

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2559

 Session of 2008

INTRODUCED BY PETRONE, BELFANTI, BRENNAN, CALTAGIRONE, DALEY,
DePASQUALE, FRANKEL, GRUCELA, HENNESSEY, JOSEPHS, KORTZ,
KOTIK, KULA, MAHONEY, MANDERINO, McCALL, McGEEHAN, R. MILLER,
M. O'BRIEN, PASHINSKI, READSHAW, REICHLEY, RUBLEY, SIPTROTH,
VULAKOVICH, WAGNER, THOMAS, DeLUCA AND K. SMITH, MAY 20, 2008

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 15, 2008

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in guaranteed energy savings contracts, further
3 ~~providing for contract provisions.~~ DEFINING "ENERGY <—
4 CONSERVATION MEASURE"; AND FURTHER PROVIDING FOR CONTRACTING
5 PROCEDURES AND FOR CONTRACT PROVISIONS.

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

8 ~~Section 1. Section 3754(c) of Title 62 of the Pennsylvania <—~~
9 ~~Consolidated Statutes is amended to read:~~

10 SECTION 1. THE DEFINITION OF "ENERGY CONSERVATION MEASURE" <—
11 IN SECTION 3752 OF TITLE 62 OF THE PENNSYLVANIA CONSOLIDATED
12 STATUTES IS AMENDED TO READ:

13 § 3752. DEFINITIONS.

14 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
15 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
16 CONTEXT CLEARLY INDICATES OTHERWISE:

17 * * *

1 "ENERGY CONSERVATION MEASURE." A PROGRAM [OR], FACILITY
2 ALTERATION OR TECHNOLOGY UPGRADE DESIGNED TO REDUCE ENERGY,
3 WATER, WASTEWATER OR OTHER CONSUMPTION OR OPERATING COSTS. THE
4 TERM MAY INCLUDE, WITHOUT LIMITATION:

5 (1) INSULATION OF THE BUILDING STRUCTURE OR SYSTEMS
6 WITHIN THE BUILDING.

7 (2) STORM WINDOWS OR DOORS, CAULKING OR WEATHER
8 STRIPPING, MULTIGLAZED WINDOWS OR DOORS, HEAT-ABSORBING OR
9 HEAT-REFLECTIVE GLAZED AND COATED WINDOW OR DOOR SYSTEMS,
10 ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA OR OTHER WINDOW
11 AND DOOR SYSTEM MODIFICATIONS THAT REDUCE ENERGY CONSUMPTION.

12 (3) AUTOMATED OR COMPUTERIZED ENERGY CONTROL SYSTEMS.

13 (4) HEATING, VENTILATING OR AIR CONDITIONING SYSTEM
14 MODIFICATIONS OR REPLACEMENTS.

15 (5) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO
16 INCREASE THE ENERGY EFFICIENCY OF THE LIGHTING SYSTEM WITHOUT
17 INCREASING THE OVERALL ILLUMINATION OF A FACILITY, UNLESS AN
18 INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO
19 APPLICABLE STATE OR LOCAL BUILDING CODES FOR THE LIGHTING
20 SYSTEM AFTER THE PROPOSED MODIFICATIONS ARE MADE.

21 (6) ENERGY RECOVERY SYSTEMS.

22 (7) SYSTEMS THAT PRODUCE STEAM OR FORMS OF ENERGY SUCH
23 AS HEAT AS WELL AS ELECTRICITY FOR USE WITHIN A BUILDING OR
24 COMPLEX OF BUILDINGS.

25 (8) ENERGY CONSERVATION MEASURES THAT PROVIDE OPERATING
26 COST REDUCTIONS BASED ON LIFE CYCLE COST ANALYSIS.

27 (9) A TRAINING PROGRAM OR FACILITY ALTERATION THAT
28 REDUCES ENERGY CONSUMPTION OR REDUCES OPERATING COSTS,
29 INCLUDING ALLOWABLE COSTS, BASED ON FUTURE REDUCTIONS IN
30 LABOR COSTS OR COSTS FOR CONTRACTED SERVICES.

(10) A FACILITY ALTERATION WHICH INCLUDES EXPENDITURES THAT ARE REQUIRED TO PROPERLY IMPLEMENT OTHER ENERGY CONSERVATION MEASURES.

(11) A PROGRAM TO REDUCE ENERGY COSTS THROUGH RATE ADJUSTMENTS, LOAD SHIFTING TO REDUCE PEAK DEMAND, AND/OR USE OF ALTERNATIVE ENERGY SUPPLIERS, SUCH AS, BUT NOT LIMITED TO:

(I) CHANGES TO MORE FAVORABLE RATE SCHEDULES;

(II) NEGOTIATION OF LOWER RATES, SAME SUPPLIER OR NEW SUPPLIERS, WHERE APPLICABLE; AND

(III) AUDITING OF ENERGY SERVICE BILLING AND METERS.

(12) THE INSTALLATION OF ENERGY INFORMATION AND CONTROL SYSTEMS THAT MONITOR CONSUMPTION, REDIRECT SYSTEMS TO OPTIMAL ENERGY SOURCES AND MANAGE ENERGY-USING EQUIPMENT.

(13) INDOOR AIR QUALITY IMPROVEMENTS.

(14) DAYLIGHTING SYSTEMS.

(15) RENEWABLE AND/OR ON-SITE DISTRIBUTED POWER GENERATION SYSTEMS.

(16) WATER AND SEWER CONSERVATION MEASURES, INCLUDING, WITHOUT LIMITATION, PLUMBING FIXTURES AND INFRASTRUCTURE.

(17) EQUIPMENT UPGRADES THAT IMPROVE ACCURACY OF BILLABLE REVENUE GENERATING SYSTEMS.

(18) AUTOMATED, ELECTRONIC OR REMOTELY CONTROLLED SYSTEMS OR MEASURES THAT REDUCE OPERATING COSTS.

(19) OTHER ENERGY, WATER OR WASTEWATER MEASURES AS MAY PROVIDE MEASURABLE, LONG-TERM OPERATING COSTS REDUCTIONS OR BILLABLE REVENUE INCREASES.

* * *

SECTION 2. SECTIONS 3753(D) AND 3754(A) AND (C) OF TITLE 62 ARE AMENDED TO READ:

§ 3753. CONTRACTING PROCEDURES.

1 * * *

2 (D) SELECTION AND NOTICE.--THE GOVERNMENTAL UNIT SHALL
3 SELECT THE QUALIFIED PROVIDER THAT BEST MEETS THE NEEDS OF THE
4 GOVERNMENTAL UNIT IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE
5 GOVERNMENTAL UNIT. FOR GOVERNMENTAL UNITS THAT ARE NOT REQUIRED
6 TO TAKE ACTIONS ON CONTRACTS AT PUBLIC MEETINGS, THE
7 GOVERNMENTAL UNIT SHALL PROVIDE PUBLIC NOTICE OF THE AWARD OF
8 THE GUARANTEED ENERGY SAVINGS CONTRACT WITHIN 30 DAYS IN THE
9 PENNSYLVANIA BULLETIN. THE NOTICE SHALL INCLUDE THE NAMES OF THE
10 PARTIES TO THE CONTRACT AND THE PURPOSE OF THE CONTRACT. FOR
11 GOVERNMENTAL UNITS THAT ARE REQUIRED TO TAKE ACTIONS ON
12 CONTRACTS AT PUBLIC MEETINGS, THE PUBLIC NOTICE SHALL BE MADE AT
13 LEAST TEN DAYS PRIOR TO THE MEETING. AFTER REVIEWING THE
14 PROPOSALS PURSUANT TO SUBSECTION (E), A GOVERNMENTAL UNIT MAY
15 ENTER INTO A GUARANTEED ENERGY SAVINGS CONTRACT WITH A QUALIFIED
16 PROVIDER IF IT FINDS THAT THE AMOUNT IT WOULD SPEND ON THE
17 ENERGY CONSERVATION MEASURES RECOMMENDED IN THE PROPOSAL WOULD
18 NOT EXCEED THE AMOUNT [TO BE SAVED IN BOTH ENERGY AND
19 OPERATIONAL COSTS] OF ENERGY, OPERATIONAL, WATER OR WASTEWATER
20 COST SAVINGS OR REVENUE INCREASES RESULTING FROM THE ENERGY
21 CONSERVATION MEASURES WITHIN A [15-YEAR] 20-YEAR PERIOD FROM THE
22 DATE OF FINAL ACCEPTANCE INSTALLATION IF THE RECOMMENDATIONS IN
23 THE PROPOSAL WERE FOLLOWED AND THE QUALIFIED PROVIDER PROVIDES A
24 WRITTEN GUARANTEE THAT THE ENERGY, WATER, WASTEWATER OR
25 OPERATING COST SAVINGS OR REVENUE INCREASES WILL MEET OR EXCEED
26 THE COST OF THE CONTRACT[.], PROVIDED, HOWEVER, THAT WHEN
27 DETERMINING THE OPERATIONAL SAVINGS FROM ANY CONTRACT OR PROJECT
28 OF THE TYPE DEFINED IN PARAGRAPHS (17), (18) AND (19) OF THE
29 DEFINITION OF "ENERGY CONSERVATION MEASURE" IN SECTION 3752
30 (RELATING TO DEFINITIONS), THE GOVERNMENTAL UNIT SHALL NOT

1 CONSIDER SAVINGS THAT RESULT FROM REDUCTIONS IN THE SIZE OF ITS
2 WORK FORCE IF THE REDUCTIONS ARE RELATED TO OR GENERATED BY
3 OUTSOURCING OR USING CONTRACT WORKERS TO PERFORM TASKS
4 PREVIOUSLY PERFORMED BY EMPLOYEES OF THE GOVERNMENTAL UNIT.

5 * * *

6 § 3754. Contract provisions.

7 (A) GENERAL RULE.--A GUARANTEED ENERGY SAVINGS CONTRACT MAY <—
8 PROVIDE THAT ALL PAYMENTS, EXCEPT OBLIGATIONS ON TERMINATION OF
9 THE CONTRACT BEFORE ITS SCHEDULED EXPIRATION, SHALL BE MADE OVER
10 A PERIOD OF TIME. [EVERY GUARANTEED ENERGY SAVINGS CONTRACT
11 SHALL PROVIDE THAT THE SAVINGS IN ANY YEAR ARE GUARANTEED TO THE
12 EXTENT NECESSARY TO MAKE PAYMENTS UNDER THE CONTRACT DURING THAT
13 YEAR.] ANNUAL REVENUES OR SAVINGS FROM THE GUARANTEED ENERGY
14 SAVINGS CONTRACT MAY BE LESS THAN ANNUAL PAYMENTS, IF DURING THE
15 LENGTH OF THE CONTRACT AGGREGATE SAVINGS OCCUR AS PROVIDED FOR
16 BY THE TERMS OF THE CONTRACT.

17 * * *

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

23 * * *

24 Section ~~2~~ 3. This act shall take effect in 60 days. <—