



# State of Tennessee

## PUBLIC CHAPTER NO. 902

HOUSE BILL NO. 2432

By Representative Mark White

Substituted for: Senate Bill No. 2397

By Senators Yager, Green, Massey, Pody

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 12, relative to energy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by adding the following new section:

(a) Notwithstanding any law to the contrary, for purposes of developing and implementing up to five (5) energy performance or guaranteed energy savings contract pilot projects for state-owned buildings and facilities, state procurement agencies may enter into an energy performance or guaranteed energy savings contract using alternative procurement or contracting vehicles, including, but not limited to, existing in-state and out-of-state government contracts that have been competitively procured, that incorporate energy savings into the scope of work to be performed under the contract, and that expressly authorize other contracting entities to execute contracts or price agreements under the terms and conditions of the master contract on behalf of a department, institution, agency, or campus having control of, or responsibility for, the management or operation of buildings and facilities; provided, that the contract award meets the requirements of § 12-4-110 relative to energy-related service contracts for counties, cities, metropolitan governments, towns, utility districts, and other municipal and public corporations of the state. Such contracts are subject to approval by the state building commission.

(b) All projects implemented under an energy performance or guaranteed energy savings contract under subsection (a) are deemed to be pilot projects and shall be limited to the following energy conservation measures:

- (1) Building envelope weatherization;
- (2) Building automation controls;
- (3) Lighting retrofits and controls;
- (4) Water conservation, HVAC, chiller plant, boiler plant, or other mechanical modifications; and
- (5) Submetering to measure performance of controls or systems.

(c) For the duration of each individual contract, an annual measurement and verification audit utilizing generally accepted auditing standards, such as the International Performance Measurement and Verification Protocol, shall be conducted, and the related audit report will include, but not be limited to, energy savings achieved, energy savings targets met or exceeded, energy savings targets missed, and guarantees paid by the energy service company executing the contract. The annual measurement and verification audit shall be conducted by, and the related audit report shall be prepared by, a third-party at the expense of the energy service company executing the contract. Each audit report shall be submitted annually by the state department, institution, or agency participating in one (1) or more pilot projects to the department of environment and conservation's office of energy programs within thirty (30) days following the close of the fiscal year. The department of environment and conservation's office of energy programs shall submit the data to the governor, the

**HB 2432**

commissioner of the department of environment and conservation, state procurement agencies, the state building commission, the comptroller of the treasury, the speaker of the senate, and the speaker of the house of representatives no later than August 31 for each year in which each project is implemented and in effect.

(d) Any energy performance or guaranteed energy savings contract executed in accordance with this section must reach substantial completion of energy conservation measures on or before December 31, 2020.

(e) The commissioner of environment and conservation, in cooperation with the state procurement agencies participating in one (1) or more pilot projects under this section, shall submit a report summarizing the results of each pilot project implemented under this section to the governor, the comptroller of the treasury, the speaker of the senate, and the speaker of the house of representatives no later than June 30, 2022.

(f) This section shall not limit the availability of appropriate state agencies to otherwise enter into energy performance or guaranteed energy savings contracts.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.

HOUSE BILL NO. 2432

PASSED: April 17, 2018

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
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RANDY MCNALLY  
SPEAKER OF THE SENATE

APPROVED this 3<sup>rd</sup> day of May 2018

  
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BILL HASLAM, GOVERNOR