

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 56  
Finance Committee Substitute Adopted 4/20/99

Short Title: Sunset/Term of Energy Savings Contracts.

(Public)

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Sponsors:

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Referred to:

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February 9, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL THE SUNSET REGARDING THE AUTHORITY OF LOCAL  
3 GOVERNMENTAL UNITS TO ENTER INTO GUARANTEED ENERGY  
4 SAVINGS CONTRACTS FOR LOCAL PUBLIC FACILITIES AND TO EXTEND  
5 THE CURRENT MAXIMUM DURATION OF THESE CONTRACTS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 143-64.17(1) reads as rewritten:

8 "(1) 'Energy conservation measure' means a facility ~~alteration or training~~  
9 alteration, or training or services related to the operation of the ~~facility~~  
10 facility, that reduces energy consumption or operating costs and includes:  
11 when the alteration, training, or services provide anticipated energy  
12 savings. Energy conservation measure includes any of the following:

- 13 a. Insulation of the building structure and systems within the  
14 ~~building; building.~~
- 15 b. Storm windows or doors, caulking, weatherstripping, multiglazed  
16 windows or doors, heat-absorbing or heat-reflective glazed or  
17 coated window or door systems, additional glazing, reductions in  
18 glass area, or other window or door system modifications that  
19 reduce energy ~~consumption; consumption.~~

- 1 c. Automatic energy control ~~systems;~~ systems.
- 2 d. Heating, ventilating, or air-conditioning system modifications or
- 3 ~~replacements;~~ replacements.
- 4 e. Replacement or modification of lighting fixtures to increase the
- 5 energy efficiency of a lighting system without increasing the
- 6 overall illumination of a facility, unless an increase in
- 7 illumination is necessary to conform to the applicable State or
- 8 local building code or is required by the light system after the
- 9 proposed modifications are ~~made;~~ made.
- 10 f. Energy recovery ~~systems;~~ systems.
- 11 g. Cogeneration systems that produce steam or forms of energy
- 12 such as heat, as well as electricity, for use primarily within a
- 13 building or complex of ~~buildings;~~ or buildings.
- 14 h. Other energy conservation ~~measures that provide long term~~
- 15 ~~operating cost reductions or significantly reduce energy~~
- 16 ~~consumed~~ measures."

17 Section 2. G.S. 143-64.17(2) reads as rewritten:

18 "(2) 'Energy savings' means a measured reduction in ~~fuel, fuel costs, energy,~~

19 energy costs, or operating costs created from the implementation of one

20 or more energy conservation measures when compared with an

21 established baseline of previous ~~fuel, fuel costs, energy, energy costs,~~ or

22 operating costs developed by the local governmental unit."

23 Section 3. G.S. 143-64.17B reads as rewritten:

24 "**§ 143-64.17B. Guaranteed energy savings contracts.**

25 (a) A local governmental unit may enter into a guaranteed energy savings contract

26 with a qualified provider if all of the following apply:

- 27 (1) The term of the contract does not exceed ~~eight years from the date of two-~~
- 28 thirds of the anticipated remaining useful life of the facility after the
- 29 installation or acceptance by the local governmental unit or commencement
- 30 of the energy conservation measures provided for under the ~~contract.~~
- 31 contract or 25 years, whichever is less.
- 32 (2) The local governmental unit finds that the energy savings resulting from
- 33 the performance of the contract will equal or exceed the total cost of the
- 34 contract.
- 35 (3) The energy conservation measures to be installed under the contract are
- 36 for an existing building.

37 (b) Before entering into a guaranteed energy savings contract, the local

38 governmental unit shall provide published notice of the meeting at which it proposes to

39 award the contract, the names of the parties to the proposed contract, and the contract's

40 purpose. The notice must be published at least 15 days before the date of the meeting.

41 (c) A qualified provider entering into a guaranteed energy savings contract under

42 this Part shall provide a bond to the local governmental unit in the amount equal to one

43 hundred percent (100%) of the total cost of the guaranteed energy savings contract to

1 assure the provider's faithful performance. Any bonds required by this subsection shall be  
2 subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the  
3 savings resulting from a guaranteed energy savings contract are not as great as projected  
4 under the contract and all required shortfall payments to the local governmental unit have  
5 not been made, the local governmental unit may terminate the contract without incurring  
6 any additional obligation to the qualified provider.

7 (d) As used in this section, 'total cost' shall include, but not be limited to, costs of  
8 construction, costs of financing, and costs of maintenance and training during the term of  
9 the contract. 'Total cost' does not include any obligations on termination of the contract  
10 before its expiration, provided that those obligations are disclosed when the contract is  
11 executed.

12 (e) A guaranteed energy savings contract may not require the local governmental  
13 unit to purchase a maintenance contract or other maintenance agreement from the  
14 qualified provider who installs energy conservation measures under the contract if the  
15 local unit of government takes appropriate action to budget for its own forces or another  
16 provider to maintain new systems installed and existing systems affected by the  
17 guaranteed energy savings contract, in accordance with manufacturer's standards  
18 or other reasonable standards specifically provided in the guaranteed energy savings  
19 contract."

20 Section 4. Section 10 of Chapter 775 of the 1993 Session Laws, as amended  
21 by Section 3 of Chapter 295 of the 1995 Session Laws, reads as rewritten:

22 "~~Sec. 10. A local governmental unit may not enter into a guaranteed energy savings~~  
23 ~~contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by~~  
24 ~~this act, on or after July 1, 1999."~~

25 Section 5. Sections 1 through 3 of this act become effective July 1, 1999, and  
26 apply to contracts entered into on or after that date. The remaining sections of this act are  
27 effective when they become law.