

As Introduced

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A B I L L

To amend sections 123.011, 125.09, and 125.11 and to 1
enact section 3345.52 of the Revised Code to 2
require the efficient use of energy in all state 3
facilities based on standards developed by the 4
Ohio School Facilities Commission, to require the 5
Department of Administrative Services to give 6
preference in procuring products and services to 7
those that meet the energy efficiency guidelines 8
set by the United States Environmental Protection 9
Agency and Department of Energy, and to require 10
each state institution of higher education that 11
receives capital appropriations for a specific 12
project to use energy efficient designs in the 13
project. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 123.011, 125.09, and 125.11 be 15
amended and section 3345.52 of the Revised Code be enacted to read 16
as follows: 17

Sec. 123.011. (A) ~~There~~ As used in this section: 18

(1) "Energy consumption analysis" means the evaluation of all 19

energy consuming systems and components by demand and type of
energy, including the internal energy load imposed on a facility
by its occupants, equipment, and components and the external
energy load imposed on a facility by climatic conditions.

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(2) "Energy performance index" means a number describing the
energy requirements of a facility per square foot of floor space
or per cubic foot of occupied volume as appropriate under defined
internal and external ambient conditions over an entire seasonal
cycle.

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(3) "Facility" means a building or other structure that
includes provision for a heating or cooling system, or both, or
for a hot water system.

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(4) "Life-cycle costs" means the cost of owning, operating,
and maintaining a facility over the life of the structure.
"Life-cycle costs" may be expressed as an annual cost for each
year of the facility's use.

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(5) "State-assisted facility" means a facility constructed or
renovated in whole or in part with state or federal funds or with
funds guaranteed or provided by or through a state agency.

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(B) There is hereby created within the department of
administrative services an office to be known as the office of
energy services. The office shall be under the supervision of a
manager, who shall be appointed by the director of administrative
services. The director shall assign to the office a number of
employees and furnish equipment and supplies that the director
considers necessary for the proper performance of the duties
assigned to the office.

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The office shall develop energy programs in each of the
following areas:

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(1) New construction design and review;

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(2) Existing building audit and retrofit; 50

(3) Energy efficient procurement; 51

(4) Alternate fuel vehicles. 52

The office may accept and administer grants from public and 53
private sources for carrying out any of its duties under this 54
section. 55

~~(B)(C)(1)~~ In addition to its duties under division ~~(A)(B)~~ of 56
this section, the office shall assist the department in its 57
responsibility for state-owned, assisted, and leased facilities by 58
ensuring that energy conservation goals are observed in the 59
design, construction, renovation, and utilization of these 60
facilities in a manner that will minimize the consumption of 61
energy used in ~~the~~ their operation and maintenance ~~of such~~ 62
~~facilities. This~~ 63

(2) This process shall include the use of life-cycle costs, 64
including construction, the costs of operation and maintenance of 65
the a state-owned, assisted, or leased facility as ~~it affects they~~ 66
pertain to energy consumption over the economic life of the 67
facility, and energy consumption analyses of existing state-owned, 68
assisted, or leased facilities in order to determine and require 69
necessary changes in ~~the~~ their operation and maintenance ~~of such~~ 70
~~facilities.~~ 71

~~As used in this section:~~ 72

~~(1) "Facility" means a building or other structure that 73
includes provision for a heating or cooling system, or both, or 74
for a hot water system. 75~~

~~(2) "State-assisted facility" means a facility constructed or 76
renovated in whole or in part with state or federal funds or with 77
funds guaranteed or provided by or through a state agency. 78~~

~~(3) "Energy consumption analysis" means the evaluation of all 79~~

energy consuming systems and components by demand and type of 80
energy, including the internal energy load imposed on a facility 81
by its occupants, equipment, and components and the external 82
energy load imposed on a facility by climatic conditions. 83

~~(4) "Energy performance index" means a number describing the 84
energy requirements of a facility per square foot of floor space 85
or per cubic foot of occupied volume as appropriate under defined 86
internal and external ambient conditions over an entire seasonal 87
cycle. 88~~

~~(5) "Life cycle costs" means the cost of owning, operating, 89
and maintaining a facility over the life of the structure. This 90
may be expressed as an annual cost for each year of the facility's 91
use 92~~

(3) This process also shall include the use in all 93
state-owned, assisted, or leased facilities of energy efficiency 94
standards modeled on those that the Ohio school facilities 95
commission has developed and uses in its approval of design plans 96
for classroom facility construction projects under Chapter 3318. 97
of the Revised Code. 98

~~(C)(D)~~ No state agency, including those agencies otherwise 99
excluded from the jurisdiction of the department under division 100
(A)(3) of section 123.01 of the Revised Code, shall lease, 101
construct, or have constructed, within the limits prescribed in 102
this section, a facility, without having secured from the office a 103
proper evaluation of life-cycle costs or, in the case of a lease, 104
an energy consumption analysis, as computed or prepared by a 105
qualified architect or engineer. ~~Construction~~ 106

Construction shall proceed only upon the disclosure to the 107
office for the facility chosen, the life-cycle costs as determined 108
in this section and the capitalization of the initial construction 109
costs of the building. The life-cycle costs shall be a primary 110

consideration in the selection of a building design. ~~Such That~~ 111
analysis shall be required only for construction of buildings with 112
an area of five thousand square feet or greater. ~~No~~ 113

No such state agency shall lease an area of twenty thousand 114
square feet or greater within a given building boundary, without 115
having secured from the office a proper evaluation of an energy 116
consumption analysis for the term of the proposed lease. ~~Such That~~ 117
energy consumption analysis shall be a primary consideration in 118
the selection of a facility to be leased. ~~Nothing~~ 119

Nothing in this section shall deprive or limit any state 120
agency that has review authority over design or construction plans 121
from requiring a life-cycle cost analysis. 122

Whenever any state department, agency, or institution 123
requests release of capital improvement funds for any facility, it 124
shall submit copies of all pertinent life-cycle cost analyses 125
prepared pursuant to this section and in accordance with rules 126
adopted under Chapters 3781. and 4101. of the Revised Code. 127

~~(D)(E)~~ The office shall ~~promulgate~~ adopt rules and 128
procedures, including energy conservation performance guidelines, 129
for conducting a life-cycle cost analysis of alternative 130
architectural and engineering designs and for developing energy 131
performance indices to evaluate the efficiency of energy 132
utilization of competing designs in the construction of 133
state-financed and leased facilities. ~~The rules and procedures~~ 134
~~shall take effect February 3, 1979.~~ 135

The life-cycle cost analysis shall determine the reasonably 136
expected fuel costs over the life of the building facility that 137
are required to maintain illumination, power, temperature, 138
humidity, ventilation, and all other energy consuming equipment in 139
a the facility and the reasonable costs of probable maintenance 140
including labor, materials, and building operation. The life-cycle 141

cost analysis shall include, but not be limited to, the following: 142

(1) The coordination, orientation, and positioning of the 143
facility on its physical site; 144

(2) The amount and type of glass employed in the facility and 145
the directions of exposure; 146

(3) Thermal characteristics of materials, including the 147
effect of insulation incorporated into facility design; 148

(4) Architectural features ~~which~~ that affect energy 149
consumption, including the effect of solar utilization of the 150
properties of external surfaces; 151

(5) The variable occupancy and operating conditions of the 152
facility and subportions of the facility, including illumination 153
levels; 154

(6) An energy consumption analysis of the major equipment of 155
the facility's heating, ventilating, and cooling system, lighting 156
system, hot water system, and all other energy consuming systems 157
and equipment as appropriate. This analysis shall include the 158
following: 159

(a) The comparison of two or more system alternatives, one of 160
which may be a system using solar energy; 161

(b) The projection of the annual energy consumption of major 162
energy consuming equipment and systems for a range of operation of 163
the facility over the life of the facility; 164

(c) An evaluation of the energy consumption of component 165
equipment in each system, considering the operation of ~~such~~ those 166
components at other than full or rated outputs. 167

The rules shall be based on the best currently available 168
methods of ~~analyses~~ analysis, including those of the national 169
bureau of standards, the department of housing and urban 170
development, and other federal agencies and professional 171

societies, and materials developed by the department. 172

The office shall ~~promulgate~~ adopt rules for energy 173
performance indices, ~~as defined in division (B)(4) of this~~ 174
~~section,~~ to audit and evaluate competing design proposals 175
submitted to the state. 176

~~(E)(F)~~ The office shall conduct studies of the state's 177
purchase and use of supplies, automobiles, and equipment having a 178
significant impact on energy use by government, in order to 179
determine the potential for energy conservation. The department of 180
development shall advise the office on the state of the art of 181
energy efficiency, both generally and with reference to the cost 182
of various levels of energy efficiency. The office shall 183
~~promulgate~~ adopt rules to ensure that energy efficiency and 184
conservation will be considered in state purchasing. Minimum 185
energy efficiency standards on purchased products and equipment 186
shall be required, based on federal testing and labeling where 187
available or standards developed by the department. Life-cycle 188
cost analysis of energy consuming equipment and components shall 189
be made part of the competitive selection procedures of Chapter 190
125. of the Revised Code where possible. 191

~~Not later than January 1, 1979, the~~ The office shall take the 192
initiative in implementing purchasing measures through the 193
following means: 194

(1) Identifying energy conservation opportunities available; 195

(2) Providing for interchange of information among state 196
agencies; 197

(3) Identifying laws, policies, rules, and procedures which 198
need modification; 199

(4) Monitoring experience with energy conservation buying 200
practices; 201

(5) Providing training programs and workshops for state 202
employees involved in the purchasing process. 203

The department of development shall make recommendations to 204
the office regarding planning and implementation of purchasing 205
policies and procedures supportive of energy conservation. 206

~~(F)(G)(1)~~ The office shall require all departments, agencies, 207
state institutions, universities, colleges, authorities, 208
commissions, boards, and quasi-governmental entities to implement 209
procedures ensuring that all their passenger automobiles acquired 210
in each fiscal year, except for those passenger automobiles 211
acquired for use in law enforcement or emergency rescue work, 212
achieve a fleet average fuel economy of not less than ~~twenty miles~~ 213
~~per gallon in fiscal year 1979, not less than twenty one miles per~~ 214
~~gallon in fiscal year 1980, and, in each fiscal year thereafter,~~ 215
~~not less than~~ the fleet average fuel economy prescribed, by rule, 216
by the office for that fiscal year in accordance with this 217
division. 218

Prior to the beginning of ~~fiscal year 1981 and~~ each fiscal 219
year ~~thereafter~~, the office shall adopt rules prescribing the 220
fleet average fuel economy all passenger automobiles acquired by 221
all departments, agencies, state institutions, universities, 222
colleges, authorities, commissions, boards, and quasi-governmental 223
entities of state government during the fiscal year covered by the 224
rules must achieve, except for those passenger automobiles 225
acquired for use in law enforcement or emergency rescue work. 226
These rules shall not be less stringent than the average fuel 227
economy standards established pursuant to federal law for 228
passenger automobiles manufactured during the model year that 229
begins during the fiscal year. 230

~~(1)~~(2) Each department, agency, state institution, 231
university, college, authority, commission, board, and 232

quasi-governmental entity of state government shall determine its 233
fleet average fuel economy by dividing: 234

(a) The total number of passenger vehicles acquired during 235
the fiscal year, except for those passenger vehicles acquired for 236
use in law enforcement or emergency rescue work, by 237

(b) A sum of terms, each of which is a fraction created by 238
dividing: 239

(i) The number of passenger vehicles of a given make, model, 240
and year, except for passenger vehicles acquired for use in law 241
enforcement or emergency rescue work, acquired during the fiscal 242
year, by 243

(ii) The fuel economy measured by the administrator of the 244
United States environmental protection agency, for the given make, 245
model, and year of vehicle, that constitutes an average fuel 246
economy for combined city and highway driving. 247

~~(2)~~ As used in division ~~(F)(1)~~(G)(2) of this section, 248
"acquired" means leased for a period of sixty continuous days or 249
more, or purchased. 250

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 251
Code, the department of administrative services may prescribe ~~such~~ 252
conditions under which competitive sealed bids will be received 253
and terms of the proposed purchase as it considers necessary; 254
~~provided,~~ that all ~~such~~ conditions and terms shall be reasonable 255
and shall not unreasonably restrict competition, and bidders may 256
bid upon all or any item of the supplies or services listed in 257
~~such~~ the notice. Those bidders claiming the preference for United 258
States and Ohio products outlined in this chapter shall designate 259
in their bids either that the product to be supplied is an Ohio 260
product or that, under the rules established by the director of 261
administrative services, they qualify as having a significant Ohio 262

economic presence. 263

(B) The department ~~may~~ shall require that each bidder provide 264
sufficient information about the energy efficiency or energy usage 265
of the bidder's product or service, including whether the product 266
or service meets the energy efficiency guidelines set by the 267
United States environmental protection agency and department of 268
energy. 269

(C) The director of administrative services ~~shall~~, by rule 270
adopted pursuant to Chapter 119. of the Revised Code, shall 271
prescribe criteria and procedures for use by all state agencies in 272
giving preference to United States and Ohio products as required 273
by division (B) of section 125.11 of the Revised Code. The rules 274
shall extend to the following: 275

(1) Criteria for determining that a product is produced or 276
mined in the United States rather than in another country or 277
territory; 278

(2) Criteria for determining that a product is produced or 279
mined in Ohio; 280

(3) Information to be submitted by bidders as to the nature 281
of a product and the location where it is produced or mined; 282

(4) Criteria and procedures to be used by the director to 283
qualify bidders located in states bordering ~~Ohio~~ this state who 284
might otherwise be excluded from being awarded a contract by 285
operation of this section and section 125.11 of the Revised Code. 286
The criteria and procedures shall recognize the level and 287
regularity of interstate commerce between ~~Ohio~~ this state and the 288
border states and provide that the non-Ohio businesses may qualify 289
for award of a contract as long as they are located in a state 290
that imposes no greater restrictions than are contained in this 291
section and section 125.11 of the Revised Code upon persons 292
located in ~~Ohio~~ this state who are selling products or services to 293

agencies of that state. The criteria and procedures ~~shall~~ also 294
shall provide that a non-Ohio business shall not bid on a contract 295
for state printing in this state if the business is located in a 296
state that excludes Ohio businesses from bidding on state printing 297
contracts in that state. 298

(5) Criteria and procedures to be used to qualify ~~bidders~~ a 299
bidder whose manufactured products, except for mined products, are 300
produced in other states or in North America, but the ~~bidders have~~ 301
bidder has a significant Ohio economic presence in terms of the 302
number of employees or capital investment ~~a~~ the bidder has in this 303
state. Bidders with a significant Ohio economic presence shall 304
qualify for award of a contract on the same basis as if their 305
products were produced in this state. 306

(6) Criteria and procedures for the director to grant waivers 307
of the requirements of division (B) of section 125.11 of the 308
Revised Code on a contract-by-contract basis where compliance with 309
those requirements would result in the state agency paying an 310
excessive price for the product or acquiring a disproportionately 311
inferior product; 312

(7) ~~Such other~~ Other requirements or procedures reasonably 313
necessary to implement the system of preferences established 314
pursuant to division (B) of section 125.11 of the Revised Code. 315

In adopting the rules required under this division, the 316
director ~~shall~~, to the maximum extent possible, shall conform to 317
the requirements of the federal "Buy America Act," 47 Stat. 1520, 318
(1933), 41 U.S.C.A. 10a-10d, as amended, and to the regulations 319
adopted ~~thereunder~~ under that act. 320

Sec. 125.11. (A)(1) Subject to ~~division~~ divisions (A)(2) and 321
(3) and (B) of this section, contracts awarded pursuant to a 322
reverse auction under section 125.072 of the Revised Code or 323
pursuant to competitive sealed bidding, including contracts 324

awarded under section 125.081 of the Revised Code, shall be 325
awarded to the lowest responsive and responsible bidder on each 326
item in accordance with section 9.312 of the Revised Code. ~~When~~ 327

(2) After applying division (B) of this section, when 328
applicable, the department of administrative services shall give 329
preference to lowest responsive and responsible bidders whose 330
product or service meets the energy efficiency guidelines set by 331
the United States environmental protection agency and department 332
of energy. And, when the contract is for meat products as defined 333
in section 918.01 of the Revised Code or poultry products as 334
defined in section 918.21 of the Revised Code, only those bids 335
received from vendors offering products from establishments on the 336
current list of meat and poultry vendors established and 337
maintained by the director of administrative services under 338
section 125.17 of the Revised Code shall be eligible for 339
acceptance. ~~The~~ 340

(3) The department of administrative services may accept or 341
reject any or all bids in whole or by items, except that when the 342
contract is for services or products available from a qualified 343
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 344
Revised Code, the contract shall be awarded to that agency. 345

(B) Prior to awarding a contract for products under division 346
(A) of this section, the department of administrative services or 347
the state agency responsible for evaluating a contract for the 348
purchase of products shall evaluate the bids received according to 349
the criteria and procedures established pursuant to divisions 350
(C)(1) and (2) of section 125.09 of the Revised Code for 351
determining if a product is produced or mined in the United States 352
and if a product is produced or mined in this state. The 353
department or other state agency shall first remove bids that 354
offer products that have not been or that will not be produced or 355

mined in the United States. From among the remaining bids, the
department or other state agency shall select, subject to
divisions (A)(2) and (3) of this section, the lowest responsive
and responsible bid, in accordance with section 9.312 of the
Revised Code, from among the bids that offer products that have
been produced or mined in this state where sufficient competition
can be generated within this state to ensure that compliance with
these requirements will not result in an excessive price for the
product or acquiring a disproportionately inferior product. If
there are two or more qualified bids that offer products that have
been produced or mined in this state, it shall be deemed that
there is sufficient competition to prevent an excessive price for
the product or the acquiring of a disproportionately inferior
product.

(C) Division (B) of this section applies to contracts for
which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the
purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in
the form of a model act for use by counties, townships, municipal
corporations, or any other political subdivision described in
division (B) of section 125.04 of the Revised Code, a system of
preferences for products mined and produced in this state and in
the United States and for Ohio-based contractors. The model act
shall reflect substantial equivalence to the system of preferences
in purchasing and public improvement contracting procedures under
which the state operates pursuant to this chapter and section
153.012 of the Revised Code. To the maximum extent possible,
consistent with the Ohio system of preferences in purchasing and
public improvement contracting procedures, the model act shall
incorporate all of the requirements of the federal "Buy America
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and

the rules adopted under that act.

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Before and during the development and promulgation of the
model act, the director shall consult with appropriate statewide
organizations representing counties, townships, and municipal
corporations so as to identify the special requirements and
concerns these political subdivisions have in their purchasing and
public improvement contracting procedures. The director shall
~~promulgate~~ adopt the model act by rule adopted pursuant to Chapter
119. of the Revised Code and shall revise the act as necessary to
reflect changes in this chapter or section 153.012 of the Revised
Code.

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The director shall make available copies of the model act,
supporting information, and technical assistance to any township,
county, or municipal corporation wishing to incorporate the
provisions of the act into its purchasing or public improvement
contracting ~~procedure~~ procedures.

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Sec. 3345.52. (A) As used in this section, "state institution
of higher education" has the same meaning as in section 3345.011
of the Revised Code.

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(B) Any state institution of higher education that receives
an appropriation for a capital facilities project for the
construction, reconstruction, improvement, renovation,
enlargement, or alteration of a public improvement under its
jurisdiction shall use energy efficient designs in carrying out
the project.

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Section 2. That existing sections 123.011, 125.09, and 125.11
of the Revised Code are hereby repealed.

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