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Bill Analysis
Legislative Service Commission

S.B. 239
127th General Assembly
(As Introduced)

Sen. Gardner

BILL SUMMARY

- Modifies the definition of "energy conservation measure" to include a central utility plant that provides heating and cooling services.
- Provides that an energy conservation report, among other provisions, must include the interest rates used to estimate certain energy conservation measures' costs, the measures' average system life, estimates of the likely savings, and a certification that the report uses reasonable analyses and estimation methods.
- Requires that the amount spent by a county on energy conservation measures be unlikely to exceed the amount saved in energy, operating, maintenance, and avoided capital costs over the measures' average system life.
- Specifies that the interest charges and financing terms in an energy conservation measures contract state that not less than a specified percentage of the contract costs must be paid within two years from the purchase date and the remaining balance must be paid within the measures' average system life.
- Specifies that bonds for energy conservation measures may have maximum maturities not exceeding the average system life of the measures.
- Removes the provision that requires, unless otherwise approved by a resolution of the board of county commissioners, an installment payment contract for energy conservation measures to comply with the County Competitive Bidding Law.

CONTENT AND OPERATION

Energy conservation measure defined

(R.C. 307.041(A))

Current law provides a means for counties to implement energy conservation measures for county buildings. An "energy conservation measure" currently is an installation or modification of an installation in, or remodeling of, an existing building, to reduce energy consumption. It includes insulation, certain window and door systems, automatic energy control systems, heating, ventilation, or air conditioning system modifications or replacements, caulking and weatherstripping, replacement or modification of lighting fixtures to increase energy efficiency, energy recovery systems, certain cogeneration systems, and other measures approved by a board of county commissioners.

The bill adds as an energy conservation measure the acquiring, constructing, furnishing, equipping, improving the site of, and otherwise improving a central utility plant to provide heating and cooling services to a building or buildings together with distribution piping and ancillary distribution controls, equipment, and related facilities from the central utility plant to the building or buildings.

Energy conservation report

(R.C. 307.041(B))

Under current law, to evaluate county buildings for energy conservation measures, a county can contract with an architect, professional engineer, energy services company, contractor, or other person experienced in the design and implementation of energy conservation measures for an energy conservation report. The report must (1) analyze the buildings' energy needs and present recommendations for building installations, modifications of existing installations, or building remodeling that would significantly reduce energy consumption, (2) estimate all installation, modification, or remodeling costs, including design, engineering, maintenance, and repair costs, and (3) estimate the amounts by which energy consumption could be reduced.

In addition to the preceding requirements, the bill adds that the report must include (1) the interest rate used to estimate the costs of any energy conservation measures that will be financed, (2) the average system life of the measures, (3) estimates of the likely savings that will result from the reduction in energy consumption over the average system life of the measure, including methods used

to estimate the savings, and (4) a certification, under a registered professional engineer's seal, that the report uses reasonable methods of analysis and estimation.

Bids and proposals for energy conservation measures

(R.C. 307.041(C)(1), (C)(2)(a), and (C)(2)(b))

Under current law, if a county desires to implement energy conservation measures for county buildings, it can proceed using one of two methods. First, using an energy conservation report or any part of a report, the county can advertise for bids and comply with the County Competitive Bidding Law.¹ The bill specifies that upon receiving bids, the county must analyze them and select the lowest and best bid or bids that are most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements.

Second, the county can submit a request for proposals (RFPs) from at least three vendors. However, before sending any installer a copy of the RFPs, the county must advertise, in a newspaper of general circulation in the county once a week for two consecutive weeks, a notice stating its intent to request the proposals, indicating the date (which must be at least ten days after the second publication) on which the RFPs will be mailed to installers, and stating that any interested installer must submit written notice to the county not later than noon on the RFPs mailing date. The bill adds that the RFPs must require the installer that is awarded a contract to prepare an energy conservation report (described above).

The bill also provides that upon receiving the proposals, the county must analyze them and the installers' qualifications, and then select the most qualified installer to prepare the energy conservation report. After receipt and review of the report, the county can award a contract to the selected installer to install the measures that are most likely to result in the greatest energy savings considering the cost of the project and the county's ability to pay for the improvements with current revenues or by financing the improvements. Continuing law permits a county to reject all bids or proposals or to select more than one bid or proposal.

¹ See R.C. 307.86 through 307.92, not in the bill.

Bonds; money savings condition on awarding of contract

(R.C. 133.20 and 307.041(C)(2)(c))

Currently, a county must condition the awarding of an energy conservation measures contract by proposals upon the contracting authority² finding that the amount of money spent on the measures is not likely to exceed the amount of money the county would save in energy and operating costs over ten years or, in the case of contracts for cogeneration systems, over five years, or a lesser period as determined by the contracting authority. Currently, bonds issued for county energy conservation measures have maximum maturities not exceeding ten years.

The bill states that, in addition to conditioning the awarding of a contract on the amount of money a county would save in energy and operating costs, the county must also consider maintenance costs and avoided capital costs. The bill specifies that the awarding of a contract by either bids or proposals depends on a finding by the contracting authority that the amount of money spent on the measures is not likely to exceed the amount of money the county would save over the measures' average system life, regardless of the type of measures to be installed. The bill also allows the contracting authority to consider increased costs due to inflation as shown in the energy conservation report. Under the bill, bonds issued for county energy conservation measures have maximum maturities not exceeding the average life of the measures.

Interest charges and financing terms

(R.C. 307.041(D))

Current law allows a board of county commissioners to enter into an installment payment contract for the purchase and installation of energy conservation measures. The interest charges and financing terms provisions of the contract are not subject to the County Competitive Bidding Law. Current law requires that the terms must specify that (1) not less than one-tenth of the contract costs must be paid within two years from the purchase date and (2) the remaining balance must be paid within ten years from the purchase date or, for cogeneration systems, within five years from the purchase date.

Under the bill, the modified mandatory terms required for all types of energy conservation measures are: (1) not less than a specified percentage of the

² A contracting authority under the County Competitive Bidding Law is any board, department, commission, authority, trustee, official, administrator, agent, or individual that has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof (R.C. 307.92, not in the bill).

contract costs, as determined and approved by the board of county commissioners, must be paid within two years from the purchase date and (2) the remaining balance must be paid within the average system life of the measures as specified in the energy conservation report.

Present law requires, unless otherwise approved by a resolution of the board of county commissioners, an installment payment contract entered into by a board must require the board to contract in accordance with the County Competitive Bidding Law for the installation, modification, or remodeling of energy conservation measures. The bill removes this requirement.

Current contracts and laws

(Section 3)

The bill specifies that the changes it contains apply to any proceedings commenced after the bill's effective date and, so far as the bill's provisions support the actions taken, to any proceedings pending or in progress on, or completed prior to, the bill's effective date. The bill also specifies that the authority it provides is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by any law, the Constitution, or any charter, resolution, or ordinance, and that no inference should be drawn to negate that authority by reason of the express provisions contained in the bill.

HISTORY

ACTION	DATE
Introduced	10-10-07

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