

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

2

SENATE BILL 1042
Second Edition Engrossed 5/10/95

Short Title: Guaranteed Energy Savings Contracts.

(Public)

Sponsors: Senators Blackmon, Edwards, and Plexico.

Referred to: Commerce

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO MAKE VARIOUS AMENDMENTS REGARDING GUARANTEED
2 ENERGY SAVINGS CONTRACTS IN ORDER TO ENHANCE THE VIABILITY
3 OF GUARANTEED ENERGY SAVINGS CONTRACTS BY LOCAL
4 GOVERNMENTAL UNITS AND TO REPEAL THE SUNSET FOR LOCAL
5 GOVERNMENTAL UNITS TO ENTER INTO THESE CONTRACTS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 143-64.17(3) reads as rewritten:

9 "(3) 'Guaranteed energy savings contract' means a contract for the
10 evaluation, recommendation, or implementation of energy conservation
11 measures, including the design and installation of equipment or the
12 repair or replacement of existing equipment, in which all payments,
13 except obligations on termination of the contract before its expiration,
14 are to be made over time, and in which energy savings are guaranteed to
15 exceed costs. ~~A guaranteed energy savings contract may not require the local
16 governmental unit to purchase a maintenance contract or other maintenance
17 agreement from the qualified provider who installs energy conservation
18 measures under the contract if the local governmental unit uses its own forces~~

1 for maintenance or if the local governmental unit can purchase maintenance
2 services at a lower cost from another provider or contractor."

3 Sec. 2. G.S. 143-64.17B reads as rewritten:

4 **"§ 143-64.17B. Guaranteed energy savings contracts.**

5 (a) A local governmental unit may enter into a guaranteed energy savings contract
6 with a qualified provider if all of the following apply:

7 (1) The term of the contract does not exceed eight years from the date of the
8 installation and acceptance by the local governmental unit of the energy
9 conservation measures provided for under the contract.

10 (2) The local governmental unit finds that the energy savings resulting from
11 the performance of the contract will equal or exceed the total cost of the
12 contract.

13 (3) The energy conservation measures to be installed under the contract are
14 for an existing building.

15 (b) Before entering into a guaranteed energy savings contract, the local
16 governmental unit shall provide published notice of the meeting at which it proposes to
17 award the contract, the names of the parties to the proposed contract, and the contract's
18 purpose. The notice must be published at least 15 days before the date of the meeting.

19 (c) A qualified provider entering into a guaranteed energy savings contract under
20 this Part shall provide a bond to the local governmental unit in the amount equal to one
21 hundred percent (100%) of the total cost of the guaranteed energy savings contract to
22 assure the provider's faithful performance. Any bonds required by this subsection shall be
23 subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the
24 savings resulting from a guaranteed energy savings contract are not as great as projected
25 under the ~~contract, contract and all required shortfall payments to the local governmental~~
26 unit have not been made, the local governmental unit may terminate the contract without
27 incurring any additional obligation to the qualified provider.

28 (d) As used in this section, 'total cost' shall include, but not be limited to, costs of
29 construction, costs of financing, and costs of maintenance and training during the term of
30 the contract. 'Total cost' ~~also includes~~ does not include any obligations on termination of
31 the contract before its expiration. expiration, provided that any such obligations are
32 disclosed when the contract is executed.

33 (e) A guaranteed energy savings contract may not require the local governmental
34 unit to purchase a maintenance contract or other maintenance agreement from the
35 qualified provider who installs energy conservation measures under the contract if the
36 local unit of government takes appropriate action to budget for its own forces or another
37 provider to maintain new systems installed and existing systems affected by the
38 guaranteed energy savings contract."

39 Sec. 3. Section 10 of Chapter 775 of the 1993 Session Laws reads as rewritten:

40 "Sec. 2. A local governmental unit may not enter into a guaranteed energy savings
41 contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by
42 this act, on or after July 1, ~~1997-1999.~~"

43 Sec. 4. This act is effective upon ratification.