

Senate Study Bill 235

Conference Committee Text

PAG LIN

1 1 Section 1. NEW SECTION. 473.46 GUARANTEED ENERGY COST
1 2 SAVINGS PROJECTS.
1 3 1. DEFINITIONS.
1 4 For purposes of this section:
1 5 a. "Energy cost savings measure" means a training program
1 6 or facility alteration designed to reduce energy consumption
1 7 or operating costs, and may include, but is not limited to,
1 8 one or more of the following:
1 9 (1) Insulation of the building structure or systems within
1 10 the building.
1 11 (2) Storm windows or doors, caulking or weather stripping,
1 12 multiglazed windows or doors, heat absorbing or heat
1 13 reflective glazed and coated window or door systems,
1 14 additional glazing, reductions in glass area, or other window
1 15 and door system modifications that reduce energy consumption.
1 16 (3) Automated or computerized energy control systems.
1 17 (4) Heating, ventilating, or air conditioning system
1 18 modifications or replacements.
1 19 (5) Replacement or modification of lighting fixtures to
1 20 increase the energy efficiency of the lighting system without
1 21 increasing the overall illumination of a facility, unless an
1 22 increase in illumination is necessary to conform to the
1 23 applicable state or local building code for the lighting
1 24 system after the proposed modifications are made.
1 25 (6) Indoor air quality improvements to increase air
1 26 quality that conform to the applicable state or local building
1 27 code requirements.
1 28 (7) Energy recovery systems.
1 29 (8) Cogeneration systems that produce steam or forms of
1 30 energy such as heat, as well as electricity, for use primarily
1 31 within a building or complex of buildings.
1 32 (9) Any life safety measures that provide long-term
1 33 operating cost reductions and are in compliance with state and
1 34 local codes.
1 35 (10) Building operation programs that reduce operating
2 1 costs.
2 2 b. "Governmental unit" means a state agency, department,
2 3 institution, college, university, technical school,
2 4 legislative body, or other establishment or official of the
2 5 executive, judicial, or legislative branches of this state
2 6 authorized by law to enter into contracts, or a local
2 7 political subdivision such as a county, city, public school
2 8 district, or public service or special purpose district.
2 9 c. "Guaranteed energy cost savings contract" means a
2 10 contract for the implementation of one or more energy cost
2 11 savings measures.
2 12 d. "Operational cost savings" means expenses eliminated
2 13 and future replacement expenditures avoided as a result of new
2 14 equipment installed or services performed.
2 15 e. "Qualified provider" means a person or business
2 16 experienced in the design, implementation, and installation of
2 17 energy cost savings measures.
2 18 f. "Request for proposals" means a solicitation for a
2 19 negotiated procurement.
2 20 2. REQUESTS FOR PROPOSALS. Prior to entering into a
2 21 guaranteed energy cost savings contract, a governmental unit

2 22 shall issue a request for proposals for cost savings measures.
2 23 The request for proposals shall be announced through public
2 24 notice from the governmental unit which will administer the
2 25 guaranteed energy cost savings contract. The request for
2 26 proposals shall include the following:

2 27 a. The name and address of the governmental unit.

2 28 b. The name, address, title, and telephone number of a
2 29 contact person.

2 30 c. The required date, time, and place of receipt of
2 31 proposals.

2 32 d. The evaluation criteria for assessing the proposals.

2 33 e. Any other stipulations and clarifications the
2 34 governmental unit may require.

2 35 The governmental unit shall evaluate all proposals from
3 1 qualified providers and shall select the qualified provider
3 2 that best meets the needs of the governmental unit. The
3 3 governmental unit shall provide public notice of the meeting
3 4 at which it proposes to award a guaranteed energy cost savings
3 5 contract, of the names of the parties to the proposed
3 6 contract, and of the purpose of the contract. The public
3 7 notice shall be made at least ten days prior to the meeting.
3 8 After reviewing the proposals, a governmental unit may enter
3 9 into a guaranteed energy cost savings contract with a
3 10 qualified provider if it finds that the amount the
3 11 governmental unit would spend on the energy cost savings
3 12 measures recommended in the proposal would not exceed the
3 13 amount of energy or operational cost savings, or both, within
3 14 a ten-year period from the date installation is complete, if
3 15 the recommendations in the proposal are followed.

3 16 3. GUARANTEED SAVINGS. The guaranteed energy cost savings
3 17 contract shall include a written guarantee from the qualified
3 18 provider that either the energy or operational cost savings,
3 19 or both, will meet or exceed the costs of the energy cost
3 20 savings measures within ten years of implementation. The
3 21 qualified provider shall give sufficient bond to the
3 22 governmental unit to secure the performance of the equipment
3 23 installation as provided by the guaranteed energy cost savings
3 24 contract. The qualified provider shall reimburse the
3 25 governmental unit for any shortfall of guaranteed energy cost
3 26 savings on an annual basis. The guaranteed energy cost
3 27 savings contract may provide for payments over a period of
3 28 time, not to exceed ten years.

3 29 4. AUTHORITY FOR CONTRACT. Notwithstanding other
3 30 provisions to the contrary, a governmental unit, or such units
3 31 in combination, may enter into a guaranteed energy cost
3 32 savings contract with a qualified provider for the purchase
3 33 and installation of energy cost savings measures in accordance
3 34 with this section.

3 35 a. Guaranteed energy cost savings contracts may extend
4 1 beyond the fiscal year in which they become effective. The
4 2 governmental unit shall include in its annual budget and
4 3 appropriation measures for each subsequent fiscal year any
4 4 amounts payable under guaranteed energy cost savings contracts
4 5 during that fiscal year.

4 6 b. A governmental unit may use a combination of funds
4 7 designated for operating costs or capital expenditures, or
4 8 other specially designated funds for any guaranteed energy
4 9 cost savings contract, including purchases using installment
4 10 payment contracts or lease purchase agreements.

4 11 c. State aid and other amounts appropriated for
4 12 distribution to or reimbursement to a governmental unit shall
4 13 not be reduced as a result of energy cost savings realized
4 14 from a guaranteed energy cost savings contract or a lease
4 15 purchase agreement for the purchase and installation of energy
4 16 cost savings measures.

4 17 d. The contract shall provide that all payments, except
4 18 obligations on termination of the contract before its

4 19 expiration, are to be made over time and energy costs savings
4 20 are guaranteed to the extent necessary to make payments for
4 21 the systems. A contract may be through an installment payment
4 22 contract or lease purchase agreement.

4 23 EXPLANATION

4 24 This bill allows a governmental unit to enter into
4 25 guaranteed energy cost savings contracts for the
4 26 implementation of energy cost savings measures which are
4 27 guaranteed by the qualified provider to meet or exceed the
4 28 costs of the energy cost savings measures within 10 years of
4 29 implementation. The bill requires a governmental unit to
4 30 publish requests for proposals and allows the unit to enter
4 31 into the contract through an installment payment contract or
4 32 lease purchase agreement. A qualified provider is required to
4 33 furnish a bond to secure the performance of the contract and
4 34 is required to reimburse the governmental unit for any
4 35 shortfall of guaranteed energy cost savings on an annual
5 1 basis.

5 2 The bill defines "energy cost savings measures" to mean a
5 3 training program or facility alteration designed to reduce
5 4 energy consumption or operation costs and may include
5 5 insulation, storm windows, caulking, energy control systems,
5 6 heating, ventilation, or air conditioning system modifications
5 7 or replacements, replacement or modification of lighting
5 8 fixtures to increase energy efficiency, indoor air quality
5 9 improvements, energy recovery systems, cogeneration systems,
5 10 life safety measures, and building operation programs that
5 11 reduce operating costs. This bill applies to governmental
5 12 units which are defined as a state agency, department,
5 13 institution, college, university, technical school,
5 14 legislative body, or other establishment or official of the
5 15 executive, judicial, or legislative branches authorized to
5 16 enter into contracts, or local political subdivisions, such as
5 17 counties, cities, public school districts, or public service
5 18 or special purpose districts.

5 19 LSB 2245SC 76

5 20 js/jj/8