



Am. H.B. 295
127th General Assembly
(As Passed by the General Assembly)

Reps. Wagoner, Ujvagi, Szollosi, Peterson, Latta, Stebelton, Brown, Uecker, Chandler, J. McGregor, Combs, Celeste, Yuko, Fende, Mallory, Bolon, Bacon, Collier, Dyer, Evans, Flowers, Foley, Gardner, Garrison, Goyal, R. Hagan, Harwood, Hughes, Letson, Lundy, J. Otterman, Patton, Sayre, Setzer, J. Stewart, B. Williams, S. Williams, Zehringer

Sens. Buehrer, Cafaro, Fedor, Harris, Padgett, Seitz, Wilson, Niehaus, Spada, D. Miller

Effective date: *

ACT SUMMARY

- Modifies the definition of "energy conservation measure" to include a central utility plant that provides heating and cooling services.
- Provides that an energy conservation report, among other provisions, must include the interest rates used to estimate certain energy conservation measures' costs, the measures' average system life, estimates of the likely savings, and a certification that the report uses reasonable analyses and estimation methods.
- Requires that the amount spent by a county on energy conservation measures be unlikely to exceed the amount saved in energy, operating, maintenance, and avoided capital costs over the measures' average system life.
- Specifies that the interest charges and financing terms in an energy conservation measures contract state that not less than a specified percentage of the contract costs must be paid within two years from the

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

purchase date and the remaining balance must be paid within the lesser of the measures' average system life or 30 years.

- Specifies that bonds for energy conservation measures may have maximum maturities not exceeding the lesser of the average system life of the measures or 30 years.
- Removes the provision that requires, unless otherwise approved by a resolution of the board of county commissioners, an installment payment contract for energy conservation measures to comply with the County Competitive Bidding Law.

CONTENT AND OPERATION

Energy conservation measure defined

(R.C. 307.041(A))

Continuing law provides a means for counties to implement energy conservation measures for county buildings. An "energy conservation measure" is an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. It includes insulation, certain window and door systems, automatic energy control systems, heating, ventilation, or air conditioning system modifications or replacements, caulking and weatherstripping, replacement or modification of lighting fixtures to increase energy efficiency, energy recovery systems, certain cogeneration systems, and other measures approved by a board of county commissioners.

The act adds as an energy conservation measure the acquiring, constructing, furnishing, equipping, improving the site of, and otherwise improving a central utility plant to provide heating and cooling services to a building or buildings together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or buildings.

Energy conservation report

(R.C. 307.041(B))

Under continuing law, to evaluate county buildings for energy conservation measures, a county can contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. The report must (1) analyze the buildings' energy needs and present

recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption, (2) estimate all installation, modification, or remodeling costs, including design, engineering, maintenance, and repair costs, and (3) estimate the amounts by which energy consumption could be reduced.

In addition to the preceding requirements, the act states that the report must include (1) the interest rate used to estimate the costs of any energy conservation measures that will be financed, (2) the average system life of the measures, (3) estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the measure, including methods used to estimate the savings, and (4) a certification, under a registered professional engineer's seal, that the report uses reasonable methods of analysis and estimation.

Bids and proposals for energy conservation measures

(R.C. 307.041(C)(1), (C)(2)(a), and (C)(2)(b))

Under continuing law, if a county desires to implement energy conservation measures for county buildings, it can proceed using one of two methods. First, using an energy conservation report or any part of a report, the county can advertise for bids and comply with the County Competitive Bidding Law.¹ The act specifies that upon receiving bids, the county must analyze them and select the lowest and best bid or bids that are most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements.

Second, the county can submit a request for proposals (RFP) from at least three vendors. However, before sending any installer a copy of the RFP, the county must advertise, in a newspaper of general circulation in the county once a week for two consecutive weeks, a notice stating its intent to request the proposals, indicating the date (which must be at least ten days after the second publication) on which the RFP will be mailed to installers, and stating that any installer interested in receiving an RFP must submit written notice to the county not later than noon on the RFP mailing date. The act adds that the RFP must require the installer that is awarded a contract to prepare an energy conservation report.

The act also provides that upon receiving the proposals, the county must analyze them and the installers' qualifications, and then select the most qualified installer to prepare the energy conservation report. After receipt and review of the

¹ See R.C. 307.86 through 307.92, not in the act.

report, the county can award a contract to the selected installer to install the measures that are most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements. Continuing law permits a county to reject all bids or proposals or to select more than one bid or proposal.

Bonds; money savings condition on awarding of contract

(R.C. 133.20 and 307.041(C)(2)(c))

Under law retained in part by the act, a county must condition the awarding of an energy conservation measures contract by proposals upon the contracting authority² finding that the amount of money spent on the measures is not likely to exceed the amount of money the county would save in energy and operating costs over ten years or, in the case of contracts for cogeneration systems, over five years, or a lesser period as determined by the contracting authority. Under prior law, bonds issued for county energy conservation measures had maximum maturities not exceeding those specified numbers of years.

The act states that, in addition to conditioning the awarding of a contract on the amount of money a county would save in energy and operating costs, the county must also consider maintenance costs and avoided capital costs. The act specifies that the awarding of a contract by either bids or proposals depends on a finding by the contracting authority that the amount of money spent on the measures is not likely to exceed the amount of money the county would save over the measures' average system life, regardless of the type of measures to be installed. The act also allows the contracting authority to consider increased costs due to inflation as shown in the energy conservation report. Under the act, bonds issued for county energy conservation measures have maximum maturities not exceeding the lesser of the average system life of the measures or 30 years.

Interest charges and financing terms

(R.C. 307.041(D))

Continuing law allows a board of county commissioners to enter into an installment payment contract for the purchase and installation of energy conservation measures. The interest charges and financing terms provisions of the contract are not subject to the County Competitive Bidding Law. Prior law

² A contracting authority is any board, department, commission, authority, trustee, official, administrator, agent, or individual that has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof (R.C. 307.92, not in the act).

required that the terms specify that (1) not less than one-tenth of the contract costs be paid within two years from the purchase date and (2) the remaining balance be paid within ten years from the purchase date or, for cogeneration systems, within five years from the purchase date.

Under the act, the mandatory terms required in installment payment contracts for all types of energy conservation measures are: (1) not less than a specified percentage of the contract costs, as determined and approved by the board of county commissioners, must be paid within two years from the purchase date and (2) the remaining balance must be paid within the lesser of the average system life of the measures as specified in the energy conservation report or 30 years.

Prior law required that, unless otherwise approved by a resolution of the board of county commissioners, an installment payment contract entered into by a board require the board to contract in accordance with County Competitive Bidding Law for the installation, modification, or remodeling of energy conservation measures. The act removes this requirement.

Relationship to outstanding contracts and continuing laws

(Section 3)

The act specifies that the changes it contains apply to any proceedings commenced after the act's effective date and, so far as the act's provisions support the actions taken, to any proceedings pending or in progress on, or completed prior to, the act's effective date. The act also specifies that the authority it provides is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by any law, the Constitution, or any charter, resolution, or ordinance, and that no inference should be drawn to negate that authority by reason of the express provisions contained in the act.

HISTORY

ACTION	DATE
Introduced	08-09-07
Reported, H. Local & Municipal Gov't & Urban Revitalization	11-07-07
Passed House (92-0)	01-15-08
Reported, S. Energy & Public Utilities	04-09-08
Passed Senate (31-0)	04-16-08

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