

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2472 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Nick Archer

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

FLOOR SUBSTITUTE
FOR

HOUSE BILL NO. 2472

By: Archer and Hill of the
House

and

Paxton of the Senate

FLOOR SUBSTITUTE

An Act relating to public finance; amending 62 O.S.
2021, Section 318, which relates to performance-based
efficiency contracts; providing authorized method for
initial payments; requiring certain savings amount;
and declaring an emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2021, 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, result in annual operating
9 cost savings, generate additional revenues or avoid capital cost
10 incurrence and may include, but is not limited to, one or more of
11 the following:

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

- f. water-metering devices that increase efficiency or accuracy of water measurement and energy reduction, or
- g. any facility operation and support programs that reduce operating cost;

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; and

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

- a. Oklahoma Municipal Power Authority,
- b. Oklahoma Development Finance Authority,
- c. Oklahoma Industrial Finance Authority,
- d. Grand River Dam Authority,
- e. Oklahoma Water Resources Board,
- f. Northeast Oklahoma Public Facilities Authority,
- g. Oklahoma Turnpike Authority,
- h. Oklahoma Housing Finance Authority, and

1 i. Oklahoma Public, Industrial and Cultural Facilities
2 Authority.

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

17 The contract's cost savings to the public entity must be
18 guaranteed each year during the term of the agreement. The savings
19 must be sufficient to offset the annual costs of the contract. Any
20 initial payment from funds other than an installment agreement must
21 also be offset by savings, as described herein, over the term of the
22 agreement. In calculating cost savings, the public entity may
23 consider capital cost avoidance and include additional revenue that
24 is directly attributed to the performance-based efficiency contract.

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

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14 59-1-8008 MAH 03/14/23

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