

CHAPTER 88
HOUSE BILL No. 2602

AN ACT relating to energy conservation projects of technical and community colleges; amending K.S.A. 2005 Supp. 75-37,125 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2005 Supp. 75-37,125 is hereby amended to read as follows: 75-37,125. (a) As used in this act:

(1) "Municipality" shall have the meaning ascribed thereto in K.S.A. 75-1117, and amendments thereto.

(2) "State agency" shall have the meaning ascribed thereto in K.S.A. 75-3049, and amendments thereto.

(3) "Energy conservation measure" means an energy study, audit, improvement or equipment which is designed to provide energy and operational cost savings at least equivalent to the amount expended by a participating municipality or state agency for such energy study, audit, improvement or equipment over a period of not more than 20 years after the date such improvement or equipment is installed or becomes operational, as the case may be.

(b) Subject to the provisions of subsection (c), a municipality or state agency may enter into a contract or lease-purchase agreement for an energy conservation measure which meets the criteria of this section. In addition to any other authority provided by law a municipality may solicit proposals to contract for an energy conservation measure by advertising for proposals and qualifications in a newspaper of general circulation or the Kansas register, and by sending requests for proposals to at least three vendors and negotiating a lease-purchase agreement with one or more vendors submitting a proposal thereto. Negotiations entered into pursuant to this section with individual vendors shall not be subject to the provisions of the open meetings act. After an agreement has been executed, the agreement and all proposals from vendors shall be open records available for public inspection in accordance with the open records act. A state agency may utilize the procedures prescribed in K.S.A. 75-37,102, and amendments thereto, by the procurement negotiating committee to negotiate and contract for energy conservation measures. Each state agency shall provide copies of plans of the proposed energy conservation measure to the secretary of administration, or such secretary's designee, for review. No state agency may enter into a contract for an energy conservation measure unless such measure has been approved by the secretary of administration. Plans submitted under this section shall be retained and maintained by the secretary of administration.

(c) Before executing any contract or lease-purchase agreement under this section, the energy conservation contractor shall provide the municipality or state agency with plans for the proposed energy conservation measures prepared by an engineer licensed to practice in Kansas. The energy conservation contractor shall also provide a report of the calculations showing the estimated energy and operational cost savings that would result from the proposed energy conservation measures. Notwithstanding any provision contained in K.S.A. 71-201 and 72-8225, and amendments thereto *or other provisions of law*, the board of education of any school district *and the board of any community college or technical college* may enter into a contract or lease-purchase agreement for an energy conservation measure for a period exceeding 10 years. Municipalities and state agencies may include a provision in the contract with an entity providing the energy conservation measure requiring such entity to guarantee that the actual amount of savings of energy and operational costs attributable to the energy conservation measure be not less than the cost of the energy conservation measure over the time specified including financing costs.

(d) Within the limits of appropriations available therefor, the state corporation commission is authorized to provide grants for engineering studies and energy conservation measures for municipalities and state agencies.

(e) The secretary of administration may provide administrative support and resources available under the facility conservation improvement program under *this section or* K.S.A. 75-37,111 et seq., and amendments thereto, as requested by *school districts, private and public colleges in*

Kansas, municipalities and state agencies for purposes of this section. The secretary of administration may fix, charge and collect reasonable fees for any administrative support and resources or other services provided by the secretary under this subsection.

(f) The provisions of the cash basis law and K.S.A. 79-2925, and amendments thereto, shall not apply to any contract or lease-purchase agreement entered into pursuant to this section.

Sec. 2. K.S.A. 2005 Supp. 75-37,125 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the *Kansas register*.

Approved April 7, 2006.

Published in the *Kansas Register* April 13, 2006.
