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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 687 Session of  
2009

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INTRODUCED BY DERMODY, BARBIN, BELFANTI, BRENNAN, CALTAGIRONE,  
CONKLIN, D. COSTA, DeLUCA, FRANKEL, FREEMAN, GEORGE, GRUCELA,  
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K. SMITH, J. TAYLOR, VULAKOVICH, WAGNER AND WALKO,  
MARCH 3, 2009

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 3, 2009

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AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, in guaranteed energy savings contracts, further  
3 providing for definitions, for contracting procedures and for  
4 contract provisions.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. The definition of "energy conservation measure"  
8 in section 3752 of Title 62 of the Pennsylvania Consolidated  
9 Statutes is amended to read:

10 § 3752. Definitions.

11 The following words and phrases when used in this subchapter  
12 shall have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 \* \* \*

15 "Energy conservation measure." A program [or] facility  
16 alteration or technology upgrade designed to reduce energy,

1 water, wastewater or other consumption or operating costs. The  
2 term may include, without limitation:

3 (1) Insulation of the building structure or systems  
4 within the building.

5 (2) Storm windows or doors, caulking or weather  
6 stripping, multiglazed windows or doors, heat-absorbing or  
7 heat-reflective glazed and coated window or door systems,  
8 additional glazing, reductions in glass area or other window  
9 and door system modifications that reduce energy consumption.

10 (3) Automated or computerized energy control systems.

11 (4) Heating, ventilating or air conditioning system  
12 modifications or replacements.

13 (5) Replacement or modification of lighting fixtures to  
14 increase the energy efficiency of the lighting system without  
15 increasing the overall illumination of a facility, unless an  
16 increase in illumination is necessary to conform to  
17 applicable State or local building codes for the lighting  
18 system after the proposed modifications are made.

19 (6) Energy recovery systems.

20 (7) Systems that produce steam or forms of energy such  
21 as heat as well as electricity for use within a building or  
22 complex of buildings.

23 (8) Energy conservation measures that provide operating  
24 cost reductions based on life cycle cost analysis.

25 (9) A training program or facility alteration that  
26 reduces energy consumption or reduces operating costs,  
27 including allowable costs, based on future reductions in  
28 labor costs or costs for contracted services.

29 (10) A facility alteration which includes expenditures  
30 that are required to properly implement other energy

1 conservation measures.

2 (11) A program to reduce energy costs through rate  
3 adjustments, load shifting to reduce peak demand, and/or use  
4 of alternative energy suppliers, such as, but not limited to:

- 5 (i) changes to more favorable rate schedules;
- 6 (ii) negotiation of lower rates, same supplier or  
7 new suppliers, where applicable; and
- 8 (iii) auditing of energy service billing and meters.

9 (12) The installation of energy information and control  
10 systems that monitor consumption, redirect systems to optimal  
11 energy sources and manage energy-using equipment.

12 (13) Indoor air quality improvements.

13 (14) Daylighting systems.

14 (15) Renewable and/or on-site distributed power  
15 generation systems.

16 (16) Water and sewer conservation measures, including,  
17 without limitation, plumbing fixtures and infrastructure.

18 (17) Equipment upgrades that improve accuracy of  
19 billable revenue generating systems.

20 (18) Automated, electronic or remotely controlled  
21 systems or measures that reduce operating costs.

22 (19) Other energy, water or wastewater measures as may  
23 provide measurable, long-term operating costs reductions or  
24 billable revenue increases.

25 \* \* \*

26 Section 2. Sections 3753(d) and 3754(a) and (c) of Title 62  
27 are amended to read:

28 § 3753. Contracting procedures.

29 \* \* \*

30 (d) Selection and notice.--The governmental unit shall

1 select the qualified provider that best meets the needs of the  
2 governmental unit in accordance with criteria established by the  
3 governmental unit. For governmental units that are not required  
4 to take actions on contracts at public meetings, the  
5 governmental unit shall provide public notice of the award of  
6 the guaranteed energy savings contract within 30 days in the  
7 Pennsylvania Bulletin. The notice shall include the names of the  
8 parties to the contract and the purpose of the contract. For  
9 governmental units that are required to take actions on  
10 contracts at public meetings, the public notice shall be made at  
11 least ten days prior to the meeting. After reviewing the  
12 proposals pursuant to subsection (e), a governmental unit may  
13 enter into a guaranteed energy savings contract with a qualified  
14 provider if it finds that the amount it would spend on the  
15 energy conservation measures recommended in the proposal would  
16 not exceed the amount [to be saved in both energy and  
17 operational costs] of energy, operational, water or wastewater  
18 cost savings or revenue increases resulting from the energy  
19 conservation measures within a [15-year] 20-year period from the  
20 date of final acceptance installation if the recommendations in  
21 the proposal were followed and the qualified provider provides a  
22 written guarantee that the energy, water, wastewater or  
23 operating cost savings or revenue increases will meet or exceed  
24 the cost of the contract[.], provided, however, that when  
25 determining the operational savings from any contract or project  
26 of the type defined in paragraphs (17), (18) and (19) of the  
27 definition of "energy conservation measure" in section 3752  
28 (relating to definitions), the governmental unit shall not  
29 consider savings that result from reductions in the size of its  
30 work force if the reductions are related to or generated by

1 outsourcing or using contract workers to perform tasks  
2 previously performed by employees of the governmental unit.

3 \* \* \*

4 § 3754. Contract provisions.

5 (a) General rule.--A guaranteed energy savings contract may  
6 provide that all payments, except obligations on termination of  
7 the contract before its scheduled expiration, shall be made over  
8 a period of time. [Every guaranteed energy savings contract  
9 shall provide that the savings in any year are guaranteed to the  
10 extent necessary to make payments under the contract during that  
11 year.] Annual revenues or savings from the guaranteed energy  
12 savings contract may be less than annual payments, if during the  
13 length of the contract aggregate savings occur as provided for  
14 by the terms of the contract.

15 \* \* \*

16 (c) Payments.--A guaranteed energy savings contract may  
17 provide for payments over a period of time not to exceed [15] 20  
18 years and for the evaluation, recommendation, design,  
19 implementation and installation of energy conservation measures  
20 on an installment payment or lease purchase basis.

21 \* \* \*

22 Section 3. This act shall take effect in 60 days.