

# HOUSE BILL NO. 2419

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

5004H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 8.231, RSMo, and to enact in lieu thereof one new section relating to state contracting.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 8.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 8.231, to read as follows:

8.231. 1. For purposes of this section, the following terms shall mean:

(1) "Energy cost savings measure", a training program or facility alteration, **improvement, modernization, or system replacement** designed to reduce energy consumption or operating costs, and may include one or more of the following:

(a) Insulation of the building structure or systems within the building **and including roofing, exterior building envelope, and piping;**

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control system;

(d) Heating, ventilating or air conditioning system modifications or replacements;

(e) **Domestic water, sewer, and domestic hot water system improvements;**

(f) **Indoor swimming pool improvements;**

(g) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 in illumination is necessary to conform to the applicable state or local building code for the  
18 lighting system after the proposed modifications are made;

19 ~~[(f)]~~ **(h)** Indoor air quality improvements to increase air quality that conforms to the  
20 applicable state or local building code requirements;

21 ~~[(g)]~~ **(i)** Energy recovery systems;

22 ~~[(h)]~~ **(j)** Cogeneration systems that produce steam or forms of energy such as heat, as  
23 well as electricity, for use primarily within a building or complex of buildings;

24 ~~[(i)] Any life safety measures that provide long-term operating cost reductions and are  
25 in compliance with state and local codes;~~

26 ~~[(j)]~~ **(k) Any security or safety improvements that provide long-term operating cost  
27 reduction and improve the safety of the building concepts;**

28 **(l)** Building operation programs that reduce the operating costs; or

29 ~~[(k)]~~ **(m)** Any life safety measures related to compliance with the Americans With  
30 Disabilities Act, 42 U.S.C. Section 12101, et seq., that provide long-term operating cost  
31 reductions and are in compliance with state and local codes;

32 (2) "Governmental unit", a state government agency, department, institution, college,  
33 university, technical school, legislative body or other establishment or official of the executive,  
34 judicial or legislative branches of this state authorized by law to enter into contracts, including  
35 all local political subdivisions such as counties, municipalities, public school districts or public  
36 service or special purpose districts;

37 (3) "Guaranteed energy cost savings contract", a contract for the implementation of one  
38 or more such measures. The contract shall provide that all payments, except obligations on  
39 termination of the contract before its expiration, are to be made over time and the energy cost  
40 savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed  
41 energy cost savings contracts shall be considered public works contracts to the extent that they  
42 provide for capital improvements to existing facilities;

43 (4) "Operational savings", expenses eliminated and future replacement expenditures,  
44 **made within the time period of a guaranteed energy cost savings contract**, avoided as a  
45 result of new **systems and** equipment installed or services performed;

46 (5) "Qualified provider", a person or business experienced in the design, implementation  
47 and installation of energy cost savings measures;

48 (6) "Request for proposals" or "RFP", a negotiated procurement;

49 **(7) "Stipulated savings", any agreement in a guaranteed energy cost savings  
50 contract that indicates that the amount of cost savings are agreed, with the actual  
51 calculation of the existing costs as compared to the measured and verified costs which shall  
52 be performed and certified by a professional architect or engineer licensed in the state.**

53           2. No governmental unit shall enter into a guaranteed energy cost savings contract until  
54 competitive proposals therefor have been solicited by the means most likely to reach those  
55 contractors interested in offering the required services, including but not limited to direct mail  
56 solicitation, electronic mail and public announcement on bulletin boards, physical or electronic.  
57 The request for proposal shall include the following:

- 58           (1) The name and address of the governmental unit;
- 59           (2) The name, address, title and phone number of a contact person;
- 60           (3) The date, time and place where proposals shall be received;
- 61           (4) The evaluation criteria for assessing the proposals; and
- 62           (5) Any other stipulations and clarifications the governmental unit may require.

63           3. The governmental unit shall award a contract to the qualified provider that provides  
64 the lowest and best proposal which meets the needs of the unit if it finds that the amount it would  
65 spend on the energy cost savings measures recommended in the proposal would not exceed the  
66 amount of energy or operational savings, or both, within a [~~fifteen-year~~] **twenty-year** period  
67 from the date installation is complete, if the recommendations in the proposal are followed. The  
68 governmental unit shall have the right to reject any and all [~~bids~~] **proposals**.

69           4. The guaranteed energy cost savings contract shall include a written guarantee of the  
70 qualified provider that either the energy or operational cost savings, or both, will meet or exceed  
71 the costs of the energy cost savings measures, adjusted for inflation, within [~~fifteen~~] **twenty**  
72 **years. The contract shall additionally provide a scope of work describing the specific**  
73 **energy cost savings measures that are to be addressed by the proposal as well as**  
74 **information regarding any energy or operational audit performed by the agency in**  
75 **connection with the energy cost savings measure to be addressed by the proposal, and if**  
76 **no energy audit information is provided, then a requirement that the proposer shall**  
77 **provide such energy or operational cost audit.** The qualified provider shall reimburse the  
78 governmental unit for any shortfall of guaranteed energy cost savings on an annual basis. The  
79 guaranteed energy cost savings contract [~~may~~] **shall** provide for payments over a period of time,  
80 not to exceed [~~fifteen~~] **twenty** years, **or the expected life of any equipment or systems**, subject  
81 to appropriation of funds therefor.

82           5. The governmental unit shall include in its annual budget and appropriations measures  
83 for each fiscal year any amounts payable under guaranteed energy savings contracts during that  
84 fiscal year.

85           6. A governmental unit may use designated funds for any guaranteed energy cost savings  
86 contract including purchases using installment payment contracts or lease purchase agreements,  
87 so long as that use is consistent with the purpose of the appropriation.

88           7. Notwithstanding any provision of this section to the contrary, a not-for-profit  
89 corporation incorporated pursuant to chapter 355 and operating primarily for educational  
90 purposes in cooperation with public or private schools shall be exempt from the provisions of  
91 this section.

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