

SECOND REGULAR SESSION

# SENATE BILL NO. 721

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

3144S.03I

## AN ACT

To repeal section 8.231, RSMo, and to enact in lieu thereof one new section relating to state contracting.

*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Section A. Section 8.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 8.231, to read as follows: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, **improvement, modernization, or system replacement** 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 **and including roofing, exterior building envelope, and piping;**

(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 replacements;

(e) **Domestic water, sewer, and domestic hot water system improvements;**

(f) **Indoor swimming pool improvements;**

(g) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a

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

20 facility, unless an increase in illumination is necessary to conform to the  
21 applicable state or local building code for the lighting system after the proposed  
22 modifications are made;

23        [(f)] **(h)** Indoor air quality improvements to increase air quality that  
24 conforms to the applicable state or local building code requirements;

25        [(g)] **(i)** Energy recovery systems;

26        [(h)] **(j)** Cogeneration systems that produce steam or forms of energy  
27 such as heat, as well as electricity, for use primarily within a building or complex  
28 of buildings;

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

31        [(j)] **(k) Any security or safety improvements that provide long-**  
32 **term operating cost reduction and improve the safety of the building**  
33 **concepts;**

34        **(l)** Building operation programs that reduce the operating costs; or

35        [(k)] **(m)** Any life safety measures related to compliance with the  
36 Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., that provide  
37 long-term operating cost reductions and are in compliance with state and local  
38 codes;

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

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

52        (4) "Operational savings", expenses eliminated and future replacement  
53 expenditures, **made within the time period of a guaranteed energy cost**  
54 **savings contract**, avoided as a result of new **systems and** equipment installed  
55 or services performed;

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

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

59 (7) **"Stipulated savings", any agreement in a guaranteed energy**  
60 **cost savings contract that indicates that the amount of cost savings are**  
61 **agreed, with the actual calculation of the existing costs as compared to**  
62 **the measured and verified costs which shall be performed and certified**  
63 **by a professional architect or engineer licensed in the state.**

64 2. No governmental unit shall enter into a guaranteed energy cost savings  
65 contract until competitive proposals therefor have been solicited by the means  
66 most likely to reach those contractors interested in offering the required services,  
67 including but not limited to direct mail solicitation, electronic mail and public  
68 announcement on bulletin boards, physical or electronic. The request for proposal  
69 shall include the following:

70 (1) The name and address of the governmental unit;

71 (2) The name, address, title and phone number of a contact person;

72 (3) The date, time and place where proposals shall be received;

73 (4) The evaluation criteria for assessing the proposals; and

74 (5) Any other stipulations and clarifications the governmental unit may  
75 require.

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

84 4. The guaranteed energy cost savings contract shall include a written  
85 guarantee of the qualified provider that either the energy or operational cost  
86 savings, or both, will meet or exceed the costs of the energy cost savings  
87 measures, adjusted for inflation, within [fifteen] **twenty** years. **The contract**  
88 **shall additionally provide a scope of work describing the specific**  
89 **energy cost savings measures that are to be addressed by the proposal**  
90 **as well as information regarding any energy or operational audit**  
91 **performed by the agency in connection with the energy cost savings**

92 **measure to be addressed by the proposal, and if no energy audit**  
93 **information is provided, then a requirement that the proposer will**  
94 **provide such energy or operational cost audit.** The qualified provider shall  
95 reimburse the governmental unit for any shortfall of guaranteed energy cost  
96 savings on an annual basis. The guaranteed energy cost savings contract [may]  
97 **shall** provide for payments over a period of time, not to exceed [fifteen] **twenty**  
98 **years, or the expected life of any equipment or systems,** subject to  
99 appropriation of funds therefor.

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

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

107           7. Notwithstanding any provision of this section to the contrary, a  
108 not-for-profit corporation incorporated pursuant to chapter 355 and operating  
109 primarily for educational purposes in cooperation with public or private schools  
110 shall be exempt from the provisions of this section.

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