



January 27, 2009

HOUSE BILL No. 1254

DIGEST OF HB 1254 (Updated January 22, 2009 1:29 pm - DI 75)

Citations Affected: IC 4-13.6; IC 36-1.

Synopsis: Energy savings contracts. Provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years.)

Effective: July 1, 2009.

Thompson, Grubb

January 12, 2009, read first time and referred to Committee on Rules and Legislative Procedures.
January 14, 2009, reassigned to Committee on Commerce, Energy, Technology & Utilities.
January 27, 2009, amended, reported — Do Pass.

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HB 1254—LS 6301/DI 73+



January 27, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1254

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13.6-8-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) After reviewing
3 the proposals submitted and after receiving a recommendation from the
4 budget committee, the department may approve an energy cost savings
5 contract with a qualified provider that best meets the needs of the
6 governmental body if the department reasonably expects the cost of the
7 qualified energy savings project recommended in the proposal would
8 not exceed the amount to be saved in:
9 (1) energy costs;
10 (2) operational costs; or
11 (3) both energy and operational costs;
12 not later than ~~ten (10)~~ **twenty (20)** years after the date installation is
13 completed if the recommendations in the proposal are followed.
14 (b) An energy cost savings contract must include a guarantee from
15 the qualified provider to the state that:
16 (1) energy cost savings;
17 (2) operational cost savings; or

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1 (3) both energy and operational cost savings;
2 will meet or exceed the cost of the qualified energy project not later
3 than ~~ten (10)~~ **twenty (20)** years after the date installation is completed.

4 SECTION 2. IC 36-1-12.5-5, AS AMENDED BY P.L.168-2006,
5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2009]: Sec. 5. (a) The governing body may enter into an
7 agreement with a public utility to participate in a utility efficiency
8 program or enter into a guaranteed savings contract with a qualified
9 provider to increase the political subdivision's billable revenues or
10 reduce the school corporation's or the political subdivision's energy or
11 water consumption, wastewater usage costs, or operating costs if, after
12 review of the report described in section 6 of this chapter, the
13 governing body finds:

14 (1) in the case of conservation measures other than those that are
15 part of a project related to the alteration of a water or wastewater
16 structure or system, that the amount the governing body would
17 spend on the conservation measures under the contract and that
18 are recommended in the report is not likely to exceed the amount
19 to be saved in energy consumption costs and other operating costs
20 over ~~ten (10)~~ **twenty (20)** years from the date of installation if the
21 recommendations in the report were followed;

22 (2) in the case of conservation measures that are part of a project
23 related to the alteration of a water or wastewater structure or
24 system, that the amount the governing body would spend on the
25 conservation measures under the contract and that are
26 recommended in the report is not likely to exceed the amount of
27 increased billable revenues or the amount to be saved in energy
28 and water consumption costs, wastewater usage costs, and other
29 operating costs over ~~fifteen (15)~~ **twenty (20)** years from the date
30 of installation if the recommendations in the report were
31 followed; and

32 (3) in the case of a guaranteed savings contract, the qualified
33 provider provides a written guarantee as described in subsection
34 (d)(3).

35 (b) Before entering into an agreement to participate in a utility
36 efficiency program or a guaranteed savings contract under this section,
37 the governing body must publish notice under subsection (c)
38 indicating:

39 (1) that the governing body is requesting public utilities or
40 qualified providers to propose conservation measures through:

- 41 (A) a utility efficiency program; or
- 42 (B) a guaranteed savings contract; and

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1 (2) the date, the time, and the place where proposals must be
 2 received.
 3 (c) The notice required by subsection (b) must:
 4 (1) be published in two (2) newspapers of general circulation in
 5 the county where the school corporation or the political
 6 subdivision is located;
 7 (2) be published two (2) times with at least one (1) week between
 8 publications and with the second publication made at least thirty
 9 (30) days before the date by which proposals must be received;
 10 and
 11 (3) meet the requirements of IC 5-3-1-1.
 12 (d) An agreement to participate in a utility efficiency program or
 13 guaranteed savings contract under this section must provide that:
 14 (1) in the case of conservation measures other than those that are
 15 part of a project related to the alteration of a water or wastewater
 16 structure or system, all payments, except obligations upon the
 17 termination of the agreement or contract before the agreement or
 18 contract expires, may be made to the public utility or qualified
 19 provider (whichever applies) in installments, not to exceed the
 20 lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the
 21 conservation measures installed from the date of final installation;
 22 (2) in the case of conservation measures that are part of a project
 23 related to the alteration of a water or wastewater structure or
 24 system, all payments, except obligations upon the termination of
 25 the agreement or contract before the agreement or contract
 26 expires, may be made to the public utility or qualified provider
 27 (whichever applies) in installments, not to exceed the lesser of
 28 ~~fifteen (15)~~ **twenty (20)** years or the average life of the
 29 conservation measures installed from the date of final installation;
 30 (3) in the case of the guaranteed savings contract:
 31 (A) the:
 32 (i) savings in energy and water consumption costs,
 33 wastewater usage costs, and other operating costs; and
 34 (ii) increase in billable revenues;
 35 due to the conservation measures are guaranteed to cover the
 36 costs of the payments for the measures; and
 37 (B) the qualified provider will reimburse the school
 38 corporation or political subdivision for the difference between
 39 the guaranteed savings and the actual savings; and
 40 (4) payments are subject to annual appropriation by the fiscal
 41 body of the school corporation or political subdivision and do not
 42 constitute an indebtedness of the school corporation or political

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1 subdivision within the meaning of a constitutional or statutory
2 debt limitation.

3 (e) An agreement or a contract under this chapter is subject to
4 IC 5-16-7.

5 SECTION 3. IC 36-1-12.5-7, AS AMENDED BY P.L.168-2006,
6 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2009]: Sec. 7. (a) If the governing body enters into an
8 installment payment contract for the purchase and installation of
9 conservation measures under this chapter that are part of a project that
10 is not related to the alteration of a water or wastewater structure or
11 system, the balance of the payments must be paid in installments not to
12 exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the
13 conservation measure installed from the date of final installation.
14 Payments under an installment payment contract are subject to annual
15 appropriation by the fiscal body of the school corporation or political
16 subdivision and do not constitute an indebtedness of the school
17 corporation or political subdivision within the meaning of a
18 constitutional or statutory debt limitation.

19 (b) If the governing body enters into an installment payment
20 contract for the purchase and installation of conservation measures
21 under this chapter that are part of a project that is related to the
22 alteration of a water or wastewater structure or system, the balance of
23 the payments must be paid in installments not to exceed the lesser of
24 ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation
25 measure installed from the date of final installation. Payments under an
26 installment payment contract are subject to annual appropriation by the
27 fiscal body of the school corporation or political subdivision and do not
28 constitute an indebtedness of the school corporation or political
29 subdivision within the meaning of a constitutional or statutory debt
30 limitation.

31 (c) With respect to a conservation measure described in section
32 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings
33 from a guaranteed savings contract may be less than annual payments
34 on the contract if during the length of the contract total savings and
35 increased billable revenues occur as provided for by the contract.

36 (d) The financing of a guaranteed savings contract may be provided
37 by:

- 38 (1) the vendor under the guaranteed savings contract; or
- 39 (2) a third party financial institution or company.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology, and Utilities, to which was referred House Bill 1254, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, after line 4, begin a new paragraph and insert:

"SECTION 3. IC 36-1-12.5-7, AS AMENDED BY P.L.168-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is not related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~ten (10)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(b) If the governing body enters into an installment payment contract for the purchase and installation of conservation measures under this chapter that are part of a project that is related to the alteration of a water or wastewater structure or system, the balance of the payments must be paid in installments not to exceed the lesser of ~~fifteen (15)~~ **twenty (20)** years or the average life of the conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) With respect to a conservation measure described in section 1(a)(2)(G) or 1(a)(2)(H) of this chapter, annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract.

(d) The financing of a guaranteed savings contract may be provided by:

- (1) the vendor under the guaranteed savings contract; or

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(2) a third party financial institution or company."
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1254 as introduced.)

MOSES, Chair

Committee Vote: yeas 11, nays 0.

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