, without regard to compliance with other
4 laws which may specify additional procedural requirements for
5 execution of contracts.

6 SECTION 2. This act shall become effective November 1, 2015.

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