House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 205

HOUSE BILL 2703

AN ACT

AMENDING SECTIONS 34-455 AND 34-456, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 34-455, Arizona Revised Statutes, is amended to read:

34-455. Performance contracting; definition

A. The department of administration shall develop and implement a program to enter into performance contracts solely for the purpose of achieving energy savings as measured in dollars and benefits ancillary to that purpose. Each contract may be for a period of not more than fifteen years. The contract shall provide that the contractor bear all costs associated with implementation of energy conservation measures to include audits, design equipment, purchase and installation, metering, interest on monies borrowed~~,~~ AND training, and the contract shall include contractor profit. The contractor shall recover an amount not to exceed the summation of these costs and the agreed upon profit. Energy dollar savings realized as a result of a performance contract under this section shall be shared at a negotiated rate between the state and the contractor, until such time as the contractor has recovered the amount specified in the contract, at which time all savings shall accrue to the state. Interest rates charged on each contract ~~will~~ SHALL be mutually agreed upon by the department of administration and the contractor. Contracts shall contain contingency provisions agreed upon by the department and the contractor for cases where measured energy dollar savings do not meet predicted energy dollar savings.

B. For the purposes of this section, "energy dollar savings" means a reduction in the cost of energy, from a base ENERGY cost established through a methodology set forth in the contract, utilized in an existing OR NEW state owned OR LEASED building as a result of either:

1. The lease or purchase of operating equipment, improvements, altered operation and maintenance, ~~or~~ technical services OR RENEWABLE ENERGY SOURCES.

2. The increased efficient use of existing energy sources by cogeneration of heat recovery.

Sec. 2. Section 34-456, Arizona Revised Statutes, is amended to read:

34-456. Use of energy savings; definitions

A. Fifty per cent of the amount of AFTER-CONTRACT cost savings realized by the department of administration for that year from contracts entered into pursuant to section 34-455 shall remain available without further appropriation to undertake additional energy conservation measures. Funds generated as a result of these contracts shall be known as "energy conservation funds". THE DEPARTMENT SHALL USE THE ENERGY CONSERVATION FUNDS TO IMPLEMENT ADDITIONAL ENERGY CONSERVATION MEASURES IN STATE FACILITIES. The department shall keep a separate accounting of these AFTER-CONTRACT cost savings and provide an annual report to the speaker of the house of representatives, the president of the senate and the governor detailing account balances, amounts spent on additional conservation measures, energy and dollar savings accrued as a result of expenditures from

the fund and projected utilization of the funds. These funds shall not be subject to the provisions of section 35-190.

B. For the purposes of this section, :

1. "AFTER-CONTRACT COST SAVINGS" MEANS THE PORTION OF ENERGY DOLLAR SAVINGS FOR THAT YEAR THAT REMAIN AFTER ALL PERFORMANCE CONTRACT COSTS ARE PAID FOR THAT YEAR.

2. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and are life cycle cost effective and involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies or retrofit activities.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.