ACT No. 1021

HOUSE BILL NO. 699

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BY REPRESENTATIVES GEYMANN, ARMES, LEGER, LIGI, MCVEA, MORRIS, AND SMILEY AND SENATOR MOUNT

AN ACT

| 2 | To amend and reenact R.S. 39:1496.1(E)(1)(b) and (c) and (2) and to enact R.S. |
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| 3 | 39:1496.1(F) and (G), relative to performance-based energy efficiency contracts; to |
| 4 | provide for the approval process of such contracts; to provide for the Energy |
| 5 | Efficiency Procurement Support Team; to provide for the audit and review process |
| 6 | of such contracts; to provide for appropriation of such contracts; to provide for an |
| 7 | effective date; and to provide for related matters. |
| 8 | Be it enacted by the Legislature of Louisiana: |
| 9 | Section 1. R.S. 39:1496.1(E)(1)(b) and (c) and (2) are hereby amended and reenacted |
| 10 | and R.S. 39:1496.1(F) and (G) are hereby enacted to read as follows: |
| 11 | §1496.1. Performance-based energy efficiency contracts |
| 12 | * * * |
| 13 | E.(1) |
| 14 | * * * |
| 15 | (b) A state agency shall forward the results of its evaluation of each such |
| 16 | proposal to the commissioner of administration. The commissioner of administration |
| 17 | may select an independent third-party evaluation consultant to review and evaluate |
| 18 | the submitted proposals. The consultant shall submit the result of his evaluation to |
| 19 | the Energy Efficiency Procurement Support Team and to the commissioner of |
| 20 | administration. The Energy Efficiency Procurement Support Team who shall review |
| 21 | the evaluation of the independent third-party evaluation consultant. Upon completion |
| 22 | of such review, the Energy Efficiency Procurement Support Team shall submit its |
| 23 | recommendation to the commissioner of administration. The commissioner of |
| 24 | administration shall review the evaluation of the independent third-party evaluation |

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<u>Team and</u> shall notify the agency as to whether it may proceed with negotiation of the contract in accordance with the provisions of this Chapter. The commissioner of administration may require that the consultant selected pursuant to this Section participate on behalf of the agency in the negotiation of the contract. Every contract negotiated pursuant to this Section must be approved by the commissioner of administration. Upon the completion of the negotiation of the contract by the agency, the commissioner of administration shall review the negotiated contract. If the commissioner of administration approves the contract then the contract shall be submitted by the commissioner of administration to the Joint Legislative Committee on the Budget for review and approval.

(c) Notwithstanding any other provision of this Chapter, no proposer shall be selected pursuant to this Section nor shall any contract be awarded pursuant to this Section, except by the <u>approval of both the</u> commissioner of administration <u>and the Joint Legislative Committee on the Budget</u>.

* * *

(2) The legislative auditor shall conduct performance audits of performance-based energy efficiency contracts. The legislative auditor shall establish a written schedule for execution of such performance audits, which and the schedule shall be posted on the website of the legislative auditor no later than February first of each year. Such schedule shall provide for periodic audits during the term of such contracts and for an audit upon the completion of any such contract. The legislative auditor shall coordinate with the commissioner of administration to develop a description of information to be included as part of each performance audit. The results of any such performance audits shall be published no later than thirty days prior to the commencement of each Regular Session of the Legislature. Audits shall be conducted on each performance-based energy efficiency contract in effect on and after January 1, 2010.

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| 1 | F. For the purposes of this Section, any appropriation to an agency shall not |
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| 2 | be deemed an appropriation of funds by the legislature to fulfill the requirements of |
| 3 | a performance-based energy efficiency contract awarded on or after January 1, 2010, |
| 4 | unless and until such contract has been approved in accordance with the provisions |
| 5 | of this Section. |
| 6 | G. For the purposes of this Section, the Energy Efficiency Procurement |
| 7 | Support Team shall consist of an attorney chosen jointly by the speaker of the House |
| 8 | of Representatives and the president of the Senate from the legislative services staff |
| 9 | of the House of Representatives or the staff of the Senate and one or more |
| 10 | representatives chosen by each of the following: the Division of Administration, |
| 11 | facility planning and control; the using agency initiating the procurement action; and |
| 12 | the Legislative Fiscal Office. At least four members, one from each office or agency |
| 13 | designated, must be present to constitute a quorum. The Energy Efficiency |
| 14 | Procurement Support Team shall evaluate the submitted proposal in accordance with |
| 15 | guidelines to be published by the Division of Administration. |
| 16 | Section 2. This Act shall become effective on July 1, 2010; if vetoed by the governor |
| 17 | and subsequently approved by the legislature, this Act shall become effective on July 1, |
| 18 | 2010, or on the day following such approval by the legislature, whichever is later. |
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| | SPEAKER OF THE HOUSE OF REPRESENTATIVES |
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| | PRESIDENT OF THE SENATE |
| | |
| | GOVERNOR OF THE STATE OF LOUISIANA |
| | APPROVED: |
| | ANTROVED, |