

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 92

By: Mazzei and Sharp of the  
Senate

3

and

4

Sears of the House

5

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7

8 [ efficiency contracts - performance-based efficiency  
9 contracts with qualified providers - agreements  
proposed by state governmental entities - report -  
effective date ]

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12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

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

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

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

24 Section 318. A. For purposes of this section:

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

5        2. "Performance-based efficiency contract" means a contract for  
6 the design, development, financing, installation and service of any  
7 improvement, repair, alteration or betterment of any building or  
8 facility owned, operated or planned by a public entity; or any  
9 equipment, fixture or furnishing to be added to or used in any such  
10 building or facility; or any maintenance or operational strategy  
11 that is designed and implemented that will reduce utility  
12 consumption or lower operating costs, and may include, but is not  
13 limited to, one or more of the following:

- 14            a. utility services,
- 15            b. heating, ventilating or air conditioning system  
16                modifications or replacements and automated control  
17                systems,
- 18            c. replacement or modifications of lighting fixtures,
- 19            d. indoor air quality improvements to increase air  
20                quality that conform to the applicable state or local  
21                building code requirements when done in conjunction  
22                with other cost-saving measures,
- 23            e. any additional building infrastructure improvement,  
24                cost saving, life safety or any other improvement that

1 provides long-term operating cost reductions and is in  
2 compliance with state and local codes, or

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

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

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

- 16 a. Oklahoma Municipal Power Authority,
- 17 b. Oklahoma Development Authority,
- 18 c. Oklahoma Industrial Finance Authority,
- 19 d. Grand River Dam Authority,
- 20 e. Oklahoma Water Resources Board,
- 21 f. Northeast Oklahoma Public Facilities Authority,
- 22 g. Oklahoma Turnpike Authority,
- 23 h. Oklahoma Housing Finance Authority, and

1            i. Oklahoma Public, Industrial and Cultural Facilities  
2            Authority.

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

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

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

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

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Presiding Officer of the House of  
Representatives

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18 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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Presiding Officer of the Senate

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

Passed the Senate the 5th day of March, 2015.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2015.

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Presiding Officer of the House  
of Representatives