An Act

ENROLLED SENATE
BILL NO. 92

By: Mazzei and Sharp of the Senate

and

Sears and Hoskin of the House

An Act relating to efficiency contracts; amending 62 O.S. 2011, Section 318, which relates to performance-based efficiency contracts with qualified providers; adding definition; requiring certain determination be made for certain agreements proposed by state governmental entities; requiring certain report under certain circumstances; and providing an effective date.

SUBJECT: Efficiency contracts

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2011, Section 318, is amended to read as follows:

Section 318. A. For purposes of this section:

1. "Public entity" means any political subdivision of this state, or a public trust which has as a beneficiary a political subdivision of this state, or any institution of higher education which is part of The Oklahoma State System of Higher Education;

2. "Performance-based efficiency contract" means a contract for the design, development, financing, installation and service of any

improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added to or used in any such building or facility; or any maintenance or operational strategy that is designed and implemented that will reduce utility consumption or lower operating costs, and may include, but is not limited to, one or more of the following:

a. utility services,

b. heating, ventilating or air conditioning system modifications or replacements and automated control systems,

c. replacement or modifications of lighting fixtures,

d. indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements when done in conjunction with other cost-saving measures,

e. any additional building infrastructure improvement, cost saving, life safety or any other improvement that provides long-term operating cost reductions and is in compliance with state and local codes, or

f. any facility operation and support programs that reduce operating cost; ~~and~~

3. "Qualified provider" means a person or business experienced or trained in the design, analysis and installation of energy conservation and facility management measures. A qualified provider must employ a professional engineer registered in the State of Oklahoma; and

4. "State governmental entity" means the State of Oklahoma or any agency, board, commission, authority, department, public trust of which the state is the beneficiary or other instrumentality of state government, other than a public trust with the state as beneficiary whose jurisdiction is limited to one county, including, but not limited to, the following:

a. Oklahoma Municipal Power Authority,

b. Oklahoma Development Authority,

c. Oklahoma Industrial Finance Authority,

d. Grand River Dam Authority,

e. Oklahoma Water Resources Board,

f. Northeast Oklahoma Public Facilities Authority,

g. Oklahoma Turnpike Authority,

h. Oklahoma Housing Finance Authority, and

i. Oklahoma Public, Industrial and Cultural Facilities Authority.

B. In addition to any other legally permissible alternatives of entering into contracts, any public entity may enter into performance-based efficiency contracts with a qualified provider pursuant to the provisions of this section. Further, any public entity may enter into an installment contract, lease purchase agreement or other contractual obligation for the purpose of financing performance-based efficiency projects for a term not to exceed twenty (20) years or the useful life of the project. Any state governmental entity proposing to enter into an agreement under this section shall consult with the State Bond Advisor to determine the most cost-effective financing, including publicly offered or privately placed bonds, notes, or other obligations secured by the efficiency contracts. Any state governmental entity entering into a financing secured by an efficiency contract shall report the amount of outstanding leases or contracts issued under this section each year for inclusion in the State Bond Advisor's annual report on state obligations. A qualified provider to whom the contract is awarded shall be required to give a sufficient bond to the public entity for its faithful performance of the contract. In addition, the public entity may require performance bonds covering the annual amount of guaranteed savings over the contract term.

The contract's cost savings to the public entity must be guaranteed each year during the term of the agreement. The savings must be sufficient to offset the annual costs of the contract. The contract shall provide for reimbursement to the public entity annually for any shortfall of guaranteed savings. Savings must be measured, verified and documented during each year of the term and may be utilized to meet the annual debt service. This section shall constitute the sole authority necessary to enter into performance-based efficiency contracts, without regard to compliance with other laws which may specify additional procedural requirements for execution of contracts.

SECTION 2. This act shall become effective November 1, 2015.

Passed the Senate the 29th day of April, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2015.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 30th
day of April, 20 15, at 2:25 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 6th
day of May, 20 15, at 9:40 o'clock A M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th
day of May, 20 15, at 5:23 o'clock P. M.
By: Chris Benge