

1 State of Arkansas
2 92nd General Assembly
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4

As Engrossed: H3/26/19

A Bill

HOUSE BILL 1776

5 By: Representative Love
6 By: Senator B. Ballinger
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE SUSTAINABLE ENERGY-EFFICIENT
10 BUILDINGS PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

14 TO AMEND THE SUSTAINABLE ENERGY-EFFICIENT
15 BUILDINGS PROGRAM.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 22-3-2001 is amended to read as follows:

21 22-3-2001. Title – Legislative findings.

22 (a) This subchapter shall be known and may be cited as the
23 "Sustainable Energy-Efficient Buildings Act".

24 (b) The General Assembly finds that:

25 (1)~~(A)~~ Public buildings can be built and renovated using
26 sustainable, energy-efficient methods that save money, reduce negative
27 environmental impacts, improve employee and student performance, and make
28 employees and students more productive;

29 ~~(B)~~(2) The main objectives of sustainable, energy-
30 efficient designs are to:

31 ~~(i)~~(A) Avoid resource depletion of energy, water,
32 and raw materials;

33 ~~(ii)~~(B) Prevent environmental degradation caused by
34 facilities and infrastructure throughout their life cycle; and

35 ~~(iii)~~(C) Create buildings that are livable,
36 comfortable, safe, and productive; and



1 ~~(2)~~(3) State-owned buildings and buildings owned by an
2 institution of higher education can be improved by establishing specific
3 performance criteria and goals for sustainable, energy-efficient public
4 buildings that are based on recognized, consensual standards with a
5 scientifically proven basis and a history of successful performance.
6

7 SECTION 2. Arkansas Code § 22-3-2002(3)-(6), concerning definitions
8 regarding sustainable energy-efficient buildings, are amended to read as
9 follows:

10 (3)(A) “Major facility” means a construction project of:

11 (i) A single building larger than twenty thousand
12 (20,000) gross square feet of occupied or conditioned space; or

13 (ii) Aggregate buildings larger than fifty thousand
14 (50,000) combined square feet of occupied or conditioned space.

15 (B) “Major facility” does not include a transmitter
16 building or a pumping station;

17 (4) “Major renovation” means a building renovation project that:

18 (A) Costs more than fifty percent (50%) of its current
19 replacement value;

20 (B) Is a single building larger than twenty thousand
21 (20,000) gross square feet of occupied or conditioned space or aggregate
22 buildings larger than fifty thousand (50,000) combined square feet of
23 occupied or conditioned space; and

24 (C) Is funded in whole or in part by the state;

25 (5) “Public agency” means a state agency, office, officer,
26 board, department, or commission more than fifty thousand (50,000) gross
27 square feet of occupied or conditioned space; and

28 (6) “Sustainable, energy-efficient public building” means a
29 public building that, ~~by complying with this subchapter,;~~

30 (A) ~~has~~ Has the most economical energy and water
31 efficiency for that type of building; and

32 (B) Is in compliance with this subchapter.
33

34 SECTION 3. Arkansas Code § 22-3-2003(a), concerning the Sustainable
35 Energy-Efficient Buildings Program, is amended to read as follows:

36 (a) The Sustainable Energy-Efficient Buildings Program is established

1 to promote energy conservation in buildings owned or leased by public
2 agencies and buildings owned or leased by institutions of higher education.

3
4 SECTION 4. Arkansas Code § 22-3-2004(a) and (b), concerning standards
5 for major facilities or major renovations, are amended to read as follows:

6 (a) The following minimum standards apply to a major facility:

7 (1) A major facility of a public agency or an institution of
8 higher education shall consider a life-cycle cost analysis and be designed,
9 constructed, and certified ~~to at least ten percent (10%) reduction below the~~
10 ~~baseline energy consumption determined~~ in accordance with the Performance
11 Rating Method of Appendix G of the American Society of Heating,
12 Refrigerating, and Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013,
13 as it existed on January 1, ~~2009~~ 2018;

14 (2) Subdivision (a)(1) of this section applies to a major
15 facility project that has not entered the schematic design phase on or before
16 ~~July 31, 2009~~ June 30, 2019; and

17 (3) An exception or a special standard for a specific type of
18 building or building facility that is found in the American Society of
19 Heating, Refrigerating, and Air-Conditioning Engineers, Standard ~~90.1-2007~~
20 90.1-2013, is included in the American Society of Heating, Refrigerating, and
21 Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013, under subdivision
22 (a)(1) of this section.

23 (b)(1) A major renovation of a public agency or an institution of
24 higher education shall consider a life-cycle cost analysis and be certified
25 ~~to at least ten percent (10%) reduction below the baseline energy consumption~~
26 ~~determined~~ in accordance with the Performance Rating Method of Appendix G of
27 the American Society of Heating, Refrigerating, and Air-Conditioning
28 Engineers, Standard ~~90.1-2007~~ 90.1-2013, as it existed on January 1, ~~2009~~
29 2018.

30 (2) Subdivision (b)(1) of this section applies to a major
31 renovation that has not entered the schematic design phase on or before ~~July~~
32 ~~31, 2009~~ June 30, 2019.

33
34 SECTION 5. Arkansas Code § 22-3-2004(d), concerning standards for
35 major facilities or major renovations, is amended to read as follows:

36 (d) If the Arkansas Energy Office or the institution of higher

1 education determines the American Society of Heating, Refrigerating, and Air-
2 Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013 is not practicable for a
3 major facility or major renovation, the Arkansas Energy Office or the
4 institution of higher education shall determine a practicable alternative
5 standard for the design and construction for that major facility or major
6 renovation.

7
8 SECTION 6. Arkansas Code § 22-3-2004(f)(2)(B), concerning standards
9 for major facilities or major renovations, is amended to read as follows:

10 (B) If the report under subdivision (f)(2)(A)(ii) of this
11 section shows that the building's average energy or water consumption over
12 the one-year period after the date of beneficial occupancy is more than the
13 baseline consumption determined in accordance with the Performance Rating
14 Method of Appendix G of the American Society of Heating, Refrigerating, and
15 Air-Conditioning Engineers, Standard ~~90.1-2007~~ 90.1-2013, as it existed on
16 January 1, ~~2009~~ 2018, the designer, the owner public agency or the owner
17 institution of higher education, the contractor, the contract manager at
18 risk, and the commissioning agent shall:

- 19 (i) Investigate;
20 (ii) Determine the cause for the failure to achieve
21 this section's performance standards; and
22 (iii) Recommend corrections or modifications to meet
23 this section's performance standards.

24
25 SECTION 7. Arkansas Code § 22-3-2006 is amended to read as follows:
26 22-3-2006. Program to manage energy usage of public agencies.

27 (a) The Arkansas Energy Office of the Arkansas Department of
28 Environmental Quality shall:

29 (1) Develop an energy program to manage energy, water, and other
30 utility uses for public agencies that will reduce total aggregate energy
31 consumption per gross square foot for all existing ~~state~~ applicable public
32 agency buildings by ~~twenty percent (20%) by 2014 and thirty percent (30%) by~~
33 ~~2017 based on energy consumption for the 2007-2008 fiscal year~~ if the savings
34 can be justified by a life-cycle cost analysis; ~~and~~

35 (2) Update this program annually; and

36 (3) Recommend public agency energy consumption reduction goals

1 every five (5) years.

2 (b) To implement its ~~plan~~ program, the Arkansas Energy Office of the
3 Arkansas Department of Environmental Quality shall to the extent funds are
4 available and appropriated:

5 (1) Develop and implement policies, procedures, and standards to
6 ensure that a public agency's purchasing practices:

7 (A) Improve the efficiency of energy, water, and other
8 utility uses; and

9 (B) Consider the cost of the product over its economic
10 life;

11 ~~(2)(A)~~ Adopt and implement building energy design guidelines for
12 public agencies that include without limitation:

13 ~~(i)(A)~~ Energy-use goals and standards;

14 ~~(ii)(B)~~ Economic assumptions for life-cycle cost
15 analysis; and

16 ~~(iii)(C)~~ Other criteria for building systems and
17 technologies.

18 ~~(B) The Arkansas Energy Office shall modify the design~~
19 ~~criteria for the construction or the renovation of the facilities of a public~~
20 ~~facility to require the conducting of a life-cycle cost analysis;~~

21 (3) Identify and recommend energy conservation maintenance and
22 operating procedures that:

23 (A) Are designed to reduce energy consumption within the
24 public facility; and

25 (B) Require no significant expenditure of funds;

26 (4) Require the maximum interchangeability and compatibility of
27 equipment components when energy management equipment is proposed for any
28 facility of a public agency; and

29 ~~(5)(A) Develop an energy audit and a procedure for conducting an~~
30 ~~energy audit.~~

31 ~~(B)(i) Within five (5) years after June 30, 2011, each~~
32 ~~public agency occupying a state-owned building shall complete an energy audit~~
33 ~~using American Society of Heating, Refrigerating and Air Conditioning~~
34 ~~Engineers audit procedures and report the findings to the Arkansas Energy~~
35 ~~Office.~~

36 ~~(ii) The level of the energy audit in subdivision~~

1 ~~(b)(5)(B)(i) of this section shall be consistent with the condition of each~~
2 ~~public facility.~~

3 ~~(C) When conducting an energy audit under this subdivision~~
4 ~~(b)(5), the Arkansas Energy Office shall identify and recommend any public~~
5 ~~facility that is suitable for:~~

6 ~~(i) Building commissioning to reduce energy~~
7 ~~consumption within the facility; or~~

8 ~~(ii) Installing an energy savings measure under a~~
9 ~~guaranteed energy savings contract Offer substantial recognition to a public~~
10 ~~agency that acts in a manner that furthers the program and goals under this~~
11 ~~section.~~

12 (c) The Arkansas Energy Office of the Arkansas Department of
13 Environmental Quality may adopt architectural and engineering standards to
14 implement this section.

15 (d) A public agency shall:

16 ~~(1) Develop and implement, to the extent funds are available, an~~
17 ~~energy management plan to manage its energy, water, and other utility uses~~
18 ~~that is consistent with the Arkansas Energy Office's energy management~~
19 ~~program developed under this section;~~

20 ~~(2) Update its management plan annually, including without~~
21 ~~limitation strategies for supporting the energy consumption reduction~~
22 ~~requirements under subsection (a) of this section;~~

23 ~~(3)(1) Submit annually by October 31 to the Arkansas Energy~~
24 ~~Office a written report of the public agency's utility consumption and costs~~
25 ~~by fuel to which the Arkansas Energy Office shall respond with a~~
26 ~~recommendation annually by June 30;~~

27 ~~(4)(2) Carry out the Complete construction and renovation of a~~
28 ~~facility in a manner that:~~

29 (A) Furthers the program and goals under this section; and

30 (B) Ensures the use of life-cycle cost analyses and
31 practices to conserve energy, water, and other utilities; and

32 ~~(5)(3) Implement Comply with the Arkansas Energy Office's~~
33 ~~~~recommendations made~~ program under subdivision (b)(1) of this section, to the~~
34 ~~extent funds are available and appropriated.~~

35
36 SECTION 8. Arkansas Code § 22-3-2008(a)(1), concerning the advisory

1 committee for the Arkansas Energy Office of the Arkansas Department of
2 Environmental Quality, is amended to read as follows:

3 (a)(1) The Director ~~of the Arkansas Energy Office~~ of the Arkansas
4 Department of Environmental Quality ~~shall~~ or his or her designee may create
5 and recommend members for a sustainable, energy-efficient building advisory
6 committee composed of:

7 (A) Representatives from the design and construction
8 industry who are involved in public works contracting;

9 (B) Persons from public agencies who are responsible for
10 overseeing public works projects or for developing energy efficiency programs
11 and policies; and

12 (C) Other persons that the Director ~~of the Arkansas Energy~~
13 ~~Office~~ of the Arkansas Department of Environmental Quality or his or her
14 designee considers to have useful information.

15

16 SECTION 9. Arkansas Code § 22-3-2009(b)(1), concerning regulations and
17 administration, is amended to read as follows:

18 (1) Develop or revise the architectural and engineering
19 standards, to the extent funds are available and appropriated, to provide
20 assistance in determining:

21 (A) The energy conservation measures that are best suited
22 to the unique characteristics of each building; and

23 (B) The specifications for the energy conservation
24 measures under this subchapter; and

25

26 SECTION 10. Arkansas Code § 22-3-2010(a), concerning performance
27 reviews and reports, is amended to read as follows:

28 (a) ~~The~~ To the extent that funds are available and appropriated, the
29 Arkansas Energy Office of the Arkansas Department of Environmental Quality,
30 ~~to the extent funds are available,~~ shall conduct a performance review of the
31 Sustainable Energy-Efficient Buildings Program that includes at least the
32 following:

33 (1) An identification of the costs of implementing energy-
34 efficient and water-efficient building standards in the design and
35 construction of a major facility or major renovation;

36 (2) An identification of the operating savings attributable to

1 the implementation of energy-efficient and water-efficient building
2 standards, including without limitation savings in energy, water, utility,
3 and maintenance costs; and

4 ~~(3) An identification of any impact on employee productivity~~
5 ~~from the application of the standards under this subchapter; and~~

6 ~~(4) An evaluation of the effectiveness of the application of the~~
7 standards under this subchapter.

8
9 SECTION 11. Arkansas Code § 22-3-2011(a) and (b), concerning the
10 applicability of the Sustainable Energy-Efficient Buildings Program, are
11 amended to read as follows:

12 (a) The boards of trustees for the University of Arkansas, Arkansas
13 State University, the University of Central Arkansas, Henderson State
14 University, Arkansas Tech University, and Southern Arkansas University are
15 exempt from the provisions of this subchapter if those institutions develop
16 policies and procedures to meet the:

17 (1) specific Specific performance criteria and goals for a major
18 facility or major renovation; and

19 (2) Requirements of § 22-3-2006(d)(1).

20 (b)(1) The board of trustees of any institution of higher education
21 that is not included under subsection (a) of this section may be exempted
22 from the provisions of this subchapter by the Department of Higher Education.

23 (2) Before granting an exemption to a board of trustees of an
24 institution of higher education under subdivision (b)(1) of this section, the
25 department shall review and approve the policies and procedures to meet the:

26 (A) specific Specific performance criteria and goals for a
27 major facility or major renovation; and

28 (B) Requirements of § 22-3-2006(d)(1).

29
30 /s/Love

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33 **APPROVED: 4/3/19**