

SENATE BILL NO. 142—SENATORS JONES, ATKINSON, SEGERBLOM, HAMMOND, SPEARMAN; DENIS, FORD, HARDY, HUTCHISON, KIECKHEFER, KIHUEN, MANENDO, PARKS, SETTELMAYER AND WOODHOUSE

FEBRUARY 18, 2013

JOINT SPONSORS: ASSEMBLYMEN ELLIOT ANDERSON, BOBZIEN, AIZLEY; DALY, ELLISON, FIORE, HARDY, KIRKPATRICK AND OHRENSCHALL

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing local government contracting. (BDR 27-676)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local governments; revising provisions governing contracting by school districts; revising provisions governing performance contracts for operating cost-savings measures; requiring the Office of Energy to provide local governments with information and educational resources relating to such performance contracts; authorizing the Office of Energy to provide local governments with support relating to operating cost-savings measures under certain circumstances; authorizing the Office of Energy to charge and collect fees relating to such support; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes local governments, including school districts, to enter
- 2 into performance contracts for the purchase and installation of operating cost-
- 3 savings measures to reduce costs related to energy, water and the disposal of waste,
- 4 and related labor costs. (NRS 332.300-332.440) **Section 2** of this bill requires the
- 5 board of trustees of a school district to adopt a policy setting forth the process for
- 6 evaluating whether work to be performed on a building will be performed pursuant



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7 to a performance contract and sets forth certain requirements pertaining to the
8 policy. **Section 2** also requires the board of trustees to cause to be produced an
9 annual report relating to certain operating cost-savings measures.

10 **Section 3** of this bill requires the Office of Energy to: (1) provide local
11 governments with information and educational resources relating to operating cost-
12 savings measures and performance contracts; and (2) include on the Internet
13 website maintained by the Office, if any, information and educational resources
14 relating to operating cost-savings measures and performance contracts.
15 Additionally, **section 3** authorizes the Office of Energy to provide a local
16 government, upon request, with support relating to operating cost-savings measures
17 and to charge and collect a fee from the local government for the provision of such
18 support. **Section 3** creates an account administered by the Director of the Office of
19 Energy into which such fees must be deposited. **Section 3** also provides that a local
20 government may include in a performance contract the costs of any such fees
21 charged by the Office of Energy.

22 **Section 4.5** of this bill authorizes a local government, in lieu of retaining the
23 professional services of a third-party consultant, to enter into a contract with the
24 Office of Energy to assist the local government in evaluating certain proposals and
25 presentations by qualified service companies relating to performance contracts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 332 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1. *The board of trustees of a school district shall***
4 ***adopt a policy setting forth the process for evaluating whether***
5 ***work to be performed on a building will be performed pursuant to***
6 ***a performance contract. The policy must include, without***
7 ***limitation:***

8 ***(a) The criteria for determining the work which will be***
9 ***evaluated pursuant to the policy;***

10 ***(b) The requirement that the board of trustees or its designee***
11 ***evaluate whether the work to be performed:***

12 ***(1) Consists primarily of one or more operating cost-***
13 ***savings measures;***

14 ***(2) Qualifies to be performed pursuant to a performance***
15 ***contract with a return on investment that the board of trustees***
16 ***determines would make entering into a performance contract in***
17 ***the best interest of the school district; and***

18 ***(3) Would be more reasonably included under an existing***
19 ***performance contract rather than a new performance contract;***
20 ***and***

21 ***(c) The requirement that the board of trustees or its designee,***
22 ***if it determines not to enter into a performance contract, document***
23 ***the reasons for that determination.***



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2. The board of trustees of a school district shall cause to be prepared an annual report which sets forth the operating cost-savings measures, if any, that:

(a) Were identified in a financial-grade operational audit submitted to the board of trustees pursuant to subsection 5 of NRS 332.360 during the immediately preceding year; and

(b) Were not included in a performance contract during the immediately preceding year.

3. As used in this section, "operating cost-savings measure" means an investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

(a) Costs for materials and labor required to replace old equipment with new, more efficient equipment.

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

(c) Automated or computerized energy control systems.

(d) Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

(e) Replacement of, or modifications to, lighting fixtures.

(f) Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

(g) Energy recovery systems.

(h) Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

(i) Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

(j) Installation of, or modification to, technologies that use renewable or alternative energy sources.

(k) Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

(l) Programs for improvement of steam traps to reduce operating costs.

(m) Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

(n) Trash compaction and waste minimization.

(o) Ground source systems for heating and cooling.

Sec. 3. 1. The Office of Energy shall:



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1 (a) *Provide to local governments information and educational*
2 *resources relating to operating cost-savings measures and*
3 *performance contracts.*

4 (b) *Include on the Internet website maintained by the Office, if*
5 *any, information and educational resources relating to operating*
6 *cost-savings measures and performance contracts.*

7 2. *The Office of Energy may, upon receiving a request from a*
8 *local government for support relating to operating cost-savings*
9 *measures:*

10 (a) *Provide to the local government support relating to*
11 *operating cost-savings measures; and*

12 (b) *Charge and collect a fee from the local government for the*
13 *provision of any support described in paragraph (a).*

14 3. *All fees charged and collected by the Office of Energy*
15 *pursuant to subsection 2 must be accounted for separately in the*
16 *State General Fund. The Director of the Office of Energy shall*
17 *administer the account. Money in the account must be used only*
18 *to pay the costs incurred by the Office of Energy to provide*
19 *support to local governments pursuant to subsection 2 and is*
20 *hereby authorized for expenditure as a continuing appropriation*
21 *for this purpose.*

22 4. *The Director may apply for and accept any gift, donation,*
23 *bequest, grant or other source of money for deposit in the account.*
24 *The interest and income earned on money in the account, after*
25 *deducting any applicable charges, must be credited to the account.*
26 *Money that remains in the account at the end of the fiscal year*
27 *does not revert to the State General Fund, and the balance in the*
28 *account must be carried forward to the next fiscal year.*

29 5. *A local government may include in a performance contract*
30 *the amount of any fee charged by the Office of Energy pursuant to*
31 *subsection 2.*

32 6. *The Director of the Office of Energy may adopt*
33 *regulations to carry out the provisions of this section, including,*
34 *without limitation, regulations which establish the amount of the*
35 *fees to be charged and collected by the Office of Energy pursuant*
36 *to subsection 2.*

37 **Sec. 4.** NRS 332.300 is hereby amended to read as follows:

38 332.300 As used in NRS 332.300 to 332.440, inclusive, *and*
39 *sections 2 and 3 of this act*, unless the context otherwise requires,
40 the words and terms defined in NRS 332.310 to 332.350, inclusive,
41 have the meanings ascribed to them in those sections.

42 **Sec. 4.5.** NRS 332.360 is hereby amended to read as follows:

43 332.360 1. Notwithstanding any provision of this chapter and
44 chapter 338 of NRS to the contrary, a local government may enter
45 into a performance contract with a qualified service company for the



1 purchase and installation of an operating cost-savings measure to
2 reduce costs related to energy, water and the disposal of waste, and
3 related labor costs. Such a performance contract may be in the form
4 of an installment payment contract or a lease-purchase contract. Any
5 operating cost-savings measures put into place as a result of a
6 performance contract must comply with all applicable building
7 codes.

8 2. If a local government is interested in entering into a
9 performance contract, the local government shall notify each
10 appropriate qualified service company and coordinate an
11 opportunity for each such qualified service company to:

12 (a) Perform a preliminary and comprehensive audit and
13 assessment of all potential operating cost-savings measures that
14 might be implemented within the buildings of the local government,
15 including any operating cost-savings measures specifically
16 requested by the local government; and

17 (b) Submit a proposal and make a related presentation to the
18 local government for all such operating cost-savings measures that
19 the qualified service company determines would be practicable to
20 implement.

21 3. The local government shall:

22 (a) Evaluate the proposals and presentations made pursuant to
23 subsection 2; and

24 (b) Select a qualified service company,

25 ➔ pursuant to the provisions of NRS 332.300 to 332.440, inclusive.

26 4. The local government may *enter into a contract with the*
27 *Office of Energy or* retain the professional services of a third-party
28 consultant with the requisite technical expertise to assist the local
29 government in evaluating the proposals and presentations pursuant
30 to subsection 3. ~~Such~~ *If the local government retains the*
31 *professional services of a third-party consultant, the* third-party
32 consultant must possess a business license issued pursuant to
33 chapter 76 of NRS and any other applicable licenses issued by a
34 licensing board in this State in the same discipline in which the
35 consultant will be advising the local government.

36 5. The qualified service company selected by the local
37 government pursuant to subsection 3 shall prepare a financial-grade
38 operational audit. Except as otherwise provided in this subsection,
39 the audit prepared by the qualified service company becomes, upon
40 acceptance, a part of the final performance contract and the costs
41 incurred by the qualified service company in preparing the audit
42 shall be deemed to be part of the performance contract. If, after the
43 audit is prepared, the local government decides not to execute the
44 performance contract, the local government shall pay the qualified
45 service company that prepared the audit the costs incurred by the



1 qualified service company in preparing the audit if the local
2 government has specifically appropriated money for that purpose.

3 6. The local government shall *enter into a contract with the*
4 *Office of Energy or* retain the professional services of a third-party
5 consultant with the requisite technical expertise to assist the local
6 government in reviewing the operating cost-savings measures
7 proposed by the qualified service company and may procure
8 sufficient funding from the qualified service company, through
9 negotiation, to pay for *the costs incurred by the Office of Energy or*
10 *the third-party consultant.* ~~Such~~ *If the local government retains*
11 *the professional services of a third-party consultant, the* third-party
12 consultant must be licensed pursuant to chapter 625 of NRS and
13 certified by the Association of Energy Engineers as a “Certified
14 Energy Manager” or hold similar credentials from a comparable
15 nationally recognized organization. ~~At~~ *The Office of Energy or a*
16 *third-party consultant retained pursuant to this subsection shall work*
17 *on behalf and for the benefit of the local government in coordination*
18 *with the qualified service company.*

19 **Sec. 5.** This act becomes effective on July 1, 2013.

