

LEGISLATIVE BILL 747

Approved by the Governor March 10, 2008

Introduced by Aguilar, 35.

FOR AN ACT relating to energy; to amend sections 66-1065 and 79-10,105, Reissue Revised Statutes of Nebraska; to change provisions relating to energy financing contracts; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 66-1065, Reissue Revised Statutes of Nebraska, is amended to read:

66-1065 (1) Any energy financing contract entered into by a governmental unit shall:

(a) Detail the responsibilities of a Nebraska-licensed professional engineer in the design, installation, and commissioning of the energy conservation measures selected by the governmental unit. Any design shall conform to all statutes of the State of Nebraska pertaining to engineering design and public health, safety, and welfare;

(b) Set forth the calculated energy cost savings during the contract period attributable to the energy conservation measures to be installed by the energy service company. Operational savings may be included in the total savings amount, not guaranteed, but approved by the governmental unit;

(c) Estimate the useful life of each of the selected energy conservation measures;

(d) Provide that, except for obligations on termination of the contract prior to its expiration, payments on the contract are to be made over time, within a period not to exceed ~~fifteen~~ thirty years after the date of the installation of the energy conservation measures provided for under the contract;

(e) Provide that the calculated savings for each year of the contract period will meet or exceed all payments to be made during each year of the contract;

(f) Disclose the effective interest rate being charged by the energy service company; and

(g) In the case of a guaranteed savings contract, set forth the method by which savings will be calculated and a method of resolving any dispute in the amount of the savings. The energy service company shall have total responsibility for the savings guarantee for each guaranteed savings contract.

(2) An energy service company entering into an energy financing contract shall provide a performance bond to the governmental unit in an amount equal to one hundred percent of the total cost of the contract to assure the company's faithful performance. The energy service company shall also supply a guarantee bond equal to one hundred percent of the guaranteed energy savings for the entire term of the contract. For purposes of this section, total cost means all costs associated with the design, installation, modification, commissioning, maintenance, and financing of all energy conservation measures contemplated under the contract.

Sec. 2. Section 79-10,105, Reissue Revised Statutes of Nebraska, is amended to read:

79-10,105 The school board or board of education of any public school district may enter into a lease or lease-purchase agreement for the exclusive use of its individual jurisdiction for such buildings or equipment as the board determines necessary. Such lease or lease-purchase agreements may not exceed a period of seven years, except that lease-purchase agreements entered into as part of an energy financing contract pursuant to section 66-1065 may not exceed a period of ~~fifteen~~ thirty years. All payments pursuant to such leases shall be made from current building funds or general funds. No school district shall directly or indirectly issue bonds to fund any such lease-purchase plan for a capital construction project exceeding twenty-five thousand dollars in costs unless it first obtains a favorable vote of the legal voters pursuant to Chapter 10, article 7. This section does not prevent the school board or board of education of any public school district from refinancing a lease or lease-purchase agreement without a vote of the legal voters for the purpose of lowering finance costs regardless of whether such agreement was entered into prior to July 9, 1988.

Sec. 3. Original sections 66-1065 and 79-10,105, Reissue Revised Statutes of Nebraska, are repealed.