

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1012

91ST GENERAL ASSEMBLY
2002

4216L.07T

AN ACT

To repeal section 8.231, RSMo, and to enact in lieu thereof one new section relating to guaranteed energy cost savings contracts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 8.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 8.231, to read as follows:

8.231. 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one or more of the following:

- (a) Insulation of the building structure or systems within the building;
- (b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;
- (c) Automated or computerized energy control system;
- (d) Heating, ventilating or air conditioning system modifications or

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Indoor air quality improvements to increase air quality that conforms to the applicable state or local building code requirements;

(g) Energy recovery systems;

(h) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(i) Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes; or

(j) Building operation programs that reduce the operating costs;

(2) "Governmental unit", a state government agency, department, institution, college, university, technical school, legislative body or other establishment or official of the executive, judicial or legislative branches of this state authorized by law to enter into contracts, including all local political subdivisions such as counties, municipalities, public school districts or public service or special purpose districts;

(3) "Guaranteed energy cost savings contract", a contract for the implementation of one or more such measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the energy cost savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed energy cost savings contracts shall be considered public works contracts to the extent that they provide for capital improvements to existing facilities;

(4) "Operational savings", expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Qualified provider", a person or business experienced in the design, implementation and installation of energy cost savings measures;

(6) "Request for proposals" or "RFP", a negotiated procurement.

2. No governmental unit shall enter into a guaranteed energy cost savings

contract until competitive proposals therefor have been solicited by the means most likely to reach those contractors interested in offering the required services, including but not limited to direct mail solicitation, electronic mail and public announcement on bulletin boards, physical or electronic. The request for proposal shall include the following:

- (1) The name and address of the governmental unit;
- (2) The name, address, title and phone number of a contact person;
- (3) The date, time and place where proposals shall be received;
- (4) The evaluation criteria for assessing the proposals; and
- (5) Any other stipulations and clarifications the governmental unit may require.

3. The governmental unit shall award a contract to the qualified provider that provides the lowest and best proposal which meets the needs of the unit if it finds that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount of energy or operational savings, or both, within a [ten-year] **fifteen-year** period from the date installation is complete, if the recommendations in the proposal are followed. The governmental unit shall have the right to reject any and all bids.

4. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed the costs of the energy cost savings measures, adjusted for inflation, within [ten] **fifteen** years. The qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The guaranteed energy cost savings contract may provide for payments over a period of time, not to exceed [ten] **fifteen** years, subject to appropriation of funds therefor.

5. The governmental unit shall include in its annual budget and appropriations measures for each fiscal year any amounts payable under guaranteed energy savings contracts during that fiscal year.

6. A governmental unit may use designated funds for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.

7. Notwithstanding any provision of this section to the contrary, a not-for-profit corporation incorporated pursuant to chapter 355, RSMo, and

operating primarily for educational purposes in cooperation with public or private schools shall be exempt from the provisions of this section.



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