



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5727 (Substitute S-1 as reported)
Sponsor: Representative Joe Haveman
House Committee: Energy and Technology
Senate Committee: Energy and Technology

CONTENT

The bill would create the "Cost-Effective Governmental Energy Use Act" to do the following:

- Allow a governmental unit (a State department, agency, or authority) to enter into an energy performance contract (EPC) with a qualified energy service provider to produce savings in utility or operation and maintenance costs.
- Designate the Department of Technology, Management, and Budget (DTMB) as the lead agency for the development and promotion of a program of EPC's in governmental units.
- Allow a governmental unit to contract with a qualified provider if the DTMB determined that the anticipated savings would enable recovery of the costs of the work within 15 years or the average useful life of the measures.
- Prohibit a governmental unit from entering into an energy savings performance contract for a period of more than one year, unless it found that the amount it would spend on the cost-savings measures would not exceed the amount to be saved in energy, water, wastewater, and operating costs over 15 years or the average useful life of the measures from the date of installation.
- Provide that the term of an EPC could not exceed 15 years or the average useful life of the measures, and could reflect the useful life of the cost-savings measures.
- Require the DTMB to assemble a list of qualified energy service providers, a list of standardized tools and contract templates, and a standardized energy performance contract process and documents.
- Require the DTMB to make the lists available to local units of government and public entities.
- Require the DTMB to report to the Legislature annually on total facility capital liability and dollar amount of energy performance contract work.
- Require the DTMB to assist governmental units in identifying, evaluating, and implementing cost-savings measures; and allow the DTMB to charge reasonable fees for doing so.
- Provide that the fees could not exceed the lesser of \$500,000 adjusted annually, after 2014, or up to 2% of the total cost of the contract project; and allow a governmental unit to add the cost of the fees to the total cost of a contract.
- Require a chosen qualified energy service provider to prepare an investment grade energy audit that included estimates of the anticipated utility and operation and maintenance cost savings.
- Require an EPC to require a qualified provider to give the governmental unit an annual reconciliation of the guaranteed energy savings, and specify that the provider would be liable for any shortfall.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The Department of Technology, Management, and Budget has stated that it is already in compliance with most of the provisions in the bill regarding energy performance contracts. Under Public Act 122 of 1987, the State of Michigan has implemented multiyear, performance contracts to accomplish energy efficiency measures in State-owned buildings. The Michigan Energy Office and DTMB Acquisition Services have assisted State agencies with performance contracting processes. Since the passage of the legislation, the State of Michigan has realized approximately \$5.0 million in net savings.

Additional savings to governmental units under the bill cannot be estimated, but likely would be positive compared to the current baseline over the long term. The savings would be realized from reduced utility costs as well as reduced operation and maintenance costs outweighing the cost of the energy saving measures implemented. The bill's provisions would attempt to ensure that authorized projects realized overall savings, and would require an EPC to provide that the qualified energy service provider would be liable for any shortfall if the annual reconciliation revealed a shortfall in annual energy cost savings determined in the contract. Conversely, if the reconciliation showed an excess in annual energy cost savings, the excess savings could be used to cover potential energy cost-savings shortages in subsequent contract years. The bill also states that a governmental unit could not enter into an EPC for a period of more than one year unless the governmental unit found that the amount it would spend on the cost-saving measures would not exceed the amount to be saved over 15 years from the date of installation.

The DTMB also has indicated that it does not expect there to be any additional administrative costs under the provisions of the bill. Additionally, many of the costs associated with the bill would be offset by the provision allowing the DTMB to charge a reasonable fee that could not exceed the lesser of \$500,000 (adjusted annually by the consumer price index beginning in calendar year 2014) or up to 2% of the total cost of the EPC.

Date Completed: 12-5-12

Fiscal Analyst: Joe Carrasco

floor\hb5727

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.