

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

# HOUSE BILL

## No. 687

Session of  
2009

---

INTRODUCED BY DERMODY, BARBIN, BELFANTI, BRENNAN, CALTAGIRONE,  
CONKLIN, D. COSTA, DeLUCA, FRANKEL, FREEMAN, GEORGE, GRUCELA,  
HENNESSEY, HORNAMAN, JOSEPHS, KOTIK, KULA, LONGIETTI,  
MAHONEY, McGEEHAN, McILVAINE SMITH, MELIO, MILLER,  
M. O'BRIEN, PASHINSKI, READSHAW, REICHLEY, SIPTROTH,  
K. SMITH, J. TAYLOR, VULAKOVICH, WAGNER, WALKO, BRIGGS AND  
M. SMITH, MARCH 3, 2009

---

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 14, 2010

---

## 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

1 alteration or technology upgrade designed to reduce energy,  
2 water, wastewater or other consumption or operating costs. The  
3 term may include, without limitation:

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

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

11 (3) Automated or computerized energy control systems.

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

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

20 (6) Energy recovery systems.

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

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

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

30 (10) A facility alteration which includes expenditures

1 that are required to properly implement other energy  
2 conservation measures.

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

6 (i) changes to more favorable rate schedules;

7 (ii) negotiation of lower rates, same supplier or  
8 new suppliers, where applicable; and

9 (iii) auditing of energy service billing and meters.

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

13 (13) Indoor air quality improvements.

14 (14) Daylighting systems.

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

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

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

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

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

26 \* \* \*

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

29 § 3753. Contracting procedures.

30 \* \* \*

1 (d) Selection and notice.--The governmental unit shall  
2 select the qualified provider that best meets the needs of the  
3 governmental unit in accordance with criteria established by the  
4 governmental unit. For governmental units that are not required  
5 to take actions on contracts at public meetings, the  
6 governmental unit shall provide public notice of the award of  
7 the guaranteed energy savings contract within 30 days in the  
8 Pennsylvania Bulletin. The notice shall include the names of the  
9 parties to the contract and the purpose of the contract. For  
10 governmental units that are required to take actions on  
11 contracts at public meetings, the public notice shall be made at  
12 least ten days prior to the meeting. After reviewing the  
13 proposals pursuant to subsection (e), a governmental unit may  
14 enter into a guaranteed energy savings contract with a qualified  
15 provider if it finds that the amount it would spend on the  
16 energy conservation measures recommended in the proposal would  
17 not exceed the amount [to be saved in both energy and  
18 operational costs] of energy, ~~operational~~, water or wastewater ←  
19 cost savings, OPERATIONAL COST SAVINGS or revenue increases ←  
20 resulting from the energy conservation measures within a [15-  
21 year] ~~20-year~~ period] PERIOD NOT TO EXCEED 20 YEARS 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 WASTEWATER COST SAVINGS, or [operating] OPERATIONAL cost savings ←  
26 or revenue increases will meet or exceed the cost of the  
27 contract[.], provided, however, that when determining the  
28 operational COST savings from any contract or project of the ←  
29 type defined in paragraphs (17), (18) and (19) of the definition  
30 of "energy conservation measure" in section 3752 (relating to

1 definitions), the governmental unit shall not consider savings  
2 that result from reductions in the size of its work force if the  
3 reductions are related to or generated by outsourcing or using  
4 contract workers to perform tasks previously performed by  
5 employees of the governmental unit.

6 \* \* \*

7 § 3754. Contract provisions.

8 (a) General rule.--A guaranteed energy savings contract may  
9 provide that all payments, except obligations on termination of  
10 the contract before its scheduled expiration, shall be made over  
11 a period of time. ~~†Every guaranteed energy savings contract THAT~~ ←  
12 ~~REQUIRES PAYMENTS OVER A PERIOD OF TIME~~ shall provide that, ←  
13 ~~AFTER THE INITIAL YEAR OF THE CONTRACT,~~ the savings in [any] ←  
14 ~~EVERY SUBSEQUENT~~ year are guaranteed to the extent necessary to  
15 make payments under the contract during that year. ~~† Annual~~ ←  
16 ~~revenues or savings from the guaranteed energy savings contract~~  
17 ~~may be less than annual payments, if during the length of the~~  
18 ~~contract aggregate savings occur as provided for by the terms of~~  
19 ~~the contract.~~

20 \* \* \*

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

26 \* \* \*

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