

2/10/98 Referred To State Gov.

FEB 4 1998
EDUCATION

HOUSE FILE 2152
BY CHIODO, HANSEN, VAN FOSSEN,
CORMACK, and HUSER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the establishment of a school energy
2 conservation program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

HF 2152

1 Section 1. NEW SECTION. 297A.1 DEFINITIONS.

2 For the purposes of this chapter:

3 1. "Energy conservation measure" means any improvement,
4 repair, or alteration of a building or facility owned or
5 operated by a school district, or any equipment, fixture, or
6 furnishing to be added to or used in any such building or
7 facility that is designed to reduce energy consumption or
8 operating costs. An energy conservation measure may include
9 one or more of the following:

10 a. Insulation of the building structure or systems within
11 the building.

12 b. Storm windows or doors, caulking or weather stripping,
13 multiglazed windows or doors, heat-absorbing or heat-
14 reflective glazed and coated window or door systems,
15 additional glazing, reductions in glass area, or other window
16 and door system modifications that reduce energy consumption.

17 c. Automated or computerized energy control systems.

18 d. Heating, ventilating, or air conditioning system
19 modifications or replacements.

20 e. Replacement or modification of lighting fixtures to
21 increase the energy efficiency of the lighting system without
22 increasing the overall illumination of a facility, unless an
23 increase in illumination is necessary to conform to the
24 applicable state or local building code for the lighting
25 system after the proposed modifications are made.

26 f. Energy recovery systems.

27 g. Energy conservation measures that provide long-term
28 operating cost reductions.

29 2. "Guaranteed energy savings contract" means a contract
30 which provides for all of the following:

31 a. Performance of an energy audit, data collection, and
32 other related analyses preliminary to the undertaking of
33 energy conservation measures.

34 b. Evaluation and recommendation of energy conservation
35 measures.

1 c. Implementation of one or more energy conservation
2 measures.

3 d. Maintenance of project monitoring and data collection
4 to verify postinstallation energy consumption and energy-
5 related operating costs.

6 The contract shall provide that all payments, except
7 obligations resulting from termination of the contract before
8 its expiration, are to be made over time and that the savings
9 are guaranteed to the extent necessary to pay the costs of the
10 energy conservation measures. More than one school district
11 may enter into a guaranteed energy savings contract provided
12 that each school district complies with the provisions of this
13 chapter.

14 3. "Qualified provider" means a person or business whose
15 employees are experienced and trained in the design,
16 implementation, or installation of energy conservation
17 measures. The minimum training required for any person or
18 employee pursuant to this subsection shall be the satisfactory
19 completion of at least forty hours of course instruction
20 dealing with energy conservation measures.

21 4. "Request for proposals" means a negotiated procurement.
22 A request for proposals shall be announced through at least
23 one public notice appearing at least ten days before the
24 request date in a newspaper of general circulation published
25 in the school district, or if no newspaper is published in the
26 school district, in a newspaper of general circulation in the
27 area of the district, from a school district that will
28 administer the program, requesting innovative solutions and
29 proposals for energy conservation measures. Proposals
30 submitted shall be sealed. The request for proposals shall
31 include all of the following:

32 a. Name and address of the school district.

33 b. Name, address, title, and phone number of a contact
34 person for the school district.

35 c. Notice indicating that the school district is

1 requesting qualified providers to propose energy conservation
2 measures through a guaranteed energy savings contract.

3 d. Date, time, and place where proposals must be received.

4 e. Evaluation criteria for assessing the proposals.

5 f. Any other stipulations and clarifications the school
6 district may require.

7 The provisions of this chapter applying to school districts
8 shall also apply to community colleges organized and operated
9 pursuant to the provisions of chapter 260C.

10 Sec. 2. NEW SECTION. 297A.2 EVALUATION OF PROPOSALS.

11 Prior to entering into a guaranteed energy savings contract
12 as provided in section 297A.3, a school district shall
13 announce a request for proposals, and shall evaluate any
14 sealed proposal from a qualified provider. Sealed proposals
15 shall be opened by a designated member or employee of the
16 school board at a public meeting during which the contents of
17 the proposals shall be announced. Each person or entity
18 submitting a sealed proposal must receive at least ten days'
19 notice of the time and place of the public meeting, published
20 pursuant to the procedure specified in section 297A.1,
21 subsection 4.

22 The school district shall analyze the estimates of all
23 costs of installations, modifications, and remodeling,
24 including, without limitation, costs of a preinstallation
25 energy audit or analysis, design, engineering, installation,
26 maintenance, repairs, debt service, conversions to a different
27 energy or fuel source, and postinstallation project
28 monitoring, data collection, and reporting. The evaluation
29 shall include a detailed analysis of whether the energy
30 consumed or the operating costs, or both, will be reduced. If
31 technical expertise is not available on the school district
32 staff, then the evaluation of the proposal may be done by a
33 registered professional engineer or architect who is retained
34 by the school district. The school district may pay a
35 reasonable fee for evaluation of the proposal or include the

1 fee as part of the payments made under section 297A.4.

2 Sec. 3. NEW SECTION. 297A.3 AWARD OF GUARANTEED ENERGY
3 SAVINGS CONTRACT.

4 A school district shall select the qualified provider that
5 best meets the needs of the district. After completing its
6 evaluation of the proposals received pursuant to section
7 297A.2, the school district shall provide public notice of the
8 meeting at which it proposes to award a guaranteed energy
9 savings contract. The notice shall contain the names of the
10 parties to the proposed contract and the purpose of the
11 contract. The public notice shall be published at least ten
12 days prior to the meeting, pursuant to the procedure specified
13 in section 297A.1, subsection 4. A school district may enter
14 into a guaranteed energy savings contract with a qualified
15 provider if it finds after evaluating the proposal pursuant to
16 section 297A.2 that the amount it would spend on the energy
17 conservation measures recommended in the proposal would not
18 exceed the amount to be saved in either energy or operational
19 costs, or both, within a ten-year period from the date of
20 installation or modification, if the recommendations in the
21 proposal are followed.

22 Sec. 4. NEW SECTION. 297A.4 QUALIFIED PROVIDER
23 GUARANTEE.

24 The guaranteed energy savings contract shall include a
25 written guarantee of the qualified provider that either the
26 anticipated energy or operational cost savings, or both, will
27 meet or exceed within ten years the costs of the energy
28 conservation measures. The qualified provider shall reimburse
29 the school district for any shortfall of guaranteed energy
30 savings projected in the contract. A qualified provider shall
31 provide a sufficient bond to the school district for the
32 installation and the faithful performance of all the measures
33 included in the contract. The guaranteed energy savings
34 contract may provide for payments over a period of time, not
35 to exceed ten years.

1 Sec. 5. NEW SECTION. 297A.5 PAYMENT PROVISIONS.

2 A school district may enter into an installment payment
3 contract or lease-purchase agreement with a qualified provider
4 for the purchase and installation of energy conservation
5 measures, as provided in section 297A.1, subsection 2, if a
6 motion on such contract or agreement is adopted by the board
7 of directors, and may issue certificates evidencing the
8 indebtedness incurred pursuant to the contracts or agreements.
9 A guaranteed energy savings contract may extend beyond the
10 fiscal year in which it becomes effective, and amounts
11 remaining payable thereunder shall be included in the school
12 district's annual school budget for each subsequent fiscal
13 year.

14 Sec. 6. NEW SECTION. 297A.6 OPERATIONAL AND ENERGY COST
15 SAVINGS.

16 A school district shall document the operational and energy
17 cost savings specified in the guaranteed energy savings
18 contract and designate and appropriate that amount for an
19 annual payment of the contract. If that annual energy savings
20 are less than projected under the guaranteed energy savings
21 contract, the qualified provider shall pay the difference as
22 provided in section 297A.4.

23 Sec. 7. NEW SECTION. 297A.7 FUNDING.

24 1. A school district may use funds from either its general
25 fund or debt service fund to repay obligations relating to a
26 guaranteed energy savings contract, including purchases using
27 installment payment contracts or lease-purchase agreements.

28 2. For the purpose of paying obligations incurred pursuant
29 to a guaranteed energy savings contract, a school district is
30 authorized to:

31 a. Issue negotiable, interest-bearing school bonds,
32 pursuant to section 298.21, subsections 2 and 3, and utilize
33 energy savings resulting from implementation of the guaranteed
34 energy savings contract for principal and interest repayment.
35 The provisions of sections 298.22 through 298.24 shall apply

1 regarding the form, rate of interest, registration,
2 redemption, and recording of bond issues pursuant to this
3 subsection, with the exception that the maximum period during
4 which principal on the bonds is payable shall not exceed a
5 ten-year period.

6 b. Enter into energy loan fund financing arrangements with
7 the department of natural resources pursuant to section
8 473.20. For the purposes of this paragraph, the requirement
9 in section 473.20, subsection 1, that loans shall not be made
10 for energy conservation measures that require more than an
11 average of six years to recoup costs shall not apply.

12 c. Borrow money and enter into loan agreements with a
13 bank, investment banker, trust company, or other third-party
14 lender, and utilize energy savings resulting from
15 implementation of the guaranteed energy savings contract for
16 principal and interest repayment. The maturation date of the
17 loan shall not exceed the duration of the guaranteed energy
18 savings contract, and the loan shall bear interest at a rate
19 which does not exceed the limits under chapter 74A. A loan
20 agreement entered into pursuant to this section shall be in a
21 form as the board of directors shall approve by resolution.

22 3. State aid payments to a school district pursuant to
23 section 257.16, and other amounts available for distribution
24 to or reimbursement of a school district, shall not be reduced
25 as a result of energy savings realized from a guaranteed
26 energy savings contract, installment payment contract, or a
27 lease-purchase agreement for the purchase and installation of
28 energy conservation measures.

29

EXPLANATION

30 This bill provides for the creation of a school energy
31 conservation program designed to facilitate the ability of
32 school districts to undertake energy conservation measures
33 involving school building improvements, repairs, or
34 alterations, or to add equipment, fixtures, or furnishings, by
35 means of contracting with a service provider that guarantees

1 energy or operational cost savings.

2 The bill provides a definition of an energy conservation
3 measure to be undertaken by a school district, which includes
4 insulation, caulking or weather stripping, adding energy
5 control systems, adding, modifying, or replacing heating,
6 ventilating, or air conditioning systems, replacement or
7 modification of lighting fixtures, adding energy recovery
8 systems, or additional energy conservation measures that
9 provide long-term operating cost reductions. The bill
10 provides that a school district which seeks to undertake one
11 or more energy conservation measures can enter into a
12 guaranteed energy savings contract with a qualified provider.
13 The bill defines a guaranteed energy savings contract to
14 include a contract with a qualified provider for the
15 performance of energy audits and preliminary analyses, the
16 evaluation, recommendation, and implementation of energy
17 conservation measures, and postimplementation data collection
18 and recordkeeping. More than one school district can enter
19 into a guaranteed energy savings contract with a qualified
20 provider, if each school district adheres to the provisions in
21 the bill. The bill defines a qualified provider as a person
22 or business which is experienced in the design,
23 implementation, and installation of energy conservation
24 measures, and which person or business submits a proposal to
25 enter into a guaranteed energy savings contract with a school
26 district. The bill specifies procedures for public notice
27 regarding a request for proposals from qualified providers,
28 evaluation procedures and criteria regarding the requests
29 submitted, and procedures regarding the awarding of a contract
30 by the school district.

31 The bill provides that a guaranteed energy savings contract
32 shall contain a written guarantee from the qualified provider
33 that the anticipated energy or operational cost savings to the
34 school district will at least equal the cost of the energy
35 conservation measures undertaken by the district within 10

1 years, and that the provider agrees to reimburse the school
2 district for any energy savings shortfall. The provider is
3 required to provide a bond to the school district for faithful
4 performance of the contract.

5 The bill provides that a school district may enter into an
6 installment payment contract or lease-purchase agreement with
7 a qualified provider for the purchase and installation of an
8 energy conservation measure, if approved by the district board
9 of directors, and may use funds from either its general fund
10 or debt service fund for qualified provider payments. The
11 bill further provides that a school district is authorized to
12 issue school bonds pursuant to Code section 298.21,
13 subsections 2 and 3, and obtain third-party financing, and
14 utilize energy savings resulting from implementation of the
15 guaranteed energy savings contract for principal and interest
16 repayment, and enter into energy loan fund financing
17 arrangements with the department of natural resources pursuant
18 to Code section 473.20. The bill additionally provides that
19 state aid payments to a school district pursuant to Code
20 section 257.16, and other amounts available for distribution
21 to or reimbursement of a school district, will not be reduced
22 as a result of energy savings realized from a guaranteed
23 energy savings contract, installment payment contract, or a
24 lease-purchase agreement for the purchase and installation of
25 energy conservation measures.

26 The bill provides that community colleges organized and
27 operating pursuant to Code chapter 260C may enter into
28 guaranteed energy savings contracts to the same extent as
29 school districts.

30
31
32
33
34
35

HOUSE FILE 2153

AN ACT

PROVIDING THAT MEMBER CONTRIBUTIONS UNDER CERTAIN PUBLIC RETIREMENT SYSTEMS ARE CONSIDERED EMPLOYER CONTRIBUTIONS FOR STATE INCOME TAX PURPOSES, AND PROVIDING EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 97A.8, subsection 1, paragraph i, Code 1997, is amended to read as follows:

1. (1) Notwithstanding paragraph "g" or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under paragraph "f" or "h" which are picked up by the department shall be considered employer contributions for federal and state income tax purposes, and the department shall pick up the member contributions to be made under paragraph "f" or "h" by its employees. The department shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph "f" or "h" and shall certify the amount picked up in lieu of the member contributions to the department of revenue and finance. The department of revenue and finance shall forward the amount of the contributions picked up to the board of trustees for recording and deposit in the pension accumulation fund.

(2) Member contributions picked up by the department under subparagraph (1) shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter ~~and the laws of this state~~ shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

Sec. 2. Section 97B.11A, Code 1997, is amended to read as follows:

97B.11A PICKUP OF EMPLOYEE CONTRIBUTIONS.

1. Notwithstanding section 97B.11 or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under section 97B.11 which are picked up by the employer shall be considered employer contributions for federal and state income tax purposes, and each employer shall pick up the member contributions to be made under section 97B.11 by its employees. Each employer shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under section 97B.11 and shall pay the amount picked up in lieu of the member contributions as provided in section 97B.14.

2. Member contributions picked up by each employer under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter ~~and the laws of this state~~ shall be treated as employee contributions and deemed part of the employee's wages or salary.

Sec. 3. Section 294.10A, Code 1997, is amended to read as follows:

294.10A PICKUP OF TEACHER ASSESSMENTS.

1. Notwithstanding section 294.9 or other provisions of this chapter, for federal income tax purposes beginning January 1 following the submission by a board of trustees of an application to the federal internal revenue service requesting qualification of a plan in accordance with the requirements of the Internal Revenue Code, as defined in section 422.3, and for state income tax purposes beginning January 1, 1999, or January 1 following an application for qualification, whichever is later, teacher assessments required under section 294.9 which are picked up by an

employing school district shall be considered employer contributions for federal and state income tax purposes, and each employing school district establishing a pension and annuity retirement system pursuant to this chapter shall pick up the teacher assessments to be made under section 294.9 by its employees commencing on the January-1-following-an application-for-qualification applicable date on which the assessments shall be considered employer contributions for income tax purposes under this subsection. Each employing school district shall pick up these teacher assessments by reducing the salary of each of the teachers covered by this chapter by the amount which each teacher is required to contribute through assessments under section 294.9 and shall pay to the board of trustees the amount picked up in lieu of the teacher assessments for recording and deposit in the fund.

2. Teacher assessments picked up by each employing school district under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter ~~and the laws of this state~~ shall be treated as teacher assessments and deemed part of the teacher's wages or salary.

Sec. 4. Section 411.8, subsection 1, paragraph i, Code 1997, is amended to read as follows:

i. (1) Notwithstanding paragraph "g" or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under paragraph "f" or "h" which are picked up by the city shall be considered employer contributions for federal and state income tax purposes, and each city shall pick up the member contributions to be made under paragraph "f" or "h" by its employees. Each city shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph "f" or "h" and shall pay the amount picked up in lieu of the member contributions to the board of trustees for recording and deposit in the fund.

(2) Member contributions picked up by each city under subparagraph (1) shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter ~~and the laws of this state~~ shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

Sec. 5. Section 422.7, subsections 29 through 31, Code Supplement 1997, are amended by striking the subsections.

Sec. 6. EFFECTIVE AND APPLICABILITY DATE. This Act takes effect January 1, 1999, and applies to tax years beginning on or after January 1, 1999.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2153, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 6, 1998

TERRY E. BRANSTAD
Governor