

CHAPTER 316

GOVERNMENT - LOCAL

SENATE BILL 17-252

BY SENATOR(S) Tate, Crowder, Jones, Kefalas, Moreno;
 also REPRESENTATIVE(S) Coleman and Liston, Becker K., Esgar, Exum, Hansen, Lebsack, Melton, Mitsch Bush, Winter.

AN ACT

**CONCERNING THE AUTHORITY OF A BOARD OF ANY POLITICAL SUBDIVISION TO ENTER INTO
 CONTRACTS FOR UTILITY COST SAVINGS.**

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

SECTION 1. In Colorado Revised Statutes, 29-12.5-101, **amend** the introduction portion, (3)(e), (4.5), (9) introductory portion, and (9)(p); and **add** (4.1) and (4.3) as follows:

29-12.5-101. Definitions. As used in this ~~article~~ ARTICLE 12.5:

(3) "Energy performance contract" means a contract for evaluations, recommendations, or implementation of one or more energy saving measures designed to produce utility costs savings, operation and maintenance cost savings, or vehicle fleet operational and fuel cost savings, which contract:

(e) Provides that, if all payments, except payments for maintenance and repairs and obligations on the termination of the contract prior to expiration, made by such board during any year subject to the guarantee in ~~paragraph (c) of this subsection~~ ~~(3) SUBSECTION (3)(c) OF THIS SECTION~~ exceed the sum of energy cost savings and operation and maintenance COST savings for that year, such party shall forfeit to such board that portion of such moneys equal to the amount by which such payments exceeded such savings.

(4.1) "INCREASE IN METER ACCURACY" MEANS A GUARANTEED INCREASE IN EFFICIENCY OR ACCURACY OF UTILITY METERING OR RELATED EQUIPMENT, SYSTEMS, OR PROCESSES OR PROCEDURES THAT IS CALCULATED OR DETERMINED BY USING APPLICABLE INDUSTRY ENGINEERING STANDARDS.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4.3) "METER GUARANTEE" MEANS A STIPULATED OR AGREED UPON INCREASE IN BILLABLE REVENUES TO RESULT FROM THE GUARANTEED INCREASE IN METER ACCURACY, BASED ON STIPULATED OR AGREED UPON COMPONENTS OF A BILLABLE REVENUE CALCULATION IN A UTILITY COST-SAVINGS MEASURE.

(4.5) "Operation and maintenance cost savings" means a measurable decrease in NET operation and maintenance costs that is a direct result of the implementation of one or more utility cost savings measures or one or more vehicle fleet operational and fuel cost-savings measures. The savings shall be calculated in comparison with an established baseline of NET operation and maintenance costs.

(9) "Utility cost-savings measure" means an installation, modification, or service that is designed to reduce energy consumption ~~and~~ OR TO INCREASE related ~~operating costs~~ OPERATION AND MAINTENANCE COST SAVINGS in buildings and other facilities and includes, but is not limited to, the following:

(p) Services to reduce utility costs OR TO INCREASE OPERATION AND MAINTENANCE COST SAVINGS by identifying utility errors, ~~and~~ optimizing rate schedules, OR INCREASING METER ACCURACY; or

SECTION 2. In Colorado Revised Statutes, **amend** 29-12.5-104 as follows:

29-12.5-104. Monitoring and reporting of energy and cost savings. The board shall monitor the reductions in energy consumption and cost savings attributable to the energy saving measures financed pursuant to section 29-12.5-103 and shall annually prepare a report documenting such reductions, ~~and~~ savings, OR METER GUARANTEE for the first ~~two~~ THREE years of the contract. The report shall be certified by an architect or engineer independent of any person, firm, or corporation that provided goods or services to the board in connection with the energy saving measures that are the subject of the report.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to energy cost-savings contracts or other indebtedness to finance energy saving measures entered into pursuant to article 12.5 of title 29, Colorado Revised Statutes, on or after the applicable effective date of this act.

Approved: June 5, 2017