

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1724 Session of
2025

INTRODUCED BY STEELE, GIRAL, VENKAT, PROBST, SANCHEZ, FRANKEL,
CEPEDA-FREYTIZ, SAPPEY, MAYES, FLEMING, WEBSTER, SHUSTERMAN
AND INGLIS, JULY 11, 2025

REFERRED TO COMMITTEE ON FINANCE, JULY 14, 2025

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in contract clauses and preference provisions,
3 providing for sustainable capital improvement project
4 contract.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Chapter 37 of Title 62 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subchapter to read:

9 SUBCHAPTER F

10 SUSTAINABLE CAPITAL IMPROVEMENT PROJECT CONTRACT

11 Sec.

12 3761. Short title of subchapter.

13 3762. Definitions.

14 3763. Contracting procedures.

15 3764. Contract provisions.

16 3765. Funding.

17 3766. Construction.

18 § 3761. Short title of subchapter.

This subchapter shall be known and may be cited as the
Sustainable Capital Improvement Project Contract Act.
§ 3762. Definitions.

The following words and phrases when used in this subchapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Facility." A building, transportation, distribution system,
water system or other structure or technologies associated with
a governmental unit that advances the purposes of this
subchapter.

"Financing." Private sector capital that supports the
sustainable capital improvement project as provided by a
qualified provider.

"Governmental unit." Any officer, employee, authority,
board, bureau, commission, department, agency or institution of
a government agency, including, but not limited to, any
Commonwealth agency, State-aided institution or any county,
city, district, municipal corporation, municipality, municipal
authority, political subdivision, school district, educational
institution, borough, incorporated town, township, poor
district, county institution district, other incorporated
district or other public instrumentality which has the authority
to contract for the construction, reconstruction, alteration or
repair of any public facility.

"Key performance indicator." A quantifiable indicator that
measures how effectively a qualified provider is achieving the
objectives of a sustainable capital improvement project. The
term includes, but is not limited to, system efficiency, system
availability and service response times.

"Project." A sustainable capital improvement project

1 developed pursuant to this subchapter.

2 "Project development agreement." An interim agreement
3 entered into between a qualified provider and a governmental
4 unit to finalize project design and cost, structure private
5 project financing and establish the terms and conditions of a
6 sustainable capital improvement project contract.

7 "Qualified provider." An individual or business which is
8 responsible and capable of evaluating, recommending, designing,
9 implementing, installing and operating and maintaining equipment
10 to reduce deferred maintenance and improve energy efficiency,
11 sustainability and resilience as determined by the governmental
12 unit.

13 "Services." Provisions that address energy and water
14 infrastructure, environmental infrastructure, efficiency,
15 resiliency, electric and other clean vehicle charging, renewable
16 energy, energy technology and other facility needs or
17 requirements.

18 "Sustainable capital improvement project." An individual
19 project or projects developed by a governmental unit under this
20 subchapter.

21 "Sustainable capital improvement project contract." A
22 contract for the design, construction, financing, asset
23 ownership, operations and maintenance of energy, water,
24 environment, resilience, distribution and sustainability assets
25 and capital project scope elements.

26 § 3763. Contracting procedures.

27 (a) Entrance.--A governmental unit may enter into a
28 sustainable capital improvement contract with a qualified
29 provider under this subchapter or in accordance with another
30 statutorily authorized procurement process.

1 (b) Sustainable capital improvement contract.--If, in
2 accordance with applicable law, the award of a contract by a
3 governmental unit requires action at a public meeting, a
4 governmental unit may award a sustainable capital improvement
5 contract at a public meeting if the governmental unit has
6 provided public notice, including the purpose of and names of
7 the parties to the contract, in the manner prescribed under 65
8 Pa.C.S. Ch. 7 (relating to open meetings). For governmental
9 units that are not required to take actions on contracts at
10 public meetings, the governmental unit may award a sustainable
11 capital improvement contract in accordance with the procedures
12 adopted by the governmental unit and the requirements of
13 applicable law.

14 (c) Competitive sealed proposals.--For the purpose of
15 entering into a sustainable capital improvement contract, all
16 governmental units shall be authorized to utilize the
17 competitive sealed proposal method of procurement. The
18 governmental unit shall evaluate any proposal that meets the
19 requirements of the governmental unit and is timely submitted by
20 a qualified provider. The request for proposals shall be
21 announced through a public notice from the governmental unit
22 which shall administer the program. The request for proposals
23 shall provide all interested parties with sufficient information
24 necessary to submit a timely and responsive proposal.

25 (d) Selection and notice.--The governmental unit shall
26 select the qualified provider that best meets the needs of the
27 governmental unit in accordance with criteria established by the
28 governmental unit. For governmental units that are not required
29 to take actions on contracts at public meetings, the
30 governmental unit shall transmit notice of the award of the

1 sustainable capital improvement contract to the Legislative
2 Reference Bureau within 30 days for publication in the next
3 available issue of the Pennsylvania Bulletin. The notice shall
4 include the names of the parties to the contract and the purpose
5 of the contract. For governmental units that are required to
6 take actions on contracts at public meetings, the public notice
7 shall be made at least 10 days prior to the meeting.

8 (e) Report.--

9 (1) Before the award of a sustainable capital
10 improvement contract, the qualified provider shall provide a
11 report as part of the proposal, which shall be available for
12 public inspection, summarizing estimates of all costs of
13 installation, maintenance, repairs and debt service.

14 (2) The report shall contain a listing of contractors
15 and subcontractors to be used by the qualified provider with
16 respect to the sustainable capital improvement project.

17 (f) Bond.--A qualified provider to whom a contract is
18 awarded shall give a sufficient bond to the governmental unit
19 for faithful performance. Commonwealth agencies shall obtain
20 bonds in accordance with the provisions of section 533 (relating
21 to security and performance bonds). All other governmental units
22 shall obtain bonds in accordance with the act of December 20,
23 1967 (P.L.869, No.385), known as the Public Works Contractors'
24 Bond Law of 1967.

25 (g) Award of contract.--A governmental unit may enter into a
26 single sustainable capital improvement contract with each
27 responsible provider selected in accordance with the provisions
28 of this subchapter.

29 (h) Project development agreement.--Prior to the execution
30 of a sustainable capital improvement project contract, a

governmental unit and a qualified provider may enter into a project development agreement under which the project design, project costs, project financing structure, key performance indicators and other applicable terms and conditions shall be finalized.

(i) Prevailing wage.--For any sustainable capital improvement project contract, the qualified provider and any contractor or subcontractor performing services as part of the sustainable capital improvement project contract shall ensure that all contractors and subcontractors engaged during the on-site construction, renovation, rehabilitation, reconstruction, demolition, alteration and repair work, other than maintenance work, on any segment of work at the facility, pay to workers not less than the prevailing minimum wage and benefit rates for all crafts or classifications, as determined by the Department of Labor and Industry under the act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

(j) Qualifications.--Before the qualified provider enters into a sustainable capital improvement project contract, the qualified provider shall submit an affidavit to the governmental unit to ensure that any contractor or subcontractor performing services as part of the sustainable capital improvement project contract meets all of the following requirements:

(1) Maintains all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that are necessary to do business or perform applicable work.

(2) Maintains compliance with the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897,

1 No.1), known as the Unemployment Compensation Law, and
2 bonding and liability insurance requirements as specified in
3 the sustainable capital improvement project contract.

4 (3) Has not defaulted on a project, declared bankruptcy,
5 been debarred or suspended on a project by the Federal
6 Government, the Commonwealth or a government entity within
7 the previous three years.

8 (4) Has not been convicted of a misdemeanor or felony
9 relating to the performance or operation of the business of
10 the contractor or subcontractor within the previous 10 years.

11 (5) Has completed a minimum of the United States
12 Occupational Safety and Health Administration's 10-hour
13 safety training course or similar training sufficient to
14 prepare workers for any hazards that may be encountered
15 during their work.

16 § 3764. Contract provisions.

17 (a) Payment time.--A sustainable capital improvement project
18 contract may provide that all payments, except obligations on
19 termination of the contract before expiration, shall be made
20 over a period of time.

21 (b) Key performance indices.--A sustainable capital
22 improvement project contract shall include key performance
23 indicators for the services requested by the governmental unit.

24 (c) Payments.--A sustainable capital improvement project
25 contract may provide for payments over a period of time not to
26 exceed 35 years and for the evaluation, recommendation, design,
27 implementation, installation and operation and maintenance of
28 services provided for under this subchapter and in accordance
29 with the following:

30 (1) Payments to a qualified provider who does not meet

1 obligations under the key performance indicators shall be
2 adjusted according to the terms of the sustainable capital
3 improvement project contract.

4 (2) A governmental unit shall not be required to make
5 payments under a sustainable capital improvement project
6 contract until project construction is completed and the
7 assets are performing.

8 (d) Improvements not causally connected to a sustainable
9 capital improvement project.--An improvement that is not
10 causally connected to a sustainable capital improvement project
11 may be included in a sustainable capital improvement project if:

12 (1) the total value of the improvement does not exceed
13 15% of the total value of the sustainable capital improvement
14 project contract; and

15 (2) either:

16 (i) the improvement is necessary to conform to a
17 law, rule or ordinance; or

18 (ii) an analysis within the sustainable capital
19 improvement project contract demonstrates that there is
20 an economic advantage to the governmental unit
21 implementing an improvement as part of the sustainable
22 capital improvement project and the savings justification
23 for the improvement is documented by industry engineering
24 standards.

25 (e) Other expenditures.--A facility alteration which
26 includes expenditures that are required to properly implement a
27 sustainable capital improvement project may be included as part
28 of a sustainable capital improvement project contract, in which
29 case the installation of additional measures may be supervised
30 by the contractor performing the sustainable capital improvement

1 project.

2 § 3765. Funding.

3 (a) Termination.--Sustainable capital improvement project
4 contracts that have terms which extend beyond one fiscal year of
5 the governmental unit must include a provision that allows the
6 governmental unit to terminate the contract if in any fiscal
7 year during the term of the contract the governmental unit does
8 not receive sufficient funds in its annual appropriations to
9 make the payments required under the contract.

10 (b) Funds.--A governmental unit may use funds designated for
11 operating, utilities or capital expenditures for any sustainable
12 capital improvement project contract, including, without
13 limitation, for purchases on an installment payment or lease
14 purchase basis.

15 (c) Grants, subsidies or other payments.--Grants, subsidies
16 or other payments from the Commonwealth to a governmental unit
17 shall not be reduced as a result of use of a sustainable capital
18 improvement project contract during the life of the contract.

19 § 3766. Construction.

20 Nothing in this subchapter shall be construed to abrogate any
21 duty to comply with prevailing wage or residency requirements
22 contained in any other act.

23 Section 2. This act shall take effect in 60 days.